

CITY OF SUGAR HILL COUNCIL MEETING
MARCH 8, 1999
7:30 PM COMMUNITY CENTER

The City of Sugar Hill Council held its regular meeting on Monday, March 8, 1999 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 also placed on the board at Alton Tucker Blvd. and Peachtree Industrial Blvd. Notice was sent to the local newspapers.

Those present at the meeting included Mayor Roberta Crabb, Mayor Pro-Tem Bailey, Council Members Reuben Davis, Michael Mosley, and Gary Pirkle. Also present were City Attorney Lee Thompson, Acting City Manager Kelley Canady, Planning and Zoning Consultant Don McFarland, City Clerk Shirley Gibbs. Also present were registered guests, employees, and members of the media.

CALL TO ORDER:

Mayor Crabb called the meeting to order at 7:30 PM.

PLEDGE TO FLAG AND INVOCATION:

Mayor Crabb led the Pledge to the Flag and Mayor Pro-Tem Bailey led the Invocation.

APPROVAL OF AGENDA:

Mayor Pro-Tem Bailey made a motion to amend the agenda to include an Executive Session to discuss Personnel Issues and possible Litigation, Road Abandonment for Old Island Ford Road and a contract with West Gwinnett Soccer Club for the Recreation Board. Council Member Davis made the second. Motion passed unanimously 4-0.

**APPROVAL OF MINUTES:
FEBRUARY 8 AND 18, 1999**

Mayor Pro-Tem Bailey made a motion to approve the minutes of February 8, 1999 and the minutes of February 18, 1999. Council Member Pirkle made the second. Motion passed unanimously 4-0.

DEPARTMENT REPORTS:

Acting City Manager Kelley Canady gave the following Department Reports:

INSPECTIONS: For the month of February, 394 inspections were done, 13 residential permits were issued and 43 gas taps were permitted. City Court was held on March 2, 1999. 34 citations were issued and \$3,050 in fines was collected.

FINANCE: The ending balance in the General Fund checking account was \$339,853. The ending balance in the LGIP Fund was \$46,979. The City has received the Georgia Power Franchise check in the amount of \$173,217 which was \$13,217 more than was budgeted.

GAS: 76 new gas services were installed in February and 660 locates were done.

GOLF: The golf course reported spray fields 3 and 4 were completed and ready. They were waiting on final approval from EPD. They should be contacting the city the next day. Field 2 should be complete by the end of the week. Field 1B is ready for the installation of the sprinkler heads and Field 1A is still under construction and should be complete by the end of the month. The number of gallons was looking better than they thought.

OLD BUSINESS:

A: SALE OF PUBLIC LAND/BID OPENING:

Mayor Pro-Tem Bailey reminded everyone that the city had advertised some property the city owned for sale. He had been informed the city had received three sealed bids. He asked the city clerk to

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open and read the bids. Clerk Gibbs opened the bid from Jerry McDaniel and Associates and read the term of their bid. The bid proposal was for parcels #7-305-013, 7-323-003, 7-323-026 and existing landfill area.

ITEM #1 LEASE PARCELS #7-305-013, 7-323-003, 7-323-026 – INERT LANDFILL

- A. They would pay \$150,000 as a down payment for a 99 year lease with an inert landfill permit. The city would receive 16% of the gross revenues, generated by the inert landfill on a quarterly basis, for the entire term of the lease. In their estimation (barring an economic downturn) the city would receive \$150,000 to \$200,000 during the first year of operation. By the second year, the city should receive \$350,000 and by the third year \$450,000. The city would be provided with fill dirt-loaded at no cost to the city, whenever the city needed it.

ITEM #2 PROJECT NO. E-6197.05 PLANS DATED 5/20/98 BY ARCADIS GERAGHTY AND MILLER CLOSURE OF EXISTING LANDFILL AREA-APPROXIMATELY 10 ACERS.

- A. They would provide closure for the Appling Road Municipal Waste Landfill at no additional cost to the city. They would utilize the fill material that would be generated during the construction of the inert landfill on parcels #7-305-013, 7-323-003, 7-323-026. The cost to Jerry C. McDaniel, Sr. and Associates would be \$500,000. Upon issuance of the permit for the inert landfill, they would mobilize to start the clearing for the inert landfill and the closure of the existing landfill area within 24 hours. They would also provide engineering at their expense of approximately \$175,000.

ITEM #3 POST CLOSURE CARE OF APPLING ROAD MUNICIPAL WASTE LANDFILL

- A. They would provide monitoring for the closed landfill in accordance with the EPD approved plans dated 5/22/98, drawing #4.2 by Arcadis Geraghty and Miller for \$60,000 per year until it is released by the state of Georgia. They would be responsible to the city and to the state for complying with all of the rules and regulations for the proper closing of the inert landfill when it became full. This work would be done at their expense and at no cost to the city. They are an equal opportunity employer and will provide a drug free workplace, workers' compensation, and liability insurance and comply with all city, state and federal laws.

The second bid was from Peach State Property and Development, Inc.

Their proposal was to purchase 7-323-026 being 59.69 +/- acres, 7-324-019 being 12.1 +/- acres, 7-324-005 being 60.24 +/- acres, 7-304-004 being 12.0 +/- acres, 7-305-013 being 30.08 +/- acres, 7-323-003 being 44.60 +/- acres less approximately 10 acres of existing landfill. Purchase price would be \$7100 per acre. This bid excluded approximately 10 acres of existing landfill and any liabilities attached to it.

The third bid was from High Point Partners. Their proposal was presented as an offer to the city for the lease, purchase and/or development of 205 acres, more or less, of parcels #7-304-004, 7-305-013, 7-323-003, 7-323-026, 7-324-005, and 7-324-016 as a construction demolition, municipal solid waste landfill.

OFFER #1 OUTRIGHT PURCHASE OF PROPERTY.

HHP agrees to pay the city \$1,200,000 for said property, subject to delivery of good and marketable title and acceptable environmental conditions. HPP will be required to remit to the city one dollar (\$1.00) per ton or volume equivalent for all dry solid waste disposed of in the landfill (See O.C.G.A § 12-8-39). Estimated to be \$1,908,000 over a ten-(10) year period. Total offer would yield the city an estimated \$3,108,000.

OFFER #2 LEASE WITH OPTION TO PURCHASE AND ROYALTIES

HPP agrees to pay \$400,000 as prepaid rental and \$100,000 as nonrefundable option consideration upon execution of Lease and Option Agreement. Total prepaid consideration is \$500,000. HPP shall pay a minimum of \$10,000 per month for ten-(10) years as rents and/or royalty payments under the Lease and Option Agreement. HPP shall pay a royalty fee of \$1.00 per ton on each ton or volume equivalent of dry solid waste disposed of in the landfill upon commencement of the operation. This royalty is estimated to yield the city \$2,308,000 or more over a ten (10) year period. The royalty will never be less than \$10,000 per month and is estimated to average \$23,850 per month. HPP will also be required to remit to the city, One

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Dollar (\$1.00) per ton, or volume equivalent for all dry solid waste disposed of in the landfill. (See O.C.G.A. § 12-8-39). Estimated to be \$1,908,000 over the first ten years. HPP will pay a "Community Bonus" of \$1,000,000 in the first ten years of operation. Total offer would yield the city an estimated \$5,216,000.

After reading the terms of the three bids, Mayor Pro-Tem Bailey made a motion to make copies of all three bids for the Mayor and Council, City Attorney and the engineers at Arcadis, Geraghty and Miller for evaluation and report back to the council. Council Member Pirkle made the second. Motion passed 4-0.

B: BOARD APPOINTMENTS:

To replace Chris Abbey on the Planning Commission Board, Council Member Pirkle nominated Johnny Wilkins, who is an architect and lives in the Oaks at Lanier. Mayor Pro-Tem Bailey made the second. There were no other nominations. Vote for Mr. Wilkins was 4-0.

To replace Betty Rose on the Appeals Board, Mayor Pro-Tem Bailey nominated Nancy French, who had signed the Master List and indicated a preference for the Appeals Board. Council Member Davis made the second. There were no other nominations. Vote for Ms. French was 4-0.

To replace Tom Wilson on the Alcohol Review Board, who had resigned to run for the council seat vacated by the resignation of Tim Pugh. Council Member Pirkle stated he did not think there was an urgency to make this replacement. Mayor Pro-Tem Bailey made a motion to table this item. Council Member Pirkle made the second. Motion passed 4-0.

CITIZENS'S AND GUEST'S COMMENTS:

THERE WERE NO COMMENTS FROM THE CITIZEN'S AND GUEST'S.

NEW BUSINESS:

A: OCCUPATION TAX AUDIT:

Mr. Russell, of Memories of a Lifetime, stated that on a very busy Saturday in December, a representative of the city came into their store and loudly proclaimed that Sugar Hill was tired of all the owners of these businesses having their Lexuses and Cadillac's parked out in front of their business and not paying the proper amount of taxes. They were very offended with this statement. Number one, they were very busy and it was a poor time to talk to them about a tax increase on their business. Number two, he drives a six year old van with 128,000 miles on it and his wife drives an old Honda with 135,000 miles on it. He had talked with some of the other owners in Sugar Hill Station and he was acting as their representative tonight. He and his wife had invested their money and time in starting this business and they had picked Sugar Hill because they could see the potential for growth. They had opened their business based on the Occupation Tax information they had been provided and now the city was going to increase this tax by four, five six or even eight percent; when their business had not increased by that much. He went on to explain how his business is operated and stated he felt it was unfair to change the tax when he had been told his occupation tax would be based on what he made. He asked the Mayor and Council to look into this matter but it appeared that Sugar Hill was trying to make it difficult for a small business to operate in Sugar Hill. Council Member Pirkle told Mr. Russell that they were doing an audit of all the businesses, they were not raising the tax rates. Council Member Pirkle assured him the Council would look into this and get back in touch with him.

B: AMENDMENT TO OCCUPATION TAX ORDINANCE:

City Attorney Lee Thompson stated the city had been conducting an audit on the Occupation Tax and how these were figured. Mr. Thompson gave some background information on Occupation Tax and how the state had changed the way cities, counties and municipalities issued occupation tax. When the city

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adopted its Occupation Tax Ordinance, they had put a clause in, stating that no business would be charged more than double what they had been charged the year before. This was done to keep from going to a rather low tax rate to a larger tax rate. The city had been following this formula for the past three or four years and now based on staff recommendation, they wanted to do away with this portion of the ordinance. Staff felt it was unfair for a new business to pay more tax than one that had been here several years and was paying less tax. Council Member Pirkle wanted to let the audience know this was not a change to the tax rate but in the process of this tax audit, it was determined there were some problems since the tax is based on gross receipts. Mayor Pro-Tem Bailey made a motion to adopt the ordinance as read: "The Council of the City of Sugar Hill hereby ordains that "The Code Sugar Hill, Georgia" is hereby amended as follows: 1. Section 4 (C) (8) of the Occupation Tax Ordinance of 1994, as amended, which reads as follows: "No business shall be required to pay in each year more than twice the occupation tax paid in the previous year" is hereby deleted in its entirety. Council Member Pirkle made the second to the motion. Motion passed 4-0.

C: DISCUSS LANDFILL CLOSURE:

Tom Payne, of EPD, was there to discuss the closing of Sugar Hill's landfill. He gave a brief history of the process of operating a landfill and the process for closing a landfill, especially after June of 1993. He also gave a brief history of Sugar Hill's landfill, its association with Mid-America, what would happen if Mid-America had owned the landfill instead of the city. He told of the agreement the city had reached with EPD but it was not a good agreement as it only contained a new deadline. He went on to explain why EPD did not feel this was a good agreement and some of the consequences if the landfill was not closed in a timely manner. City Attorney Lee Thompson asked if Mr. Payne was telling them that EPD was not going to approve the consent order that was drafted by the EPD prior to the end of the Public Comments period. Mr. Payne stated the Public Comments period ended in days, to his knowledge they had received no public comments. Based upon their review, the director should not sign the agreement. At Mr. Thompson's request, Mr. Payne gave some background information on the consent order, when it was drafted and when it was approved. City Attorney Thompson had more comments regarding this situation. Mr. Payne felt the state had been extremely accommodating in this matter. There was more discussion on this item between the Council Members, City Attorney Thompson and Mr. Payne. No action was taken on this item.

D: RZ-99-001 PUBLIC HEARING: FAITH REALTY & APPR. CO-THOMAS L. BAUGHMAN-5059 WEST BROAD STREET-TAX ID 7-291-078:

Mayor Pro-Tem Bailey made a motion to go into Public Hearing for RZ-99-001 Faith Realty. Council Member Pirkle made the second. Motion passed 4-0. Consultant Don McFarland stated this was the only rezoning the Planning commission had heard last month. It had taken them about eight minutes to approve this with the conditions shown in the report. Mr. McFarland stated he had only one comment from a neighbor to this property. His concern was that the commercial rezoning would continue down the street to his property. Mr. McFarland stated this was in conformance with the Comprehensive Plan and approval was recommended with the two conditions: One - All commercial activities on the site shall be carried out within an enclosed building. Two - The site shall be brought up to the minimum commercial building code standard as required by the Sugar Hill Chief Building Inspector and the Gwinnett County Fire Marshall. Mr. Hosch, an adjoining neighbor, stated he was very concerned about keeping it residential. He felt that there were plenty of places beyond this area where a person could have a business. He would appreciate any help the council could give him on keeping this area residential. There were no other comments from the public. Mayor Pro-Tem Bailey made the motion to return to regular session. Council Member Pirkle made the second. Motion passed 4-0. Mayor Pro-Tem Bailey made a motion to approve the rezoning of RZ-99-001 to BG district with the conditions as posted by the Zoning Board. Motion died for lack of a second. Council Member Pirkle made a motion to table the item. Council Member Mosley made the second. Motion passed 4-0.

E: AX-99-001 ACCEPT ANNEXATION APPLICATION: DON AND KAREN SHAW 5505 SUWANEE DAM ROAD NEAR ENTRANCE TO SADDLE TREE S/D-REQUESTING HM-1 ZONING CLASS FOR EXISTING ROCK BUSINESS-CURRENTLY ZONED C-1 IN COUNTY. 1.7 ACRES:

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Consultant Don McFarland explained this is just the process to start the annexation process. This property is located on Suwanee Dam Road next to the SaddleTree Subdivision. There is currently a rock business located at this property. Council Member Pirkle made a motion to Accept Annexation AX-99-001. Mayor Pro-Tem Bailey made the second. Motion passed 4-0.

F: AX-99-002-ACCEPT ANNEXATION APPLICATION-CUSTOM ONE DEVELOPMENT. REQUEST ANNEXATION CURRENTLY R-100 IN COUNTY, REQUESTING RS-100 ZONING AS AN ADDITION TO RIVERSIDE WALK S/D-12.11 ACRES. ADDRESS: OFF RIVERSIDE DRIVE DOES NOT FRONT RIVERSIDE DRIVE:

Consultant Don McFarland stated this was an addition to the Riverside Walk Subdivision. There were a couple of parcels that appeared they would be landlocked and Custom One Homes had been in negotiation with the owner of this property. An agreement had been reached and now he wanted to annex this property in order to give access to this subdivision. Council Member Pirkle made the motion to accept Annexation application AX-99-002. Mayor Pro-Tem Bailey made the second. Motion passed 4-0.

G: AX-99-003-ACCEPT ANNEXATION APPLICATION-SCOTT COLLINS CURRENTLY R-75 IN COUNTY, REQUESTING BG ZONING CLASSIFICATION FOR RETAIL/OFFICE SPACE. ADDRESS: 525 BUFORD HIGHWAY 3.56 ACRES:

Consultant Don McFarland stated this was property located on Buford Highway close to the existing city limits. This property was being annexed to keep the city limits from going in and out so much. Council Member Mosley made the motion to accept annexation AX-99-003. Council Member Davis made the second. Motion passed 4-0

H: RE-ADOPTION OF SOIL EROSION AND SEDIMENT CONTROL ORDINANCE:

City Attorney Thompson explained this ordinance was to clarify the ordinance that was passed in June of 1998. That ordinance had been based on a state model and could be confusing when the inspectors were issuing citations for erosion control. They had re-numbered the soil erosion statutes to say which provisions of the code it was repealing and what it was replacing. The state model ordinance provided for a fine of \$2,500 per day, the City's charter provides for a maximum of \$1,00 per day. This would bring it into agreement with the charter. Mayor Pro-Tem Bailey made a motion to re-adopt the Soil and Sediment Control Ordinance as submitted by counsel. Council Member Pirkle made the second. Motion passed 4-0.

I: RESOLUTION TO ABANDON OLD ISLAND FORD ROAD:

City Attorney Thompson stated a petition had been received to have the city abandon this road that was no longer in use. It is identified as a field road. Since the road lies inside the city limits of Sugar Hill, the county had requested the city abandon this in order for the property to be developed. Mrs. Bagwell, one of the owners of the property that adjoins this property, was concerned that this would limit their access to the back portion of their property. Mr. Dodson, attorney for the petitioner, gave an explanation of this roadway. The county does not maintain this road and has no problem with closing of this road. There was more discussion on this item between Mrs. Bagwell, Mr. Dodson, and Mr. Snell, purchaser of the property, and the members of the council. Council Member Pirkle made a motion to accept the resolution to abandon that portion of Old Island Ford Road, with the condition that the Bagwell's right to access their property is maintained either through use of this existing road or some other alternative means that they would grade a new road for their use. Council Member Davis made the second. Motion passed 4-0.

J: WEST GWINNETT SOCCER CONTRACT:

Council Member Pirkle stated they had received a request from the Recreation Board to sign a contract with the West Gwinnett Soccer Club to use the park. Mr. Thompson had not had time to review this contract so this was for discussion to get a consensus of the council and make sure they should proceed with this. Council Member Pirkle made a motion to have Mr. Thompson review this and subject to his approval, have the Mayor sign the agreement with the Recreation Board. Council Member Davis made the second. Motion passed 4-0.

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CITY CLERK'S REPORT: Clerk Gibbs reminded everyone that a Special Election would be held on March 16, 1999. The Gwinnett Municipal Association Dinner would be on March 16 in Grayson.

ACTING CITY MANAGER'S REPORT: ACTING CITY MANAGER KELLEY CANADY HAD NOTHING TO REPORT.

COUNCIL REPORTS: MAYOR PRO-TEM BAILEY, COUNCIL MEMBERS DAVIS AND MOSLEY HAD NOTHING TO REPORT.

Council Member Pirkle also wanted to remind everyone of the Special Election, discuss trash system, the unauthorized removal of bins behind city hall by a city employee. The Mayor had been working on getting these relocated and it was his understanding they were in the parking lot at the Big Lots shopping center. Some members of the city were not happy with the current bag system, he had spoken with Mr. Pat O'Conner of Robertson Sanitation about a fixed billing for those individuals who preferred to do it this way. The General Manager of Robertson Sanitation had turned this down. Another item was a resolution defining the length of terms for the members of the Recreation Board. This was not ready tonight, hopefully this would be ready for the next meeting. Lastly, because there would be a new council member in a little over a week and we had a new city manager, he would like the Mayor to schedule a workshop to discuss some of the unresolved issues, to get a clarification on where to go with these.

MAYOR'S REPORT: MAYOR CRABB HAD NOTHING TO REPORT.

Mayor Pro-Tem Bailey made a motion to go into Executive Session to discuss personnel matters and possible litigation. Council Member Pirkle made the second. Motion passed 4-0.

EXECUTIVE SESSION: NO ACTION WAS TAKEN OUT OF EXECUTIVE SESSION.

MAYOR PRO-TEM BAILEY MADE A MOTION TO ADJOURN THE MEETING, SECOND MADE BY COUNCIL MEMBER PIRKLE. MOTION PASSED 4-0. MEETING ADJOURNED AT 9:45 PM