Regular Meeting of the Mayor and City Council of the City of Sandy Springs was held February 20, 2007 at 7:00 PM, Mayor Eva Galambos presiding.

Invocation

Rabbi Mario Karpuj, Congregation Or Hadash offered the invocation.

Call to Order

Mayor Galambos called the meeting to order at 7:04 p.m.

Roll Call and General Announcements

Mayor Galambos requested that the City Clerk call the Roll.

City Clerk Rowland reminded everyone to silence their cell phones and pagers at this time. She introduced the City Council Pages Andrew Settle, Ridgeview Charter Middle School and David Fernandez, Ridgeview Charter Middle School. 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 Dianne Fries, Councilmember Karen Meinzen McEnerny, Councilmember Dave Greenspan, Councilmember Ashley Jenkins, Councilmember Rusty Paul, and Councilmember Tibby DeJulio.

Pledge of Allegiance

Council Pages led the Pledge of Allegiance.

Approval of Meeting Agenda

Motion and Vote: Councilmember DeJulio moved to add a presentation from the Citizens for Sandy Springs to the agenda. Councilmember Paul seconded the motion. There was no Council discussion. The motion carried unanimously.

Motion and Vote: Councilmember Meinzen McEnerny moved to remove agenda item number 07-039, Approval of the February 6, 2007 Regular Meeting minutes from the Consent Agenda for discussion. Councilmember Fries seconded the motion. There was no Council discussion. The motion carried unanimously.

Consent Agenda

Approval of Minutes:

1. **February 6, 2007 Regular Meeting Minutes**
2. **February 13, 2007 Work Session Minutes**
3. **Approval of Administrative Modifications AM06-001, AM06-002, AM06-003, AM06-004, AM06-005, AM06-006, AM06-007, AM06-008, AM06-009, AM06-010.**
4. **Approval of a one hundred twenty (120) day agreement extension with Sandy Springs Youth Sports.**
5. **Approval of a Resolution authorizing the acceptance of the right-of-way in Land Lot 16, Tract 1 and Tract 2 of the 17th District (.043 acres more or less or 1,866.26 SF) owned by Saint Joseph's Hospital of Atlanta, Inc.**
6. **Approval of a Resolution authorizing the acceptance of the right-of-way in Land Lot 19 of the 17th District (.020 acres more or less), owned by CRP Holdings GP-V, LLC**
7. **Approval to cancel the April 2, 2007 Regular Meeting.**

Motion and Vote: Councilmember DeJulio moved to approve the Consent Agenda as amended. Councilmember Fries seconded the motion. There was no Council discussion. The motion carried unanimously.

Presentations

Councilmember DeJulio stated that 20 years ago an organization was formed and known as Citizens for Sandy Springs. It was a 501(c)3 non-profit organization for the betterment of Sandy Springs. A pledge was made at that time when Sandy Springs becomes a City, these organizations would be abandoned. A little over a year ago, this organization which Councilmember Paul is Vice President and he is President, presented the City with a large check for start up money. Councilmember Paul presented a check to the Friends of Sandy Springs.

Public Hearing

City Clerk Rowland read the Zoning Rules into the record.

Zoning

Consideration of Approval of RZ06-053/CV06-038, 5160 Peachtree-Dunwoody Road, *Applicant: Ronald Burton,* rezoning property from R-2 to R-3 for the development of 2 single family lots, with concurrent variances.

City Clerk Rowland stated that Agenda Item No. 07-044 is for consideration of approval of RZ06-053, 5160 Peachtree-Dunwoody Road. Applicant is Ronald Burton to rezone property from R-2 to R-3 for the development of two (2) single family lots, with concurrent variances.

Assistant Director of Planning and Zoning Zehner stated that subject property is located at 5160 Peachtree-Dunwoody Road. The petitioner is represented by Pete Hendricks. The applicant requests to rezone his property from R-2 to R-3 for the development of two (2) single family lots at a density of 1.61 units per acre. The concurrent variance requires a fifty (50) foot yard setback to forty-six (46) feet to allow the existing residence to remain. Staff recommends denial of the rezoning and concurrent variance requests as did the Planning Commission. Should the Mayor and City Council see fit to approve the application, staff has listed recommended conditions on page 15 of the staff report. These recommended conditions indicates that the property be rezoned to R-2A however, that would not allow the applicant to net two lots so it would need to be R-3 if approved.

Pete Hendricks, 6085 Lake Forrest Drive stated that this property is in an area where the land plan calls for single family residential development with one unit to the acre. The applicant's request is for two (2) lots, one property is to the north and on the same side of Peachtree-Dunwoody Road of this site. The property is zoned R-3A and the density is two (2) units to the acre, outside the plan. Directly across on the east side of Peachtree-Dunwoody Road is an R-4 development at 3.41 units to the acre, outside the plan. To the southeast is Haven Court, zoned R-3A, a density of 2.48 units to the acre outside the plan. That is in an area where the recommendation on the plan is for residential development at one (1) to two (2) units to the acre with a density of The Claridges at 2.44 units to the acre outside the plan. If they corral outside the peripheral of the Peachtree-Dunwoody property encircled by the residential properties, four (4) of which are outside of the plan. A zoning map was given to Council which shows the area coming from the Glenridge Connector down to where the reflection of zero (0) to one (1) units to the acre ends. There is a total of six (6) residential developments in that fabric that exceed the plan. It is a view towards what is in place or existing as to the zoning in the immediate area of the property. The developments that have taken place on those properties that are in place right now is what the applicant had in mind when he filed the application, with a complete and well position view that certain request. Before Council tonight is two (2) lots to go on 1.24 acres at a density of 1.61 units to the acre and is well within the spirit of how the land plan has played out even though the land plan calls for one (1) unit or less to the acre which this application does not comply with.

Mayor Galambos called for public comment.

Neil MacLean, 300 Peachtree Dunwoody Circle stated that he lives around the corner from the subject property. Tonight he is here representing a group of homeowners that are most affected by this petition, including everyone on

Peachtree Dunwoody Circle. The Homeowners respectfully request that City Council follow the Planning Commission's recommendations and deny this petition. This petition was denied by at the Fulton County Commission meeting on October 5, 2005. The homeowners do not believe this petition demonstrates any legitimate hardship, economic or otherwise that would warrant deviating from the land use plan. And respectfully request that Council deny petition.

Harriet Mills, 975 W. Kingston Drive, President of Ridgeview Neighborhood Association spoke in opposition of this application and stated that there are problems with the stormwater and sewer.

Bruce Hanft, 1195 Kingston Drive, President Kingston Homeowners Association stated that the applicant bought the property next to the apartment complex. He believes the applicant will at some point come back to Council for high density town homes. The homeowners respectfully request that Council deny this petition.

Janice Elder, 115 Claridge Drive stated that it appears to her that what the applicant is trying to establish is a precedent. The properties that are immediately adjoined to this property that are under the rezoning request are not R-3 or R-4 but, specifically an acre a piece with a density of one (1) or less units per property.

Mr. Hendricks stated that the four (4) properties in the immediate area are outside the plan and are higher densities. Most of the properties along Peachtree Dunwoody Drive are one (1) acre in size or larger. The four (4) subdivisions he pointed out, have existing conditions in the immediate area of the property which, he feels gives sound good grounds for the approval of the application.

Ronnie Burton, 5335 Peachtree Dunwoody Road stated that he grew up in Sandy Springs and has seen many changes in the past 54 years. He would like to make the property into two (2) lots. He feels this is a harmless, viable, acceptable plan and is in keeping with the majority area and would in no way adversely affect the property or the property owners or the value of their property. The current land use plan is totally contradictory to reality of the zoning and the property ownership. Over 50% of the property ownership in your one (1) unit per acre future land use plan live on lots ½ acre or less. It seems that the City's Planning Department is honoring the wishes of outspoken minority property owners that want no change at all and Council is following their lead with no apparent analysis of the reality of today and changing needs of the market place. This is a ½ acre lot, not more apartments. On November 11, 2006 shortly after he filed his application, he and his wife went door to door on Peachtree Dunwoody Circle and introduced themselves to each homeowner and gave them advance notice on what they want to do. They were trying to be proactive with full disclosure, no surprises and be good neighbors. He felt they were well received but, to their surprise, none of the homeowners have called them to discuss the rezoning application with them. If someone is against them, that is their choice and there are no hard feelings. He hopes Council will be reasonable in the assessment of their application and vote for approval.

Motion and Vote: Councilmember DeJulio moved to deny RZ06-053/CV06-038, 5160 Peachtree-Dunwoody Road, rezoning property from R-2 to R-3 for the development of 2 single family lots, with concurrent variances. Councilmember Meinzen McEnerny seconded the motion. The motion carried unanimously.

Discussion on the Motion:

Councilmember Meinzen McEnerny stated that the neighborhood was 100% against this application, and that is an important consideration for Council to consider.

Consideration of approval of RZ06-054, 8825 Dunwoody Place, *Applicant: Bill Britain,* rezoning property from C-1 conditional to C-2 to maintain the existing carwash and to add an emissions inspection station.

City Clerk Rowland stated that Agenda Item No. 07-045, is for consideration for approval of RZ06-054, 8825 Dunwoody Place, Applicant is Bill Britain, rezoning property from C-1 conditional to C-2 to maintain the existing carwash and to add an emissions inspection station.

Assistant Director of Planning and Zoning Zehner stated that the applicant is represented by Melora Furman and is requesting to rezone the subject property from C-1 conditional to C-2 to maintain the existing carwash and to convert one of the existing bays into an emissions inspection station. The applicant is also requesting one concurrent variance to allow one of the existing vacuum cleaner stations to remain in a required five (5) foot landscape strip. Staff recommends approval with conditions listed in staff report. In addition, the Planning Commission heard the application on January 18, 2007, and recommended approval of the application at that time.

Melora Furman, 405 Willow Lane #2, Decatur stated that the applicant is requesting that his property be rezoned to allow for installation of an emissions inspection station and carwash which, has been located on this property since 1978. One of the carwash bays would be used as an emission station. Basically, he would be removing the carwash use and adding this substation. Car owners could reduce the number of separate trips thereby reducing the traffic conditions on nearby roads. The property owner is Bill Britain. The emission station would be staffed by an employee who would be able to monitor activity on the site. The applicant is asking for a variance to allow the existing vacuum clear stations to remain in the required five (5) foot landscape strip along the north property line. Applicant does not think the vacuum stations are esthetically undesirable on a car wash property. Mr. Britain's plan is to provide additional landscaping in the front landscape island, the south side setback would go a lot further to improve the esthetics on the site. Removing the vacuum station from a plan grass strip which, really would not be much better than what is there now. They accept the remaining conditions as recommended by the Planning Commission and staff. In summary, the emission station would benefit the community, consolidate vehicular trips and, by allowing Mr. Britain to have the site watched and monitored. Implement conditions as recommended by the Planning Commission and staff to replace the existing pole sign with a monument sign and, to provide additional landscaping in the required landscape strips except for the one landscape strip where they want to keep the vacuum station. It will improve the appearance of the site and contribute to the character at Dunwoody Place and Roswell Road. Applicant respectfully request City Council approval of his application.

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

Councilmember Fries questioned if applicant would be willing to work with the City Arborist on the landscaping at the new monument sign in the front. Ms. Furman stated the applicant would be happy to work with the City Arborist.

Mayor Galambos stated that this is zoned C-2 conditional to this particular use and questioned if this could be applied to some C-2 commercial in the future.

Assistant Director of Planning and Zoning Zehner stated that is correct. Applicant would be conditioned to only allow the carwash uses and the emissions inspection station.

> **Motion:** Councilmember Fries moved to approve RZ06-054, 8825 Dunwoody Place, rezoning property from C-1 conditional to C-2 to maintain the existing carwash and to add an emissions inspection station with the following staff conditions as amended by requiring the applicant to work with the City Arborist to develop a landscape plan for the monument sign:
>
> 1. To the owner's agreement to restrict the use of the subject property as follows:
>
> a. Carwash and associated accessory uses at a density of 3,707.78 square feet per acre or 3,908 square feet, whichever is less.
>
> b. Emissions inspection station at a density of 305.50 square feet per acre or 322 square feet, whichever is less.
>
> c. There shall be no servicing of vehicles outside of the carwash and emissions bays or the vacuum stations.
>
> 2. To the owner's agreement to abide by the following:

a. To the site plan received by the Department of Community Development dated November 7, 2006. 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. The applicant shall be required to complete the concept review procedure prior to application for 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. The owner/developer shall dedicate forty-five (45) feet of right-of-way from centerline of Dunwoody Place along the entire property frontage or ten and one-half (10.5) feet from back of curb, whichever is greater, to the City of Sandy Springs.

b. Prior to issuance of an LDP, the owner/developer shall attempt to provide interparcel access with the properties to the north and south. Should the owner/developer not come to an agreement on interparcel access at this time, the owner/developer shall provide documentation of such. In addition, if an interparcel access agreement is not obtained, permanent easements shall be recorded allowing for future inter-parcel access, prior to the issuance of an LDP.

c. To the removal of the existing pole sign and to the installation of a thirty-two (32) square foot, eight (8) foot tall monument-style sign consistent with the Zoning Ordinance.

d. To allow the existing vacuum cleaner stations to remain in the required five (5) foot landscape strip along the north property line (CV06-045).

e. To provide additional landscaping along all property lines in the required landscape strips and around any freestanding sign installed on the property. Said landscaping shall be subject to the approval of the Sandy Springs Landscape Architect/Arborist.

Second and Vote: Councilmember Jenkins seconded the motion. There was no Council discussion. The motion carried unanimously.

Consideration of approval of RZ06-057, 5757 Riverside Drive, *Applicant: Jeff Minton,* rezoning property from R-2 conditional to R-2 for the development of 2 single family lots.
Ordinance No. 2007-02-13

City Clerk Rowland stated that Agenda Item 07-046, is for consideration of approval of RZ06-057, located at 5757 Riverside Drive. The applicant is Jeff Minton, rezoning property from R-2 conditional to R-2 for the development of two (2) single family lots.

Assistant Director of Planning and Zoning Zehner stated that the applicant is requesting to rezone the subject property from R-2 conditional to R-2, for the development of two (2) single family lots at a density of 0.69 units per acre. The current zoning is R-2 conditional. Staff is recommending denial of this application. The Planning Commission heard the application on January 18, 2007, and has recommended approval of the application with staff's recommended conditions should the Mayor and City Council see fit to approve the application.

Jeff Minton, 4534 Mt. Paran Parkway stated that the applicant is seeking a change in zoning. The property is already zoned R-2, applicant would like the change from 0.5 density to 0.69 to build two (2) single family homes. The homes will be occupied by an owner and a son. No trees in the setback will be affected and no specimen trees will be affected. The Design Review Board voted 5-0 in favor. The homeowner has agreed to both conditions recommended by staff. In addition to that, In terms of community response, three neighbors stopped by and walked the property with the owner. The applicant has received numerous cards, letters and notes welcoming them to the neighborhood.

Mayor Galambos called for public comment.

Ellen Ongashick, 5757 Riverside Drive stated that her family wants to build a retirement home on this new lot. Their two grandchildren will live across the street. Both her husband and son work in Sandy Springs, and she is a member of the Sandy Springs Society. Her family has only received positive comments and welcoming comments from their new neighbors. The two lots will be 0.69 which is lower than the surrounding homes average of .77.

Councilmember Jenkins stated that the Planning Commission needs to be consistent throughout the City. She does not like to piece meal each zoning that comes before Council. Mr. Zehner stated that he would forward her comments to the Planning Commission.

Mayor Galambos questioned applicant if he could live with the height requirement. Mr. Minton stated he could.

Councilmember Fries questioned if it would be better to make it two stories and not get into a height number restriction on this property.

Councilmember Meinzen McEnerny stated that maybe it should be taken out because the current regulations allow for 40 feet. Mr. Zehner stated that it would be best to strike it.

Councilmember Meinzen McEnerny requested clarification from staff that no letters of opposition were received.

Mr. Zehner stated there were no letters in the file.

Motion: Councilmember Meinzen McEnerny moved to approve RZ06-057, 5757 Riverside Drive, rezoning property from R-2 conditional to R-2 for the development of 2 single family lots with the following staff conditions as amended by removing condition 1.c:

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

a. Two (2) single family residential lot at a density of 0.69 units per acre.

b. The minimum heated floor area per dwelling unit shall be 4,500 square feet.

2. To the owner's agreement to abide by the following:

a. To the site plan received by the Department of Community Development on November 7, 2006. 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. The applicant shall be required to complete the concept review procedure prior to application for 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. The owner/developer shall dedicate thirty (30) feet of right-of-way from centerline of Riverside Drive along the entire property frontage or ten and one-half (10.5) feet from back of curb, whichever is greater, to the City of Sandy Springs.

Second and Vote: Councilmember Paul seconded the motion. There was no Council discussion. The motion carried unanimously.

Solid Waste

Approval of an Ordinance Amending the Regulation of Solid Waste Collection Services within the City of Sandy Springs, and Providing for the Scope and Nature of the Operation of Such Services.
Ordinance No. 2007-02-14

City Clerk Rowland stated that Agenda Item No. 07-024 is for the approval of an Ordinance amending the regulations of Solid Waste Collection Services within the City of Sandy Springs, and providing for the scope and nature of the operation of such services.

Director of Public Works Parham stated that before Council is a revised ordinance which addresses several changes that City Council requested last week. Highlights of the changes are; insurance language requirement will changed back to the original insurance requirement, operations on Sunday were prohibited in Section 4.3, Penalty language was added in Section 2, added a statement to include the goal of reducing Solid Waste in the City by 25%.

Councilmember Fries stated that there are no recycling provisions for what would happen to someone if they didn't take it to the proper recycling facility.

Mayor Galambos stated that there is a requirement in the Ordinance that would take care of that.

Councilmember Fries stated that in Section 7 it states that the recycling must be taken to the proper place, she questioned if it should say "shall". She would like to have that changed.

City Manager McDonough stated that Section 2 references the City's general penalty requirements. If someone fails to comply with that, then staff can take the appropriate enforcement measures to bring them before the Municipal Court.

Mayor Galambos questioned if Section 2 allowed for that and if it directs the City to take appropriate action, and if it would cover the situation if someone does not properly dispose of the recycling.

City Manager McDonough read Section 2; "it shall be illegal for any company to operate outside the terms of this agreement. Should companies engage in operations that violate this contract, or operate without first notifying the City of acceptance of this contract's terms, said company shall be subject to penalties as outlined in Chapter 1, Article 3 of the Sandy Springs Code of Ordinances."

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

Motion and Vote: Councilmember Fries moved to approve an Ordinance establishing Solid Waste Collection Services within the City of Sandy Springs; providing for the scope and nature of the operation; providing for the disposal of garbage, solid waste and refuse; providing procedures for the handling of complaints; providing for an infrastructure maintenance fee; requiring indemnity insurance; providing for revocation and amendment; prohibiting assignment and subletting of the contract without consent: providing for forfeiture; and making other provisions with the amendment to Section 7 changing the word "must" to "shall". Councilmember Meinzen McEnerny seconded the motion. There was no Council discussion. The motion carried unanimously.

<u>Alcoholic Beverage License Applications</u>

Consideration of Approval of Alcoholic Beverage License Application (00389) for Noble Management Group, LLC d/b/a The Westin Atlanta North at Perimeter at 7 Concourse Parkway Sandy Springs, GA 30328. Applicant is Noble Management Group, LLC for Consumption on premise Distilled Spirits, Wine and Malt Beverages.

City Clerk Rowland stated that Agenda Item No. 07-047 is for consideration of approval of Alcoholic Beverage License Application (003890) for Noble Management Group, LLC d/b/a The Westin Atlanta North perimeter at 7 Concourse Parkway, Sandy Springs. Applicant is Noble Management Group, LLC for Consumption on premise Distilled Spirits, Wine and Malt Beverages.

Assistant City Manager Crace stated that the application is in order, all items are complete and all public facilities have been inspected. Staff recommends approval of this application.

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

> **Motion and Vote:** Councilmember DeJulio moved to approve the Alcoholic Beverage License Application (00389) for Noble Management Group, LLC d/b/a The Westin Atlanta North at Perimeter at 7 Concourse Parkway Sandy Springs, GA 30328. Applicant is Noble Management Group, LLC for Consumption on premise Distilled Spirits, Wine and Malt Beverages. Councilmember Paul seconded the motion. There was no Council discussion. The motion carried unanimously.

Consideration of Approval of Alcoholic Beverage License Application (004126) for Select Hotel Group d/b/a Amersuites at 1005 Crestline Parkway Sandy Springs, GA 30328. Applicant is Select Hotel Group for Consumption on premise Wine and Malt Beverages.

City Clerk Rowland stated that Agenda Item No. 07-048 is for consideration of approval of Beverage License Application (004126) for Select Hotel Group d/b/a Amersuites at 1005 Crestline Parkway Sandy Springs. Applicant is Select Hotel Group for Consumption on premise Wine and Malt Beverages.

Assistant City Manager Crace stated that the application is in order, all items are complete and no further inspections are required. Staff recommends approval of this application.

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

> **Motion and Vote:** Councilmember Fries moved to approve the Alcoholic Beverage License Application (004126) for Select Hotel Group d/b/a Amersuites at 1005 Crestline Parkway Sandy Springs, GA 30328. Applicant is Select Hotel Group for Consumption on premise Wine and Malt Beverages. Councilmember Paul seconded the motion. There was no Council discussion. The motion carried unanimously.

<u>New Business</u>:

Consideration of Approval of an Ordinance granting a Franchise to Atlanta Gas Light Company Ordinance No. 2007-02-15

City Clerk Rowland stated that Agenda Item No. 07-049 is for consideration of approval of an Ordinance granting a Franchise to Atlanta Gas Light Company.

City Attorney Willard stated that the agreement has been finalized with the Atlanta Gas Light Company. Council discussed this at the last Work Session. This Agreement goes for an initial term of ten (10) years with the option thereafter for five (5) year increments up to fifty (50) years. However, there is a right of either party prior to the expiration of any of the five (5) year options to notify the party opting out as far as stopping the agreement and continue for the full fifty (50) years. The formula is complicated but, is based upon the same standards used by AGL in other local jurisdictions for determining what will be the amount of payments the City pays for franchise rights to the right-of-way. Upon signing this agreement the City will receive two checks, one for the initial term for December 2005 and the next full year.

Director of Financial Services Rapson stated that Atlanta Gas would actually pay on a quarterly basis. Atlanta Gas has been waiting for this contract to be revised for FY-2007, and will pay the City on what is quarterly due for 2007. They will also pay the City back for 2006, last year it was about $721,000.

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

> **Motion and Vote:** Councilmember Paul moved to approve an Ordinance granting to Atlanta Gas Company, A Georgia Corporation, hereinafter designated as "grantee", its successors and assigns, the right and franchise to use and occupy the streets, avenues, roads, public highways, alleys, lanes, ways, parks, and other public places of the City of Sandy Springs, Georgia, for constructing, maintaining, renewing, repairing, and operating a gas distribution system, and other necessary means for manufacturing, transmitting, distributing and selling manufactured, natural or commingled gas within and through the City of Sandy Springs, Georgia, and fixing the

terms and conditions of such grant. Councilmember DeJulio seconded the motion. There was no Council discussion. The motion carried unanimously.

Consideration of Approval of an Ordinance adopting Chapter 8, Parks and Recreation of the City of Sandy Springs Code of Ordinances.

City Clerk Rowland stated that Agenda Item No. 07-050 is for consideration of approval of an Ordinance adopting Chapter 8, Parks and Recreation of the City of Sandy Springs Code of Ordinances.

Director of Parks and Recreation Chambers stated that the changes have been implemented in the ordinance as suggested at last weeks Work Session. Staff has added Item (h) under Section 4 which will include fireworks; (u) added, service animals as long as they are accompanying some one that needs accompanying; (bb) added, skateboards on sidewalks as allowed; added item (kk) which deals with what various organizations are allowed to do in parks. This covers those organizations that have user and lease agreements with the City. It says "within the confines of this ordinance they are allowed to post and operate the rules and regulations they may set as long as they do not violate anything in this ordinance. It is the City Attorney's recommendation that from Article 3 and forward that part of this ordinance be separated out and placed in a more suitable chapter of the City Code.

Councilmember Fries stated that she has concerns with Section 3, Permitted Park Activities (d) where it says "consent may also be given by the Mayor and City Council, provided the recreation and parks department is made aware of the proposed use". She feels that there needs to be a better process. City Manager McDonough has a better way to word that.

City Manager McDonough stated that it could be directed through the Parks and Recreation Director through his office and then determination could be made.

Councilmember Fries stated that maybe it should be that the Mayor and Council can come to him and initiate if they can sell something or not and then he get with the Parks Director and work on it.

City Manger McDonough stated that an amendment is in order.

Councilmember Greenspan stated that he still has an issue with smoking being allowed in the parks.

Motion and Second: Councilmember Paul moved to approve an Ordinance adopting Chapter 8, Parks and Recreation of the City of Sandy Springs Code of Ordinances. Councilmember Fries seconded the motion.

Motion to Amend No. 1: Councilmember Greenspan moved to amend Article 2, Section 4 (dd) to read "It shall be unlawful to smoke in the park". Councilmember Meinzen McEnerny seconded the motion.

Discussion on the Motion:

Councilmember Paul stated that smoking is a health issue and a cleanliness issue as well.

Councilmember Jenkins stated that there is not a problem at any of the current Parks with people running around smoking. The parents are not smoking around the kids. It is not a problem. She does not like it when Council passes laws when there is no problem.

Councilmember Meinzen McEnerny stated that changes are being made to ordinances before any situation occurs. She feels it is appropriate for Council to address what could be a safety or health issue.

Councilmember DeJulio agreed with Councilmember Jenkins on this issue. Council is trying to over regulate and does not need to tell adults that they can not smoke, it is their business. He does agree that minors should not be allowed to smoke because it is a state law.

Councilmember Greenspan explained that having spent the last three years at Morgan Falls during baseball season that when parents light up it is a big issue. As far as smoking at Big Tree he would think that discarding a match or cigarette butt would be a concern.

Second and Vote: Councilmember Meinzen McEnerny seconded the motion. The motion failed 3-4 with Councilmember Fries, Councilmember Jenkins, and Councilmember DeJulio voting in opposition. Mayor Galambos broke the tie vote voting in opposition.

Motion to Amend No. 2 and Vote: Councilmember Fries moved to amend Article 2, Section 3 (d) so that the last sentence reads "Such consent may also be given by the Mayor and City Council by a majority vote upon recommendation by the City Manager, provided the recreation and parks department is made aware of the proposed use and it does not conflict with other scheduled activities." Councilmember Paul seconded the motion. The motion carried unanimously.

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

Vote on Main motion: The motion carried unanimously.

Consideration of Approval of a Resolution establishing a City of Sandy Springs Stormwater Policy. Resolution No. 2007-02-13

City Clerk Rowland stated that Agenda Item No.07-051 is for consideration of approval of a Resolution establishing a City of Sandy Springs Stormwater Policy.

Director of Public Works Parham stated that the long term goal for the Stormwater Policy for the City is it provides a program that improves the infrastructure and, to meet the high community standards the City has. There are some interim steps staff has taken towards the Stormwater policy and implements the first Phase. This policy proposes that staff address these issues on a short time basis, particularly by categorizing the request received for Stormwater and infrastructure improvement. Staff is proposing three categories; Category 1 – Immediate Danger, Threat to Public Safety, Category 2 – Condition Rapidly Degrading to a Serious Condition, Category 3 – Maintenance/Cosmetic Repair. The City Attorney would make a final recommendation on this policy regarding the maintenance responsibility of the City considering such things as right-of-way easements, recorded plat and any amendments that have been made to the drainage systems. The longer terms policy will be adopted at a later date.

City Manager McDonough stated that the City owes the public a response to some of these problems they have been brought to staffs attention and have been piling up over the last year. Staff has received about 30 now and based on these criteria, it would be the City's responsibility. The other problems would not be the City's responsibility. Staff needs Council to give direction on how to handle these issues.

Councilmember DeJulio stated that on some of these issues that the City Attorney determines are not the City's responsibility but, the City has to go in and fix it anyway because it is an immediate problem and could cause further damage or etc. He questioned if the City had a way to go in and fix it and to recoup the cost from the person/party who is responsible.

City Attorney Willard stated that the City must be very careful when going on private property because, you do not have right of entry. It could be done, the City needs to be very careful as far as working up the intrusion on the property, and that the City is not assuming future maintenance responsibilities or acquiring an interest of that structure. A clogged or broken pipe that is on a private easement area; the City might have to go in and stop flooding situations and the City may have an emergency on public health and welfare entry on that basis.

Councilmember DeJulio stated that he would like for the City Attorney to look into that so that when the permanent policy is in place Council could address it.

City Manager McDonough stated that typically in this kind of situation the City would attempt to obtain a limited construction easement for that purpose.

City Attorney Willard stated that he did not think Council could make a determination of a right to recover by ordinance. General Law states that the City may implement by ordinance, but the City can not create it. If a property owner has an emergency of that nature it is his responsibility. The City and property owner could enter into an agreement which allows the City to fix the problem and the property owner agrees to reimburse the City for all expenses.

Councilmember Paul stated that this is a serious problem and that a more permanent solution is needed. He questioned when staff would be coming back to Council with a full provision to the problem and how the City will pay for it.

Director of Public Works Parham stated that staff is waiting for direction from City Council. If Council would like for staff to proceed with a recommendation then staff is looking at going at a Stormwater Utility. If Council would like for staff to start putting it together then staff would be glad to do that.

Mayor Galambos stated that it is her understanding that Roswell has just passed a Stormwater Utility Ordinance; she would like to see it at the next Work Session.

Assistant City Manager Crace stated that the City has a master timeline on that to comply with state law and meet the minimum standards. If you are going to set something up like this you got to have a good foundation, good data and good law under you. The Comprehensive Plan has to be adopted to become a qualified government. The next step is we have already started a preliminary plan to move both the impact fees and Stormwater utilities. Our schedule calls for those things to be done in parallel. There are certain studies and rational mixes of law and certain factual findings so you can set the utility. Our initial concept is that we should have both the capital construction funds for facilities and should also have operation and maintenance monies so once you take these facilities in there is a regular, reliable revenue so they can be maintained, fixed up and over a period of time try to improve our situation and bale our way out of the situation we have inherited.

> **Motion and Vote:** Councilmember DeJulio moved to approve a Resolution establishing a City of Sandy Springs Stormwater Policy. Councilmember Paul seconded the motion. There was no Council discussion. The motion carried unanimously.

Consideration of Approval of a Resolution authorizing a sixty (60) day extension of an agreement for the North Fulton Tennis Center.

City Clerk Rowland stated that Agenda Item No.07-055, is for consideration of approval of a Resolution authorizing a sixty (60) day extension of an agreement for the North Fulton Tennis Center.

Director of Parks and Recreation Chambers stated that this Resolution will extend the existing agreement the City has for the North Fulton Tennis Center, and gives an additional sixty (60) days to allow staff more time to review the agreement and to make sure it is what the City wants.

Councilmember Jenkins questioned if this would be the last extension.

Director of Parks and Recreation Chambers stated it would be.

> **Motion and Vote:** Councilmember Paul moved to approve a Resolution authorizing a sixty (60) day extension of an agreement for the North Fulton Tennis Center. Councilmember Fries seconded the motion. There was no Council discussion. The motion carried unanimously.

<u>Unfinished Business</u>:

Consideration of Approval of an Ordinance amending Section 6.02(b) of Article VI of the City of Sandy Springs Charter. (Second Reading)
Ordinance No. 2007-02-17

City Clerk Rowland stated that Agenda Item No.07-030 is for consideration of an Ordinance amending Section 6.02(b) of Article VI of the City of Sandy Springs Charter. This is the second reading of the ordinance.

City Attorney Willard stated that this is to bring the transition time up in the Code to the full two years which the City is allowed to have under general law. The City's Charter is originally set up for 13 months. Staff believes there is a need, because the Comprehensive Land Use Plan that Council is in the process of adopting in order to become a certified City. It is going to take a little bit longer than originally planned.

> **Motion and Vote:** Councilmember DeJulio moved to approve an Ordinance to amend Section 6.02(b) of Article VI of the Charter of the City of Sandy Springs relating to the transition period allowed for the orderly transition of various functions from Fulton County to the City of Sandy Springs. Councilmember Meinzen McEnerny seconded the motion. There was no Council discussion. The motion carried unanimously.

Consideration of approval of Revised award of Purchase Order for Police Vehicles.

City Clerk Rowland stated that Agenda Item No.07-036 is for consideration of approval of a revised award of Purchase Order for Police Vehicles.

Director of Financial Services Rapson stated that this was brought before Council at the last meeting. Staff reviewed Purchase Order and found that the vendor inappropriately bid on Impalas instead of Crown Victorias. Staff then went to the next lowest bidder. This Purchase Order will have another amendment to the recommendation on Brannen Motor and needs to add another $2,460 for center consoles. This is still within budget and will still save the City roughly $37,000.

> **Motion and Vote:** Councilmember Fries moved to approve the revised award of Purchase Order for Police Vehicles further amended by $2,460.00 for center consoles. Councilmember Jenkins seconded the motion. There was no Council discussion. The motion carried unanimously.

Consideration of approval of the February 6, 2007 Regular Meeting Minutes.
(Clerk's note: This item was removed from the Consent Agenda by motion and vote)

> **Motion and Vote:** Councilmember Meinzen McEnerny moved to defer consideration of the February 6, 2007 Regular Meeting minutes to the March 6, 2007 meeting. Councilmember Fries seconded the motion. There was no Council discussion. The motion carried unanimously.

Reports and Presentations:

City Manager McDonough stated that Ray's On The River is in the process of improving their building with renovations. Upon further review of how this would affects the owners liquor license, the ordinance states that "if a business ceases to operate for a period of three months they would have to go through a full reapplication process. Staff proposes to bring forward an amendment to Council at the next council meeting which would allow this business to improve their premise without being penalized.

City Manager McDonough stated that during the mid-year budget review staff came to Council with a recommendation which Council approved adding additional police officers. Over the course of the last several weeks staff has found that the competition continues to go up and the candidate pool of qualified experience applicants continues to go down. Chief Wilson and his Command staff recommend that all of the starting officers be brought in as Senior Officers which is about $5,000 more for the officers.

Councilmember Meinzen McEnerny questioned if one of the positions would be funded by a grant.

City Manager McDonough stated that is correct. And the positions will have a higher starting salary.

City Manager McDonough gave an update on the water main break issue that occurred over the weekend.

Public Comment

Harriet Mills, 975 W. Kingston Drive stated that she is a proud citizen of Sandy Springs and thanked Council and staff for all their hard work.

Pamela Packer, 140 Saddleview Run, representing several homeowners. She has spent most of her adult life volunteering in this community. Her goal has always been to make a difference and to help others in need. Now, much of her time and financial resources are going towards protecting the floodplain property behind her home and adjacent to many of her neighbors. She voted for Sandy Springs because she believed this community would be better served. She appeared before City Council on September 2006, to inform the Mayor and City Council of neighbors concern of the land disturbance permit issued on the AG-1 floodplain property of Spencer Chang. She left that meeting confident that the concerns would be heard and issues resolved. Tonight, she is asking Council to make sure that the City ordinance are being enforced and to stop City staff from issuing land disturbance permits without detail information to ensure our environment, the Chattahoochee River and all homeowner properties are protected. The floodplain property remains in violation of ordinance. The owner Spence Chang continues to submit plans to the City of how to bring the land back into compliance. These plans continue to include more floodplain disturbance and an additional bond in all of this between two streams that flow to the Chattahoochee River and are located directly behind her home. The property floods one to two times a years, sometimes without any notice. The floodwater rises four to five feet without any notice to remove the safety of horses, etc. There are piles of manure which flow into the Chattahoochee, unstable dirt and other concerns of the homeowners. The homeowners ask that Council to review any plans that are submitted to the City for this property and careful evaluate it to make sure it does not impact their land, the Chattahoochee and the wildlife.

Robert Webb, 442 Meadow Wash Lane stated that his home backs up to the Spencer Chang property within the floodplain. Mr. Chang continues to be in violation of the zoning having the barn within the floodplain. The information Mr. Chang used to obtain the building permit was not accurate. It has come to his attention that Mr. Chang intends on building another barn and is operating a commercial activity in the floodplain in purview of his backyard. There is a tremendous amount of traffic coming down a small residential lane. There is a great pile of manure his family has to smell and look at every morning, in addition to the ongoing activities that is disturbing the land behind their home. Sandy Springs is a wonderful community and Mr. Chang is not following the rules. This situation with Mr. Chang's property has gone too far, too much money and time is being spent to get the land restored to where it was before. He requested that City Council look into this situation.

Councilmember Greenspan requested an update on this matter.

City Attorney Willard stated that all of this is under the supervision of Fulton County Superior Court. City of Sandy Springs staff is doing a very good job representing the interest of the property owners in this issue.

Assistant Director of Planning and Zoning Zehner stated that Bennett White sat down with the Engineer for Mr. Chang and reviewed his plans. The property owner's attorney was present under that review and it is his understanding that the plans are an attempt by the applicant to bring the property into compliance. That was the direction from the court to perform that review.

Executive Session

Attorney-Client Consultation

Motion and Vote: Councilmember DeJulio moved to enter into executive session for an Attorney-Client Consultation. Councilmember Fries seconded the motion. There was no Council discussion. The motion carried unanimously with Councilmember Dianne Fries, Councilmember Karen Meinzen McEnerny, Councilmember Dave

Greenspan, Councilmember Ashley Jenkins, Councilmember Rusty Paul, and Councilmember Tibby DeJulio voting in favor of the motion. Executive session began at 9:12 p.m.

Motion and Vote: Councilmember DeJulio moved to adjourn executive session. Councilmember Paul seconded the motion. There was no Council discussion. The motion carried unanimously with Councilmember Dianne Fries, Councilmember Karen Meinzen McEnerny, Councilmember Dave Greenspan, Councilmember Ashley Jenkins, Councilmember Rusty Paul, and Councilmember Tibby DeJulio voting in favor of the motion. Executive session ended at 10:00 p.m.

Adjournment

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

Being no further discussion, the meeting adjourned at 10:01 p.m.

Approved: March 20, 2007

Eva Galambos, Mayor

Christina V. Rowland, City Clerk

CITY OF SANDY SPRINGS, GA

STATE OF GEORGIA
FULTON COUNTY

February 20, 2007

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 20th day of February, 2007, in the city aforesaid, a meeting of the Council was closed to the public for the following reason(s):

Discussing or deliberating upon the appointment, employment, compensation, hiring, disciplinary action or dismissal, or periodic evaluation or rating of a public officer or employee, but not receiving evidence or hearing argument on charges filed to determine disciplinary action or dismissal of a public officer or employee, pursuant to O.C.G.A. 50-14-3(16);

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 20 day of February, 2007.

Christina V Rowland

Notary public (SEAL)

CHRISTINA V. ROWLAND
Notary Public, Fulton County, GA
My Commission Expires Oct 30, 2010