Regular Meeting of the Sandy Springs City Council was held Tuesday, October 7, 2008, 6:00 p.m., Mayor Eva Galambos presiding.

Invocation

Rev. George Freeman from North Springs United Methodist offered the invocation.

Call to Order

Mayor Galambos called the meeting to order at 6:01 p.m.

Roll Call and General Announcements

City Clerk Rowland reminded everyone to silence their cell phones and pagers at this time. Additionally, those wishing to provide public comments, either during a public hearing or at the conclusion of the meeting under the public comment section, are required to complete a public comment card. They are located at the back counter and need to be turned in to the Clerk.

City Clerk Rowland called the roll.

Councilmembers Present: Councilmember Doug MacGinnitie, Councilmember Dianne Fries, Councilmember Rusty Paul, Councilmember Ashley Jenkins, Councilmember Tibby DeJulio, and Councilmember Karen Meinzen McEnerny.

Pledge of Allegiance

Mayor Galambos led the Pledge of Allegiance.

Presentations

Mayor Galambos introduced Sandy Springs new Police Chief, Terry Sult. Chief Sult will join the Police Department at the end of October.

Presentation by Georgia Association of Chiefs of Police to the Sandy Springs Police Department

Chris Lagerbloom, Georgia Association of Chiefs of Police presented the State Certification Award to the City of Sandy Springs Police Department for a period of September 30, 2008 through September 30, 2011.

Mr. Lagerbloom, stated that the Chief of Police Association traditionally recognizes the one person on staff who has spent their days and nights preparing the agency for this particular award and presented an award to Sergeant Melanie Rowand.

Major Bertrand recognized Lieutenant Fraker for his hard work helping get the State Certification Award.

Presentation of Hammond Park Master Plan program elements

Mike Lipscomb, Edaw, Inc. gave the following presentation.

Hammond Park Master Plan Program Elements: Steering Committee Recommendatin

Top priorities

- Aquatic Facility
  - Competitive Swimming
    - 50 meter pool with 25 yard side dimension
    - OR, 8 lane 25 yard length with secondary pool which covers lessons, water aerobics, therapy
  - Diving – one meter and three meter diving board
  - Spectator benches
  - Therapy Pool – handicap access for swim lessons and water exercise
  - Interactive water feature area (spray pool) – inside or outside
- Multi – Use Facility
  - Gymnastics
  - Gymnasium (basketball/volleyball)
  - Multipurpose rooms – for fitness classes, program offerings, passive activities (game room, etc.)
- Playground
- Walking Trails
- Picnic pavilion facilities – (2 minimum)
- Athletic field (soccer, football, lacrosse

<u>Lower priorities – to be included as space allows</u>

- Inline Hockey Rink (shard use with volleyball) inside a multiuse facility
- Outdoor Tennis Courts (up to four courts, minimum of two courts)
- Outdoor Basketball courts
- Open Lawn area for unstructured recreation, public gathering
- Concessions (within a building)

Councilmember MacGinnitie stated that under the athletic field, football would not be something the City would want to put there since it is already at Morgan Falls.

Councilmember Fries stated it would be the same for tennis since the City has a tennis center.

Mayor Galambos questioned why the walking trails since several facilities already have them. Mr. Lipscomb stated that it was a high priority on the survey.

Councilmember Fries stated that this would be a multi purpose hard walking trail and should be called "walking path" and not walking trail.

Mr. Lipscomb stated that the next step they will generate three conceptual plans based on the program elements, present it to the Steering Committee, then a public meeting on October 27, 2008. There will be two meetings on this date,

10:00a.m and 7:00 p.m. The meetings will be held at City Hall in Council chambers. They will then refine the plans to the final Master Plan to be presented to City Council in mid February, 2009.

Mayor Galambos stated that attendance needs to be improved.

Councilmember DeJulio questioned if they had considered moving the meetings to Hammond Park. The people who are using Hammond Park are at Hammond Park. The City may want to consider moving the meetings to Hammond Park in the Administrative building. Possibly more attendance if held at Hammond Park.

Mayor Galambos stated that signs with the meeting information should be put up throughout the City. Councilmember Fries stated that sign were up for the last meeting held and it did not help. Mayor Galambos stated that the Communications Department could help with getting the information out to the public.

Approval of Meeting Agenda

Motion and Second: Councilmember Paul moved to approve meeting agenda. Councilmember Jenkins seconded the motion.

Councilmember Jenkins requested that the meeting minutes for August 19, 2008 regular meeting be removed from the consent agenda and be considered separate as the next item on the agenda. Councilmember Paul accepted amendment.

City Attorney Willard stated that there is an issue and in order to address the issue, it has to be a part of the motion that was previously made which requires a reconsideration of the motion. Once that motion is resolved within the minutes, the minutes can be approved.

Mayor Galambos questioned if it should not be addressed under the Consent Agenda. City Attorney Willard stated that it should not.

Councilmember Paul explained that his motion is to approve the meeting agenda and the consent agenda is a part of that. It is appropriate at this time for someone to make an alteration to any part of the agenda.

Motion and Second: Councilmember Jenkins moved to remove the August 19, 2008 regular meeting minutes off the Consent Agenda and put it as the next item to be considered. Councilmember Fries seconded the motion.

Discussion on the Motion: Councilmember Meinzen McEnerny stated that there are members of the public that are not aware of this proposed change. These members are on their way to this meeting now and she respectfully request that it be placed as the last item on the agenda so they can participate in this deliberation.

The discussion of this item regards the actual record of the August 19, 2008 meeting. She found an item that was omitted from the final conditions. Councilmember Fries stated that she would prefer to say "allegedly" of the minutes.

Councilmember DeJulio stated in a discussion of a clarification of the minutes, is that an item is open for public debate.

City Attorney Willard stated that it is not and he would like to clarify where we are. Council is on approval of the meeting agenda. A part of the agenda has section G) Consent Agenda, within the Consent Agenda the minutes of the August 19, 2008 meeting and is not to be agreed to as part of the consent agenda. Therefore, he suggested for the establishment of the meeting agenda, there needs to be an amendment to the motion to approve the meeting agenda change. City Council can then decide where to put approval of the August 19, 2008, minutes either as part of that same motion or a different motion. It is to bring out from the consent agenda, the minutes of the August 19, 2008 for approval.

Councilmember Paul stated that it may be more appropriate to put the item under the "Unfinished Business" portion of the agenda since this is left over business. This will give people an opportunity to get here.

Motion and Vote: Councilmember Paul moved to approve the meeting agenda with the following amendment to the main motion. Remove the August 19, 2008 regular meeting minutes from Consent Agenda and place the minutes of the August

19, 2008 regular meeting under "Unfinished Business" on the agenda. Councilmember Fries seconded the motion. The motion carried unanimously.

Consent Agenda

1. Meeting Minutes:
   a. August 19, 2008 Regular Meeting
   b. September 2, 2008 Regular Meeting
   c. September 9, 2008 Work Session
   d. September 16, 2008 Regular Meeting
   (Christina Rowland, City Clerk)

2. Approval of the 2009 City Council Meeting Schedule
   (John McDonough, City Manager)

Councilmember Fries stated that the November 3, 2009, regular meeting be removed from the 2009 Council Meeting Schedule due to campaigns.

Motion and Vote: Councilmember Fries moved to remove the Regular Meeting, November 3, 2009 from the 2009 City Council Meeting Schedule. Councilmember Jenkins seconded the motion. The motion carried unanimously.

Motion and Vote: Councilmember Paul moved to approve the Consent Agenda as amended. Councilmember Fries seconded the motion. The motion carried unanimously.

Councilmember Paul stated that City Council has not followed the proper procedure and this issue tonight is a result of that. He intends to step in when procedure is not being followed.

Public Hearings

Alcoholic Beverage Applications

Consideration of approval of Alcoholic Beverage License Application for Sandy Springs Chevron at 5701 Roswell Rd Sandy Springs, GA 30342. Applicant is Vasudev Patel for Retail Package Wine and Malt Beverage.

Interim Director of Administrative Services, Tarsha Patterson, stated that this application is relative to a change in ownership. She stated that staff has reviewed the application and all the administrative requirements have been met. The public hearing has been advertised as required and staff recommends approval.

Mayor Galambos called for public comments. There were no comments from the public.

Motion and Vote: Councilmember DeJulio moved to approve Agenda Item No. 08-247, the Alcoholic Beverage License Application for Sandy Springs Chevron at 5701 Roswell Rd Sandy Springs, GA 30342. Applicant is Vasudev Patel for Retail Package Wine and Malt Beverage. Councilmember Paul seconded the motion. The motion carried unanimously.

Consideration of approval of Alcoholic Beverage License Application for Thai Star Café at 1155 Hammond Dr Ste C-3 Sandy Springs, GA 30328. Applicant is William Ficke for Consumption on premise Wine and Malt Beverage.

Interim Director of Administrative Services, Tarsha Patterson, stated that this application is relative to a new business. She stated that staff has reviewed the application and all the administrative requirements have been met. The public hearing has been advertised as required and staff recommends approval.
Mayor Galambos called for public comments. There were no comments from the public.

Motion and Vote: Councilmember Fries moved to approve Agenda Item No. 08-248, the Alcoholic Beverage License Application for Thai Star Café at 1155 Hammond Dr Ste C-3 Sandy Springs, GA 30328. Applicant is William Ficke for

Consumption on premise Wine and Malt Beverage. Councilmember Meinzen McEnerny seconded the motion. The motion carried unanimously.

River Corridor Review

RC08-02SS at 6225 River Chase Circle

Assistant Director of Land Development, Blake Dettwiler, stated that RC 08-02SS, River Corridor Review Certificate for the property at 6225 River Chase Circle. The owner of the property proposes the construction of a patio and associated retaining wall adjacent to the existing single family residential home on lot 34, block "C", of the River Chase subdivision. The site is 0.75 acres, located in vulnerability categories "D" and "F", with a maximum allowed area of disturbance of 12,528 square feet and a maximum allowed are of impervious surface at 6,736 square feet.

The subject application was submitted to the Atlanta Regional Commission on July 28, 2008, and was found to be equivalently consistent by the Atlanta Regional Commission on August 29, 2008.

Mayor Galambos called for public comment. There were no comments from the public.

Motion and Vote: Councilmember Paul moved to approve Agenda Item 08-232, RC08-02SS at 6225 River Chase Circle. Councilmember DeJulio seconded the motion. There was no Council discussion. The motion carried unanimously.

Unfinished Business:

(Item removed from Consent Agenda)

1. August 19, 2008, Regular Meeting Minutes

   (Agenda Item No. 08-200)
   U08-005/CV08-007, *5757 Long Island Drive, 5730 Lake Forrest Drive, Long Island Drive (PIN 17 0123 LL096), & 0 I-285 (PIN 17 0123 LL090), Applicant: Holy Spirit Preparatory School, A use permit for the development of athletic fields, a field house, and an administrative building for Holy Spirit Preparatory School, with concurrent variances.*
   Ordinance No. 2008-08-34

City Attorney Willard stated as a part of the minutes there is a motion that was made at the August 19, 2008 meeting that passed. There is concern on the Council's motion which passed has language which was not as intended by the Council. The proper way to handle this is that within the minutes that be moved to be reconsidered. If a motion of reconsideration is accepted on Holy Spirit property, then a review of the motion, the motion be made as far as the change of what was the previous motion and then the previous motion could be considered. If it is adopted, that would then become a part of the minutes and the minutes could be accepted.

Councilmember Paul questioned if this should be a two part motion. One motion is for consideration as approved and then move forward to making any amendments.

Motion and Second: Councilmember Jenkins made motion for reconsideration of U08-005/CV08-007, Holy Spirit Preparatory School. Councilmember Fries seconded the motion.

Discussion on the Motion: Councilmember Meinzen McEnerny stated that her comments might have a bearing on whether or not City Council would like to reconsider the record. She requested the City Attorney to have the verbatim transcript transcribed. The minutes Council approves is generally summarized from verbatim and never put into a transcript. She addressed Councilmember Jenkin's handout used at the City Council Meeting on August 19, 2008. The conditions related to the use of Holy Spirit were also provided at the same time to the City Clerk. She had the City Clerk compare those conditions to the final one prepared in concert with the Planning staff, Patrice Ruffin. Ms. Ruffin listened to the verbal minutes which are another accurate record. A written or oral record could be submitted. A revised set of minutes for that meeting were compared. Upon further review, all of the verbal changes that were discussed by Councilmember Fries who offered as an amendment. Also verbally Councilmember Jenkins offered some changes in the minutes that were on the consent agenda today with one exception. There is no record to support taking out from the written record she submitted, the words in Section 1.b. after "administrative offices". This section should have read the following:

Conditions

1. To the owner's agreement to restrict the use of the subject property as follows:

   b. Field house, concession stand, administrative offices, and then it went on with something else and omitted these words "for athletic department staff only. Those words were submitted in the written document of Councilmember Jenkins. By the time Council got the final version which is formally in the Consent agenda, those five words had been deleted. A public hearing was held on it, public was here and provided comments and the record itself, except for scrivener errors in a public hearing she believes should stand. That is why she is going to be opposed to keeping them out.

Councilmember Jenkins stated that she would like to respond so that she can set the record straight as to how all of this transpired. On the morning of the meeting date, Tuesday, August 19, 2008, she told Patrice Ruffin that if there was a motion to approve, she would like to see the following conditions. She emailed Ms. Ruffin with details.

1.b. strike Planning Commission and insert: the proposed building shall be limited to 15,000 square feet of heated space.
1.c. strike Planning Commission and insert: the maximum height of the building shall be three (3) stories.
1.d. strike Planning Commission and insert: hours of operation shall be limited to the following:

Monday through Friday	7:00a.m. to 8:00 p.m.
Saturday	8:00 a.m. to 7:00 p.m.
Sunday	11:00 a.m. to 7:00 p.m.

When we got to the meeting, Patrice handed out the U08-005 Holy Spirit Prep (MCC Alternate Conditions) she did not look closely enough to see that the word "only" was in there. Her intent had always been, when she went from the 5,000 square feet to 15,000 square feet it was for the administrative office building. She did not go into great detail that night. Council was mainly dealing with some other issues but that was always her intent.

When she received the minutes of the meeting and, after consulting with the City Attorney about why the word "only" being in there after "athletic department staff" she told him this did not reflect her intent and questioned if 1.c. covered it since 1.c. reads: The maximum height of the field house/athletic department staff administrative office building shall be forty (40) feet. Mr. Willard indicated that the answer was no and that her intent had to be in 1.b. Her motion to reconsider is essentially a technical amendment so that it only comes out and the administrative offices are still allowed there.

Councilmember Jenkins suggested the conditions of 1.b. in her motion will read: Field house, "concession stand, administrative offices, and athletic department staff ". She wanted to give Councilmember Meinzen McEnerny some history and she thought she was doing something better by having staff draft something; now she realizes that it probably was not better to do and that she should draft it so her intent is accurately reflected. This is all she is doing here tonight, correcting something staff inserted in there that she did not intend.

Councilmember Meinzen McEnerny requested that Councilmember Jenkins read 1.b. as was submitted to Ms. Ruffin Tuesday morning by you and add the comma placement so that she will know exactly what she thought was going in there.

Councilmember Jenkins stated that what she had asked staff to do is strike "Planning Commission" and insert the proposec building shall be limited to 15,000 square feet of heated space with no restriction.

Councilmember Meinzen McEnerny stated that 1. b reads……Councilmember Jenkins stated that she knows what Ms. Ruffin put together. She is telling her what she put together and sent to her.

Mayor Galambos stated that Council is talking about reconsideration and you're talking about the merits of the issue. It seems to her that first of all Council has to determine whether or not we are going to vote for reconsideration of the issue.

Councilmember Fries stated that was her point, that City Council should vote for on the motion for reconsideration and called the question.

Councilmember MacGinnitie stated he has a question on the substance of the motion that is in front of Council. The reconsideration Council is discussing and about to vote on, is the underlined zoning, not the minutes. Councilmember Jenkins stated that was correct but then the minutes come into play.

Councilmember Meinzen McEnerny stated that she thought it was just about the minutes.

City Attorney Willard advised it was about the motion within the minutes. The motion for reconsideration and the minutes have already been put down. Now there is a motion for reconsideration as to the previous approved motion within the minutes which is addressing the Holy Spirit School special permit. That is what the motion should be addressed as saying. "I make a motion for reconsideration of the motion that was approved by Council dealing with the Holy Spirit School special use permit".

Mayor Galambos stated at this point Council is voting on whether to reconsider and are not voting on the merits of the question.

City Attorney Willard stated that right now you are under reconsideration and Council can go to a motion as to that item agenda within the minutes. Mayor Galambos stated that is right; what Councilmember Jenkins wants to change.

Councilmember Jenkins stated that she would like for Condition 1.b. to properly reflect her intent when she moved it from the 5,000 square feet to the 15,000 square feet.

Motion and Vote: Councilmember Jenkins moved to have Condition 1.b. reflect her intent in the motion she made on August 19, 2008, Holy Spirit, Condition 1.b.should read: Field house, concession stand, administrative offices, athletic department staff and associated accessory uses at a density of 1,878.52 square feet per acre or 15,000 square feet, whichever is less. Councilmember Fries seconded the motion.
Previous motion and second withdrawn by permission of the Mayor.

Discussion on the Motion: Councilmember Jenkins stated that if you go to 1.c. you can see that Ms. Ruffin got part of her intent in it, just not fully. Apparently, the intent has to be reflected in b. as well as c. 1.c. reads: "The maximum height of the field house/athletic department staff administrative office building shall be forty (40) feet". It made it into c. but apparently c. only deals with the height of the building and b. deals with the use. So it made it into half and not the other half. As she stated, she did not write this, the staff did and it does not properly reflect what she intended when she moved it from 5,000 square feet to the 15,000 square feet. To her, it is a technical amendment to clean this up so that b. and c. match because you can't have c. without taking that "only" off b.

Councilmember Fries offered an amendment to the motion to exclude classrooms. It was her understanding that the reason she put that in there was that it was the only exclusion of the use. It was also her understanding that it was a 15,000 square foot building.

Councilmember MacGinnitie questions Councilmember Jenkins if it was her intent to allow the applicant to house administrative offices separate and a part from the athletic department offices. Councilmember Jenkins said that is correct. The applicant's proposal to Council was to have admission offices in there. There was some discussion about whether that admission office was going to generate traffic and then there was also discussion about the other office that would be housed there which she believes was the headmaster office, and something in finance and accounting and how much traffic that would generate on the street. In talking with the applicant, the admissions office is the back office function. With admissions one would still go to the lower school or upper school for tours and everything. It was not going to generate a lot of traffic coming in and out of the property.

Councilmember Meinzen McEnerny stated that she would like to talk about the merits and also wants to clean up the change she believes Councilmember Jenkins wanted to make to 1.b. She suggested that Councilmember Jenkins read into her motion the last sentence so that 1.b would be very clear which includes the amendment that the record reflects that Councilmember Fries said "there shall be no classrooms for students permitted in the building". Councilmember Jenkins stated that she did want that sentence included and thanked Councilmember Meinzen McEnerny for pointing it out.

City Attorney Willard stated that at this point in time Councilmember Jenkins wants to substitute her motion now for the previous motion made that was seconded. He suggested that Councilmember Jenkins withdraw her previous motion.

Motion and Vote: Councilmember Jenkins moved to withdraw her previous motion. Councilmember Fries seconded the motion. The motion carried unanimously.

City Attorney Willard suggested that a motion be made to Agenda Item 08-200. This would be a motion to amend the previous approved motion made and approved at the August 19, 2008 meeting on Holy Spirit, Condition 1.b.

Amendment to Motion and Second: Councilmember Jenkins moved to amend the previous approved motion regarding Agenda No. 08-200, 08-005, Applicant: Holy Spirit Preparatory School, A use permit for the development of athletic fields, a field house, and an administrative building for Holy Spirit Preparatory School, with concurrent variances. Condition 1.b. shall read: Field house, concession stand, administration offices, athletic department staff and associated accessory uses at a density of 1,878.52 square feet per acre or 15,000 square feet, whichever is less. There shall be no classrooms for students permitted in the building. Councilmember Fries seconded the motion.

Discussion on Amended Motion: Councilmember Meinzen McEnerny stated that she will now talk about the merits of this amended motion. The actual document that was handed out by Councilmember Jenkins on the conditions of Agenda Item 08-200, U08-005, Holy Spirit as Councilmember Jenkins submitted reads as the following:

1. b. Field house, concession stand, administrative offices for athletic department only, (and then as she read into the record just now) and associated accessory uses at a density of 1,878.52 square feet per acre or 15,000 square feet, whichever is less. There shall be no classrooms for students permitted in the building.

Councilmember Meinzen McEnerny stated that she had the record reviewed and only found that one discrepancy that needs to be added the limitation to the administrative offices. The reason she is standing behind this, is that the square footage of the building has never changed from 15,000. The applicant requested 15,000 square feet and what the Planning staff did is really not of importance at this hearing here. It was always 15,000 square feet. The record reflected and the City Clerk has reviewed it, that your original public hearing put the limitation on the administrative offices to the athletic staff only and she does not think Council should be changing that record without a public hearing.

Councilmember Paul stated that he understood it as we were only going to have athletic offices there. That was a key point for him. He does not know why you would have the administrative offices apart from the school. He questioned what is contemplated for the use of those facilities.

Councilmember Jenkins stated that she does not have the document in front of her and only remembers one of them was admissions because there was some discussion about the traffic back and forth. She would have to go back to the original document. She does want to address Councilmember Meinzen McEnerny's point about changes from Planning Commission recommendations. That is how we always start. Planning Commission showed her that the documents had i at…..when it came to Council it said 5,000 square feet. All of her things were based on what came to Council from the Planning Commission. Her note to Ms. Ruffin was: changes from Planning Commission recommendations. 1. b. strike Planning Commission and insert. That is why she started that way.

Councilmember Paul stated that he has issues with why it is on the athletic facility because that was his understanding of the motion. He also has issues with adding additional things there than he understood. He thought allowing the coaches to be there would be fine but adding administrative offices was probably more than should be allowed.

Councilmember Jenkins stated that is a good thing because she was under a different intent. Councilmember Paul stated that he appreciates this clarification because it does change his understanding of what Council was voting on. His personal preference is that Council would restrict it to athletic offices only.

Councilmember DeJulio stated that his understanding at the time was that the school was in a constraint of space and by moving some administrative offices that do not affect the students such as finance, admissions, etc. to this facility they could free up that space for additional classrooms. It does not matter to him, he does not have children there. He thought Council was allowing them to have the administrative space there so that they could free up class space at the school.

Councilmember Paul stated that he may have misunderstood the motion and may have made a motion at that time to restrict it to just athletic facilities.
It is supposed to be an athletic complex. If Council broach that and bring administration in there, then he thinks Council goes beyond, at least what his original intent was. He is just one vote.

Councilmember MacGinnitie stated that he is troubled by what Council is trying to do. No doubt, people's intent is exactly what they said they are and there is no doubt that is what Councilmember Jenkins meant to do. He views this as a substantive change to what Council approved and discussed that night. He is troubled by making a substantive change without the input of the public that was here that night hearing the discussion about it. To make a change would be troubling from his prospective. Council should do it when the interested parties are in attendance and have a conversation about it then. He would not be in favor of doing it this way.

Councilmember Jenkins stated that it is important that Council talked about the intent.

Councilmember Meinzen McEnerny stated that she has a substitute motion she would make at this time to Agenda No. 08-200, U08-005, Section 1. b. that we reflect the pubic record that the Clerk has reviewed through verbatim records that Council limit the use of administrative offices to athletic department staff only such that it reads as follows:

1. b. Field house, concession stand, administrative offices for athletic department staff only, and associated accessory uses at a density of 1,878.52 square feet per acre or 15,000 square feet, whichever is less. There shall be no classrooms for students permitted in the building.

Substitute Motion and Vote: Councilmember Meinzen McEnerny offered a substitute motion to amend the previous motion on Agenda No. 08-200, U08-005, Holy Spirit Preparatory School. Amend Section 1. b. Field house, concession stand, administrative offices for athletic department staff only, and associated accessory uses at a density of 1,878.52 square feet per acre or 15,000 square feet, whichever is less. There shall be no classrooms or students permitted in the building. Councilmember MacGinnitie seconded the motion.
Discussion on the Motion: Councilmember Jenkins stated that she made her motion to reconsider because it did not reflect her intent.

Councilmember Meinzen McEnerny withdrew substitute motion. Councilmember MacGinnitie withdrew his second.

City Attorney Willard stated that the only pending motion is the motion made by Councilmember Jenkins.

Councilmember Jenkins stated that there is one other problem with the minutes regardless of what happens with 1. b. Hour of operation has it at 1:00 a.m. to 7:00 p.m. on Sunday and it should read 11:00 a.m. to 7:00 p.m.

Mayor Galambos stated that there is a motion on the floor. The motion is by Councilmember Jenkins, seconded by Councilmember Fries which would change the August 19, 2008 regular minutes on the Consent Agenda.

Councilmember Fries stated this would reflect the administrative uses.

Mayor Galambos called for a vote on the pending motion.

Vote on Main Motion: The motion carried 4-3, with Councilmember Meinzen McEnerny, Councilmember Paul and Councilmember MacGinnitie voting in opposition, and Mayor Galambos breaking a tie by voting in favor of the motion.

Mayor Galambos stated that when Councilmember Jenkins handed out her paper work, all of Council had a copy and a copy of the recommendations from staff but, they were on her computer. She focused on the written part and that is what she understood and the difficult part of reading what the conditions were on the computer.

Councilmember Meinzen McEnerny questioned the Mayor if she remembered reading on the document which allowed administrative uses. Mayor Galambos stated she did. Councilmember Meinzen McEnerny stated that the record will show that it did not.

City Attorney Willard stated that Council now needs to approve Agenda Item 08-200 as amended.

Motion and Vote: Councilmember Jenkins moved to approve Agenda Item 08-200 as amended. Councilmember Fries seconded the motion. The motion carried 4-2, with Councilmember MacGinnitie and Councilmember Meinzen McEnerny voting in opposition.

Discussion on the Motion: Councilmember Meinzen McEnerny questioned the City Clerk to clarify what was handed out at the meeting by Councilmember Jenkins.

City Attorney Willard stated that it did not matter what was handed out. What does matter, on part of the persons voting and who decide the matter is, what is in fact my understanding of what was the content of the motion passed.

Councilmember Meinzen McEnerny stated that the limitations for athletic use only were in the minutes and the City Clerk has collaborated that.

Councilmember Paul stated that the whole purpose for reconsidering was whether you agree, or not, with what we reconsidered and how we did it or not makes whatever happened in the previous meeting mute.

1. August 19, 2008, Regular Meeting Minutes

Motion and Vote: Councilmember Paul moved to approve the minutes for the August 19, 2008 regular meeting. Councilmember Fries seconded the motion. The motion carried unanimously.

New Business:

Consideration of approval to award a Supplemental Contract Agreement to Tople Construction to construct a Sidewalk Program project in the area of Riverwood High School and authorize the City Manager to sign. Resolution No. 2008-10-48

Deputy Director of Public Works, Jon Drysdale, stated that staff would like to extend the contract with Tople Construction to include some additional linear feet; it is a continuation of the sidewalk program. Tople has done an excellent job for the City so far and we would like to continue to use them. This will take the contract amount above $250,000.

Councilmember Jenkins questioned if the Woodland section between Jolly Development and the Shell Station that is missing across from North Springs High School was a part of this. Mr. Drysdale stated that it was not. On this section, there will be a sidewalk on one side. Right now, the city is trying to finish the places that do not have a sidewalk on one side. Later on, the gaps and additional work will be done. This is to get a lot of linear feet put down easily.

Councilmember Paul questioned where the sidewalks were being put. Mr. Drysdale stated work is being done on Spalding, the section close to Woodland and one side of Powers Ferry Road that will bring you up to Heards.

Councilmember MacGinnitie questioned if there was a reason this was not being bid out. Mr. Drysdale stated that staff bid the original amount with an option to extend. Councilmember MacGinnitie questioned if this was just as good a deal had the City bid out the $140. Mr. Drysdale stated that it is.

Assistant City Manager Rapson stated that it is actually a better deal which is one of the reasons why we actually put the contract out so they would keep the prices the same.

Motion and Vote: Councilmember Paul moved to adopt Agenda Item No. 08-249, approval to award a Supplemental Contract Agreement to Tople Construction to construct a Sidewalk Program project in the area of Riverwood High School and authorize the City Manager to sign. Councilmember Fries seconded the motion. There was no Council discussion. The motion carried unanimously.

Consideration of Approval of a Supplemental Construction Agreement with the Georgia Department of Transportation for a Perimeter Center Fiber Optic Interconnect Project.
Resolution No. 2008-10-49

Deputy Director of Public Works, Jon Drysdale, stated that this is a project that Council approved in 2007. Due to financial difficulties of GDOT it was delayed so long that the original contract expired. Basically, all we are doing is extending the contract. The work on this is starting very soon. It is totally funded by PCID and GDOT.

Motion and Vote: Councilmember Jenkins moved to approve Agenda Item No. 08-250, a Supplemental Construction Agreement with the Georgia Department of Transportation for a Perimeter Center Fiber Optic Interconnect Project. Councilmember DeJulio seconded the motion. There was no Council discussion. The motion carried unanimously.

Consideration of approval of a Resolution Authorizing the use of Eminent Domain at 5330 Northside Drive, Sandy Springs, Georgia for Road-Related Stormwater Infrastructure Project.
Resolution No. 2008-10-50

Assistant City Attorney McLendon stated that this is a request Council approved staff exercising the authority of eminent domain to acquire an easement on a certain piece of property along Northside Drive, just north of he intersection with Mount Vernon Highway. In this area, staff has determined that there are some issues with the pipe going under the road. It has risen to the high end of our project priority. This easement is necessary in order to not only replace the pipe under the road but, build it out sufficiently so the stream water process in that area will work in the future much better as he understands.

Motion and Second: Councilmember Meinzen McEnerny moved to approve Agenda Item No. 08-251, a Resolution Authorizing the use of Eminent Domain at 5330 Northside Drive, Sandy Springs, Georgia for Road-Related Stormwater Infrastructure Project. Councilmember Jenkins seconded the motion.

Discussion on the Motion:

Councilmember MacGinnitie questioned the financial ramifications.

Assistant City Attorney McLendon stated that the City is currently having the appraisal conducted and he believes that the value of the easement area will be under $15,000. The construction project will be substantially more.

Councilmember Meinzen McEnerny stated that the City is condemning a construction easement in a permanent pipe outflow easement.

Vote: The motion carried unanimously.

Consideration of approval of an intergovernmental agreement with Fulton County Board of Education for the use of Sandy Springs Middle School.

Assistant City Attorney McLendon stated that this is a continuation and expansion of an agreement that was approved last year about the same time for Sandy Springs Middle School. The provisions remain the same regarding the outdoor facilities as far as the use. The agreement does incorporate some capital improvements in the outside area which is some irrigation and there are terms on which this is going to be done through people affiliated with the City that will be financially beneficial to everyone.

In addition to the outdoor use, they have also agreed to allow the City to use the gymnasium facilities and give access to the indoor portions of the school. Ronnie Young has been working very closely with the principal and has been able to work out most of these agreements together.

This will be a continuation and expansion in this agreement and will allow a lot of good programs there.

Councilmember MacGinnitie questioned if the $50,000 fee was an annual fee. Assistant City Attorney stated that it was and the terms would have to be renegotiated next year.

Assistant City Manager Rapson stated that the intent is to use that money as a capital expenditure upfront. The City will partner with other schools. As we open this up into other schools it actually opens up the avenue to approach other schools and to do some type of partnership and start taking the $50,000 and sharing it around to other school systems as our recreational programming gets up and running to their program in the schools.

Mayor Galambos questioned if the $50,000 would cover all of the schools.

Assistant City Manager Rapson stated that this particular year it would only cover this particular school but it is the way of getting into the school system so that we can broaden it through the other school system.

City Manager McDonough stated that the history of this goes back almost three years. The City put money in the budget the first year for the purpose of doing an IGA with the schools. This is the first time and the City is now at the point three years later to actually to be able to spend the money.

Mayor Galambos stated that she understands if the City is spending money to do some type of capital improvement but just to get an IGA with the schools which is public property, if we incur some extra cost to them then she can see paying them for that extra cost but she has problems with the long range.

City Manager McDonough stated that the City wanted a multi year agreement and our understanding is that the Board policy will not give the City more than a one year agreement.

Councilmember Jenkins stated that the City had tried to negotiate an agreement with Sandy Springs United Methodist Church and it would cost $50,000. There were some other issues with insurance. This is essentially a rental fee. She understands that our tax dollars are going there but we are paying a rental fee to get in because the City does not have enough facilities.

Mayor Galambos stated that she would like to see a justification for this rental fee.

Councilmember DeJulio stated that he would like to know how much the City utilizes this property and questioned hov much the City utilized this property in the last year.

City Manager McDonough stated that the City has used the outside facilities and just recently started using the inside to use the basketball and volleyball programs into that facility.

Councilmember Jenkins questioned how many children are in the basketball and volleyball programs.

Director of Parks and Recreation Young stated that currently there are 24/25 ladies volleyball teams using the gym. The men's and youth basketball will begin in the months to come. The City is looking at outdoor activities as well as summer camps that would take place in the school later on in the year.

Councilmember Jenkins questioned if there were at least 300 participants or more in a years time. Mr. Young stated there were.

Mayor Galambos stated that she is all in favor of more participants but the children have the right to use the public school system when they are not being utilized and we have an obligation to pay the extra cost that we put upon them when using their facilities. She can not see a cart blanch in the future that the City is going to pay rental fees on their property.

Councilmember Paul stated that he would like to be sure this is characterized accurately and questioned if the purpose of the $50,000 was to install an irrigation system.

Director of Parks and Recreation Young stated that it is to upgrade the outdoor existing facilities to make them more appealing for use; the grass is non existent on the fields. As funding was being discussed he asked the school to set their priorities for what they would like to see the City do and he would see if the City could put money on the table in lieu of paying rental fees which are normally charged by the school system. Councilmember Jenkins stated that this was not rental fee.

Councilmember Paul stated that the purpose of the irrigation system in the other facilities is because of the stress that the City's activities are going to place on their fields which are already in rugged condition. The expenditure, in essence, is a capital expenditure intended to maintain or even bring up the quality of the fields the City is using. It would be a mischaracterization of this as a rental fee. He questioned if that was correct.

Director of Parks and Recreation Young stated that was correct.

Councilmember Meinzen McEnerny questioned what type of security or supervision will be in place for the activities that will occur inside the gymnasium after school hours.

Director of Parks and Recreation Young stated that the City will keep an adult staff member from the Recreation Department on the grounds when the City is using the facility. The department is doing this now and the new Park Supervisor position will also go from park to park and make stops at that area checking the parking lot when activities are going on.
Councilmember MacGinnitie cautioned staff that four of these agreements for four different schools each expecting $50,000 is a different proposition than $50,000.

Mayor Galambos stated that if it can be classified as a capital improvement then the City is delivering something that will benefit everybody. Do not camouflage a rental by some kind of phony capital improvement because the City should not have to pay rental for public facilities that we all own.

Motion and Vote: Councilmember MacGinnitie moved to approve Agenda Item No. 08-252, an intergovernmental agreement with Fulton County Board of Education for the use Sandy Springs Middle School. Councilmember Jenkins seconded the motion. There was no Council discussion. The motion carried unanimously.

Reports and Presentations:

Staff Reports

Update on Grant Policy

Assistant City Manager Rapson stated that a modification to the Grant Program that City Council adopted in January 2005. Staff would like to delete the language "The Mayor and City Council shall approve grant applications and submissions by adopting an official resolution, certified by the City Clerk that will allow the submission of the grant application and the acceptance of the grant award" and replacing it with the language "All grant revenues and expenditures, including matching requirements, must be appropriated, either in the current budget or included for appropriation in the subsequent budget."

Motion and Vote: Councilmember Fries moved to amend the Grant Policy by replacing the language "The Mayor and City Council shall approve grant applications and submissions by adopting an official resolution, certified by the City Clerk that will allow the submission of the grant application and the acceptance of the grant award" and replacing it with the language "All grant revenues and expenditures, including matching requirements, must be appropriated, either in the current budget or included for appropriation in the subsequent budget." Councilmember Paul seconded the motion. There was no Council discussion. The motion carried unanimously.

City Attorney Willard gave an update on pending litigation regarding the five panel sign at Northridge/Roswell Road. A decision from the Court of Appeals on the outdoor advertising case found in favor of the City. The Court will hear the Daryl Cook zoning case which is known as the swamp and hope to have a decision tomorrow.

Public Comment

Bill Gannon stated that to rent facilities from anyone is very expensive and he applauds the City in the direction it is taking. He is in agreement with City Manager McDonough in that it is more of a place holder in order to see how we can work with the school system. After the first year the City will know if it is a good or bad deal.

Adjournment

Motion and Vote: Councilmember Paul moved to adjourn the meeting. Councilmember Fries seconded the motion. There was no Council discussion. The motion carried unanimously and the meeting adjourned at 7:32 p.m.

Date approved: October 21, 2008

Eva Galambos

Eva Galambos, Mayor

Tracy Tye

Tracy Tye, Acting City Clerk