

Regular Meeting of the Sandy Springs City Council was held on Tuesday, June 19, 2012, at 6:00 p.m., Mayor Eva Galambos presiding.

INVOCATION

Rabbi Josh Heller, B'Nai Torah, offered the invocation.

CALL TO ORDER

Mayor Eva Galambos called the meeting to order at 6:03 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 McEnerly present.

PLEDGE OF ALLEGIANCE

Mayor Eva Galambos led the Pledge of Allegiance

Councilmember Chip Collins introduced Judge Todd Markle of the Fulton County Superior Court, who is running for reelection on July 31, 2012.

(Agenda Item No. 12-148)

APPROVAL OF MEETING AGENDA

Motion and Vote: Councilmember Fries moved to approve the Meeting Agenda for June 19, 2012. Councilmember DeJulio seconded the motion. The motion carried unanimously.

CONSENT AGENDA

(Agenda Item No. 12-149)

1. Meeting Minutes:
 - a) June 5, 2012 Regular Meeting
 - b) June 5, 2012 Work Session

(Michael Casey, City Clerk)

(Agenda Item No. 12-150)

2. Recommendation to enter into Contract Agreement with Georgia Management Agency, d/b/a Roadworx for Traffic Sign Maintenance Services for the City of Sandy Springs
(John McDonough, City Manager)

(Agenda Item No. 12-151)

3. Recommendation to enter into Contract Agreement with Optech Monette for Park Maintenance, Right of way Maintenance, Street Cleaning and Other Services
(John McDonough, City Manager)

Motion and Vote: Councilmember DeJulio moved to approve the Consent Agenda for June 19, 2012. Councilmember Fries seconded the motion. The motion carried unanimously.

PRESENTATIONS

There were no presentations.

PUBLIC HEARINGS

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

Budget Approval

(Agenda Item No. 12-152)

1. Consideration of approval of an ordinance adopting a budget for the Fiscal Year 2013 for each fund of the City of Sandy Springs, Georgia, pursuant to Article V, Chapter 5 of the Charter of the City, beginning July 1, 2012, and ending June 30, 2013, appropriating the amounts shown in each budget as expenditures, adopting the item of anticipated funding sources, prohibiting expenditures to exceed appropriations, and prohibiting expenditures from exceeding actual funding sources

City Manager John McDonough stated several budget workshops have been held, including a budget presentation. This item is an opportunity to receive input from the public on the FY13 budget and also adoption of the budget.

Mayor Eva Galambos called for public comments in support of or opposition to the proposed FY2013 budget. There were no comments from the public. Mayor Galambos closed the public hearing.

Motion and Vote: Councilmember DeJulio moved to approve the ordinance to provide for the adoption of a budget, its execution and effect for the fiscal year beginning July 1, 2012 and ending June 30, 2013. Councilmember Fries seconded the motion. The motion carried unanimously.

Ordinance No, 2012-06-17

Rezoning and Zoning Modifications

(Agenda Item No. 12-158)

2. **RZ09-001** – 5395 Roswell Road, Modification of the Approved Zoning Conditions

Assistant City Attorney Cecil McLendon stated Attorney Laurel Henderson, who represented the City in litigation pertaining to this matter, is in attendance and will present this item.

Councilmember Tibby DeJulio requested the regular 10 minute speaker time be extended to 20 minutes.

Mayor Eva Galambos suggested extending the time to 15 minutes instead, and Councilmember DeJulio agreed.

Attorney Laurel Henderson, Representative of the City of Sandy Springs, stated she is the attorney who has been defending litigation filed by the Church of Scientology against the City of Sandy Springs.

This matter arose when the Church of Scientology sought to convert an existing office building that is located at the corner of Roswell Road and Glenridge Drive for church use. The Church sought rezoning, which was allowed, so the property can be used as a church. The applicant also sought to convert the building by changing an underground parking deck into finished usable space. That request was denied on the basis that the location would not have sufficient parking. Conditions were adopted that allowed the applicant to use the existing three finished floors, but not the underground parking deck as part of the finished space. The Church of Scientology sued in Federal and State Court. The State Court action has been stayed, pending resolution of the Federal action. City legal staff moved on behalf of the City for summary judgment and presented a good case for judgment in its entirety. However, the court saw fit to grant the City partial summary judgment, not complete summary judgment. That left some of the claims outstanding. The plaintiff had moved for partial summary judgment as well and that motion was denied. Subsequent to the court's ruling the plaintiff moved for reconsideration of that ruling and provided additional information to the court that had not previously been provided. While the City opposed that motion, the court granted that motion in part, not in totality. Currently, the litigation still has outstanding claims for substantial burden under the religious land use and institutionalized persons act and claims for discrimination by the City against Scientology as a church. When the judge issued a revised order, granting partial judgment to the City, the parties were ordered into mediation. The applicant was told by the City that the conversion of the underground parking deck would require a firm 130 parking spaces for the site. During the course of the mediation, the plaintiff put forward a plan which will allow the applicant to meet the 130 parking space requirement on the property. The site plan displayed on the monitors is the new revised plan. The City agreed during the mediation that it would study the plan, because it wanted to be sure the plan met City standards with particular respect to fire safety. It has been determined that with curb modifications the site plan will meet fire accessibility standards for all City fire trucks. Because parking would be around the building, two new access points were added to the rear of the structure, so that people will be able to leave the underground parking. The new site plan meets the green space requirements as well. A further detention study will have to be done and detention requirements will have to be met along with development regulations. Because the site plan meets City standards, the City Council agreed to place this matter for consideration of modification of the conditions of zoning; the result of which, if approved, would resolve the litigation in its entirety. There are two modifications and one addition that are proposed to the conditions. The first condition is 1.a. in which the density is increased from 18,007 square feet to 24,671 square feet. The overall developable space will be increased from 32,053 square feet to 43,916 square feet. All the required parking is contained within the fence of the property within a dedicated easement area. The second change is to condition 2.a. of a date listed as June 4, 2012. A new condition will be added which states the owner/developer shall provide a minimum 130 onsite parking spaces as shown on the site plan referencing condition 2.a. With the changes to the plan the applicant has met all conditions and standards of the City regarding the parking. She recommended to Council that this item be approved.

Woody Galloway, The Galloway Law Group, LLC, representative of the applicant, stated the Church of Scientology has been in litigation with the City regarding the December 15, 2009 Council decision, which limited the church's use of the building. The use was limited to 24,671 square feet, instead of the 43,916 square feet that was requested by the church. The City limited the use of the church's building because of a lack of adequate parking spaces. In order to use the entire 43,916 square feet, the church would be required to provide 130 parking spaces. On February 10, 2012, the Federal District Court directed both parties to engage in mediation. The mediation was to explore whether a shared parking arrangement both onsite and offsite could be agreed upon to allow the applicant's requested expansion and modification of the basement area for church use. In preparation for the mediation, the applicant's engineers were able to come up with a site plan that provides 130 parking spaces. That plan has been reviewed by City staff and meets all City requirements. If the issue in this case is truly about parking, then this agenda item should be resolved this evening. This would allow the

church to use the entire property for church use and provide the City with the necessary parking in order to allow the use.

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

Coleen Carberry, 860 Owens Lake Road, stated she is an Atlanta area resident. Her husband is a doctor and she is a physical therapist who moved to the area about four years ago with their four daughters. She and her husband own three medical practices. She has been a Scientologist for sixteen years and is thrilled about the opening of a building in Sandy Springs.

Mr. Galloway asked to reserve the remainder of his time for the rebuttal.

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

Robin Beechey, 20 Willow Glen, stated he represents Willow Glen condominium association. He is also authorized to speak on behalf of Lake Forest Summit homeowners and the Courtyards at Glenridge. The residents wonder if the elected representatives stand for full and public participation and for protection of the neighborhoods. He has eight discussion points regarding the new proposal. The proposal would add 11,000 square feet, which would be about thirty-three percent more floor space and create a net loss of parking spaces from what was approved in 2009. Staff recommended a denial of the application in 2009, because the parking did not meet the City ordinance parking standards. Council denied the conversion at that time. There is not a professional evaluation report before Council this evening. Council approved a capital project for the FY13 budget which will lead to the further loss of parking spaces when the intersection improvement is made. There would be a loss of ten to fifteen parking spaces at the southwest corner of the site plan when the capital improvement project occurs. The proposed site plan encroaches further into the setbacks and landscaped areas, compared to the 2009 proposal. The yellow areas on the site plan are described as improvements, but the residents do not see them as improvements. This cannot be considered discrimination against the church when they purchased this building with a basement and were given approval for the use of the building. The residents have provided evidence to the City Attorney to show the church does not have an exclusive easement to use the post office land. The post office land is located between the post office access road and the church building. All parking spaces on this land must be disregarded when computing the parking provision required by the ordinance. There were forty-one parking spaces on this land in the 2009 site plan. The parking ordinance Section 18.2 requires parking to serve only the designated use. The post office and anyone authorized by the post office retains a right to use the land as a nonexclusive easement. The post office land contains fifty of the 130 parking spaces. The residents believe the original application in 2009 is defective in not revealing this limitation on the easement. There has been no proper public notice of this hearing. The City has designated the Sandy Springs Reporter and the Sandy Springs Neighbor as the legal organs for legal notices. On May 30, 2012, there was a vaguely worded notice in the Sandy Springs Neighbor. That is not of much use to the residents inside the perimeter because the paper is not distributed there. There was no notice in the Sandy Springs Reporter on June 1st, even though there were three other zoning notices on that day. It is unlikely that any household in the area covered by the sixteen homeowners associations who oppose this application would have received a single newspaper with a notice of this public hearing. Many people have also asked why there was no site notice. The residents feel as if there was total disregard for their interests. The residents request denial of this application. If there is not denial this evening, the City Council should allow time for residents to prepare a case against the applicant.

Carol Thorup, 5205 Glenridge Drive N.E., stated she lives across the street from the shared driveway for the Church of Scientology and the post office. Many of the residents have lived in the Glenridge Condominiums for forty years. She has previously worked on the Committee for Sandy Springs, the Governor's Council, the RPF for citywide contractors, and the Friends of Sandy Springs. On each of

these committees the primary principal was full and fair representation of all citizens. She feels somewhat betrayed by the agreed to mediation. On behalf of the Glenridge homeowners association, she agrees with Mr. Beechey's presentation. She asked that Council deny the initial mediation of the case and requests that Council give the residents a reasonable amount of time to consider the proposed mediation.

Julian Thome, 5385 Peachtree Dunwoody Road, stated he is in attendance on behalf of the HighPoint Civic Association. He stated he will read a letter submitted to the City in late March 2012. "Dear Mayor and Council. The HighPoint Civic Association supports the zoning actions that you previously took regarding the Church of Scientology's request for zoning and use permits for the property at the corner of Roswell Road and Glenridge Drive. Regarding any recent or future negotiations that the City will have with the court and Scientology representatives, we request that the City continue to maintain the parking requirements for this property which your vote established two years ago.

Patty Burns, 5400 Roswell Road, stated she is the President of Round Hill neighborhood association. On behalf of the Round Hill association, she agrees with Mr. Beechey's presentation. She asked for denial of the initial mediation results to allow the residents a reasonable amount of time to consider the intricacies of the proposed mediation. The traffic in the area will be an issue if there is not sufficient parking. She thanked Mayor and Council.

Jan Rabinowitz, 55 Osner Drive, stated she is here on behalf of Homeowners Adjacent to the Roswell Road Corridor (HARC). HARC supports Mr. Beechey's presentation.

Stephen Mintz, 130 Enclave Circle, stated he is against turning the intersection into a traffic nightmare. He is a homeowner in Enclave at Glenridge, who recently relocated to the area. He would like to remain as a resident of this neighborhood, but it will difficult if the traffic becomes worse. He asked Council to consider the traffic at the intersection when taking a vote on this item.

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

Chris Burns, 320 Tanners Crossing, stated he is the Vice President of David Morris and Associates, which is an independent claims company operating in thirty-two states. He is also a Scientologist and has been for thirty-seven years. He moved to the Atlanta area three years ago for two reasons; Atlanta is a major hub of the insurance industry and because of the Church of Scientology. Scientology has had a tremendous impact on his life by improving the quality of his life. He has seen the impact the Church of Scientology can have on a community and what an asset it is.

Karen Lange, 5235 Kenbrook Way, stated she is an equities trader and a graduate of the business school of the University of Virginia, where she met her husband Paul. They are also residents of Sandy Springs. She and Paul formerly operated a homebuilding company which built approximately fifty homes in the City of Atlanta and Sandy Springs. She also was previously the President of the Atlanta Chapter of the Greater Atlanta Homebuilders Association. She has been a member of the Church of Scientology for about twenty years. She is excited to have a Church of Scientology building in Sandy Springs. She and her husband live less than a mile away from the building. Sandy Springs is a truly wonderful place to live and an excellent place to do business. She looks forward to her church joining and enhancing the Sandy Springs community.

Bob Adams, 6331 Hollywood Blvd., Los Angeles, CA, stated he is the Vice President of the Church of Scientology International with headquarters located in Los Angeles. On behalf of all of the parishioners around the world, it is exciting to realize the Church of Scientology in Atlanta is on the cusp of being a reality. He believes the residents will enjoy the results of the restoration and renovation of the church

building. He thanked the City for the attention to this application for the past two years. He is happy the process is moving forward.

Mr. Galloway stated Mr. Beechey is not correct. City staff has never recommended denial of this request. When the request was last before Council, there was a main recommendation and an alternate recommendation. The alternate recommendation would have allowed the entire 43,000 square feet to be utilized at that time. City staff has looked at the parking issue and has consistently found that 130 parking spaces is what staff recommends. The applicant has developed a plan that will address the parking spaces. The new site plan will cost the church about \$300,000 more to provide the extra parking spaces onsite. There is an extra \$250,000 cost for the mediation and to make changes to address the fire safety issues to allow room for a full forty foot ladder truck to be able to go around the building. The applicant has met every requirement the City has asked for. There is no reasonable basis to deny the request. He requested that Council approve the request pursuant to the revised conditions.

Mayor Galambos asked Attorney Laurel Henderson to address the easement question at the post office.

Ms. Henderson stated the easement preceded the Church of Scientology's ownership of the property. It is an easement which is perpetual in nature. It is recorded in the deed record that the easement cannot be revoked by the post office or any subsequent owner. While the easement is nonexclusive, it was used for the benefit of the prior business located at the property. Having been used in that capacity, the property is considered by the City to be applicable.

Nancy Davis, 13202 Jefferson Creek Drive, Alpharetta, stated she is an Atlanta native who attended Georgia State University, obtained an Associate's degree, and then moved to Florida. She received her Bachelor's degree from Rawlins College, but did not move back to the Atlanta area until 2007. She is thrilled to be back near her family and also thrilled to have the Church of Scientology here in Atlanta. She became a Scientologist thirty-two years ago. She has spent seventeen years working for the church. She has seen the benefits of having a Church of Scientology in the community. She thanked Council for their consideration.

Dr. Joel Benk, 3679 Cochise Drive, stated he is a 1980 graduate of Emory University School of Dentistry. He met his wife at the Nell Hodgson School of Nursing where she received her Master's degree in nursing. He has lived in the Atlanta area for thirty-seven years and has a dental practice that employs twenty people. He has been a Scientologist for twenty-seven years and he is very excited about having a Church of Scientology in Sandy Springs.

Jack Shaw, 5400 Roswell Road, Apt. H-1, stated he has lived in the Atlanta area for over thirty years and moved to Sandy Springs three years ago. He is appalled about the horrendous traffic and difficulty entering and exiting the Round Hill area safely. There was a serious traffic accident at this location two months ago. The long term solution for the traffic problem is in the FY13 budget approved for next year. The problem is the applicant wants to expand the use of the property by building barely enough parking spaces. As soon as the corrections are made to the intersection next year, that will remove ten to fifteen of the parking spaces and there will clearly be a ten percent shortfall. Until the applicant can come up with a plan that shows how 130 properly spaced parking spaces are available and will be available after improvements are made at the intersection, this application needs to be deferred.

Mayor Galambos closed the public hearing.

Councilmember Tibby DeJulio asked if Ms. Henderson would address the public notice and site notice concern. It seems only fair that the residents have sufficient time to prepare their case and points of discussion.

Ms. Henderson stated the meeting notice was done in accordance with State law, not in accordance with local requirements. The City had already passed a formal vote on the zoning application and then the City entered a lawsuit. As part of the lawsuit, this proposed settlement is before Council. There was a Supreme Court case from Georgia three years ago that said under the zoning procedures law, if there is a proposed settlement, there has to be one additional hearing with appropriate notice. The hearing is initiated by the City, as it was in this situation. There is no requirement to post the notice of hearing on the property. City Attorney Wendell Willard considered the complaints about the notice and it was his determination that the legal notice was sufficient and was in accordance with case law. This item is not treated as a regular zoning, but instead a settlement of litigation. There was an effort to get notice out to the public. The City has met its obligations under the law.

Councilmember DeJulio asked would it be an issue with the judge if Council were to defer this item for thirty days to allow residents to prepare their case.

Ms. Henderson stated this item has previously been deferred three times, because the plan review took longer than anticipated and there were revisions to the plan. She cannot answer as to when the court will get tired of receiving revisions to the plans. The parking issue is the issue before Council tonight. The City ordinance on parking has a list of uses and requires so many spaces per use. If the parking for the Scientology building is under the church use, forty or fifty parking spaces would be sufficient to meet the guideline. The City's position is that is not a proper computation, once the City learned the Church uses its building differently. The City has struggled on how to properly apply the parking schedule. City staff determined after all the studies that at 44,000 square feet, 130 parking spaces should be sufficient. If the building were ever to revert to office use, the 130 parking spaces are two parking spaces short of O & I zoning. The applicant has a plan for the parking that includes maintaining required landscaping, open space, and fire safety. If the City were to deny the application after the parking space requirements have been met, the City would be in a weaker position for the remainder of the litigation. She recommends approval of this application.

Councilmember Karen Meinzen McEnery stated the City is contemplating and funding an intersection improvement at Glenridge and Roswell Road. She heard this evening that there would be a reduction in parking spaces, should the City implement the improvements. She asked about the potential ten percent reduction in parking spaces.

Director of Public Works Kevin Walter stated the comment regarding parking spaces being removed for the intersection improvement is based upon a previous conceptual design. The Council has just funded the intersection to be studied and the design has yet to be created. The intersection can be improved without reducing the parking spaces on the property.

Councilmember Meinzen McEnery asked about the constituent's comments regarding the deadline related to the court case. She asked what would be the downside of a Council deferral for another thirty days.

Ms. Henderson stated the primary downside would be that the City would incur significant litigation expenses to complete the pretrial order. The judge could question why the Council did not vote on this item. Residents have made comments that they have not had time to study the new site plan, but staff has had time to study the plan. Staff has made a determination that the plan meets City standards and the parking requirements.

Mayor Galambos asked if there is a possibility the City would lose the case and have financial exposure.

Ms. Henderson stated she had a similar case where there was a proposed settlement in the final stages and it was not approved by the Council. That action was used as evidence of discrimination by the City in that case. There is a danger that could happen in this situation.

Councilmember Chip Collins stated the City prides itself on being open and allowing enough time for public input. He is concerned regarding the short notice to the public. Court cases move at a somewhat slow pace, so a fifteen or thirty day deferral would not matter much. He would be in favor of a thirty day deferral for this agenda item.

Ms. Henderson stated if Council approves a thirty day deferral and at the end of that time there is approval of this item, there will probably not be significant impact on the litigation. If there is a thirty day deferral and at the end of the time there is denial of the application, it would have an adverse impact on the litigation. If the City wins the court case, the Church of Scientology would be allowed to use its 33,000 square foot building and the underground parking has to stay the same. If the Church wins one claim of the case, they would be allowed to convert the basement parking and not add additional parking. She is confident that what she is recommending is not a retreat position on behalf of the City, but the safest course of action to ensure adequate parking is provided.

Councilmember Collins asked Attorney Henderson her opinion on the risk of a deferral for thirty days.

Ms. Henderson stated the risk of a deferral for thirty days depends upon the ultimate vote of Council after the thirty day deferral.

Councilmember Dianne Fries asked if the recommendation for Council is to act on this item today.

Attorney Henderson responded yes.

Motion: Councilmember DeJulio moved to deny Agenda Item No. 12-158, RZ09-001. The motion failed for lack of a second.

Motion and Second: Councilmember Collins moved to defer Agenda Item No. 12-158, RZ09-001 – 5395 Roswell Road, Modification of the Approved Zoning Conditions, to the July 17, 2012, City Council meeting. Councilmember Meinzen McEnery seconded the motion.

Councilmember Meinzen McEnery stated Council needs the faith of the community in the decision making processes. It is warranted to allow the community additional time to look at the information and then Council can vote on the item after full notice and disclosure.

Councilmember Fries stated City staff has worked with the legal team on this for months. She agrees with the recommendation of the legal staff that action should be taken at this time.

Councilmember John Paulson stated he agrees with Councilmember Fries. The City's legal Counsel has been working towards a resolution on this item. Now there is a resolution, so he is struggling with deferral of this item.

Councilmember Collins stated he is by no means ignoring Counsel's recommendations. He is concerned about the short amount of time for the legal notice, even though legal requirements were met. He is concerned about the residents that did not receive the legal organ where the meeting was advertised.

Councilmember Gabriel Sterling stated the citizens who are going to be most impacted just found out about this agenda item. The citizens should be allowed to learn all the facts of the case before Council makes a final decision.

Councilmember Fries stated she understands the citizens need to verbalize their opinion and be involved in this case. There is a downside to losing the parking spaces, if the City loses the case. The Council is responsible for taking care of the City.

Ms. Henderson stated there is financial exposure if the judge does not approve another extension for the new deadline. The case is not likely to be on a trial calendar in the next thirty days. When Council requests repeated deferrals, it can affect the judge's decision.

Councilmember Sterling stated there were changes made to the plans even recently. It is not as if the City is not moving forward with this item.

Ms. Henderson stated if this item is deferred she will speak to the judge in person, as opposed to submitting another order.

Vote on the Motion: The motion carried 4-2, with Councilmembers Fries and Paulson voting in opposition.

(Agenda Item No. 12-153)

3. **RZ12-003/CV12-002** - 8610 Roswell Road, *Applicant: Dr. Beatris Dragonu*, Rezone from CUP (Community Unit Plan District) to C-1 (Community Business District) with concurrent variances

Manager of Planning and Zoning Patrice Dickerson stated this item is a rezoning and concurrent zoning modification application. The property is located at 8610 Roswell Road and is known as Loehmann's Plaza. The request is for the creation of an outparcel at the north corner of the property to allow the construction of a doctor's office. Staff recommends approval conditional of both the rezoning and zoning modification applications. The Design Review Board and Planning Commission also recommended approval.

Pete Hendricks, 6085 Lake Forrest Drive, Representative of the applicant, stated the area of the plaza being referenced is the northeast corner, where one would turn into the shopping center from Roswell Road. His client is requesting a 3,500 square foot medical office for a family oriented medical practice. The acreage is .67, which would be a density of 5,216 square feet to the acre. The applicant is requesting bringing the sidewalk along the ten foot landscape strip and requesting to not be required to comply with the limited number of parking spaces being six parking spaces between tree islands. Staff feels the applicant meets the hardship requirements for the two variances. If Council approves the rezoning, staff wants to give an update of the site plan for the Loehmann's shopping center. The applicant has received no opposition to this application. He asked that Council approve the application.

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 Second: Councilmember Fries moved to approve Agenda Item No. 12-153, RZ12-003/CV12-002 – 8610 Roswell Road, Applicant: Dr. Beatris Dragonu, Rezone from CUP (Community Unit Plan District) to C-1 (Community Business District) with concurrent variances. Councilmember Paulson seconded the motion.

Staff conditions:

1. To the owner's agreement to restrict the use of the subject property as follows:
 - a. To a Medical Clinic Use in a 3,500 square foot building developed at a total density of 5,216.10 square feet per acre.

2. To the owner's agreement to abide by the following:
 - a. To the site plan received by the Department of Community Development on March 6, 2012. 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.
 - b. To be in accordance with the proposed elevation drawings received by the Department of Community Development on March 6, 2012.
3. To the owner's agreement to the following site development considerations:
 - a. Variance from Section 4.23.1. of the Zoning Ordinance to allow a sidewalk within a required ten (10) foot landscape strip along the proposed southern property line (CV12-002#1).
 - b. Variance from the Tree Conservation Ordinance, Administrative Standards, & Best Management Practices - Landscape Strips, Buffers, and Parking (F.1) to relieve the requirement of planting a large shade tree every 6 parking spaces for all new parking lots (CV12-002#2).
 - c. The proposed sidewalk on/within the subject property shall extend the entire length of the of the southern side property line, with the exception over the proposed driveway.

Councilmember Karen Meinzen McEnerny stated her concern is the trees that will not be able to be planted in between the parking spaces due to the variance request. She asked if there is room to plant the trees near the retaining wall and the green space with streetscape lighting.

Mr. Hendricks stated staff's review and analysis stated there are adequate tree plantings on the property.

Vote on the Motion: The motion carried unanimously.

Ordinance No. 2012-06-18

(Agenda Item No. 12-154)

4. **ZM12-002/CV12-006** - 8610 Roswell Road, *Applicant: Dr. Beatris Dragonu*, To modify the site plan approved under Z65-020 to allow creation of an outparcel, with concurrent variances (*Presented by Manager of Planning and Zoning, Patrice Dickerson*)

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 Second: Councilmember Fries moved to approve Agenda Item No. 12-154, ZM12-002/CV12-006 – 8610 Roswell Road, Applicant: Dr. Beatris Dragonu, to modify the site plan approved under Z65-020 to allow creation of an out parcel, with concurrent variances. Councilmember Sterling seconded the motion.

Staff conditions:

1. To the site plan received by the Department of Community Development dated April 3, 2012. 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. Unless otherwise noted herein, compliance with all conditions shall be in place prior to the issuance of a Certificate of Occupancy. (ZM12-002)
2. To delete the required ten (10) foot Landscape Strip along the easterly property line abutting the northern most Out Parcel as shown on the Site Plan, filed by the owner/applicant, received by the Department of Community Development on April 3, 2012. (CV12-006 #1)
3. To delete the required ten (10) foot Landscape Strip along the northerly property line abutting the northern most Out Parcel as shown on the Site Plan, filed by the owner/applicant, received by the Department of Community Development on April 3, 2012. (CV12-006 #2)

Vote on the Motion: The motion carried unanimously.

Ordinance No. 2012-06-19

(Agenda Item No. 12-155)

5. **RZ12-004/CV12-004** - 5975 Mitchell Road, *Applicant: St. James Anglican Church, Inc.*, Rezone from R-1 (Single Family Dwelling District) to TR (Townhouse Residential District) with concurrent variances

Manager of Planning and Zoning Patrice Dickerson stated this item is a request to rezone the subject property from R-1 single family to R-5A single family to allow for the development of a fourteen lot subdivision. The applicant is also requesting four concurrent variances. Staff is recommending approval conditional of the rezoning request and the denial of the four concurrent variances. At the May 17, 2012, Planning Commission meeting, at the request of the applicant, the Commission recommended deferral of the case.

Pete Hendricks, 6085 Lake Forrest Drive, Representative of the applicant, stated the applicant would be requesting that this item go back before the Planning Commission as early as next Thursday. Conversations with the neighborhood have not advanced sufficiently. He requested this item be brought back to the Planning Commission in July 2012, and then back to Council in August 2012.

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

Jerry Erbesfield, 27 Ridgemere Trace, asked that Council accept the agenda item deferral request in order for the neighborhoods to discuss this item.

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

Charlotte Marcus, 5996 Mitchell Rd NW #25, stated she has lived in the Atlanta area for over forty years and lived in Sandy Springs for about sixteen years. She has a history of saving churches. When GA400 was built, MARTA and GDOT threatened to close a Baptist Church in her neighborhood. She was instrumental in speaking to the State about the church. The church was not historic, but did have a cemetery that was historic. This church is in a scenic area that no one is aware of. She would often visit the church and is saddened by the church's shabby appearance. She believes this agenda item is a preservation situation. She is surprised that the City has a wonderful Heritage Sandy Springs building,

but has no opinion about its heritage. This property has a tree located on it that is said to be over 500 years old and multiple 100 year old trees on the property. She asked that Council defer this item.

Mayor Galambos closed the public hearing.

Motion and Vote: Councilmember Collins moved to defer Agenda Item No. 12-155, RZ12-004/CV12-004 – 5975 Mitchell Road, Applicant: St. James Anglican Church, Inc., Rezone from R-1 (Single Family Dwelling District) to TR (Townhouse Residential District) with concurrent variances, to the August 21, 2012, City Council meeting. Councilmember Meinzen McEnery seconded the motion. The motion carried unanimously.

(Agenda Item No. 12-156)

6. **ZM12-004/CV12-009** - 5229 Roswell Road, *Applicant: John C. Mayoue*, To modify conditions 2.a., 3.c., 3.b., and 3.f. of RZ08-018 to amend the approved site plan, with concurrent variance(s)

Manager of Planning and Zoning Patrice Dickerson stated this item is a request to modify conditions for Sandy Springs zoning case RZ08-018 to allow for redevelopment of the existing office building. The applicant is proposing a building addition which would fall within the square footage previously allowed for the building. Staff is recommending approval conditional of the request. Staff would note condition 3.g., which was included from a previous staff report, should be deleted from this set of conditions.

Brian Randall, Representative of the client, stated four years ago the former owner of the property came before Council asking to tear down the existing structure and redevelop the whole site. At that meeting conditions were placed on the zoning and there was great opposition from the neighbors, which was resolved during the rezoning as a condition. Subsequently, nothing has happened to the property and it was sold to the current owner who has a very different plan in mind. The applicant plans on preserving the property for his legal practice. The owner wishes to build a small addition to the property and has worked with the existing neighbors. One of the conditions is a request to accept the site plan as shown. The second condition is related to the grading and existing trees on the south side. Any consideration of interparcel access will be deferred. The third request is presented as a concurrent variance to allow construction within the improvement setback on the rear of the property. The full twenty-five foot buffer will be left as is as part of the zoning conditions. The applicant is requesting that the condition of the existing house be grandfathered in as a condition of the zoning. He asked that Council consider this request. He thanked City staff members Patrice Dickerson and Linda Abaray for their help on this item.

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.

Councilmember John Paulson asked about condition 3.g.

Manager of Planning and Zoning Dickerson stated that condition was not previously approved and was an error in the staff report.

Motion and Second: Councilmember DeJulio moved to approve Agenda Item No. 12-156, ZM12-004/CV12-009 – 5229 Roswell Road, Applicant: John C. Mayoue, to modify conditions 2.a., 3.c., 3.b., and 3.f. of RZ08-018 to amend the approved site plan, with concurrent variance(s), and deleting staff report approval condition 3.g. Councilmember Fries seconded the motion.
Staff conditions:

1. To the owner's agreement to restrict the use of the subject property as follows:

- a. Office and associated accessory uses at a density of ~~6,399.32~~ 6,499.13 gross square feet per acre or 7,500 gross square feet, whichever is less.
 - b. To a maximum building height two (2) stories.
2. To the owner's agreement to abide by the following:
- a. To the site plan received by the Department of Community Development dated ~~June 5, 2008~~ April 4, 2012. 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. Unless otherwise noted herein, compliance with all conditions shall be in place prior to the issuance of a Certificate of Occupancy.
3. To the owner's agreement to provide the following site development standards:
- a. the owner/developer shall dedicate fifty-five (55) feet of right-of-way from centerline of Roswell Road (SR 9) along the entire property frontage or ten and one-half (10.5) feet from back of curb, whichever is greater, to the City of Sandy Springs.
 - b. The owner/developer shall dedicate twenty-five (25) feet of right-of-way from centerline of Beachland Drive along the entire property frontage or ten and one-half (10.5) feet from back of curb, whichever is greater, to the City of Sandy Springs.
 - c. If the plans call for any change to the driveway entrance from Roswell Road, prior to issuance of an LDP, the owner/developer shall attempt to provide interparcel access with the adjacent property to the south. Should the owner/developer not come to an agreement on interparcel access at this time with the adjacent property owners, the owner/developer shall provide documentation of such. In addition, if an interparcel access agreement is not obtained; permanent easements shall be recorded allowing for future inter-parcel access along the entirety of the southern boundaries of the property, prior to the issuance of an LDP.
 - d. To reduce the required fifty (50) foot buffer to twenty-five (25) feet and less the required ten (10) improvement setback to zero (0) to accommodate the portion of the encroachment only, adjacent to residentially zoned property along the east property line (~~CV08-020~~ CV12-009). The owner/developer shall install a six (6) foot tall, privacy fence interior to the buffer to provide additional screening in this area, subject to the approval of the Sandy Springs Arborist. ~~Said fence type and design shall be subject to the approval of the Design Review Board.~~
 - e. The parking spaces along the east property line adjacent to the zoning buffer referenced in condition 3.e. shall be developed with pervious material subject to the approval of the Sandy Springs Arborist.
 - f. To reduce the zoning regulations to the extent necessary for all the existing non-conforming (grandfathered) structure(s) to comply in accordance with the site plan received by the Department of Community Development dated April 4, 2012.
 - g. The owner/developer shall provide access onto Beachland Drive. The curb cut shall be designed in such a way as to restrict access to right-in/left-out operation, and shall be signed to restrict outbound right turns. Said curb cut design and location shall be subject to the approval of the Public Works Department.

Vote on the Motion: The motion carried unanimously.

Ordinance No. 2012-06-20

(Agenda Item No. 12-157)

7. **ZM12-005** - 7075 Canonbury Place, *Applicant: Jon Gallinaro*, To modify condition 1.d. of Z03-0182 to delete the minimum heated floor area requirement

Manager of Planning and Zoning Patrice Dickerson stated this item is a request to modify the zoning conditions of this case to delete the minimum heated floor area of 4,000 square feet required for this development. Staff is recommending approval conditional of the request.

Jon Gallinaro, 6586 Wright Road, stated he has been a resident of Sandy Springs for eleven years. His family resides in a two story 1,800 square foot ranch home. He has been looking for a new construction property in the Sandy Springs area for the last three to four years. He found a lot less than half a mile from his current home which would allow for a basement. His children attend school at Mt. Vernon Presbyterian and do not want to move away from the area. He is considering building a 3,300 to 3,500 square foot home with a basement. The area is a six lot subdivision and the lot has been sitting since 2006 with no activity. There is one home in the subdivision and construction has started on another lot.

Daniel Castro, 7081 Canonbury Place, stated he lives in the neighborhood the applicant is referring to. He is married and has three girls and would like nothing more than to have new neighbors. He is concerned that the homes being constructed may reduce the value of the homes already in the community. The square foot requirement is an assurance that new homes being constructed will not reduce the value of his home and other existing homes in the community.

Mayor Eva Galambos asked how many square feet are in his home.

Mr. Castro responded 9,500 square feet, including the basement.

Councilmember Karen Meinzen McEnerny asked about the square footage of the other home.

Mr. Castro responded 3,200 square feet. That home is on a lot that did not have many options. He did not receive a notice regarding that property or he would have come to speak before Council on that item.

Kavita Purohit, 7085 Canonbury Place, stated she owns two lots in the subdivision being discussed. She is building a home in the subdivision that will be about 9,500 square feet including the basement. The other house she is proposing to build is the same size. The one house that Mr. Gallinaro was referring to is built and is less than 4,000 square feet. The residents were not given the opportunity or notice to oppose the 4,000 square foot home. Mr. Gallinaro is requesting the HOA covenant be removed. That means the next home built could be 1,500 square feet in size.

Councilmember Dianne Fries asked if the neighbors would agree with the 4,000 square foot requirement staying in the covenant, but allowing one home to be smaller than the others.

Ms. Purohit stated it would be beneficial for the neighborhood to have the 4,000 square foot covenant. She is opposed to the covenant being completely removed.

Councilmember Meinzen McEnerny stated it is her understanding that the City is not involved in homeowner covenants.

Councilmember Fries stated there is a condition of zoning for this neighborhood that requires each home to be at least 4,000 square feet.

Mayor Galambos asked if this condition of zoning was done by the City or Fulton County.

Manager of Planning and Zoning Dickerson responded the county.

Councilmember Meinzen McEnery asked if Council can give a waiver for this particular lot.

City Attorney Wendell Willard stated Council is allowed to change the zoning condition and it can be done for a specific lot. This may raise an issue for another individual coming before Council with another lot in the future. If this condition is changed, the appropriate thing would be to change it for the subdivision.

Councilmember Fries stated a minimum square footage requirement for homes in a subdivision may be a good idea.

City Attorney Willard stated the zoning requires a minimum size of heated area. If a developer wants to build a more expensive home using smaller lots, that is addressed through the covenants. The appropriate way to handle those issues would not be conditions being placed on zoning use, but with covenants being placed by the developer. The required minimum square footage is a condition of zoning. If Council approves the condition, an individual that purchases a lot in the future may want the same treatment.

Councilmember Fries asked if Council removes the 4,000 square feet condition, would the existing neighbors be required to create a homeowner's association with these existing covenants, since the builder no longer owns the properties.

City Attorney Willard stated each homeowner within the subdivision would have to agree with placing covenants on each home.

Councilmember Fries stated if a home is bank owned it may be difficult to accomplish this. She asked Mr. Gallinaro if the property he bought was in foreclosure.

Mr. Gallinaro responded no.

Councilmember Fries asked how many vacant lots are in the subdivision.

Mr. Gallinaro responded three out of a total of six lots in this neighborhood.

Councilmember John Paulson stated he sympathizes that Mr. Gallinaro wants to build a home, but he also sympathizes with the people that currently own a home in the neighborhood. He has an issue with allowing the home to be built with less than 4,000 square feet.

Councilmember Chip Collins stated this is a neighborhood that he has driven by many times and wondered what was going on in the neighborhood. He categorizes the subdivision as a failed development. He feels that if the minimum square footage requirement is reduced, it may produce sales of the remaining lots. He also sympathizes with the individuals that bought lots in the neighborhood thinking they were buying into an upscale neighborhood with large homes. He asked the price difference for building a 3,500 square foot house versus a 4,000 square foot house.

Mr. Gallinaro responded the cost difference is probably \$50,000. He would prefer to use that money towards a basement.

Councilmember Fries asked if it would make sense to build something that is out of place in that neighborhood.

Mr. Gallinaro's homebuilder stated the home would be a 3,200 square foot house and would look very nice.

Councilmember Collins asked about the existing house with 3,200 square feet.

Manager of Planning and Zoning Dickerson stated the 3,200 square feet house was allowed due to a City staff permitting review error.

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 Second: Councilmember Collins moved to approve Agenda Item No. 12-157, ZM12-005 – 7075 Canonbury Place, Applicant: Jon Gallinaro, To modify condition 1.d. of Z03-0182 to a minimum heated floor area requirement of 3,750 square feet. Councilmember Sterling seconded the motion.

Staff conditions:

1. To the owner's agreement to restrict the use of the subject property as follows:
 - a. Single family detached dwellings and accessory uses and structures.
 - b. The minimum lot size shall be 13,000 22,500 square.
 - c. No more than 6 total dwelling units, at a maximum density of 1.12 dwelling units per acre, whichever is less, based on the total acreage zoned.
 - d. ~~The minimum heated floor area per dwelling unit shall be 4,000 square feet.~~
2. To the owner's agreement to abide by the following:
 - a. To the site plan received by the Department of Environment and Community Development on December 11, 2003. Said site plan is conceptual only and must meet or exceed the requirements of the Zoning Resolution and these conditions prior to the approval of 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.
 - b. To comply with the Subdivision Regulations of 2003, Fulton County Georgia.
 - c. All areas which are not part of an individual lot and held in common shall be accessible and shall be maintained by a mandatory homeowners association, whose proposed documents of incorporation shall be submitted to the Director of the Department of Environment and Community Development for review and approval prior to the recording of the first final plat.
3. To the owner's agreement to the following site development considerations:
 - a. No more than 1 exit/entrance on Brandon Mill Road. Curb cut must be offset at least 200 feet from Seville Chase or as may be approved by the Fulton County Traffic Engineer.
 - b. No lot shall be allowed direct access to Brandon Mill Road.

- c. The applicant's proposed minimum setbacks and design standards are as follows:
 - Minimum Lot Frontage 35 feet
 - Minimum Front Yard Setback 20 feet
 - Minimum Side Yard (Interior) 10 feet
 - Minimum Rear Yard/ Perimeter 30 feet
 - d. Reduce the perimeter setback to 30 feet adjacent to the property located at 7080 Brandon Mill Road. (2003VC-0263 NFC, Part 1).
 - e. Reduce the 50-foot setback for new street along the north property line to 10 feet (2003VC-0263 NFC, Part 2).
 - f. Provide along the common property line with the Riverside Estate Subdivision the following landscaping: 45-50 (15 gallon) Nellie Stevens Hollies in a staggered arrangement at approximately 8 feet on center; 12 Southern Magnolia (6-8 feet in height) installed randomly in clusters of three interrupting the Nellie Stevens Hollies along the staggered row; 12 Loblolly Pines installed randomly in either singles or clusters of three. Said landscaping shall be installed prior to the issuance of the first Certificate of Occupancy.
4. To the owner's agreement to abide by the following requirements, dedication and improvements:
 - a. Dedicate at no cost to Fulton County along the entire property frontage, prior to the approval of a Land Disturbance Permit, sufficient land as necessary to provide the following rights-of-way, and dedicate at no cost to Fulton County such additional right-of-way as may be required to provide at least 10.5 feet of right-of-way from the back of curb of all abutting road improvements, as well as allow the necessary construction easements while the rights-of-way are being improved:

30 feet from the centerline of Brandon Mill Road.
 - b. Provide a deceleration lane for each project entrance or as may be required by the Fulton County Traffic Engineer.
 5. To the owner's agreement to abide by the following:
 - a. Prior to submitting the application for a Land Disturbance Permit (LDP) with the Department of Environment and Community Development, Development Review Division, arrange to meet with the Fulton County Traffic Engineer. A signed copy of the results of these meetings will be required to be submitted along with the application for a Land Disturbance Permit.
 - b. Prior to submitting the application for an LDP, arrange an on-site evaluation of existing specimen trees/stands, buffers, and tree protection zones within the property boundaries with the Fulton County Arborist. A signed copy of the results of these meetings will be required to be submitted along with the application for an LDP.
 - c. Prior to submitting the application for an LDP, the developer/engineer shall contact the Public Works Department, Water Services Division, and arrange to meet on-site with an engineer from the Surface Water Management Program (SWMP), who is responsible for review of Storm Water Concept Plan submittals.
 - d. Prior to submitting the application for an LDP, the developer and/or engineer shall submit to the SWMP, through the Development Review Division, a project Storm Water Concept Plan. This

concept plan shall indicate the preliminary location of the storm water management facilities intended to manage the quality and quantity of storm water. The concept plan shall specifically address the existing downstream off-site drainage conveyance system(s) that the proposed development surface runoff will impact, and the discharge path(s) from the outlet of the storm water management facilities to the off-site drainage system(s) and/or appropriate receiving waters. As part of the Storm Water Concept Plan submittal, a preliminary capacity analysis shall be performed by the engineer on the off-site drainage system(s) points of constraint. The capacity analysis shall determine the capacity of all existing constraint points, such as pipes, culverts, etc., the point in the stream channel where the 25 year storm peak flow is the greatest percentage of the channel capacity, and the hydraulic grade elevation at these points. The critical capacity points shall be selected based upon the engineer's field observation, professional judgment and limited field survey data. The analysis shall identify the downstream properties pre and post-development 100-year floodplain and for any post-development floodplain increase, the developer shall acquire the applicable offsite drainage easement to accommodate the 100-year storm flow through impacted properties.

- e. Where storm water currently drains by sheet flow and it is proposed to be collected to and/or discharged at a point, the discharge from the storm water management facility outlet shall mimic pre-development sheet flow conditions. A description of the method proposed to achieve postdevelopment sheet flow conditions shall be provided as part of the Storm Water Concept Plan. Should the method to achieve sheet flow be unsuccessful, the developer shall acquire an easement(s) from the point of discharge to a point down gradient at a live dry weather stream sufficient to contain the 25 year storm flow or other location as approved by the Director of Public Works.
- f. A draft of the Inspection and Maintenance Agreement required by Fulton County Code, Section 26-278 shall be submitted to the Department of Public Works with the Storm Water Concept Plan.
- g. The Inspection and Maintenance Agreement shall provide that all storm water management/detention facility outlet control structures shall be inspected, photographed and cleaned on a monthly basis, by the owner. The Inspection and Maintenance Agreement shall require that an annual operation and maintenance report for all storm water management/detention facilities be prepared by a licensed design professional and submitted to the SWMP. The annual report shall include monthly inspections, photographs, and documentation of the cleaning of storm water management/detention facilities outlet control structure(s) as well as an operational assessment of the facilities indicating that they do, or do not, function as intended/designed, and if they do not, a description of the specific actions to be taken to allow the facilities to function as intended/designed.
- h. The required Inspection and Maintenance Agreement shall be recorded with the Clerk of Superior Court prior to issuance of an LDP, Grading Permit or Building Permit associated with the development.
- i. The engineer/developer is required to submit, along with the application for an LDP, signed documentation verifying approval of the Storm Water Concept Plan.
- j. Where paved parking areas (including access aisles) are proposed to exceed 5,000 square feet, the storm water management facilities shall be designed to remove pollutants such as oil, grease and other automobile fluids that may leak from vehicles. A description of the storm water management facilities proposed to achieve the removal of such pollutants shall be submitted with the Storm Water Concept Plan.

- k. With the application for an LDP, provide documentation (such as channel cross-sections, centerline profile, etc.) describing the geometry of all existing natural streams, creeks, or draws within the proposed development boundary and provide details on the Storm Water Management Plan of the postdevelopment channel bank protection measures.
- l. The developer/engineer shall demonstrate to the County by engineering analysis submitted with the LDP application, that the discharge rate and velocity of the storm water runoff leaving the site is restricted to seventy-five percent (75%) of the pre-development conditions for the 1-year frequency storm event, up to and including the ten (10)-year frequency storm event.
- m. All drainage from all disturbed areas shall be collected and conveyed to a storm water management facility provided as part of the development. No release of unmanaged or untreated storm flows shall be permitted from any disturbed portion of the developed property. Bypass flows will not be permitted except for undisturbed areas within a buffer or other protected easement and final plans shall provide for collection, conveyance and treatment of all flows from all developed lots or parcels, individual residences or building structures.

Councilmember Meinzen McEnery stated if someone bought one of these properties with the required minimum square footage set at 4,000, she does not agree with changing that requirement.

Councilmember Gabriel Sterling asked if there are more lots in Sandy Springs that have a required minimum square footage.

Manager of Planning and Zoning Dickerson responded yes. This was the standard procedure for Fulton County, but the City has not been following the same policy.

Councilmember Collins asked what the typical minimum square feet is for homes in a neighborhood.

Manager of Planning and Zoning Dickerson stated each zoning category has a different standard. For the NUP zoning classification, the standard is a minimum of 1,000 square feet.

Vote on the Motion: The motion carried 4-3 with Councilmembers Paulson, Fries and Meinzen McEnery voting in opposition; and Mayor Galambos breaking the tie by voting in favor of the motion.

Ordinance No. 2012-06-21

UNFINISHED BUSINESS

(Agenda Item No. 12-159)

1. Administrative Correction for Task Order for InterDev

Assistant City Manager Eden Freeman stated this item is an administrative correction to a task order for InterDev that was issued in February 2012. Last year the City began to implement a new enterprise resource planning system for the City called Munis. At that time staff undertook the conversion of the data for finance and faced a number of issues while the data was being migrated. Staff is now in the phase of transferring the data from three historical systems for Community Development. Unfortunately, the conversion has taken longer than anticipated. This correction is for an additional \$34,876 for InterDev to cover the amount of the conversion and implementation during the period of April 1 to June 30, 2012. Gary Nichols, the CEO of InterDev is in attendance and he has assured staff that if there are any costs beyond June 30, 2012, that there will be no additional charge to the City. The system should be live on July 1, 2012, for Community Development.

Councilmember John Paulson asked if the cost of \$34,000 is a onetime fee to activate the system.

Assistant City Manager Freeman responded yes.

Motion and Vote: Councilmember Fries moved to approve Agenda Item No. 12-159, Administrative Correction for Task Order for InterDev. Councilmember Sterling seconded the motion. The motion carried unanimously.

NEW BUSINESS

(Agenda Item No. 12-160)

1. Approval of Roads list for Additional Paving to be done under The FY 2012 Capital Resurfacing Budget

Director of Public Works Kevin Walter stated in FY2012 the Council approved a list of roads to be repaved and those roads have been completed. There are remaining funds in the fiscal 2012 budget. Staff would like to proceed with paving additional roads. The list before Council is fifty-seven roads from the previous ranking. This is a thorough list of roads that covers the whole City.

Councilmember Tibby DeJulio asked if all fifty-seven roads could be paved with the remainder of the money.

Director of Public Works Walter stated there is over \$2 million left for the repaving that includes surplus from previous years. The estimate for the paving of the fifty-seven roads is approximately \$2 million.

Motion and Vote: Councilmember DeJulio moved to approve Agenda Item No. 12-160, Approval of Roads list for Additional Paving to be done under The FY 2012 Capital Resurfacing Budget. Councilmember Fries seconded the motion. The motion carried unanimously.

Resolution No. 2012-06-39

(Agenda Item No. 12-161)

2. ARC Request for Local Match Funds: Alternatives Analysis for Bus Rapid Transit route extending from City of Atlanta to City of Sandy Springs/Dunwoody

Director of Public Works Kevin Walter stated there is an opportunity for the City to apply for an alternatives analysis for bus rapid transit through the Atlanta Regional Commission (ARC). The amount of Federal funds available is \$260,000 and ARC would use this money to study alternatives for bus rapid transit stations and improvements in the Cities of Atlanta, Sandy Springs, and Dunwoody. There is an existing TIA project for the City of Atlanta for bus rapid transit improvements with a substantial budget of \$50 million, but that does not extend past the City of Atlanta limits. The bus rapid transit concept would have to extend to a MARTA station in Sandy Springs or Dunwoody. These Federal funds would allow the City to partake in a study that could lead to future money to construct improvements in Sandy Springs. He recommends that Council fund a future commitment of \$20,000 match money to enable the alternatives analysis to move forward.

Mayor Eva Galambos stated when the TIA list was being considered there were two segments. One segment was from downtown Atlanta to the Lindberg MARTA station, then to Wieuca Road. The segment stops at the Sandy Springs City limits instead of extending into the City along Roswell Road, and down Hammond Drive to the MARTA station. The ARC is asking for \$65,000 and the Buckhead CID would be required to match the money with \$25,000. She has asked PCID to contribute \$20,000, for which they first have to obtain permission from their Board. In the meantime, Sandy Springs should pay the \$20,000.

Councilmember Karen Meinzen McEnery stated all of the improvements will be through the City of Sandy Springs. The City of Dunwoody and DeKalb County are not being asked to participate, because they would not receive much benefit from this project. This project is a great idea.

Councilmember Gabriel Sterling asked if the funds would come from capital contingency.

City Manager John McDonough stated the money would come from the grant fund.

Motion and Vote: Councilmember DeJulio moved to approve Agenda Item No. 12-161, ARC Request for Local Match Funds: Alternatives Analysis for Bus Rapid Transit route extending from City of Atlanta to City of Sandy Springs/Dunwoody. Councilmember Paulson seconded the motion. The motion carried unanimously.

Resolution No. 2012-06-40

(Agenda Item No. 12-162)

3. A Resolution to Clarify Certain Provisions of the City's Economic Development Incentive Policy

City Attorney Wendell Willard stated when Council adopted an economic development plan there was a provision that states upon application, and prior to action by the City Council, the City Clerk shall advertise a public hearing in accordance with applicable provisions of Georgia law. There is nothing in Georgia law that requires there to be an advertisement for a hearing. Staff suggests a public hearing, which allows for any input from an applicant or the public. He is requesting Council approve removing the requirement to advertise the notice for the hearing.

Councilmember Gabriel Sterling asked if the City should still advertise for the public hearing.

City Attorney Willard responded no. There would be no need to advertise. The publishing of the agenda for a meeting would meet any requirement for notice.

Motion and Vote: Councilmember Sterling moved to approve Agenda Item No. 12-162, A Resolution to Clarify Certain Provisions of the City's Economic Development Incentive Policy. Councilmember McEnery seconded the motion. The motion carried unanimously.

Resolution No. 2012-06-41

(Agenda Item No. 12-163)

4. GT Software Economic Development Incentives Application

Director of Community Development Angela Parker stated pursuant to the policy approved by Council in October 2011, GT Software has submitted an application for waiver of building permit fees and business license application fees. Staff recommends approval of the application and authorization for the City Manager to execute a contract with GT Software regarding the incentives. GT Software will be providing fifty-two new jobs to Sandy Springs with an annual salary at or above \$62,244 a year. The company's capital investment exceeds \$1 million and is within the range of \$4 million.

Mayor Eva Galambos stated several Councilmembers visited GT Software and they did make the capital improvement required.

Mayor 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 Second: Councilmember Fries moved to approve Agenda Item No. 12-163, GT Software Economic Development Incentives Application. Councilmember Sterling seconded the motion.

City Attorney Wendell Willard asked if all the jobs will have that salary as a minimum or if that is an average.

Director of Community Development Parker stated the salary amount would be a minimum amount.

Vote on the Motion: The motion carried unanimously.

(Agenda Item No. 12-164)

5. Consider Options Regarding Human Resources Services

City Manager John McDonough stated this item is a consideration of options for Human Resources services for the Public Safety Department and City employees. A request for proposals (RFP) was released on May 8, 2012, and one response was received. After a review of the response, staff determined that the response was not acceptable. Prior to May 8, 2012, staff put together a cost estimate for the City/Public Safety human resources function to be housed under the Public Safety department. Staff did not receive a response to the RFP from FlexHR, however they did submit a letter expressing a desire to provide services based on the pricing submitted in February 2012. The nonresponsive bidder submitted a proposal that included 3 FTE's with 1,960 hours. The City Public Safety proposal included 2.5 FTE's with 2,080 hours and the FlexHR proposal included 2 FTE's at 2,080 hours. The standard travel and training is included in the price. Bidder A and the City Public Safety option would both use ADP to process the payroll. The proposed cost from Bidder A is \$408,646, the City Public Safety option cost is \$309,105, and FlexHR is at \$400,356. Based on the nature of information handled by the Human Resources department, it is his recommendation to house the department under the Public Safety function with 2.5 FTE's. One FTE would be for the HR Director, one would be for an Employee Relations Manager, and a .5 for a Generalist/Payroll, effective July 1, 2012. Based on this evaluation, the City would have an annual cost savings of approximately \$99,540. There are funds included in the budget that Council approved this evening to cover the cost. Staff recommends charging a pro rata share of the total cost to the relevant work units to include Police, Fire, General City, and Hospitality Employees.

Councilmember Tibby DeJulio stated he is opposed to this proposal. In this situation, more City employees would be added to the Police Department staff. For the next situation, more City staff could be hired and added to the Fire Department, and after that more staff could be hired and placed somewhere else. He has a problem with the City's RFP if only one response was received. There are companies advertising on TV and the radio every day that offer HR services. The City had this same problem before. Council had previously determined to keep the number of City employees down. The human resources services can be rebid to standards where more than one response is received.

Mayor Eva Galambos stated she spoke to the City Manager about the issue. Her initial reaction was the same as Councilmember DeJulio's. She suggested that the employees be part of the Police and Fire Department's budgets because 96% of the work involves servicing the Police and Fire Department employees. The City Manager explained this human resource specialty is different and that is why RFP responses were not being received. She feels more City employees in this instance is merited.

Councilmember Gabriel Sterling stated public safety employees are a different kind of employee in general due to their dealing with sensitive information. It is difficult to find a private company that does a good job in human resources for public safety. The City needs to make sure the City employees are taken care of properly. The services can be rebid again in two years if Council chooses. The public safety employees are not happy with the human resources they have received and are not being serviced properly. He normally would not be in favor of adding more City employees. He asked if the .5 FTE would be a shared employee.

City Manager McDonough stated staff is going to explore options with the existing provider.

Councilmember Dianne Fries stated she agrees with the Mayor on this recommendation. This is a unique situation, therefore she supports the recommendation.

Mayor Galambos stated the two human resource firms used by the City have not been satisfactory in terms of dealing with the Public Safety department needs.

Motion and Second: Councilmember Fries moved to Approve Agenda Item No. 12-164, the recommendation from the City Manager for Human Resources services to become part of the City Public Safety staff. Councilmember Meinzen McEnerny seconded the motion.

Councilmember Karen Meinzen McEnerny stated the City Manager and Councilmembers have been through a comprehensive review of the public/private sector contracts that resulted in a savings of \$7 million. She is confident that staff can draft an RFP that conveys the services the City is looking for. If no one responded to the RFP, it demonstrates the free market does not have the expertise for this human resources specialty. She will support the recommendation.

Councilmember Chip Collins stated he is leery of employee creep. One of the main reasons for the public/private partnership is to save money. The RFP was placed out to the market and the City is the winning bidder. These services can be rebid every two to three years, if Council chooses. He will support this recommendation.

Councilmember Sterling asked who the Human Resources Director will report to.

City Manager McDonough responded the Director will report to the City Manager.

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

(Agenda Item No. 12-165)

6. Award Recommendation for Insurance Procurement for the City of Sandy Springs ("City")

Finance Director Karen Ellis stated this item includes an evaluation memo from the consultant McNeary who analyzed the workers compensation and the general liability insurance for the City. McNeary recommends a sub schedule within the memo, which analyzes the two major vendors that provide services to the City. Currently, the City has general liability insurance with GIRMA and workers compensation insurance with the McCart Group. To realize a savings of about \$300,000, the workers compensation insurance will now be with GIRMA and the general liability insurance with McCart.

Councilmember Dianne Fries asked if the substance of the insurance policies will be the same and only who handles each plan will change.

Finance Director Ellis responded yes.

City Attorney Wendell Willard stated staff sent out a specific proposal bid for the insurance companies. The City will have additional coverage compared to what is currently being provided. An example would be if the City is required to buy a separate policy for Georgia Power where park construction is being done. This policy would be able to add Georgia Power as a named additional insured.

Councilmember Gabriel Sterling asked if the City will receive enhanced coverage for \$300,000 less in payments and if the reduction is from year to year.

City Attorney Willard stated the savings will be for one year.

Councilmember Tibby DeJulio asked if City staff has done an analysis on what has been paid for insurance in the last six and a half years and determined if the City would have benefited by self-insuring.

City Attorney Willard stated the City was considering self-insuring on specific parts of the policy. McNeary advised the City does not have a sufficient track record to make an evaluation on self-insuring. The City has had high expenses for the defense of insurance claims due to legal expenses through the insurance coverage. Staff has worked out with One Beacon that the City will have a choice in which attorneys will be representing the City. The attorneys the City recommended to One Beacon have already been approved. Staff has a spreadsheet that shows the claims and what was paid on the claims. The spreadsheet was used as part of the material given to the insurance companies for the evaluations.

City Manager John McDonough stated some years the City expenses exceeded the insurance premiums and other years the expenses did not exceed the premiums. At this point, the City has probably spent more in claims compared to what has been paid in premiums.

Councilmember John Paulson asked about the company One Beacon being listed on the spreadsheet while the contract is being awarded to McCart.

City Attorney Willard stated McCart is the brokerage firm for One Beacon.

Councilmember Karen Meinzen McEnerny stated she was amazed at the public officials liability coverage cost of \$450,000.

City Attorney Willard stated the Police Department is covered under public officials as well.

Motion and Vote: Councilmember Fries moved to Approve Agenda Item No. 12-165, Award Recommendation for Insurance Procurement for the City of Sandy Springs ("City"). Councilmember DeJulio seconded the motion. The motion carried unanimously.

Resolution No. 2012-06-42

REPORTS AND PRESENTATIONS

1. Mayor and Council Reports

Motion and Second: Following nomination by Mayor Galambos, Councilmember DeJulio moved to appoint Dave Nickles, Jimmy Glenn and Carla Sweetwood as members of the Sandy Springs Development Authority. Councilmember Sterling seconded the motion.

Mayor Eva Galambos stated Dave Nickles is a public affairs consultant who has lived in Sandy Springs for many years. His daughters are active with Heritage Sandy Springs. Jimmy Glenn is knowledgeable in real estate. Carla Sweetwood works with Keller Williams Realty.

Councilmember Gabriel Sterling asked who is currently on the Development Authority.

Assistant City Manager Eden Freeman stated the current members are Betty Crawford, Kenneth Gregor, Jennifer Steele, John Willis, Ralph Thurmond, and Rusty Paul. The two individuals that no longer wish to serve on the Board are Betty Crawford and Kenneth Gregor.

Councilmember Sterling stated there are two openings on the Board.

Assistant City Manager Freeman stated there are actually three openings, because there was already a single vacancy for a member who had moved out of the country.

Councilmember Karen Meinzen McEnery asked what is the role of the Development Authority.

Development Authority Boardmember Rusty Paul stated the Development Authority last met to discuss the Hammond half diamond interchange.

Councilmember Meinzen McEnery asked what other roles does the Authority have.

City Attorney Wendell Willard stated to work with other agencies to provide a funding source for the development of public or private properties. Fulton County has a Development Authority that operates in the City of Sandy Springs. The purpose of that Authority is to assist with economic development in Fulton County.

Councilmember Sterling stated asked if the Authority requires a member of Council to be on the Board.

Mayor Galambos stated a member of Council could be easily added as a Boardmember. She will add a Council appointee at the next City Council meeting.

Vote on the Motion: The motion carried unanimously.

Mayor Eva Galambos stated Jim Comerford, who is the Chairman of the Economic Development advisory Committee, is extremely active in the community and suggested adding more members to the group. His three recommendations are Tom Miller, who is employed by Grubb Ellis; Daniel Diluzio, who is a CPA with DiLuzio & Henssler Incorporated; and Tom Mahaffey, who is with the Perimeter Chamber of Commerce.

Motion and Vote: Following nomination by Mayor Galambos, Councilmember Sterling moved to appoint Tom Miller, Daniel Diluzio and Tom Mahaffey as members of the Economic Development Advisory Committee. Councilmember Fries seconded the motion. The motion carried unanimously.

2. Staff Reports

- a) The Use of an \$180,000 Energy Efficiency Community Block Grant for Pedestrian Light LED Retrofit – Kevin Walter

Director of Public Works Kevin Walter stated Council previously approved the acceptance of an energy efficiency community block grant. There is \$180,000 of the grant that must be expended by August 2012. Staff submitted a proposal to Council on how to spend the remainder of the funds. Staff has been able to negotiate with Georgia Power to convert existing street lights from incandescent lamps to LED lights. There will be an expense of \$1,300 per light fixture to retrofit with the LED lights. That cost will be paid for with the grant funds. The cost for each light will decrease from \$18 a month to \$9 a month.

Councilmember Dianne Fries asked if forty-seven percent of the lights in the downtown area will be retrofitted.

Director of Public Works Walter responded yes. There is a map included with the memo.

Councilmember Gabriel Sterling asked what style of light will be used.

Director of Public Works Walter stated the lamppost will remain exactly the same.

Councilmember Fries asked if the new lights will be the same as the ones located at the Heritage entertainment lawn.

Director of Public Works Walter stated he believes the lights will be the same. The City will save \$12,000 a year by installing the LED lights.

Councilmember John Paulson stated this is great. However, when he drives by the library at night, the lights project directly into his eyes. He asked if there are shades that can be installed on the lights.

Councilmember Fries stated the City will not be using that type of light for the new LED lights.

Councilmember Karen Meinzen McEnery asked if these lights will illuminate the walkways without creating light pollution.

Director of Public Works Walter responded yes. The City ordinance is being modified for additional language to address the light projection issue.

Councilmember Fries asked if it will be cheaper for the City when new light posts are bought and installed.

Director of Public Works Walter responded yes. The City is looking at a few alternatives including purchasing our own lights and performing the maintenance, contracting with a third party other than Georgia Power, or asking Georgia Power to convert more lights.

Mayor Galambos stated she was briefed by Public Works staff on how they are trying to reduce the City's cost for electric power. Staff is very imaginative in their ideas.

There was a consensus of Council to move forward with the use of the \$180,000 Energy Efficiency Community Block Grant for pedestrian light LED Retrofit.

PUBLIC COMMENT

Casey Dryden with 5 Seasons Brewery, 5600 Roswell Road, stated he is here to discuss the recent ordinance regarding growler sales. He was so excited at the idea of 5 Seasons Brewery being able to sell beer to take outside of their building. He called the City to find out when his business would be able to sell beer to take outside and was told they may not be able to. This information was disappointing. He did research on the brew pub law. There is nothing he has found within the law that would preclude his company from selling beer to take off-premises except for one line in the ordinance. The line states "growlers may only be filled from kegs procured by the licensee from a duly licensed wholesaler." His company is a duly licensed wholesaler. He is here to find out why his company is not able to partake in selling the beer into growlers.

City Attorney Wendell Willard stated the limitation is not created by the City, but by State law. Mini breweries are a specialized provision in the law. The breweries are authorized with a restriction that does not allow removal of the beer from the premises. There is a need to have that area in the law reviewed to hopefully get it modified. The breweries can sell wholesale beer from a keg into a growler, but the brewery is not allowed to sell their own beer.

Mr. Dryden stated the brew pub law does not state beer is for consumption on the premises.

Mayor Eva Galambos stated this is a technical matter that will need to be discussed with the City Attorney.

Kevin McNerney, 146 Hardeman Road, stated he is the brewmaster of the 5 Seasons Brewing Company. He hopes that his company can call on the support of the City in trying to change the State law.

Mayor Galambos responded absolutely. The City will work with Mr. McNerney and Mr. Dryden to get the law changed at the State level.

Councilmember Chip Collins stated the City gave the Georgia Center for Child Advocacy a \$6,000 grant to train 600 people in Sandy Springs on the prevention of child sexual abuse. There is an upcoming free training session on June 20, 2012, from 9:00 a.m. to 12:00 p.m. at the New York Life office located at 5909 Peachtree Dunwoody Road.

Councilmember Dianne Fries stated on July 8, 2012, the GA400 Hospitality Highway Ride will come from GA400 through Sandy Springs and back up through other North Fulton cities.

Councilmember John Paulson stated on June 21, 2012, there is a town hall meeting at the Brandon Hall School to discuss the intersection improvement alternatives for Spalding Drive at Mt. Vernon Hwy and a general presentation by the Police and Fire Departments.

EXECUTIVE SESSION

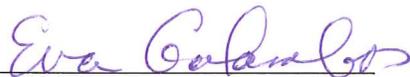
There was no Executive Session.

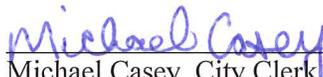
(Agenda Item No. 12-166)

ADJOURNMENT

Motion and Vote: Councilmember Sterling moved to adjourn the meeting. Councilmember Fries seconded the motion. The motion carried unanimously. The meeting adjourned at 8:53 p.m.

Date Approved: July 17, 2012


Eva Galambos, Mayor


Michael Casey, City Clerk