

Meeting of the Sandy Springs City Council was held on April 18, 2023 Following Work Session, Mayor Rusty Paul presiding.

I. Call to Order

Mayor Rusty Paul called the meeting to order at 7:50 p.m.

II. Roll Call and General Announcements

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

III. Pledge of Allegiance

Mayor Rusty Paul led the Pledge of Allegiance.

IV. Public Comment

1. **Mary Ford, 5115 Timber Trail S NE, Sandy Springs** - Update on GENTEGIX (school safety)
2. **Marlyn Smith, 400 North River Pkwy, Sandy Springs** - Questions about construction and building codes
3. **Ronda Smith, 76 Long Island Place, Sandy Springs** - Development code

V. Approval of Meeting Agenda

Motion and vote. A motion was made by **Councilmember Tibby DeJulio**, seconded by **Councilmember Jody Reichel**, to approve the meeting agenda. The motion carried by unanimous vote.

VI. Consent Agenda

Motion and vote. A motion was made by **Councilmember Jody Reichel**, seconded by **Councilmember Melissa Mular**, to approve the consent agenda. The motion carried by unanimous vote.

- A. **2023-105 Meeting Minutes**
April 4, 2023 City Council Work Session
April 4, 2023 City Council Meeting

VII. Presentations

There were no presentations.

VIII. Public Hearing

Raquel Gonzalez, City Clerk, read the public hearing rules.

- A. **2023-106** RZ22-0005 - 8765 & 8800 Roswell Road and 0 Dunwoody Place - Request for a Zoning Map Amendment (Rezoning) from Shopfront Mixed Use – 6 Stories Maximum Height (SX-6) to North End Mixed Use – 5 Stories Maximum Height without Bonus or 6 Stories Maximum Height with Bonus (NEX- 5/6).

Michele McIntosh-Ross, Planning & Zoning Manager, presented a request for a Zoning Map Amendment (Rezoning) from Shopfront Mixed Use – 6 Stories Maximum Height (SX-6) to North End Mixed Use – 5 Stories Maximum Height without Bonus or 6 Stories Maximum Height with Bonus (NEX- 5/6).

Currently, the site is developed across three (3) individual SX-6 zoned lots, with various commercial businesses including retail and restaurants served by several hundred parking spaces fronting Roswell Road. These parcels abut a residential multi-unit neighborhood to the east and Roswell Road to the west. To the north of the site is an office building and restaurant, as well as North River Parkway. To the south end of the site is a gas station and Dunwoody Place. As a part of the rezoning process, concepts for future developments are helpful for creating a framework as to what the potential of the site may be if the zoning request is approved. Per the Development Code, the goal for the City is to avoid placing conditions on rezonings as often as is possible (Sec. 11.3.4.D.1.): “The City policy is to limit the number of conditions to those deemed essential to the proper development and use of the subject property, and to the safety and quality of life of the community.” The requested zoning district proposed by the applicant is highly prescriptive, and largely locks in a community-envisioned development. This was the goal of the North End Revitalization Advisory Committee, created by the City in 2019. The North End Redevelopment Concepts plan was adopted in 2021.

Mayor Rusty Paul opened the public hearing.

Support

- **Jessica Hill**, 600 Peachtree Street, Suite 600, Atlanta.

Mayor Paul closed the public hearing.

Motion and second. A motion was made by **Councilmember Melody Kelley**, seconded by **Councilmember John Paulson**, to approve the request for a Zoning Map Amendment (Rezoning) from Shopfront Mixed Use – 6 Stories Maximum Height (SX-6) to North End Mixed Use – 5 Stories Maximum Height without Bonus or 6 Stories Maximum Height with Bonus (NEX- 5/6), including Staff recommendations as presented.

Councilmember Melody Kelley stated retail-ready is not synonymous with retail. In theory, a retail-ready space could be used for something else.

Planning & Zoning Manager McIntosh-Ross replied yes.

Councilmember Kelley asked about stick-built construction.

Kristin Byars Smith, Assistant City Manager, replied Staff has a set of standards, which have been used for other construction projects.

Councilmember Kelley stated to some degree it has been stressed in this application a next step of a

process that has gone on for some time and aimed at stimulating economic investment in this particular part of the City. Until this year, economic development in the north end was an explicitly stated adopted priority for the City. This creation of a north end mixed use supplemental zoning district signaled to the development community, not only the aspirations of our community but, the fact we were as a city willing to put a bit of skin in the game by offering stick-built or, the deregulation in this district, of our steel and concrete requirement. Requiring the 25% single-family or 3:1 ratio of multi to single family conforms with our aspirations towards seeing more of a single-family product and offering two bonus options for height. One is the retail ready option, the other is the workforce housing option that is built into the zoning district. Is it correct that the 25% single-family must be constructed before the multi-family is occupied?

Planning & Zoning Manager McIntosh-Ross replied yes, before the certificate of completion is received for the project.

Councilmember Kelley said by supporting this rezoning she is stating that any project that goes on to that parcel should conform to the uses and standards that have been outlined in the new north end mixed use district. Want this project to work and we need the investment. Support of the rezoning is a very fundamental exercise for me, and this zoning district certainly fits this parcel.

Councilmember Jody Reichel thanked the individual from Stream Realty for investing in Sandy Springs. Very excited about this project. Will the recommendations apply to the property or the applicant if it is sold?

Assistant City Manager Byars Smith said the conditions will apply to the property.

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

Ordinance No. 2023-04-10

B. **2023-107** RZ22-0008 - 6400 & 6410 Roswell - Request for a Zoning Map Amendment (Rezoning) from Commercial Mixed Use – 3 Stories Maximum Height (CX-3) to Commercial Corridor – 3 Stories Maximum Height (CC-3).

APPLICATION WITHDRAWN

Michele McIntosh-Ross, Planning & Zoning Manager, advised the item was withdrawn. There is no action required by Council.

C. **2023-108** TA23-0001
Request for Mayor and City Council Consideration of an Amendment to Development Code Section 9.6.3. Standards, Section 9.3.8. Administration, and Division 12.2. Defined Terms.

Michele McIntosh-Ross, Planning & Zoning Manager, presented a request for amendment to Development Code Section 9.6.3. Standards, Section 9.3.8. Administration, and Division 12.2. Defined Terms.

This text amendment proposal involves three mostly distinct edits. One edit includes the timing of when a

refund for payment into the Sandy Springs Tree Bank can begin to be processed. Another edit proposes a very limited allowance for exemption to installing increased water infiltration devices in the Nancy Creek DSA. The final proposed edit would expand the definition for “land disturbance (activity)” to allow for consideration of the many different contexts often presented when regulating disturbance to land for various levels of development. Staff believes the edits provided in this proposal are appropriate in that they substantially conform with the Comprehensive Plan and stated purpose and intent of the Development Code. Each edit only reinforces these documents while also clarifying or improving the practicality of the Development Code for constituents and other stakeholders.

There being no public comment, **Mayor Rusty Paul** closed the public hearing.

Motion and second. A motion was made by **Councilmember Melody Kelley**, seconded by **Councilmember Melissa Mular** to approve the request for amendment to Development Code Section 9.6.3. Standards, Section 9.3.8. Administration, and Division 12.2. Defined Terms.

Councilmember Mular asked did the tree bank administration result from the Aberdeen Forest question about setting the date?

Ginger Sottile, Director of Community Development replied this involved an individual on Glenairy Drive who had a boundary tree.

Councilmember Mular said that is the Aberdeen Forest neighborhood. Thank you for addressing this.

Councilmember Andy Bauman asked are we applying this retroactively or is it perspective only?

Director of Community Development Sottile said moving forward it will apply.

Councilmember Bauman asked what if someone is putting their money up?

Director of Community Development Sottile said we will release it in the timeframe as we typically have in the past before this.

Councilmember Tibby DeJulio said most of the complaints about land disturbance has to do with the cutting down of massive amounts of trees. Will this weaken or strengthen that or allow us to enforce preservation of the property?

Director of Community Development Sottile said this is only associated with trees that are on a boundary line with your neighbor. It is only to protect a tree on the neighbor's property, not the actual property that is doing the work.

Councilmember DeJulio said you are speaking of the tree fund, but I am speaking of the land disturbance portion of the change.

Director of Community Development Sottile said this will not weaken the definition.

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

Ordinance No. 2023-04-11

IX. New Business

- A. **2023-109** Request for Mayor and City Council Consideration to Submit an Application for a 319(h) Nonpoint Source Implementation Grant for Site Improvements at the Abernathy South Greenway

Catherine Mercier-Baggett, Sustainability Manager, presented a request to submit an application for a 319(h) nonpoint source implementation grant for site improvements at the Abernathy South Greenway.

The Abernathy Greenway South is a 14-acre park that spans across three blocks. The widening of Abernathy Road incurred dramatic changes to the drainage patterns that now exerts additional pressure on the tributary to Marsh Creek that runs along the southern property edge. The existing drainage structures are overwhelmed with sedimentation and erosion. While there is little vegetation in the stream buffer, it is mostly composed of invasive plant species. The stream itself is impacted by high peak flows and siltation.

The City retained the services of Atkins Global to develop a new master plan that was presented to Mayor and City Council at the end of last year. It includes several strategies to improve the stream corridor health through bioretention (rain gardens), streambank stabilization and in-stream structures. These improvements are a priority as they are necessary for the proper functioning of the space as a public park. With a focus on the middle and eastern sections (Long Acres Dr to Wright Rd and Wright Rd to Sandy Springs Village shopping strip, respectively), the project is estimated at \$2,050,000. This includes only work associated with water quality improvements. Elements such as the trail, bridges and site amenities are not part of this scope.

The Section 319(h) Georgia's Nonpoint Source Implementation Grant is federally funded and disbursed by the Georgia Environmental Protection Division (GAEPD) of the Department of Natural Resources. The grants are intended to implement the state's Nonpoint Source Management Plan by financially aiding municipalities to design and/or implement specific projects. Eligible projects include green infrastructure, watershed hydrology restoration and water quality monitoring. The Marsh Creek regional bioretention park and the Nancy Creek restoration at Windsor Meadows Park are recipients of a 319(h) Grant.

Applicants are required to provide a 40% non-federal match, with greater chances of getting selected with a match of at least 50%. In-kind services can be included in the match. The maximum amount granted is \$400,000. Mayor and City Council already allocated \$2,000,000 to the Abernathy Greenway South for the implementation of the master plan. Should the City receive the 319(h) Grant, no additional funds dedication would be necessary on the City's part. The Sandy Springs Conservancy pledged a generous contribution of \$10,000 towards the grant match. Considering a total \$2,050,000 and \$400,000 in grant, the match would be \$1,650,000, equivalent to 80% of the project. Mayor and City Council may elect to forego the grant, in which case the funds already allocated could be used to complete the project.

Motion and second. A motion was made by **Councilmember Melissa Mular**, seconded by **Councilmember Melody Kelley**, to approve a request to submit an application for a 319(h) nonpoint source implementation grant for site improvements at the Abernathy South Greenway.

Councilmember Melissa Mular asked how does this relate to the proposal brought to Council from the consultants about the shoring up of the erosion and everything happening along the greenways?

Sustainability Manager Mercier-Baggett said that is the plan you are seeing here and taken exactly from the proposal. Their high-level budget was around \$5,000,000 for the completion of all three phases. The graphic is only a geographic portion of that and in scope. The \$2,000,000 in the budget does not include any of the trails, benches, or any amenities for the public.

Councilmember Mular asked how does this fit together? Will there be enough money left to complete the rest of the work?

Sustainability Manager Mercier-Baggett, said there is about \$2,000,000 associated with this project and this would be first phase. It would stabilize the ground and get the site prepared for all those amenities.

Kristin Byars Smith, Assistant City Manager said water quality is a number one issue and our existing budget allows for coverage of this challenge. We cancelled our site walk because of timing but did not want to miss out on the cycle of applications for the 319(h) grant. We can always tweak if needed. We wanted to ensure we had this in with water quality as our top consideration as part of this project.

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

Resolution No. 2023-04-52

B. **2023-110** Request for Mayor and City Council Consideration to Authorize a Contract Award to Vertical Earth, Inc. to Construct 5375 Long Island Drive Streambank Stabilization Project

William H. Martin, Jr., AIA, Public Works Director, presented a recommendation to authorize a contract award to Vertical Earth, Inc. to construct 5375 Long Island Drive Streambank Stabilization Project.

In 2022, the City engaged an engineering firm to develop plans for stabilization and restoration of approximately 145 linear feet of eroded streambank along 5375 Long Island Drive. The Project corrects deficiencies in a section of the Long Island Drive roadway embankment and infrastructure found during a 2022 study and brings the drainage system up to City standards. The Project scope consists of:

- Regrade and stabilize 145 linear feet of eroded streambank
- Install erosion control matting
- Install 360 linear feet of 24" curb and gutter
- Install 338 linear feet of guardrail
- Install rip rap at toe of slope

To advance the Project, the City issued an Invitation to Bid ("ITB") on February 15, 2023 seeking bids from qualified contractors to construct the Project. Bids from two (2) contractors were received on March 21, 2023. Bid results were as follows:

Bidder	Bid
Vertical Earth, Inc.	\$242,459.70
Blount Construction Company, Inc.	\$327,469.16

Upon review of the bids, staff recommends that award be made to the lowest most responsible and

responsive bidder, Vertical Earth, Inc. in the amount of \$242,459.70. The engineer's construction cost estimate for the Project is \$315,006.00. 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 Andy Bauman**, seconded by **Councilmember Jody Reichel**, to authorize a contract award to Vertical Earth, Inc. to construct 5375 Long Island Drive Streambank Stabilization Project.

Councilmember Bauman asked is there a road closure involved? Have you been working with the neighbors about this?

Public Works Director Martin replied there should not be. There are potentially some lane closures and construction but most of the work is on the road shoulder itself. The Stormwater team has reached out to adjacent neighbors to discuss permission, options, and more.

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

Resolution No. 2023-04-53

- C. **2023-111** Request for Mayor and City Council Consideration to Approve a Lighting Services Agreement with Georgia Power Company to Install Street Lighting for the Community Development Block Grant (CDBG) as it relates to Project No. T-0033-7, Roswell Road Sidewalk Project (Phase 2)

William H. Martin, Jr., AIA, Public Works Director, presented a recommendation to approve a lighting services agreement with Georgia Power Company to install street lighting for the Community Development Block Grant (CDBG) as it relates to Project No. T-0033-7, Roswell Road Sidewalk Project (Phase 2).

As part of the design of the Project, it is necessary to install street lighting on the west side of Roswell Road from Lake Placid Drive to Northwood Drive in conjunction with the Project. The scope of work includes:

- Install 3 – 170-Watt LED Green Commercial Roadway Fixtures.
- Install 3 – 28' Fixture Mounting Height Green Anchor Based Poles mounted on 24" round concrete bases.
- Install all underground feeds to lights.
- Install all photocells for dusk to dawn operation.

The City has previously entered into agreements with GPC to obtain lighting on sidewalks and side paths. Street lighting is an important element in providing for a complete streetscape, as envisioned for this Project. The agreement will provide for the City to pay an initial installation cost of \$28,565.00, and a monthly lease cost of \$290.00, which will cover maintenance and energy costs, and will be paid through the City's Street Lighting Account. There are sufficient funds within the CDBG account to fund the initial installation cost. Should the City choose not to approve entering into the Agreement, street lighting could alternatively be incorporated into the construction documents for the Project to be bid and installed by the successful bidder. Historically, GPC installation of street lighting for smaller installations like this one have been more economically advantageous to the City when compared to construction contractor installed lighting.

Motion and second. A motion was made by **Councilmember Andy Bauman**, seconded by **Councilmember Tibby DeJulio**, to approve a lighting services agreement with Georgia Power Company to install street lighting for the Community Development Block Grant (CDBG) as it relates to Project No. T-0033-7, Roswell Road Sidewalk Project (Phase 2).

Councilmember Melody Kelley asked what is the status of our most recent annual allotment?

Michele McIntosh-Ross, Planning & Zoning Manager, said we received notice around February of this year that we have about \$526,000.

Councilmember Kelley asked is this coming out of the \$526,000 allotment or is this for the loan?

Planning & Zoning Manager McIntosh-Ross, said received funds are put into accounts and as projects come in the money from CDBG goes towards these projects. The loan paid for some of the projects with additional projects happening. A portion of that funding we receive goes towards the loan as well as the project.

Councilmember Kelley asked have the funds from the loan been used on sidewalk projects?

Planning & Zoning Manager McIntosh-Ross replied yes.

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

Resolution No. 2023-04-54

D. **2023-112** Request for Mayor and City Council Consideration to Approve Contract Award to Kimley-Horn and Associates, Inc. for Fiber Design and Construction Management Services as it Pertains to the I.T.S. Loop A Project (Project No. S2101)

William H. Martin, Jr., AIA, Public Works Director, presented a recommendation to approve a contract award to Kimley-Horn and Associates, Inc. for fiber design and construction management services as it pertains to the I.T.S. Loop A Project (Project No. S2101).

The purpose of the Project is to complete design and provide construction project engineering and inspection support for a new fiber connection to the Intelligent Transportation System (I.T.S.) Loop A. The Project will include either removing and upgrading, or installing new fiber, in eleven (11) loops identified in the COSS I.T.S. Master Plan.

The City issued a Request for Proposals (RFP) 23-053, "I.T.S. Loop A Design Project," on January 18, 2023. Purchasing conducted a non-mandatory pre-proposal meeting online on January 31, 2023. The proposal deadline was February 22, 2023. The City received two (2) proposals from the following firms ("Offeror"): Kimley-Horn and Associates, Inc. and Atlas Technical Consultants, LLC.

Proposals were initially examined by the City's Purchasing Office for administrative compliance with submittal instructions. No administrative compliance issues were noted.

Final Evaluation Scores:

Meeting of the City of Sandy Springs City Council – SUMMARY MINUTES
Studio Theatre, Sandy Springs City Hall and Broadcast Via Live Webinar and Teleconference
April 18, 2023 Following Work Session
Page 9 of 17

	Project Understanding	Schedule and Statement of Work	Project Personnel	Similar Experience	Cost Proposal	Total
Firm	/ 10 pts	/ 20 pts	/30 pts	/30 pts	/ 10 pts	/ 100 pts
Atlas	8.00	14.67	22.00	22.00	7.54	74.21
Kimley-Horn	10.00	18.67	27.67	29.33	10.00	95.67

Based on the criteria stated in the RFP and results of evaluation by the Evaluation Committee, the Evaluation Committee recommends that the City award the contract for the Project to Kimley-Horn and Associates, Inc. The evaluation committee declined to have interview with the awarded vendor due to familiarity and past performance.

The proposed contract amount is \$688,795.00. The FY23 budgeted adequate funds under S2101 to fund this design and project construction management support.

Motion and second. A motion was made by **Councilmember Jody Reichel**, seconded by **Councilmember Melissa Mular**, to approve a contract award to Kimley-Horn and Associates, Inc. for fiber design and construction management services as it pertains to the I.T.S. Loop A Project (Project No. S2101).

Councilmember Jody Reichel asked what is involved in replacing the loop?

Public Works Director Martin said in this case, most of the infrastructure will be either aerial cable or improvements to the conduit installed fiber we have throughout this area. This area is bounded by Roswell Road down to the southern city limits and over to Peachtree Dunwoody Road, creating that larger loop. There are smaller loops within that area that are targeted for improvement as a part of this I.T.S master plan upgrade.

Councilmember Melody Kelley asked what does the I.T.S technology support on a practical level in terms of transportation in the City of Sandy Springs?

Public Works Director Martin said it supports several systems throughout the City of Sandy Springs. Most importantly it was recommended because it provides great real time interconnectivity between all our traffic signal systems within this area. This not only enables immediate, reliable connectivity with all our traffic signal systems but also enables the overlay software that provides communication and synchronization between our signal systems. It is important to make the system function efficiently.

Councilmember Andy Bauman asked is wireless technology underway at some point?

Public Works Director Martin said we use some wireless or cellular in those areas where we cannot access fiber. Wireless is not necessarily as reliable as fiber connection.

Councilmember Bauman said it probably would be less expensive at some point, but we need the reliability.

Mayor Rusty Paul asked what was Atlas's bid? It is assumed Atlanta scored lower because they had a higher cost.

Public Works Director Martin said he currently does not have that information but will provide. Cost was considered as part of the scoring matrix. Those that provided the lower costs get the higher score within that 10-point category.

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

Resolution No. 2023-04-55

- E. **2023-113** Request for Mayor and City Council Consideration to Approve a Contract Amendment to AECOM's Existing Contract for Maintenance and Repair Support Services to allow for Scoping Study of the Riverside Bridge over Chattahoochee River Tributary (Project No. S2132)

William H. Martin, Jr., AIA, Public Works Director, presented a recommendation to approve a contract amendment to AECOM's existing contract for maintenance and repair support services to allow for scoping study of the Riverside Bridge over Chattahoochee River Tributary (Project No. S2132).

This TSPLOST funded project includes a scoping study for the Riverside Drive Bridge Replacement (Bridge ID 121-0453-0) at Chattahoochee River Tributary, which is approximately one mile north of JCT I-285. The existing bridge is 30 ft in length, 32 ft in width with two 11 ft wide travel lanes, a 5 ft buffer on either side, and is posted for the following load limits:

- H-Modified: 17 Tons
- Tandem Axle: 18 Tons
- Timber: 26 Tons

AECOM will finalize the project description and limits; conduct a desktop-level assessment of existing conditions; collect traffic volumes; and develop initial recommendations.

The original contract value for AECOM was \$132,000.00, which was awarded in 2020. The City approved a change order in the amount of \$31,544.00 in 2022.

- On March 31, 2023, the City received cost proposal with the scope of work defined for this project. The cost of the scoping study is \$138,267.31.
- The TSPLOST budget for this project is \$2,400,000.00.
- Upon review of the proposal, City staff recommends that an amendment be made to AECOM's contract in the amount of \$138,267.31.

There are adequate funds available in the TSPLOST 2021 for the Project.

Motion and second. A motion was made by **Councilmember Melissa Mular**, seconded by **Councilmember Andy Bauman**, to approve a contract amendment to AECOM's existing contract for maintenance and repair support services to allow for scoping study of the Riverside Bridge over Chattahoochee River Tributary (Project No. S2132).

Councilmember John Paulson stated we have already spent \$170,000 and we are going to spend another \$138,000. Has GDOT already rated this bridge a deficiency?

Public Works Director Martin said the first \$170,000 is this contract for AECOM to take GDOT's bridge deficiency report. We have 21 bridges in the City of Sandy Springs. The original contract was for

AECOM to take that bridge deficiency report for our 21 bridges and develop a bridge repair and specification contract document that we put out and awarded to the construction contractor we have underway. In the interest of using those bridge services that AECOM has available, we would like to add some scope to this contract and cost, which is \$138,000 in this case, to have AECOM assess how to replace this bridge as part of our T-SPLOST 2021 program.

Councilmember Paulson asked is it because it needed to be replaced?

Public Works Director Martin replied yes. Also, because it is rated as deficient and posted. It is an important path from I-285 to Johnson Ferry Road for vehicles over a certain axle weight and was pursued first in the bridge program.

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

Resolution No. 2023-04-56

F. **2023-114** Request for Mayor and City Council Consideration to Approve the Appropriation of Certain Property Rights and Interests Located at 395 Johnson Ferry Road, Sandy Springs, GA (Tax Parcel # 17-0071-0001-017-1) through the Use of Eminent Domain for the Johnson Ferry Road/Mount Vernon Highway Intersection Improvements Project (Project No. TS 191)

Dan Lee, City Attorney, presented a recommendation to approve the appropriation of certain property rights and interests located at 395 Johnson Ferry Road, Sandy Springs, GA (Tax Parcel # 17-0071-0001-017-1) through the use of eminent domain for the Johnson Ferry Road/Mount Vernon Highway Intersection Improvements Project (Project No. TS 191).

This property is part of the Johnson Ferry Road and Mount Vernon Highway Improvement Project. (Project No. TS 191)(hereafter, the "Project"). In order to construct the Project, fee simple rights are required over, under, and through the property located at 395 Johnson Ferry Road within the City of Sandy Springs. The property in question is a single-family home located on a 0.2895 acre lot on the south side of Johnson Ferry Road, east of Harleston Road, in a predominantly residential area. The subject property includes 849.06 sq. ft of fee simple, 270.2 sq. ft. of temporary construction easement.

The City believes that just and adequate compensation for the subject property is \$71,300.00, and is itemized below;

Fee simple	849.06 sq. ft.	\$16.00/sq. ft.	\$13,585.00
Temporary Construction Easement	270.2 sq. ft.	\$16.00/sq. ft.	\$ 1,297.00
Cost to Cure/Incurable Damages			\$56,004.00
Site Improvements*			\$ 374.00

City Staff has been unable to secure the acquisition of the property, even though the City has offered just and adequate compensation for the property to the owners, Mr. John A. Bendik and Ms. Donna Bendik, however, negotiations to purchase the property appear to have reached an impasse. The City's failure to obtain title to this property would result in the City having to modify the proposed Project, which would increase the cost of the Project.

Motion and second. A motion was made by **Councilmember Melissa Mular**, seconded by

Councilmember Melody Kelley, to approve the appropriation of certain property rights and interests located at 395 Johnson Ferry Road, Sandy Springs, GA (Tax Parcel # 17-0071-0001-017-1) through the use of eminent domain for the Johnson Ferry Road/Mount Vernon Highway Intersection Improvements Project (Project No. TS 191).

Councilmember John Paulson asked has there been a counteroffer?

City Attorney Lee said there has not been. One of the problems we have with this property is our appraiser neglected to add in the diminished value for the change in proximity of the road to the house, which we have done. The property owner will not make a counteroffer and we are approaching the deadline for the letting of the bid.

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

Resolution No. 2023-04-57

- G. **2023-115** Request for Mayor and City Council Consideration to Approve the Appropriation of Certain Property Rights and Interests Located at 405 Johnson Ferry Road (Tax Parcel # 17-0071-0001-018-9) through the Use of Eminent Domain for the Johnson Ferry Road/Mount Vernon Highway Intersection Improvements Project (Project No.: TS-191)

Dan Lee, City Attorney, presented a recommendation to approve the appropriation of certain property rights and interests located at 405 Johnson Ferry Road (Tax Parcel # 17-0071-0001-018-9) through the use of eminent domain for the Johnson Ferry Road/Mount Vernon Highway Intersection Improvements Project (Project No.: TS-191).

This property is part of the Johnson Ferry Road and Mount Vernon Highway Improvement Project. (Project No. TS-191)(hereafter, the "Project"). In order to construct the Project, fee-simple rights are required over, under, and through the property located at 405 Johnson Ferry Road within the City of Sandy Springs. The property in question is a single-family home located on a 0.3037 acre lot on the south side of Johnson Ferry Road, east of Harleston Road, in a predominantly residential area. The subject property includes 598.94 sq. ft of fee-simple.

The City believes that just and adequate compensation for the subject property is \$103,000.00, and is itemized below;

Fee simple	598.94 sq. ft.	\$16.00/sq. ft.	\$ 9,583.00
Site Improvements*			\$ 374.00
Cost to Cure/Incurable damages			\$ 92,990.00

City Staff has been unable to secure the acquisition of the property, even though the City has offered just and adequate compensation for the property, to the owners, Mr. Collin Garner and Ms. Elizabeth Garner, however, negotiations to purchase the property appear to have reached an impasse. The City's failure to obtain title to this property would result in the City having to modify the proposed Project, which would increase the cost of the Project.

Motion and second. A motion was made by **Councilmember Melissa Mular**, seconded by **Councilmember Melody Kelley**, to approve the appropriation of certain property rights and interests

located at 405 Johnson Ferry Road (Tax Parcel # 17-0071-0001-018-9) through the use of eminent domain for the Johnson Ferry Road/Mount Vernon Highway Intersection Improvements Project (Project No.: TS-191).

Councilmember Jody Reichel asked if the counteroffer was \$143,000? Can we choose to accept that and not take by eminent domain? I am in favor of accepting the \$143,000 and not use eminent domain.

Councilmember Tibby DeJulio said if Council approves this request to get the project moving, will we be able to negotiate with the owner for a compromise and avoid using eminent domain?

City Attorney Lee said 90% of the time, we do not use it and we can counter the offer that was made. This is in case negotiations falls apart, the project will not be delayed.

Mayor Paul said this request is to ensure we can control the title while the negotiations continue.

Councilmember Andy Bauman said he hopes our body would conduct negotiations through **City Attorney Lee**. This is a conversation for Executive Session, not here. I will support eminent domain and that Attorney Lee will continue the negotiation process as we have done before.

City Attorney Lee said of all the ones voted on there so far, there are two pending, and for both, the property owner has asked that we file eminent domain. It is Council's policy to exhaust every opportunity to not use it.

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

Resolution No. 2023-04-58

- H. **2023-116** Request for Mayor and City Council Consideration to Agree to Participate in the National Teva, Allergan, CVS, Walgreens, and Walmart Settlements and Agreeing to be Bound by an Anticipated MOU between the State of Georgia and Georgia Subdivision Regarding the National Teva, Allergan, CVS, Walgreens and Walmart Settlements

Dan Lee, City Attorney, presented a recommendation to approve participation in the National Teva, Allergan, CVS, Walgreens, and Walmart Settlements and agreeing to be bound by an anticipated MOU between the State of Georgia and Georgia Subdivision regarding the National Teva, Allergan, CVS, Walgreens and Walmart Settlements.

In 2021, nationwide settlements were reached to resolve all opioids litigation brought by states and local political subdivisions against the three largest pharmaceutical distributors—McKesson, Cardinal Health, and AmerisourceBergen (“Distributors”)—and against manufacturer Janssen Pharmaceuticals, Inc. and its parent company Johnson & Johnson (collectively, “J&J”). These “2021 National Settlements” have been finalized, and payments have already begun. The City of Sandy Springs City Council authorized the City's participation in the 2021 National Settlements in December, 2021 (Resolution No. 2021-12-155). The City is expected to receive \$770 from this 2021 National Settlements.

In January, 2023, Georgia Attorney General Chris Carr announced the State of Georgia would join national settlements with CVS, Walgreens, Teva and Allergan to resolve allegations that the companies contributed to the opioid crisis. Communities in Georgia stand to receive more than \$181 million in total base payments to help fund critical treatment, prevention, reduction and recovery services. New national

opioid settlements have been reached with Teva, Allergan, CVS, Walgreens, and Walmart.

In late 2022, agreements were announced with three pharmacy chains—CVS, Walgreens, and Walmart—and two additional manufacturers—Allergan and Teva. In January 2023, each of those pharmacy chains and manufacturers confirmed that a sufficient number of states had agreed to the settlements to move forward. As with the 2021 National Settlements, states and local governments that want to participate in the 2022 National Settlements now will have the opportunity to “opt in.” The greater the level of subdivision participation, the more funds will ultimately be paid out for abatement.

In addition to providing billions of dollars for abatement, the settlements also impose changes in the way the settling defendants conduct their business. For example:

- The Distributors will create a groundbreaking clearinghouse through which they will be required to account not only for their own shipments, but also the shipments of the other distributors, in order to detect, stop, and report suspicious opioids orders;
- J&J (which ceased marketing Opioids in 2015 and ceased selling Opioids in 2020) will not market or sell any opioid products in the next ten years and has agreed to cease lobbying concerning prescription opioids for ten years;
- Teva and Allergan have agreed to strict limitations on their marketing, promotion, sale, and distribution of opioids, including a ban on: (1) promotion and lobbying; (2) rewarding or disciplining employees based on volume of opioid sales; and (3) funding or grants to third parties; and
- Walmart, CVS, and Walgreens are required to implement changes in how they handle opioids, including requirements addressing their compliance structures, pharmacist judgment, diversion prevention, suspicious order monitoring, and reporting on red-flag processes, as well as blocked and potentially problematic prescribers.

Assuming maximum participation, the 2022 National Settlements require:

- Teva to pay up to \$3.34 billion over 13 years and to provide either \$1.2 billion of its generic version of the drug Narcan over 10 years or \$240 million of cash in lieu of product, as each state may elect;
- Allergan to pay up to \$2.02 billion over 7 years;
- CVS to pay up to \$4.90 billion over 10 years;
- Walgreens to pay up to \$5.52 billion over 15 years; and
- Walmart to pay up to \$2.74 billion in 2023, and all payments to be made within 6 years.

Under both the 2021 and 2022 National Settlements, at least 85% of the funds going directly to participating states and subdivisions must be used for abatement of the opioid epidemic, with the overwhelming bulk of the proceeds restricted to funding future abatement efforts by state and local governments.

Most of funds will be paid out over a period of time, but none will be paid out until at least 27 states have signed onto the same agreement. These companies are trying to end the lawsuits and want as many plaintiff on board to end the lawsuits. The settlement may require different outcomes for the defendants, such as change in advertising or a change in keeping up with shipments, and other means of addressing some reckless conduct on behalf of the defendants. The City can take this money, and use it towards filling the gaps caused by problems in Sandy Springs. There will be another process to gain a share of the 75% that will go to the State of the listed distributors.

Motion and second. A motion was made by **Councilmember John Paulson**, seconded by

Councilmember Tibby DeJulio, to approve participation in the National Teva, Allergan, CVS, Walgreens, and Walmart Settlements and agreeing to be bound by an anticipated MOU between the State of Georgia and Georgia Subdivision regarding the National Teva, Allergan, CVS, Walgreens and Walmart Settlements.

Councilmember Tibby DeJulio asked is the \$74,000 over the next five years only from the first two defendants? There are still the other three defendants, and that money has not been allocated yet. Do we have more money we will be entitled to down the road?

City Attorney Lee said there are five defendants but the \$74,000 is from two, Janssen and Johnson & Johnson. We already received money from McKesson and Purdue. What you are giving up in this resolution is you will not sue any of these defendants which we are not going to do anyway.

Councilmember Andy Bauman asked have we received money from the prior settlements? There would be a certain symbolic and practical value in saying these funds be set aside in a ledger account to be determined the use of, consistent with **City Attorney Lee's** comments. If that is not in the resolution, then it should be amended or a future resolution should be returned to Council with the intent that all monies received from this and other settlements be set aside.

City Attorney Lee said he does not know if money from the prior settlement has been received by the City.

Eden Freeman, City Manager said the terms of the MOU require the funds to be used for abatement strategies and there would be no reason to amend the resolution.

Councilmember DeJulio asked does our general accounting practices require us to identify all money that comes in and annotate it separately to keep track of things like this?

Toni Carlisle, Chief Financial Officer said that is correct. We have already established a fund for these opioid monies.

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

Resolution No. 2023-04-59

X. Reports

A. 2023-117 Mayor and Council Report

Mayor Rusty Paul reported the City received two letters from the Georgia Department of Community Affairs. One letter congratulates the City completing the process of producing and adopting the most recent update to the City of Sandy Springs Local Comprehensive Plan. City of Sandy Springs has been awarded Qualified Local Government status. The second letter advises that the Department of Community Affairs has approved the City's request to change the next Capital Improvement Element Update due date from October 31st to June 30th of each year.

Councilmember Andy Bauman thanked everyone involved for a very nice day at the Lantern Parade and the Farmers Market opening.

B. 2023-118 Staff Reports

City Manager Freeman stated she is pleased to introduce **Len Housley, Assistant City Manager**, to the body and to everyone assembled here. For the last five years, he served as Executive Director at the Marine Corps Logistics Base Albany. He is serving as the Sandy Springs Assistant City Manager for infrastructure and facilities. We are excited to have him join us and help us move our capital program delivery forward as expeditiously as possible.

1. February 2023 Unaudited Financials

Toni Carlisle, Chief Financial Officer, presented the review for the February 2023 unaudited financials as follows. The City is at 66.67%% of the fiscal year. Revenues are at 91.33% and expenditures are at 58.39% of the budget. The major receipts which increased revenues from January to February is the receipt of the GA Power franchise tax payment of \$6.5M which increased about 9% from last year. Business license renewal season ended 3/31/23, we will see the results for the Business Occupational Taxes in the March results. Building permits continue to increase, we're at 16% over budget. Overall revenues are just 8.67% under the FY23 budgeted amount as of February close. You will see the education/training and travel budget lines increasing as many of the staff have enrolled in in-person training over next few months. The expenditures for each department continue to trend as expected for FY23.

Councilmember Andy Bauman asked are we still considering a ladder investment program?

Eden Freeman, City Manager, said we are considering that, but Georgia Fund 1 has been performing very well the last few months. Right now, our time is mostly consumed on budget preparation in anticipation of our first budget workshop on May 2nd.

Mayor Paul said if you missed it, the State reported a 3% drop in its revenues during March. Sales taxes have been hit and we have seen that in our T-SPLOST and in LOST collections. In the budget process, be prepared. We are always conservative but given the current trend it is going to be more conservative than normal. We anticipate our revenues will be flat, at best, and probably decline in the next fiscal year.

XI. Executive Session

Motion and vote. A motion was made by **Councilmember John Paulson**, seconded by **Councilmember Melody Kelley**, to recess from regular order and enter executive session for the purposes of Real Estate and land Litigation discussion. The motion carried by unanimous vote.

Passed Yes 6, No 0, Abstained 0

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

Nays: None

The Executive Session began at 9:18 p.m.

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 6, No 0, Abstained 0

Meeting of the City of Sandy Springs City Council – SUMMARY MINUTES
Studio Theatre, Sandy Springs City Hall and Broadcast Via Live Webinar and Teleconference
April 18, 2023 Following Work Session
Page 17 of 17

Yeas: John Paulson, Melody Kelley, Melissa Mular, Jody Reichel, Tibby DeJulio, Andrew Bauman
Nays: None

The Executive Session ended at 9:35 p.m.

XII. Adjournment

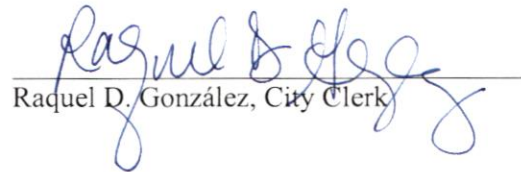
Motion and vote. A motion was made by **Councilmember Tibby DeJulio**, seconded by **Councilmember John Paulson**, to adjourn the meeting. The motion carried by unanimous vote.

The meeting adjourned at 9:35 p.m.

Approved: May 2, 2023



Russell K. Paul, Mayor



Raquel D. González, City Clerk