Regular Meeting of the Sandy Springs City Council was held Tuesday, August 18, 2009, 6:00 p.m., Mayor Galambos presiding.

INVOCATION

Reverend Will Zant of North Springs United Methodist Church offered the invocation.

CALL TO ORDER

Mayor Galambos called the meeting to order at 6:00 p.m.

ROLL CALL AND GENERAL ANNOUNCEMENTS

City Clerk, Michael Casey 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 before the conclusion of the meeting under the Public Comment section, are required to complete a public comment card. The cards are located at the back counter and need to be turned in to the Clerk.

City Clerk Casey called the roll.

Mayor: Mayor Eva Galambos

Councilmember's 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.

(Agenda Item No. 09-186)

APPROVAL OF MEETING AGENDA

Motion and Vote: Councilmember Paul moved to approve the meeting agenda. Councilmember Jenkins seconded the motion. There was no Council discussion. The motion carried unanimously.

CONSENT AGENDA

(Agenda Item No. 09-187)

1. Meeting Minutes:
   a. April 7, 2009 Work Session
   b. May 5, 2009 Regular Meeting
   c. May 5, 2009 Work Session
   d. May 5, 2009 FY2010 Budget Workshop #1
   e. May 12, 2009 FY2010 Budget Workshop #2
   f. May 26, 2009 FY2010 Budget Presentation
   (Michael Casey, City Clerk)

(Agenda Item No. 09-188)

2. Approval for the Mayor to Sign the List of Roadways for Submittal to GDOT
   (Thomas Black, Public Works Director)

(Agenda Item No. 09-189)

3. Amendment to Lease Agreement with Georgia Power Company
(Wendell Willard, City Attorney)

(Agenda Item No. 09-190)

4. Scrivener's Error U09-001/U09-002/U09-007 5855 Riverside Drive, St. Andrew's Presbyterian Church and Tabula Rasa Language Academy
(Nancy Leathers, Community Development Director)

Motion and Vote: Councilmember DeJulio moved to approve the consent agenda. Councilmember Fries seconded the motion. There was no council discussion. The motion carried unanimously.

PRESENTATIONS

1. Retirement of K-9 Officer, Amos and Introduction of new K-9 Officer, Seven

Chief of Police, Terry Sult introduced the newest police K-9 Officer, Seven, who will be on the streets in the next couple of days. Seven is a bloodhound and was donated to the department. K-9 Officer Amos has been diagnosed with cancer, which has become very aggressive, and he will be retiring from the force. Officer Amos has had many accomplishments during his approximately 2 ½ years of service on the force. Mayor Galambos and Chief Sult presented Amos with a plaque.

2. Proclamation – MDA Firefighter Appreciation Week – August 31 – September 6, 2009

Mayor Galambos presented a proclamation to Cara Kelch, MDA Program Coordinator. John and Dave Zealous, recipients of the MDA camp, thanked everyone for their support.

Mayor Galambos introduced and welcomed Wayne Wright, Director of Operations, to the City of Sandy Springs.

PUBLIC HEARINGS

Alcoholic Beverage

(Agenda Item No. 09-191)

1. Approval of Alcoholic Beverage License Application for Atlanta Liquor at 215 Northwood Drive, Suite 7, Sandy Springs, GA 30342. Applicant is Frances Briceno for Retail/Package Wine, Malt Beverage and Distilled Spirits

Director of Operations, Wayne Wright stated the application for Frances Briceno is for a new business. The staff has reviewed the application and found all the administrative requirements have been met and it has been properly advertised for the public hearing tonight. The staff recommends approval.

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

Motion and Vote: Councilmember Meinzen McEnerny moved to approve Agenda Item No. 09-191, Alcoholic Beverage License Application for Atlanta Liquor at 215 Northwood Drive, Suite 7, Sandy Springs, GA 30342. Applicant is Frances Briceno for Retail/Package Wine, Malt Beverage and Distilled Spirits. Councilmember DeJulio seconded the motion. There was no council discussion. The motion carried unanimously.

City Clerk, Michael Casey read the Zoning Rules

River Corridor Review

(Agenda Item No. 09-192)

2. River Corridor Review **RC09-01SS** at 9000 Ridgemont Drive

Assistant Director of Land Development, Blake Dettwiler stated the owner is proposing the construction of a room addition with outdoor patio and additional deck space onto an existing single-family residential home on Lot 18, Bock D, of the Huntcliff Subdivision. The application was submitted to ARC and found consistent with the Chattahoochee Corridor Plan.

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

Motion and Vote: Councilmember Fries moved to approve Agenda Item No. 09-192, River Corridor Review RC09-01SS at 9000 Ridgemont Drive. Councilmember Jenkins seconded the motion. There was no Council discussion. The motion carried unanimously.

Rezoning and Modifications

(Agenda Item No. 09-193)

3. **RZ09-001/CV09-003**, 5395 Roswell Road (SR9), *Applicant: Church of Scientology,* To allow for a church in the existing building, with concurrent variances

Assistant Director of Planning & Zoning, Patrice Ruffin stated the applicant is requesting to rezone the property from OI conditional to OI to allow for a church use in existing building with concurrent variances. Staff has drafted a set of alternate conditions and is asking for a deferral back to the Planning Commission meeting at the Sept. 17th meeting and back to Council on October 20th.

Woody Galloway, Dillard and Galloway, the applicant's Attorney, stated the applicant agrees with the staff recommendation for deferral. They participated in formulating the alternate set of conditions. They would like to reserve the remainder of their time for rebuttal.

Mayor Galambos called for public comment in support of the application. There were no comments from the public.

Mayor Galambos called for public comment in opposition to the application.

Robin Beechey, 20 Willow Glen, stated he was representing the Willow Glen Homeowners Association, which is one of twelve Civic and Homeowners Associations who have come together to object formally to this application. The new conditions have not been seen. There is insufficient parking and the Association expects Council to follow the ordinance and calculate parking requirements by reference to the aggregative of the mix of the uses. Traffic has been mentioned by almost every objector on this application, yet there has been no traffic study and no comment on traffic in the staff report. Council should consider the condition of the property and the way in which it has been allowed to deteriorate in the four years since the applicant purchased it in 2005. The risk is intensification of the use, once the church use is established with Council's permission. No one needs to be reminded why a very large majority of constituents voted YES in the referendum in 2005. They voted for greater control over zoning decisions and better protection for neighborhoods.

Daniel T. Hubbell, 5375 Roswell Rd., #C4 stated he opposes the petition.

Jane Kelley, High Point Civic Association, 4590 Windsor Park Pl, stated the association concurs with the deferral.

Patty Burns, 5400 Roswell Road stated she concurs with the deferral.

Brian Daughdrill, 15 Lenox Point, NE, Suite A, Atlanta stated High Point and other neighbors have no opposition to the deferral.

Sheila O'Shea, 5400 Roswell Rd., #K5 stated the Religious Land Use and Institutionalized Persons Act reads, in part, as follows: 1) General Rule – No government shall impose or implement a land use regulation in a manner that imposes a substantial burden on the religious exercise of a person, including a religious assembly or institution, unless the government demonstrates that imposition of the burden on that person, assembly, or institution (a) is in furtherance of compelling governmental interest; and (b) is the least restrictive means of furthering that compelling governmental interest.

The traffic and parking difficulties that would result in having this office building rezoned as a church strike me as a "compelling governmental interest". The parking spaces provided, even with the basement parking, are insufficient for the stated intended use, as many have already concluded. Additionally, Mr. Adams's presentation at the Planning Commission meeting described a large amount of space intended for the public and the church recently launched a multi-million dollar television and internet ad campaign to raise awareness of Scientology. Where are those who are curious about Scientology going to park if the congregation has already filled the parking lot to capacity? Despite Mr. Galloway's insistence that the building was bought with "eyes open", it is clearly unsuitable for use as a church and the City of Sandy Springs is under no obligation to suffer the consequences of the Church of Scientology's mistake. As a citizen and resident, she requested that the rezoning be denied.

Public Comment Cards – did not wish to speak, comments for the record

Susan Yeosock, 785 Lake Summit Dr, Atlanta – opposes this application – not enough parking on premises.

Ann A. Critchton, 20 Willow Glen, NE, Atlanta – opposes this application for rezoning on grounds of inadequate parking and traffic problems.

Al Gruensfelder, 32 Willow Glen, NE #1 – opposes this application; it is already a dangerous intersection (Roswell Rd & Glenridge Dr.)

Howard Gruensfelder, 33 Willow Glen NE – opposes the rezoning, already too congested and the area should remain work/office space.

Woody Galloway, Attorney for the applicant, gave his rebuttal stating that the parking will be adequate for the building and the applicant is willing to substantially limit the occupancy of the existing facility. The applicant would like the opportunity to meet with the opposition and address their concerns and feel like they have made every attempt to address their concerns. A list of concerns from the opposition was given to the applicant. The applicant is willing to consider approving the list, if the opposition is willing to consider withdrawing their opposition. The applicant is willing, but the opposition is unwilling to adhere to that. The applicant will move forward to work through these conditions and try to address every concern the opposition has including the insufficient parking. Traffic has not been an issue, because the church produces half the traffic relative to that of the existing office building.

Mayor Galambos asked if the applicant, opposition and staff have discussed the deferral.

Woody Galloway responded his understanding is it is a proposed 60-day deferral and then going back to the Planning Commission. The applicant feels this is adequate.

Councilmember Meinzen McEnerny asked for a clarification regarding the briefing package. Will the current packet received tonight come back to Council at the appropriate time in addition to the alternate set of conditions being discussed tonight?

Assistant Director of Planning & Zoning, Patrice Ruffin responded yes.

Motion and Vote: Councilmember DeJulio moved to defer Agenda Item No. 09-193, **RZ09-001/CV09-003,** 5395 Roswell Road (SR9), *Applicant: Church of Scientology*, To allow for a church in the existing building, with concurrent variances for sixty (60) days, to be heard by City Council at the October 20, 2009 Regular Meeting and in the meantime send it back to the Planning Commission. Councilmember Fries seconded the motion. The motion carried unanimously.

(Agenda Item No. 09-194)

4. **RZ09-003/CV09-005**, 78 West Belle Isle Road, *Applicant: Al and Martha Collinger,* To rezone from R-4 to R-5 for the subdivision of one lot into two, with concurrent variances

Assistant Director of Planning & Zoning, Patrice Ruffin stated agenda item 09-194 is a rezoning request to rezone the subject property from R4 single family to R5 to allow for the subdivision of one lot into two with two concurrent variances related to lot width. The Planning Commission recommended approval subject to staff conditions as amended. Staff recommends approval with conditions.

Pete Hendricks, Lake Forest Drive, stated the applicant has owned the property for four years and the son is residing on the property. The staff recommended conditions, items 3(e), (f), (g) and (h), are all at the initiative of the applicant. Also, the applicant has agreed that the construction of the first house on the property will not begin until such time that the applicant is ready to move forward to build the house. The most compelling part of this application is the five (5) lots contiguous and immediately to the west of this property are of the same configuration and density as what is being asked for by the applicant. The applicant asks that if the application is approved, the last condition of the joint drive be deleted, so that each house will have its own separate drive way.

Mayor Galambos called for public comment in support of the application. There were no comments from the public.

Mayor Galambos called for public comment in opposition to the application.

Trisha Thompson, 145 Rivernorth Dr., Zoning Chairman of the Sandy Springs Council of Neighborhoods stated Council has seen applications like this before, where the applicant has maintained a run-down, badly kept property and is now saying that it will only be cleaned up if he is allowed to subdivide it. The applicant cannot guarantee that he will live there, this cannot be conditioned, nor can he guarantee his son will live there, which also cannot be a zoning condition. At 605 Dalrymple Road, the property was subdivided and the applicant promptly moved out and put up two For Sale signs; which make it twice as hard to redevelop that lot in the future. Instead of one house being sold and one property redeveloped, it will take two different buyers. Please follow the City's Land Use Plan map, use your previous experiences on situations like this, and please follow your good common sense.

<u>Public Comment Cards – did not wish to speak, comments for the record</u>

Jo Elliott, 5051 Lake Forrest Drive - I would like to ask you to deny this petition. This petition is not consistent with the Future Land Use map. There would not be a hardship if the property stayed as one home lot. One beautiful home can be built there. I would also ask that you consider that there are at least sixty lots similar in size and shape in the close vicinity of this home. This would set a precedence of things to come. I would hate to see the adverse effect of double the amount of homes in this area. (60 homes…120 homes do the math….) Let us stick to the future land use map that the city has worked hard on and deny this petition.

Pete Hendricks gave his rebuttal by showing a slide of the area in question. All of the land identified is recommended under the City's plan at two to three units per acre, for twenty-four lots total. Twenty of those lots exceed the land use plan. He referenced a statement made by staff in their review and analysis report on page 16. "Staff finds that while there are some similarities with the proposed subdivision and surrounding properties, the proposal does not provide for proper transition into protected neighborhoods to the north and west. This transition is important between the commercial uses on West Belle Isle and Roswell Road and the residences over to the west and south. To the west are five lots that are exactly what is being asked for. The applicant asked that Council approve the application.

Al Collinger, 6053 Heards Dr stated that he and Mark have lived there for 28 years and have looked long and hard for an area to downside and retire in. Approving this application would improve and add to the value of the neighborhood.

Councilmember MacGinnitie stated his reading of the land plan is that it has significantly less density than is on the ground today. Is that accurate or not?

Assistant Director of Planning & Zoning, Patrice Ruffin responded yes.

Councilmember MacGinnitie asked for an explanation as to why that would be the case.

Assistant Director of Planning & Zoning, Patrice Ruffin stated when the future Land Use Map was completed in 2007, this area, because of the zoning classifications, was actually designated with that residential density. The lots that exist do not necessarily meet the zoning district that they are in, so a lot of the lots that are zoned R4 are actually smaller. The Land Use matched the zoning, not necessarily what was on the ground.

Councilmember Jenkins asked why the area looked like that and if this was something that slipped through the cracks.

Assistant Director of Planning & Zoning, Patrice Ruffin responded yes. The density carried over from the original Fulton Plan and this is one of the areas that was not revisited when it was adopted.

Mayor Galambos stated there are situations like this throughout Sandy Springs, where the plan does not coincide with the zoning that took place in Fulton County.

Councilmember Fries stated she could understand if there was a little grey area, maybe if only a couple of houses had been developed, but this whole street has been almost completely redone. These are not old homes that are going to be torn down in the near future. The homes will not be torn down for at least another 40 years. She stated she did not know if she wants to with a plan that does not really reflect what is there on new construction. She suggested that Council discuss this further at Work Session and consider adjusting the plan.

Councilmember DeJulio stated all of these pieces of property that were rezoned were done by Fulton County and not Sandy Springs. One of the things Council had decided is to project how they want the City to look in the future and not build on Fulton County's mistakes. Council needs to take a stand and oppose what Fulton County did and set a pattern going forward that is consistent with the Sandy Springs land use plan.

Councilmember Meinzen McEnerny stated she remembers what this street used to look like and how unappealing it is now. She stated she stands behind the Comp Plan and Neighborhood Protection and would like to applaud the applicant in a couple of areas. She believes that the residents of our community had a lot of input in our Comprehensive Land Use Plan and, they expect the City to live up to it.

Councilmember Paul asked Mr. Collinger if the photograph Ms. Thompson showed was an accurate representation of how the house looks today.

Mr. Collinger responded yes.

Councilmember Paul stated based on the unmaintained conditions he has seen, it is understandable why the neighbors have concerns. Whatever is put there will look better than what is there now.

Councilmember MacGinnitie directed a question to Ms. Thompson. He stated he was having a hard time understanding her opposition. He does not see how this changes what is there in any appreciable respect. He asked what, beyond the plan argument, is compelling.

Ms. Thompson stated she was tired of rewarding bad behavior and tired of people allowing their property to run down and then say they need two. She asked what would be wrong with building just one nice house there.

Councilmember Fries stated that it has already been done to this street. The three or four lots that are left should not end up being held hostage because the City does not want to continue the bad behavior or bad zoning that Fulton County started.

Motion and Second: Councilmember Fries moved to approve Agenda Item No. 09-194, RZ09-003/CV09-005 - 78 West Belle Isle Road - *Applicant: Al and Martha Collinger,* To rezone from R-4 to R-5 for the subdivision of one lot into two, with concurrent variances, subject to the conditions of approval and with two driveways. Councilmember Jenkins seconded the motion.

1. To the owner's agreement to restrict the use of the subject property as follows:
   a. The subject property shall be subdivided into no greater than two (2) lots having a density of 5.56 units per acre.

2. To the owner's agreement to abide by the following:
   a. To a revised site plan submitted to the Department of Community Development. Said site plan is conceptual only and must meet or exceed the requirements of the Zoning Ordinance and these conditions prior to the approval of a Land Disturbance Permit. Unless otherwise noted herein, compliance with all conditions shall be in place prior to the issuance of a Certificate of Occupancy.

3. To the owner's agreement to provide the following site development standards:
   a. Variance from Section 6.8.3.F. of the Zoning Ordinance to reduce the required minimum required lot width, for the lot indicated as #1, from sixty (60) feet to fifty (50) feet (CV09-005).

   b. Variance from Section 6.8.3.F. of the Zoning Ordinance to reduce the required minimum required lot width, for the lot indicated as #2, from sixty (60) feet to fifty (50) feet (CV09-005).

   c. To a thirty-five (35) foot minimum front yard setback. This condition as it relates to abutting R-4 (Single-Family Dwelling District) properties, to the east and west of the subject property, becomes null and void if aforementioned abutting properties are both rezoned to a less restrictive district. In such an event, the required minimum front yard setback will revert to the normal front setback of an R-5 zoned property.

   d. The owner/developer shall dedicate thirty (30) feet of right-of-way from centerline of West Belle Isle Road or ten and one-half (10.5) feet from back of curb, whichever is greater, to the City of Sandy Springs.

   e. To increase the likelihood of the continued health of the trees on the subject property, the owner shall contract with an International Society of Arboriculture Arborist that specializes in best management practices to mitigate damage to trees before, during and after construction.

f. To have the design of the residences be in accordance with the elevation drawing/rendering submitted at the 7/16/09 Planning Commission meeting.

g. To prohibit front entry garages.

h. To provide a landscape plan to the City for review and approval accompanied by a monetary surety as a means to ensure approved landscape installation.

Councilmember Jenkins stated she did understand Ms. Thompson's concerns and that this is a mistake that needs to be addressed in the Comprehensive Plan. The City cannot just throw any zoning classifications on an area, because they want it to look like that. The City needs to look at what is on the ground, and what is on the ground on this street are 50' lots. The City needs to be real careful on the Comp Plan and not just put things on it because that is what we think should be in an area. If twenty of twenty-four lots do not meet that classification, it cannot be R2/3 there. It needs to reflect what is there.

Mayor Galambos asked if there were any residents present who live on this particular street. There was no one present.

Councilmember Meinzen McEnerny stated the Sandy Springs Council of Neighborhoods was very involved in the Comprehensive Land Use Plan. The fact that the City approved two to three with all of the input from the neighborhoods is a significant point that cannot be overlooked. Chastain Park Civic Association sent her a letter in opposition to this and she agrees one single house on this property would look wonderful. Council needs to listen to our neighborhood leadership and citizens and follow the plan. She supports staff's recommendation of denial.

Vote on Motion: The motion carried 4-2, Councilmember DeJulio and Councilmember Meinzen McEnerny voting in opposition.
Ordinance No. 2009-08-44

(Agenda Item No. 09-195)

5. **ZM09-005/CV09-009**, 8725 Roswell Road, *Applicant: 8725 LLC,* To modify condition of 2.a. of Z91-0035 to amend the approved site plan, with concurrent variances related to signage

Assistant Director of Planning & Zoning, Patrice Ruffin stated the applicant is requesting to modify conditions of Fulton County Zoning case Z91-0035 to modify the site plans to identify the location of three monument signs on the property with two concurrent variances for sign modifications. Staff is recommending approval conditional of the zoning modification and the concurrent variances. The petition was heard at the June 9, 2009 Design Review Board Meeting and the Board recommended approval subject to the applicant modifying the third sign on the property, which the applicant completed.

David Cappotto, Atlanta Signs on Demand, 4451 Atlanta Road, stated Atlanta Signs on Demand was hired by the property owner to help with and modify their existing signage. The current owners inherited the three existing non-conforming signs with the building. The main reasons they want to modify the signage is that it is outdated, more space is needed, and better visibility is needed.

Councilmember Fries asked why they do not want sign three the same size as the Dunwoody Place sign.

David Cappotto responded in order to make sign three the same, the whole top of the sign would have to be cut down and the cost would be several thousand more dollars to the customer.

Motion and Second: Councilmember Fries moved to approve Agenda Item No. 09-195, ZM09-005/CV09-009, 8725 Roswell Road, *Applicant: 8725 LLC,* To modify condition of 2.a. of Z91-0035 to amend the approved site plan, with concurrent variances related to signage, subject to conditions of approval. Councilmember Jenkins seconded the motion.

Mayor Galambos asked if the trees in that area would be disturbed.

David Cappotto answered no.

Mayor Galambos called for public comment in support of the application.

Lauren Fields, 865 Singing Hills Dr spoke in favor of the application. She stated she is a tenant in the plaza and would love to have sign representation. She suggested the trees be pruned a little so that the signs can be seen better.

Mayor Galambos called for public comment in opposition of the application. There were no comments from the public.

Vote on Motion: The motion carried unanimously.
Ordinance No. 2009-08-45

Text Amendments

(Agenda Item No. 09-196)

6. **TA09-009**, Ordinance to Amend Article 3, Definitions, of the Sandy Springs Zoning Ordinance

Assistant Director of Planning & Zoning, Patrice Ruffin asked for withdrawal of this amendment to allow further review and revision.

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

Motion and Vote: Councilmember Paul moved for withdrawal of Agenda Item No. 09-196, TA09-009, An Ordinance to Amend Article 3, Definitions, of the Sandy Springs Zoning Ordinance, until returned by staff. Councilmember Fries seconded the motion. The motion carried unanimously.

(Agenda Item No. 09-197)

7. An Ordinance to Amend Chapter 103, Article 6, Section 103-27(b)(3) and Chapter 103, Article 6, Section 103-28(j) Development Regulations Ordinance of the Code of the City of Sandy Springs

Assistant Director of Building & Development, Blake Dettwiler stated this text amendment will allow the expiration of land disturbance and building permit applications after sixty (60) days from the issuance of latest letter of permit revisions, if comments are not addressed or an approved permit is not issued. This will give staff the ability to identify and remove permit applications that have not been pursued and allow staff to remove set applications that have gathered since December of 2005. This will be accomplished by issuing written notice of expiration of permit application to the applicant, requiring that the comments be addressed or the permit be obtained within thirty days of said written notice, and failure to meet these requirements will result in expiration and destruction of said permit applications.

Councilmember Paul asked how many of these the City has.

Assistant Director of Building & Development, Blake Dettwiler responded that there are hundreds.

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

Motion and Vote: Councilmember Paul moved to approve Agenda Item No. 09-197, An Ordinance to Amend Chapter 103, Article 6, Section 103-27(b)(3) and Chapter 103, Article 6, Section 103-28(j) Development Regulations Ordinance of the Code of the City of Sandy Springs. Councilmember MacGinnitie seconded the motion. The motion carried unanimously.
Ordinance No. 2009-08-42

(Agenda Item No. 09-198)

8. An Ordinance to Amend Chapter 103, Article 6, Section 103-27(b)(4) Development Regulations Ordinance of the Code of the City of Sandy Springs

Assistant Director of Building & Development, Blake Dettwiler stated this text amendment is an extension of land disturbance permits and its proposal allows a maximum of one extension of time per land disturbance permit for a period not to exceed more than 180 calendar days. The amendment will replace current maximum allowable extensions to land disturbance permits set at two periods of no more than 180 days each. Additionally, this will allow for land disturbance permits to remain valid for to the duration of the project, subject to the following time restrictions. Permits shall expire one year from the date of issuance, if no inspection has been requested or if one year elapses between inspections requests. This is important because it ties the validity of the permit to required inspections and not just activity on the site. All subsequent requests after the one allowed administrative request will be heard by Mayor and City Council upon analysis and recommendation as to whether documentation in the application is sufficient based on one of the four core criteria.

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

Motion and Vote: Councilmember Jenkins moved to approve Agenda Item No. 09-198, An Ordinance to Amend Chapter 103, Article 6, Section 103-27(b)(4) Development Regulations Ordinance of the Code of the City of Sandy Springs. Councilmember Fries seconded the motion. The motion carried unanimously.
Ordinance No. 2009-08-43

UNFINISHED BUSINESS

(Agenda Item No. 09-177)

1. Consideration of Approval of the City of Sandy Springs Partnering with the Georgia Department of Transportation on the Roswell Road Phase One Streetscape Project (from Meadowbrook Drive to Long Island Drive) (T-0019)

Deputy Director of Public Works, Jon Drysdale, stated this item is a partnering agreement where the City is showing GDOT and ARC that the City wants to hold on to the $2.3 million of federal funds. It's not committed to any kind of design activity or burying of utilities or anything at this point. There has been $250,000 budgeted for design activity and proposals are being evaluated for this now. Surveys will need to be completed and the staff will then come back for several meetings with the Public and Council with the survey and better cost estimates.

Councilmember Jenkins asked for verification that the report will include the cost to bury the utilities, the cost of the right-of-way, etc.

Deputy Director of Public Works Drysdale answered that's right.

Councilmember Meinzen McEnerny asked for verification that this refers to the utilities on wooden poles.

Deputy Director of Public Works Drysdale answered yes, the distribution lines, not the transmission lines. Also, the timeframe is really next year because of the time required to get the survey done. This year we have funding for design activities.

Councilmember Meinzen McEnerny asked if this covers both sides of the road.

Deputy Director of Public Works Drysdale stated both sides of the road from Long Island down to the City limits.

Mayor Galambos stated she wants the design consultants to also consider the cost and feasibility of the alternative option of moving the utility lines to the back of the buildings.

Motion and Vote: Councilmember Meinzen McEnerny moved to approve Agenda Item No. 09-177, Approval of the City of Sandy Springs Partnering with the Georgia Department of Transportation on the Roswell Road Phase One Streetscape Project (from Meadowbrook Drive to Long Island Drive) (T-0019). Councilmember DeJulio seconded the motion. The motion carried unanimously.
Resolution No. 2009-08-46

NEW BUSINESS

(Agenda Item No. 09-199)
1. A Resolution to Authorize the Transmittal of the Draft Annual Capital Improvement Element (CIE) to the Regional Development Center and State for Review and Comment

Assistant Director of Planning & Zoning, Patrice Ruffin stated this item is the annual update to the Capital Improvement Element of the Comprehensive Plan, which allows the City to operate under the impact fee act. The only departments with updates this year were Public Works and Recreation & Parks.

Councilmember Jenkins asked to change the amount for the Parks and Recreation Civic Center Phases one through three from $15million to $44 million.

Assistant Director of Planning & Zoning Ruffin stated the staff would make this update before sending the CIE to the state.

Motion and Vote: Councilmember Jenkins moved to approve Agenda Item No. 09-199, A Resolution to Authorize the Transmittal of the Draft Annual Capital Improvement Element (CIE) to the Regional Development Center and State for Review and Comment, with a modification to the cost estimate for the Recreation Center Phases one through three from fifteen to forty-four million. Councilmember DeJulio seconded the motion. The motion carried unanimously.
Resolution No. 2009-08-47

Public Works

(Agenda Item No. 09-200)
2. Consideration of Approval of the 2010 Capital Paving Program Contract

Utility Coordinator of Public Works, Andrew Thompson stated that the staff recommends Council approve the 2010 Capital Paving Program Contract. The list of streets was taken from the IMS survey and includes some of the City's most traveled roads. The staff also recommends the City Manager be authorized to add additional streets to the resurfacing program as funds allow. The additional streets will be recommended by the Public Works Department using the City Council's guidance and the current IMS study. A material testing contract will provide a high level of quality assurance for the 2010 Capital Paving Program Contract.

Councilmember MacGinnitie asked if there is money left over in the budget, will we continue to resurface or will the money be put into reconstruction.

City Manager, John McDonough stated with the bids that have been submitted, the City should have funds leftover and we will continue the 60/40 split currently used for the two programs.

Motion and Second: Councilmember Paul moved to approve Agenda Item No. 09-200, Approval of the 2010 Capital Paving Program Contract and authorize the City Manager and/or Mayor to sign the contract. Councilmember DeJulio seconded the motion.

Councilmember Jenkins asked if this contract includes repercussions for improper work.

Utility Coordinator of Public Works Thompson stated the contract does include repercussions if the City determines there was improper work through plant and field testing.

Vote on Motion: The motion carried unanimously.
Resolution No. 2009-08-48

(Agenda Item No. 09-201)

3. Consideration of the Approval of the 2010 Capital Reconstruction Program Contract

Utility Coordinator of Public Works, Andrew Thompson stated that the staff recommends Council approve the 2010 Capital Reconstruction Program Contract. The streets were taken from the IMS study. The staff also recommends the City Manager be authorized to add additional streets to the reconstruction program as funds allow. Material testing contracts will provide a higher level of quality insurance for the 2010 Capitol Reconstruction Program.

Councilmember DeJulio asked if this program was also under budget.

City Manager John McDonough stated between the two projects the cost will be around $3.6 million and the project was budgeted at $5 million.

Motion and Vote: Councilmember DeJulio moved to approve Agenda Item No. 09-201, Approval of the 2010 Capital Reconstruction Program Contract. Councilmember Fries seconded the motion. The motion carried unanimously.
Resolution No. 2009-08-49

(Agenda Item No. 09-202)

4. Motion that the City Council Approve the Contract Extension with ARCADIS to perform Stormwater Inventory and Visual Condition Assessment

Director of Public Works, Thomas Black stated this is the extension of the program already in place with ARCADIS.

Motion and Vote: Councilmember Paul moved to approve Agenda Item No. 09-202, Approve the Contract Extension with ARCADIS to perform Storm water Inventory and Visual Condition Assessment. Councilmember DeJulio seconded the motion. The motion carried unanimously.
Resolution No. 2009-08-50

(Agenda Item No. 09-203)

5. Consideration of Approval of the Acceptance of Ownership of Properties for the Abernathy Road Greenspace Linear Park Project (T-0002)

Deputy Director of Public Works Jon Drysdale stated these are properties for the Abernathy Road park project. There needs to be a formal acceptance by Council. Some of the closing activity has already taken place on most of the properties. The green properties on the maps are the parcels that currently need approval from Council. The three red properties are involved in a land swap with GDOT that will save the City money and the closing from the Woodward property is still being scheduled. Overall the City is several hundred thousand dollars under budget.

Motion and Vote: Councilmember Fries moved to approve Agenda Item No. 09-203, Approval of the Acceptance of Ownership of Properties for the Abernathy Road Greenspace Linear Park Project (T-0002). Councilmember Jenkins seconded the motion. The motion carried unanimously.
Resolution No. 2009-08-51

(Agenda Item No. 09-204)
6. Consideration of Approval of the Abandonment of the Roadway located at 1978 Island Ford Road

Transportation Planner, Mark Moore stated the City received an application from the National Park Service requesting that a small piece of Island Ford Road that is approximately 40 ft of right-of-way by 200 ft long and completely unimproved at this time, be abandoned to them for the purposes of some work they would like to do. Mr. Steve Reynolds from the National Park Service is present if there are any questions. Staff recommends the approval on the basis that there is no compelling transportation interest in this property.

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

Motion and Vote: Councilmember Fries moved to approve Agenda Item No. 09-204, Approval of the Abandonment of the Roadway located at 1978 Island Ford Road. Councilmember Paul seconded the motion. The motion carried unanimously.
Resolution No. 2009-08-52

(Agenda Item No. 09-205)
7. Consideration of Approval of the Acceptance of the Donation of the Right-of-Way by Abernathy Investment Associates, L.P.

Transportation Planner, Mark Moore stated this is right-of-way as required per conditions of zoning for the condominium development.

Councilmember Jenkins stated she is concerned that the sidewalk does not run the whole length of Barfield.

Transportation Planner Moore stated they still need a state variance for this ditch which is identified as waters in the state. Staff is helping them to apply for a variance.

Councilmember Paul stated the City Attorney needs to check into the new law that was passed that deals with ditches that carry rain only water versus state waters. This may allow the staff to work around having to file a variance.

Motion and Vote: Councilmember Jenkins moved to approve Agenda Item No. 09-205, Approval of the Acceptance of the Donation of the Right-of-Way by Abernathy Investment Associates, L.P. Councilmember Fries seconded the motion. The motion carried unanimously.
Resolution No. 2009-08-53

(Agenda Item No. 09-206)
8. Consideration of Approval of the Acceptance of the Donation of the Right-of-Way by Mike and Suzanne Masters

Transportation Planner, Mark Moore, stated agenda item 09-206 is right-of-way as required per the Development Regulation ordinance for a land service permit on Mount Paran Road.

Motion and Vote: Councilmember Paul moved to approve Agenda Item No. 09-206, Approval of the Acceptance of the Donation of the Right-of-Way by Mike and Suzanne Masters. Councilmember Fries seconded the motion. The motion carried unanimously.
Resolution No. 2009-08-54

(Agenda Item No. 09-207)
9. Consideration of Approval of the Acceptance of the Donation of the Right-of-Way by JAS Headquarters

Transportation Planner, Mark Moore stated agenda item 09-207 is right-of-way dedication as required by the Zoning and Development Regulation ordinance for development on Barfield Road.

Motion and Vote: Councilmember DeJulio moved to approve Agenda Item No. 09-207, Approval of the Acceptance of the Donation of the Right-of-Way by JAS Headquarters. Councilmember Fries seconded the motion. The motion carried unanimously.
Resolution No. 2009-08-55

(Agenda Item No. 09-208)
10. Approval of a Resolution in Support of the Anne Frank in the World: 1929-1945 Exhibit Relocating to the City of Sandy Springs

Mayor Galambos stated she and Councilmember Fries have been working on this relocation. Anne Frank is a world famous exhibit, with only three versions of it in the world. It brings a tremendous amount of attendance and the City is very lucky to have this transferred from Decatur to Sandy Springs. She also would like to designate Mr. Gary Alexander as the Chairman of Fundraising for this exhibit.

Motion and Vote: Councilmember Fries moved to approve Agenda Item No. 09-208, Approval of a Resolution in Support of the Anne Frank in the World: 1929-1945 Exhibit Relocating to the City of Sandy Springs. Councilmember Jenkins seconded the motion. The motion carried unanimously.
Resolution No. 2009-08-56

Motion and Vote: Councilmember DeJulio moved to approve the appointment of Gary Alexander as Chairman of the Fundraising Committee for the Anne Frank Exhibit. Councilmember Fries seconded the motion. The motion carried unanimously.

(Agenda Item No. 09-209)
11. A Resolution to Approve Economic Development Financial Incentives for the Grand Bohemian Hotel Development Locating in the City of Sandy Springs

City Attorney, Wendell Willard stated the purpose of this item is to make Council aware of a major development in the City. The construction of the Grand Bohemian on Abernathy at Peachtree Dunwoody and Mount Vernon is expected to begin shortly. It is expected to be a $100 million dollar investment with 250 regular employees plus part time employees above that. The City has the authority to use public funds for economic development. Due to their cost they have a bond program that was worked out with Fulton County Economic Development Authority. There are some things that need to be done to meet some financial goals that they have. This resolution will empower the City Manager to further negotiate with the developers using what the City has now as funds that will be coming in for a land disturbance permit and for the building permits, to allow that to be part of an incentive to encourage this development as well as water and sewer fees. The city will be the party responsible to help fund that cost for the development. He also added that staff will come back to Council at a later time with a formal program and policy for consideration by Council. This is a one-time thing for the Bohemian.

Motion and Vote: Councilmember Jenkins moved to approve Agenda Item No. 09-209, A Resolution to Approve Economic Development Financial Incentives for the Grand Bohemian Hotel Development Locating in the City of Sandy Springs. Councilmember Fries seconded the motion. The motion carried unanimously.
Resolution No. 2009-08-57

REPORTS AND PRESENTATIONS

a) Mayor and Council Reports

b) Staff Reports
   i. Update on Recent Grant Initiatives

City Manager, John McDonough stated in the FY10 budget the City budgeted $250,000 for matching grants and several have been received. First is the Fire Prevention Grant - $30,400. The City's match is $7,600 for a total project cost of $38,000. The funding agency is FEMA. Number two is an Urban Forestry Grant - $20,000, cash match is $20,000, for a total of $40,000. The funding agency is the Georgia Forestry Commission. Third is a Fulton County Arts Grant, $6,500. The City's match is $6,500 for a total project cost of $13,000. The funding agency is the Fulton County Arts Council. Number four is a Justice Assistance Grant. The Governor's Criminal Justice Coordinating Council has approved the set-aside of $100,000 to be shared between the cities of Sandy Springs, Milton, Johns Creek and Chattahoochee Hills. Since the City is not eligible to receive a direct federal award this year, because we do not have three years worth of data, and they were not willing to budge on that, so the City is going to have to share this money. We have some ideas on things that will mutually benefit all four of these cities. The chiefs are working through that at their level and the City is encouraged to proceed with the acceptance of those funds. The City did receive additional information on the Broadband Initiative and based on the feedback, it is not something that will be pursued further.

City Manager McDonough gave an update on the Marta Funding. He stated it is anticipated to receive up to $1.8 million for projects in Sandy Springs as a result of those funds. Staff has already submitted to ARC several projects and recently found out there are some additional areas that the City now qualifies for, which would be outside of the TIP and LCI study areas. Staff is recommending that Council consider adding some additional projects so the City can fully utilize the $1.8 million.

Councilmember Jenkins stated that a nurse from the area had mentioned that some patients were having issues getting to the Marta location due to problems with the sidewalk. She stated it would be helpful if some of the funds could be used to fix the sidewalks around Marta.

Transportation Planner Mark Moore stated when the PCID project is completed there will be connectivity from Hammond Drive past Johnson Ferry. He stated the staff will check to see if the side streets are included in this project.

Motion and Vote: Councilmember DeJulio moved to approve receipt of the grants identified by the City Manager in the Update on Grant Initiatives. Councilmember MacGinnitie seconded the motion. The motion carried unanimously.

The Council took a ten minute break at this time.

PUBLIC COMMENT

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

(Agenda Item No. 09-210)
EXECUTIVE SESSION - Litigation

Motion and Vote: Councilmember DeJulio moved to enter into Executive Session to discuss pending litigation matters and to invite in the Community Development Director. Councilmember Fries seconded the motion. The motion carried unanimously with Councilmember MacGinnitie, Councilmember Fries, Councilmember Paul, Councilmember Jenkins, Councilmember DeJulio, and Councilmember Meinzen McEnerny voting in favor of the motion. Executive session began at 8:26 p.m.

Motion and Vote: Councilmember Paul moved to adjourn Executive Session and return to Regular Session. Councilmember MacGinnitie seconded the motion. The motion carried unanimously with Councilmember MacGinnitie, Councilmember Fries, Councilmember Paul, Councilmember Jenkins, Councilmember DeJulio, and Councilmember Meinzen McEnerny voting in favor of the motion. Executive session adjourned at 9:03 p.m.

Motion and Second: Councilmember Paul moved to authorize the Planning Department to begin the process of reconsideration of the Pacific Life project at the corner of Hammond Drive and Roswell Road; and begin initiation of a use permit and concurrent variances on that parcel. Councilmember MacGinnitie seconded the motion.

Councilmember Meinzen McEnerny stated for the record, if the City reopens this re-use permit, it does not mean that it will not go through the Planning Commission. It will go through the entire process and the public will be involved just as if it was a brand new deal.

Vote on the Motion: The motion carried unanimously.

(Agenda Item No. 09-211)
ADJOURNMENT

Motion and Vote: Councilmember DeJulio moved to adjourn the meeting. Councilmember Fries seconded the motion. The motion carried unanimously. The meeting adjourned at 9:07 p.m.

Date Approved: March 16, 2010

Eva Galambos
Eva Galambos, Mayor

Michael Casey
Michael Casey, City Clerk

CITY OF SANDY SPRINGS, GA

STATE OF GEORGIA
FULTON COUNTY

August 18, 2009

AFFIDAVIT FOR EXECUTIVE SESSION

Personally comes Eva Galambos, Mayor of the City of Sandy Springs, who on oath says that to the best of her knowledge and belief, on the 18th day of August, 2009, in the city aforesaid, a meeting of the Council was closed to the public for the following reason(s):

> Attorney/client privilege in order to consult and meet with legal counsel pertaining to pending or potential litigation, settlement, claims, administrative proceedings or other judicial actions brought or to be brought by or against the agency or any officer or employee or in which the agency or any officer or employee may be directly involved, pursuant to O.C.G.A. 50-14-2(1).

and that except for the foregoing, no portion of the closed meeting involved discussion, presentation, or action on any other matter.

Eva Galambos

Eva Galambos, Mayor

Sworn to and subscribed before me,
this 18TH day of AUGUST, 2009.

Michael D Casey
Notary public (SEAL)

MICHAEL D. CASEY
MY COMMISSION EXPIRES
NOTARY PUBLIC
JANUARY 11, 2013
CHEROKEE COUNTY, GEORGIA