

**MINUTES COUNCIL MEETING
CITY OF SUGAR HILL
MONDAY, JULY 12, 2004
7:30 PM COMMUNITY CENTER
4988 WEST BROAD STREET, SUGAR HILL**

Call to Order at 7:30 p.m. Present were Mayor Pirkle, Mayor Pro Tem Johnson, Council Members Marc Cohen, Steve Edwards, Nick Thompson and Clint Thompson. Also present were City Manager Bob Hail, City Attorney Lee Thompson and City Clerk Jane Whittington.

Pledge of Allegiance to the Flag Mayor Pirkle led the pledge of allegiance.

Invocation Mayor gave the invocation.

Approval of Agenda – Council Member N. Thompson motioned to approve the Agenda as submitted. Council Member Johnson seconded the motion. Approved 5-0.

Approval of Minutes:

Minutes of Council Meeting June 14, 2004 - Council Member Cohen motioned to approve as written. Council Member Johnson seconded the motion. Approved 5-0.

Minutes Special Called Meeting June 16, 2004 Council Member Cohen motioned to approve as written. Council Member Johnson seconded the motion. Approved 5-0.

City Attorney's Report – Lee Thompson had report of pending litigation in Executive Session, no report in regular session.

Council Reports

Council Member Clint Thompson had no report.

Council Member Marc Cohen went to a cookout July 4th and heard many positive comments about sense of community, and how important it is in Sugar Hill. As we grow we need to learn that positive combination between small town main street and a commercial growth. He thanked everyone who has written, called and emailed regarding recent cases pending before Council. Input is important to the Council's decisions. He encouraged everyone to stay involved. Last Saturday was the first Town Hall Meeting regarding the downtown plan and recreational facilities. It brought a different perspective to these topics as well as others. This was only the first step and it will be a while before tangible results are seen. He looks forward to many more town hall meetings to gather citizen input. Last month when they attended GMA convention it was a great opportunity to share ideas and learn from others. Also while they were there they elected a new slate of officers and Council Member Clint Thompson was elected 3rd Vice President of Third District Northeast. He congratulated him. He encouraged everyone to vote on July 20th. For Planning & Development they issued 209 permits this past month and performed 200 inspections and received one annexation application.

Council Member Nick Thompson thanked everyone for coming out to the fireworks. He thanked Mr. Edwards for having the foresight to think of fireworks as early as he did. He encouraged everyone to vote on July 20th also. He reported that the Downtown Development Authority had a very good inaugural Business Alliance Meeting on the 24th of June. There were over 60 people there. The next one will be hosted by Applebees. The hope is that this will develop into a Chamber of Commerce of all the businesses in Sugar Hill that hold a business license. There will be invitations going out to the businesses when the next one is scheduled.

Council Member Ron Johnson reported that he thought the fireworks and the movie afterwards were very good. There were over 2,000 people there and the police officers on duty did a great job. There were no traffic jams. Kelly Rumrill did a good job running things inside. He reminded everyone that there is a concert coming up next month. The bands performing are warm up bands for major concerts. There are concerts every month, October 24th John Berry will perform. . The GMA training in Savannah went well and the Council got to learn a lot about each other. He was disturbed about the emails this week. The businesses at the end of Suwanee Dam Road and Hwy. 20 are not in the city limits. Boycotting their businesses would be wrong.

Council Member Steve Edwards had no report.

Mayor's Report – Mayor Gary Pirkle reported that the cities had another SPLOST meeting. There have been about a half dozen meetings. He will be meeting with Charlotte Nash and the City Manager will meet with Gwinnett County about the referendum for SPLOST. What will come out of all of this is an intergovernmental agreement with all the cities and the county which will set the funds to be received. The city is looking at about seven to eight million dollars over the next four years. We are looking at the potential of a called meeting to address this agreement due to the time constraints.

City Clerk's Report - City Clerk Jane Whittington reported on Occupation Taxes. We issued 27 Businesses Licenses in the month of June. She is working with the Code Enforcer to check the delinquent businesses, or businesses without licenses. The revenue generated was under \$3,000 since most of these were home businesses just starting out. We received the new digests from Gwinnett County for business and property tax.

City Manager's Report – The City Manager Bob Hail reported the following (See Attachment #1)
Annexation Applications: AX-04-014, Premier Planning & Development Group LLC, 7-337-039, 4.96 Acres, Currently R-100 to RS-100. This will come forward at the July 19th Planning Commission meeting and the August Council Meeting.

Unfinished Business

PUBLIC HEARING - RZ-04-004, Tax ID 7-306-064A, Frederick T. Jones, Jr., Appling Rd & Sycamore Rd., 4.14 Acres, From HM-1 to HSB for Retail Strip Center – Applicant Requested to Table indefinitely. Council Member Johnson asked the City Attorney if an item could be tabled indefinitely? He stated that it could either be tabled until the next meeting or tabled until someone from the Council brings the item back up again. Council Member Johnson stated he does not like to table indefinitely and made a motion to table until the August Council Meeting. Council Member Edwards seconded the motion. Approved 5-0.

PUBLIC HEARING - AX-04-006, Tax ID 7-254-027, Grady Howington, Buford Hwy 23, 26.104 Acres, From R-75 to BG along Buford Hwy & Residential in Rear – Planning Director explained the zoning application. The original request was for BG but it was changed to have residential in the rear. The Planning Commission recommended approval as well as staff with conditions. There are 57 lots in the residential portion. The Mayor opened the Public Hearing. Emily Howington Bailey, daughter of Grady Howington, spoke for the applicant. She stated that they did change the original application from all commercial to add the residential because of the concerns of the surrounding citizens. They agree to all the conditions placed on the zoning. Ed McEackren, 545 Ruby Forest Parkway and President of the Ruby Forest Homeowners Association spoke in opposition to this application. There are stipulations they would like to see placed on this. They are concerned about the type of businesses going on Buford Highway. They do not want to see fast food and this type of business with outdoor speakers. They would also like to see more buffers from their houses, especially on the side where the entrance to the subdivision is. Steven McClellan, 160 Roberts Road, does not like the plans for the commercial portion. He feels it does not fit in with the residential area. He thinks the whole land should remain residential. The Mayor reported that they had meetings with the City of Suwanee and they want to see 3 story buildings in the area with commercial and then lofts on top for residential, a mixed use type property. Council Member Cohen motioned to approve AX-04-006 annexation and rezoning with the staff conditions and add to prohibitions any business with a drive through. Council Member Johnson seconded for discussion and wants to add convenience store, gas stations and oil changes. Council Member Cohen amended the motion to include these. Council Member Johnson seconded the motion. City Attorney L. Thompson incorporate site plan for which plan is BG and which is RS-100 and establish boundaries and add it to number 6 of the conditions. Council Member Cohen amended the motion to incorporate current site plan by date 4-14-04. Council Member Johnson seconded the motion. Approved 5-0.

PUBLIC HEARING - AX-04-008, Tax ID 7-319-009, Terry Cohron, 5571 Suwanee Dam Rd., .57 +/- acre, From R-100 to HSB – Mr. Bedi explained the application. This property is zoned R-100 in the County. The applicant wants to keep the current home occupation in commercial zoning. The Planning Commission recommended annexation and rezoning to RS-100. The staff recommends approval of RS-100 with conditions. The Mayor opened the Public Hearing. John Cook the resident at 5571 Suwanee Dam Road and co-property owner with Mr. Cohron, spoke for the applicant. He stated that he has lived there 2 years with his children. He bought the property because of the woods behind it but the traffic has become so busy. This property was always used as commercial and he would like to see it zoned commercial. Council Member Johnson explained to Mr. Cook that if this property was zoned R-100 with the City his business would have to have a license, it would be illegal if ran as is. Several citizens spoke in opposition to the zoning. Teresa Bailey, 158 Eastham Court a Gwinnett unincorporated resident asked if commercial and HSB were different? The Mayor explained that there are some differences but both are business zonings. She commented on the ad traffic there. She would like to see it stay residential as it was when he purchased it. Marvin Epp, 55 Saltcreek Pt., stated that Mr. Cook has actually made an improvement in the property and the only stipulation he has is the dumpster be closed in if it stays commercial. Also be careful of the runoff. They do not want anymore commercial on that street. Bill Moser, 5130 Harbury Lane, presented a petition of 63 signatures of the Edinburgh neighborhood. They signed in opposition to the annexation and any rezoning. Teresa Bailey added that in five years another commercial use could come in and they would not be guaranteed what it would be like. Applicant responded that he does not have a dumpster and he does not produce a lot of traffic. The Mayor clarified the difference between a commercial and

a residential buffer. Council Member Johnson asked what business Mr. Cook was operating there. He stated it was Remax Real Estate. He asked if the Council could grant a Special Use Permit to allow him to have this business there would the people object. The City Attorney responded that they could not grant a Special Use Permit to operate a commercial business in a residential zoning but he could obtain a Customary Home Occupation if it met the requirements. Council Member Cohen asked Mr. Cook if they could do something like that was it his intention to continue to operate his real estate business or sell it for commercial development. Mr. Cook stated it would depend on what happened around him. His intention would be to stay but it would depend. He wants to maximize the value of his property and still run his business. Council Member Johnson motioned to annex and **rezone RS-100**. Council Member Edwards seconded the motion. Mr. Cohron indicated to the City Manager that he would want to withdraw rather than be zoned RS-100. They gave Mr. Cook the chance to withdraw his application and he declined. Approved 5-0.

PUBLIC HEARING - AX-04-007, Tax ID's 7-319-007, 7-319-008, Jeffrey Caughey & Rex Nelson, 1.142 Acres, 5587 Suwanee Dam Rd, From R-100 to HSB – Mr. Bedi reported that the applicant has requested to table this because he is out of town. The co-applicant Jeff Caughey was present so the Council made no motion to table. Mr. Bedi explained the application. There are 2 lots combined and located on the corner. The Planning Commission recommended to annex and rezone RS-100. The staff recommended the same and submits conditions in case it is zoned HSB. The City Attorney stated that these lots back up to the city limits and are therefore contiguous. Council can annex one or all of them. The Mayor opened the Public Hearing and Mr. Jeff Caughey spoke in favor of the application. When he purchased the property he knew what it was zoned R-100 but he did not know that the building located on it was not up to code. There will be traffic issues whether it is zoned commercial or residential and can in fact be worse if residential. He could put 2 homes on the 2 lots but it is not the proper area for homes. Marvin Epp spoke in opposition to the application. Repeat everything he said on the last one especially about the dumpster. Dan Lynn, 154 Blue Cedar Walk, stated that they erected a commercial sign on a property zoned R-100, and parked a boat on it to sell it. Chester Gaseorowsky 5547 Blue Cedar Drive, expressed concerns that if this applicant leaves and the property is zoned commercial where does it leave the residents of the city? Greg Craft 5973 Wild River View, stated that he does commercial real estate for a living and he makes sure his clients and he does due diligence before purchasing a property. If they bought these properties that were not zoned for commercial use then they did not. They would like to see the property annexed into the city so we can control what goes on the property instead of leaving it up to Gwinnett County. Teresa Bailey again expressed concerns about the property becoming commercial and what would be there in the future. Mr. Caughey submitted a petition in favor of the commercial zoning. The Mayor closed the Public Hearing. Council Member C. Thompson asked the audience if the consensus was to allow the current business to continue. The audience was not in favor. Council Member C. Thompson told them the use could be restricted not allowing any other business but allowing it to become commercial. Council Member Johnson stated that there is more than one business located on that property. Council Member Edwards motioned to follow the Planning Commission's recommendation and annex AX-04-007 and **rezone it to RS-100**. Council Member Cohen seconded the motion. Approved 5-0.

PUBLIC HEARING - AX-04-009, Tax ID 7-319-010, Miguel & Victoria Eliguera, 5567 Suwanee Dam Rd., .57 +/- Acre, From R-100 to HSB- Mr. Bedi explained the application. The Planning Commission recommended approval of annexation and to rezone to RS-100. The property is currently used as residential with a house on it. Mayor opened the Public Hearing. The applicant was not

present, so no one spoke in favor of the project. Several people spoke in opposition to the application. Dan Lynn stated that his subdivision Saddletree backs up to this property. The owner fenced it in and has put several structures back there. He requested that the City annex it in as residential so they can make him comply. Council Member Johnson motioned to annex and rezone as **RS-100**. Council Member Cohen seconded the motion. Approved 5-0.

PUBLIC HEARING - AX-04-010, Tax ID's 7-319-032, 7-318-047 & portion of 7-318-050, LBG Associates, Inc., Suwanee Dam Rd & Kennedy Rd., 7.004 Acres, From R-100 to HSB for Restaurant, Retail Center & Gas/Convenience Store – Mr. Bedi reported that the applicant requested to table this application. There was not a motion from Council to table. Mayor opened the Public Hearing. Council Member N. Thompson asked the applicant why after all this time is he requesting to table now? The applicant explained that the opposition has mounted. He has called the adjoining neighborhood associations trying to set up meetings with them. They have agreed to meet but this has not happened as yet. There was not a motion from the Council to table. **Applicant withdrew the application.**

Citizens and Guests Comments – No citizen comments.

New Business:

Proclamation Jeremy Rollison - The Mayor recognized him for his hard work in becoming an Eagle Scout. Council Member Cohen read a proclamation and motioned to present it to Mr. Rollison at his upcoming Court of Honor. Council Member Johnson seconded. Approved 5-0.

DDA Appointments – Council Member Nick Thompson reported that 2 posts are open. He nominated Tom Bowman of Faith Realty. Mr. Bowman is not present tonight but has expressed an interest in serving on the DDA. There were no other nominations so they will administer the oath next month.

Land Use Plan – The City Manager Bob Hail updated the Mayor and Council on the proposals received. Council Member Cohen motioned to approve the contract with PBS & J to update the City's Land Use Plan. Council Member N. Thompson seconded for discussion and asked Council Member Edwards if he had time to review the proposals. Edwards stated that he had reviewed them and was ready to vote. The second stands. Approved 5-0.

PUBLIC HEARING - RZ-04-003, Tax ID's 7-305-062, Frederick T. Jones, Jr., Hwy. 20 & Hillcrest Rd., Rezone 12.37 Acres to HSB, for Retail Strip Center, Current Zoning HM-1 – P & Z Director Bedi reported that this is still pending with the Planning Commission because of the Traffic study, etc. It was advertised so it had to be brought forward on the agenda. The Council instructed Mr. Bedi to readvertise this and bring it back up next month.

PUBLIC HEARING - RZ-04-005, Tax ID 7-305-338, James Scott Benson, 5385 Hwy 20, Rezone 1.0 Acres from AF to BG – Mr. Bedi explained the application and the staff conditions. The Planning Commission recommended approval with a number of conditions. The variance is for 61' and staff has placed a condition that the property be used for this pest control business only. If this business is torn down or altered, they will have to meet the current zoning ordinance. Council Member Edwards

asked if this was a Special Use Permit for this business only? The City Attorney Lee Thompson clarified that at the Work Session the Council asked that a condition be put on the rezoning to only allow the pest control business within the current structure. Anything else would have to come back before the Council. The Mayor opened the Public Hearing. The applicant Scott Benson spoke regarding this application. He currently resides at the property but would move out to have the business there. The pest control business is regulated by the Department of Agriculture and they have to keep all the pesticides under lock in a secure location. Patty Delucker, 5430 Windswept Trace spoke in opposition to the rezoning. She was concerned about the streams that run through the property. The type of business this is could allow chemicals, etc. to get into these streams. Mr. Benson explained that the Department of Agriculture is strict with the pesticide controls. Most of the mixing of the chemicals is done on the customer's site. Council Member N. Thompson motioned to approve with staff recommendations and conditions. Council Member Cohen second for discussion. Only as recommended at Work Session for existing business only. Cohen seconded. Approved 4-1 with Council Member Johnson voting no.

PUBLIC HEARING - RZ-04-002, Tax ID's 7-304-004, 7-305-013, 7-323-026, 7-324-015, TTA Developments, LLC, Between Appling Rd. & South Richland Creek, 168.1 Acres Rezone From HM-1 to CSD – Mr. Bedi explained the application. The property is currently vacant and the proposal is for 400 single family homes. The conservation district would require so many units per acre but they would be more condensed with a portion of the property as green space. The staff has placed 29 conditions on the rezoning and the Planning Commission recommended approval. The Mayor opened the Public Hearing. Michael Sullivan was present for the applicant. He stated that they would improve Hillcrest Road for the portion they are developing. It will be a functioning road up to the current blacktop instead of gravel with a bridge out. In addition his client is in negotiations with the property owners on a portion of Appling Road all the way to Sycamore to improve it. There will be covered bus stops for the children located within the development. There were no comments from the public in opposition to the project so the Mayor closed the Public Hearing. Council Member Edwards asked Mr. Sullivan if this development is swim tennis and he stated that it would be. Council Member N. Thompson asked if it was large enough proportionately for 400 homes. He believes it is and there is also 87 acres of passive recreation for the residents. Connie Tallman, Environmental Specialist explained the testing of the groundwater and surface water on the property. At this time the data shows that no further testing is necessary. Council Member C. Thompson had questions regarding the testing. The Mayor asked if the testing shows concerns about burning off of the methane at some point on the Sugar Hill landfill site? She quoted some EPA studies regarding the methane burning. Council Member Edwards asked if she reviewed those complaints with EPA for the BFI landfill. She stated that she had and they were currently under compliance. Council Member C. Thompson stated that he felt comfortable with the groundwater results but wanted to be sure with the surface water. He wants to be sure that the city shows due diligence before this property is developed, not after. Council asked staff if they were comfortable with the traffic study done. Mr. Bedi responded that he would like to see a more detailed comprehensive study than what was submitted by the applicant. Environmental Study results should be in tomorrow July 13th so Council set Special Called Meeting for Wednesday, July 14, 2004 at 7:00 a.m. to allow time for water study to be submitted.

PUBLIC HEARING - AX-04-012, Tax ID 7-340-005, Plantation Associates LLC, Suwanee Dam Rd near Kendrix Rd., 29.51 Acres, Rezone from R-100 in Gwinnett to RS-100/PRD – Mr. Bedi explained the application. The proposal is to build 117 single family homes on 29 acres. The Planning

Commission recommended approval with the staff conditions, and approval of variances. The staff recommends approval. Since the Work Session there has been another stipulation added. The applicant is to provide a 10' buffer along the existing and future residences. Council Member Johnson added to condition #4, no vinyl siding. The Mayor opened the Public Hearing. Robert Bondi spoke for the applicants. The homes will be single family detached, more like cluster homes. The price range will be 290,000 to 350,000. The developer filed the covenants with Mr. Bedi. Scott Story at 337 Brookwood Terrace of the Twin Creeks subdivision voiced concerns regarding how they will construct the buffer. He would like to see a 25' buffer in the area between subdivisions. Some construction developers just make a mound of dirt. He would like to see the buffer undisturbed and the trees saved. The developer stated that the extreme topography causes the lots to be deeper. They will do what they can to have 25' foot buffers where they can. Paul Egan 6282 Mountain Ridge Circle, asked Council to consider making them have a 25' buffer to save the trees. Chad Hall 6141 Mountain Ridge Circle, has worked with the developers closely for an easement. He stated that he does not believe the developers will clear cut right up to the edge of this 10' buffer. He supports their application for annexation and rezoning. He recommends that any tree over 6" within this buffer be clearly marked to save. Council Member N. Thompson thanked the developers for a good project and asked if they have a traffic study? Mr. Bedi stated that stipulation #8 requires a traffic light at Suwanee Dam Rd and the entrance to this subdivision. Council Member N. Thompson asked if this would be a condition of the zoning? If they could not install it would it end the project? Mr. Bedi stated they have to coordinate with Gwinnett DOT for this traffic light and they may not approve it. They have to make every effort but if they can't get it approved the project goes on. Council Member Cohen motioned to approve with staff conditions as stipulated. Council Member N. Thompson seconded. Approved 5-0.

PUBLIC HEARING - AX-04-013, Tax ID 7-254-009, Charles Morriss Veal, Buford Hwy. 23 just past Westbrook Rd., 19.69 Acres, From R-75 in Gwinnett to BG & RS-100 – Mr. Bedi explained the application. The original request was for general business but the applicant has modified it to have residential in the rear. The plat was modified by drawing in what would be the commercial portion using the same standards as the Howington project heard earlier tonight. Staff has placed a number of conditions on the project. The Planning Commission recommended approval of the annexation and rezoning but they added one stipulation under prohibited uses, any business with a restaurant drive through should not operate after 11:00 p.m. The Mayor opened the Public Hearing. The applicant was present but did not wish to speak. Ed McEackren President of the Ruby Forest Homeowners Association, voiced concerns about how close the proposed commercial area is to the residences. They ask that the BG be diminished to allow additional buffer. Buffer and no drive throughs was the main concern of the citizens speaking. Council Member N. Thompson motioned to approve AX-04-013 annexation and rezoning with staff conditions and to change the BG lot line on the Southern most depth line from 300' to 250', to add to conditions no drive throughs, convenience stores, automobile service stations, oil changes or fuel. Council Member Cohen seconded. Approved 5-0

PUBLIC HEARING - Zoning Ordinance Amendment, Article 9, RS-80 (Medium Density Single Family Residential District) allowing 8,000 Sq Ft lots/4.5 Units Per Acre - Council not in favor of going forward with this. Since this was advertised it was put on the agenda. Withdrawn.

Executive Session: Legal, Real Estate and/or Personnel: Council Member Cohen motioned to enter Executive Session. Council Member N. Thompson seconded the motion. Approved 5-0.

Adjournment: Motion made and seconded to adjourn at 11:50 p.m.

Gary Pirkle, Mayor

Jane Whittington, City Clerk