

Meeting of the Sandy Springs City Council was held on April 2, 2024 Following Work Session, Mayor Rusty Paul presiding.

I. Call to Order

Mayor Rusty Paul called the meeting to order at 6:33 p.m.

II. Roll Call and General Announcements

Members Present: Mayor Rusty Paul, Councilmember John Paulson, Councilmember Melody Kelley, Councilmember Melissa Mular, Councilmember Jody Reichel, Councilmember Tibby DeJulio, Councilmember Andrew Bauman

III. Pledge of Allegiance

Mayor Rusty Paul led the Pledge of Allegiance.

IV. Public Comment

1. Josh Marks, 130 River Springs Drive, Atlanta - Protection of the Okefenokee Swamp

Councilmember Andy Bauman asked why does this matter to the City of Sandy Springs community when the Okefenokee Swamp resides more than a hundred miles away?

Josh Marks, Environmental Lawyer, and President of Georgians for the Okefenokee said Georgia students of all ages visit the swamp to be educated on the wildlife and habitat. It is a magical place for kids, and it is important to Atlanta and Sandy Springs clergy leaders. It is also the largest national wildlife refuge to the Mississippi River and is now listed as a United Nations Educational, Scientific and Cultural Organization (UNESCO) World Heritage site.

Mayor Rusty Paul thanked **Environmental Lawyer, and President of Georgians for the Okefenokee Marks** for his comments. Council will give this all consideration.

V. Approval of Meeting Agenda

Motion and vote. A motion was made by **Councilmember Tibby DeJulio**, seconded by **Councilmember John Paulson**, to approve the meeting agenda. The motion carried by unanimous vote.

VI. Consent Agenda

Motion and vote. A motion was made by **Councilmember Jody Reichel**, seconded by **Councilmember Melissa Mular**, to approve the consent agenda. The motion carried by unanimous vote.

- A. **2024-071** March 19, 2024 City Council Work Session Meeting Minutes
March 19, 2024 City Council Meeting Minutes

VII. Presentations

There were no presentations.

VIII. Public Hearing

- A. **2024-072** Request for Mayor and City Council Consideration of a Resolution to Approve Transmittal of the Draft 2023-2024 Capital Improvements Element (CIE) Annual Update

Michele McIntosh-Ross, Planning & Zoning Manager, presented a recommendation to approve transmittal of the 2023-2024 Annual Capital Improvements Element (CIE) Update.

The Annual Financial Report has been adjusted to reflect the 2023-2024 beginning balances, impact fees collected, and accrued interest for each public facility type. The Work Program was updated to show changes in estimated costs of specific public safety and road improvement projects and to include sub-projects of intersection improvements, as listed in the Community Work Program chapter of the CIE adopted October 18, 2016.

All local governments that utilize an impact fee system under the Georgia Development Impact Fee Act (GDIFA) must include a Capital Improvements Element (CIE) in their comprehensive plans and update the Capital Improvements Element (CIE) portion of their plan annually. The City of Sandy Springs is required to approve an annual update to a Capital Improvements Element and Short Term Work Program by June 30, 2024.

The State requires that only a draft be submitted and that the local governments not take any official action to adopt or put into effect a CIE prepared in accordance with the Development Impact Fee Compliance Requirements until the CIE is first submitted to the regional development center for review (the Atlanta Regional Commission). The draft of the annual update of the Capital Improvements Element and Work Program has been prepared by Staff in accordance with the Development Impact Fees Compliance Requirements and the Minimum Planning Standard and Procedures for Local Comprehensive Planning established by the State of Georgia.

The Capital Improvements Element is a required component of the City's Impact Fee program and must be transmitted to DCA to maintain the City's compliance and ability to collect and utilize impact fees.

The Georgia Department of Community Affairs requires that the Mayor and City Council authorize transmittal of the draft Capital Improvements Element to the state and regional agencies for review before the Mayor and City Council adopt the final Capital Improvements Element (CIE) Annual Update by June 30, 2024.

There being no public comment, **Mayor Rusty Paul** closed the public hearing.

Motion and vote. A motion was made by **Councilmember Melody Kelley**, seconded by **Councilmember Jody Reichel**, to approve transmittal of the 2023-2024 Annual Capital Improvements Element (CIE) Update. The motion carried by unanimous vote.

IX. New Business

- A. **2024-073** Request for Mayor and City Council to Approve the Appropriation of Certain

Property Rights and Interests Located at 5674 Roswell Road and 5696 Roswell Road, Sandy Springs, Fulton County, Georgia as it Relates to the CDBG Roswell Road Sidewalk Project-Phase II Through the Use of Eminent Domain

Dan Lee, City Attorney, presented a recommendation to approve the appropriation of certain property rights and interests located at 5674 Roswell Road and 5696 Roswell Road, Sandy Springs, Fulton County, Georgia as it relates to the CDBG Roswell Road Sidewalk Project-Phase II through the use of eminent domain.

The two (2) contingent properties are a part of the CDBG Roswell Road Sidewalks Project. In order to construct the Project, fee simple rights are required over, under, and through the property owned by Roswell Road Development Partners, LLC, and located at 5674 Roswell Road and 5696 Roswell Road, and more particularly described as land lying and being in Land Lot 91 of the 17th District of Fulton County, Georgia.

The two (2) properties in question are contingent parcels, both owned by Roswell Road Development Partners LLC, and contain free standing commercial buildings, located in a mixed commercial use district, south of the confluence of Roswell Road and Interstate 285. The parcel located at 5674 Roswell Road (Parcel 20) contains 1,456.92 sq. ft. (0.033 acres, more or less) of fee-simple right-of-way, and the parcel located at 5696 Roswell Road (Parcel 21) contains 686.10 (0.016 acres, more or less) of fee-simple right-of-way, for a total of 2,143.02 sq. ft. (0.0492 acres, more or less) of fee-simple right-of-way.

The City believes that just and adequate compensation for the subject property is \$423,000.00, and is itemized below:

Fee simple	2,143.02 sq. ft.	\$60.00/sq. ft.	\$128,581.00
Cost to Cure/Incurable Damages*			\$276,329.00
Site Improvements			\$ 10,272.00
Damage to Trade Fixtures			\$ 7,700.00

City Staff has been unable to secure the acquisition of the property, even though the City has offered just and adequate compensation for the property, to the property owner, Roswell Road Development Partners, LLC, however, negotiations to purchase the property appear to have reached an impasse.

The City's failure to obtain title to this property would result in the City having to modify the proposed Project, which would increase the cost of the Project.

Motion and second. A motion was made by **Councilmember Andy Bauman**, seconded by **Councilmember Tibby DeJulio**, to approve the appropriation of certain property rights and interests located at 5674 Roswell Road and 5696 Roswell Road, Sandy Springs, Fulton County, Georgia as it relates to the CDBG Roswell Road Sidewalk Project-Phase II through the use of eminent domain.

Councilmember Melody Kelley said Council is not approving the expenditure itself. Will this be another item?

Dan Lee, City Attorney, said no. The approved resolution authorizes me on behalf of the City to take the property by eminent domain. In the process of taking it, the City has to pay the court the independent appraised amount of \$423,000.

Mayor Rusty Paul asked if there is any change in the cost, will this have to come back to Council?

City Attorney Lee, said that is correct.

Mayor Rusty Paul said Council is approving the expenditure up to the amount on the table. If more money is required based on the final agreement between the City and the property owner, or the court orders it, the City will have to appropriate additional funds.

Councilmember Bauman said this is an important and well-traveled pedestrian area in the City. Once this property is taken will the project stay on schedule?

City Attorney Lee said staff believes if the City moves now to get possession of the property, the bid can be awarded to do the work.

Councilmember DeJulio asked where exactly is this property?

City Attorney Lee said the property included in the resolution begins at the Love Shack and goes all the way to the Shell station on the west side of Roswell Road.

Councilmember John Paulson asked what is the current posture with the owners? What has led to the point that the City feels it is done negotiating?

City Attorney Lee said their last response was they wanted to wait a couple of months to get a new roof on one of the buildings.

Councilmember Paulson said they are not interested in any negotiating.

City Attorney Lee said these are sophisticated owners and it is an intricate place. If this property were to be redeveloped and someone argued that the size may prevent it from being redeveloped, under the City's ordinances, the developer would have to do what this project will do, and we still cannot get to a reasonable number. We are about \$1,000,000 apart.

Councilmember Jody Reichel asked what are the cost-to-cure items?

City Attorney Lee said striping may be included but one major site improvement is the sign.

Vote on the motion. The motion carried by unanimous vote.

- B. **2024-074** Request for Mayor and City Council Consideration of a Resolution Authorizing a Right of Entry and Access Agreement between Fulton County Board of Registration and Elections and City Of Sandy Springs, Georgia, for the General Primarily and Nonpartisan Election Advance Voting, the November 2024 General Election and Subsequent Runoff Election Advance Voting; Authorizing the Mayor to Execute the Same; and for Other Purposes

Raquel D. González, City Clerk, presented a resolution to authorize a Right of Entry and Access Agreement between Fulton County Board of Registration and Elections and City Of Sandy Springs, Georgia, for the general primarily and nonpartisan election advance voting, the November 2024 general election and subsequent runoff election advance voting; authorizing the Mayor to execute the same; and for other purposes.

The County intends to host three (3) locations in Sandy Springs to provide advance voting for Fulton County residents within the Sandy Springs area. The County typically uses the North Fulton Annex on Roswell Road, the Dorothy Benson Center on Roswell Road, and the Sandy Springs Library on Roswell Road for advance voting. However, the Dorothy Benson Center is no longer available for the advanced voting period. The Fulton County Board of Registration and Elections is seeking a third facility in Sandy Springs to host advance voting for the May 2024 general election and the November 2024 general election and runoffs.

Together, City Staff and the County's Elections staff have identified Heritage Sandy Springs as an ideal replacement for the Dorothy Benson Center for advance voting activities for 2024 elections. If approved the County will host advance voting given at Heritage as follows:

Election	Advance Voting at Heritage Sandy Springs
May 21, 2024 General Primary / Nonpartisan Election	April 29 - May 17, 2024
June 18, 2024 Runoff	-
November 5, 2024 General Election	October 15 - November 1, 2024
December 3, 2024 Runoff for Federal Offices	As soon as possible, but no later than November 25 - November 27, 2024

As is the City's arrangement with Fulton County to use Hammond Gymnasium as a polling place, the City will not charge the County for the use of Heritage Sandy Springs. However, Heritage is currently used infrequently, and the County has agreed to pay for janitorial services for the part of the building reserved for voting and voting administration while in its use.

Motion and second. A motion was made by **Councilmember John Paulson**, seconded by **Councilmember Jody Reichel**, to authorize a Right of Entry and Access Agreement between Fulton County Board of Registration and Elections and City Of Sandy Springs, Georgia, for the general primarily and nonpartisan election advance voting, the November 2024 general election and subsequent runoff election advance voting; authorizing the Mayor to execute the same; and for other purposes.

Councilmember Paulson asked is there any cost to the City for allowing this agreement?

City Clerk González said no. The City will continue to pay utilities for the building.

Councilmember Reichel asked will there be any issues with people going in and out with all the construction?

Eden Freeman, City Manager, said no. We have discussed it with the contractor to ensure all entrances are open and available for public access to vote.

Vote on the motion. The motion carried by unanimous vote.

- C. **2024-075** Request for Mayor and City Council Consideration to Approve Change Order Two to the Existing Contract with Reedwick, LLC as it Relates to the Public Safety Fiber Project and for the City Manager to Execute the Same

William H. Martin, Jr., AIA, Public Works Director, presented a recommendation to approve Change

Order Two to the existing contract with Reedwick, LLC as it relates to the Public Safety Fiber Project and for the City Manager to execute the same.

The City of Sandy Springs (the "City") awarded a construction contract to Reedwick, LLC under Invitation to Bid 23-048 for \$135,390.00 in February 2023 to construct the Public Safety Fiber Project (Project No. T9520), which included the construction of a new fiber mini-hub at the corner of Roswell Road/State Route 9 and Morgan Falls Road. The new mini-hub serves the City's fiberoptic communications distribution hub for the north end of the City.

During the construction of the Public Safety Fiber Project, the contractor determined that the installation of fiber conduit could not be accomplished with directional boring due to the presence of solid rock. An alternative method of installing the conduit was proposed using rock drilling, jack and bore. The original scope including boring, but in order to install the conduit, jack and bore installation was required. To complete the Project, the contract was modified with addition scope and fee under Change Order One (1) in the amount of \$39,098.00. City Council approved Change Order One (1) by way of Resolution 2023-10-148. Staff have identified additional construction work to complement the Public Safety Fiber Project.

Reedwick, LLC is most familiar with the design, specifications, and networking of the mini-hub installed in the Public Safety Fiber Project. Some additional tasks have been identified that were not included in the original design and scope of work to include the following:

Work Order 1 – Fleet building connection

Connect the fiber from the Mini-Hub Cabinet at Morgan Falls at 7815 Roswell Road to the Fleet building at 8475 Roswell Road.

Work Order 2 – City Hall connection to new Mini-Hub Cabinet

Conduct a fiber audit between Morgan Falls Mini-Hub Cabinet at 7815 Roswell Road and City Hall at 1 Galambos Way to determine fiber allocations so that the connections to the Fleet building and to the Police Headquarters and Municipal Court Facility can be completed.

Work Order 3 – Mini-Hub Cabinet Connection to GDOT Hub Q

Conduct a fiber audit between Morgan Falls Mini-Hub Cabinet at 7815 Roswell Road and GDOT Hub Q on State Route 400 to determine fiber allocations to complete the Automated Traffic Signal Performance Measures (ATSPM) project in cooperation and coordination with the Georgia Department of Transportation Signal Operations (SigOps) program.

Work Order 4 – Mini-Hub Cabinet connection to Public Safety Facility

Add fiberoptic jumpers to the Police Headquarters and Municipal Court Facility at 620 Morgan Falls Road to complete the fiber connection.

Staff recommends an additional 120 contract days to complete the additional work. This will extend the existing contract to June 12, 2024.

The proposed additional services cost is \$49,635.00. There are adequate funds budgeted in FY24 under Project T9520 to award these services.

Motion and second. A motion was made by **Councilmember Melody Kelley**, seconded by **Councilmember John Paulson**, to approve Change Order Two to the existing contract with Reedwick, LLC as it relates to the Public Safety Fiber Project and for the City Manager to execute the same.

Councilmember Kelley asked for more information on contract time extension policies.

Public Works Director Martin said Council had concerns with contract time as part of the now under construction Trail Extension Project. With Purchasing, we reviewed when we take time extensions to Mayor and Council. Given the size of the contract time extension, it was best warranted we vet the contract time extension with Mayor and Council for approval.

Councilmember Kelley asked has a threshold been established?

Eden Freeman, City Manager, said we discussed that thirty to sixty days would be allowable within the manager's purview if it was less than \$150,000. This is one hundred and twenty days and it is best Council reviewed. There will be a change to our financial policy once we finalize what that needs to be.

Councilmember Kelley asked will the financial policy changes be brought to Council?

City Manager Freeman said yes.

Councilmember Paulson asked if the contractor does not like what they find from fiber audit, will there be additional money to make this work?

Public Works Director Martin said the fiber audit is two hundred and eighty pair fiber than runs through. The fiber audit is to understand what is available to use to address the new facility from here. It is an assessment of the fiber to address each individual fiber.

Councilmember Paulson said it is a capacity question.

Public Works Director Martin said yes. The capacity is there, and it is what do you use within the capacity.

Councilmember Melissa Mular asked will these change orders have any impact on the projects that are underway, for example the Fleet project opening in a couple months?

Public Works Director Martin said this will facilitate them. It was a somewhat late identified requirement to get Fleet facility tied in, but it moves it an expeditious manner.

Councilmember Melissa Mular asked will there be any impact to the timeline for the projects?

Public Works Director Martin said it should plug-in with those.

Vote on the motion. The motion carried by unanimous vote

X. Reports

A. 2024-076 Mayor and Council Report

Mayor Rusty Paul reported the Georgia Legislature adjourned after forty days and one hour. A compromise was reached to settle the definition of the day and sessions ended on Friday morning at 1:00 a.m.

A few bills regarding municipal government were of concern and did not pass, but some positive things came out. One is the cap on sales tax was raised giving municipalities and county governments an extra penny in return for reducing the millage rate. A referendum must be held to have the extra penny sales tax and signed by the governor.

I was on the task force with the Georgia Municipal Association (GMA) and the Association of County Commissioners of Georgia (ACCG) to review the Service Delivery Strategy (SDS) law in Georgia. The City of Sandy Springs has been in business for eighteen years and never had an SDS agreement in Fulton County. This is mostly because of the disagreement between the City of Atlanta and the City of Sandy Springs over the water system. This creates several changes to the SDS and that is something we may begin soon. There are currently thirty jurisdictions that have not resolved their SDS issues, and the Department of Community Affairs (DCA) has not issued any sanctions. This bill requires them to issue sanctions if after six months of negotiation, there is no SDS. The sanctions include not being eligible for any state grants or federal grants administered through the state, and not being able to get statewide permits. These are significant and designed to force those not adhering to the SDS requirements to get serious about negotiating settlements. My voice argued these sanctions need to be applied, otherwise a lot will never get addressed. When the governor signs the bill, the City will have serious negotiations. The SDS is a great law and ensures there is no duplication of services. The counties and cities decide who is delivering what services, who is paying for them and from what source. Without an SDS there are all kinds of problems. The legislature has made strong changes that will hopefully make it work.

Many were concerned about short-term rentals and legislation failed. It would have grandfathered all short-term rentals in existence before the City passed any ordinances and would have complicated our ability to regulate the party houses. The good news is Senate Bill 443 passed and allows cities to recover costs of party houses and other unpermitted events that cause public nuisance.

The legislature raised the statewide homestead exemption significantly from \$7,500 to \$20,000 and the City will have to review how it will affect property tax revenue. There were many property tax bills enacted and there is a statewide floating cap of 3% or the Consumer Price Index (CPI). The state has now adopted the Sandy Springs ordinance we have operated under for a long time and will have impact on other jurisdictions.

House Bill 946 revises T-SPLOST and 75% of Fulton County cities must agree to calling for a T-SPLOST referendum. This changes to 50%, for example Atlanta and Sandy Springs having 50% of the population in Fulton County, could call for a T-SPLOST referendum. There has been difficulty in getting this done with several jurisdictions, but we have done a good job.

House Bill 1149 requires all constitutional officers including the tax collector to report any outside income related to their official duties.

This is a highlight of the legislation there. Please go to the GMA website for more information on all the bills that came out.

Councilmember Tibby DeJulio asked how the SDS will be tied up in Court?

Mayor Paul said it should not be tied up in court because it takes away the ability of the judge to issue stays. The courts have seen the impact of no federal and state grants, and no federal state permits as being draconian. They have issued stays, and many have gone on for over twenty years as in the City's case. The legislature had enough and wanted to fix it by repealing the SDS law or make people live up to it.

Councilmember DeJulio asked does six months of negotiation start when the governor signs it?

Mayor Paul said the City must do a ten-year plan and when this is adopted it starts the clock towards the deadline. Fulton County does a twenty-year plan but I am not certain of the benefit. The law has always had teeth, but it has been defanged, and the legislature put the fangs back.

Dan Lee, City Attorney said the six months of negotiation starts when notice is given to everyone.

Mayor Paul said it must be done no later than passing the ten-year plan.

Councilmember John Paulson asked if there is litigation in the middle of an SDS, does the litigation stay off the six-month enforcement requirement?

Mayor Paul said **City Attorney Lee** and I discussed how this law applies. It is immaterial because we must do a new one anyway and that will start the process.

City Attorney Lee said that is right. The litigation we are in is about now and that would be the previous SDS agreement. The new law requires we have a new one. The issue is will we do this again. Hopefully Atlanta agrees on the water issue. Whatever the court decides will carry forward to the new one and we will have all the other issues to deal with and not that one issue.

Mayor Paul said this will be painful for all once these sanctions hit. It is not just the City of Sandy Springs and the City of Atlanta. There are many jurisdictions across the state that have had ongoing long-time disputes over SDS. Hopefully that will have the result the legislature intended and get people serious about working these issues out and complying with this law.

Councilmember Jody Reichel asked are there mediators?

Mayor Paul said there is mediation and non-binding arbitration that are parts of this. There is no binding arbitration because the courts rule that by delegating these decisions to an arbitrator we have forsaken our legislative responsibility for doing this. You cannot delegate that responsibility and the Supreme Court said only Council is the final decision maker about how the City spends money.

Councilmember DeJulio asked based on the negotiations how long will it be before the City finally gets an agreement?

Mayor Paul said the governor signs it by the middle of May and that begins the clock. It will be before the year ends.

City Attorney Lee said it is effective July 1.

Mayor Paul said by year-end we should have something resolved and the courts are aware of this new legislation. Hopefully that puts the onus on anybody hearing a case right now to try and resolve any disputes that may exist.

Councilmember Melissa Mular asked are the sanctions just against the two parties?

Mayor Paul said yes. In the example of the Atlanta and Sandy Springs disagreement on water service strategy, under the old law, Fulton County and every city in Fulton County would have had sanctions. In my opinion just because two parties are in dispute, the parties who have no control, no leverage, no

ability to affect the outcome would be punished equally to the two or more parties that cannot agree. When we were negotiating with ACCG and GMA I insisted that it should only be the disputed parties that are sanctioned. If you cannot control what two other parties do, you should not be sanctioned because of their inability to agree. That was a change in the law.

B. 2024-077 Staff Reports

There were no staff reports.

XI. Executive Session

Motion and vote. A motion was made by **Councilmember John Paulson**, seconded by **Councilmember Tibby DeJulio**, to recess from regular order and enter executive session for the purposes of litigation and real estate discussion. The motion carried by unanimous vote.

Passed Yes 6, No 0, Abstained 0

Yeas: John Paulson, Melody Kelley, Melissa Mular, Jody Reichel, Tibby DeJulio, Andrew Bauman

Nays: None

The Executive Session began at 7:16 p.m.

Motion and vote. A motion was made by **Councilmember John Paulson**, seconded by **Councilmember Tibby DeJulio**, to adjourn the executive session and return to regular order. The motion carried by unanimous vote.

Passed Yes 6, No 0, Abstained 0

Yeas: John Paulson, Melody Kelley, Melissa Mular, Jody Reichel, Tibby DeJulio, Andrew Bauman

Nays: None

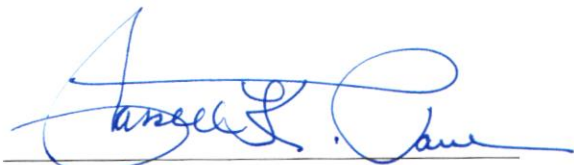
The Executive Session ended at 7:55 p.m.

XII. Adjournment

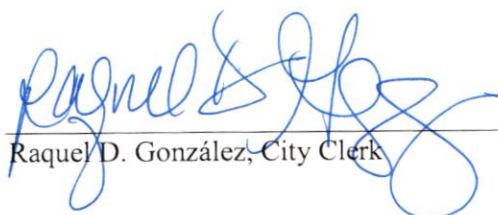
Motion and vote. A motion was made by **Councilmember Tibby DeJulio**, seconded by **Councilmember John Paulson**, to adjourn the meeting. The motion carried by unanimous vote.

The meeting adjourned at 7:55 p.m.

Approved: April 16, 2024



Russell K. Paul, Mayor



Raquel D. Gonzalez, City Clerk