

Work Session Meeting of the Sandy Springs City Council was held on Tuesday, November 15, 2011, at 6:44 p.m., Mayor Eva Galambos presiding.

CITY COUNCIL DISCUSSION ITEM

1. Presentation of Sandy Springs Charter Review Commission Report

Rusty Paul, Chairman of the Charter Commission, stated the Commission completed the Charter review and the City Clerk's office has distributed the final report of the Commission to the Mayor and Council. By all measures, the City of Sandy Springs has been a success. Services are better. Infrastructure and capital improvements are visible in all sections of the City and are gradually, but steadily, erasing thirty-five years of neglect. Customer satisfaction with City services is unbelievably high. Streets that were deteriorating have now been repaired. Police and the emergency medical personnel arrive promptly when called. Many things have been accomplished over the past five years. The City's success raises the bar for what the City has to accomplish going forward. When the legislature created the City, built into the Charter was a required review of City operations for reexamining the fundamental structure of the City. The Charter is the City's constitution. The Charter outlines the structure of the City's government, its duties and responsibilities, and the delegation of the decision making power. The Commission found that the Sandy Springs Charter is working well. The Charter was drafted many years ago, before the incorporation of the City. The Charter could not anticipate every situation. The Commission looked at what the Council learned over the past five years and how the citizens feel about the operation of the City. The Commission spoke to many people and gathered a lot of information. The Commission first met individually with the Mayor and Council. Two public hearings were held to receive comments and recommendations from the community. Written comments were accepted throughout the entire process. The Commission sought information from the University of Georgia Carl Vinson Institute of Government on cities of similar size and scope with similar service strategies. The Commission quickly learned Sandy Springs is unique among world cities in its service delivery and methodology. The Carl Vinson Institute told the Commission there is no literature on contracting public services that would be able to give the Commission guidance.

The Commission worked as a committee of the whole to review the Charter. The review was performed systematically, paragraph by paragraph, to evaluate the document in light of the City's unique private sector service delivery strategy to ensure there were no incompatibilities. The Commission then reviewed the power sharing and distribution mechanisms to assess whether any adjustments might improve City operations or correct any anomalies that may have resulted since the City's inception. The Commission focused on several objectives: try to avoid injecting questions of policy into the Charter; recognize policy is the proper purview of the elected officials and the elected officials should be given the widest possible latitude in setting policies; and work to provide uniformity of language in describing similar functions and powers, while clarifying other provisions to minimize possible confusion in interpreting the Charter's provisions. The Commission concentrated on the purposes of municipal government, its power distribution and power sharing characteristics, and its functions and responsibilities, to assure that there were the appropriate checks, balances, and oversight among and within the various branches of operations in the City government. The City's unique service delivery strategy was looked at to determine whether the recommended Charter changes could facilitate the strategy without restricting the future elected officials to no options, should an alternative delivery approach be more appropriate. The Commission tried avoiding solving problems that do not exist. The Commission did look forward to anticipate potential conflicts and pitfalls in order to offer mechanisms to resolve those in a clear manner. It is recognized that the City Manager form of government provided for in the Charter places the responsibility for the day-to-day city management in the hands of that individual. Looking at the Charter's power sharing and distribution mechanism, the Commission recommended tilting the balance of power slightly towards the elected officials, versus the appointed leadership, in the case of an irresolvable

conflict. If there were to be an irresolvable conflict, the elected officials should have the ability to resolve it. The elected officials have the ultimate responsibility to the citizens for the conduct of the City. In reviewing the Charter, the drafters gave the City leadership the flexibility necessary to conduct the affairs of the City in the manner that was chosen. The Charter that was originally drafted has served the City extremely well and there was a proposal of no sweeping changes. The most radical item that was recommended for change is term limits for elected officials. The Commission's recommendations were thoroughly discussed, debated, examined, and arrived at in an extremely collegiate manner. The Commission arrived at a unanimous vote on approving the final report. He hopes that Council will accept the report with the regards of the Commission and he will answer any questions or concerns.

Mayor Eva Galambos stated the Commission worked diligently and did a comprehensive job.

Mr. Paul stated the Commission was made up of an excellent group of people. There was a wide variety of skills, background, and knowledge.

Mayor Galambos stated the Council and the Mayor have no roll in accepting or recommending the Charter Review Commission report, which is addressed to the General Assembly.

Mr. Paul responded yes and no. Under Home Rule, the Council and Mayor have a lot of latitude in being able to address the Charter and make changes. The Charter Review Commission report will be submitted to the General Assembly and they will make the final decision on the report.

Councilmember Chip Collins asked for a brief summary of the Commission's debate regarding term limits.

Mr. Paul stated the term limit discussion was a philosophical debate. The Commission does not believe it is time for new Councilmembers. The discussion was based on the theory that there should be continual turnover, which would give other people in the community the opportunity to serve as Councilmembers. His concern is not that the current Councilmembers have stayed too long, but that some have stayed too short.

Mayor Galambos asked if the report is unanimous by the Charter Commission, or if divided votes will be included in the report.

Mr. Paul stated the final report will be submitted unanimously. There was vigorous debate on particular items. The only vote that was close was the term limit vote.

Councilmember Gabriel Sterling stated the recommended changes suggest the balance of power should be slightly tipped towards the elected officials who are accountable to the citizens. There was mention of a potential future irresolvable conflict. He asked what the Commission's thinking was and what minor shifts to the Charter were done to alleviate a potential issue in the future.

Mr. Paul stated the Commission tried to look ahead and anticipate certain situations. The Mayor is perceived by most citizens to be the head of the City. If the Mayor and City Manager could not resolve a conflict, it would be left to Council to resolve the conflict. If there was such a situation, the Council would retain full authority to hire and fire the City Manager. The City Manager would report to the Council. If there was a disagreement about policy and day-to-day operations between the City Manager and the Mayor, the Mayor would need the ability to resolve the conflict without bringing the matter to Council. Currently, the City Manager sets the budget amount. The Commission suggested the Mayor set the revenue figure for the City. Most executives in the State of Georgia set the revenue estimate. It would give the Mayor more capacity for determining the revenue, but would still rely on staff to provide

that figure. The amount is important from the budgeting point of view and gives a certain amount of control to the elected officials. If conflicts need to be resolved, the elected officials should have the final ability to make those decisions.

Councilmember Dianne Fries stated she appreciates the work the Commission did reviewing the Charter. The report will be submitted to the State Representatives and they will make the final decisions on any suggested changes. There are a few items in the report that suggest a different type of government compared to what the City currently has. The current type of government reflects a strong City Manager, but the recommendations are for a strong Mayor. She is concerned that the suggested changes in the report will change the way the City is run. A few other local cities have recently had a Charter review. Those cities had a strong Mayor form of government and they changed their Charters towards a strong City Manager. This was done because there was too much meddling in the day-to-day operations.

Mr. Paul asked for examples of issues of the Mayor being too involved in the day-to-day operations.

Councilmember Fries stated an example is the suggested Charter change of the Mayor setting the budget number.

Mr. Paul stated that idea came from Mr. Belinfante and his experience in the Governor's office.

Councilmember Fries stated the suggested change to Article III, Section 3.01 recommends the Mayor have administrative powers supervising the City Manager. The Mayor supervising the City Manager is considered a day-to-day operation.

Mr. Paul stated currently there is a wonderful working relationship between the Mayor and the City Manager. The current Mayor is strong willed and effective in accomplishing things that need to be done, even in the absence of institutional power. There is presently no line connection between the City Manager and the Mayor, and the Commission wanted to put a line connection there. In the event of a deadlock situation between the Mayor and City Manager, there would be some ability for the Mayor to exert influence. This would not diminish the power, responsibility, or authority of the City Manager. This would be giving the Mayor more institutional power during a time of irreconcilable differences. It was the feeling of the Commission that if the Mayor and City Manager could not come to an agreement, it would be the responsibility of the elected officials to make the decision.

Councilmember Fries stated she agrees with the change of the phrase to "advice and consent"; and the veto change.

Mr. Paul stated under the existing Charter the Mayor's veto has no effect. If the Mayor were to veto an item, a simple majority would have voted to perform the act the Mayor objects to. With most governments there is a higher standard than a simple majority to overturn a veto.

Councilmember Fries stated the Commission suggested the contractors have sovereign immunity. She is not sure this is something that can be in the Charter.

City Attorney Wendell Willard stated the sovereign immunity of contractors would require a constitutional change.

Mr. Paul stated one of the reasons that public safety was not privatized was because sovereign immunity could not be extended to the public safety employees, if they were contractors. If the General Assembly likes the City model and is interested in extending sovereign immunity to contractors, this would be something they could change.

Councilmember Gabriel Sterling stated if there was an irresolvable conflict, Council would resolve it. He asked about the suggested change to the Charter that states the Mayor should provide administrative supervision to the City Manager. If this change is implemented, it may cause more conflict. He agrees with changing the veto number to five and the term "advice and consent".

Mr. Paul stated from the Commission's point of view, the Mayor's job is quasi-executive and legislative. Having six bosses often makes the City Manager's job untenable. By giving the Mayor the day-to-day oversight, it provides an executive function for the Mayor. If a conflict occurs, the Mayor would take the responsibility to work through the conflict. The suggested change would take no authority away from the Council. The suggested change to the Charter states on a day-to-day basis the Mayor would provide administrative and supervisory oversight of the City Manager.

Councilmember Sterling stated if a Mayor is elected twenty years from now and that Mayor decides to change the budget, an unintended consequence could be that particular role could be politicized.

Mr. Paul stated the Commission looked at a wide range of scenarios. If there is to be an err, it should be on the side of the people who the voters have installed in positions of authority.

Councilmember Karen Meinzen McEnerny asked for background on the Commission's deliberation on the suggested changes to Article II, Section 2.14. This section deals with ordinances coming before Council on two separate occasions as well as public comment being allowed prior to the final vote.

Mr. Paul stated the Commission felt that the citizens should have the opportunity to address the Council. There currently is a good policy in regards to public comments. Two readings of ordinances slows down the legislative process. If citizens have concerns, it gives them more time to learn about the item. The theory behind this change is it will give the citizens a reasonable amount of time to learn about the issues that Council will be deliberating. It would also allow the citizens time to provide Council with direct input.

Councilmember Fries stated the Home Rule change was used to change the two ordinance readings to one reading in order to expedite items.

Councilmember Tibby DeJulio asked if the Charter review report identified if Councilmembers are employees or contractors, so their personal tax issues can be resolved with the IRS.

Mr. Paul stated that was discussed and the Council has the power and ability to make that decision without any changes to the Charter.

Mayor Galambos stated the discussions that have come forward show how well the Council has studied the Charter recommendations

Mr. Paul stated the Commission members took the Charter review very seriously. Their attendance was excellent and their participation and deliberation was professional and collegial. He thanked the Mayor and Council for giving him such distinguished individuals to work with.

Mayor Galambos thanked Mr. Paul for his service on the Charter Commission.

STAFF DISCUSSION ITEMS

Recreation and Parks

1. Lease Renewal for River Park Property owned by Georgia Power located below the Morgan Falls Dam

City Attorney Wendell Willard stated the current lease is for a term of twenty-four years. There is a provision in the lease that calls for the Council to make a decision on whether to continue the use of the property as a dog park. The decision needs to be given to Georgia Power prior to November 30, 2011. This item will be on the regular agenda at the next City Council meeting.

Councilmember Dianne Fries stated the City does not have an alternative use for the park, so the City uses it as a dog park. She asked what would happen in the future if the City decides to no longer use the property as a dog park.

City Attorney Willard stated included in the lease is a provision whereby the lessor, Georgia Power, has a right to terminate the use of the property as a dog park.

Councilmember Fries asked if staff can construct language that would allow the City or Georgia Power to renew the lease annually.

Mayor Eva Galambos asked if the lease agreement specifies the property be used as a dog park.

City Attorney Willard stated the lease grants the right of use of a portion of the property as a dog park, but does not mandate that use.

City Manager John McDonough stated there is no requirement as to use in the agreement and Georgia Power is interested in working with the City. This agreement is for 2011, so another agreement will need to be created for 2012.

Mayor Galambos stated the City wants to continue the option of using the property for a dog park as well as the option of a boardwalk.

Councilmember Gabriel Sterling stated a decision needs to be made by November 30, 2011, so this will need to be done before the next City Council meeting.

City Attorney Willard stated a reading can be done by Council tonight for that purpose.

Councilmember Karen Meinzen McEnerny stated in paragraph three of the lease it states the property is to be used solely for the purpose of a public park and conservation and recreation area. The City can use the park for any of those reasons.

City Attorney Willard stated the agreement would be the City asking for the right to continue the use of the property for those purposes and to maintain the right to discontinue the use in the future.

There was a consensus of Council to continue the lease agreement and to move this item forward at the next Regular City Council meeting.

Mayor Eva Galambos stated Art Sandy Springs will be the lead organization for the holiday spirit competition. The City wants to foster positive community spirit and light up the Holiday season around Sandy Springs. The City has joined together with Art Sandy Springs, the Sandy Springs Perimeter Chamber of Commerce, Sandy Springs Hospitality and Tourism, and the Sandy Springs Design Center to create the City's first annual Holiday decoration contest.

Cheri Morris, President of Art Sandy Springs, stated she feels the Holiday decoration contest will bring the business community together. There are hopes the contest will grow every year in geography, in scale, and with the addition of parades and special events. Art Sandy Springs is honored to be the judges for the contest.

There being no further discussion, the meeting adjourned at 7:32 p.m.

Date Approved: December 6, 2011



Eva Galambos, Mayor



Michael Casey, City Clerk