





To: Honorable Mayor and City Council Members

From: Wendell K. Willard

Date: For Submission onto the October 5, 2010 City Council Meeting Agenda

Item: Resolution to Approve Filing of an Action in the Superior Court of Fulton County Against Fulton County Regarding Lack of Care and Maintenance of the Arlington Cemetery Detention Ponds.

---

***City Attorney's Recommendation:***

The City Attorney's Office recommends that Council adopt the above-referenced resolution, a copy of which is attached to this memorandum.

***Background and Discussion:***

Two detention ponds located in Arlington Cemetery, 201 Mount Vernon Highway in Sandy Springs are not functioning as designed due to inadequate maintenance. As a result, there are issues regarding stormwater discharge within areas downstream from the detention ponds.

When notified by the City of the detention pond maintenance issues, the owners of Arlington Cemetery produced documentation that the detention ponds were constructed within permanent easement areas granted to Fulton County in 1976 and 1978, as recorded in the deed records of Fulton County. As owner of the detention ponds, Fulton County is responsible for their care and maintenance.

The City contacted Fulton County regarding the maintenance issues and damages resulting from maintenance deficiencies. To date, Fulton County has failed to respond.

***Alternatives:***

Not take legal action.

***Attachments:***

Proposed resolution of the City Council.

STATE OF GEORGIA  
COUNTY OF FULTON

**RESOLUTION TO APPROVE FILING OF AN ACTION IN THE SUPERIOR COURT  
OF FULTON COUNTY AGAINST FULTON COUNTY REGARDING LACK OF CARE  
AND MAINTENANCE OF THE ARLINGTON CEMETERY DETENTION PONDS**

**WHEREAS**, two (2) detention ponds (the “Detention Ponds”) are located in the City of Sandy Springs (the “City”) on a parcel of land located at 201 Mount Vernon Highway, commonly known as Arlington Cemetery; and

**WHEREAS**, lack of care and maintenance has caused the Detention Ponds to cease functioning as designed, creating issues regarding stormwater discharge within areas downstream from the Detention Ponds; and

**WHEREAS**, the City of Sandy Springs (the “City”) notified the owners of Arlington Cemetery of the existing care and maintenance issues regarding the Detention Ponds; and

**WHEREAS**, the owners of Arlington Cemetery produced documentation that the Detention Ponds were constructed by Fulton County, Georgia (the “County”) within certain permanent easement areas granted to the County dated October 15, 1976, recorded in Deed Book 6588, page 322 and March 14, 1978, recorded in Deed Book 6956, page 318, respectively (the “Easements”);

**WHEREAS**, the County has ownership of the Detention Ponds, as demonstrated by the Easements, and is therefore responsible for maintenance of the Detention Ponds;

**WHEREAS**, the City contacted the County, placing the County on notice regarding the existing care and maintenance issues with the Detention Ponds and damages being incurred as a result of maintenance deficiencies;

**WHEREAS**, damage and stormwater discharge issues continue to accrue as a result of the County’s failure to maintain the Detention Ponds;

**WHEREAS**, to date, the County has failed to respond to the City regarding the notice;

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SANDY SPRINGS, GEORGIA AS FOLLOWS:**

The City Attorney is authorized to file an appropriate action on behalf of the City in the Superior Court of Fulton County to insure that the County meets its maintenance and care obligations regarding the Detention Ponds.

**RESOLVED, this \_\_\_ day of \_\_\_\_\_, 2010.**

Approved:

\_\_\_\_\_  
Eva Galambos, Mayor

Attest:

\_\_\_\_\_  
Michael Casey, City Clerk  
(Seal)