

Regular Meeting of the Sandy Springs City Council was held on Tuesday, September 20, 2011, at 6:00 p.m., Mayor Eva Galambos presiding.

INVOCATION

Reverend Will Zant, North Springs United Methodist Church, offered the invocation.

CALL TO ORDER

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

ROLL CALL AND GENERAL ANNOUNCEMENTS

City Clerk Michael Casey reminded everyone to silence all electronic devices at this time. Additionally, those wishing to provide public comment during either a public hearing or the Public Comment segment of the meeting are required to complete a public comment card. The cards are located at the back counter and need to be turned in to the City Clerk.

City Clerk Casey called the roll.

Mayor: Mayor Eva Galambos present.

Councilmembers: Councilmember John Paulson, Councilmember Dianne Fries, Councilmember Chip Collins, Councilmember Gabriel Sterling, Councilmember Tibby DeJulio, and Councilmember Karen Meinzen McEnery present.

PLEDGE OF ALLEGIANCE

Mayor Eva Galambos led the Pledge of Allegiance

(Agenda Item No. 11-190)

APPROVAL OF MEETING AGENDA

Motion and Vote: Councilmember Fries moved to approve the Meeting Agenda for September 20, 2011. Councilmember DeJulio seconded the motion. The motion carried unanimously.

CONSENT AGENDA

(Agenda Item No. 11-191)

1. Meeting Minutes:
 - a) September 6, 2011 Regular Meeting
 - b) September 6, 2011 Work Session

(Michael Casey, City Clerk)

Motion and Vote: Councilmember Fries moved to approve the Consent Agenda for September 20, 2011. Councilmember Sterling 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.

Alcohol Beverage License

(Agenda Item No. 11-192)

1. Approval of Alcoholic Beverage License Application for Chevron Food Mart located at 5300 Roswell Rd, Sandy Springs, GA 30342. Applicant is Allauddin Madhni for Retail/Package of Wine & Malt Beverage

Accounting Manager Ed Holloway stated staff has reviewed the Chevron Food Mart application for retail/package beer and wine license. The business has passed all the requirements and staff recommends approval.

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

Councilmember Dianne Fries asked Mr. Holloway to introduce himself.

Accounting Manager Holloway stated he has been working at Sandy Springs for about one month. He started his career in auditing for Price Waterhouse Coopers and worked for Coca-Cola for many years. He worked for three municipal governments prior to starting at Sandy Springs. He worked for the City of Atlanta, the City of Macon, and the Atlanta Public Schools.

Mayor Galambos welcomed Mr. Holloway to the City.

Motion and Vote: Councilmember Fries moved to approve Agenda Item No, 11-192, Alcoholic Beverage License Application for Chevron Food Mart located at 5300 Roswell Rd, Sandy Springs, GA 30342. Applicant is Allauddin Madhni for Retail/Package of Wine & Malt Beverage. Councilmember Sterling seconded the motion. The motion carried unanimously.

(Agenda Item No. 11-193)

2. Approval of Alcoholic Beverage License Application for Hal's Kitchen located at 206 B Johnson Ferry Rd, Sandy Springs, GA 30328. Applicant is Cynthia Sterne for Consumption on Premise of Wine and Malt Beverage

Accounting Manager Ed Holloway stated Hal's Kitchen submitted a complete application for consumption on premise of beer and wine. The applicant has passed all requirements and staff recommends approval.

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

Motion and Vote: Councilmember Sterling moved to approve Agenda Item No. 11-193, Alcoholic Beverage License Application for Hal's Kitchen located at 206 B Johnson Ferry Rd, Sandy Springs, GA 30328. Applicant is Cynthia Sterne for Consumption on Premise of Wine and Malt Beverage. Councilmember Fries seconded the motion. The motion carried unanimously.

Rezoning

(Agenda Item No. 11-194)

3. **RZ11-005** - 5790 & 5800 Mountain Creek Rd., *Applicant: Carol Reynolds*, to rezone the subject property from O-I (Office and Institutional District) to O-I (Office and Institutional District) to allow personal care homes having a density larger than previously approved

Senior Planner Doug Trettin stated rezoning petition RZ11-005 is located at 5790 and 5800 Mountain Creek Road. The property owners are Eugene and Mari Jo Grace as Mountain Creek LLC. The applicant states that the intention is to correct a mistake made in the calculation for the requested density that occurred under the original rezoning. The applicant intends to make improvements and renovations to the existing buildings. The new request, which includes the enclosure of existing garages, is for a total of 7,444 square feet as opposed to the originally approved 6,798 square feet. The petition was heard at the August 18, 2011, Planning Commission meeting and the Commission recommended approval subject to staff's three conditions.

Carol Reynolds, applicant and Representative of Cottages on Mountain Creek, stated there was an error in the site plan. The houses will remain as they are currently with no addition to the square footage. The original surveyor reported the finished area only and did not include the unfinished and unheated space. This was not discovered until the building plans were submitted to the City. She referenced the photo of the building at 5815 Mountain Creek. The right side of the photo shows the carport, which was converted and enclosed. This home is currently licensed for business use per the City requirements. Business at this location will probably begin next month.

Mayor Eva Galambos asked if the applicant wants to have both building applications approved by the Council at the same time.

Ms. Reynolds stated each home will be submitted separately.

Mayor Galambos stated both homes are on the same agenda item. She asked how this should be handled.

Assistant City Attorney Cecil McLendon stated staff has created one agenda item for both addresses. The applications can be handled as one item.

Mayor Galambos asked for an explanation of the second property address.

Ms. Reynolds stated both houses were incorrectly reported by the surveyor by not including the unheated space in the house. The size of the unheated space equated to the size of the carports at about 400 square feet in one house plus 320 sq. ft. in the other house. The reason for enclosing the carports was to change the aesthetic look and to provide a common area for the residents.

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

Councilmember Tibby DeJulio asked where the property is located.

Ms. Reynolds responded the property is perpendicular to I-285, one block east of Roswell Road, behind the hotel and condos.

Councilmember DeJulio asked why she is addressing the City Council of Sandy Springs, if the property is located in the City of Atlanta.

Ms. Reynolds stated she brought her previous applications to the City of Sandy Springs.

Councilmember DeJulio asked why Ms. Reynolds gave the addresses as being in the City of Atlanta.

Ms. Reynolds apologized and stated the properties are in Sandy Springs.

Councilmember Karen Meinzen McEnerny stated she was very impressed with the photograph of the home. She asked if the photo is a rendering of what the home will look like or how the home currently looks.

Ms. Reynolds stated the photo is how the home currently looks.

Councilmember Meinzen McEnerny stated the Mayor and Council are sensitive to businesses recognizing that they are operating in the City.

Ms. Reynolds stated she is overwhelmingly pleased with all the good work done by staff.

Councilmember Chip Collins asked if this item came before Council last year and if it was approved.

Ms. Reynolds responded yes.

Motion and Vote: Councilmember DeJulio moved to approve Agenda Item No. 11-194, RZ11-005 - 5790 & 5800 Mountain Creek Rd., *Applicant: Carol Reynolds*, to rezone the subject property from O-I (Office and Institutional District) to O-I (Office and Institutional District) to allow personal care homes having a density larger than previously approved, with staff conditions. Councilmember Meinzen McEnerny seconded the motion. The motion carried unanimously.

Ordinance No. 2011-09-12

(Agenda Item No. 11-195)

4. **RZ11-006/U11-002** - 1140 & 1150 Hammond Dr., *Applicant: Corporate Campus LLC*, to rezone the subject property from MIX (Mixed Use District) to MIX (Mixed Use District) to allow multi-family dwelling use and to allow a height Use Permit.

Senior Planner Doug Trettin stated the rezoning petition RZ11-006/U11-002 is for properties located at 1140 and 1150 Hammond Drive. The property owner is Corporate Campus L.L.C. Originally, the owner/developer was approved for a specific site plan of a seven story commercial building known as the Goddard School. Also approved was two 30-story senior living center buildings having 479 units and 92 skilled and assisted living beds. The site was also approved for an eleven story 160 room hotel. The applicant is now requesting to maintain the existing seven story commercial building known as the Goddard School and to abandon the use permits for the two 30-story senior living center buildings in exchange for a use permit to allow a six story apartment complex having 345 units, including a parking garage. The applicant wants to keep the use permit for the eleven story 160 room hotel. The petition was heard at the August 18, 2011, Planning Commission meeting. The Commission recommended approval subject to three staff conditions.

Nathan Hendricks, Representative for Corporate Campus L.L.C., stated the application represents the rezoning of the northeast corner of the intersection of Hammond Drive and Peachtree Dunwoody Road. The site is currently zoned MIX classification. The density, service commercial, retail, and use of the 753,000 square feet have not changed. In 2009, this property was rezoned to accommodate two 30-story towers fronting on Hammond Drive for senior living. This proposal is to replace the senior living center with the six story 345 unit multi-family building. The developer is Ravin Partners with

headquarters located in Charlotte, N.C. Chuck Travis, who performs architect work for the company, is here to discuss the project. The apartments will include granite countertops, stainless steel appliances, ceiling heights of ten feet, and a 6,000 square foot recreational health facility. Staff and the Planning Commission recommended approval of the application. The applicant has reviewed the proposed conditions and is in agreement with the conditions. Pat Chesser with Ackerman, who is involved with the Corporate Campus ownership, is here this evening and can speak to the overview of development plans for the nineteen acres. Kimley-Horn is also at the meeting if there are traffic questions.

Chuck Travis, Architect for the applicant, stated he represents the developer, David Ravin, who owns Northwood Ravin. Mr. Ravin is a developer he has been working with for over ten years. Sandy Springs was selected as a location due to the demographics, great work force market, proximity to mass transit, medical office buildings, and twenty-eight million square feet of office space in the immediate area. The project has a financial partner, which is North Western Mutual. The project is 345 units and includes studios, one, two, and three bedroom units, and will be six stories high. The project will wrap around the garage structure so that all the parking will be hidden from the street. There will be 530 parking spaces in the garage. The new parking structure will be located adjacent to the existing parking structure that is for the Goddard School and the office building.

Councilmember Dianne Fries asked if the Goddard School will remain.

Mr. Travis responded yes. The structures in front of the Goddard School will be removed.

Councilmember Tibby DeJulio asked if the apartment project will share the parking.

Mr. Travis stated there will be shared parking. The apartment structure will hide all the parking structures once it is built. The applicant will be pursuing a LEED or a NAHB green certification. The project will be a sustainable community. The unit ceilings will be ten foot in height and include granite countertops and stainless steel appliances. The exterior of the building will be predominately masonry and hardcut stucco. The existing community has used metal panels and these features will be incorporated into the building as well. This will be done so the building does not seem foreign to the area.

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

Trisha Thompson, 145 River North Drive, stated she would like staff to investigate whether the apartment complex will be built to condo standards. As the market changes, the business environment changes, and she would like to be sure the apartments have the ability to go to "For Sale" units.

Councilmember DeJulio stated he asked the applicant and was told the units will be built to condo standards.

Ms. Thompson stated the Sandy Springs Council of Neighborhoods worked on the development south on Hammond Drive. The Council of Neighborhoods was instrumental in getting the entryways and traffic lights lined up to allow easier access. She would like for the PCID and the City of Dunwoody to be committed to interparcel access to ensure traffic will flow smoothly in this area. She is in support of this project and thinks it is fabulous.

Mayor Galambos closed the public hearing.

Mayor Galambos asked if Mr. Hendricks would like to address the items Ms. Thompson inquired about.

Mr. Hendricks stated he would like Mr. Travis and Mr. Chesser to address the questions.

Mr. Travis stated the ability to convert the apartments to condominiums is something that is a long range opportunity. That is one of the reasons why the apartments will be built with ten foot ceilings. In the standard apartment community you typically do not see that ceiling height, granite countertops, or stainless steel appliances. Because the building will be six stories in height, it will require a commercial grade sprinkler system. Typically, he has to encourage people to build to deter sound between units. Mr. Ravin's company leads the market and does not have to be encouraged. The units will be upgraded, so that a condo conversion should be a fairly easy proposition once the economy turns around.

Councilmember Chip Collins asked what the staff conditions are that ensure the apartments will be built to condominium grade.

Senior Planner Trettin stated currently there are no conditions regarding that.

Councilmember Fries asked if staff can place a condition on the applicant that the ten foot ceilings, granite countertops, and stainless steel appliances be required.

Assistant City Attorney Cecil McLendon stated in a zoning case he does not believe the applicant can be conditioned regarding the buildout.

Manager of Planning and Zoning Patrice Dickerson stated a similar question has come up on previous cases. The Building Division and the Fire Department have indicated there is nothing in the code that distinguishes an apartment from a condo unit. Staff would have no way to enforce the conditions.

Mayor Galambos stated she understands that staff cannot specify condo. She would like to know if the ten foot ceilings, granite countertops, and stainless steel appliances will be a part of the record.

Senior Planner Trettin stated he would have to check the letter of intent. He asked if the applicant committing to the conditions as a matter of record tonight would work.

Assistant City Attorney McLendon asked Mr. Hendricks if they would be willing to commit to the conditions as part of the letter of intent for the buildout.

Mr. Hendricks stated he does not know if the applicant can be conditioned to that. The applicant can submit a letter of intent stating that the units will have a minimum ceiling height of ten feet, the appliances will be stainless steel faced, and granite countertops will be used.

Councilmember Collins asked if part of the reason that Council is in favor of the project is because of the representation that the project is condo grade. It is a fair question to ask if the upgrades are what Council hopes the applicant will do or if the upgrades are enforceable.

Mayor Galambos stated it is not enforceable that the apartments be a condo project in the future.

Councilmember Karen Meinzen McEnery stated another item that makes an apartment convertible into a condominium is separately metered utilities. The current City code requires water to be metered separately. Separately metered utilities should be included in the letter of intent.

Mr. Travis stated each unit has a self-contained mechanical unit and will have its own separate water meter that may be master metered, but will have a separate reading capability. Each unit will have its own electrical meter as well.

Councilmember Meinzen McEnery asked if separate utilities could be added to the letter of intent.

Mr. Travis stated he does not have a problem with that. The other thing that distinguishes apartments from condominiums is the sound transmission.

Councilmember Fries asked what conditions can be placed on the applicant, in case the applicant decides next month to sell the property.

Assistant City Attorney McLendon stated Council will be making a zoning decision. The zoning decision will be based upon if the apartment project is an appropriate use for the property. Whether the units have granite countertops, stainless steel appliances, and ten foot ceilings is not a zoning decision.

Councilmember Gabriel Sterling stated we have the applicant's good intentions of what they plan on building. They will come to staff at some point with a building plan. If the plan is different than what the letter of intent states, can we deny the applicant?

Councilmember Fries stated the letter of intent gives staff something to work with.

Motion and Second: Councilmember Fries moved to approve Agenda Item No. 11-195, RZ11-006/U11-002 - 1140 & 1150 Hammond Dr., *Applicant: Corporate Campus LLC*, to rezone the subject property from MIX (Mixed Use District) to MIX (Mixed Use District) to allow multi-family dwelling use and to allow a height Use Permit, subject to staff conditions and the submittal of a letter of intent from the applicant. Councilmember Sterling seconded the motion.

Councilmember Meinzen McEnery asked if Mr. Chesser would address the interparcel access.

Pat Chesser, Ackerman & Company, stated they are firmly committed to the interparcel access with the neighbors to the east and south. A condition of the DRI was to grant interparcel access, which was necessary to rezone the property years ago with Fulton County and with the City in 2008. These points of access need to be established once this project is built out.

Mayor Galambos asked if the points of interparcel access are part of the DRI.

Mr. Chesser responded yes. The DRI does not include one particular intersection. That intersection was negotiated between the applicant and Mr. Munson with the help of Nancy Leathers.

Councilmember Meinzen McEnery stated the Planning Commission had hoped there would be a more southern interparcel access point closer to the corner where the MARTA station is located. She asked if the distance requirement will only allow interparcel access at the top of the site plan.

Mr. Chesser responded it will. The neighboring property owner will probably be willing to grant access to their parcel to accommodate proper traffic stacking.

Mayor Galambos stated the PCID philosophy is connectivity. She closed the public hearing.

Mr. Hendricks stated the applicant will submit a letter of intent to staff that includes a minimum ceiling height of ten feet, stainless steel fronts on the appliances, granite or comparable countertops, and utilities individually metered.

Vote on the Motion: The motion carried unanimously.
Ordinance No. 2011-09-13

Text Amendment

(Agenda Item No. 11-196)

5. **TA11-003** - An Ordinance to Amend Article 33, Signs, of the Sandy Springs Zoning Ordinance

Senior Planner Doug Trettin stated this text amendment is related to standard informational signs that do not address sign and design needs for the real estate community. At the August 2, 2011, City Council meeting, Council directed staff to prepare an amendment to allow for additional types of informational signage. The amendment was heard at the August 18, 2011, Planning Commission meeting. The Commission recommended deferral of up to ninety days to allow staff to revise the language to analyze separately residential and commercial signage as it relates to standard informational signs. The Mayor and Council discussed the text amendment at the September 6, 2011, Work Session.

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

Trisha Thompson, 145 River North Drive, stated she is on the Sandy Springs Council of Neighborhoods. The Council of Neighborhoods was asked by two different people to voice their opinion, since they could not attend this meeting. She read the following written public comments:

Gary Alexander, President of Grogan's Bluff HOA, stated there should be language in this proposal that speaks to HOA rules and regulations that may not allow these signs. The Grogan's Bluff HOA has its own internal regulations that govern real estate signs, vendor signs, and political signs.

Dr. James Zakem, 500 S. Riverview Road, stated he was writing in opposition to the proposed text amendment to the sign ordinance for Sandy Springs which was discussed at the September 6, 2011, Council Meeting. The sign he illustrated at that meeting was approximately eighteen inches wide by eight inches in height for an area of 3.5 square feet. It was well within the current allowable area of four square feet for a standard informational sign. It was easy to read and contained all necessary information. A cantilever sign was illustrated to Council at a height of six feet and twenty-four inches wide by thirty-six inches high for a total area of six square feet. This sign is on a four inch square post that is obtrusive and unnecessary. The vast majority of these signs are located too close to the pavement and are not easily removed by a Code Enforcement officer. As the text amendment is written, the sign would not only be allowed for real estate usage, but for any allowable reason a homeowner would want to post a sign. The proposed change applies to all zoning areas and would allow a cantilever sign or a sign expanded informational to be posted in addition to a sign informational. He is not aware of a standard size for any real estate sign in Sandy Springs. He has seen signs less than four square feet to signs nine square feet in size. Neighboring jurisdictions have ordinances which vary in the allowable area of real estate signs from four to six square feet. A reasonable solution is to increase the allowable square area of one informational sign to 4.5 square feet and the allowable height to 3.3 feet. This would allow a reasonable size and height for the real estate community without the negative impact that larger, taller and cantilever signs would have on our community.

Ms. Thompson stated she is distressed that this ordinance was not given to the Design Review Board for review. She does not understand why staff submitted this ordinance to the Planning Commission. She is unhappy that staff is on a fast-track for something as insignificant as this amendment to the sign ordinance.

Mayor Galambos closed the public hearing. She asked if HOA covenants supersede City ordinances.

Assistant City Attorney Cecil McLendon responded yes. There is an agreement a homeowner adheres to when purchasing property in a neighborhood. The fact that a sign is allowed by the City does not make it allowable by the HOA.

Councilmember Dianne Fries stated the HOA covenants can be more restrictive than the law. The HOA can also decide if they want to allow political signs in the neighborhood.

Motion and Second: Councilmember Fries moved to approve Agenda Item No. 11-196, TA11-003 - An Ordinance to Amend Article 33, Signs, of the Sandy Springs Zoning Ordinance. Councilmember Sterling seconded the motion.

Councilmember Fries stated it is beyond her why this ordinance is not clear to everyone. This ordinance was discussed in 2006 in which meetings were held for six months with the Atlanta Board of Realtors, citizens, commercial and residential stakeholders, and staff. When other changes were made to the ordinance, this part of the ordinance was somehow changed. The suggested change to the ordinance is just to allow for residential real estate signs in the City. It would be absurd to think we would want to change the ordinance to something that is not the norm. She could not imagine the backlash from the homeowners that are trying to sell their homes. This item did not need to go to the Design Review Board. The commercial signs should be studied more before that item is brought back to Council and that is why Council is not addressing the commercial signs now. The fast-tracking of this item is not fast-tracking, but common sense. She heard that people mentioned this issue might be a conflict of interest for her. She discussed it with the City Attorney and it is not a conflict of interest. She does not practice real estate, but she is knowledgeable on the subject. This ordinance comes down to common sense.

Councilmember Gabriel Sterling stated this item being changed was a Scrivener's error.

Mayor Galambos asked what the Design Review Board can do in regards to signs.

Assistant City Attorney McLendon stated the Design Review Board will look at architectural and design orientated features. Regulating the sizes of the signs is something that should be left for the Mayor and Council to decide.

Councilmember Karen Meinzen McEnerny asked whether or not the Design Review Board deals with residential signs and if that was a reason why they did not review this ordinance.

Assistant City Attorney McLendon responded that would be an appropriate reason, but he is not sure that is the reason why.

Councilmember Meinzen McEnerny stated quality of life issues in the community are important to all of us. Billboards, potholes, and a myriad of things create the fabric of our community. Her problem with the sign ordinance is that she did not see any efforts of compromise in terms of the size or design of the signs. From the time the original Council approved the four foot square sign size, she has discussed items on the new ordinance with Councilmember Fries and she believes that cantilever signs have benefits. Those signs look nice. The Council had previously discussed the sign size as being five square feet. The entire community of the Atlanta Board of Realtors supported the sign size at four square feet. All of a sudden the maximum size of the sign is six square feet. She would like to see Council compromise and have the sign size be five square feet, but she will not offer an amendment. She recognized Councilmember Fries' effort on bringing this item before Council. She was disappointed in the lack of compromise and the ability to discuss this.

Councilmember Fries stated the four square foot informational sign in 2006 was the addition of a sign to the existing ordinances. The ordinances at that time addressed real estate signs. The real estate sign ordinance was not changed, just the part adding the four square foot informational sign. This was to allow the agents caravan, open house, and directional signs. In 2006, the Atlanta Board of Realtors came to the City regarding these informational signs, stating they were not able to display the open house signs because the Code Enforcement officers kept removing them. Staff then discussed with the City Attorney how to add the informational, caravan, and open house signs. When ordinances were being changed in

2006, the regular real estate sign page was removed. That is where the error occurred. She brought the four square foot issue to Council in 2006, which caused the four square foot informational sign to be added to the ordinance.

Councilmember Chip Collins asked if in 2006, before the ordinance was changed, there was any regulation at all on the size of a real estate sign.

Councilmember Fries stated the ordinance at the time only specified a "For Sale" sign and did not reference sizes.

Councilmember Collins stated the real estate agents are incentivized to make sure the signs look good. He would leave it to the real estate agents to decide if a six foot sign is better or a five foot sign. The standard sign hanging from the cantilever is five square feet. An extra foot is needed to allow the Sold, Lake Lot, or Price Reduced small sign above it.

Vote on the Motion: The motion carried unanimously.

Ordinance No. 2011-09-14

Resolution

(Agenda Item No. 11-197)

6. Resolution for the Adoption of Consolidated Annual Performance and Evaluation Report (CAPER) for the 2010 CDBG Program

Senior Planner Doug Trettin stated this item is the Consolidated Annual Performance and Evaluation Report (CAPER) for the 2010 CDBG program. The Department of Housing and Urban Development requires that the City report on its program accomplishment annually for the CDBG program. The annual report follows the format prescribed by HUD regulations. The draft CAPER summarizing the status of the 2010 sidewalk project and other CDBG program information was advertised for the required fifteen day public comment period. No public comments were received. To complete the process, a public hearing must be held prior to submitting the CAPER to the HUD offices of Community Planning and Development. Comments received will be included in the report.

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

Councilmember Tibby DeJulio asked if the City is on target for the program.

Councilmember Dianne Fries asked when construction will begin.

Senior Planner Trettin stated the contract was awarded to Tople Construction, who has yet to sign the acceptance letter for Phase I of the development.

Councilmember Fries asked if the City is waiting for signatures from the City or the contractor.

Mayor Galambos asked why the City is still waiting on a signature and how long it has been waiting.

Senior Planner Trettin stated he would speak to the City procurement staff. The City has been waiting on Tople Construction for a signature for quite some time.

Councilmember Fries suggested choosing another contractor if the City does not receive a signature soon.

Mayor Galambos asked for a report from staff on the progress of the contract at the next City Council meeting.

Senior Planner Trettin stated there is a deadline of September 29, 2011, that has to be met for submitting the CAPER.

Motion and Vote: Councilmember Fries moved to approve Agenda Item No. 11-197, Resolution for the Adoption of Consolidated Annual Performance and Evaluation Report (CAPER) for the 2010 CDBG Program. Councilmember Paulson seconded the motion. The motion carried unanimously.

Resolution No. 2011-09-73

Councilmember Dianne Fries requested a report back from staff on why there is a delay getting the signatures. She also wants staff to be prepared to discuss what other contractor the City might choose.

UNFINISHED BUSINESS

There was no unfinished business.

NEW BUSINESS

(Agenda Item No. 11-198)

1. Resolution to Support the Disposition of the Belle Isle Apartments by the Housing Authority of Fulton County

Manager of Planning and Zoning Patrice Dickerson stated the Housing Authority of Fulton County has requested support from the Council on disposition of the Belle Isle Apartments. The property continues to be funded by the annual contributions contract in exchange for a commitment from the Authority to maintain the units for low income use under the system rules that govern the federally funded public housing. The units have outlived their usefulness and are obsolete as to physical condition, making them unsuitable for housing purposes. The Authority seeks permission from HUD to remove the property through disposition from the ACC, and thereby deregulate their use.

Mayor Eva Galambos asked what will be done with the property.

Manager of Planning and Zoning Dickerson stated the Housing Authority will remove the property from the regulation of HUD.

Robert Engstrom, Fulton County Housing Authority Chairman, stated Fulton County maintains the nine unit family apartment complex. HUD recognizes the fact that it is not economically feasible for the Housing Authority to upgrade the facility. Fulton County acquired the facility many years ago as the result of a foreclosure.

Mayor Galambos asked if Fulton County will be placing the units for sale.

Mr. Engstrom stated the units will be placed for sale on the commercial market.

Mayor Galambos asked if a condition of the sale could be that the property will be for commercial use only.

Mr. Engstrom stated Ms. Davis is handling this transaction as well as the Allen Road property, which is a 100 unit property that is located in Sandy Springs.

Theresa Davis, Chief Mortgage Finance Officer with the Fulton County Housing Authority, stated she does not know if a potential buyer can legally be conditioned for the future use of the property. The use of the property is based on the current zoning. There are nine families living in the Belle Isle units. They will be receiving tenant protection vouchers, so they may use the vouchers to move wherever they choose. The Housing Authority will work with the tenants to ensure they receive comparable housing. The disposing of the property will not occur until all the tenants are in their new housing. The property is not feasible to maintain. She is requesting the approval of Council to move forward with the disposition application to HUD.

Mayor Galambos asked what kind of protection the City might have so that if the units are not livable, they do not continue to be apartment units, but are redeveloped to something else.

Assistant City Attorney Cecil McLendon stated once the property is no longer being managed by HUD there may be two relevant issues. One issue would be the market value of the property, and whether that would continue to support a nine unit apartment building. The other issue is if a buyer intends to rent out the units, then the property would be subject to the City ordinances.

Mayor Galambos asked if the apartments currently meet the City's code requirements.

Ms. Davis responded yes.

Mayor Galambos asked if the units would still meet the code requirements once they are sold.

Assistant City Attorney McLendon stated he has no reason to believe the units would not meet the code requirements. The use of the property would be driven by the dollar amounts on rents and whether those rents would support the value of the property, which would likely suggest redevelopment.

Mayor Galambos stated she is concerned that a slumlord could purchase the property and have less conscience about renovating the property.

Mr. Engstrom stated HUD has authorized the Fulton County Housing Authority to dispose of the property because it is not suitable for inhabitation on a long term basis. Due to this fact, if a buyer wanted tenants to occupy the property, the buyer might have a hard time getting a loan.

Councilmember John Paulson asked why the Council's endorsement of the transaction is needed.

Mr. Engstrom stated HUD requires Fulton County to go to the governmental authority to get approval before the disposition process is started.

Ms. Davis stated it is not so much approval as it is support. This is to make sure the Council knows what is going on in the City.

Councilmember Paulson stated the question is if the City is supporting HUD getting rid of the property, because it is not viable long term.

Mr. Engstrom responded that is correct. If the Council votes for this item, they will be saying the City of Sandy Springs agrees with the disposition of the property.

Councilmember Paulson asked if Fulton County will have to retain the property without the support of Council.

Mr. Engstrom responded yes.

Councilmember Chip Collins stated supporting this item would allow this property to be redeveloped. The property has no economic life left as a low rent housing unit.

Motion and Vote: Councilmember Collins moved to approve Agenda Item No. 11-198, Resolution to Support the Disposition of the Belle Isle Apartments by the Housing Authority of Fulton County. Councilmember Sterling seconded the motion. The motion carried unanimously.

Resolution No. 2011-09-74

(Agenda Item No. 11-199)

3. Adoption of Fulton County Hazard Mitigation Plan

Assistant City Manager Eden Freeman stated this is the final approved version of the Fulton County Multi-Jurisdictional Hazard Mitigation Plan. Under FEMA guidelines each of the municipalities within a county must adopt the hazard mitigation plan. Once the first city adopts the plan and it is transmitted to FEMA for approval, it will then become effective for a period of five years. GEMA stated if the plan is approved tonight, most likely FEMA will approve the plan and it will go into effect on Friday, September 23, 2011. Having a plan is a requirement in order to maintain the City's eligibility for hazard mitigation funds. The flooded properties were covered by one of these hazard mitigation grants as well as the disaster relief funds the City was eligible to receive as a result of the floods in 2009.

Councilmember Dianne Fries stated the Fulton County Hazard Mitigation Plan expired on May 30, 2010. She thought the City had a separate hazard mitigation plan.

Assistant City Manager Freeman stated the City does have its own plan, but the City is required by FEMA to participate in the Fulton County plan. There has to be a county plan in order to be able to access the federal funds.

Mayor Eva Galambos asked if this plan places new obligations on the City.

Assistant City Manager Freeman responded no. The items listed in Table 6-3 are potential funding that we would want to approach FEMA for, in case the City experiences a disaster. This plan prequalifies those types of projects to receive funding down the road in the event of a disaster.

Councilmember Gabriel Sterling asked if the plan will have to be readopted if there is a Milton County by 2014.

Assistant City Manager Freeman stated the City would have the Fulton County plan to carry through until Milton County adopted its own plan.

Motion and Vote: Councilmember Fries moved to approve Agenda Item No. 11-199, Adoption of Fulton County Hazard Mitigation Plan. Councilmember Meinzen McEnerny seconded the motion. The motion carried unanimously.

Resolution No. 2011-09-75

(Agenda Item No. 11-200)

3. Revisions to Massage and Spa Establishments Ordinance

Assistant City Attorney Cecil McLendon stated the numbering was changed on the divisions of the ordinance, which were not correct when the ordinance was first presented to Council. The text and

substance of the ordinance has not changed at all. What is currently before Council is not completely correct. He asked that the motion be to readopt the ordinance with deletion of the reserved sections and renumbering the ordinances consecutively following the deleted reserved sections. He will make sure the ordinance is numbered correctly.

Motion and Vote: Councilmember Fries moved to approve Agenda Item No. 11-200, Revisions to Massage and Spa Establishments Ordinance, deleting the reserved sections, renumbering the remainder of the ordinance consecutively, and with internal cross-references corrected. Councilmember Sterling seconded the motion. The motion carried unanimously.

Ordinance No. 2011-09-15

PUBLIC COMMENT

Marylou Schnabel, 7500 Roswell Road #37, stated she is here to speak regarding a MARTA bus stop located in front of the Accolades Condominiums. The bus stop used to be located in front of Walgreens. Some of the homeowner's properties are being damaged from the people waiting for the bus who sit on their property. She requested a bench be located at this bus stop to allow a place for people to sit. There is a green, hard plastic box located in the same area that is related to the water system. This box is damaged as well.

Councilmember John Paulson asked where this bus stop is located.

Ms. Schnabel stated the location is 7500 Roswell Road, right across the street from the Publix on the same side as Walgreens. She contacted MARTA in the spring and they responded to her stating they would look into the issue. Since then she has emailed MARTA, but they have not responded. She thought she would come to Council for help on a resolution to the issue.

Councilmember Dianne Fries stated we will get the information to the staff in Public Works to address this issue.

REPORTS AND PRESENTATIONS

1. Mayor and Council Reports

Mayor Eva Galambos stated Ron Carpinella, who is on the Board of Appeals, is going to Afghanistan and will be gone until May. He would like to continue to serve on the Board. Mr. Carpinella has given a letter of resignation with the arrangement that he will be reappointed to the Board when he returns. In the meantime, he has asked Al Pond to serve in his place for six months, even though Mr. Pond serves on the Planning Commission. Al Pond said he would serve on both Boards until Mr. Carpinella returns.

Councilmember Gabriel Sterling asked if one person is allowed to serve on more than one board at a time, per the City ordinance

Assistant City Attorney Cecil McLendon stated there is nothing in the ordinance that states someone cannot serve on multiple boards simultaneously.

Mayor Galambos nominated Al Pond to the Board of Appeals to replace Ron Carpinella for a period of six months. After the six month period, Ron Carpinella will be nominated to return to his position on the Board.

Motion and Vote: Councilmember DeJulio moved to approve the nomination of Al Pond to temporarily fill the position of Ron Carpinella on the Board of Appeals. Councilmember Fries seconded the motion. The motion carried unanimously.

Motion and Vote: Councilmember DeJulio moved to recess the regular meeting until after the arrival of City Attorney Wendell Willard. Councilmember Fries seconded the motion. The motion carried unanimously. The meeting recessed at 7:28 p.m.

Motion and Vote: Councilmember DeJulio moved to end the recess of the regular meeting. Councilmember Fries seconded the motion. The motion carried unanimously. The recess ended at 8:08 p.m.

(Agenda Item No. 11-201)

EXECUTIVE SESSION – Litigation

Motion and Vote: Councilmember DeJulio moved to enter into Executive Session to discuss potential litigation with Patrice Dickerson included. Councilmember Fries seconded the motion. The motion carried unanimously, with Councilmember Paulson, Councilmember Fries, Councilmember Collins, Councilmember Sterling, Councilmember DeJulio, and Councilmember Meinzen McEnery voting in favor of the motion. Executive Session began at 8:08 p.m.

Motion and Vote: Councilmember DeJulio moved to adjourn Executive Session. Councilmember Fries seconded the motion. The motion carried unanimously, with Councilmember Paulson, Councilmember Fries, Councilmember Collins, Councilmember Sterling, Councilmember DeJulio, and Councilmember Meinzen McEnery voting in favor of the motion. Executive session adjourned at 8:26 p.m.

(Agenda Item No. 11-202)

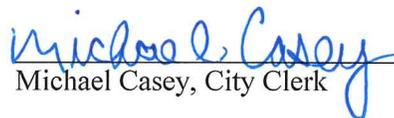
ADJOURNMENT

Motion and Vote: Councilmember Fries moved to adjourn the meeting. Councilmember DeJulio seconded the motion. The motion carried unanimously. The meeting adjourned at 8:27 p.m.

Date Approved: October 4, 2011



Eva Galambos, Mayor



Michael Casey, City Clerk