

Work Session Meeting of the Sandy Springs City Council was held on Tuesday, February 3, 2015, at 7:00 p.m., Mayor pro tem Tibby DeJulio presiding.

Councilmembers present: Councilman John Paulson, Councilman Ken Dishman, Councilman Graham McDonald, Councilman Gabriel Sterling, and Councilman Andy Bauman.

STAFF DISCUSSION ITEMS

Public Works

1. 15-053

Lake Forrest Dam Repair Project Update

City Attorney Wendell Willard stated there is a situation with a dam that is located in the cities of Atlanta and Sandy Springs. Under the safe dams act, the State performs inspections of all Category I dams, which are the dams that may have a threat or endangerment to life if they fail. The dam being discussed now is the Lake Forrest dam and Lake Forrest Drive crosses over the dam. The dam was probably built about sixty years ago and was a development of the subdivision that surrounds the lake and two other separate lakes. The ownership of the lake itself is through the Three Lakes Corporation. There are two tiers above the main lake and the big lake has the dam that is being discussed. There was a creek in this area at one time. After receiving a letter from the State several years ago, the City looked into the issue to determine who has ownership and responsibility for the lake. There was a clarity judgment in the court for that reason and to look to the surrounding property owners to see if they have any interest. If the property owners did have any interest, it was discovered through a survey that the interest is nominal. The cities of Atlanta and Sandy Springs began working together to resolve the problem. Sandy Springs employed the services of Schnabel Engineering Firm, which is a well-recognized firm that deals in the design and maintenance of dams. In attendance this evening representing that firm are Chuck Wilson and Brad Boyer.

Chuck Wilson, Engineer, gave the Lake Forrest Dam Repair PowerPoint presentation.

Councilman Andy Bauman asked what the height of the slope is.

Mr. Wilson responded the slope is about forty feet in height.

Councilman Gabriel Sterling asked if the way the dam is currently designed, can it handle the 1 ½ PMP.

Mr. Wilson responded no, the water would overtop the dam by about two feet.

Councilman Sterling stated the City will go above and beyond if Option 2 or Option 3 is chosen.

Mr. Wilson stated whatever is done it will address public safety.

Councilman Sterling asked about the 100 year flood capability.

Mr. Wilson stated as the dam is currently, the 100 year storm level is being maintained and that level of water will not go over the dam.

Councilman Sterling asked if Option 4 would be a single structure north of the existing lake or a series of structures along the streambed to follow both EPD requirements.

Mr. Wilson stated he does not have the answer to that question, but the environmental consultants informed him that there would probably have to be a water quality pond before doing anything with the lake, because the volume of water would be controlled. Lake Forrest Drive may be closed for about twelve months.

City Attorney Willard stated the City of Atlanta has been working with Sandy Springs and they have agreed to share the cost of the project. At the meeting on February 11th there needs to be as many of the community members in attendance as possible in order to discuss their cooperation. The residents will retain the benefit to the property, which is the lake. There are easements to be acquired and staff would like to speak to the residents about being cooperative. The easements needed are water level easements that will be on their property. Staff has identified two properties that are right below the toe of the dam. Because of the slope that will be required to be created for the face of the dam, it will extend severely into the properties. Doing this may require acquisition of those properties.

Councilman Bauman asked if the properties are in Sandy Springs or Atlanta.

City Attorney Willard stated he believes one property is in Sandy Springs and the other is in Atlanta.

Mayor pro tem Tibby DeJulio asked if staff has any idea of the cost of this project.

Mr. Wilson stated this is a significant project and for Option 2 the concrete spillway itself would cost about \$700,000. There will also be the cost of relocation of the utilities, flattening the slopes, and other items. The project will be at least \$2 million.

Councilman Bauman asked how much does the City have set aside for the project.

City Manager John McDonough stated about \$800,000 has been set aside.

Councilman John Paulson asked if there is any question that this is a Category I dam.

Mr. Wilson stated his company did not do the dam break analysis.

Mayor pro tem DeJulio asked what is a dam break analysis.

Mr. Wilson stated when the State looks at a dam they look at the downstream flow rate. The criteria references residences, commercial facilities, and schools where there may be a potential loss of human life. If a sunny day breach is conducted and assuming that the lake is filled up to the crest of the dam, the simulated computer dam break portrays a breach opening and models the water going downstream. The channel geometry and the depth of the water velocity is looked at to see if a residence or commercial property will be flooded. If the velocity of the water in feet per second times depth is greater than fifteen, then a wooden structure will be demolished. There could be two feet of water flowing at nine feet per second and that number would be eighteen. Two feet of water would not drown someone, but it would knock a house off its foundation. There are many things looked at when reviewing a potential loss of life situation.

City Attorney Willard stated he is not sure if anyone has done this study. Staff received information from the State that this is a Category I dam that has to be repaired. If there was a breach of the dam, there would be a potential loss of life downstream.

Brad Boyer, Engineer, stated he believes another engineering firm, Golder and Associates, conducted the study.

Councilman Paulson stated for the residents who live on the lake, their land extends underneath the water. He asked if the residents have ownership, responsibilities, and are they participating in all of this.

City Attorney Willard stated the actual ownership of the lake is with a corporation called the Three Lakes Corporation. The people who are members of the corporation are the homeowners around the lake, but the corporation is defunct. The corporation does not have any assets. The likelihood of the City receiving any claim against the corporation or contributions is not very great. The City is expecting to have cooperation between the cities for whatever is needed to be done in repairing the lake.

Councilman Paulson stated if in fact the corporation is not a party to this procedure, then cannot go after the City if the lake is drained. He asked if the cost split with Atlanta has been agreed to.

City Attorney Willard stated the cost split has been verbally agreed to. The IGA is being prepared to address these issues.

Councilman Paulson stated the only reason to acquire these properties is if by acquiring the properties the dam gets relegated to a Category II dam. Otherwise, it is not worth it. Even if the dam is a Category II dam, it will still be in disrepair.

Mayor pro tem DeJulio asked what is the difference between a Category I and II dam.

Councilman Paulson stated A Category I dam is one that if it fails for any reason on a sunny day breach, there is a probability of loss of life. A Category II dam is if the dam fails for any reason, there is a possibility of loss of life. All dams are required to be brought up to Class I standards.

Councilman Sterling asked if the City can take steps to lower the volume of water in the lake for other facilities upstream.

Councilman Paulson stated he has not seen the report, so he is not sure of the options. One of the options is to drain the lake.

Mr. Wilson stated he discussed with his consultant trying to create a stormwater management system upstream, but it was suggested to repair the dam.

Councilman Bauman asked how far up stream the stromwater repairs would need to be done. Is it just the three lakes or further upstream?

Mr. Wilson stated he anticipates draining the lake. The current lake is about four acres. He would like to try to build a structure in the existing lake bed, if that can be done.

Councilman Bauman asked what the source of water is and if the lake is drained, will the other two lakes be drained as well.

Mr. Wilson stated it will be just the one lake that will be drained. The watershed is 160 acres and the water flows in the lake. He is not sure if the lake is spring fed.

Councilman Bauman stated the less destructive option of draining the lake might present an aesthetics problem for the homeowners, but from a community standpoint would be preferable. There may be the acquisition of two homes and the removal of tree canopy for the slopes. The dam repair is a very intrusive, resolution but it may be the cheapest. The option of draining the lake should be explored. The homeowners association and corporation have an asset, which is the land. What the City is doing will

benefit the land and will still be retained by the owners of the corporation. Even if they have no liquid assets, they have the asset of the land.

City Attorney Willard stated it is a corporation that owns the lake area and lake bed and the property surrounding the lake to that point. The homeowners are represented by Attorney Larry Young and they have had conversations about getting documentation from the homeowners.

Mayor pro tem DeJulio asked if the dam can be seen from the road.

City Attorney Willard stated you cannot see the dam from the road because of the vegetation. The dam will be visible from the road once the dam is repaired.

Councilman Bauman asked if there will be ongoing maintenance costs for the dam.

City Attorney Willard stated an IGA can be created for the maintenances of the dam.

Mr. Wilson stated once a contractor has been hired, they will drain the lake through the standpipe. The important thing is the lake needs to be drained slowly. It cannot be done too quickly because it may affect the slope of the second dam that is upstream. The lake water will be reduced about two feet per week. With a total of eighteen feet of water in the lake, it will take about nine weeks to drain the lake.

Councilman Bauman asked if the road will be open during the lake drainage.

Mr. Wilson responded yes.

Councilman Bauman stated there have been issues with this dam for many years.

Mayor pro tem DeJulio asked why this is before Council tonight and what decision needs to be made.

City Manager McDonough stated staff is before Council tonight because this information should be shared at a public meeting. As this has evolved there are new items that have come to staff's attention about the possibility of the acquisition of downstream homes. Staff should explore all options to bring back to Council. Staff will hear from the public at a meeting on February 11th.

Mayor pro tem DeJulio asked if the lake can be drained without a buy-in from the City of Atlanta.

City Manager McDonough stated primarily the City would like the adjacent property owners at the public meeting.

Communications Director Sharon Kraun stated the property owners will be notified via certified mail.

Councilman Sterling asked if Sandy Springs will be the lead partner on the IGA.

City Manager McDonough responded yes.

Councilman Sterling stated the City has been using the GDOT qualified contractor list and asked will that apply to this type of contract.

Assistant City Manager Bryant Poole stated for this process the contractors will have to meet specific qualifications before they can even bid.

Mr. Wilson stated his company is currently finishing a ½ mile Category I dam in Grady County.

Councilman Sterling asked if the City did choose another option besides the regular repair, would Atlanta be willing to split the cost.

City Attorney Willard stated whatever is done, the cost has to be split between the cities.

Councilman Sterling stated if the upstream stormwater facilities are done, the City will have to have EPD level water cleaning facilities similar to what is being done on the BMP, but not to that scale. Staff should look at other options besides just repairing the dam, although that is the most expeditious.

Councilman Bauman stated there have been previous road closures on Lake Forrest and on Powers Ferry Road. He would like to have an idea of what detour routes might look like for the residents.

This item will be before Council again at a future City Council meeting.

Finance

2. 15-050

Mid-Year Budget Review

Finance Director Karen Ellis stated this is the mid-year budget review that is usually presented at the Council Retreat, but was deferred to the meeting this evening.

City Manager John McDonough presented the Mid-Year Budget Review slides 2-3.

Finance Director Ellis continued the presentation with slides 4 – 12.

Councilman Gabriel Sterling asked why the General Administration fund is so low and if it is due to a payment timing issue.

Finance Director Ellis responded yes. The items are insurance and one of the loans that is received in March.

City Manager McDonough finished the presentation with slides 13-16.

Councilman Gabriel Sterling asked if there will be pedestrian landings and sidewalks as part of the intersection for the Kaswan property.

Assistant City Manager Bryant Poole stated there will be pedestrian landings, but not sidewalks.

Councilman John Paulson asked about the initial funding for the PCID sustainability plan in the City of Roswell and if the City is partnering with anyone.

City Manager McDonough stated the City is working in partnership with Dunwoody, Brookhaven, and the CID.

Councilman Sterling stated given the presentation Council just heard regarding Lake Forrest dam and considering there is about \$3.128 million that is being placed into the City Center project for pay as you go, since the minimum cost for dam repair is \$1 million, he wonders if the City should place another \$100,000 to \$200,000 into that fund.

City Manager McDonough stated if Council wishes to do that, it can be done.

Councilman John Paulson asked if the 2015 budget is the one that is being underspent or if the budget has been reduced.

Finance Director Ellis stated the numbers shown are against the published budget.

3. **15-055**

Proposed Amendments to Article IV on Special Events, Sections 50-108, 50-110, and 50-111 to provide for a Special Event Film Production Permit

Revenue Manager John Cruse presented a PowerPoint update on the Film Permit process.

Councilman Andy Bauman asked if the process will require approval from the neighbors or notification.

Revenue Manager Cruse stated this is not approval from the neighbors, but only notification.

Mayor pro tem Tibby DeJulio asked about the term "when deemed necessary".

Revenue Manager Cruse stated staff will determine that.

Councilman Gabriel Sterling asked if the City can legally require permit holders to hire off duty Sandy Springs police officers as security.

City Attorney Wendell Willard stated the City can require this due to the fact they will be working in the City.

Revenue Manager Cruse asked if special event permits should be limited to being issued to one entity quarterly.

Councilman Sterling stated if the restrictions are too tight, the City will not receive much business, but if the requirements are too loose, the City will have the same permit issues.

Councilman Bauman stated the issue that is being addressed is the filming for three straight weeks on Old Powers Ferry.

Revenue Manager Cruse stated the filming that occurred was for sixty days.

Councilman Bauman stated the filming was combined with outdoor production and there were only a couple of neighbors in opposition. The real concerns were the road closures.

Revenue Manager Cruse stated over the last three years three residential locations held five filmings. The filmings occurred one month apart.

Councilman Bauman stated he would prefer to err on the side of caution. This issue has occurred in District 6 on Dudley and Old Powers Ferry. Converting a residential location into a movie studio is what Council is trying to avoid.

Mayor pro tem DeJulio asked has there been any excessive filming besides Devious Maids.

Revenue Manager Cruse stated Devious Maids held filming in April 2013, May 2013, June 2013, and February 2014.

Councilman Sterling asked if the production companies are aware of the City's potential changes to the permitting process.

Revenue Manager Cruse stated staff has discussed with the production companies that changes are coming. Glenridge Hall is where Vampire Diaries was filmed in October, February, and August 2014.

Councilman Paulson stated if the filming permits are limited to being issued quarterly, then the question is the duration of fourteen or thirty days. He asked what is reasonable and customary for the filming lengths of time.

Revenue Manager Cruse stated the normal filming is anywhere from one to three days. There has only been one filming in the last three years that lasted thirty days. A few of the filming projects have lasted seven to ten days.

Councilman Bauman stated if the City adopts a policy of allowing filming to occur for seven days and the production company needs to film longer, can the City require approval from every neighbor.

City Attorney Willard stated that would require action of Council.

City Manager McDonough suggested that he be authorized to administratively approve additional days.

There was a consensus of Council to change the Film Production Special Event Permit to allow for one company to film quarterly for a maximum of fourteen days as well as allowing the City Manager to administratively approve filming for another fourteen days.

Councilman Bauman asked if events other than filming can be held no more than six days in a thirty day period.

Revenue Manager Cruse stated that is correct.

Revenue Manager Cruse stated there is an association called the Atlanta Symphony Associates that is a fund raising group that raises money for the Atlanta Symphony Orchestra. Over the last forty-five years this association has been located in Atlanta. The association chooses nice homes to hold a two to three week fundraiser and they selected 4701 Northside Drive. Staff reviewed the permit application and determined that a special event permit is not needed. The visitors will park in one location and be shuttled to the house outdoors which will also have a piano player. The nearest neighbor lives extremely far away. The event begins April 18 and runs through May 10.

City Attorney

4. 15-051

Reimbursement Resolution with Respect to Proposed Financing of the Acquisition, Construction, and Installation of the City Center Project through the Issuance of One or More Tax-Exempt Debt Financings

City Attorney Wendell Willard stated this is a proposed resolution that is recommended to be adopted by Council for moving forward with the City Center. The purpose of this resolution is to have the City reimbursed for costs such as engineering costs and other expenses that are part of the preparation of the

plans for the City Center. If this resolution is not in place, the City cannot later use the funds as part of the funding under the bond program. If Council approves this resolution, when the bonds are issued the funds will be a committed expense as part of the bonds.

Mayor pro tem Tibby DeJulio asked if this was done on another project.

City Attorney Willard stated he believes that it was, but he does not recall for which project.

City Manager John McDonough stated something similar might have been done on the leasing of the police cars or fire trucks.

City Attorney Willard stated the City will be selling bonds up to the maximum amount of the cost of the City Center project.

Mayor pro tem DeJulio stated this resolution allows the City to go back and claim fees that were already paid and bring them into the project.

Councilman Gabriel Sterling asked why it would be the maximum potential amount the City will ever issue.

City Attorney Willard stated he is not sure what the potential amount of the bond will be.

There was a consensus of Council to move forward with the Reimbursement Resolution with Respect to Proposed Financing of the Acquisition, Construction, and Installation of the City Center Project through the Issuance of One or More Tax-Exempt Debt Financings.

1. **15-052**

Resolution to Specify a New Excise Tax Rate (Hotel/Motel Tax); To identify the Project for Tourism Development Purposes; To Specify the Allocation of Proceeds; and for Other Purposes

City Attorney Wendell Willard stated the City's current hotel/motel tax is 7%. The City falls under a specific statutory section that was set up in the early 1990's or late 1980's that was for the purpose of financing the construction of the Georgia World Congress Center (GWCC) of the Georgia Dome. The Dome was to be built with bond funds. There is a section of the law allowing for a 7% tax out of which there is to be a division of 28.56 % to general funds, 32.14 % to hospitality & tourism, and 39.3% to GWCC. The City continued to pay that bond when Sandy Springs became a City and honor the prior obligations of Fulton County. The City assumes the bond will be paid off fairly soon. There is a current pending litigation in the State Supreme Court regarding the bond. This section of the law is being challenged. Looking at the Georgia law dealing with hotel/motel tax is convoluted and confusing. What has happened over the years is local jurisdictions tried to form a section that would be applicable to their particular jurisdiction. Several years ago the legislature created one new section that calls for a tax of up to a certain percent that can be adopted by the local governments. Under the State's current tax law, the City can adopt an 8% hotel/motel tax after the bonds are retired. This can be done via local legislation, which would be easier than amending the general law. Under the old law for the 7% tax, when the bonds are retired, the law does not speak to what will be done with the funds that are currently being used for the payment of the 39.3% to GWCC. It is not known how that money can be used. He assumes after the bonds are retired those funds will go towards the City's hotel/motel tax for the purpose of hospitality. Staff is trying to anticipate the bond coming to an end and has prepared a resolution for Council to review and approve for the 8% hotel/motel tax and only at the time the bonds are retired. If the City chooses to adopt the 8% tax, the general fund will receive 37.50%, hospitality & tourism will receive 43.75%, and

tourism product development will receive 18.74%. He spoke to legislative counsel with the thought in mind that the provision called the general law with the 7% tax the City is currently using speaks of only having those funds used for the Georgia Dome. He questioned if that section of law could be amended so portions within the law could allow for the use of funds for other items, one of which would be the performing arts center. He may look at presenting a House Bill to make the change to the general law in order to have the option to continue with the 7% tax that will provide for more funds for the City's Performing Arts Center instead of with the 8% section of the law. If that can be done, it will be another option for Council to consider. He wants to ensure the City does not get stuck not having the ability to use those funds for some purpose when the bonds for the Georgia Dome are paid off. New bonds will be reissued for the Dome, but Sandy Springs will not fall under the new bonds.

Mayor pro tem Tibby DeJulio stated typically when bonds are issued on a replacement like the Georgia Dome, one condition of the bonds is that the previous bonds be paid off. If the City of Atlanta is doing this soon, that means the bonds will be paid off relatively soon. The bonds were issued around 1992. He asked if the proposal of the bill will make it to the legislature in time for this session.

City Attorney Willard stated that is what he hopes to do. The only thing holding up the payoff of the current bonds is the fact there is ongoing litigation. The litigation involves the validation of the bonds and some people have come to court to challenge the validation stating the validation is not lawful. Some individuals claim the 7% of the law is a form of local legislation that is set up the way population legislation used to be.

Mayor pro tem DeJulio asked what is needed from Council and in what time frame.

City Attorney Willard stated because of the uncertainty of getting anything done in the legislature, he wants to have the proposed resolution submitted for Council consideration to be approved at the next Regular City County meeting. He will use that resolution to create a House Bill as a form of local legislation. When the bonds are paid off, the City can use the 8%, unless the 7% amendments are made during the 2015 legislative session.

Councilman Graham McDonald asked what is the proposed legislation.

City Attorney Willard stated there is a category under the general law that defines the purposes for which these funds can be used, if not used for the local government general fund or for hospitality and tourism. He is trying to amend the section of the law that applies to the 7%, because today it only names the Georgia Dome for the purpose of that use.

City Manager John McDonough stated one suggested change is for general State legislation and one is for local. The 8% is for local legislation and there is a high probability that will be approved, giving the City an option. If the bonds are paid off, the City will be able to collect the funds towards the performing arts center (PAC). In the meantime, City Attorney Willard will work on the 7% legislation to get the funds changed to not be allocated to the GWCC.

City Attorney Willard stated the only jurisdictions to which the 7% is applicable are certain cities in Fulton County, more specifically Johns Creek, Sandy Springs, and the City of Atlanta. The City of Atlanta is pledging their portion of the revenue for the new dome. Before the incorporation of the new cities unincorporated Fulton County pledged the revenues with the City of Atlanta for the bond.

Councilman Andy Bauman asked about the amount of dollars this translates to.

Councilman Sterling stated each percent equals to \$510,000 as of last year's budget, which depends on the rent par rate for the City's current hotel revenue.

Councilman Sterling stated he understands the funds going to the GWCC, because it is a State developed authority which can be done under Section 5. He asked when the City has control of the 8% through the local legislation, will it have full control of the funds and be able to dedicate the funds to the tourism product development at 18.74%.

City Attorney Willard stated that is in the law.

Councilman Sterling stated there is a section of the law that states if some of the funds are allocated for certain purposes, that up to half of 67% has to be spent on that. He asked if the City can go as low as 18.74% of the funds going toward the tourism product development under this structure.

City Attorney Willard stated the general fund amount can be changed or the tourism product development amount, but not the hospitality amount.

Councilman Sterling stated there is nothing in the law that states the City's hospitality board cannot contract with the Sandy Springs Facilities Authority to pledge part of that money towards the bonds.

City Attorney Willard stated he does not believe that can be done.

Councilman Sterling stated if the City stays at 7% as it exists now and the general fund and the tourism product development allocations are changed, the City can still receive \$1.6 million. This amount can be dedicated by changing the general fund percentages to the tourism product development and the general fund would still increase. He asked if the GWCC line item can be increased in the local legislation.

City Attorney Willard stated the amount going into the general fund can be altered, but you cannot alter what is going into the hospitality fund.

City Manager McDonough stated Council is interested in how the proportions and total tax distributions can be amended by local legislation.

Councilman Sterling stated the law states 3% plus 3% and there is two percent the City is trying to add.

City Attorney Willard stated he will need to review the law first.

Councilman Sterling stated the 32.14% is set for hospitality and tourism at the 7%. He sees a 2.24% tax distribution. He asked if that amount is set for the percentage the tax has to go to or as part as the 7%.

City Attorney Willard stated the amount is set as a proportion.

Councilman Sterling stated he understands the change can be made in the general law.

City Manager McDonough stated if the City does not take an interim step in the meantime, then the question is what happens to that money.

Mayor pro tem DeJulio stated Council should trust City Attorney Willard on what is in the City's best interest.

Councilman Sterling stated he does not agree with changing the 7% to 8% and he does not understand or believe this under the current law. He asked what will happen if the percentage amount is changed to 7% under the local law.

City Attorney Willard stated he does not know if there is a minimum amount the percentage can be changed to.

Councilman Sterling stated 3.5% is required to be distributed to hospitality and tourism. He asked what percent will go to that fund if the tax distribution rate is 7%.

City Attorney Willard stated he will have to check on this number and get back to Council.

Councilman Sterling stated he is not ready to vote on this until he knows the exact numbers.

City Manager McDonough stated more work will be done on this item before the next meeting in two weeks.

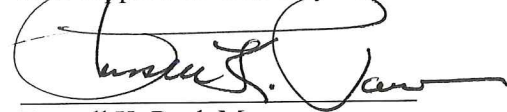
Councilman Bauman asked if staff can let Council know what surrounding jurisdictions are at 7% or 8%.

City Manager McDonough stated Alpharetta is at 6%, Atlanta is at 8%, Brookhaven is at 5%, Dunwoody is at 5%, Johns Creek is at 7%, Roswell is at 6%, Smyrna is at 8%, and Sandy Springs is currently at 7%.

There was a consensus of Council to move this item forward to the next Regular Council meeting.

There being no further discussion, the meeting adjourned at 8:50 p.m.

Date Approved: February 17, 2015



Russell K. Paul, Mayor


Michael D. Casey, City Clerk