

Regular Meeting of the Sandy Springs City Council was held on Tuesday, January 15, 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 6:02 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

Boy Scouts from Troop 463 led the Pledge of Allegiance

APPROVAL OF MEETING AGENDA

Motion and Vote: Councilmember Sterling moved to approve the Regular Meeting agenda for January 15, 2013. Councilmember Fries seconded the motion. The motion carried unanimously.

CONSENT AGENDA

(Agenda Item No. 13-001)

1. Meeting Minutes:
 - a) December 18, 2012 Regular Meeting
(Michael Casey, City Clerk)

Motion and Vote: Councilmember DeJulio moved to approve the Consent Agenda for January 15, 2013. Councilmember Sterling seconded the motion. The motion carried unanimously.

PRESENTATIONS

Mayor Eva Galambos invited Paul Reale to the front of the room. She presented him with a plaque of appreciation. Mr. Reale has been a member of the Board of Appeals since the inception of the City. He was also a very active member of the task force that helped identify which properties in the City were not tax exempt. She thanked Mr. Reale for all of his efforts.

1. Annual Financial Audit Report - Mauldin & Jenkins, LLC

Finance Director Karen Ellis stated on the agenda this evening is the 2012 Comprehensive Annual Financial Report, as well as the 2012 single audit. Adam Fraley with Mauldin & Jenkins is here to present the report. This is a special day for the City in having a clean audit for the CAFR.

Adam M. Fraley, CPA with Mauldin & Jenkins, stated Council should have a copy of the City's 2012 Comprehensive Annual Financial Report (CAFR) and the annual audit agenda. The audit agenda is what he will focus on primarily, which is a summary of the audit and communications with City staff. The City has received an unqualified opinion, which means the financial statements were fairly presented in all material respects for the year ending June 30, 2012. The audit was clean with no findings. The purpose of the audit agenda is stated on page one. Page two and three of the audit discusses more about the Mauldin & Jenkins firm. Page four lists the auditor's responsibilities, the City's responsibilities, auditing standards, and the clean opinion. Page five explains what a CAFR is. The City of Sandy Springs, similar to other local governments, is required by State law to prepare an annual financial report, have it audited, and turn it into the State. The City has gone above and beyond that requirement by preparing a CAFR. The CAFR includes a letter of transmittal, statistical section, and other sections that provide the City's financial history. The City also submits the CAFR to the Georgia Finance Officers Association (GFOA) for a certificate award for excellence in financial reporting. Page seven includes the financial operations of the City during the last year. Most of the City's revenues consist of property and sales taxes. Page eight includes a five year tax trend that compares the different taxes collected for the City. Also included is a five year trend for other revenue. Page nine shows the general fund expenditures and how they are separated by each category. Also included on this page are revenues versus expenditures for the last five years. Page ten lists the general fund balance. The general fund is what the City has available to fund future operations. The City's fund balance, including the unassigned fund balance, has grown from 2011 to 2012. For 2012 the fund balance is slightly over \$30 million. The next several pages of the report are a cliff notes version of the footnotes that are in the CAFR. Page fifteen discusses the required communications. Some adjustments posted to the City's financial statement have been presented to management. The City departments were extremely cooperative with the audit. Page eighteen is where the findings would be located. The City has no findings this year. The findings that were reported in last year's report are in this year's report. All of those items have been corrected. The City strives to take the corrective measures to get rid of the findings and strengthen the process and controls that safeguard the City's assets and to ensure they are in compliance with Federal regulations. The City having no findings is highly unusual with today's standards.

Councilmember Gabriel Sterling asked Mr. Fraley to define highly unusual.

Mr. Fraley stated the City is probably within the tenth percentile of government entities that have no findings. There were management recommendations that do not rise to the level of being a finding, but instead are suggestions. Page nineteen to the end of the report includes the new accounting standards. He will keep the City financial staff informed of any new accounting standards.

Councilmember Karen Meinzen McEnerny asked how unusual the City's amount of long term debt is.

Mr. Fraley stated it is very unusual to have the low level of long term obligations that the City has.

Mayor Eva Galambos stated the City is only eight years old.

Mr. Fraley stated he works with other newly incorporated cities in DeKalb and Fulton County. He does not believe any of the other cities have issued long term bonds, yet. Most of the cities have capital leases and other long term obligations.

Mayor Galambos stated the percent of general fund revenues from taxes is listed at ninety-two percent. She asked if franchise fees are considered taxes.

Mr. Fraley responded yes. Franchise fees are included in that number.

Mayor Galambos stated she is not sure the Georgia Municipal Association (GMA) would agree.

Mr. Fraley stated the numbers are separated from the rest of the taxes in the revenue section.

Mayor Galambos stated the City views a franchise fee as a fee to pay the City back for the damage done to the roads by the utility companies during construction.

Councilmember John Paulson asked about the fund balance being a percent of annual revenues or a dollar amount. He asked what percentage Council agreed upon.

Mayor Galambos responded thirty percent.

Councilmember Sterling stated Council agreed that the fund balance would not go below thirty percent and also stay at a certain dollar amount of \$25 million.

Mr. Fraley stated revenues are often fairly close to expenditures. In a general fund, for example, the funds are not there to make money. The fund balance should be compared to expenditures. He agrees with the fund balance staying at a minimum of thirty percent of annual revenues

Mayor Galambos thanked Mr. Fraley and Finance Director Karen Ellis.

Finance Director Ellis thanked her staff and Assistant City Manager Eden Freeman.

PUBLIC HEARINGS

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

Alcoholic Beverage License

(Agenda Item No. 13-002)

1. Approval of Alcoholic Beverage License Application for IL Forno NY Pizza and Pasta at 5680 Roswell Rd Sandy Springs, Georgia 30342. Applicant is Zuhra Sariev for Consumption on Premises Distilled Spirits

Finance Director Karen Ellis stated this is an existing business requesting a license for distilled spirits for consumption on premises of wine and malt beverage. 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 Fries moved to approve Agenda Item No. 13-002, Alcoholic Beverage License Application for IL Forno NY Pizza and Pasta at 5680 Roswell Road, for consumption on premises of distilled spirits. Councilmember Paulson seconded the motion. The motion carried unanimously.

(Agenda Item No. 13-003)

2. Approval of Alcoholic Beverage License Application for Quick Stop at 795 Hammond Dr Ste CU2 Sandy Springs, GA 30328. Applicant is Susan Phatsadavong for Retail/Package Wine & Malt Beverage

Finance Director Karen Ellis stated this is a new application for retail package wine and malt beverage. 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 Sterling moved to approve Agenda Item No. 13-003, Alcoholic Beverage License Application for Quick Stop at 795 Hammond Dr Ste CU2, for retail/package wine & malt beverage. Councilmember Paulson seconded the motion. The motion carried unanimously.

(Agenda Item No. 13-004)

3. Approval of Alcoholic Beverage License Application for Sam's Mart #521 at 5640 Northside Dr. Sandy Springs, Georgia 30328. Applicant is Medhat S. Karout for Retail/Package Wine & Malt Beverage

Finance Director Karen Ellis stated this is a change of ownership for retail package wine and malt beverage. 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 Collins moved to approve Agenda Item No. 13-004, Alcoholic Beverage License Application for Sam's Mart #521 at 5640 Northside Drive, for retail/package wine & malt beverage. Councilmember Paulson seconded the motion. The motion carried unanimously.

(Agenda Item No. 13-005)

4. Approval of Alcoholic Beverage License Application for Sea Bass Kitchen, LLC at 6152 Roswell Rd Sandy Springs, Georgia 30328. Applicant is Joseph M. Karam for Consumption on Premises Wine, Malt Beverage & Distilled Spirits

Finance Director Karen Ellis stated this is a new 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 Collins moved to approve Agenda Item No. 13-005, Alcoholic Beverage License Application for Sea Bass Kitchen, LLC at 6152 Roswell Road, for consumption on premises of wine, malt beverage & distilled spirits. Councilmember Fries seconded the motion. The motion carried unanimously.

(Agenda Item No. 13-006)

5. Approval of Alcoholic Beverage License Application for That Pie Place at 6355 Peachtree Dunwoody Rd, Suite 10, Sandy Springs, Georgia 30328. Applicant is Ronald A. Wolf for Consumption on Premises, Wine, & Malt Beverage

Finance Director Karen Ellis stated this is a new application for consumption on premises of wine and malt beverage. 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 Fries moved to approve Agenda Item No. 13-006, Alcoholic Beverage License Application for That Pie Place at 6355 Peachtree Dunwoody Rd, Suite 10, for consumption on premises of wine & malt beverage. Councilmember Sterling seconded the motion. The motion carried unanimously.

Councilmember John Paulson asked if any of the Councilmembers have been to this establishment.

Councilmember Tibby DeJulio stated the business is located across the street from Costco, but is not yet open.

Rezoning

(Agenda Item No. 13-007)

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

Manager of Planning and Zoning Patrice Dickerson stated this modification request was deferred from the December City Council meeting. Staff hosted a meeting between the applicant and neighbors after the deferral. Both parties are requesting a deferral for another month.

David Brooks, 3520 Piedmont Road NE, Atlanta, GA, the applicant, stated he confirms the request for deferral.

Doug Falciglia, 5925 Brookgreen Road, stated he agrees with the deferral.

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 Sterling moved to defer Agenda Item No. 13-007, 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 February 19, 2013 City Council meeting. Councilmember Paulson seconded the motion. The motion carried unanimously.

Mayor Galambos stated she is pleased that conversations have occurred between the applicant and nearby neighbors. The item that needs to be discussed between the parties is the way traffic would be directed into the office building, so it would not go through the neighborhood. She suggested both parties discuss following through with the idea that the office building create a nice entrance for the neighborhood. Another point that should be discussed is if there should be any left turns out of the medical office building onto Glenridge Drive. She hopes that both parties will have fruitful discussions and staff will help in terms of mediation.

Councilmember Tibby DeJulio stated this application has been further complicated by an application across the street from the medical office building to build townhomes. This may be premature since the City has not received any information regarding the townhomes. Whatever solution is decided for the intersection should incorporate all of the other related items.

Councilmember Karen Meinzen McEnerny stated the neighborhood and the developer have certain ideas they would like to include in future discussions. Rather than give the two parties an agenda to discuss containing what others may think is important, she would prefer to let the parties work out their concerns.

(Agenda Item No. 13-008)

7. **201202498** - 4954 Peachtree-Dunwoody Road, Applicant: Sandra Dorsey, To rezone the subject property from R-2 (Single Family Dwelling District) to NUP (Neighborhood Unit Plan District) to allow the development of 13 single family lots

Manager of Planning and Zoning Patrice Dickerson stated this item was heard at the December Planning Commission meeting. At that time the applicant requested withdrawal of the application. Both the Planning Commission and staff support the request.

Alan Gilmer, representative of the applicant, stated he is Ms. Dorsey's attorney. Ms. Dorsey is the owner and seller of the property. She has lived at this location for many years. The last time he, City staff, and Alan Davis, who represents the buyer Ashton Woods, spoke, there was a sixty foot line of sight issue. This issue makes it cost prohibitive for Ashton Woods to proceed.

Sandra Dorsey, 4954 Peachtree Dunwoody Road, stated her father purchased the property in 1956. She is a long time resident of Sandy Springs. She has witnessed many objections to the application. One objection is her property will be too dense when the homes are constructed. That was after many weeks of hearing that the property meets the code. Other objections are that the homes are too cheap. These homes would be built with a sale price ranging from \$600,000 to \$700,000. That is in keeping with every part of the neighborhood, except the larger houses north of her property. She feels like she keeps running into road blocks. She is a senior citizen trying to retire. Ashton Woods spent over \$100,000 for surveys and studies for installation of a bridge. The day before the hearing, she was told there would be a problem with the traffic. There are two lots on her property. The lot she lives on has a driveway and the other lot is vacant land. The lot with vacant land is next to the larger homes in the neighborhood. She has been told that she cannot build a road from the vacant lot to Peachtree Dunwoody Road. She has heard that the trees are big and cannot be cut down or some say they do not want to see another house that close. Her property is not a backdrop to someone's mansion. She is frustrated about the situation. She hopes that something can be done where she can have some recourse to sell her property and retire. She asked why she should be punished by the fact that some large houses were built in the neighborhood.

Mayor Eva Galambos stated she is sure City staff would be happy to consult with Ms. Dorsey in terms of what can be done with her property in the future. She used to be Ms. Dorsey's neighbor when she lived on Trimble Road and her lot adjoined Ms. Dorsey's.

Mayor Galambos called for public comments in support of the application.

Allen Davis, Representative of Ashton Woods, stated he is in attendance to formally request withdrawal of the application on behalf of Ashton Woods.

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

Laurie Rising, 235 Trimble Crest Drive, stated her property is adjacent to Ms. Dorsey's property along 170 feet of her backyard. She purchased her home a year and a half ago. She grew up in Sandy Springs and attended Spalding Elementary School and North Springs High School. It is important to make the Council aware of certain unique aspects of this case. It is possible a similar rezoning request may be made again for this property or for other properties along Peachtree Dunwoody. This was a request for a Neighborhood Unit Plan (NUP). The City of Sandy Springs has not approved a NUP since its inception. The NUP gives broad latitude for building dense developments in transitional areas of up to five homes per acre. The parcel in question is six acres with the front three acres in a flood plain and only the rear three acres buildable. Requesting a NUP zoning, the developer planned to build thirteen homes on three buildable acres. This is inconsistent with the density of the adjacent and adjoining neighborhoods which

are all zoned R-2 and R-3. The plan allowed credit for flood plain in calculating how many homes could be built on the parcel. This would result in crowding too many homes on the buildable portion, creating lots of a quarter acre or less, which is the equivalent of an R-5 zoning. The parcel is not in a transitional area, unlike the cluster home neighborhoods at Windsor Parkway and Peachtree Dunwoody Road. The parcel is too narrow to allow for an undisturbed buffer, since the density of one of the new properties of the new development would be inconsistent with all that is surrounding it. There was no allowance for an undisturbed buffer. The builder planned to clear cut the property. The development included hammerhead streets instead of cul-de-sacs. There would have been inadequate sight distance and a new street that would run parallel and ten feet from the adjoining neighbor's driveway, creating unsafe conditions for the property owners to exit the property. She understands that Ms. Dorsey has the right to sell her property to be developed in a manner that is consistent with all the properties that surround her property. She hopes that in the future the plans for developing her property will be discussed with the adjacent neighbors before the application process begins, in order to work out issues before moving forward. She has spent a lot of time and money on attorneys and consultants to oppose the application. She does not believe any of the neighbors said that the Ashton Woods homes are cheaply constructed. The proposed plan included too many homes on a small lot

Bill Gannon, 505 Taunton Way, stated he is part of a steering committee of neighbors that live along Peachtree Dunwoody Road. The committee is in favor of Council voting in favor of a withdrawal of the application. The property owner should have a chance to get the proper value for her property. He thinks the property owner received poor professional advice from others. This would be the City's first NUP, if approved. The proposed NUP property is 1.3 acres of flood plain and 2.9 acres of buildable. He asked if that even qualifies as an NUP in the City. An NUP in the City is four to twelve acres. When only 2.9 acres of the property is buildable, he is not sure this property qualifies. The driveway is a subterranean pathway and it never was designed to be a City street. He does not know why the application progressed so far. The neighborhood does not believe that Ashton Woods builds cheap houses. The neighbors are against ten foot long driveways and hammerhead streets. He is not happy how the applicant placed a home on the forty foot line and then decided to request a variance so a house could be constructed. The builder was rude, condescending, and uninformed, which did not help the process. In regards to the notification letter process, Ms. Rising never received a notification letter. This is something City staff needs to improve on. Ms. Rising spent a lot of money on lawyers. This application cannot be fast tracked. At one of the community meetings there was a representative of the applicant who would not give his name or identify where he lived. The gentlemen said he lived within a quarter of a mile of the property, which is false. He lives within the City of Atlanta. The gentlemen suggested the neighbors sell their properties for as much as they can. The guy stated that density is not a problem. In the future, if individuals speak at these meetings, they need to identify themselves.

Mr. Gilmer stated the Ashton Woods representative was cordial and kind to everyone.

Mayor Galambos closed the public hearing.

Motion and Second: Councilmember DeJulio moved to approve the withdrawal of Agenda Item No. 13-008, application 201202498 - 4954 Peachtree-Dunwoody Road, Applicant: Sandra Dorsey, To rezone the subject property from R-2 (Single Family Dwelling District) to NUP (Neighborhood Unit Plan District) to allow the development of 13 single family lots. Councilmember Fries seconded the motion.

Councilmember John Paulson stated from what was said it seems like staff was giving out different instructions. He asked that staff be consistent when giving instructions to applicants.

Councilmember Dianne Fries suggested Ms. Dorsey make an appointment with staff to discuss what can be done regarding her property.

Councilmember Karen Meinzen McEnerny stated she encourages the property owner and neighbors to discuss options before submitting an application to the City.

Vote on the Motion: The motion carried unanimously.

Councilmember Tibby DeJulio stated Nancy Creek is in his district, along with a lot of properties that contain flood plain. This is not the only situation where someone owns six acres, but only two and a half are buildable. Council needs to research the problem where people will want credit for flood plain. He asked staff to look at the City plan for flood plain property and the City requirements.

Councilmember Gabriel Sterling stated Council has been asking staff to look for a way to give residents credit for protecting undisturbed land by giving them more density. Council is telling staff to do two things that are opposite of each other.

Mayor Galambos stated these are various points of view that can be discussed at a future Work Session.

UNFINISHED BUSINESS

There was no unfinished business.

NEW BUSINESS

(Agenda Item No. 13-009)

1. Approval of a Resolution recommending the Downtown LCI – 10 Year Update with the Atlanta Regional Commission including the City Center Master Plan and authorize the City Manager to execute the update

Assistant City Manager Bryant Poole stated staff recommends approval of the resolution recommending the Downtown LCI – 10 year update that includes the City Center Master Plan and authorizing the City Manager to execute the agreement.

Motion and Vote: Councilmember Fries moved to approve Agenda Item No. 13-009, Resolution recommending the Downtown LCI – 10 Year Update with the Atlanta Regional Commission including the City Center Master Plan and authorizing the City Manager to execute the update. Councilmember DeJulio seconded the motion. The motion carried unanimously.

Resolution No. 2013-01-01

(Agenda Item No. 13-010)

2. Resolution of the City of Sandy Springs, Georgia to set Qualifying Fees for Municipal Elections

City Attorney Wendell Willard stated this item is to set the qualifying fees for the upcoming City election that will take place in November.

Motion and Second: Councilmember Meinzen McEnerny moved to approve Agenda Item No. 13-010, Resolution of the City of Sandy Springs, Georgia to set Qualifying Fees for Municipal Elections. Councilmember Fries seconded the motion.

Councilmember Karen Meinzen McEnerny asked if the qualifying fees are the same as for the previous election.

City Attorney Willard stated the fees are the same. Even though there may be an increase in salary at the beginning of the next terms, the fees are based on the current salaries of Mayor and Council.

Vote on the Motion: The motion carried unanimously.

Resolution No. 2013-01-02

(Agenda Item No. 13-011)

3. Cox Enterprises Incentives Request

Director of Economic Development Andrea Hall stated in October 2011, the City Council adopted an Economic Development Incentive policy. Pursuant to the policy, Cox Enterprises has submitted an application to receive a waiver of building and impact permit fees and a three year waiver of business occupational taxes. This waiver request is for the new campus tower to be located at 6250 Peachtree Dunwoody Road. The investment to be made is the construction of a new 578,000 square foot office tower with nineteen floors at a cost over \$100 million. The cost does not include furniture, fixtures, and equipment. The project is expected to begin construction the first quarter of 2013 and be completed in 2015. At the completion of the project the tower will employ an additional 1,500 employees at this campus location. Those employees will have an average salary at or above \$62,000. The capital investment and the number of jobs meets the qualifications for Tier 3 incentives. The incentives call for a minimum of \$5 million in capital investment and more than 100 jobs. The Tier 3 incentives provides for a waiver of the permit impact fees and a three year waiver of business occupational taxes. The total projected value of these incentives over the three year period is approximately \$1.4 million. Staff recommends approval of the application and authorization for the City Manager to execute an agreement with Cox Enterprises.

Motion and Second: Councilmember Fries moved to approve Agenda Item No. 13-011, Cox Enterprises Incentives Request. Councilmember Sterling seconded the motion.

Councilmember Dianne Fries stated she is excited that Cox Enterprises has made this type of investment again within the City.

Councilmember Karen Meinzen McEnerny stated she agrees with Councilmember Fries. Cox Enterprises expanded the first building constructed within the City. She asked if there was an incentive policy in place when Cox Enterprises did the first expansion.

Director of Economic Development Hall stated an incentive policy was not in place at that time.

Councilmember Chip Collins asked what the short term economic benefits would be to the City for waiving the fees.

Director of Economic Development Hall stated new development projects of this large size and employment category are beneficial from an economic development perspective. These projects do have a lot of impact on businesses surrounding the area. The 1,500 new employees coming to the area will have a huge impact on some of the smaller businesses and retail businesses.

Mayor Eva Galambos stated in the future, when there is a similar presentation of an incentive request, she would like to see an estimate of the increase in property taxes the City will collect for the three years during which the business occupational tax is waived.

Director of Economic Development Hall stated that number is approximately \$200,000 a year. In the first three years the City would receive a total of \$600,000 in property taxes. These numbers will be included for any future incentive requests to Council.

Councilmember Gabriel Sterling stated this is the type of project our City needs. The project will show other large businesses that Sandy Springs is a City with which they can do business. Sandy Springs is not the cheapest place to do business, but it is a great place to do business.

Councilmember Meinzen McEnery stated Cox Enterprises has a significant footprint of employees in the Perimeter Center area. Some of the employees are on the south side of I-285. She asked if all of the new jobs will come from outside the City.

Director of Economic Development Hall responded yes. A portion of the jobs will be coming from the Dunwoody location.

Vote on the Motion: The motion carried unanimously.

Mayor Galambos stated she has received two complaints in the last several weeks from people who have subscribed to the Atlanta Journal Constitution (AJC). One of citizens gave the AJC their home address as Sandy Springs. The AJC subscription department called the citizen and told them their address is in the City of Atlanta. She wrote a letter to the AJC and sent a copy of the letter to Cox Enterprises.

(Agenda Item No. 13-012)

4. Proposed amendment to Chapter 6 of the Sandy Springs Code of Ordinances to permit transfer of existing alcohol license to a new location within the City

Director of Economic Development Andrea Hall stated there have recently been examples in the City of existing alcohol license holders that have moved from one location within the City to another. The current City code does not allow for the transfer of the license to a new location. This results in the City charging the business for alcohol license fees twice. Depending on the type of alcohol license, the fee can range from \$400 to \$4500. Staff is recommending an amendment to the ordinance that would affect only those licenses changing locations under the same licensure. Any changes made to a person holding a license would require the applicant to apply for a new license. In addition, the license holder would have to submit a land survey to the City Business Revenue Department to verify the new location meets all the distance requirements in the City code.

Motion and Second: Councilmember Sterling moved to approve Agenda Item No. 13-012, Proposed amendment to Chapter 6 of the Sandy Springs Code of Ordinances to permit transfer of existing alcohol license to a new location within the City. Councilmember Paulson seconded the motion.

Councilmember Dianne Fries stated this ordinance change would apply to the recent situation of Rumi's Kitchen.

City Manager John McDonough stated the impetus for the suggested ordinance change was the Rumi's Kitchen situation. The City wants to be business friendly. Staff does not feel it is appropriate to charge the business again for fees that were previously paid, since they are trying to upgrade the facility in which they conduct business.

Councilmember Fries stated the applicant opened another business as well. She supports the ordinance change. The amendment states a nonrefundable fee would be set by the City Council. She asked if the ordinance implies the City might add a nonrefundable fee or will the ordinance state there is no fee.

Councilmember John Paulson stated the sentence below the suggested change of the ordinance is still the same.

Councilmember Fries stated the ordinance states "Applications seeking a transfer of a license in any respect shall be made upon application forms provided by the city manager and shall be accompanied by a nonrefundable fee in an amount as set by resolution of the city council". She asked if Council will charge a nonrefundable fee.

Councilmember Gabriel Sterling asked if Council can amend the ordinance.

City Attorney Wendell Willard suggested striking the remainder of the sentence on the fifth line of the paragraph after the words "City Manager".

Amended Motion and Vote: Councilmember Sterling moved to approve Agenda Item No. 13-012, Proposed amendment to Chapter 6 of the Sandy Springs Code of Ordinances to permit transfer of an existing alcohol license to a new location within the City, with a modification to the amendment consisting of striking the remainder of the last sentence following the words "City Manager". Councilmember Paulson seconded the motion. The motion carried unanimously.

Ordinance No. 2013-01-01

(Agenda Item No. 13-013)

5. Consideration of Approval of Nonprofit Funding Awards

Assistant City Manager Eden Freeman stated this item contains recommendations to award the \$50,000 allocated by Council during the fiscal year 2013 budget process for the Serving Sandy Springs nonprofit program. The solicitation for applications was released on September 27, 2012. Staff held a training session in the City training room on October 9, 2012 to explain the application process. Sixteen applications were received requesting \$129,000 from an available \$50,000. The spreadsheet in the agenda package shows the scoring for each of the sixteen applications as well as the recommended awards. Staff is recommending five awards based on the scoring criteria put forth by the Council.

Motion and Second: Councilmember Fries moved to approve Agenda Item No. 13-013, Approval of Nonprofit Funding Awards. Councilmember Paulson seconded the motion.

Councilmember Gabriel Sterling stated he was uncomfortable with this process last year and the year before. He does not like giving grants to nonprofit organizations that should be in the private sector raising money. The system that staff has put together is fair for the allocation of these funds.

Councilmember Karen Meinzen McEnerny stated she read in the news that Fulton County is receiving \$4 million from a Health and Human Services grant application. She agrees in general with what Councilmember Sterling said. She has great pause in what is an overbalance of the \$150,000 that Council approved in the budget when \$100,000 of the money goes to the Community Action Center. The City only has \$50,000 to allocate to sixteen organizations. She hopes that next time there is a better balance of the funds that Council decides to make available for nonprofits.

Mayor Eva Galambos stated she has had two instances in the last ten days when she has tried to reach Heritage Sandy Springs and no one answered the phone. She asked what Heritage is requesting the \$12,000 for.

Assistant City Manager Freeman stated Heritage Sandy Springs requested partial funding to produce a curriculum and accompanying video for the local schools for 8th through 11th grades. The program would educate the students on the impact of the Civil War in Sandy Springs.

Councilmember Meinzen McEnery stated what the Mayor mentioned is an operational issue. Heritage Sandy Springs relies on volunteers.

Councilmember Sterling stated Heritage has many paid staff members as well.

Councilmember Chip Collins stated one of the scoring criteria is the number of Sandy Springs residents the program will serve annually. He asked if this criterion relates to the organization as a whole or to the specific project for which the grant is being given.

Assistant City Manager Freeman responded it is a combination of both. Staff reviews the fund amount the organization requested and the number of City residents the program will serve. There are three staff members that review the applications independently. Staff assigns scoring using a detailed score card. Then the members meet to reach a consensus regarding how much each organization should receive.

Councilmember Collins stated suppose three organizations all have the same proposal to create an educational video for students. The one organization that is the largest will receive the most points, even if all three organizations were doing the exact same project. Under the current scoring it looks like the larger organization would automatically win.

Assistant City Manager Freeman stated that is not true. The number of residents the organization serves is just one component of the score.

Councilmember Collins stated that appears to be the only variable.

Assistant City Manager Freeman stated that is not the only variable. The other variables are the quality of the application itself.

Councilmember Collins stated if all the other criteria were equal, should that criteria even be listed on the scorecard. The criteria addresses who proposed the grant instead of the actual project.

Councilmember Sterling stated Council asked that one of the criteria be whether the organization serves a large number of residents.

Councilmember Collins stated he thought that the criterion applies to how many people the particular project will serve. The scorecard currently lists how many residents the organization will serve and not just the proposed project. If the scoring team chooses to give extra points to an organization that is serving more residents that is fine.

Councilmember Dianne Fries stated Heritage Sandy Springs may be also playing the video at their location for visitors to view.

There was a consensus of Council to change the grading criteria so that it is based on how many residents the proposed project will serve and not how many residents the organization serves as a whole.

Councilmember Fries asked if all the applicants are located in Sandy Springs.

Assistant City Manager Freeman stated some applicants are based in the City of Roswell, but the score card lists the number of Sandy Springs residents the organization serves.

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

(Agenda Item No. 13-014)

6. Appoint and Reappoint Members to the Board of Appeals

Mayor Eva Galambos stated the terms of Paul Reale and Ted Sandler have expired as members on the Board of Appeals. She nominated Ted Sandler to be reappointed and nominated Melissa Nolvin to be appointed to the Board of Appeals. Ms. Nolvin is an active member of the Grogan's Bluff HOA. She previously worked in the construction business with her late husband.

Motion and Vote: Councilmember Fries moved to approve Agenda Item No. 13-014, The appointment of Melissa Nolvin and the reappointment of Ted Sandler to the Board of Appeals. Councilmember Sterling seconded the motion. The motion carried unanimously.

Resolution No. 2013-01-03

(Agenda Item No. 13-015)

7. Reappoint Members to the Planning Commission

Mayor Eva Galambos stated there are two members whose terms are expiring on the Planning Commission. One is David Rubenstein and the other is Al Pond. Both have been fabulous members. She nominated both for reappointment to the commission.

Motion and Second: Councilmember Sterling moved to approve Agenda Item No. 13-015, the reappointment of Al Pond and David Rubenstein to the Planning Commission. Councilmember Fries seconded the motion.

Councilmember Tibby DeJulio stated David Rubenstein has represented the City on many real estate transactions and has received substantial compensation. He asked if it is a conflict of interest that Mr. Rubenstein has received so much compensation from the City and still serves on the Planning Commission.

Councilmember Karen Meinzen McEnerny stated it is Mr. Rubenstein's third term on the board.

City Attorney Wendell Willard stated Mr. Rubenstein is employed for his services to the City. It is not a matter of being disallowed by ordinance or law. The City Ethics ordinance would address whether or not what he does is considered an unethical conduct. He will research this question and get an answer to Council.

Councilmember Meinzen McEnerny stated her concern is not about ethics. Her concern is that Mr. Rubenstein is employed for specific services by the City. Therefore, decision making on the Planning Commission that deals with real estate matters may cause a conflict.

Mayor Galambos stated there would be a definite conflict of interest if Mr. Rubenstein were employed on a matter that would come before the Planning Commission. If Mr. Rubenstein is employed on a matter that has nothing to do with a Planning Commission agenda item, there would be no conflict of interest.

Councilmember Dianne Fries stated the City did have a Planning Commission member remove themselves from the Planning Commission when they worked for CH2M HILL, a previous City contractor.

Councilmember Collins asked if Mr. Rubenstein is currently doing any work for the City.

Councilmember Fries stated he may be working on potential sales contracts for the Downtown Master Plan.

Councilmember Collins stated Council can vote to reappoint Mr. Rubenstein. The question would then be he wants to remain on the Planning Commission, can he accept work from the City.

Mayor Galambos stated the next City Council meeting is in February. The Planning Commission meets before the next City Council meeting.

City Attorney Willard stated any board member who is currently serving would continue serving until a reappointment is made. As long as there is disclosure of the fact a person is doing something and it does not rise to the level of being a conflict to the work they are doing for the City, there would not be an issue. He will report back to Council on the specifics within the ordinance.

Substitute Motion and Vote: Councilmember Fries moved to approve Agenda Item No. 13-015, reappointing member Al Pond to the Planning Commission and holding in abeyance the reappointment of David Rubenstein until the February 5, 2013 City Council meeting. Councilmember DeJulio seconded the motion. The motion carried unanimously.

Resolution No. 2013-01-04

REPORTS

1. Mayor and Council Reports

Councilmember Dianne Fries stated she has received phone calls regarding the alarm registration that was approved by Council on November 6, 2012. The residents tried to register their alarms online, but there is no place to register.

Mayor Eva Galambos stated Police Chief Sult stated it would take several months for the registration process to be in place.

Councilmember Fries stated the City needs to have something on the City website providing this information.

2. Staff Reports

a) November Financial Report – Finance Director, Karen Ellis

City Manager John McDonough stated Johns Creek made a determination yesterday evening that they do not want to participate with the other four North Fulton cities regarding the unified radio system. The four remaining cities will have to adopt a new IGA. This will be done by the end of the month on or about January 28, 2013. He suggested adding a special meeting agenda item for the Council Retreat on January 30, 2013. The implication is Johns Creek portion of the cost will be reallocated to the other four cities.

PUBLIC COMMENT

There were no public comments.

EXECUTIVE SESSION – Litigation

Motion and Vote: Councilmember DeJulio moved to enter into Executive Session to discuss pending or potential litigation. Councilmember Fries seconded the motion. The motion carried unanimously, with

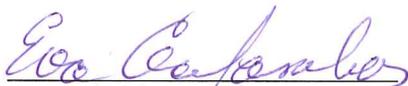
Councilmember Paulson, Councilmember Fries, Councilmember Collins, Councilmember Sterling, Councilmember DeJulio, and Councilmember Meinzen McEnery voting in favor of the motion. Executive Session began at 7:31 p.m.

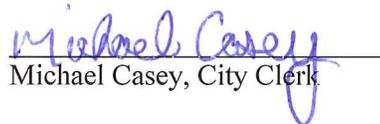
Motion and Vote: Councilmember DeJulio moved to adjourn Executive Session. Councilmember Fries seconded the motion. The motion carried unanimously, with Councilmember Paulson, Councilmember Fries, Councilmember Collins, Councilmember Sterling, Councilmember DeJulio, and Councilmember Meinzen McEnery voting in favor of the motion. Executive session adjourned at 7:49 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 7:49 p.m.

Date Approved: February 5, 2013


Eva Galambos, Mayor


Michael Casey, City Clerk