

City of Sugar Hill Council Meeting

Monday November 12, 2001

7:30 PM Community Center

The City of Sugar Hill held its regular council meeting on Monday November 12, 2001 at 7:30 PM in the community center.

Notice of the meeting was placed on the doors of city hall and the community center.

Notice was placed on the board at Peachtree Industrial Blvd and Alton Tucker Blvd.

Notice was sent to the local news media.

Those present at the meeting included Mayor Roberta Crabb, Mayor Pro-Tem Chris Abbey, Council Members Meg Avery, Kim Hall, and Thomas Rhodes. Also present were City Manager Bob Hail, Assistant City Manager for Development Jim Osborn, City Attorney Lee Thompson and City Clerk Shirley Gibbs. Absent was Council Member Michael Mosley.

CALL TO ORDER, PLEDGE OF ALLEGIANCE TO THE FLAG AND INVOCATION:

Mayor Crabb called the meeting to order at 7:30 PM and led the Pledge of Allegiance to the Flag. Mayor Pro-Tem Abbey gave the Invocation.

APPROVAL OF AGENDA:

Mayor Pro-Tem Abbey made the motion to approve the agenda. Council Member Hall made the second. Motion passed unanimously by those present to vote 4-0.

APPROVAL OF 10/8/2001 MINUTES:

Council Member Avery made the motion to approve the minutes of the October 8, 2001 council meeting. Mayor Pro-Tem Abbey made the second. Motion passed on a vote of 3-0-1. Council Member Hall abstained from voting due to not being present at the October meeting.

OLD BUSINESS:

A: APPOINT REPLACEMENT TO P&Z BOARD:

Council Member Avery made the motion to appoint Joe Clarino to serve on the Planning and Zoning Board. Mayor Pro-Tem Abbey made the second. Motion passed unanimously by those present to vote 4-0. It was suggested that he be sworn in later in the meeting.

CITIZENS AND GUEST'S COMMENTS:

Mr. Jim Sands of 760 Old Spring Way congratulated Mr. Gary Pirkle, Mr. Ron Johnson and Mr. Thomas Rhodes on their recent election. He had a suggestion for the church property the city had recently bought. He suggested they look at Grayson for park ideas, they might consider selling personalized bricks like the Olympics, have plaques for business sponsors and even have public tree donations. He inquired if the city was still a Bird Sanctuary city. He also inquired about green space funding and suggested that the city buy the mobile home park that is for sale to use as green space. He felt it was an eye sore to the entire city. His last inquiry concerned progress on the widening project on Springhill Drive.

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NEW BUSINESS:

A: CERTIFY NOV 6 ELECTION RESULTS:

Superintendent of Elections, Jeanne Ferguson, thanked the Mayor and Council for giving her the opportunity to serve as Superintendent of Elections and would be willing to continue in that capacity. She then gave the results of the November 6, 2001 election.

For Mayor: Gary Pirkle 430 votes
Delmar Reidelberger 358 votes

Gary Pirkle had the majority of the votes and would become Mayor on January 1, 2002

For Council seat vacated by Gary Pirkle and Thomas Rhodes was appointed to:

Thomas Rhodes 661 votes

Thomas Rhodes ran unopposed and will take Gary Pirkle's place in January.

For Council seat currently held by Mike Mosley:

Ron Johnson 655 votes

Ron Johnson ran unopposed and will take Mike Mosley's place in January.

She requested that the Council certify the results of the election. Council Member Hall made the motion to certify the results of the November 6, 2001 election. Mayor Pro-Tem Abbey made the second. Motion passed unanimously by those present to vote 4-0.

B: AMEND INSURANCE OCCUPATION TAX ORDINANCE:

City Attorney Lee Thompson explained that based on population, the city could now increase the fee charged insurance companies under state law. This fee would increase from \$40.00 to \$75.00. Council Member Avery made the motion to adopt the Insurance Occupation Tax Ordinance as proposed. Mayor Pro-Tem Abbey made the second. Motion passed unanimously by those present to vote 4-0.

C: CITY SPEED ZONE ORDINANCE:

City Manager Bob Hail explained this ordinance was necessary for the Gwinnett County Police to enforce the speed limits on city streets. Signs would have to be put up letting residents know that speed would be checked by radar. Mayor Pro-Tem Abbey made the motion to adopt the City Speed Zone Ordinance. Council Member Rhodes made the second. Motion passed unanimously by those present to vote 4-0.

D: PUBLIC HEARING: SUP 01-001: The Bick Group: Map Reference # 7-258-001, 3.99 Acres: 1210 Buford Highway-Fred Sexton is requesting a Special Use Permit to construct a 140' Cable TV Communications Tower at 1210 Buford Highway:

Council Member Hall made the motion to enter into Public Hearing for SUP 01-001. Mayor Pro-Tem Abbey made the second. Motion passed unanimously by those present to vote 4-0. Planning Director Jim Osborn explained this was Charter Communications and the Bick Group was the applicant. The Special Use Permit was to extend the cell tower to 140 feet. The site is currently zoned General Business in the city. A development permit was issued on March 30th and a building permit to construct a 6100

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square foot building on the site. In a General Business District you can construct a Seventy-foot tower. The applicant had submitted an application to extend the tower to 140 feet. The property fronts Buford Highway to the East, the Buford Presbyterian Church is zoned O & I, to the rear is Frontier Forest zoned RS 150, over to the west is zoned General Business which has a testing facility. Across the street in unincorporated Gwinnett County there are commercial businesses. A permit had been issued for the tower and it was currently about twenty feet high. A seventy-five foot buffer zone would be required between the tower site and the RS150 site (Frontier Forest). Currently there are 50 to 60 foot pine trees in this buffer zone, which provide adequate screening for that residential property. The city's ordinance calls for a fall zone of 133% of the towers height when a cell tower abuts a residential property and this meets those criteria. There was an environmental impact report and a structural analysis report attached to the application, which had been reviewed by an independent structural engineer, and it did check out okay, basically checking out the design of the tower and its failure characteristics in case this tower should fail. It is designed to collapse on itself at the midway point rather than falling over like a tree. That design has been approved with the ordinance trying to minimize any negative impact on the adjoining property owners. At the last two Planning and Zoning Meetings, there was some concern from the Buford Presbyterian Church about ice coming off the tower or the tower falling on their property. The Church is looking at expanding their building at some point in time. The Planning Commission tabled this item and asked the applicant to do two things. One thing they asked of the applicant was to see if they could relocate the tower to the other side of the property away from the church and the other thing was to check their technical data to see if they needed a tower that tall or could they go to a smaller height. At last month's P&Z meeting, the applicant reported they could not relocate the tower due to having construction already started and they did need the 140' tall tower. According to the applicant, each channel has its optimum reception at a certain height and there are some channels that can only be received at the 140' height. In order to receive all the channels, they do need the 140'. The church was concerned with what if, due to a significant wind, the tower did fall on their property. What the applicant proposed and what became a condition of zoning was to construct non-tension guide wires basically anchoring them at the rear of the tower to keep it from falling on the church property. The staff and Planning recommendation was for approval with the condition that a structural engineer would review the design of the tower with the non-tension guide wires attached to the tower and that the guide wires and all associated hardware would withstand any significant wind. Mayor Pro-Tem Abbey asked Mr. Osborn if there was not an ordinance or state law stating that there had to be significant proof if this was denied. Mr. Osborn replied that was in the city's cell tower ordinance. If the Special Use Permit for the cell tower is denied, the city will have to show substantial evidence for its denial according to Article 17 of the cell tower ordinance. Mayor Pro-Tem Abbey asked if they have taken all the precautions, pointed out by Mr. Osborn, had they eliminated any substantial evidence the city might have. Mr. Osborn responded that he did believe they had with the way it was designed and the back up with the guide wires. Council Member Hall asked Mr. Osborn if he knew when Charter purchased this property. A representative of The Bick Group replied that it was purchased in February of this year. She wanted to know if they or Charter did any research, before purchasing the property, to find out that

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there was a limit on how tall a tower could be in the city. They had done terrestrial surveys but Federal law required other off end channels to be provided and that was not a factor when they did the surveys. Council Member Hall wanted to know if they went into the purchase of the property under the assumption that the city would give them a Special Use Permit. He responded not particularly, they were not aware of all the channels that the FCC was requiring them to pick up. She wanted to know if that wouldn't be the prudent thing to do, to determine if the property would be adequate for their needs before they purchase the property. If they found the property wasn't adequate then they would go to a higher topo land lot. The applicant responded that based on the information they had at the time, they felt 70 feet would be adequate for their needs. The debris they had to pull off the site lowered the tower, lowered the whole base of the site and that in itself changed the parameters of where the antennas were going in the stacking mode. Council Member Hall asked if they had to take off 70 feet of earth, to which the applicant responded they did because they had to clean up the site, the back side of the property had been used as a dump site by the nursery located there. When they started excavating, they had to go about eight feet below the surface. That made a difference in what they could do with the tower. Council Member Hall noticed in the analysis from the engineer it stated the Standard Building Code that the summary is based on, the factors are found to be adequate, which implies that the design quoted meets adequate code requirements. It also said that ice to design loading also takes a further safety issue into account. If we have ice in our area on a regular basis, it is not taking that ice into accountability at the top of that tower or structural load. Mr. Rick Miller of Midwest Tower stated the tower was designed for ½ inch radial ice at 75 MPH and with ½ inch ice you are allowed to reduce wind speed to 66 MPH so this is what the tower was designed for. Council Member Hall stated it was only adequate for the code, not in excess of the code. Mr. Miller responded that is all the summary would say, that it was adequate for the code. The tower was designed for 66 MPH wind with ½ inch radial ice, that is a ½ inch on member of the tower, the antennas and tower. Council Member Hall asked the representative of Charter about the letters they had been receiving from the president of Charter regarding the raising of fees to expand the services like digital cable, which means they are using underground cable so why do they need a 140 foot tower. The representative explained that TV cable is put out on fiber optic cable and it is not underground, it is hanging on telephone poles. The only cable that goes underground is the coaxial cables that go to the residential units. Council Member Hall asked what relevance the fiber optic cable had to the tower, to which he responded it had no relevance. The tower is to collect the signals that will go out over the fiber optic cables to the residential units. Council Member Hall asked City Attorney Thompson if there wasn't a provision in the cell tower ordinance that towers be shared whenever possible to prevent an overabundance of 140 foot towers. Mr. Thompson responded there was a provision that stated a company should look at the existing towers to see if they could be shared but from an engineering standpoint it might not be possible to share some of these towers. Planning Director Jim Osborn stated this was addressed at the Planning Commission meeting and there were no towers that could be shared. Gary Pirkle of 5026 Oakgrove Drive asked if the purpose of this tower was to receive signals then send it out on fiber optic cables to the homes, he was able to pick up channels now without the 140 foot tower, so why do they need a 140 foot tower, why can they not use a smaller tower.

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The signals are being received at a different location and this new center will be processing all those signals that need to be received at that center or reasonably close to it. The difference in the signal received at his house and at the tower is a matter of quality. They are looking for a signal that does not fade in and out when there is bad weather. They want a signal that does not have co-channeling on it, which is where you have adjacent channels feeding against each other. They are looking for a signal that does not have a ghost from another channel and that is one reason they are looking at the 140-foot tower. Each frequency has a certain wavelength and a multiple of that wavelength is what they are looking for on the tower. The antennas between 60 and 70 feet will receive the signals no question about it but you will receive a better signal at twice that level. You would get a better signal at twice that level and so on. If you look at cable towers around the country, they are generally anywhere from 120 to 140 feet or 240 to 280 feet or around 500 feet. The big thing is, they cannot put all the antennas in the same spot. If you are going to receive 9 channels, 10 channels or 15 channels, you have to have fifteen different locations. What makes it really hard, you can't stack them one on top of another. A channel two and a channel four have to be 18 feet apart. A channel seven and a channel eleven have to be eight foot apart. A channel sixty-one and a channel fifty-nine have to be four foot apart. The more channels you have on it, which number one is the cable customer wants all the local channels and number two there are certain must carry channels that they have to pick up any way possible. This includes anybody that broadcast over the air like a PBS Station or a commercial station or somebody like Trinity Broadcasting they are required to carry those. Council Member Hall asked where the current tower was located that is picking up these signals. It is located about ten miles away on the other side of the Interstate. Council Member Hall asked how tall that tower was. Mr. Miller responded it was 150 feet tall. She asked if it were not receiving adequate signals. Mr. Miller stated they were no longer there; they could not put their facility there. The zoning had changed when Charter elected to build a new facility. Mayor Pro-Tem Abbey wanted clarification about how far apart the channels had to be and the height of the towers, that most of them were 140 feet tall. The applicant responded that they were multiples of that because of the frequency wavelength. It used to be that when there was lots of land and there was not a proliferation of towers that they tried to build them in a more remote area at 500 feet and that way they could work in that 400 to 500 feet with the stronger signals would work at the 200 foot area. Cellular towers had made it difficult for the people in the cable business to get towers where they need them because there is only one cable tower in a town. He is the one that did the drive around and looked at all the towers, there were about 12 cellular type towers in a three-mile radius. He stated that the towers he looked at were either too short or there was no space available for a facility or they were not available towers. Council Member Hall asked if he had looked at the tower belonging to Radio Station Lake 102 on Thompson Mill Road, it is about 150 to 200 feet tall. He responded that he only checked what was required by the Ordinance, which included anything within a three-mile radius. One problem they have locating on another broadcast tower is interference from their broadcasts, their towers are passive, they collect they do not broadcast. They have trouble if a wire is sparking on a pole two miles away. Council Member Hall asked if the average tower is 150 to 500 feet. He responded that they are in multiples like 60 to 70, 120 to 140, 220 to 280, and 460 to 620. They do

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that because of the way the bandwidths fall. Mayor Pro-Tem Abbey asked how long that had been the norm to set them up in multiples, to which he responded since day one. He explained that the optimum spot on the tower is one bandwidth, say its 14 feet, when you go up to 28 feet you gain three d b d, which is a signal level. The more remote you are from the signal, the more height you need because you gain three d b d every time you increase height. There is a level of signal they cannot process, they can put preamps on the antennas that will increase the signal that will make them process able. The problem with those, especially in an area like Atlanta, not only do they preamp the signal you want, they also preamp the signal you don't want. It creates a separation problem at the processor. To help them understand, he does towers, he is not real good when it comes inside the building but he does know what is required on the antennas and towers. Dr. Joe Clarino asked a question regarding the optimal radius for a tower of this size to receive a signal to send to a homeowner with digital cable. It would depend on the strength of the signal, for instance they were in Elberton this morning and they were receiving a signal in Elberton from Atlanta that was broadcasting on 3,000,000 watts. A broadcast of 3,000,000 watts will pick up fine but some of the channels they are required to carry do not broadcast at that high of a level. He went on to explain there were other things they could do, like hook two antennas together in order to have more power but on a 60 or 70 foot tower they do not have room to do that because there are 15 stations they are trying to pick up. Then they have a spacing problem because low band VHF channels have to be 18 feet apart and high band channels have to be 8 feet apart and UHF channels have to be four feet apart. They could stick the UHF inside two VHF's because it only has to be four feet from the VHF like it has to be from each other. Assuming everything only has to be four feet apart, with 15 antennas that would be 60 feet. On a 70-foot tower, the bottom antenna would be 10 feet from the ground. Council Member Hall had a problem with Charter buying the land knowing the height restrictions on the property and did not look for a different site with a higher elevation. A property with a higher elevation might not require a 140-foot tower. She recalled a concrete plant that wanted to come in several years ago and like Charter they wanted a Special Use Permit for the height of their silos. This property was located at Westbrook Road and she thought this property would have a higher elevation. If they were seeking a 140-foot tower, why would they not look for property with a higher elevation and maybe these gentlemen could not answer that question, Charter might have to answer the question. The applicant responded that it was a Charter question but the site was selected because of certain channels that they were looking to carry. Then the law changed saying there were channels they must carry and by then the property already belonged to Charter. Council Member Hall wanted to know when that law changed. The applicant responded it might not be so much when the law changed but the fact they were told they had to carry certain channels. Council Member Hall repeated her question of when did the law change. They thought it was in 1994. Council Member Hall responded that if the law has been in existence for seven years and they did not do their research to find out they needed to carry those channels, why does that burden fall on the city to give them a 140-foot tower. Why was it the city's responsibility to do their homework on the back end of the deal? He could not answer that question. A citizen wanted to know if the must carry's was an FCC regulation. The applicant explained it was called the Telecommunications Act of 1994, he thought and what happened was anybody who thought they could get there

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signal to the tower told the cable company that they must carry their channel. He gave an example of a station in Murray Kentucky who got his signal to Paducah Kentucky on a different frequency then has a tower installed in Illinois to pick up his frequency, which he then transmits to Cape Gerardo Missouri by microwave then tells them they have to carry this channel because it is available and he is only transmitting at 3,000 watts. If they have this 140-foot tower, they can have one antenna for each channel instead of one antenna for several channels. That way if one antenna goes out they only lose one channel. Council Member Hall made a motion to close Public Hearing. Mayor Pro-Tem Abbey made the second. Motion passed unanimously by those present to vote 4-0. Council Member Hall made a motion to table this Special Use Permit 01-001 and give Mr. Sexton an opportunity to go back to Charter and ask Charter to address the city's concerns about why they bought this property. They went ahead and got a building permit then decided they needed to locate their tower based on where they built their building instead of the other way around. If you have a 140-foot tower, you might want to locate the tower before you put a building on the property, so possibly between now and the next meeting someone higher up the chain at Charter could get in contact with the council and address some of those concerns. Mayor Pro-Tem Abbey made the second to the motion. Motion passed unanimously by those present to vote 4-0.

**E: RATIFICATION OF FINAL PLATS: GLENS AT LEVEL CREEK
PHASE III & WILD TIMBER PHASE VI:**

Planning Director Jim Osborn stated this was the last phase for the Glens at Level Creek and it is for 50 lots, himself and Mr. Hail had signed everything off. Council Member Hall made a motion to ratify the final plats for the Glens at Level Creek, 50 lots Phase III. Council Member Avery made the second. Motion passed unanimously by those present to vote 4-0.

Planning Director Jim Osborn stated everything had been signed off for Wild Timber Phase VI, 73 lots. Council Member Rhodes made the motion to ratify the final plats for Wild Timber Phase VI, 73 lots. Mayor Pro-Tem Abbey made the second. Motion passed unanimously by those present to vote 4-0.

F: 2001 SPLOST CONTRACT:

City Manager Hail explained that in order for the city to be reimbursed for money spent on transportation and recreation under the 2001 SPLOST, the Mayor needed to sign the contracts. It was his recommendation for the council to authorize the Mayor to sign those contracts. Mayor Pro-Tem Abbey made the motion to authorize the Mayor to sign contracts for reimbursement of funds on transportation and recreation. Council Member Avery made the second. Motion passed unanimously by those present to vote 4-0. Council Member Hall wanted to thank Gary Pirkle for his efforts in getting this for the City of Sugar Hill. Gary was a member of the SPLOST committee.

G: CITY LONG TERM DEBT:

City Manager Hail explained that the city had a gas bond that had been refinanced in an effort to reduce the city debt. He felt the city was now solvent and could pay off this bond and the one on the clubhouse and spray field at the golf course. This would be paid out of the reserve money saving the city interest charges on the two bonds. He asked the

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council to authorize the City Manager and the City Attorney to work with the bond people to pay off these two debts. Council Member Hall made the motion to authorize the City Manager and the City Attorney to work with the bond people to retire both the gas bond debt at \$1.6 million plus and the pay off for the clubhouse and spray field at the golf course is a little over \$500, 000. This money will come out of the city's Money Market Investment Account at the earliest possible convenience. Council Member Rhodes made the second. Motion passed unanimously by those present to vote 4-0.

CITY ATTORNEY'S REPORT: City Attorney Thompson reported that they had closed on the purchase of the church property.

COUNCIL REPORTS:

Council Member Meg Avery congratulated Gary Pirkle on being elected Mayor however she was sorry to see Roberta go. She reported the city had a successful Fall Festival; Dr. Deb Cirone had been a great director. She felt it was a good thing for the city. The park was looking better; she was pleased with the purchase of the town green. She was grateful for all the Veterans, sorry about the plane crash in New York City.

Mayor Pro-Tem Abbey echoed Council Member Avery's comments. He also wanted to thank the Veterans and congratulate Mr. Pirkle, Mr. Rhodes and Mr. Johnson.

Council Member Hall also echoed the comments. She felt Dr. Deb and her husband Dr. Joe had done a wonderful job on the festival. Mr. Queen, the Director of Golf, will retire at the end of December and David Bowman has been appointed to take his place.

Council Member Rhodes also echoed the comments. He had received six more votes than Ron Johnson. He felt he had some big shoes to fill, he felt the council had done some great things for the city and the golf course. He looked forward to working with Gary Pirkle and Ron Johnson. He also thanked Dr. Deb, glad of the purchase of the town green and would like to see more people involved.

MAYOR'S REPORT:

Mayor Crabb reported she was pleased that Gary Pirkle had been elected as the new mayor. She had made numerous calls to make sure the right man got elected. She also thanked Dr. Deb and Dr. Joe and all the people who had worked at the festival.

CITY CLERK'S REPORT: No Report.

CITY MANAGER'S REPORT:

City Manager Hail reported the following for the month of November:

Recreation: The city had recently purchased the old "First Baptist Church and New Church of Atlanta" property on Church and West Broad Streets. The purchase included 2.2 acres and a 4,600 square foot building that will be renovated for a new Community Center and Town Green". They are seeking citizen input for what should be included on the "Town Green".

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Roads: grinding and road resurfacing of city streets is almost complete for this year. Almost \$400,000 of road improvements had been completed since July. Over eight miles of roads have been patched and resurfaced.

Recreation: The Sugar Hill Fall Festival was held on October 20th with over 40 vendors and an estimated 6,00 - 7,000 people attending. Congratulations to Drs. Deb and Joe for their outstanding efforts and planning. The playground equipment damaged this summer was replaced in time for the Fall Festival. The EE Robinson Park parking lot was also resurfaced and striped before the festival.

Community Center: The metal seam roof has been replaced, insulated windows installed and the exterior has been painted. A new sound recording system has been purchased for documentation of official meetings.

City Hall: The City Hall parking lot has been resurfaced and striped.

Gas: Sugar Hill price per therm for September-October was \$.4639 as compared to Natural Gas \$.729, SCANA \$.789, and SHELL \$.729. Sugar Hill's service fee is \$13.00 a month compared to \$20.25, \$20.20 and \$21.20 respectively for the Marketers.

Employee of the Month of October is Tony Romans. Tony works for the gas department and received a gift certificate from JR Crickets.

Golf: He wanted to announce that Mr. David Bowman had accepted the City's offer to become the Director of Golf. He has been an employee with the city since 1994 as the Head Golf Professional. David was selected from a strong field of over 40 applicants during a two-month selection process.

He wanted to thank all the festival volunteers and elections workers. Your efforts and enthusiasm make Sugar Hill a wonderful place to live and work.

Mayor Crabb swore in Dr. Joe Clarino to serve on the Planning and Zoning Board.

EXECUTIVE SESSION: There was no Executive Session.

ADJOURNMENT: Council Member Hall made the motion to adjourn the meeting. Mayor Pro-Tem Abbey made the second. Motion passed unanimously by those present to vote 4-0.

Meeting adjourned at 9:15 PM

Date Approved: _____

Mayor

ATTEST:

City Clerk

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