
The Regular Meeting of the Sandy Springs City Council was Tuesday, February 18, 2020, at 6:00 p.m., Mayor Rusty Paul presiding.

I. Invocation: Rabbi Joshua Heller, B'nai Torah

II. CALL TO ORDER

Mayor Rusty Paul called the meeting to order at 6:00 pm.

Interim City Clerk Lia Jones reminded everyone to silence all electronic devices at this time. Individuals wishing to provide public comment are required to complete a public comment card. Public Comment Cards are available online and at the Chamber entrance and submitted to the City Clerk before the meeting begins.

III. ROLL CALL AND GENERAL ANNOUNCEMENTS

Interim City Clerk Lia Jones called the roll.

Mayor: Mayor Rusty Paul – present.

Council Members: Council Member John Paulson, Council Member Jody Reichel, Council Member Tibby DeJulio, Council Member Steve Soteres, and Council Member Andy Bauman.

IV. PLEDGE OF ALLEGIANCE

Mayor Rusty Paul led the Pledge of Allegiance.

V. PUBLIC COMMENT

Interim City Clerk Lia Jones stated that she received no (0) Public Comment Cards.

Mayor Paul closed the Public Comment period.

VI. APPROVAL OF MEETING AGENDA

Motion and Vote: Council Member DeJulio moved that the meeting agenda be approved for Tuesday, February 18, 2020 and to add an Executive Session for the purposes of Litigation. Council Member Burnett seconded.

Vote on the Motion: The motion carried unanimously.

VII. CONSENT AGENDA

A. 2020-52 Meeting Minutes

1. February 4, 2020 Work Session

2. February 4, 2020 Regular Meeting

B. 2020-53 Request for Mayor and City Council Consideration of Acceptance of a Real Estate Agreement (Permanent Drainage Easement) for the Seville Chase Stormwater Project

~~**C. 2020-54** An Ordinance to Authorize Amending the FY 2020 Budget to Transfer Funds from Impact Fee Fund to Capital Projects Fund of the City of Sandy Springs moved to New Business~~

Motion and Vote: Council Member Bauman moved that the meeting agenda be approved for Tuesday, February 18, 2020, with an amendment to move agenda item C. 2020-54 to New Business. Council Member Paulson seconded.

Vote on the Motion: The motion carried unanimously.

VIII. PUBLIC HEARING

A. 2020-55 Request for Mayor and City Council Consideration of an Update and Public Hearing for CDBG Program 2020 Annual Action Plan

Louisa Tovar, Community Development Urban Planner stated that because the City receives CDBG funds from the US Department of Housing and Urban Development (HUD), staff is required to complete an Action Plan each year, which describes how the City will use the CDBG funds for the specific program. FY 020, staff will continue the design and construction of Phase III of the South Roswell Road Multityear Sidewalk Project. Staff anticipates using Section 108 funds for the FY2020 Program to finalize the Phase III streetscape improvements. The City participation plan requires a public hearing before staff could prepare a draft of the Action Plan. The draft will be brought before Council during the scheduled Work Session on March 17 to announce the Public Comment period and the Action Plan is scheduled for adoption on May 5, 2020 during the Regular meeting.

There were no public comments. Mayor Paul closed the public hearing.

Motion and Vote: Council Member Reichel moved that A. 2020-55. Request for Mayor and City Council Consideration of an Update and Public Hearing for CDBG Program 2020 Annual Action Plan, be approved. Council Member Soteres seconded.

Council Member Paulson asked for clarification with regard to the presentation, is there still a Public Comment period on this.

Urban Planner Tovar responded that staff is required to have a thirty (30) day comment period once the draft is complete.

Mayor Paul commented that Mayor and Council is authorizing staff to enter into this process.

Vote on the Motion: The motion carried unanimously.

B. 2020-56 Request for Mayor and City Council Consideration of TA20-0001 Part A to Amend Sections of the Development Code Relating to Recreational Facility

Ginger Sottile, Director of Community Development presented the proposed text amendment to allow a Recreational Facility in the Residential Estate zoning district. It was discovered that the original language in the newly adopted Development Code was inadvertently removed during a comprehensive text amendment last April. As a result, this amendment was brought to Mayor and Councils attention last summer, at which time staff initiated the discussion regarding allowing Recreational Facilities in the RE zoning districts. That discussion was heard by the Planning Commission, and their recommendation was to deny. The matter was tabled when it was subsequently brought before Council. Staff is re-introducing a draft of that potential language that would allow a Recreational Use in residential estate zoned lots. The highlights of this legislation are: a conditional use must be obtained; may contain both indoor and outdoor components; shall be located on riverfront property and adjacent to a road classified as an arterial; vehicular access is prohibited from a local street; maximum lot coverage and height shall be determined through the Use Permit process. At the Planning Commission hearing on January 19, 2020, staff recommended denial because the change was a benefit to one property owner, which conflicts with the review criteria in the Development Code, which states: "The text amendment constitutes a benefit to the City as a whole and not solely for the good or benefit of a particular land owner at a particular point in time." Staff also recommended denial since the location is in a Protected Neighborhood and commercial type uses should not be allowed.

There were two (2) Public Comment cards received:

Ronda Smith, 76 Long Island Place, Sandy Springs GA 30328. Speaking on behalf of the Sandy Springs Council of Neighborhoods as President, representing the position of the Board. Asked for staff's indulgence to display the slide with the map in the presentation as to reference the properties depicted there. As a preface to comments while echoing the words Mayor Paul stated in the hearing of a previous change to land use policy that it's a huge mistake when local governments try to craft policy based upon one application. These types of changes could open the door to other uses that one could never imagine. It is the Council of Neighborhoods Board opinion that such a scenario would surely result from the passage of this amendment to the Development Code. While one would like to imagine a public serving facility, the support at Planning Commission for this amendment on private property brings a for profit business approach. While you cannot in exact terms consider any specific use, no matter how you slice it, the focus is and will ultimately be on a business bottom line. It brings that approach to properties that are protected neighborhood and the use would directly impact adjacent protected neighborhood properties. Any use couched any other way, on either property depicted, sounds altruistic but in reality is for profit business serving. While the property at the river and Roberts Dr. has Roswell Road commercial properties in proximity, one cannot draw any parallel between these and a riverfront residential property accessed only from Roberts Drive. A Roberts Drive that is becoming even more residential with new homes being built and existing homes being renovated. Roswell Road commercial properties exist with parking for the high intensity office and commercial uses on sight today. Those are

properties with adequate parking created under parking requirements enforced at the time for those developments when they were built. What commercial for profit uses could be incorporated into a facility this amendment would allow? How unpredictable would that be? Use your imagination and it could well be a facility that would manifest itself as a recreation destination that could fall just short of being a circus. And then ask yourself, where will the users park? There is, considering limiting factors of stream buffers and setbacks, no way can sufficient parking be accommodated on either property you see on the map depiction. There is no valid reason this parking should be accommodated in a way that skirts those parking requirements in force in the Development Code today. The Planning Commission, as you heard, found for a unanimous denial of this amendment. They understood the concerns about unintended consequences of the language as it related to the impact on adjacent Protected Neighborhood. River activation, as desired in the comp plan and north end revitalization plan, will not be an easy undertaking and must be achieved with sensitivity to both community and environment. The allure as a recreational amenity is powerful but the engagement of the river cannot come at the imposition of or impact to protected neighborhood quality of life. The Conditional Use permit process would be installed under this amendment. That process would see applicants ask for the moon and the stars which, at the same time, also asks the impacted community to fight for the protections that are today inherent in that promise of protection that was made in 2017 and in a Development Code borne out of that promise of Protected Neighborhood. A recreational facility is an active commercial use and belongs on commercial property. The character area amendment and rezoning process in place today allows for any Residential Estate property wishing to install such a facility to come forward, go through the process and ask for the appropriate land use designations for this type of use. This amendment language is wholly unnecessary in light of the existence of this process. Please do not allow for new language in the code that would impose upon protected neighborhood riverfront properties with what could be; highly activated uses creating potentially untenable parking issues, unintended consequences of encroachment by both the facility and its users onto neighboring properties, and a violation of those protections promised to all protected neighborhoods in the development code. Please deny this change to the development code.

Touchie Blad, 7320 Hunters Branch Drive, Sandy Springs. The major concern that came out of both Planning Commission hearings, where they denied it, was that this was going to allow commercial into residential, and we all promised Protected Neighborhoods in The Next Ten Plan. Ronda Smith sat on the Committee, and that is what everyone walked away with. Excited about that and this is going to open up that "barnyard door" and allow encroachment into the neighborhoods with commercial. If your intent in this amendment was to energize the riverfront and create activity along the riverfront, and it is not my idea, Karen Meinzen McEnerny, former City Councilwoman, spoke before the Planning Commission last July, and said that your existing code allows for you to do that. Okay, hold on, you'll have to buy the land, and then the City Council will have to treat it like the Tennis Center where you roundly sent it back to an operator, but at that point, you will have control over the use. Right now, I am sitting here wondering if we are looking at badminton courts, bowling alleys; it is such a broad term and you're going to have commercial operators. They are going to flip hands; and they are going to need to put in whatever is commercially viable at the time. If your intent is to activate the riverfront and increase north end redevelopment, there are other ways to go about this without adopting this text amendment that goes against one of the principles of The Next Ten Plan. The Planning Commission has denied this twice. We hope Mayor and Council will deny it too.

Mayor Paul closed the Public Comment period.

Motion and Vote: Council Member Paulson moved that B., item agenda 2020-56 Consideration of TA20-0001 Part A to Amend Sections of the Development Code Relating to Recreational Facility be denied. Council Member DeJulio seconded.

Council Member Paulson indicated that this item is located in his district. When the Comprehensive Plan was passed, verbiage that addressed residential properties on the river next to major arterials was inadvertently removed according to Ms. Sottile. Since having the new Development Code one of the things followed pretty rigorously whether or not a parcel will be rezoned from one designation to another. Once the Character Area Map change is amended, then approved, it will require zoning approval. The irony of the text amendment is that it bypasses procedure. That is a concern. Paulson does not want this text amendment to circumvent the process that staff has previously used successfully. He is not in support.

Council Member DeJulio asked if this item was tabled before, and why.

Community Development Director Sottile deferred to **Assistant City Manager Jim Tolbert**

Assistant City Manager Tolbert stated that the item was delayed, then moved to reconsider.

Council Member Paulson emphasized the challenge of the text contained a property next to a collector, both arterial and/or collector. That opened it up to other streets in the area that as not what it was intended for; so, the addition of the word 'collector' kind of threw everybody off, as well last summer. That's another reason why it was tabled because that was not what was originally in the Development Code in 2017.

Mayor Paul commented that the item is a different proposal still on the table because it indicated *collector* streets.

Council Member DeJulio asked for clarification that the two lots requiring code change will benefit two pieces of property. He asked what is currently on the property, and is there an economic usefulness to consider.

Assistant City Manager Tolbert responded that both are used as single family homes. One home is fairly expensive, staff does not know the value if the other home.

Vote on the Motion: The motion carried unanimously.

C. 2020-57	Request for Mayor and City Council Consideration of TA20-0001 Part B to Amend Sections of the Development Code Relating to Setback Encroachments; District Boundary Buffers; and Temporary Signs
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Matthew Anspach, Senior Planner, Community Development presented that Part B of the Text Amendment pertains to setbacks – mechanical equipment that must be screened inside the yard and side yard area for most properties in the City. Staff recommends additional prohibition against the actual wording for secondary streets being prohibited be removed. The District Boundary Buffer amendment pertains to boundary buffer, not the neighborhood transition buffer. Staff is proposing to add language that mirrors the neighborhood transition buffer and provide text to the graphics. Planning Commission recommended that the wall be located 20' from the affected neighborhood and into the developer's lot. Staff also recommends signs as a simple section that helps to clarify temporary signs. There are two (2) different types in the Development Code.

There was one (1) Public Comment:

Ronda Smith, 76 Long Island Place, Sandy Springs GA 30328 - Speaking on behalf of the Sandy Springs Council of Neighborhoods as President, representing the position of our Board. With the way that Matthew Anspach poised the change, the Planning Commission made moving the wall to the 20' mark. Technically, I was speaking in opposition to the original language as written. We appreciate the work to give more clarity to the illustration shown there. As written originally, it described that the wall be located closer to and 3' from the property line. In contrast, the wall required in the similar in nature of neighborhood transition buffer adjacent to a Protected Neighborhood, must be placed internally to the buffer closer to the more dense use, so it most effectively blocks sound and light. The required plantings next to the less dense use provides a softer transition from the higher intensity property to the abutting lower intensity property. The placement of the wall internal to the District Boundary Buffer will provide a greater amount of noise reduction for the abutted RU or RT property. We would like to recommend that Council consider voting with the same change that the Planning Commission was in favor of, so that the text under Item "2. Wall at least six-feet tall and no more than eight-feet tall that is located 20 feet from the property line (no fence is allowed)." I appreciate your considering this change to ensure that less dense developments in RT and RU have the benefit of the benefit of the softer transition from their neighboring more dense uses.

Mayor Paul closed the Public Comment period.

Motion and Vote: Council Member Paulson moved that C., item agenda 2020-57 Consideration of TA20-0001 Part B to Amend Sections of the Development Code Relating to Setback Encroachments; District Boundary Buffers; and Temporary Signs, with the recommendation that the original Staff wording of 3' be kept and not the 20' that the Planning Commission recommended, I still want the 3' that was originally shown in the text, be approved. Council Member Reichel seconded.

Council Member Paulson stated that if someone is building a 20' buffer, they are required to put a wall in place on their side of the buffer to have no view of the buffer, yet maintain the buffer. They would literally have to go around the wall in order to maintain this buffer. This does not appear to be fair.

Mayor Paul spoke to clarify what Council Member Paulson recommends. The neighbor would not have the buffer ^{is} the impact. He questioned that the wall would be so close to the property line that there would be no buffer between the wall and the neighbor.

Council Member Paulson replied yes; the wall would be closest to the neighbor.

Council Member Burnett questioned if this was pertaining to the north end redevelopment plans and goals for more affordable housing, which is more than likely going to be higher in density, cluster housing, and smaller lots. Will the buffer apply to both detached and attached homes; or, does it have a delineation between the two.

Senior Planner Anspach responded, the buffer will be attached.

Council Member Burnett asked will there be back to back units with one set of walls along the property line and will the other property have their own walls, allowing both homeowners to view their own wall. Is staff delineating between those two, in this proposed amendment.

Senior Planner Anspach stated that essentially the district boundary buffer applies to a townhome type of neighborhood.

Council Member Burnett asked if it would make sense to bring more clarity to high density housing versus leaving it open for housing in general, regardless of density.

Assistant City Manager Tolbert clarified that the buffer between higher density uses and protected neighborhood would not be compatible with single family.

Council Member Burnett was not clear on the differentiation between the two.

Assistant City Manager Tolbert said that a wall could be placed in most single family neighborhoods subject to restrictions. The buffers are required between land uses that is not in protected neighborhoods.

Council Member Bauman stated that he is okay with the amendment and projecting the Planning Commission, absent some compelling reason why it is not working.

Mayor Paul stated that the purpose of a buffer is to separate the people who are using the property from the people who are not using the property. To understand the current Ordinance, Planning Commission wants it moved to 20'. There is some validity for doing do. Mr. Paulson's motion is to reject the Planning Commission's recommendation and leave it as depicted.

Assistant City Manager Tolbert stated that the past interpretation indicated that the land area, and the wall were all part of the buffer. The Planning Commission wants to 'flip' the wall to the other side of the buffer, so all the landscaping, all the trees, all the shrubs, would be on the neighbor's side, not the developer's side.

Council Member Reichel questioned if there were any complaints about the current status quo.

Community Development Director Sottile responded that the only complaint received is that the text is not current to match the illustration.

Council Member Bauman asked if a wall needed to be there. Does staff have any examples?

Director Sottile stated that policy indicates there is a wall included with a transition buffer. She further explained that it is for the protection of the more sensitive use from the intense use. The wall is visual protection.

Mayor Paul stated, as a matter of Parliamentary procedure, this is a text amendment designed to clean up issues, not to make policy. Policy change should not be part of an exercise. Mayor Paul asked Dan Lee, City Attorney to interject.

City Attorney Dan Lee stated that a great concern to flipping the wall requires a barrier that separates the property owner from the use of their property and could amount to a taking, as opposed to the way it is been used and done now, to where it is a 3' buffer, then the wall is up. It makes a difference.

Mayor Paul stated that he would take the posture that we should not be making wholesale changes as part of a text clean-up process.

Vote on the Motion: The motion carried unanimously.

ORDINANCE NO. 2020-02-06

D. 2020-58 ABL_66645 - Approval of Alcoholic Beverage License Application for MCBK, LLC DBA Local Expedition Wood Fire Grill at 1110 Hammond Drive NE, Suite 15, Sandy Springs, GA 30328. Applicant is Danny Kim for Consumption on the Premises Wine and Malt Beverages

Finance Director Karen Ellis presented that this is a new application for Consumption on the Premises Wine and Malt Beverage License for MCBK, LLC DBA Local Expedition Wood Fire Grill at 1110 Hammond Drive NE, located at the intersection of Hammond Drive and Peachtree Dunwoody Road. This is an application within District 3. The applicant, Danny Sun Kim, has met all the requirements and Staff recommends approval.

There were no Public Comment cards.

Mayor Paul closed the comment period.

Motion and Vote: Council Member Burnett moved approval of D., item agenda 2020-58 Approval of Alcoholic Beverage License Application for MCBK, LLC DBA Local Expedition Wood Fire Grill at 1110 Hammond Drive NE, Suite 15, Sandy Springs, GA 30328. Applicant is Danny Kim for Consumption on the Premises Wine and Malt Beverages. Council Member Reichel seconded.

Vote on the Motion: The motion carried unanimously.

IX. NEW BUSINESS

- A. 2020-59** Request for Mayor and City Council Consideration of Approval of an Addendum to the Memorandum of Understanding (MOU) with MARTA for the T0019 Roswell Road Transit Access Project, I-285 to City of Atlanta

Wesley Water, CIP Unit Manager presented that staff is recommending approval to an Addendum to the Memorandum of Understanding which was approved recently, December 3, 2019. That MOU outlined the terms of the City's acceptance of Federal Transit Authority funds through MARTA, which would be \$6.2 million from FTA and leveraged by \$1.5 million that the City has in budget for design and construction of the streetscape on Roswell Road from I-285 down to the City limits. The MOU was approved and shortly after, MARTA sent an Addendum No. 1 that had 2 items: one, was extending the duration of the project from five (5) to eight (8) years. City Staff had estimated 5 years to complete the project and MARTA, with their experience with FTA funding, decided to push it out to 8 years. Secondly, they added verbiage about the project close out procedures that had been left out of the original agreement. Staff recommends approval of the Addendum.

Motion and Vote: Council Member Reichel moved for approval of A., item agenda 2020-59 Approval of an Addendum to the Memorandum of Understanding (MOU) with MARTA for the T0019 Roswell Road Transit Access Project, I-285 to City of Atlanta. Council Member Bauman seconded.

Vote on the Motion: The motion carried unanimously.

RESOLUTION NO. 2020-02-30

- B. 2020-60** Request for Mayor and City Council Consideration of Approval for Purchase of Materials and Installation Services for Fire Department Emergency Vehicle Signal Preemption Project T-0065

Kristen Wescott, Traffic / Transportation Unit Manager presented that the project was approved in the FY2020 Budget for Emergency Vehicle Signal Preemption. Staff recommends moving forward with the purchase with 26 vehicle units and 113 signalized intersection under GDOT Contract 48400-197-DOT0000640-003/Temple, Inc. GDOT already has a contract from which the City can purchase the system to provide the emergency vehicle preemption. What this does essentially, it is putting a unit on every Fire and EMS vehicle in the Fire fleet and putting units at each of our signal cabinets. Through Glance preemptive technology via radio and cellular communications, tells the signal cabinet ahead of time, as the vehicle is leaving the fire station, that this vehicle is coming and the light will be preempted to turn green so that by the time the fire vehicle gets to the signal, traffic will have flushed out. The initial focus of this project is on fire station Districts 1, 2 and 4, which the Chief has presented before about challenges with response

times. This project with Temple is a turn-key project, so that should we move forward tonight with this purchase of both materials and services, and a 5-year oversight and assistance, that they will be helping us as Staff, both in Fire getting devices installed on the fire vehicles, and also in Traffic to put the devices at our signal cabinets. They also will be providing training for all levels involved, training for fire officials, for TMC staff and field staff. The benefits of this project are, from a TMC standpoint, the obvious question is if you are preempting signals, which is an impact to your signal system, but with the devices that are planned for installation at each of the signal cabinets, and it actually provides a dual layer of communications. At signals where there is no communication into the TMC, it will be providing that information on what is happening at the signal. In addition to those signals that we have on fiber, it provides a back-up system. As staff presented on the ITS Master Plan, when contractors or some damage happens to our fiber interconnections system, we lose communications to our signals. This provides a benefit in that it can provide a short-term communication back to the TMC while we get that fiber repaired. In addition, with the system, there are some diagnostics which tells us about power in the cabinets, the signals and other signal functionalities. It is expected that, should we go forward with this, it will be completed by the end of this year.

Motion and Vote: Council Member DeJulio moved for approval of B., item agenda 2020-60 Approval for Purchase of Materials and Installation Services for Fire Department Emergency Vehicle Signal Preemption Project T-0065. Council Member Paulson seconded.

Council Member Bauman mentioned that he saw a potential 20% response time reduction in the report. Does staff have the data to support the claim? Mr. Bauman asked that staff make note to return with traffic study hard data one year after the traffic light technology has been deployed. Mr. Bauman indicated that the data could be mean the difference between life and death. He expects to see some sort of validation by year end 2021.

Traffic / Transportation Manager Wescott stated that Winter Horbal from Temple, Inc., was available to answer any technical questions. This is based on their deployment of the system in other communities. Essentially, it turns the light green so that the traffic flushes out ahead of the fire vehicle; then, once the fire vehicle has passed through, the signal will resume its operation.

Council Member Paulson made a point of clarification, does the timing of the particular intersection go back to its normally scheduled timing once an episode takes place.

Council Member Burnett questioned if the lights would go inside the ambulances and fire trucks. **Traffic / Transportation Manager Westcott** confirmed they would be available to ambulances and all fire vehicles.

Council Member Reichel asked if other cities were using the technology. **Traffic / Transportation Manager Wescott** stated that the City of Marietta and the City of Alpharetta have already pursued the same technology, and staff does have inter-operative ability with other jurisdictions.

Winter Horbal, P.E., Temple, Inc. represents the product that has been chosen by the Fire Chief and traffic engineers. Temple has done a lot of research on this product for a couple of years now. The City of Atlanta has also chosen the technology, so there is definitely a case where mutual aid can happen. As far as this technology overall, the Glance platform system, this is in effect at some of your school flashers, your warning devices and things like that, so it is on a platform that has been out there for almost a decade. The preemption side of it, we probably have been working on it for 4-5 years now. Preemption has been around since the 1970's. Temple has updated the technology, utilizing and enhancing it with the cellular modem is what allows us to be more impactful here in the state of Georgia. Temple uses radio technology that is line-of-sight; here in Georgia we know we have curves, trees, hills, things that prevent line-of-sight technology from getting to those intersections, the modem allows us to speak well in advance to where we are not only talking to the intersection that we are approaching, but are going out to multiple intersections so that we can flush the traffic. This device, between it talking from the vehicle to the infrastructure, is actually a device that it knows where that vehicle is, it knows how far away it is from that signal so if it sees it slowing down, it definitely starts flushing that traffic. It knows that it is in a congested area. Marietta is one where we got our data on the 20% response improvement times. What we can do for Alpharetta also, go ahead and get it installed on your vehicles first, turn that on where it is not preempting signals because the infrastructure is not out at the signals at the moment; we'll get that data from the vehicles knowing where they are going, what routes they are taking; we'll understand how long it is taking them to get there; once we get the infrastructure in, we'll start seeing that difference and seeing how the preemption and giving green lights it really doing it. So to kind of answer that data side, giving that data information in about a year will have all that information to provide back to the Council.

Vote on the Motion: The motion carried unanimously.

RESOLUTION NO. 2020-02-32

- C. 2020-61** Request for Mayor and City Council Consideration to Approve a Resolution to Appoint Karen Trylovich to the City of Sandy Springs Planning Commission

Mayor Rusty Paul announced a vacancy on the Planning Commission. The City believes in balance by utilizing a variety of backgrounds and experiences. Ms. Trylovich is an outgoing Chamber Chair and she lives in Sandy Springs. Mayor Paul recommends Ms. Trylovich be approved as a member of the Sandy Springs Planning Commission.

Motion and Vote: Council Member Bauman moved for approval of C., item agenda 2020-61 Approval for Resolution to Appoint Karen Trylovich to the City of Sandy Springs Planning Commission. Council Member Paulson seconded.

Vote on the Motion: The motion carried unanimously.

RESOLUTION NO. 2020-02-31

- D. 2020-54** An Ordinance to Authorize Amending the FY 2020 Budget to Transfer Funds from Impact Fee Fund to Capital Projects Fund of the City of Sandy Springs

Karen Ellis, Director of Finance presented that the budget ordinance is piggy-backing on the resolution that was approved at last Council meeting (February 4, 2020) related to properties at 75 and 85 Allen Road. The purchase was approved at \$1.19 million. This basically moves the Impact Fee funds related to cover the purchase plus contingency for any Phase I or II environmental that may need to be done to the property. This is one of the first tranches to the \$5 million that is available in Impact Fees to be used for parkland acquisition.

Motion and Vote: Council Member Bauman moved for approval of D., item agenda 2020-54 Approval for Ordinance to Authorize Amending the FY 2020 Budget to Transfer Funds from Impact Fee Fund to Capital Projects Fund of the City of Sandy Springs. Council Member Paulson seconded.

Vote on the Motion: The motion carried unanimously.

ORDINANCE NO. 2020-02-04

IX. REPORTS

A. 2020-62 Mayor and Council Reports

Mayor Rusty Paul hopes all have enjoyed the Atlanta Jewish Film Festival, which is centered in City Springs in the Byers Theatre. There have been a lot of great movies shown and left to be seen. Mayor Paul previously visited with Congress Representative, Lucy McBeth. Many may know that the postal service has not recognized Sandy Springs as a City and it is costing the citizens money. The only option is to select Atlanta, but citizens are paying Atlanta sales taxes, not Sandy Springs. Representative McBeth is committed to help. Mayor Paul and Representative McBeth spoke of the 5G problem that the City is experiencing. Representative McBeth will hopefully provide some flexibility at the Federal level to assist. Mayor Paul was honored that Representative McBeth came to see the Sandy Springs facilities, and he hopes that she would visit again soon.

Legislature was out this week. Georgia was safe for the whole week. A little discussion between the Governor's office and the appropriators about access to the information that they felt they needed to make a decision about the Governor's recommendations on budget cuts. The appropriators met, and the House Appropriations Committee voted out a budget that kind of ignored a lot of the Governor's recommendations. This is the current year's budget, not the next budget, which will be the big budget.

The Legislature takes a look at the budget they passed last year and see what adjustments need to be made. Then the budget will move to the Senate. That was the only thing that was going on at the Capitol this week. Today, there is a bill in the House Ways and Means Committee on Wednesday or Thursday, that does away with gross receipts. That would be about a \$2 million dollar hit to us. I was on a call with other City officials on Monday, and their take was that it is just going to force us to raise our property taxes to make up the difference. So, they are shifting

the burden from the business community to the homeowner, in the main. Mayor Paul asked if that could be done in Sandy Springs, there is a cap in the Charter that would require a referendum to raise the property taxes in any shape or form. If approved as originally contemplated, it would have a real impact on City budget. There is a bill to make short-term rentals pay hotel / motel taxes, treating short-term, long-term rentals, and homeowners the same. There's a bill about wood construction that would allow high-rise construction out of wood that would allow or inject wood construction into the minimum building code standards of the state. As you recall, when they went after the building code last time, they said no local government in Georgia could require anything beyond the minimum building code standards. So, they want to add high-rise wood construction to the minimum standards in the Department of Community Affairs and, it has not yet moved.

Council Member Bauman asked about the progress on the reported potholes in the southern part of the City, Mt. Paran, Windsor, and Long Island.

Public Works Director Martin stated that staff has been tracking the trend of rainy weather that increases pothole calls. Later this week, contractor Blount Construction will start roadway repairs on heavy primary routes.

Council Member Bauman stated the Mt. Paran has axle-busting potholes.

Council Member Paulson announced that Sunday was his 71st birthday. His lovely wife and daughter put together a fantastic birthday party and they are here tonight to help continue the celebration.

B. 2020-63 Staff Reports

1. December 2019 Financials

Karen Ellis, Director of Finance we are at 50% of the year, the financials in the agenda are for December 31. We are trending above budget for 67.4%; the only thing that you'll see in the Summary that is a little bit low is your Business Occupational Tax but that is because it's not due until March 31. You won't see that until your April financials. Expenditures are under budget at 40.66%, trending normal because we are usually a month behind with accruals.

2. FCC Litigation Status

Dan Lee, City Attorney commented that during the last meeting there was discussion on the lawsuit that has been filed and is pending by many local governments, some property owners, some groups, The Garden Clubs of America, against the FCC Preemption Rules. The lawsuit seeks to clarify that local governments have some control, it is geared around the fees and some of the controls around the placement. Staff has reviewed, for Council to decide whether Sandy Springs shall be a part of the intervention.

Mayor Paul asked that Council provide the City Attorney with guidance.

Council Member Paulson stated that this is a lawsuit that many cities have started. The more cities participate, the more weight there is behind the argument. He is in favor.

Council Member DeJulio stated that his District was in an uproar about this. He asked if this lawsuit is successful against the FCC, does that have any impact on the City.

City Attorney Lee responded that it will have an impact. The FCC applies its rules evenly and fairly around the country. There are two hurdles to cross in order to police right-if way and protect neighborhoods from invasion. The two hurdles are: (1) the FCC proposed Regulation changes and (2) the state law that was changed last year, where they are allowed to place them on poles in the right-of-way. Possibly. The winning against the FCC would have some effect on the state law, but the first hurdle will be the FCC Rules. If it goes into effect, the City will lose most of the control over pricing and permitting. There was a big debate between local governments and the FCC about who could regulate that. It is a product of the airways, it is preempted by the FCC law and regulations and local governments filed a suit, and in the middle of that the President intervened, because turns out the Commissioner of the FCC works for him, because of the uproar. So there's another gain to be had by all the cities participating in the lawsuit. The outcome of that was that local governments retained some sort of ability to say no, unless the FCC could prove that they did not have one and folks in the area did not have coverage. It severely limited and helped control it. One thing we did in Georgia was, most cities and countries, made it a part of their Zoning Ordinance. As you know, our state constitution clearly states that matters of zoning and land use are a local matter and cannot be preempted by the state. We are going to bring to you a text amendment, a true text amendment that takes what we do about this sort of thing and puts it in our zoning ordinance. If the City has a challenge on this kind of use, we would rely on the Georgia's constitutions protection of local governments control over land use.

Mayor Paul previously had extensive conversations with the City Attorney and City Manager about the importance of making sure that these areas where we are being preempted are put into the section of our ordinances dealing with zoning. That is one area, the Courts are going to have to determine what the constitution means when it means local control and home rule. If it is in the zoning statutes, then that makes it clearer that this is truly a responsibility protected by the Georgia constitution that belongs to local government. Mayor Paul asked the Legal Department to begin that process. The City will vote on a series of changes to the ordinances, recording the ordinances to make sure that where it makes sense and where it is germane that the City put these into the zoning ordinances.

Mayor Paul stated that staff does not have a lot of time to sit and ponder. There are deadlines that need to be met or these permits will automatically be issued. Until the Court rules, and it's the 9th Circuit and on their decision alone will be applied to their carrier.

X. EXECUTIVE SESSION

Motion and Vote: Council Member Paulson moved to suspend regular order and move into Executive Session for the purposes of discussing Litigation. Council Member DeJulio seconded the motion.

Vote on the Motion: The motion carried unanimously.

A. 2020-45 Litigation

Executive Session began at 7:33 pm

Motion and Vote: Council Member Paulson moved to adjourn Executive Session. Council Member DeJulio seconded the motion.

Vote on the Motion: The motion carried unanimously.

Executive Session adjourned at 8:36 pm

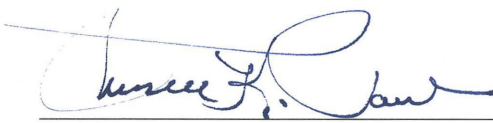
XII. ADJOURNMENT

Motion and Vote: Council Member DeJulio moved to adjourn. Council Member Paulson seconded the motion.

Vote on the Motion: The motion carried unanimously.

The meeting adjourned at 8:36 pm

Date Approved: March 3, 2020



Russell K. Paul, Mayor



Lia Jones, Interim City Clerk

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