

Meeting of the Sandy Springs City Council was held on January 3, 2023 Following Work Session, Mayor Rusty Paul presiding.

I. Call to Order

Mayor Rusty Paul called the meeting to order at 6:17 p.m.

II. Roll Call and General Announcements

Members Present: Mayor Rusty Paul, Councilmember John Paulson, Councilmember Melody Kelley, Councilmember Melissa Mular, Councilmember Tibby DeJulio, Councilmember Andrew Bauman

Members Absent: Councilmember Jody Reichel

III. Pledge of Allegiance

Mayor Rusty Paul led the Pledge of Allegiance.

IV. Public Comment

1. **Melissa Runyan, 215 Glen Meadow Ct, Sandy Springs** - Municipal Elections
2. **Mel Mobley, 40 Whispering Way** - Abernathy Greenway South Enhancements
3. **Alan Andrew, 154 Chaseland Rd.** - Abernathy Green South Enhancements
4. **Bill Cleveland, 6441 Wright Rd.** - Abernathy Greenway South

V. Approval of Meeting Agenda

Motion and vote. A motion was made by Councilmember Tibby DeJulio to amend the Meeting Agenda and add item 2023-009 regarding Atlantic Specialty settlement. Councilmember Melody Kelley seconded the motion. The motion carried by unanimous vote.

VI. Consent Agenda

Motion and vote. A motion was made by Councilmember Melissa Mular, seconded by Councilmember Melody Kelley, to approve the Consent Agenda. The motion carried by unanimous vote.

- A. **2023-002 Meeting Minutes**
December 20, 2022 City Council Work Session
December 20, 2022 City Council Meeting

VII. Presentations

There were no presentations.

VIII. Public Hearing

There were no public hearings.

IX. New Business

- A. **2023-003** Request for Mayor and City Council Consideration to Approve a Contract Award to Metals & Materials Engineers, LLC to Construct 3265 Spalding Drive Drainage Maintenance and Improvement Project and to Authorize the City Manager to Execute a Contract

William H. Martin Jr., AIA, Public Works Director, presented a recommendation to award Metals & Materials Engineers, LLC to construct 3265 Spalding Drive Drainage Maintenance and Improvement Project ("Project") and to authorize the City Manager to execute a contract.

In 2021, the City engaged an engineering firm to develop plans for replacement of the damaged or deficient stormwater infrastructure at 3265 Spalding Drive. The Project corrects deficiencies in the infrastructure found during a 2021 study and brings the drainage system up to City standards. The Project scope consists of: replace a buried drop inlet and replace with precast concrete headwall; install a new single wing catch basin; replace a brick catch basin with a new precast concrete catch basin; remove an existing 48" diameter brick manhole and replace with a concrete manhole; replace 18" diameter CMP pipe runs and replace with 18" diameter concrete pipes; and remove stone curbs and replace with 24" concrete curb and gutter.

To advance the Project, the City issued an Invitation to Bid ("ITB") on October 19, 2022 seeking bids from qualified contractors to construct the Project. Bids from two (2) contractors were received on November 17, 2022. Bid results were:

Bidder	Bid
Metals & Materials Engineers, LLC	\$234,366.00
Site Engineering, Inc.	\$282,007.00

Upon review of the bids, staff recommends that award be made to the lowest most responsible and responsive bidder, Metal & Materials in the amount of \$234,366.00. The engineer's construction cost estimate for the Project is \$189,585.00. There are adequate funds available in the Stormwater Capital Maintenance and Improvements Account budget to award this contract.

Motion and second. A motion was made by Councilmember John Paulson, seconded by Councilmember Melody Kelley, to approve a contract award to Metals & Materials Engineers, LLC to construct 3265 Spalding Drive Drainage Maintenance and Improvement Project and to authorize the City Manager to execute a contract.

Councilmember John Paulson asked if Mr. Martin talked to the homeowners as Spalding Drive is a very busy street and if contractors figured out how to not disrupt the area.

Public Works Director Martin responded that staff worked with neighbors both upstream and downstream. Because of the deterioration of the corrugated metal pipe, staff has worked with some downstream property owners to access and remove some sediment and siltation from some downstream structures. It's a coordinated cleaning of those structures in addition to the replacement of this material structure at the roadway. This is to coordinate a good response to the project.

Councilmember Paulson asked if the City would own the future cleanup.

Public Works Director Martin replied that in this case, this would be a one-time cleaning in response to the degradation cost of the failure of our structure and to make restorations.

Vote on the motion. The motion carried by unanimous vote.

Resolution No. 2023-01-01

- B. **2023-004** Request for Mayor and City Council Consideration to Approve the Submission of a Grant Application to the State Road and Tollway Authority for the 2022 Georgia Transportation Infrastructure Bank Program for the Boylston at Hammond Intersection and Streetscape Project and Committing Required Local Funding Match

William H. Martin Jr., AIA, Public Works Director, presented a recommendation to approve the submission of a grant application to the State Road and Tollway Authority ("SRTA") for the 2022 Georgia Transportation Infrastructure Bank Program ("Program") for the Boylston at Hammond Intersection and Streetscape Project ("Project") and committing to required local funding match.

SRTA periodically solicits transportation project applications for the Program, which offers grants and low-interest loans. The Program provides grants and loans to highly competitive transportation projects that enhance mobility and drive economic development in local communities in Georgia. The last Program solicitation was in 2021 and offered loans and grants. The current Program solicitation opened on October 24, 2022 and closes on January 20, 2023. As part of the build out of City Springs, the City has provided funding from the Capital Improvement Program to fund the design of the Project. The 2021 TSPLOST will provide funding for the right-of-way phase and construction phase of the Project. Given the increasing costs of construction, the City is anticipating a shortfall in Project funding and is seeking funding through the 2022 Program to cover this funding gap. The Project will realign the intersection of Boylston Drive and Hammond Drive as well as install side paths on the east and west sides of Boylston Drive to complete the side path network between Hammond Drive and Hildebrand Drive. The Project is expected to enter into construction in 2023.

This Project will continue to spur economic development by creating a safer transportation environment for pedestrians, cyclists, and vehicles. The intersection of Hammond Drive and Boylston Drive/Hammond Glen is not currently aligned, creating both operational delays and safety issues. The proposed side path is part of the City's larger vision to build a walkable, bikeable community. The proposed side path will be a comfortable facility for cyclists of all ages and abilities and connects to multi-family residential, nearby neighborhoods, a variety of commercial and offices, and City Springs. The Project has been included in a number of the City's adopted plans, including the Trail Master Plan (2019) and the Transportation Master Plan (2021). The local funding match for the Project is in Tier 1 of the recently approved 2021 TSPLOST project list. Funding for the preliminary engineering and a portion of the right-of-way has been programmed in the City's Capital Improvement Project T-58. Since the development of the original Project cost estimate, the City has seen an increase in construction and right-of-way costs on many other City public works projects. As such, City staff anticipates a shortfall of \$1,903,216 for the Project. Staff has prepared a cost estimate for the Project of \$7,073,216. The City has programmed \$2,460,000 for the Project out of the Capital Improvement Program. The Project has identified TSPLOST 2021 for \$2,710,000 for a total of \$5,170,000. To complete the Project, staff recommends an application to SRTA for a Program grant of \$1,903,216, which represents 27 percent (27%) of the total Project cost. The Program requires a local match and gives preference to projects with significant matching funds. Staff estimates the local match amount of \$5,170,000, which is 73 percent (73%) of the total Project cost. The local match will be provided by a combination of Capital

Improvement Program and 2021 TSPLOST funds. There is an additional application fee of \$250. At this time, staff has not identified other funding sources to cover the anticipated shortfall. The City may choose to forego advancing the Project application at this time and find alternative funding or submit an application for a future grant opportunity. Funding gaps at the time of construction, expected to start in 2023, may delay the project.

Motion and second. A motion was made by Councilmember John Paulson, seconded by Councilmember Tibby DeJulio, to approve the submission of a grant application to the State Road and Tollway Authority for the 2022 Georgia Transportation Infrastructure Bank Program for the Boylston at Hammond Intersection and Streetscape Project and committing required local funding match.

Councilmember Melody Kelley asked if the City receives feedback when denied grants.

Public Works Director Martin replied that the grantor reviewed last year's application and noted it was a strong application, but, particularly in the area of economic development impact, there was a need to beef it up. That is why we pursued this project again this year.

Vote on the motion. The motion carried by unanimous vote.

Resolution No. 2023-01-02

- C. **2023-005** Request for Mayor and City Council Consideration to Authorize the Donation of Surplus Equipment and Supplies to the Cohutta Police Department

Ken DeSimone, Police Chief, presented a recommendation to authorize the donation of surplus equipment and supplies to the Cohutta Police Department.

On Sunday, December 18, 2022, the Cohutta (GA) Police Department and Court were completely destroyed by fire. The only equipment the department retained is what the officers had in their vehicles at the time of the fire. As a result, the Cohutta Police Department is requesting assistance from other agencies for the transfer of surplus equipment and supplies. A list of needed equipment and supplies was shared with agencies across Georgia and SSPD, and the City has identified items that may be donated.

Many of the needed items are surplus and/or outdated items or are items that are well stocked and may be parted with. The outdated items have been replaced with updated items or are no longer needed to perform the PD functions. Other City departments, including the IT and Fleet, have also identified surplus items that Cohutta PD is in need of and have added them to the list. The financial impact will be minimal as most items are no longer of value to the City and will bring very little revenue if sold.

Mayor Rusty Paul remarked he's delighted the City is able to help. It's a small town and a great community.

Motion and vote. A motion was made by Councilmember Tibby DeJulio, seconded by Councilmember John Paulson, to approve the donation of surplus equipment and supplies to the Cohutta Police Department.

Resolution No. 2023-01-03

- D. **2023-006** Request for Mayor and City Council Consideration to Authorize the Renewal of the City's Workers' Compensation Insurance Coverage through the GMA Workers' Compensation Self-Insurance Fund and Authorizing the City Manager to Execute Documentation to Effectuate Same

Jennifer Emery, Human Resources Director, presented the recommendation to authorize the renewal of the City's Workers' Compensation Insurance Coverage through the Georgia Municipal Association Workers' Compensation Self-Insurance Fund ("GMA WCSIF") and authorizing the City Manager to execute documentation to effectuate same.

The City's current Workers' Compensation coverage through GMA WCSIF will expire on January 1, 2023, and the City must provide for renewal or otherwise provide for such coverage. Following a comprehensive review by GMA WCSIF's actuary, manual rates for a 2023 renewal with GMA WCSIF will remain the same as 2022. Deductible discounts for 2023 will also remain the same. The proposed renewal through GMA WCSIF will be effective for the period January 1, 2023 through December 31, 2023. The coverage terms and estimated annual premium to renew through GMA WCSIF are shown as an exhibit to the attached resolution. The estimated annual premium for the renewal is \$647,477.00. One-half of the premium is funded in the FY 2023 budget approved by Mayor and City Council on June 21, 2022, and it is anticipated the other half will be approved in the FY 2024 budget through the City's general fund. Not to authorize renewal of the current coverage for Workers' Compensation through GMA WCSIF and provide further guidance to staff on approach to obtain coverage to protect employees and as required by Georgia law.

Motion and second. A motion was made by Councilmember John Paulson, seconded by Councilmember Melody Kelley, to approve the renewal of the City's Workers' Compensation Insurance Coverage through the GMA Workers' Compensation Self-Insurance Fund and authorizing the City Manager to execute documentation to effectuate same.

Councilmember John Paulson asked what the cost was last year.

Human Resources Director Emery replied the rates are the same as last year, including the same discounts given by GMA.

Vote on the motion. The motion carried by unanimous vote.

Resolution No. 2023-01-04

- E. **2023-009** Request for Mayor and City Council Consideration of a Settlement of the Lawsuit by the City Against the City from Atlantic Specialty Insurance Co., Upon the Payment to the City of \$32,500.00

Dan Lee, City Attorney, presented a recommendation to authorize the settlement of the lawsuit by the City against the City from Atlantic Specialty Insurance Co., upon the payment to the City of \$32,500.00.

The City Attorney recommends the Mayor and Council accept and approve this settlement proposal whereby the issue as to which insurance company may be responsible for the defense and liability of Rosser International. The City Attorney recommends the settlement upon the payment by Atlantic Specialty to the City, the sum of \$32,500.00. This settlement leaves in place the underlying action brought by the City against Rosser and its other insurers. Atlantic Specialty issued to Rosser International, Inc. ("Rosser") an Architects and Engineers Professional Liability Insurance Policy No. DPL-5750-16, effective from August 31, 2016, through August 31, 2017(the "Professional Liability

Policy”). On or about August 5, 2015, the City of Sandy Springs (the “City”) entered into a written contract with Rosser to act as its architect of record to provide professional design services for the construction of the project known as the City Springs Project, located in Sandy Springs, Georgia (the “Project”). The City filed an action against Rosser styled The City of Sandy Springs Public Facilities Authority v. Rosser International, Inc., Civil Action No. 2019CV326008, in the Superior Court of Fulton County (the “Authority’s Action”), in which the Authority asserted that Rosser breached its duty of care in providing certain professional design services on the Project, thereby committing professional negligence. The City acquired a default judgment against Rosser in the Authority’s Action.

The Parties are currently involved in an action, Atlantic Specialty Insurance Company v. Rosser International, Inc. and The City of Sandy Springs Public Facilities Authority, Civil Action No. 2022CV360207, in the Superior Court of Fulton County (the “Atlantic Specialty Action”), in which Atlantic Specialty seeks a declaratory judgment that it has no obligation to defend or indemnify Rosser under the Professional Liability Policy against the claims asserted by the Authority against Rosser in the Authority’s Action. Atlantic Specialty asserts in the Atlantic Specialty Action that it has no obligation to defend or indemnify Rosser under the Professional Liability Policy from the claims asserted it by the Authority in the Authority’s Action because, among other reasons, Rosser breached the notice and cooperation conditions of the Professional Liability Policy by failing to provide notice of the Authority’s Action until over two (2) years after the expiration of the Professional Liability Policy, and three (3) months after Rosser was served with the summons and complaint and after the court entered a default judgment against Rosser in the Authority’s Action. The City’s Counsel, Taylor English, believes the evidence revealed is that the original Defendant’s carrier, Traveler’s Insurance and Rosser’s insurance broker, Epic, are liable for the claims made by the City. The settlement proposal \$32,500.00 reflects the cost for the determination of which insurance carrier is responsible and is in the best interest of the City.

Motion and second. A motion was made by Councilmember Tibby DeJulio, seconded by Councilmember Melody Kelley to approve settlement of the lawsuit by the City against the City from Atlantic Specialty Insurance Co., upon the payment to the City of \$32,500.00.

Councilmember Tibby DeJulio stated this has been going on for years and asked if accepting this settlement for attorney’s fees jeopardizes any outstanding claims we have against the different insurance companies.

City Attorney Lee replied that is correct. We have a separate action against Epic who was the broker that failed to deliver the lawsuit. Rosser, because they are in receivership with the approval of the receiver, assigned their claims against the broker to the City. We have a claim against Epic for failing to deliver it timely so that the insurance would have been activated correctly and the \$10,000,000 policy would be exposed to our claims of over \$4,000,000. Also, they are 100% insured with a \$10,000,000 policy. Additionally, we will still have active, although they filed a declaratory judgment action, similar to Atlantic Specialty against Travelers Insurance, but this will have no effect on that. We believe this helps our case against Epic. The reason Epic is liable is because Atlantic Specialty is not.

Councilmember John Paulson stated in response to the claims made, he wants to be certain when we waive this we do not have an insurance company saying you waived ones that should have been part of the claims made.

City Attorney Lee replied that is accurate.

Vote on the motion. The motion carried by unanimous vote.

Resolution No. 2023-01-05

X. Reports

A. 2023-007 Mayor and Council Report

Mayor Rusty Paul welcomed everyone back from the holiday season. He remarked on the festive holiday lights displayed at the City. There was much positive feedback and he praised everyone for their efforts. How many people attended the Christmas Parade.

Eden Freeman, City Manager, replied staff can provide estimates at a later time.

Councilmember John Paulson remarked the parade is a wonderful tradition to have for the residents.

City Manager Freeman said next year there will be an ice-skating rink, too.

Mayor Paul praised Anna Nikolas and the events team for their phenomenal efforts in putting together the parade and all the City's special events.

Councilmember Andy Bauman thanked the police and fire departments efforts over a extreme winter weather weekend.

B. 2023-008 Staff Reports

1. Winter Weather Response

Eden Freeman, City Manager, reviewed City of Sandy Springs Winter Weather Response. From 12/23 - 12/28, the Fire Department responded to 536 calls for service and a majority were water calls. The department was running from call-to-call, and did an exemplary job serving the community. The longer it was cold, the more pipes burst. The call center answered 637 calls, doubling the previous years for the same time period. Public works treated a large number of roadways in the city, spreading 40 tons of sand and 40 tons of salt through the city. Calls included tree removals, icy conditions, water main breaks, and signal/power outages at intersections throughout the city. She is proud of our team and the work they do to serve our community.

Mayor Rusty Paul stated it is very disturbing the number of water main breaks in the apartment complexes. The City needs to figure out now how to prepare, reviewing its Code to help make sure this debacle does not happen again.

City Manager Eden Freeman responded the Fire Marshal's Office has a number of multi-family properties on fire watch because of the number of water main breaks that they still have not been able to repair. Over the 5-day period, 102 properties were impacted and 56 remain on fire watch.

Mayor Paul stated if this happens every 10 years then there is time to spend figuring out what we need to be doing in our codes.

City Manager Freeman replied she has already tasked the Fire Chief to conduct a review. There may just be a need to require insulated water pipes.

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Councilmember John Paulson stated the City should create a one-page communication sharing basic ways to deal with this, such as leaving water pipes dripping and running. Getting to pipes is a huge expense.

Councilmember Tibby DeJulio asked about the memo that went out for the City Hall building and what went wrong.

City Manager Freeman responded when there was pipe burst in the complex next door, the wrong pump in this building was turned off. When they turned off the domestic pumps instead of fire pumps, it caused the line to freeze. By turning domestic pumps off, there was no water pressure in the building and it took a couple days for gravity to pull the pressure down. Fortunately, some repair work was done to the chiller lines but everything is back now.

Mayor Paul stated City Manager Freeman next has a couple of introductions.

City Manager Freeman thanked the mayor and introduced two new additions to her senior leadership team. First, Michael Paulkin as Interim Executive Director followed by Andrew Alison as Communications Director.

2. Unaudited October 2022 Financials

Toni Carlisle, Chief Financial Officer presented the unaudited October 2022 Financials. The City is at 33.33% of the fiscal year. Revenues are at 29.85% and expenses are at 24.98%, which is much lower than the actual budget. The insurance premium tax was received in October and exceeded the budget amount by approximately 14%. Expenditures for each department are trending below 30% in most cases except for EMS, which covers ambulatory and North Fulton Radio Regional Authority quarterly expenditures at 43.4%.

Councilmember Tibby DeJulio asked how are the LOST tax revenues are coming in.

Chief Financial Officer Carlisle responded that currently the budget is \$26,500,000 and we are at \$8,700,000 to date as of October.

Councilmember DeJulio asked what the percentage was.

Chief Financial Officer Carlisle responded it is 33% of the budget.

XI. Executive Session

Motion and vote. A motion was made by Councilmember John Paulson, seconded by Councilmember Tibby DeJulio, to recess from regular order and enter executive session for the purposes of real estate and litigation discussions. The motion carried by unanimous vote.

Passed Yes 5, No 0, Abstained 0

Yeas: John Paulson, Melody Kelley, Melissa Mular, Tibby DeJulio, Andrew Bauman

Nays: None

The Executive Session began at 7:05 p.m.

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Motion and vote. A motion was made by Councilmember John Paulson, seconded by Councilmember Tibby DeJulio, to adjourn the executive session and return to regular order. The motion carried by unanimous vote.

Passed Yes 5, No 0, Abstained 0

Yeas: John Paulson, Melody Kelley, Melissa Mular, Tibby DeJulio, Andrew Bauman

Nays: None

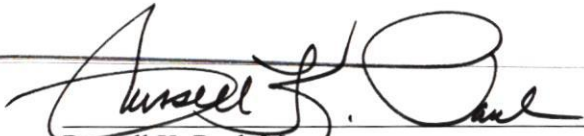
The Executive Session ended at 8:11 p.m.

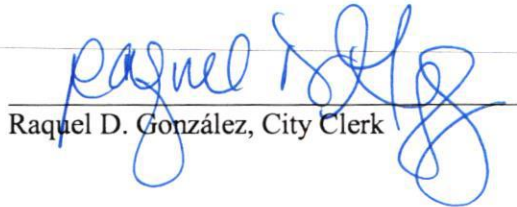
XII. Adjournment

Motion and vote. A motion was made by Councilmember Tibby DeJulio, seconded by Councilmember John Paulson, to adjourn the meeting. The motion carried by unanimous vote.

The meeting adjourned at 8:11 p.m.

Approved: January 17, 2023



Russell K. Paul, Mayor

Raquel D. González, City Clerk