

Regular Meeting of the Mayor and City Council held Tuesday, December 20, 2005, 7:00 PM, Mayor Eva Galambos presiding.

Call to Order

Mayor Galambos called the Special Called Meeting to order.

Roll Call

City Clerk Marchiafava called roll.

Councilmembers Present: Councilmember Tibby DeJulio, Councilmember Dianne Fries, Councilmember Dave Greenspan, Councilmember Ashley Jenkins, Councilmember Karen Meinzen McEnery, and Councilmember Rusty Paul

Invocation

Reverend Kelly Barge presided over the invocation.

Pledge of Allegiance

The audience recited the Pledge of Allegiance.

Approval of the Meeting Agenda

Motion and Vote: Councilmember Fries moved to approve the Meeting Agenda. Councilmember DeJulio seconded the motion. There was no Council discussion. The motion passed unanimously.

Mayor and Council Reports

Mayor Galambos stated that we have had successful negotiations with the candidate who was chosen as first choice for City Manager. His name is John McDonough. She asked the City Attorney to report on contract negotiations with him.

City Attorney Wendell Willard stated that he sent a memorandum to the Mayor and Council which outlined the negotiations that have been ongoing with Mr. McDonough, myself, and Mr. Mercer, who is representing the consultant employed by the City to help locate a potential candidate for City Manager. The financial arrangements for the most part have been established and agreed to as far as salary and terms. There is not going to be a specific length of term. There is a provision if he is for some reason terminated, there would be a separation package by which he would continue to receive his salary for up to six months or until he finds other gainful employment. The reason we may want to terminate him is if something happens such as misconduct, criminal conduct, or if there was a will of the Council as a whole for lack of support of him. The one issue that we have left open, which he will get resolved, is what would be the amounts to be paid as compensation into his retirement plan. The City of Sandy Springs at this point does not have a retirement plan. There may be a point in the near future where one is set up for the employees of the City and it is his belief that he would then be a participant in that plan. However, he does also participate in what is known as the International City Management Association 401(a) plan that is a contributory type plan. He is receiving contributions from his present employer, which is the City of Beaufort, South Carolina. He informed Mr. McDonough what he has as a program as far as retirement benefits with the city will be brought over and matched by the City of Sandy Springs. We do not have a figure yet for it. There are other items such as personal leave, automobile, which are normal full package of benefits that would be provided to him as a City Manager. He comes with high marks from his current employer, good recommendations, and we all believe he is going to be a major asset for our City.

He is asking the Council tonight to recognize the financial package for Mr. McDonough as being acceptable and he will complete the program for him in the morning, and make an announcement.

Mayor Galambos asked if there were any questions by any Council Members regarding this report. There were no questions.

Mayor Galambos stated that the Charter says that the Mayor nominates and the Council approves the nomination. She nominated John McDonough for the position of City Manager.

Motion and Vote: Councilmember DeJulio moved to approve John McDonough as City Manager for the City of Sandy Springs and authorize the City Attorney to continue with contract negotiations and issue a public announcement. Councilmember Paul seconded the motion. There was no Council discussion. The motion passed unanimously.

City Attorney Willard stated that he was hopeful to have a contract for full review and approval at the January 3, 2006 regular meeting. Mayor Galambos stated that the expectation is that Mr. McDonough will be on board February 15th.

Staff Reports

Schedule and Calendars for Planning and Zoning Processes

Acting City Manager Aaron Bovos stated that Nancy Leathers will present this report.

Community Development Director Nancy Leathers stated that the Mayor and Council have been provided with a series of schedules describing the filing deadlines and the schedules for hearings on the various planning and zoning processes that are proposed. There is a Design Review Board schedule with filing deadlines and dates, and a rezoning and use permit schedule, which would bring the first zoning agenda at the April meeting. Additionally, there is a modification schedule, which is a modification to conditions of zoning and that first agenda will come in March. There is a variance schedule, which would go before the Board of Zoning Appeals, and that first meeting would also come in March. She stated that they think this ties in nicely into the Mayor and Council schedule and hopes that they will be acceptable.

She asked if anyone had any comments. There were no comments.

Introduction of Municipal Court Clerk

Acting City Manager Bovos stated that he would like to take this opportunity to introduce our new Municipal Court Clerk. His name is Tony Day. Mr. Day spent most of the day in the office with us and began his process. We are happy to have him on board. Mayor Galambos welcomed Tony Day on behalf of the Council.

Council Work Sessions

Acting City Manager Aaron Bovos stated that there has been some discussion regarding scheduling Council Work Sessions. The first discussion topic would be next week prior to the Council meeting on the 27th. The second discussion is to have ongoing Work Sessions or study sessions for the Council to be sure that we are disseminating information correctly. Just to recap, next week's meeting is currently scheduled for 7:00 o'clock on the 27th. There has been some excellent comments and feedback received on that regarding moving it to the Friday before and potentially doing it at lunch or the Thursday before the Council meeting. He invited open discussion from the Mayor and Council at this time so that everyone could come to a consensus about how we would like to have that Work Session before the next meeting.

Mayor Galambos asked if we were talking primarily at this point about the Work Session to precede the 27th regular meeting, and Mr. Bovos replied initially yes.

Councilmember Meinzen McEnerny asked if he suggested Friday or Thursday, December 22nd and Mr. Bovos answered Thursday. She asked what is the proposed time - would it be over lunch or at 6:00 o'clock?

Councilmembers Jenkins and DeJulio commented that 6:00 was better for those who work. Councilmember Meinzen McEnerny added that the thinking for lunch was to allow it to be done over your lunch hour, but 6:00 o'clock is fine with her.

Councilmember Greenspan asked if this would replace the Work Session next Tuesday or move it to this Thursday. Mr. Bovos replied that is correct to move it to Thursday. The Work Session will be held on Thursday, December 22nd at 6:00 p.m. at City Hall.

Mr. Bovos stated that on an ongoing basis we will have Work Sessions the Thursday before the Council Meeting to go over the agenda, have a work session on agenda topics, and business items.

Councilmember Meinzen McEnerny stated that it is important to note that our working sessions are open meetings. Mr. Bovos added that these meetings will be advertised open meetings. We will produce an agenda exactly like we would for City Council meetings. Mayor Galambos stated that we can all assess these meetings as we go along and tailor it depending on how we feel we have the need for them, but we are now set for the next two Thursdays.

Unfinished Business

Update on Negotiations with Fulton County on Intergovernmental Agreements for Police, Fire, and E-911 Services
Mayor Galambos requested an update on the Intergovernmental Agreements.

Acting City Manager Bovos stated that he and City Attorney Willard had an excellent meeting last Friday with Fulton County. Despite the length of the meeting, it was very productive. We did finalize and define better the starting times and ending times of the agreements. There was some verbiage added about starting at midnight on January 1st and terminating at midnight on June 30th. We did add verbiage in all the contracts about an extension, and the parties are to meet on or before April 15th to discuss any need to extend particular contracts. Fire and 911 are going to be items that we would want to discuss and continue to move forward on April 15th or before.

Regarding the House Bills which created Sandy Springs, that legislation outlined 13 months' worth of service to be provided by Fulton County at cost. One of our challenges moving forward in the negotiations was estimates that Fulton County was providing. There have been some lengthy discussions with the director of finance and the assistant director of finance at the county about how they would get back to actual and true costs. What they have done internally as an organization in order to account for that data is created separate funds or separate accounting mechanisms on their financial systems that track each of the services contracted and Sandy Springs would become one of those funds. That is a little bit problematic when we got into discussing the transfer of employees. Any costs associated with the City of Sandy Springs under the fire, police, or 911 contracts will be accounted for under separate departments of that fund. They will be able to pull out specific costs related to the services they are delivering under our contract and isolate those outside of any other service they are delivering to Fulton County. What that does is it allows us wide-open access into their data and to their records. Sharon Whitmore, who is the deputy director of finance there, said that she would be happy to provide us with monthly statements about what the expenses were. We requested monthly statements and asked for detailed information regarding any type of costs or any type of services excluding those things that would be not allowable for us to view from Federal or State law.

There was some verbiage added about performance standards. In both the police and fire contracts, they have outlined that they are responding to 90% of the calls. For example, on fire, within six minutes of the time frame. He asked them very specifically if you fall below that, why are we paying you for the service. There was verbiage added in both contracts about if they do fall below that a meeting is going to occur between both parties to figure out why they fell below that and how we remedy that situation and move forward. We will receive performance-based reporting that will indicate their response time to each call so that it can be identified in the event that they are falling below that average.

Replacement equipment was an issue. Fulton County decided to pass on the cost of replacing equipment underneath the contract to the City of Sandy Springs. For example, a fire truck goes out of service and needs to be replaced - that cost was to be passed on to the City of Sandy Springs. That is no longer the case. They will bear the total cost and replacement for fire equipment.

Finally from a price perspective, they did eliminate the \$1.2 million in fees for the 911. We have agreed to dedicate our revenue to Fulton County and the wireless service fee providers in exchange for the service provided. He is happy to answer any questions at this time.

Councilmember Jenkins stated that there was something added in the police contract stating that we are not allowed to hire Fulton County officers prior to July 1, 2006. It then talks about that we can hire officers to ride along with them, but they cannot do anything. Her concern is that we are tying the Police Chief's hands. A lot of the Fulton County officers were going to become Sandy Springs officers and if we are tying the Chief's hands until July that means all the senior level officers. We are going to have to hire from the top down. She has a concern that we are not going to be able to staff any Fulton County officers in the top level management. Mr. Bovos stated that he wanted to provide some background

information about the creation of a special services district. Sandy Springs is basically running multiple fire and police departments. Our service level agreement states that they will provide a number of staff to Sandy Springs as outlined in our contract. But they no longer have the ability to move people, for example, from a south Fulton fire station to a north Fulton fire station in Sandy Springs to be able to cover services. The origination of that language came from us wanting to limit our exposure to cover. What they said was very clear since they are not going to be recruiting new officers because we plan to take this service over that if we hire their officers, they will have no other option but to pay the existing officers because they will not be recruiting overtime. That overtime expense then gets passed on to us. What was discussed is in the event we needed to work out some transfers initially with some of those officers that they would be happy to do that on a one-on-one basis, but they did not want a mass exodus of their employees because they felt like they could not maintain the level of service required in the contract and fulfill their duties. They did say, however, that if we did choose to hire people in advance of July 1, and we are trying to do that, is to figure out how they would work for Sandy Springs and in their off time and work for Fulton County, and they were more than happy to do that. What Fulton County wanted to eliminate is us hiring them, having them resign from Fulton County, and no longer provide any service at all to them. He agreed with Councilmember Jenkins and stated that was a concern of ours. We did not want to tie the Police Department's hands in this either. He did not want to be going to Fulton County and ask them why we are paying \$200,000 every month in overtime and that would be as a result of our actions.

Councilmember Jenkins asked if Mr. Bovos was saying that if we need a field training officer from Fulton County, we can hire him, but then that person would work for Sandy Springs and Fulton County. That person would be working 24-7. Mr. Bovos stated the officer would have to fulfill his obligations for the county unless there was an agreement reached between the City and the county on that particular person. If there are four or five people that we need to bring on before July 1st they were fine to do that. But, they did not want us to bring 40 or 50 employees and then them not be able to work under the agreement. They are flexible to a point at which they can still deliver the service.

Councilmember DeJulio asked if the new Chief of Police was comfortable with that situation. Mr. Bovos stated that he has discussed this with our new Chief of Police and he has been given a copy of the contract. He added that obviously the ideal situation would be that we could hire anybody that we wanted to hire now.

Councilmember Meinzen McEnerny stated that she had a clarification to Councilmember Jenkins' point and from the explanation, it seems as if we wanted to identify several officers that we wanted to send through our training/hiring program that we could do that with Fulton County's approval as long as those officers did that on their own time, but they would not be physically hired on our force until July 1st. Mr. Bovos replied that is correct.

Councilmember Jenkins added that they could always quit because this is only about active Fulton County officers. Mr. Bovos stated that he wanted to reiterate that we are not trying to tie anybody's hands. The fewer work forces Fulton County has means that we will have to pay more for the service. Councilmember Jenkins stated that she just does not want to tie the Chief's hands and would like for him to be able to hire up whomever he needs to hire up, and that was her concern.

Councilmember Greenspan stated that he had a general comment. As Council receives these documents back for review, it would be very helpful to receive the blue line copies disseminating the changes that need to be made. Mr. Bovos replied absolutely.

Councilmember Greenspan had questions primarily on the police agreement. In one of the sections, in Section Six, Article Six, Section 6.3, it talks about officers being pulled out of Sandy Springs to help in other situations. He asked will we be billed for the time that those officers are not controlling Sandy Springs. Acting City Manager Bovos replied that if Fulton County officers are responding to incidences outside of the City limits under a mutual aid agreement with another jurisdiction, we will not be billed for those. He stated that the same is true for the mutual aid agreement that Fulton County holds for us. If we have an incident that occurs within the City limits and they need to pull officers, through the mutual aid agreement, they will come into the City and more than likely we will be billed for those. The police contract does call for a mutual aid agreement to be executed between the City of Sandy Springs and Fulton County. We will be bringing that document forward as well for approval obviously with the Chief of Police's review, but that will ensure if we have a need within the corporate city limits that we could have multiple jurisdictions respond. Councilmember

Greenspan added that the Fulton County Police Chief will be responsible for their duty officers and assigning officers to come out of Sandy Springs in the mutual aid agreement. He asked what type of assurance we have from the county that they will not pull the Sandy Springs officers out exclusively to handle other issues in mutual agreements in other parts of the county. If there is an issue in south Fulton, are they going to pull one of our officers first and assign them down there as opposed to closer police officers? Acting City Manager Bovos stated that the traditional way the mutual aid works is that the location or the government closest to the incident responds first. The terms of the mutual aid agreements will be withheld through the execution of this contract. Obviously, they could be pulled from different counties or surrounding municipalities in south Fulton. If we get a performance report at the end of the month which outlines the fact that we do not have the number of officers on the beat that they told us that we would have, we can ask that question and get a reference to that question. At this point in time, he feels very comfortable in executing the need for aid under the mutual aid agreement that they have.

Councilmember Greenspan commented that he appreciated the effort that was put in providing some remedy solutions for the City. However, he personally feels that the 30 days it references to determine a remedy is too long of a period of time. He asked how flexible would the county be in shortening that at this point since tomorrow they are voting on it or it goes into 2006. Acting City Manager Bovos stated, in his opinion, that the documents before the Council are the ones that the County will be voting on. If we want to make changes or make recommendations, we run the risk of them not accepting the agreement.

Mayor Galambos stated that these agreements are necessary in order for us to have certain services provided for the local option sales tax negotiations with the State and asked is it important that we have agreements on police and fire by the end of this year? Acting City Manager Bovos replied that it is more than important if we want the local option sales tax revenue. He stated that the Mayor is absolutely right. We have no option other than to have the contract signed by midnight on December 31st.

Councilmember Greenspan asked to make another point and obviously these are just discussions that he would like to make the Council aware of, in 11.3 it talks about performance of individual officers and if they are not living up to our standards that our Police Chief may only make a recommendation for the removal and the Fulton County Police Chief may transfer and reassign personnel. He asked would it be prudent for us to put may/will at our request, just like our agreement with CH2M Hill where if we are dissatisfied with the performance of an employee with CH2M Hill, they will, without question, remove them from our contract. He does not want us to be stuck with an employee of the county that we no longer want working for us in Sandy Springs. Acting City Manager stated that he agreed, but the challenge is, again, that they have chosen to take a route that they are running multiple different police and multiple different fire departments. If we ask for a person to be reassigned, then the county will choose to do with that person what they will, but they cannot move somebody or choose not to move somebody from another service district out to take that person's place. The main language was something that they wanted to continue and he thinks from everything that they indicated, they will work with us explicitly on that particular issue.

City Attorney Willard stated that they also have work rules and merit system rules that have governing effect as to what they can do and not do with officers. This is not something we would have the ability to direct and dictate to them on how they are to handle an officer. It is very clearly understood that if we have a problem with an officer, we could request that the Chief of Police discuss it and resolve the issue.

Motion and Vote: Councilmember Meinzen McEnerny moved to approve the Intergovernmental Agreements with Fulton County on Fire, Police, and 911. Councilmember Fries seconded the motion. There was no further Council discussion. The motion passed unanimously.

Mayor Galambos congratulated Mr. Bovos on the good terms financially that he was able to negotiate.

Update on Revenue Collection Agreement with Fulton County Tax Commissioner

City Attorney Willard stated that the Mayor and Council have been provided with a copy of the proposed contract. The main item he wanted to be sure was clearly understood is the services such as the licensing, business licensing, and alcoholic beverage licensing and we would have the ability to remove that from the contract if we desire to bring it in-

house. If we chose to, we could do so by providing six months' written notice to the Tax Commissioner so he would be able to change his staffing needs. Of course, we would get from the Tax Commissioner all the records that are necessary for us to take over that service at a future time. The cost that we have for those services, which are the licensing services, is one-half of one percent of the collections.

The other item that we have is ad valorem taxes. We were concerned that we were being overcharged what others are being charged. There is a letter coming addressed to the Mayor that outlines the fact that we are paying the same thing at one percent, which is the contractual amount paid by Alpharetta, Roswell, Mountain Park, Union City in Fulton County other than what may be a statutory arrangement. This is referred to as the joint Tax Assessor's and Tax Commissioner's bill that addresses the City of Atlanta and Fulton County which was passed many, many years ago. Otherwise, we are paying on par with all the other jurisdictions. He recommended approval of the contract. He is available to answer any questions.

Motion and Vote: Councilmember DeJulio moved to approve the Revenue Collection Agreement with the Fulton County Tax Commissioner. Councilmember Greenspan seconded the motion. There was no Council discussion. The motion passed unanimously.

New Business

Consideration and Approval of Service Contract(s) and Authorize Execution:

CH2M Hill Contracts: Administrative (RFP 1) and Technical (RFP 2)

Mayor Galambos stated that the first item under new business is the approval of service contracts with CH2M Hill. Oliver Porter will provide an overview of these contracts.

Transition Consultant Oliver Porter stated that he would provide a little history of the development of this leading up to the meeting tonight. With the formation of the Governor's Commission, the first act before it was the issuance of two massive requests for proposals to go to private industry to determine their ability to provide the multiple services required by the City. That was passed by the Governor's Commission under its authority to aid and facilitate the provision of services -- negotiation of provision of services to the City. The process of these RFPs began first with a mandatory pre-proposal meeting attended by a large number of companies and that was followed by a major period of questions coming forth from those companies and answers to all of those companies following all of the recognized processes for RFPs in the State. That process proceeded until there was an actual submission of proposals on August 31st by companies, and then a negotiating team or evaluation team was appointed by the Governor's Commission to evaluate and write the proposals that had been submitted. That process also was duly carried out and a recommendation was made to the Governor's Commission as to the top right proposal for each of the two proposals - we commonly termed RFP 1 and RFP 2. The Governor's Commission accepted the recommendation of the evaluation team and then authorized going forward with the negotiations of contracts.

The contract negotiation team then began the very lengthy and laborious process of negotiating basically on two levels. First, as more of a management or a technical evaluation of the contract with the firm trying to reach the terms of how we would actually provide services, scope of service, and the various terms associated with the management of those contracts. After successfully completing that work, the contract negotiating team came back to the Governor's Commission and said, we recommend in principle these contracts as they are now structured subject to legal review, which is the second part of the process. The Governor's Commission did approve in principle and authorized the going forward of the legal review of those contracts. That process had again taken a fairly lengthy and laborious negotiation process between the legal staff in consultation with the contract negotiating team. We have reached finally the point that we are at tonight of being able to now recommend the final work of the Governor's Commission, which is the agreement - the two agreements with the scopes of service components. They would recommend those to the Council for approval at this time. He is available to answer any questions with regard to these contracts.

Councilmember Greenspan asked why are year two fees less than year one. Transition Consultant Porter stated that year two fees are less than year one for two reasons. First of all, year one has built in the start-up costs primarily that are being expended at the time leading up to 2006. A going-forward year would be less by several million dollars if we had not had the start-up, which is a part of the original RFP, to tell us how we are going to start the City and what it is going to cost.

That would be a part of your first year's contract. There are also some efficiencies built in anticipated in year two over year one. Councilmember Greenspan had one more question regarding the terms of the agreement and asked would it be prudent for us to make terms about contracts such as this being consistent with our fiscal year as opposed to the calendar year? Acting City Manager Bovos stated in an ideal situation, he thinks the answer to that question is yes. The challenge with that is that we walked through with CH2M Hill from the very beginning the fact that we were going to be on a calendar basis. Our goal over the next three years is to get through the first 12 months of the contract and then begin a transition phase to have the contract fee based on a fiscal year basis versus the calendar year. Transition Consultant Porter stated that early in the process, we had to make a decision and we really did not know what the fiscal year would turn out to be, so we had to move on the calendar year. Councilmember Paul commented that if we went on our fiscal year, we would be six months without any help.

Motion: Councilmember Paul moved to approve the authorization and execution of CH2M Hill Contracts: Administrative (RFP 1) and Technical (RFP 2).

Discussion on the Motion:

City Attorney Willard added that there is a pass-through item that is incomplete, but that will be strictly a cost as established by CH2M Hill as to the amounts required for the additional insurance. We have an agreement with them that there is a need to bring a higher coverage of liability for them because of the exposure to their company. They do not carry the sovereign immunity that our City would enjoy and even though they are working for the City that cannot pass over to them as a protection. Their company is at a great liability risk. We have agreed that the coverage that is to be needed would be a pass-through cost. Hopefully down the road there may be something - perhaps some legislation that we will look at doing if we can to build in this protection as some type of pass-through when a company is doing this type of contractual work with a city because he thinks it has become more and more a popular item as people see how successful our City is. He will provide them with a memorandum regarding this issue. This is from the Bentley, Bentley & Bentley law firm who was involved heavily in the negotiation during the time of the Commission and up to completion of the contract.

Second and Vote: Councilmember Fries seconded the motion. There was no further Council discussion. The motion passed unanimously.

Transition Consultant Porter requested a clarification and asked is the approval was for all four sections of the contract. Mayor Galambos replied that the Council understood that to mean the two sections plus the two exhibits - correct.

Approval of a Resolution Providing for the Prequalification of Registered Professional Engineers Who May Perform Inspections Pursuant to O.C.G.A. § 8-2-26(g)(7).

Resolution No. 2005-12-26

Mayor Galambos stated that the next item is a program of Certified 3rd Party Inspections and Nancy Leather will present this item.

Community Development Director Nancy Leathers stated that this is a Resolution regarding the prequalification of registered professionals. This resolution will provide them with the ability to set qualifications and to accept proposals from engineers who wish to do private inspections in Sandy Springs. State law permits that if we cannot meet the inspection request within two (2) days that this may occur. We want to set the standards for the engineers that are doing this work and bring them on because we understand that we have a very large volume of inspections that are going to be coming to the City in the next month or so from Fulton County. There appears to be over 800 permits in the process that will need to be inspected. They are asking for approval of this Resolution to begin the program.

Mayor Galambos asked if any Councilmembers had any questions regarding this item.

Councilmember Meinzen McEnerny asked Ms. Leathers if the standards that are contained in the licensing qualifications were similar to those in existence for Fulton County, or has there been strengthening of those qualifications? Ms.

Leathers replied that the standards are the standards that we would use for hiring our own inspectors. They must be certified within each of the specializations, and then they would send them to additional training to ensure that they meet our standards. If they do not meet our standards, then we can drop them from our program. They will monitor them, but it is the ability to be able to bring in qualified engineers that is very important.

Mayor Galambos asked the City Clerk to read the resolution for consideration.

City Clerk Marchiafava conducted a reading of A Resolution Providing for the Prequalification of Registered Professional Engineers who may perform inspections pursuant to O.C.G.A. Section 8-2-26(g)(7).

Motion and Vote: Councilmember Paul moved to approve a Resolution Providing for the Prequalification of Registered Professional Engineers who may perform inspections pursuant to O.C.G.A. Section 8-2-26(g)(7). Councilmember DeJulio seconded the motion. There was no Council discussion. The motion passed unanimously.

Public Hearings

Mayor Galambos stated that the next item is the Public Hearing. It is her understanding that there is a disclaimer to be read at this time. Assistant City Attorney Willard Bentley stated that we will read the disclaimer on an item that will come up later on the agenda.

Approval of an Ordinance to Amend to Chapter 7, Alcoholic Beverages, Article 3, Section 3, Subsections (a) and (d) of the Code of Ordinances of the City of Sandy Springs, GA (First Reading)

Mayor Galambos stated that the next item is an Ordinance to Amend Chapter 7 of the Alcoholic Beverage Ordinance.

Acting City Manager Bovos stated that this is an amendment to Chapter 7, Articles 2, 3, and 6 of the Alcoholic Beverage Ordinance. What this amendment does is move us back to what Fulton County originally had on the books. We adopted several ordinances during our first several meetings and there was inadvertently a change in the hours of operation. We have asked the City Attorneys to review the legislation that we adopted in comparison to the Fulton County ordinances. This amendment is a change to our ordinance to modify or to mirror the Fulton County ordinances.

Mayor Galambos stated that this is to correct an error that we had made previously and Mr. Bovos confirmed that was correct.

Councilmember Paul asked Mr. Bovos to provide an explanation of the amendment. Mr. Bovos stated that we had some challenges with the closing time. The closing times now are 4:00 a.m. We modified our closing time with the original adoption of this ordinance to meet some previous discussions that some of the attorneys have had with the Council and staff. Now, what we are doing is changing this back to Fulton County's closing times for the particular establishments that serve alcohol, mixed drinks, beer, and wine. Councilmember Paul confirmed that Fulton County is closing at 4:00 a.m. and now we are closing at 4:00 a.m. Councilmember DeJulio asked before the adoption of this ordinance, what time are we closing? Mr. Bovos replied 1:55 a.m.

Councilmember Meinzen McEnerny asked if we were changing this without a public hearing. Councilmember Jenkins stated that we will have a public hearing sometime in January to address the issue of bar closing times and asked if that was correct. Acting City Manager Bovos stated that we will move forward with discussions regarding this in conjunction with other activities that are going to be forthcoming. The goal is for all of us to engage in discussion about what the change in the closing time would mean for the City and for the businesses that are involved in the closing time. Councilmember Jenkins replied then we can bring everybody together and talk about it without doing it at 12:01 AM.

Councilmember Paul stated that this is obviously something that to effect a change would require a public hearing. Mayor Galambos replied that is correct and we did not have one. So we have to correct that.

City Attorney Willard stated that it really does not require a public hearing on alcoholic beverage licensing laws. This is being done as an open matter of letting the public come in, but it is not a requirement of the law. Councilmember DeJulio

asked is the law as he understands it changed right now for 2:00 AM closing valid. City Attorney Willard stated that you as a Council can establish what would be the times for the closing of the bars. The law does not require a public hearing process to do that. By means of allowing the public the opportunity to come and address the Council in this instance is a public hearing, and there may be other meetings down the road. State law does not say you must hold a public hearing.

Councilmember Fries asked if there would be two readings of the ordinance. City Attorney Willard replied yes. Because we are past the first meeting of the year, which was the meeting on December 1st to the 13th, tonight will be the First Reading. There will be a second reading on the 27th of these ordinances. Come January 3rd, this will again be the first meeting of the year, and this Council will be allowed to pass ordinances at that time with one reading. We have some ordinances which are the chapters to complete our Code of Ordinances that will be brought before you at that time. After that meeting, two readings of ordinances will be required.

Assistant City Manager Al Crace stated that Council may perceive it, but it is really a weighing of two community values. It was announced that this Council transfer everything on an equal basis, and any changes would have a public hearing. That is one community value. The other one is there are probably a number of folks who feel that 2:00 o'clock is a more representative community value as opposed to 4:00 o'clock.

Mayor Galambos asked the City Clerk to read the ordinance for consideration.

City Clerk Marchiafava conducted a reading of An Ordinance Amending Chapter 7, Alcoholic Beverages, Article 2, Section 5, Subsections (A) and (B) hours, Article 3, Section 3, hours and days of sale, Subsections (A), (B), and (C), and Article 6, Section 5, hours and days of sale, Subsections (A), (B), and (C) of the Code of Ordinances of the City of Sandy Springs, Georgia. This is the first reading.

Public Comment

Mark Thomas representing the Sandy Springs Hospitality Association respectfully requests the formation of a joint working group to help formulate any possible changes to Chapter 7 as we move forward. They appreciate the fact that the Council has stepped back and recognized the error in the beginning, and they want to work with the Council to make sure we do what is best for Sandy Springs. Their members have been in business in this community, many of them, for over 25 years. They all want to work with the City of Sandy Springs and continue to be good, productive members of the business community. Again, they respectfully ask that a working committee be put together to look at these ordinances and formulate the appropriate approaches to handle the issues approaching the city.

Mayor Galambos stated that is certainly a valid request and one that we will definitely follow. We appreciate your volunteering and Mr. Bovos will follow up and contact you, and we'll get started.

(Clerk's note: Public comment was heard during the meeting on this item after the Ordinance to Adopt the Zoning Ordinance later in the meeting.)

Approval of an Ordinance to adopt procedures consistent with the Zoning Procedures Acts of the State of Georgia as amended (First Reading)

Mayor Galambos stated that the next item is an Ordinance to Adopt Procedures consistent with the Zoning Procedures Act. Nancy Leathers will present this item.

Community Development Director Nancy Leathers stated that the next item is an Ordinance to Adopt Procedures that are consistent with the Zoning Procedures Act of the State of Georgia. Those of you who have been involved with zoning will recognize the procedures that are here. There are advertising requirements, posting requirements for the property, the process and who has to be notified, et cetera. Those are the same as what was in Fulton County, and they are being presented for a first reading tonight.

Mayor Galambos requested that the City Clerk read the ordinance for consideration.

City Clerk Marchiafava conducted the First Reading of An Ordinance of the City of Sandy Springs Mayor and City Council to Adopt Zoning Procedures consistent with the Zoning Procedures Act of the State of Georgia. This is the first reading.

City Attorney Willard suggested that the Mayor call for public comment since this is Public Hearing and it is a requirement on this ordinance.

Mayor Galambos asked if there were any public comments regarding the zoning procedures. This would be the same procedures that have been in place that are now being adopted. There was no public comment.

Approval of an Ordinance to Adopt the City of Sandy Springs Interim 2025 Comprehensive Plan Map (First Reading)

Mayor Galambos stated that the next item is an Ordinance to Adopt the Interim 2025 Comprehensive Plan Map. Ms. Leathers will present this item.

Community Development Director Nancy Leathers stated that this item is an interim 2025 Comprehensive Land Use Plan map. This is the plan that was adopted by Fulton County in November of 2005. A number of City employees were involved in the development of this plan. There are no changes. The State of Georgia has indicated to them that they may continue to use this as an Interim Land Use Plan until the adoption of the Comprehensive Plan at a future date.

Mayor Galambos asked if there were any comments from the public on this item. There were no public comments. She asked if Council had any questions on this item.

Councilmember Paul asked if this is the existing land use map and ordinance for Sandy Springs as passed by Fulton County. Ms. Leathers replied that is correct. She confirmed for Councilmember Paul that there have been no modifications and no changes.

Councilmember Meinzen McEnery asked at what time we anticipate possibly opening up this Comprehensive Land Use Plan for changes. Ms. Leathers replied that they will be looking to the Council to give them guidance clearly within either the next 13 months or the next two years. We will need to proceed through the full process of the adoption of the Comprehensive Plan under the requirements of the State of Georgia. Presently, the State law requires that it be done in thirteen (13) months. It has been her suggestion that we extend that to the full two-year period that is normally used for that process because the review process is quite extensive. The timing would depend on Council's direction of what is most or highest priority.

Councilmember Meinzen McEnery stated that it has come to her attention that there is a small area on this map that she would like to have considered changed. She asked are we able to just take a small area out or do we have to go through the full process. Ms. Leathers replied that we may make minor changes in the plan, and then ask the Atlanta Regional Commission to make a determination on whether it has enough impact to go through the regional review process or if it can be handled locally, but minor modifications can be made.

City Attorney Willard stated that it will still go through that process as far as advertising for a public hearing to meet the requirements of the State statute on zoning procedures. Councilmember Meinzen McEnery replied that is true and she understands that it would have a first and second reading, but it would not be the process that she was involved with on the existing Comprehensive Land Use Plan that we are about to adopt. City Attorney Willard replied that is correct.

Mayor Galambos requested that the City Clerk read the ordinance for consideration.

City Clerk Marchiafava conducted a reading of An ordinance to adopt the interim 2025 Comprehensive Land Use Plan map for the City of Sandy Springs. This is the first reading.

Approval of an Ordinance to Adopt Amendments to the Fulton County Zoning Resolution, Thereby Adopting and Establishing the Zoning Ordinance and Official Zoning Maps of the City of Springs, GA. (First Reading)

Mayor Galambos stated that the next item is an Ordinance to Adopt Amendments to the Fulton County Zoning Resolution and Adopt and Establish the Zoning Ordinance and Official Zonings Maps. Ms. Leathers will present this item.

Community Development Director Nancy Leathers stated that they bring to the Mayor and Council the Fulton County zoning resolution and also the zoning map for Sandy Springs for consideration. In this case, there are several changes from the existing Fulton County ordinance that she will generally discuss those changes. There are a series of changes relating to signs, which are located in the text of this, and the reason is because we asked for a review with the City Attorney because there were some concerns about current State law and that legislation. Those changes have been made. This Council is subsequently going to be considering an adult entertainment ordinance. In order to ensure that the distances which are located in that ordinance are consistent with the zoning ordinances, particularly Section 19.4.1 and 19.4.2, which are the adult entertainment sections of the ordinance, they have been made consistent in terms of those distances. Those changes have been made to make them consistent. Those are the two major changes. Otherwise, it is the same as Fulton County.

Mayor Galambos requested that the City Clerk read the ordinance for consideration.

City Clerk Marchiafava conducted a reading of An Ordinance to Adopt Article 2 of Chapter 14, Zoning Ordinance of the Code of Ordinances of the City of Sandy Springs. This is the first reading.

City Attorney Willard stated that when we had the reading of the first public hearing ordinance matter, which is the alcoholic beverage ordinance change, there was a gentleman who wanted to make a comment. We did not call for comments, although it was under public hearing. He requested that this gentleman be allowed to make his comments at this time. He asked Mark Thomas who represents the Sandy Springs Hospitality Association to come forward at this time.

(Clerk's Note. At this time Mark Thomas provided his comments regarding the Alcoholic Beverage Ordinance heard earlier in the meeting. His comments were moved to that agenda item.)

Approval of an Adult Entertainment Ordinance (First Reading)

Mayor Galambos stated that the next is the approval of the adult entertainment ordinance.

Disclaimer

Acting City Manager Bovos stated that tonight's public hearing relating to the adult entertainment ordinance may contain graphic examples and discussions which may not be suitable to all audiences. Please understand you will be hearing a wide range of views, opinions, and value statements. As in any public policy, all sides must be heard. It is the goal of the City of Sandy Springs to provide each party an opportunity to make a presentation.

City Attorney Willard stated that this is a going to be a public hearing and he expects it to be a lengthy hearing. There has been several comment cards turned in. Although the Council adopted Rules of Procedure at its last meeting for the purpose of conducting public hearings, we have had requests representing the adult industry in Sandy Springs to have extended time. At the pleasure of the Mayor and Councilmembers, you may wish to suspend those rules to allow for a greater time, not only for comments from the audience but also for presentations from the Assistant City Attorney and staff members.

Mayor Galambos requested comments from Council regarding waiving the ten-minute rule. There were no comments.

Motion and Second: Councilmember Paul moved to extend the time limit set out in the Rules of Procedure on presentations during the public comment period. Councilmember DeJulio seconded the motion.

Discussion on the Motion: Councilmember Jenkins asked to limit the time to one hour. City Attorney Willard stated that two public hearing have been advertised. Those who appear tonight will not be given a second opportunity to make comments. But, if someone comes in who is not here tonight that person could make comments next week. Also, if your hearing becomes too extended, you can suspend the public hearing to take it up at the next meeting.

Councilmember DeJulio asked if we have any idea how long these people want to speak so we can extend the time. City Attorney Willard stated that we know the industry itself, the adult entertainment representatives, have asked for 30 minutes.

Amendment to the Motion: Councilmember Paul moved to amend the motion to cap the time limit to thirty (30) minutes per side to be decided by a representative of both sides of this argument.

Assistant City Attorney Fred Bentley stated that he is a little concerned. There is substantial evidence to be received, and if you could at least allow an hour per side, we would ask for your indulgence on that. Again, our time and Ms. Leathers' time would not be counted against that because they will be presenting the initial information, but the witnesses that he is aware of could very easily take an hour on one side.

Councilmember Paul stated that he would amend his amended motion. Mayor Galambos suggested that he withdraw his first amendment.

Motion to Amend Withdrawn: Councilmember Paul withdrew his amendment to the motion. There was no second.

Motion to Amend Motion and Vote: Councilmember Paul moved that we suspend the Rules of Procedure to cap public comment at ten (10) minutes and to allow sixty (60) minutes per side for the discussion of this particular ordinance. Councilmember DeJulio seconded the motion. There was no further Council discussion. The motion passed unanimously.

Assistant City Attorney Fred Bentley repeated the disclaimer read earlier and stated for those of you in the audience (if you happened to walk in late) that the material that will be brought before you could be very offensive. It is a very sensitive issue. If you are easily offended by such items, he would suggest that you leave or be prepared because it is a very delicate issue that we have to deal with this evening. We have passed out to you at this time and provided for the record a revised version of studies. If you will recall at your December 13th meeting, studies were delivered to the Mayor and Council. He commended each member of the Council for their reading efforts.

This will be a public hearing specifically involving the adult entertainment ordinance. It will also provide certain provisions, namely Article 2, Chapter 42 of the Alcohol Ordinance, and Section 19.4.1, Adult Book Store, and Section 19.4.2, Adult Entertainment Establishments, of the Zoning Ordinance related specifically to land use permits involving this matter. The floor will be open for consideration of any of those. To avoid having three two-hour periods, he is assuming that the Council will be amenable to only hearing it one time. As this Council makes its consideration this evening with adult entertainment, it is incumbent upon the Mayor and City Council to listen very carefully to the evidence that is presented. It will be up to this Council to determine whether or not there are secondary effects related to the regulation of adult entertainment. It is a very hotly debated issue before the courts. They have tried to provide the Council with court precedence, which they are allowed to do, so that this Council will be aware of that. He is sure that this Council will receive a variety of information and they certainly ask each of Councilmember to hold off any decision-making until they have heard all of the evidence or until the 27th of December. He informed them that they should not comment on the evidence with respect to anyone what their thoughts are, et cetera, because, again, they want to make sure that it is a fair and open hearing in this community. It is the foundation upon which this City was founded. He knows that each Councilmember is up to that task and is willing to do that. He indicated that in the December 19, 2005 version, specifically there are some references to a 400-foot, what he calls a buffer zone, from residences, churches, and government buildings. What they have done and Ms. Leathers will be presenting evidence and has maps is require that Council consider and determine places where the protected activity may occur. It is extremely important. He anticipates that she will testify and bring a staff report with respect to their efforts, and those will be tendered in. Those will become available for Council's review and to become familiar with. As you know, Sandy Springs is a linear city in large part because of a lot of the development along Roswell Road. As you look at that, it does make it a little difficult. The lowering of the standard to 400 feet is an attempt to address that and to provide adequate places for the expression of the adult entertainment, but also to provide protection for the citizenry of this area.

Finally, he mentioned studies that were formerly received and then Council received a second version. Those studies have been furnished to Mr. Begner who represents several clubs. For the purposes of the record, he briefly read those

studies in. The City of Tucson, Arizona: Police Memorandum re Adult Entertainment, 1990; number two, Adams County, Colorado Nude Entertainment Study, 1987; number three, Oklahoma City, Oklahoma: Abatement of Adult Oriented Business Nuisances, 1984 to 1989; Islip, New York: Study and Recommendations for Adult Entertainment Businesses in the Town of Islip; number five, Report to the American Center for Law and Justice on the Secondary Impacts of Sex Oriented Businesses, 1996; number six, Transcript from Gwinnett County Board of Commissioners Meeting held on August 7th, 2001 wherein public comments were heard re the adoption of an ordinance regulating adult entertainment uses; number seven, National Law Center: NLC Summaries of Sexually Oriented Business Land Use Studies; eight, Sammy's of Mobile, Limited versus City of Mobile at 140 F.3d 993 (11th Cir., 1998), you have a copy of that decision; Zibtulda, LLC versus Gwinnett County, Georgia at 411 F.3d 1278 (11th Cir.), a 2005 decision that relates to a transcript that received and discussed earlier; the Wise Enterprises, Inc. versus Unified Government of Athens-Clarke County, Georgia, 217 F.3d 1360 (11th Cir., 2000). In addition, this Council has been furnished a final report from the City of Garden Grove, the relationship between crime and adult business operations on Garden Grove Boulevard, October 23rd, 1991; a digest of research, the evidence of relationships between adult-oriented businesses and community crime and disorder, 1996 for the City of St. Marys, Georgia; the regulation of adult entertainment establishments in St. Croix County, which you've been provided; the adult entertainment business study from Manatee County, Florida, prepared by Manatee Planning and Development Department, June 1987; an analysis of the effect of SOBs, that's sexually oriented businesses, on the surrounding neighborhoods in Dallas, Texas, as of April 1997; January 11, 1988 memorandum from Bellevue, Washington - that is the city there and the accompanied studies that went with that; the minutes of the Rome City Commission dated Monday, March 6th, 1995 with the details of their particular meeting involving the adoption of their ordinance; and finally the adult entertainment study for the Department of City Planning, City of New York, dated November 1994 with Rudolph Giuliani, Mayor of the City of New York. Each of you, if you have not completed that reading, should complete the reading of those. Those are officially tendered into the record.

The record will not close until the conclusion of the next meeting. He pointed out that what you are specifically focusing on is the issue of secondary effects, and those are the effects of alcohol, crime, drugs, prostitution, violations of law, and property values. He stated that as this Council listens, listen very carefully this evening as you make these determinations. Each Councilmember must weigh those out in terms of your regulation of this industry.

Finally, he introduced into the record the guilty plea and plea agreement for Mark Timothy Lance. Mark Timothy Lance was a lieutenant with the Fulton County Police Department. He pled guilty on Count 7 along with other counts where he was taking money to not report and to identify informants that were going in Flashers, which is one of the current adult entertainment places in the City of Sandy Springs. He is introducing as well the May 21, 2002 filed court records Counts 1 through 6 including Counts 7 through 12 of the United States District Court charges relating to that, an affidavit for Mark Sewell that was filed to accompany those charges, and finally the October 3, 2002 government's pre-trial bench brief. They are including all of that in the record, and he encouraged the Council to strongly consider that as that actually involved a club here with a guilty plea involving someone taking bribes, and not reporting criminal activity that was occurring in that particular location.

There will be a series of witnesses who will come forward. They will start with Ms. Leathers, although she will actually provide the remainder of the staff report at this time. After her report is completed, they will then begin to call the various witnesses. He asked if there were any questions from the Council.

Councilmember Greenspan requested copies of the documents he just referenced. Assistant City Attorney Bentley replied absolutely. He said that he has received copies of all of the studies. The only one he does not have is the Mark Timothy Lance documents. Assistant City Attorney Bentley stated that we will make sure that the Council is provided copies of that. He asked the City Clerk to provide Council with these documents.

Community Development Director Nancy Leathers stated that first she would like to indicate the items that have been placed into the record in addition to those which were referenced in the previous presentation. Because the aspects that she has dealt with are primarily on the land use side, they have prepared four maps that have been placed into the record and filed for a series of files on the site. The first of these maps is, as we talked about the separation from residential and church uses and other public uses for most adult businesses in these regulations, in C-1, C-2, or M-1, would be 400 feet from the property line. This map indicates the number of sites that we were able to locate in Sandy Springs, and they have

numbers on them. It is probably very small to see, but it indicates those sites which were possible sites. There were more of those than we actually had, but eventually what we ended up with is twelve (12) general sites and locations that could meet the 400-foot criterion. A number of these were several parcels located within the area that could actually meet the criterion of the 400 feet. They have been examined in the field, and the files referenced have also been placed into the report. There are photographs from each of these locations that would show the surrounding uses and the locations to indicate that these sites are potentially available. In addition, there are two specific uses referenced in State law, the explicit media outlet or adult movie house, where the separation from the property line of a residence or the churches, etc., may be located. There is a map that is in the file and there are sites that are shown on this map. There are ten (10) and twelve (12), which have the potential to meet that criterion for that particular use. Each of these sites has photographs which reflect the surrounding areas so you can see the makeup of the area and the specific location of each. In addition, they placed into the file a copy of the zoning map which was referred to earlier that shows all of the zoning in Sandy Springs. They have a map which shows existing sites of adult businesses in Sandy Springs, and that is also in the file.

Sandy Springs is deeply and profoundly concerned about the many types of criminal activities frequently engendered by adult entertainment as the City is becoming increasingly an attractive place for the location of commercial enterprises and a residence for younger families with small children. Because of that, the staff recommends that Council establish policies that provide the maximum protection for the general welfare, health, morals, and safety of the residents of the City of Sandy Springs. The governing authority of each municipal corporation is authorized to enact ordinances which have the effect of restricting the operation of adult bookstores and video stores to areas zoned for commercial or industrial purposes. The Georgia Supreme Court in *Chambers d/b/a Neon Cowboy versus Peach County* held that local governments may adopt ordinances designed to combat the undesirable secondary effects of sexually explicit businesses and, further, held that governing bodies seeking to regulate adult entertainment establishments must have evidence of a relationship between the proposed regulation and the undesirable secondary effects it seeks to control. The Georgia Supreme Court further held in the same opinion that in passing its regulations, the governing body may rely on the experience of other counties and municipalities to demonstrate such a relationship, and those documents are the documents that have been presented to you. The United States Supreme Court in *City of Lincoln versus Playtime Theater Incorporated* held that a local government may rely on the experience of other cities in enacting legislation to regulate the adult entertainment business. Based on the experiences of such other municipalities and counties as Tucson, Arizona; Garden Grove, California; Ellicottville, New York; New York, New York; Time Square, New York; Oklahoma City, Oklahoma; Cleburne, Texas; Dallas, Texas; Houston, Texas; Newport News, Virginia; St. Croix County, Wisconsin; Gwinnett County, Georgia; and Fulton County, Georgia which are found to be relevant to the problems faced by Sandy Springs. Councilmembers may wish to note that the documented negative economic, physical, and social impact of adult entertainment that it may have on the community. Among the undesirable community conditions identified with live nude entertainment and alcohol are depression of property values in the surrounding neighborhood, increased expenditure for the allocation of law enforcement personnel to preserve law and order, increased burden on the judicial system as a consequence of the criminal behavior, and acceleration of community blight. The staff notes that it is an important governmental function to reduce crime and protect property values which are unrelated to the suppression of speech.

Staff recommends that Council enact an ordinance narrowly tailored sufficient to combat the undesirable secondary effects of serving and consumption of alcoholic beverages at adult entertainment facilities. Staff also notes that to regulate the adult entertainment businesses within the City limits, this ordinance is not to be construed as an endorsement from the City of these establishments. It is understood that adult entertainment businesses are actually protected under the free speech clause of the First Amendment of the Constitution of the United States in their role in communicating erotic speech. The court allows communities to regulate speech not based on the contents of the speech, but in the time, place, and manner in which it is presented. It is the intent of the chapter that is being presented tonight to regulate the time, place, and manner of operation of businesses or facilities that offer adult entertainment as defined in this ordinance. It is well established and has been the experience of other communities in Georgia and throughout the United States that adult entertainment, which includes public nudity, has been associated with and may encourage disorderly conduct, prostitution and sexual assault. This section advances the substantial government interest in promoting and protecting the public health, safety, and general welfare, maintaining law and order, and prohibiting public nudity. This section is narrowly constructed to protect the First Amendment rights of the citizens of Sandy Springs while appropriating substantial governmental interest of combating the secondary effects of public nudity and adult entertainment from areas and uses in the community that are incompatible. Areas and uses which are to be protected from adult entertainment include but are

not limited to residential areas, churches, daycare centers, libraries, recreational facilities, and schools. Based on the experiences of other counties and municipalities including, but not limited to, the locations that mentioned before, Austin, Texas; Garden Grove, California, which experiences are found to be relevant to the problems faced by Sandy Springs. This is based on the documentary evidence and oral testimony presented by a law enforcement professional and experts in economic development focused in knowing that the conditions resulting in other localities at the Gwinnett County Board of Commissioners hearing on July 17, 2001, Council may take note of the patent conditions and secondary effects attendant to the commercial exploitation of human sexuality which do not vary greatly among the similar communities within our country. The staff notes further that public nudity either partial or total under certain circumstances, particularly in circumstances related to the sale and consumption of alcoholic beverages in establishments offering live nude entertainment or adult entertainment, whether such alcoholic beverages are sold on the premises or not, begets criminal behavior intended to create undesirable community conditions. In the same manner, establishments offering cinematographic or video graphic adult entertainment have the same effect on the community. Among the acts of criminal behavior found to be associated with the commercial combination of live nudity and alcohol, live commercial nudity in general and cinematographic or video graphic adult entertainment are disorderly conduct, prostitution, public solicitation, public indecency, fighting, battery, assaults, drug use, and drug trafficking. Among the undesirable community conditions identified in other communities with commercial combination of live nudity and alcohol are commercial depression of property values, an acceleration of community blight in the surrounding neighborhoods, increased allocation of and expenditures for law enforcement personnel to preserve law and order, and an increased burden on the judicial system as a consequence of the criminal behaviors described above.

The staff, therefore, concludes that it is reasonable to believe that some or all of these undesirable community conditions are occurring and will continue to occur in the City of Sandy Springs. Staff also notes that there are forms of adult entertainment including but not limited to adult bookstores, novelty shops, video stores, peep shows, adult theaters, and massage parlors that also have an adverse effect on the quality of life in the community. Staff further notes that the negative secondary effects of adult entertainment establishments upon the City are similar whether the adult entertainment establishment features live nude dancing or sells books, videos, tapes, etc., depicting sexual activity.

Therefore, the staff recommends that it is in the best interest of the health, welfare, safety, and morals of the community and the preservation of its businesses, neighborhoods, community churches, schools, residential areas, public parks, and children's daycare facilities to prevent or reduce the adverse impact of adult entertainment establishments by restricting hours of operation, prohibiting alcohol consumption, and restricting the distance from another adult entertainment establishment. Staff recommends that licensing and regulations are necessary for any adult entertainment establishment and concludes that these regulations promote the public welfare by furthering legitimate public and governmental interests including, but not limited to, reducing criminal activity and protecting against or eliminating undesirable activity that impacts adversely the community conditions and further finds the effects will not improve upon the protected constitutional rights of freedom of speech or expression. To that end, staff suggests that Council prepare and adopt the adult entertainment ordinance. She would like to go on record to say that they have talked about the available sites and have examined the City. We have 14 available general locations, several of which have several parcels located within them. The total population of Sandy Springs is about 86,000. The proposed ratio that provides about 16 percent of the commercial area as being available for adult entertainment venues. Therefore, staff recommends that we move in this direction. She also pointed out that although it is likely that these sites may require redevelopment, most commercial developments currently occurring in Sandy Springs are occurring either through renovation or redevelopment. There is little or no vacant land available. Most of our commercial activity is occurring in that process. This would be very similar to any other commercial redevelopment of a piece of property in Sandy Springs.

Assistant City Attorney Bentley stated that he had one last item for which he would charge the Council. This Council is authorized pursuant to the Constitution of the State of Georgia, Article 3, Section 6, Paragraph 7, to deal with the issue of alcohol and adult entertainment establishments. This Council will be furnished with a copy of that particular constitutional provision, but most of you probably voted on it or had the opportunity to address it.

Public Hearing

Assistant City Attorney Bentley stated that at this time, we will open the public hearing. We call first Guy Watkins. In connection with Mr. Watkins, there will be several speakers from the Business Consulting and Investigations Group. He

has three reports that they have furnished us with respect to an investigation that they have conducted, and he will tender those into the record.

Testimony of Guy Watkins

Mr. Watkins: My name is Guy Watkins. I'm with Business Consulting and Investigations. We were contracted to look at the adult entertainment industry in Sandy Springs including Maxim's, Mardi Gras, and Flashers. On November 25th, 2005 at approximately 11:00 p.m., myself and another agent went into Flashers at 6420 Roswell Road in Sandy Springs. As we were driving into the parking lot, the entrance off Chaseland Road had been blocked intentionally by two vehicles making the only ingress and egress into the club off Roswell Road, only one exit or entrance pushing you into the valet service lot. Upon arrival, the valet stated it would be \$4 in advance. We gave him money, and he took -- made sure that any telephone that had any cameras, that you left them in the car, but there was no pat-down, no search for weapons or anything as you went in the door. As you went in the door, the lady stated there was a \$10 cover charge for each person, and we paid \$20 to go inside. As we entered the club, there was one nude dancer on the stage to the right and several nude dancers performing lap dances for customers. They were laying on top of the men in their chairs rubbing on them or simulating sex acts on the males' crotch area. As we were looking for a table, a white male with a goatee approached and led us to a table to the right side of the building identifying himself as Alan, the manager. We observed Alan throughout the night directing the dancers to what were later discovered to be private rooms. From the first to the last dancer on the stage, each girl danced at least one song on the main stage without removing any of her clothing and the second and each subsequent song was done fully nude. Before we could get to a table, several dancers asked if they could dance for us, one asking if she could have a date in the private room. As we sat down, the waitress came over immediately and offered us alcohol. And as we were walking to the table as we had just come in, we saw several of the dancers completely nude walking through the bar area. The dancers on the floor were fully nude and either sat with the customers or performed lap dances. The dancers touched and allowed constant touching with the patrons in there. The dancers would take their clothes off and sit on the patron's lap rubbing their hands over the man's crotch area and touching themselves. They would take the man's hands and rub them over their bodies. The lap dances were done fully nude. The dancers would grind their pubic areas or rear end into the crotch area of the customer. The dancers would rub their hands over their own bodies touching their pubic area and put their fingers inside their vaginal area. The dancers would allow the customers to touch them. The BCI representatives saw at least one black male stroking inside the pubic area of a black dancer at the table while she was laying on top of him. Many of the dancers after dancing a couple of songs would sit on the customer's lap or lay back on his crotch area allowing the customer to put his hands over her body. The dancers would alternate between grinding themselves in the crotch area of the customers to leaning back and rubbing their breasts onto the customers' faces. The dancers would also put their mouth on the crotch area of the customer and simulate oral sex. The dancers would also put their hands on the crotch of the customers and rubbing on the customers' crotch would simulate masturbation. The dancers would bend away from the customers exposing their vaginal areas, and they would put their fingers on and inside themselves. The dancers on the stage would lie on their backs and push their vaginal area up toward the face of the patron looking to place a tip in her garter. This view allowed the patron to see into the dancer's vagina or they would get on their hands and knees and back up to the patron and reach around and open their vaginal lips for the patron to see. The dancers would also put their fingers inside their vaginal area. At 11:35 p.m., 35 minutes after we arrived, one male customer was knocked to the floor by at least one male employee bouncer of the club, and at least four bouncers beat the patron to the floor and took him outside. There were at least four to six bouncers in the club at all time. The bouncers knocked the patron down into the parking lot and kicked and beat him unconscious. One of them said, take him and throw him behind the dumpster. We saw -- Kenny, a floor manager, told us that he was the floor manager, a Hispanic male, come back into the club with a gun in his hand, a semiautomatic pistol. Another unidentified male who had been involved in the beating of the patron said he was just a friend of Mario, the owner. This white male subject weighed about 450 pounds, and he advised that he did not work at the club. While we did not note it or didn't witness any drug transactions in the club, when we first got there, we noticed a tall, dark-haired female who was very friendly, coordinated, very fluid in her actions and later saw her. She was glassy-eyed, stumbling, very -- less coordinated on the dance floor, very awkward and mentioned it to one of the waitresses, and she said, well, some of them were snorting Ice, which we know to be methamphetamine. At 11:58 p.m., there was another customer closer to the door that was beaten to the floor and taken outside by a group of bouncers. A Brazilian girl had come over to my table and asked me to buy her a drink. I asked the dancer what was going on. And she said, oh, it's just a fight. It happens all the time. They just take them outside and beat the crap out of them. And I asked, I said, well, what about the police? And she said, well, the police are never called. The police don't come around here. It's obvious that the clubs are attempting to hide crime statistics. If

they don't call the police or call for service, then there's no report made and there's no evidence that there's been a problem at the clubs. We did look at the crime statistics for Fulton County and in that area, and there are very few complaints. I witnessed two fights that night, the 25th, that I was in there. While we were in at other times, other fights were observed. No police calls were shown on those particular nights. The club didn't call. Other patrons didn't call. The person who got beat up didn't call. Again, it just seems like they're handling this inside the club for there not to be statistics out there. At this time, the short Brazilian female asked if she could dance for me. She took off her clothes and danced. The dancing consisted of her rubbing her pubic area and backside on the crotch of the BCI representative, rubbing her breasts on my face. She took her hands and placed them on her breasts -- my hands and placed on her breasts and rubbed them over her body. This dancer stated that she wanted to go to the private room. And I asked what that meant. She stated that for \$125 we could get a private room where we can do anything we want to do. I can do anything to you. You get two drinks, and we can be in there for 35 minutes for \$125. I asked her what she meant by anything. And she said, I can satisfy you, and you can satisfy me. We can negotiate anything. I asked if that meant oral sex and the other sex. And she said yes. And I said, well, how much is that? She said, I'll do everything you want for \$150. I promise I'll make sure that we are both satisfied. I asked her if there were condoms in the room or if the club provided them. And she stated that she kept them herself. I stated to her, well, that's about \$300 if you count the room and your fee and all. I don't have that much with me. I'll have to come back. And she stated that she dances almost every night. Come back any time. She was seen going into the private VIP rooms with other customers throughout the night. There were several customers who stayed in the VIP rooms for several hours. One Asian man stayed in the room for at least three hours. Several of the dancers would go in and stay for a while and come out and other dancers would go in. There appeared to be five or six of these private rooms, and they were alternately full all night long. At about \$250 an hour, that's 5 or \$7,000 a night, if not more. There was another dancer by the name of Teejan, a white female, who sat with BCI representatives. She started talking about the private room. She stated that she wanted to take me inside one of the rooms. She stated it was \$125, which goes to the club owner, Mario. She stated, I worked here nine years ago, and I have been back several months. And nothing has changed. When we get into the room, it's more intimate and we can negotiate what happens. The BCI representative asked her about oral sex. She said, of course I will do that. And the BCI representative asked about the other sex. She smiled and said, you're not a cop, but a couple of weeks ago there was some law enforcement here. We were told beforehand, and we were told to be careful. We knew that they were here. But Mario has been in trouble for paying off government officials in the past, and I think he still has something pending. But he's paying off the police. They never come around here. I reviewed the case on Mark Lance, the government's case against him, the former Fulton County police captain. And the influence that he was providing for the clubs is consistent for the cover-up or the protection of what's going on in these clubs right now. Again, this dancer kept asking for me to go to the private room with her, and I told her I didn't have enough money. She came back to the table later and told me that she really wanted me to go into one of the rooms. And I said, I don't have the money tonight, but I can come back. And she said, well, we can get together away from here. And I said, what are you talking about? And she said, well, I'll meet you and do you for \$250, and we don't have to worry about paying anybody else up here. At that time she came back and handed me a napkin and told me what her real name was, gave me her telephone number, which we verified was the name that she gave us. And she is a dancer at the club. I drank beer throughout the night but ordered a scotch and water later in the evening, and the drink came back and was straight scotch. It was very, very strong, and it was about the time that this girl was trying to get me to go in the back room. I didn't say earlier, but I was with the Cobb County Sheriff's Office from 1972 to 1987. I retired as a captain. During the time, I worked metro Atlanta narcotics squad and Drug Enforcement Administration and smuggling cases throughout the southeastern United States and doing that work undercover in a lot of different places in over five years. And I've never witnessed anything like I witnessed that night in this club in Sandy Springs.

Assistant City Attorney Bentley stated that the next person to testify will be Bill Craig.

Testimony of Bill Craig

Mr. Craig: Madam Mayor, City Council, and other guests, my name is Bill Craig. I'm the director of operations for Business Consulting and Investigations, Incorporated. Our firm was hired recently to do some investigations regarding the adult nightclubs in Sandy Springs. Just a short background. I spent 33 years in law enforcement with the Atlanta City Police and Fulton County PD. I retired as a lieutenant back in 1996. Then about two years later I went with Fulton County -- excuse me -- Forsyth County Sheriff's Office where I was employed as a major. During my time with Fulton County PD, I worked approximately six or seven years in drugs and vice, two years as deep undercover. During that time working vice, I had occasion to make numerous arrests regarding the investigation of nude nightclubs, escort services,

street prostitution, and other organized crime. In regards to the investigation task with Business Consulting is that on the task assigned, we were to investigate the nightclubs of the Maxim Club on Roswell Road, the Mardi Gras on 6300 Powers Ferry, and also the Flashers at 6420 Roswell Road. During the time of my investigation, I first went to the Maxim Club located at 5275 Roswell Road. This was on the 25th of November of this year. Upon entering the club, an admission of \$10 per person was charged. The BCI representatives entered the club particularly on the male sections or the male dancers' side. The BCI representatives observed various dancers on the stage. The male dancers were in some type of costume. One in particular had a fireman's costume, mainly with the trousers. During his dancing routine, he strips and, therefore, exposes a thong, you know, covering his genitalia. During the time of his dancing, several female patrons approached the stage. One or two particular females approached the stage. He would approach them at the edge of the stage and put his frontal area up to their facial area simulating oral sex. Also at the same time, another male dancer would come from the rear behind the patron and simulate sex from the rear. This occurred at least three or four times during my observations. Shortly after that, the BCI representatives went to the other side where the female dancers were. It was a slow night at the Maxim from our observance. We were able to talk to one female dancer. She stated to us there were only three female dancers that particular evening. This being Thanksgiving weekend we were curious as to why it would be not packed. She said that she was told that the Sandy Springs officials or officials were looking at them. So, therefore, they had to be on their best behavior. While observing the club, I noticed that there were probably three to four bouncers or floor persons. The same dancer took us also to the VIP rooms which were to the left of the bar. These particular VIP rooms were not enclosed. There were no shutting doors or drawn curtains. Then during this time period, a couple of female dancers did some lap dances, but they were very cautious not to touch the BCI representatives and very -- either paranoid or cautious as to whether somebody was watching. They seemed to be on their best behavior. From that point on, it was approximately 2:30 a.m., myself and the other BCI representative traveled to Flashers at 6420 Roswell Road. At that time, we met with our other representatives. When I went into the club, I observed first thing a black female dancing on the main stage totally nude. She was, in fact, doing what I would call lewd and obscene gestures with her dancing manner as exposing her vaginal area. Very, very explicit in the moves that she was making. I also noticed that there seemed to be a young white male very intoxicated. He seemed to be with a group of friends, but every time I turned around he had a beer in his hand seeming that no matter how drunk he was, he was still getting alcoholic beverages. Also during that time, there was a white female that danced with the other BCI representative as far as a lap dance. During that time, she took the representative's hands and allowed her to touch the breast and the buttocks and also the genitalia. That was the particular night of the 25th and the early morning of the 26th of November. Following future investigation on the 13th of December of this year, BCI representatives went to Flashers adult entertainment center located at 6420. We arrived at approximately 9:30 p.m. We went to the bar and ordered a beverage. We had a hidden camera positioned in order to view the dancers and other activity. One dancer was on stage near the bar completely nude dancing in a lewd and obscene manner. We then proceeded to a table near the front entrance. And we along with the hidden camera were able to view the main stage and the other areas. Most of the dancers were with other customers doing lap dances. The dancers were fully nude, and we observed dancers touching themselves on the breast and the genitalia area. Some would bend forward exposing their area and then spread their buttocks. Some customers were allowed to touch the dancers in these areas. We eventually moved to another table closer to the main stage in order to test the lighting and its effect on the hidden camera. We were able to observe customers go with dancers into VIP rooms. There were anywhere from two to three, five VIP rooms to our knowledge. So at that particular end of the evening, we reviewed our film and decided to conclude that investigation for that particular day. The next period of investigation was on December the 16th, 2005. We went or traveled to the Mardi Gras at 6300 Powers Ferry Road. We arrived there at approximately 11:30 p.m. We parked in the parking lot area of Publix and the Powers Ferry Animal Hospital, which is the upper lot where the valet parking is below according to the cars that are parked there. We noticed several other vehicles parked in that area. We attempted to observe if the valets from Mardi Gras were, in fact, parking vehicles in this area, which was not part of their property. At that particular time, we did not see any. When we went inside the club, it was active with customers, dancers, and other employees. We moved to the bar area and ordered a beverage. While observing the club layout, it appeared that the main stage was located forward from the bar. Representatives proceeded to the main stage area and eventually found a table near the stage at upper level. The dancers on the stage became fully nude after two or three songs. Numerous dancers were doing lap dances with customers completely nude. I was approached by a blonde female dancer calling herself Victoria. She said she mainly went to VIP rooms and did not dance on the stage. She also said that she did lap dances for \$20. I asked Victoria how much was the VIP room. She stated it was \$210 for the room and \$320 for the girl. I asked her did that just include dancing while we were in the room. And she replied it would be very intimate and very satisfying. I received several lap dances during the course of the night. And during one particular lap dance, the dancer, Victoria, did a

gyrating motion as far as dancing placing her buttocks in my crotch area, her breasts in my facial area. And, you know, it was a very intimate move as far as the touching goes. While I was attempting to get Victoria to reveal what went on inside the VIP rooms, she began to lessen the price from originally \$325 to \$150 -- excuse me -- \$150 for a room and then \$250 for a dancer. She added she could get another dancer to go to the room for the same price if the other BCI representative wanted to participate. At that time, we left that particular club and went to Flashers on Roswell Road again. We arrived there approximately 2:40 a.m. We paid the parking attendant, but prior to paying him, we were instructed to go around the parking lot because there were no parking spaces there. We had to park over next door beyond the fence just south of Flashers. When we approached the entrance to Flashers, he said it would be \$4. I said, well, we parked on the other side. Is that you-all's property too? And he said, yes, we own that. And so, therefore, we entered the club and paid \$10 each for an entrance fee. We sat at a table near the entrance next to the stage. A waitress came by and asked if we wanted drinks, and we ordered drinks and began to observe the activity in the club. We observed that Flashers was filled to capacity. The dancers were performing dances completely nude. In addition the dancers were touching the customers as well as themselves and rubbing against the customers' groin area. We observed the dancers on the main stage completely nude performing moves that would expose their genitalia including the vaginal area. The BCI representatives were approached by two dancers who appeared to be Hispanic. Both dancers sat down at the table, and the conversation began about the VIP rooms. One blonde dancer said rooms are \$125 and girls are \$200. Madam Mayor, I would like to at this point play back some audio and take into consideration that it's very inaudible to the point there's a lot of background noise. But I would like if you would allow me to read as far as a transcript of the audio. (Whereupon, an audiotape was played.)

Mr. Craig: Madam Mayor, I'll go ahead and read the transcript.
Mayor Galambos: Go ahead.

Mr. Craig: First the bleached-blond Hispanic female in her 30s, slightly chubby, comes up to the investigator one and says, do you want to go in the back with us tonight, indicating herself and a mid 20-year-old Hispanic female with blonde streaks in her hair. The other one says, my friend is over there. He's got the dinero, or the money, pointing to investigator two. The two females go to one and two and joins them in a moment, primarily talks to investigator one. Would you like a lap dance for both of us, only \$40, and VIP rooms for only \$120 with both of us for \$200 each. How much again? The VIP rooms are only \$125 and each of us for \$200. We get to be more friendly there and very private. Really? So how about \$500 then. What is worth that? We get to be more private, and no one can see for about 30 minutes with either one of us. Girl one winks, and this one then wraps a long-necked bottle in her hands and puts it into her mouth simulating a sexual act, the bottle going in and out faster in her mouth in an oral pattern stimulating oral sex. The investigator says, bit pricey for that, though. Anything else to do? What else can you do back there? Anything for 30 minutes with you, and for you just \$150 each. But what then? Dancing? Okay. Look. We are almost closing. We do much more. How about \$125 each then? As you can see, Madam Mayor, is that the price is dwindling as it gets closer to closing time. As my investigation continued, Madam Mayor, is that on the 19th of December 2005, I went to the Flashers again. Excuse me, Madam Mayor. Let me back up one little place here. On the part of the audiotape that we had planned to play tonight was an incident that occurred when we were speaking -- at the same time we were speaking to the Hispanic dancers, is that on the left side of our table near the front entrance door, there was a commotion. As we turned around, we observed a young, Hispanic male with a goatee lying in the prone position on the dance floor, not the dance floor, the entrance floor. There was one white male bouncer or either manager had his foot on the top of this subject. And as he looked around holding the subject to the floor, he says, this is what we do to the son-of-a-bitches of this kind that touches my girls or hits my girls. The same sequence is that the DJ announces over the loud -- the intercom system is that, yes, I want everybody to see this. This is what we do to people like this, or some other adjective. And we do have that on audio. (Whereupon, an audiotape was played.)

Mr. Craig: That little bit of bite was what I just read from the transcription. And I would like to submit that for any evidence or anything to the mayor and the city council. Mayor, at the 19th of December 2005, I went back to Flashers again to conduct an investigation. Again, we were in the establishment with hidden camera and video and audio. As we went into the club, this was approximately right before midnight, we paid \$10 cover charge again. The BCI representatives observed dancers on both stages dancing completely nude. The dancers were touching in a lewd and obscene manner exposing their genitalia including their vaginal area. The BCI representatives observed one dancer touch her vagina several times and allowed one customer to touch her vagina area as he tipped her. The BCI representatives engaged in conversation with one dancer, a white female, and she quoted a price of the VIP room at \$125 and stated that

went to the house. She added that the girls would usually charge \$250 for one half hour. In my conversations with this young female, I asked her what transpired in the VIP room. She said basically anything goes, but she doesn't do any kind of sexual act. And I asked her to expound upon that. She said, well, some of the girls do things depending on what they're in the mood for or how much money is offered in the way of sexual acts, anything from oral to the other sex. Shortly thereafter I was approached by another female dancer, and in my conversation with her, we began to talk about VIP rooms again. During my conversation, she said \$125 for the room and that she would charge \$200 for herself. As we negotiated further, she got it down to \$150. And I asked her, I said, well, what would we do in the VIP room? I said, I'm not familiar with what goes on in there. She said, well, we do whatever makes you happy. I said, well, what does that include? And she began to describe, you know, just about anything that would satisfy me. I said, are you talking about sex? And she said, yes. And I said, what kind of sex? I said, are you talking about oral or other? And she said, the first part. And then I again said, you mean oral? And she said, yes, for \$150. At that particular moment, I excused myself and said I needed to go out to my vehicle and get more cash. And that then concluded that evening or morning of my investigation. I would like to say, Madam Mayor and City Council, that if I was to give some kind of conclusion to my investigation or my part in this investigation, I would like to say that I have been into a lot of seedy nightclubs in different types of working vice undercover assignments, and that would include massage parlors, adult bookstores, all phases of anything you could associate with drugs and vice for many years. Flashers, if you want to make a comparison to the other clubs that are on the topic of discussion, is that you're talking about vile and disgusting, anything from the way the dancers perform and conduct themselves and the way the management allows things to happen in there as far as, you know, not calling the police when something occurs, and as Mr. Watkins says, affecting the crime stats according to the police department and calls for service. The condition of the restroom is despicable. And, again, I am, you know, one of these types of persons with 33 years of law enforcement and several years as a private investigator. I've seen a lot of things. But, again, that is just a vile, disgusting nightclub. And if you want to make a comparison to it, we could name any other club in the Atlanta area. But, again, that is the conclusion on my investigation. Thank you.

Five Minute Recess

The time was suspended.

(A recess was taken from 9:05 p.m. to 9:15 p.m.)

Mayor Galambos: I believe you indicated you have another minute or so.

Mr. Craig: Yes. I have one item to submit for evidence. It's a portion of a video taken during our investigation that we would like to submit as evidence. It is of a very graphic nature. And, therefore, as opposed to showing it this evening, we would like to submit that to you, and it would be afforded to you accordingly. Thank you.

Assistant City Attorney Bentley called Walter Parker to testify.

Testimony of Walter Parker

Mr. Parker: Madam Mayor and City Council, my name is Walter Parker. I'm formerly with the Atlanta Police Department. I've been in law enforcement for 32 years. My first seven years I spent as an undercover investigator for the State of New Jersey, which I mainly worked vice. And it's ironic that I was chosen by Guy to come here and do this because when I started working with them, they had a problem with the same type thing in a place called Atlantic City. It had to be cleaned up before they could actually put the gambling in there. So it's like deja vu again. I worked with Marietta for 25 years, and I retired six years ago. Twenty-three years I was in vice, narcotics, homicide, whatever. I only spent two years in uniform totally. On the 25th of November, I had the opportunity to go to Mardi Gras myself and another agent. Upon arrival about a quarter of 11:00, we pulled up to the front of the building there. A guy came out and valet parked our car in the lower lot. I observed several people coming from across the way, which I didn't know if it was the lot or not, but it was where the veterinary place was I found out later on. And there was a group of people. They were throwing cups and things around. The parking lot was just nasty. And, you know, crime breeds around filth. And so when I went inside, the young lady at the counter told me it would be a \$10 cover fee. I paid \$20. I went inside, looked around, walked around the building, took a seat at a table down in the lower level right near the stage. As I was walking around, I observed several men and women, young women, in and about the premises, some with clothing on, some without, talking with gentlemen at the bar, drinking, and so forth. And I took a position where I sat that was pretty good

where I could see the stage and several of the other locations. Right in front of me about six foot, there was a table that had three young white males and a female. There were two females dancing. When they started off, they had no top, just a bottom, a G string like, and shoes. After about two dances, they were totally nude. And they were concentrating on the young lady that was sitting at the table. They were straddling her, dancing in front of her. They would bend over and let her look at their crotch area. The one young lady took her hand and rubbed it in her vaginal area and rubbed it on the face of the young lady, which I thought was very disgusting, but the young lady never complained. Then there were several dances I observed a woman in the corner with a gentleman, and she was -- I mean, I couldn't see him for her. I mean, she was all over him, nude. I never saw her with any clothing on. I got up and I walked to the restroom area, went to the pool area, and looked around. And there was very little clothing at all in there. Once I went back to the table, I observed several people coming in and out, and I would see people leave the tables, and they would go to these rooms and then maybe in a half hour or so they would come back and be all glassy-eyed. Some of the females would disappear. You wouldn't see them. I didn't know whether they were going to the dressing room or not. I cannot honestly say they were going into the rooms. I asked this one, I said, where does everybody go when they leave? She said, they go to the VIP room. I said, what's the VIP room? She said, it's a room where you go and anything goes. I said, what do you mean anything? She said, anything we don't do here sexually we can do in there, but it costs. I said, well, what does it cost? She said, well, for \$300 you can go in there for an hour with me, and we can do -- anything goes. I said, anything? She said, yes. I said, well, I don't have \$300. I said, I might be on my last few dollars. So she left, and then another young lady came over. A black female by the name of Darlene came over and said, I'd like to do a lap dance. And I said, well, go ahead. And I said, is it free? And she said, no. I said, well, go ahead anyhow. So she started dancing. She took her bottoms off. She moved from the table to a couch. And as I was sitting back on the couch, she leaned across me, put her hands on the back of the couch. I said, you need to move back just a little bit. And so she moved back, and she started dancing. Then she straddled my legs, and she was grinding and moving her buttocks up and down. Then she turned around, bent over, and put her hands on the table -- on the chair in front of me exposing her pubic area, her buttocks, and her vagina, and she reached back with both hands and spread her cheeks. And then after about two minutes or so, she said, did you like that? I said, it was all right. So she said, would you like to go to the VIP room? I said, I really don't have enough money, but how much does it take? She said, \$300. I said, well, I'm a big guy. How about two of you? She said, well, you could split the difference and go a half hour. It would still be about \$300 for two girls and her. And I said, and what do I get for that? She said, anything you want. So I said, well, I'm going to pass for right now. Then she said, well, since you like two -- she called her girlfriend over. Her name was Trinidad. She said, she's really nice. I said, really? So she comes over, she dances, and then when she gets through dancing, she said, you owed me \$20. I said, I didn't ask you to dance. She said, oh, I thought you did. I said, no, I didn't ask you to dance. But I gave her the \$20 anyhow to keep because at that particular time there was other things I wanted to see. So then they came back. They sat down. We all got a drink, and I ended up paying for that. And when the young lady came back to give me a drink, she says, well, are you going to pay for everybody's drink? I said, I didn't order everybody's drink, just being a smart butt. And she said, well, you're going to pay for everybody's drinks. So I paid for it. Then there was a group of people sitting beside me that came in. There was a guy and his entourage. He was a black guy and had six other guys with him. And he said, I want the women here with the biggest breasts and the biggest nipples. That's all I want. So they started finding these girls, and they came up to them and they were sitting on their laps and they were fondling their breasts. The guys were fondling the girls' breasts, and they were laughing and having a good time. And then I concentrated on the stage again. There was one gentleman in there. Apparently he's there all the time because he would come up, he had a drink in his hand, and he would tip the dancer. And she would take his money, and she would squat down on the stage and he would slide his money in there. And he would go a little further than where the garter belt was, and they would smile. And he would go back. And then I saw him come back about 15 minutes later with another glass, and he's got two drinks in his hand this time, set one on the bar, took his money out, and he did the same thing again. And it appears that he's there all the time. And he looks like a lonely guy. And I think they were taking advantage of him by pumping him drinks because the waitress would constantly go back to him and give him his drinks. And after he got his drinks, he would come back to the stage again and give his money away. We were there from 11:00 to about 3:00 o'clock. I never saw anyone in there approach any of the dancers telling them that you don't need to do this, you need to stop doing this, or anything. We saw a Fulton County police officer standing inside talking to two of the dancers. He was in plain view of the area there. He could see what was going on. He never told anyone that you're violating the law, you're doing anything. And to go in a place like that and not to report the crime is a crime itself. If you remember, one of the big things that Atlanta had was unreported crimes. Basically that's the same thing. That's the same thing that they're doing. If you don't report it, you're in violation just like anyone else is.

I went outside, and I said, can I get back in? And first the girl at the front hesitated, but then she let me back in. I saw the Fulton County cruiser sitting outside. I wanted to see if it was out there or not or whether he was off duty. And still he could have been off duty, but he had a cruiser out there, and he had it parked outside. And shortly thereafter we left the area. They're definitely using sex to sell alcohol and alcohol to sell sex, which is a bad combination. It has to be split up one way or the other. And as I said, I worked for Marietta for 25 years, and they did what you're hopefully attempting to do. I mean, I can't tell you what to do, but you're on the right track as far as I'm concerned. I was only in Mardi Gras once, that evening, and basically if I sat there and counted the number of crimes I saw happening in front of me from 11:00 to 3:00, I'd fill up a book or so. I mean, every time someone comes through there with some type of violation, and there were too many to actually count. But they were flagrant, total disregard of what the law is all about and what it says in the book, and they'd be doing nothing. That's it. Thank you very much.

Assistant City Attorney Bentley stated that the next individual has provided his name to the clerk, and he will explain to you why he chose to do that.

Testimony of Michael Smith

Mr. Smith: Hi there. I live very close to Roswell Road and Flashers, in that area, and was asked to appear here because of some of the things going on in the neighborhood that have happened as a result of those establishments. And while I can't directly relate some of it to coming directly from these places, I can tell you what has happened to the neighborhood behind there. The neighborhood has a lot of traffic calming devices installed in the neighborhood and medians that are installed to try and slow down traffic. They're planted with trees and landscaping and so forth throughout the neighborhood. Everybody who comes through there on a normal basis is aware of that, the people in the neighborhood. However, on many occasions late at night, 2:00 to 3:00 in the morning, there will be cars screeching through there that were coming through at high rates of speed that obviously were not familiar with the neighborhood. On many occasions they have hit the median, and I can't remember -- I think there are some other people here who are involved in the committee in the neighborhood that replants these who knows exactly how many times they've actually been hit. But I've been awakened several times to go up there and find a car stuck on the landscaping. One of them actually hit the telephone pole, knocked out the street for a couple of seconds and all the lights. It's always, every time that I've been out there, been a single man in a car driving at a high rate of speed, hit these medians and so forth, and wrecked their car or whatever, screeching cars in the middle of the night where they almost hit them and so forth. One of the medians in the neighborhood when they originally were installed were very pretty, had flowers and so forth, was hit so many times that whenever it got replanted it constantly got hit. Every weekend or so it kept getting hit. There was a bumper left on it one time where a car, you know -- it's usually they run and hit it, and then they take off. They left a bumper, half of a car almost on one of them for a week or so. One of them hit it and woke me up at 3:00 in the morning or so out there, and the guy was thoroughly confused, had visible beer in his car, and, you know, called a friend and quickly disappeared from the scene. The other things that I was asked to -- that I've seen going on in the neighborhood, not necessarily from this place, from the other adult entertainment places, years ago I'm assuming that possibly they threw away some videotape covers of an adult nature into a dumpster and that got blown into the air, and there were pieces of these videotape covers floating all through the neighborhood, people's yards and so forth. And some people picked them up and put them in the little recycling bins. As you walked by them there was an adult video cover that had blown by in the neighborhood all behind. Beer cans have been thrown in the neighborhood, other things like that. There used to be a lot of parking along Chaseland Road late at night and activity like that. I had a friend coming by one night to pick me up, and we are going out, and they stated that it looked like somebody was parked there outside of Flashers on Chaseland Road involved in a self-stimulation activity in that car that was parked on the road. So there's all sorts of things that have been going on that definitely affect the neighborhood and your ability to want to live there and so forth.

Testimony of Kirk Collins

Mr. Collins: Good evening. I'm a resident of the same neighborhood and have been there for 17 years. Over the time -- long before the Flashers club existed, it was a previous club by the name of Stormin Norman's. Around that time these problems began to occur. The most notable is cars actually coming through during the day after lunchtime late in the afternoon. The median, the other gentleman mentioned, in front of my house or down from my house has no trees because it's been driven over so many times. And the most notable was when I was home one day, I witnessed a single male driving over a median, getting his car stuck, and running, abandoning the vehicle, not talking to any neighbors, anyone who came out to try and help or assist him, running through the woods, abandoning his vehicle. I've seen that

occur three to four times in the island just near my home, not to mention having left my house in the morning and to find a car wrecked hitting a parked car left overnight in the middle of the street and having to drive around it. So this has been a common thing I see happening long before Flashers existed. The other thing I would like to mention is I work in the computer industry, and I'm often up at midnight, 2:00 a.m., and 4:00 a.m. in the morning either coming home from work or going to work. Frequently I'll go outside, walk my dog before I go to sleep or before I go to work. I frequently see cars driving up and down through the neighborhood, always coming from the same direction, and more often than not driving extremely slow, stopping at intersections, not seeing a dead-end sign, proceeding to the dead end, turning around, coming back, and doing it two, three, four times looking for a way out of the neighborhood but not on Roswell Road. The most notable incident I can recall, which was somewhat embarrassing, was as I was leaving to go to work and take my kids to school one morning and I was backing up out of the driveway and noticed what I thought was a flyer taped to my mailbox. I got out to take it off because I didn't want to leave it on there and discovered it was a set of panties, not a flyer. Well, I've got my two kids in the car. And they're like, what was that, Daddy? What was that? And I have a hard time trying to explain that. I can only imagine where that came from, and I was able to quickly dispose of it without having to explain that to my children. It's difficult enough having to explain to them what that building is in our neighborhood that we drive by every day, but to have an incident like that occur has been very discouraging. And I've seen so many cars stop, drive up and down the street when I'm up at these hours of the night. I've seen people pull out of the club onto Roswell Road and come back down through our neighborhood to try and get out without going on Roswell Road. And I've seen those cars swerve, stop, you know, like they're disoriented or something. So I know these are people that have been drinking. And it's something that happens every single week, and it happens during the day as well as in the evening. And this has been going on for many years, like I said, long before Flashers existed when it was another club. Having lived there for 17 years, I've seen it change from what business was there, what activities occurred after hours. And I have to say that it is not a good sign, and it is not an area that I am proud to be in right now, and I would like to see some changes. Thank you for your time.

Testimony of Chris Singer.

Mr. Singer: Madam Mayor and Council Members, I too am a resident of this same neighborhood as the previous two speakers, and I have experienced many of the same things. I have seen, you know, many people driving rapidly and wildly through the neighborhood. Our yard has a great deal of liriopie in it and have frequently uncovered beer bottles and cans that have been discarded in the cover of night or they may have been discarded during the day, but the point is they weren't discarded by us. Just one recent thing and, you know, right adjacent to the Flashers club for the last week there's been a discarded hot water heater just laying on the ground, and, you know, there doesn't appear to be any concern about cleaning that up. Now, I don't know if it's technically on their property or not, but it seems to me that it being there is connected to the fact that it's not, you know, a well-maintained, you know, business. And, you know, it just encourages and invites filth. And there's no question, it's just an embarrassing thing just to tell people when you're asking them -- you know, how do you get to your house? Well, you turn right at the strip club right past the porn store. That's where we live. And it would be nice to not have to say that to folks any longer. Thank you for your time.

Testimony of Mike Hill

Mr. Hill: Madam Mayor, Council Members, I, like the previous speakers, live behind one of these clubs. I own a home on Green Hill Road, which is in between Glenridge and the Maxim Cabaret. And like previous speakers, I've got a history that goes way back. I remember when the Cabaret was the Coronet Club, same owner, same setup, men at one end, women at the other. My backyard fronts on a parking lot that extends to Mr. Sandalon's office building, and that parking lot is contiguous with the parking lot of the club. And I can remember for years, because my bedroom faces the back of the lot, watching. And this parking lot, the owner, Mr. Sandalon, has not maintained it very well over the years. Now, recently it's been a lot better. He's restored the lights, so it's lit now, but it didn't used to be. And you'd see cars pull down into the parking lot, pair up. Sometimes they'd only be there for a minute or two, maybe a drug transaction. Other times they'd stay down there for a while, and then they'd pull out. And this would happen every night day after day. I'd go out and pick up condom wrappers and beer bottles out of my backyard where they just tossed them over the fence. My wife and I are real concerned about our property values. We have no doubt that having a strip club right up the street from us is a negative impact. I will say that Mr. Sandalon has blocked the access from the club to his parking lot off now, and I don't see that kind of stuff lately like I did in the years past. But you talk about the ancillary effects of these clubs. I witnessed them for years. And I stand with you. I hope you're successful in running these people out of town.

Good night.

Assistant City Attorney Bentley noted that we have about three minutes left.

Testimony of David Deeno

Mr. Deeno: I'm also a member of the Whispering Pines subdivision where we do have problems with the traffic from Flashers speeding through. I live on a cul-de-sac street where numerous times we found cars parked away from the streetlights that we have only to find later that there would be condoms and condom wrappers out on the ground. That's where our kids play. It's atrocious. I'm a realtor. I've shown houses on Chaseland that have been great houses, have been refurbished, fixed up, gorgeous houses. As soon as the potential client, we drive past, go back to Roswell Road, and they say, oh, gosh, what's this ugly building here that's in such disrepair from the outside? Oh, that's Flashers. It's an adult club. That would kill the property. They always say, absolutely not. So we'd have to naturally go look at other places. It does bring the property values down. I'm not an appraiser, but just seeing the volume of people, it just doesn't do any good to the neighborhood, the community, Sandy Springs. I hope we can do something about it.

Testimony of Patty Berkovich

Ms. Berkovich: Good evening. I'm Patty Berkovich. I'm with the Sandy Springs Council of Neighborhoods. We would respectfully request that the neighborhood associations be represented in equal numbers to any special interest groups that you might assemble as a working group to tackle these problems. This applies equally to alcoholic use, adult entertainment, zoning matters, and land use. Thank you.

Assistant City Attorney Bentley stated that completes this portion of the public hearing.

Alan Begner stated that he would be first.

Testimony of Alan Begner, Attorney for Adult Businesses

Mr. Begner: Good evening. My name is Alan Begner. My wife and law partner, Cory Begner, is going to pass to you some studies, cases, and other material that after I speak she is going to describe to you, and then we may have other speakers after me. To begin with, I represent Maxim Cabaret. That's the only club I represent. And you hadn't heard anything bad about them because they're not bad at all. I submit to you that if it is true what we have heard about Flashers, if it is true, then they ought to be prosecuted. They ought to be arrested, ought to be made -- their license should be revoked for wrongdoing. That's the remedy that you ought to take up immediately if it is true. But I do not stand here to speak for them or for Mardi Gras but only Maxim, formerly the Coronet Club. Although I didn't include it in my packet, Mayor Galambos at the 1997 Fulton County enactment hearing praised Coronet as being a club with no problems, they had been here for 14 years or so, and gave them just glowing recommendations. I will submit to you a copy of that, and that is because it is true. I come to you to seek a grandfathered status for Maxim who has been operating in Fulton County for many years and was a legal operation before the City of Sandy Springs was incorporated. I have no interest in challenging these laws for any future businesses or for any new locations but only to protect Maxim's interest as to the alcohol clubs we're talking about. However, I must tell you that if you decide not to grandfather Maxim and I challenge the enactment, which would ban alcohol and nude dancing at Maxim's, if I am successful, I believe that there will be many more nude and alcohol establishments in Sandy Springs than now. In 1992 I offered the same deal to DeKalb County when I won in 1982 a case called Stokers and Oasis versus DeKalb County, and a DeKalb Superior Court judge struck DeKalb County's first attempt to ban nude dancing and alcohol clubs. And when the case was won and before the city could move to change their laws, five more clubs opened. And today still DeKalb County has eight of the nine clubs still in operation that would have only been four if they had grandfathered those four. They tried, DeKalb did, three other times to ban nude dancing and alcohol from 1992 to 2001 and failed all three times. And in 2001 they settled with the clubs making them a partner ensuring that they complied with the laws properly, paying a heavier licensing fee than had been required before. And I believe you will find that DeKalb County is very happy with their clubs that are well-run and which are truly partners with the citizenry. And I agree with Fred Bentley, Jr., a friend of mine for many years, that the issue before you today, the reason you have studies, the reason you have anecdotal testimony from persons, is because under Georgia law, what we call the Paramount Pictures test, and the US equivalent called US versus O'Brien, a local government cannot ban nude dancing and alcohol or otherwise regulate it through these, as he calls them, reasonable time, place, and manner restrictions unless there is proof that there is an important or substantial government interest to be

adopted. That is, either there is a correlation between increased crime and nude dancing and alcohol or decreased property values. And so Fulton County in 1997 made its first attempt to ban nude and alcohol clubs. Again, myself, I spoke as did Mayor Galambos and others on behalf of that. As a matter of fact, Nancy Leathers, who I also have been friends with for many years, put me on an advisory committee for Fulton County adult entertainment clubs too. Fulton County did, in fact, pass a ban. And in February 2001 the Eleventh Circuit overturned it in a case called Flanigan's, which is Mardi Gras' corporate name, versus Fulton County. And it was almost an identical law that you are considering. And I want to read to you from page ten of that ruling that you'll have when Cory hands it to you, the court said, that is, the Eleventh Circuit, which is binding law upon us, it was unreasonable for Fulton County to rely on remote foreign studies concerning secondary effects when the county's own current empirical data conclusively demonstrated that such studies were not relevant to local conditions. What had happened was is Commissioner Skandalakis ordered then Chief of Police Louis Graham to do an official study comparing the six Fulton County adult entertainment establishments with six regular adult entertainment establishments of similar size and location. Three of them, of course, are in Sandy Springs and three are right next to each other on Fulton Industrial and not in Sandy Springs. And that study determined that there was about half as much crime when you add nude dancing to alcohol than regular nightclubs. And that study has also been cited by Justice Souter of the US Supreme Court in the case of Pap's versus Erie, Pennsylvania, which found itself based partly on that official study that it is now harder for cities and counties to ban nude dancing and alcohol. They need better evidence. By the way, Nancy Leathers eloquently and correctly told you about Renton and the other cases that she used to base her talk on, but she has left out the cases that are post Flanigan's which have changed the laws substantially. Keep in mind the '97 studies studied three clubs. So they were members of that study. Then Flanigan's -- and we'll hand you the Flanigan's case. The Flanigan's case was decided -- Flanigan's said one other thing. It might be different, it said, still on page ten, where the clubs were a recent addition to the neighbors. But these clubs, again, the three in question and the three on Fulton Industrial, have operated for nearly a decade, and you must look at the history of criminal statistics at those clubs and ignore the foreign studies like Oklahoma; St. Croix, Wisconsin; and the like, Austin, Texas, and so on. Then when Flanigan's was decided in February of 2001, the clubs had never been closed. They were still open with nude and alcohol. Fulton County did its second enactment in August of 2001, and that enactment was challenged in two courts. The five clubs except Maxim filed a lawsuit in federal district court that Judge Robert Vining was the presiding judge on, and on April 7th, 2004, he denied Fulton County's attempt to establish their rights to ban nude dancing and alcohol. And he found in his order, which will be given to you also, that Fulton County had created in March of '01, the month after the ruling of Flanigan's, another study called adult and non-adult entertainment establishment's statistical analysis which measured crime statistics from January 1, '98 to December 31, 2000. And Judge Vining determined that that study, what we call the March or February 2001 study, similarly found there were a lower number of police calls to adult versus non-adult establishments and that, again, the required power of the county to act did not exist because there was not evidence of increased crime. He also found that after that study was completed and turned out poorly for Fulton County, they tried a July 2001 study. But it only measured the three Fulton County -- Fulton Industrial clubs, not any of ours, and did not compare them with regular nightclubs, and that the study similarly did not find a correlation between increased crime and nude and alcohol combined. As he says, and I quote from his order, because the most comprehensive analysis of secondary effects of alcohol consumption and adult entertainment establishments in Fulton County indicated that there were more problems in non-adult entertainment establishments than adult, the court concludes the county has not established that the ordinance furthers an important government interest. The cases all say that anecdotal evidence like you've heard today, newer cases, Pap's, Alameda Books versus Los Angeles, Flanigan's I and Flanigan's II, all stand for the proposition and are all newer than the ones quoted by the city up to now. The anecdotal evidence does not prove anything either. It's a matter of statistical analysis. I did not do -- Cary Wiggins is chief counsel in that case that's before Judge Vining. I, on behalf of Maxim, the sixth club, filed a challenge to the same second attempt by Fulton County to ban nude dancing and alcohol in Fulton Superior Court. And in May of 2005, Judge Arrington struck Fulton County's ban and three different sections of the Fulton County code; alcohol, business, and zoning, as, again, violative of the First Amendment because no secondary effects evidence could be produced. The bad news I think for Sandy Springs is you can't get around Fulton County's three-time loss at proving it. You're stuck with that evidence in terms of your hope to pass a ban, if you hope to pass a ban, on nude dancing and alcohol. Judge Arrington ruled similarly, and I quote, the July '01 study or report does not reveal that adult alcohol businesses create more crime or blight than non-adult. In fact, in the past decade, Fulton County has conducted no less than three studies, all of which failed to establish adult alcohol clubs caused any more crime than bars without adult. Nor have any of the studies demonstrated adult and alcohol combined cause property value depreciation. Of course, we know it doesn't cause property value depreciation. We have also in our packet studies done for all three lawsuits which prove and show that property values have gone up around

these three clubs, and there's been no depreciation. And, of course, Sandy Springs wisely did not adopt the three code sections stricken by Judge Arrington and instead passed a moratorium on them. A few other comments. A law that would require adult clubs to give up alcohol or make a choice between nude dancing and alcohol but not both is intended -- the other governments that have passed them intended to put them out of business, and that's what many of your witnesses today want to do, and not just provide reasonable time, place, and manner restrictions. They were here before you were and sometimes 14 years longer than the City of Sandy Springs. They have been lawful all of that time. They have all -- Maxim's has never to my knowledge been cited for a single violation in the whole Coronet-Maxim lifetime that it has existed, and your witnesses describe nothing going on at Maxim that is problematic. What I am suggesting that you do, what I'm asking you to do, I want you to save Maxim. And what I'm asking you to do is to either put off for the moment the question of whether or not the club -- Maxim should be grandfathered as a legal, nonconforming use which means, of course, it cannot expand the size of its building, and it has other restrictions under zoning that it cannot violate. Create a licensing scheme in which the clubs or Maxim pays a fair licensing fee like DeKalb clubs pay. We provide liquor-by-the-drink taxes that are locally held by cities including Sandy Springs. And if we violate the law, prosecute us through the courts, revoke our licenses, and punish whoever is deserving of it but not to those who don't. I must say I also represent some of the adult stores in Sandy Springs also. When I first found out about what Sandy Springs had in mind as a proposed ordinance, I contacted Wendell Willard to try to get a copy of the ordinance and the studies that I was told were talked about on the 13th, I wasn't here, and he wouldn't give them to me. He said they're private, they're not for public consumption, and I could not see them. He was sorry. I then filed a Freedom of Information request and yesterday was allowed to pick up some study or the studies I think that you were given on the 13th. And a proposed ordinance that only deals with alcohol, I knew nothing as I walked in here today about that there would be a question of adult store ordinances either on the agenda or talked about, and I am unable to properly respond to that. And although nobody wants me to speak twice, I'm sure, I do think I ought to have the right to talk next week about just the adult store license. You can cut off my time some if you want, but I ask for that. I will also say, though, that what I seem to see as the special use permitting scheme as to adult stores, I think it seems to have the same numbering system as Fulton's did, so it looked familiar, was also one that Judge Arrington struck for failure to have secondary effects analysis. And I still pose the question to you, because I don't know the answer, whether or not it is suspended that adult stores be grandfathered and exist in their locations as nonconforming uses or if it is the intent of the city to try to either make them move or otherwise place a different kind of restriction on them like the adult and alcohol clubs. I leave you just with one other thought, and I'll let other folks talk. It seems to me -- I live here. I live in Sandy Springs, and I voted -- I was for city hood. I am for city hood now. I hope it will bring us parks and trees and good stuff that Roswell Road in the context of a county didn't really have. But I ask you again -- because I have no interest in bringing other businesses here. I could have opened other businesses up between Judge Arrington's ruling and December 1st or try to and I didn't because I have no interest in it, but I ask you to please give us a chance to work with you perhaps and talk with you about these matters so that we don't have to challenge it. If alcohol is taken away from us, I think we'll all challenge it. And we would like to work with you. We appreciate the fact that you are like me starting an experience in government that you may have never had, and I thank you.

Alan Begner stated that Cory Begner, his wife and law partner, would speak next.

Testimony of Cory Begner, Attorney for Adult Businesses

Ms. Begner: The first thing I would like to say in regards to this map that Ms. Leathers has, from my understanding of what this map is showing, it is showing where adult businesses can locate. And I'm not very familiar with the adult bookstore ordinance location requirements because I just glanced at it when I first came in tonight. But from what I understand, the darker red area does not include where adult clubs can operate, only the peach area and the light gray area because those are C-2 and M-1. And the dark red area is C-1, and adult clubs are not allowed to operate in C-1. Is that not correct?

Ms. Leathers: No, that is not true. Both ordinances show the uses allowed in C-1, C-2, and M-1. And so any location that is circled on that map has the potential to be either a bookstore or an adult nightclub location.

Ms. Begner: Thank you for clarifying that. I just want to real quickly tell you what documents we have brought, and I have a cover letter that lists them all so that you can sort of figure out what they are. You'll have in there a copy of Flanigan's Enterprises versus Fulton County decided in February of 2001 by the Eleventh Circuit Court of Appeals.

You'll have a copy of Judge Vining's order denying Fulton County's summary judgment in regards to the second set of Fulton County ordinances in Flanigan's II versus Fulton County. And that case is still pending in the district court. You'll find a copy of an order granting Plaintiff's motion for summary judgment in Maxim versus Fulton County in May of 2005. That's Judge Arrington's order that Alan referred to. Also Fulton County, Georgia adult use zoning regulations planning review prepared by our planning expert Bruce McLaughlin, Consulting Services, in April of 2005. You'll find the economic impact study of six locations of adult entertainment businesses in Fulton County prepared by a land use study group in July of 2000. You'll find a review of multiple documents regarding the adult entertainment business in Fulton County, Georgia prepared by the same group in March of 2002. Also there is included a resume' of Bruce McLaughlin, so you can see how much experience he's had in regard to planning and in particular in regard to adult businesses and planning. And there's an administrative review of an economic impact study of six locations in three neighborhoods in Fulton County by Terrence L. Love from 1997. There is a Fulton County police study of calls for service to adult entertainment establishments which serve alcoholic beverages which covers a period from January 1995 to May of 1997. There's a call for police service study prepared for Mardi Gras sports bar conducted for dates January 1, 1998 through May 31st, 2000. Also I hope you will all have a chance to review a CD which contains Bruce McLaughlin's analyses of almost all of the studies that have been used in various municipalities to regulate adult businesses. And he has made it his work to analyze those studies and -- well, you can see what he has to say about it. I'll leave it open, so maybe you'll be curious. And finally adult and non-adult entertainment establishments statistical analysis from January 1, '98 to December 31st, 2000 prepared by Major W.D. Fifer of the Fulton County Police Department. So I hope that you will examine these documents carefully along with those presented to you by your city attorneys. We know it's a lot to wade through, but we truly believe this issue is worth your most intense scrutiny. Thank you.

Assistant City Attorney Bentley introduced Cary Wiggins and stated that it is his understanding that Mr. Wiggins is going to reserve his right this evening and will be appearing on the 27th.

Cary Wiggins stated that is correct. He is here on behalf of Flashers, Mardi Gras, and two Insurrection locations. He was originally prepared to speak tonight, but since Mr. Begner has covered the waterfront and also because he will not be able to speak next week if he speaks tonight, he would like to reserve that opportunity.

Community Development Director Nancy Leathers asked before the Council proceeds, she needed to correct the record. She misspoke. She was corrected when the question was asked about adult bookstores being in C-1 as well as C-2 and M-1. However, under State law, there is a 1,000 foot separation that is reflected in the use permit, and she apologized for incorrectly giving that information.

Assistant City Attorney Bentley asked if there are any other parties desiring to be heard this evening? There were none.

Public Hearing Concluded for December 20th

Assistant City Attorney Bentley stated that we would conclude for this evening, and then, of course, this will be reopened again on the 27th unless there are any questions from Mayor and Council.

Mayor Galambos thanked everybody for their patience.

Mayor Galambos requested that the City Clerk read the resolution for consideration.

Assistant City Attorney Bentley stated for the record that this is an ordinance as opposed to a resolution.

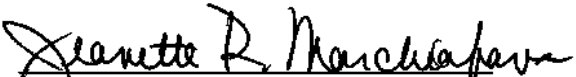
City Clerk Marchiafava conducted a reading of An ordinance relating to the licensing and rules of operation of adult entertainment establishments and providing for legislative findings and intent. This is the first reading.

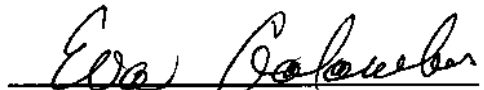
Motion to Adjourn: Councilmember Fries moved to adjourn the meeting. Councilmember Jenkins seconded the motion. There was no Council discussion. The motion passed unanimously.

Adjourn

There being no other business the meeting adjourned at 10:10 p.m.

Date Approved: February 7, 2006


Jeanette R. Marchiafava, City Clerk


Eva Galambos, Mayor