SANDY SPRINGS
GEORGIA

CITY COUNCIL AGENDA ITEM

TO: Mayor & City Council **DATE:** November 3, 2011

FROM: John McDonough, City Manager

AGENDA ITEM: Presentation of Sandy Springs Charter Review Commission Report

MEETING DATE: For Submission onto the November 15, 2011, City Council Work Session Meeting Agenda

BACKGROUND INFORMATION: (Attach additional pages if necessary)

See attached:

Memorandum
Report of Recommendations

APPROVAL BY CITY MANAGER: JM *APPROVED*

_____ *NOT APPROVED*

PLACED ON AGENDA FOR: 11-15-2011

CITY ATTORNEY APPROVAL REQUIRED: ( ) *YES* (✓) *NO*

CITY ATTORNEY APPROVAL: _____

REMARKS:

Dear

In the legislation incorporating the City of Sandy Springs, the General Assembly provided for a Charter Review Commission to appraise the City Charter and the City's operations to recommend necessary revisions in light of five years' operations. Earlier this year, this Commission was convened in accordance with the incorporating legislation and we respectfully submit the attached report for your review and any suitable action.

In reviewing the Charter, we undertook the following tasks:

- Met individually with the Mayor and members of Council to solicit their input and recommendations on any changes or improvements to the Charter;
- Conducted two public hearings to receive comments and recommendations from the community;
- Publicized the opportunity for members of the public to submit written comments outside the public hearing process;
- Sought information from the University of Georgia's Carl Vinson Institute of Government on cities of similar size, scope and service strategies to ascertain lessons learned by other communities. (We quickly learned that Sandy Springs is truly unique among the world's cities in its service delivery methodology.)
- Worked as a Committee of the Whole to review the Charter systematically, paragraph by paragraph, to evaluate each aspect of the document in light of the City's unique private sector service delivery strategy to ensure that there were no incompatibilities;
- Looked at the power-sharing and distribution mechanisms to assess whether any adjustments might improve City operations or correct any anomalies that may have resulted since the City's inception.

In the course of our work, we also focused on several objectives:

- We worked to avoid injecting question of policy into the Charter believing that policy is the proper purview of elected officials and to give those officials the widest possible latitudes in setting policy.
- We worked to provide uniformity of language in describing similar functions and powers, while clarifying other provisions to minimize possible confusion in interpreting the Charter's provisions.
- We concentrated on the purposes of municipal government, its power distribution and power sharing characteristics, its proper functions and responsibilities to ensure appropriate authority, checks, balances and oversight among and within the various branches and operations of City government.
- We looked at the City's unique service delivery strategy to determine whether Charter changes could facilitate that strategy without tying the hands of future City governments if an alternative service delivery approach were deemed more appropriate.

- We tried to avoid solving problems that do not exist, though we did attempt to look forward to anticipate potential conflicts and pitfalls in order to offer mechanisms for resolving those in a clearer manner.
- Finally, we recognized that the City Manager form of government provided for in the Charter places the responsibility for day-to-day City management in that individual's hands. Yet, in looking at the Charter's power sharing and power distribution mechanisms, we recommend tilting the balance of power slightly more toward the City's elected leadership versus its appointed leadership in the case of any irresolvable conflict. This was done on the theory that the elected officials have ultimate responsibility to the citizens for the conduct of the City.

In reviewing the Charter, we learned that its drafters were very prescient in giving the City leadership the flexibility necessary to conduct the affairs of the City in the manner that was chosen. We determined the Charter as originally drafted has served the City extremely well and we propose no sweeping changes.

However the Commission's recommendations were thoroughly discussed, debated, examined and arrived at in an exceptionally collegial basis. While each recommendation did not receive unanimous support from the Commission, the overwhelming majority of our recommendations did. Moreover, we unanimously approved the report which we submit.

Please accept this report with our regards and we stand available to answer any questions or address any concerns you may have as a delegation or individually.

Respectfully,

Russell K. (Rusty) Paul
Chairman
Sandy Springs Charter Review Commission

Sandy Springs Charter Review Commission Report

September 7, 2011

To: The Sandy Springs Legislative Delegation
The Mayor and Council, City of Sandy Springs

From: The Sandy Springs Charter Review Commission

Subject: Charter Revision Recommendations

The original Charter for the City of Sandy Springs, Georgia called for, after five years of operation, the City's legislative delegation and the City Government to appoint a group of citizens to review City's operations and its Charter. Called the Charter Review Commission, this body was to review the City Charter and City operations and make recommendations to the Georgia General Assembly and City's elected leadership regarding changes to improve the City Charter.

The Charter is, in essence, the City's Constitution, its fundamental legal document defining the roles, responsibilities and power-sharing arrangements of the City Government.

That Commission was appointed early in 2011 and it began work immediately with an eye toward completing a systematic, article-by-article review of the Charter. Before beginning this systematic review, we held two public hearings to obtain input from its citizens about Charter provisions that could improve citizen satisfaction with, and the quality of, service available from the City. We publicized all meetings, opening them to the public and providing opportunities for comment – both oral and written – throughout the entire review process.

We also met with the current mayor and any city council members wishing to comment to obtain their perspective of the Charter's power distribution characteristics and how City operations could be improved via changes or revisions in the Charter.

In assuming this task, the Commission focused first on addressing any technical or drafting concerns found in the original Charter. Then, we concentrated our energies on recommending changes that would enhance City operations and responsiveness, concentrating to the maximum extent possible on questions of power-sharing, power distribution and governmental structures. To the maximum extent practicable, we worked to avoid extensive recommendations that deal with how those powers are used to create policy. We understand that the Charter should specify the powers and functions of government, while policy-setting is the proper function of the elected leadership.

In addition, we looked at how the Charter could be amended to acknowledge and facilitate the City's policy decisions to rely primarily on private sector contractors to provide the municipal services without tying the hands of future Governments to adopt another model based on future circumstances and needs. These suggested amendments are sometimes general in nature, and at other times they are more specific. We deferred to members of the General Assembly and Legislative Counsel when possible. But occasionally, we have recommended detailed language as a result of study and compromise.

We members of the Commission would gladly meet with the legislative delegation to discuss our work or any concerns or questions that may arise. We are grateful for this opportunity to serve, and we look forward to being a continuing resource for you if requested. Having completed our task within the time allotted, we respectfully transmit to you our recommendations as approved by a majority vote of the Commission. We thank you for the honor you afforded us by our appointments to this Commission and we gratefully place our recommendations in your hands for disposition as you deem proper.

Sincerely,

Russell K. (Rusty) Paul, Chairman

Oliver Porter, Vice Chairman

Carolyn Axt, Member

Josh Belinfante, Member

M. Jerome Elmore, Member

Doug MacGinnitie, Member

Robert J. Shaw, Member

Jim Squire, Member

Larry Young, Member

City of Sandy Springs Charter Commission 2011
Recommended Changes to Charter

General Recommendation: The Commission recommends inserting the word "City" before the word "manager" whenever the language is referencing the City Manager throughout the Charter.

General Recommendation: The Commission recommends changing the Charter to replace the word "council" with the words "city council".

Article I, Section 1.03: The Commission recommends changing the Charter, so that any of the City's retirement plans must be funded in the current fiscal year as actuarially appropriate.

Article I, Section 1.03: The Commission recommends changing paragraph (34) where it states "sewer fees" to add "water and sewer fees", in anticipation of the day the City may own its own water system.

Article I, Section 1.04: The Commission recommends that Section 1.04 be redrafted by the legislature to give whatever rights, privileges, and immunities that may be available under State law to private contractors as authorized by the City Council.

Article II, Section 2.01, subparagraph a): The Commission recommends adding the sentence "Except as specifically stated, references in this Charter to 'councilmembers' or 'city councilmembers' shall not include the mayor."

Article II, Section 2.02: The Commission recommends that beginning with the 2017 election, term limits will become effective and include prior years of service. In 2017, no one shall run for reelection to the same post if they have served the prior consecutive eight years in that post.

Article II, Section 2.07: The Commission recommends that the Charter reflect the City Council's authority to vote annually to index the Mayor and Council's salaries on an annual basis to the CPI or any similar Federally recognized inflationary index.

Article II, Section 2.08: The Commission recommends to include the language "or contractor providing services to the city thereof" after the phrase "into the affairs of the city and conduct of any department, office, agency".

Article II, Section 2.12: The Commission recommends to add a Section c) which would state: except for the positions of the Mayor, City Council, and the City Manager, the City Council may establish contracts for services with private, public, or other outside entities for delivery of services authorized by this Charter, general law, or the Constitution of the State of Georgia.

Article II, Section 2.14: The Commission recommends that the language of Section 2.14, subparagraph a), as drafted in the original Charter, be restored. The language shall state: Every proposed ordinance and resolution shall be introduced in writing and the city council shall have the authority to approve, disapprove, or amend the same. A resolution may be passed at the time it is offered, but an ordinance shall not be adopted until the title of said ordinance shall have been read at two city council meetings, provided that the beginning of said meetings be not less than 24 hours nor more than 60 days apart. This requirement of two readings shall not apply to emergency ordinances or to ordinances adopted at the first business meeting of the city council in a calendar year.

Article II, Section 2.14, subparagraph d): The Commission recommends the language state: Within six months of the passage of any amendment to this Charter by the General Assembly, the city council shall, by ordinance or resolution, adopt rules or by laws that establish a minimum requirement for public comment in open meeting prior to final vote on each ordinance. The requirement may not apply to emergency ordinances or to ordinances adopted at the first business meeting of the city council in a calendar year. No ordinance passed in a manner consistent with the ordinance or resolution described in this paragraph shall be deemed in violation of this paragraph.

Article II, Section 2.15, subparagraph c): The Commission recommends that the veto threshold number be raised to five votes being required to override a veto.

Article II, Section 2.15: The Commission recommends that Section 2.15 e) be clarified to reflect that approval or disapproval action by the Mayor as opposed to the City Council is required before a resolution or ordinance can become effective.

Article III, Section 3.01: The Commission recommends including in Section 3.01, subparagraph (b) (8) language stating that the Mayor shall provide administrative supervision to the City Manager.

Article III, Section 3.03: The Commission recommends adding a clause at the beginning of the last sentence in Section 3.03 that states, "except as approved by the Mayor and Council".

Article III, Section 3.04, subparagraph 9): The Commission recommends adding the language "the advice and consent of" in place of "review and comment".

Article III, Section 3.04: The Commission recommends in Section 3.04, subparagraph 11) where it states clerk of the city to strike "clerk of the".

Article IV, Section 4.02: The Commission recommends a provision in Charter Section 4.02 that states the Judges of the City should designate one of their members to perform the administrative and other duties outlined in the Uniform Rules for Chief Municipal Court Judges. The Commission further recommends adding that if there is a Judge in that position, the position be rotating and/or have a term limit.

Article IV, Section 4.06: The Commission recommends the language of Section 4.06 to state: The judges, by majority vote, shall have the authority to make reasonable rules and regulations necessary and proper for addressing the lawful operation, and due process required, of the municipal court. The Clerk of the Court, as administrator of the court, shall prepare reasonable rules and procedures necessary and proper to manage the efficient and successful administration of the municipal court consistent with the uniform rules of Municipal Courts of the State of Georgia as amended from time to time. All administrative rules and procedures shall be subject to the approval of the City Council.

Article V, Section 5.03: The Commission recommends in addition to Section 5.03, to state the Mayor's duty is to set the revenue estimate for the municipal budget.

Article V, Section 5.03: The Commission recommends adding the language in the second sentence of Section 5.03 to read "each fiscal year, the City Manager shall, after the advice and consent of the Mayor".

Article VI, Section 6.04: The Commission recommends a seconded Charter Review Commission be established in another eight years following this original Charter review.