City Council of Peachtree City
Minutes of Meeting
August 6, 2009
7:00 p.m.

Mayor Logsdon called the meeting to order at 7:00 p.m. Council Members present: Steve Boone, Don Haddix, Cyndi Plunkett, and Doug Sturbaum.

Announcements, Awards and Special Recognition

Mayor Logsdon recognized Emily Lemay as the Peachtree City Youth Council Volunteer of the Quarter. Cindy Light was recognized for achieving Level I Finance Officer Certification. Laura Oles was recognized for being named as the Court Clerk of the Year by the Georgia Municipal Court Clerk Council. Captain Stan Pye of the Police Department was named Supervisor of the Quarter. The Teen CERT Class graduates were recognized, and the City's Big League Baseball Team was recognized for winning the state championship.

Public Comment

Andy Jurchenko, the director of the Fairburn campus of Brenau University, addressed Council, noting the grand opening was on August 25, and that the campus was co-located with Georgia Military College.

Agenda Changes

There were no changes to the agenda.

Minutes

Logsdon noted there was an additional document on the dais – changes to the July 16, 2009, regular meeting minutes as submitted by Haddix. Plunkett moved to approve the March 5, 2009, executive session minutes; the July 16, 2009, regular meeting minutes as amended; and the July 16, 2009, executive session minutes. Sturbaum seconded. The motion carried unanimously.

Monthly Reports

There were no comments on the Monthly Reports.

Consent Agenda

1. **Consider Franchise Agreements for Waste Haulers**
2. **Consider Appointment of Tourism Association Members – Eva Durham, Veronica Ross, and Joe Magennis (Alternate)**
3. **Consider Amendments to Resolution Calling for Municipal Election**
4. **Consider Intergovernmental Agreement with Fayette County to Conduct Municipal Election**
5. **Consider MOA with GDOT for Streetlights at SR 54/74 Intersection**
6. **Consider Donation to Police Department from Trek**
7. **Consider Alcohol License – NEW – Tennis Center Restaurant**
8. **Consider Acceptance of Drainage Easements**
9. **Consider Budget Amendments – FY 2009**

Logsdon noted there were additional documents on the dais for Consent Agenda Items 1 (copies of applications from waste haulers) and 4 (minor changes to the agreement). Boone moved to approve the Consent Agenda with the changes to Item 4. Haddix seconded. The motion carried unanimously.

<u>Old Agenda Items</u>

07-09-04 Public Hearing – Consider Variance to Building Setback, 123 Crown Court

Boone moved to continue the public hearing for the variance request for 123 Crown Court until the August 20 meeting. Plunkett seconded. The motion carried unanimously.

07-09-05 Public Hearing – Consider Variance to 25' Wetlands Buffer and to Allow a Private Basketball Court to Encroach into a City-owned Greenbelt, 128 Century Park Place

Clarence White, applicant, addressed Council concerning the variance request. He explained that he was under the impression that the basketball court was on his property line. He was told the land was his when he closed on his home. White showed Council photos of the court.

Interim Community Development Director/City Planner David Rast showed a drawing of the property, the City greenbelt, and the 25-foot wetlands buffer. He noted that the rear property line had been established based on the delineated wetlands and the wetlands buffer.

White continued that there was not a pin located along the greenbelt. He had gone by what he was told was his property line, which was why the basketball court had an odd shape.

Rast pointed out that the City did not require permits for projects such as basketball courts. City staff became aware of the issue upon receipt of a letter from the Centennial Homeowners Association (HOA) to White. Staff went to the property to ensure the court was located off the property, and about 50% of the court was located in the greenbelt, as well as within the 25-foot wetlands buffer. The City did not allow development within City greenbelts or required wetlands buffers. The wetland buffer could be re-delineated, but the City did not have the capability to do that. John Wieland Homes had hired a professional ecologist, who had delineated the wetlands and submitted it to the Army Corps of Engineers for approval.

Rast continued that staff's recommendation was that the variance not be approved, adding that doing so would set a precedent. The City had a good track record of not supporting development within the greenbelt. The portion of the court across the property line in the greenbelt and wetland buffer needed to be removed and the area re-established to function as it was intended.

The public hearing opened.

Robert Brown said he was opposed to most variances, particularly in the greenbelt. If Council approved it, then he would be first in line if a precedent was set.

Beth Pullias asked if the HOA had approved the court before it was built. The answer was the HOA had not.

Phyllis Aguayo said she was sympathetic, but said she did not see how Council could allow the basketball court to remain in the wetlands buffer since it was not legal to do so.

Darlene Gulli agreed that the basketball court could not encroach into the wetlands buffer, but asked if there was anything else the City could do to help the applicant.

The public hearing closed.

Sturbaum asked if there had been a cost analysis on moving the court to another area in the yard. White said he had not checked on the cost of moving the court. He understood he was incorrect.

Boone asked White if he received a plat at his closing. White said he did, but he had not looked at it. He had gone by the stakes that were located on his property.

Haddix asked White if he had taken this issue back to John Wieland Homes. White said he had spoken with the HOA and Wieland's neighborhood management association, but their stance had been to back away from the issue due to other violations in the subdivision. They suggested he have a survey done, and that's when it was discovered the court was not on his property, and John Wieland Homes said to take the court out. They suggested White ask for a variance. Haddix said Council could not override the HOA. White said that the HOA told him he could keep the court if Council gave him a variance. He added that there were basketball courts all over the neighborhood, but the HOA bylaws required other things be done.

Plunkett said that fact that the court was in the wetlands buffer tied Council's hands. She said Council would be happy to help with an explanation to John Wieland Homes.

Sturbaum asked if there was a timeline for the court to be removed. City Manager Bernard McMullen said that the homeowner should be asked how much time he needed. White said he had people standing by to help him. Sturbaum said they needed to apply a reasonableness factor and suggested 30 days.

Plunkett moved to deny the variance request for 128 Century Park Place for the following reasons:

1. *Had the property pins along the rear property line been properly located prior to construction, the basketball playing surface could have been constructed entirely on the Applicant's property.*
2. *Allowing the playing surface to remain within a City-owned greenbelt would establish a precedent and might lead to similar requests from other property owners adjoining City-owned property.*
3. *Allowing the encroachment into the watershed protection buffer to remain would also establish a precedent which might lead to similar requests from property owners abutting these buffers.*

In addition, the homeowner would be allowed 30 days from August 7 to move or remove the basketball court so it was not in the wetlands buffer. Boone seconded. The motion carried unanimously.

<u>**New Agenda Items**</u>

08-09-01 Public Hearing – Ordinance Amendment – Development Impact Fees, including Revision to Fee Schedule

City Attorney Ted Meeker pointed out that this was the first of two public hearings. The second would be held on September 3. Council would not vote on the ordinance amendment at this meeting.

Rast said that staff had been working on the amendments with Ross and Associates, the City's consultant, and the Impact Fee Advisory Committee for several months. Council adopted the methodology report, which defined the process to develop the development impact fee program, on May 7. The draft Capital Improvement Element (CIE) amendment had been forwarded to the Atlanta Regional Commission (ARC) and Department of Community Affairs (DCA) for review, and both agencies had found the CIE amendment to be in compliance with state law so the City was authorized to move forward and adopt the CIE amendment.

Rast continued that the CIE amendment defined the projects the City would need to accommodate growth in the next 20 years. The capital projects were based on the anticipated growth and established service levels. Development impact fees allowed the City to fund a portion of the projects that were needed for the new growth in four public facility categories – fire, police, parks and recreation, and library. Ross and Associates had determined that a substantial part of the costs for the capital projects could be recouped through impact fees (about 62%) based on the total buildout. The remaining 38% would be funded through the City. Ross and Associates had determined that if the City continued to develop at the current pace, the capital projects would still be needed to support the growth. If the costs were funded out of the General Fund alone, an average 0.31 mill increase would be needed each year of that 20-year horizon to pay for the projects.

Rast explained that the current development impact fee ordinance, which was adopted in 1992, was based on seven service areas. The seven areas include the villages themselves, smaller portions of the villages based on development and capital projects that were needed, and a City-wide area. The ordinance also identified when the fees would be collected and had a table of fees for the areas. The City had collected the funds through the years, but had never adjusted the fees for inflation. Ross and Associates recommended that the City change the seven service areas to one City-wide area. Staff supported that recommendation since the services that would be needed would not be limited to a specific area, but would serve residents City-wide. The services needed for growth included fire, police, and library. Staff also recommended, in addition to residential fees, assessing fees for new commercial, industrial, and office growth, which the City had never done.

One of the components of the methodology report had been to project the maximum impact fees for the various uses. Rast continued that staff recommended adopting the maximum fee allowed under state law to assist in funding the capital projects needed to support growth. Council did not have to adopt the maximum fee. Staff prepared three spreadsheets with the fees at 100% (maximum allowable), 75%, and 50%. He reiterated that the remainder of the costs for the capital projects would have to come from other sources.

Bill Ross of Ross and Associates addressed Council. He noted that the impact fee ordinance presented a series of policy questions. The first was the timing of payments. They could not be collected sooner than the issuance of a building permit, and could wait until Certificates of Occupancy (CO) were issued. Council had the option of closing that up. The exemption policy was a major question for the City. Because the City was looking at collecting non-residential impact fees as well as residential, there was a tool in the ordinance that allowed the City to exempt economic development projects. While state law allowed that exemption, it did not define what constituted the exemption. The third issue was the start date, or when to change over from the old program to the new program. The fourth question was how much to charge. The methodology report defined the maximum allowable impact fee, which was based on the project cost divided by the number of people served. The City did not have to charge the maximum allowable fee, and it might not always be the appropriate number to charge. There were to ways to affect the fee. The City could adopt a fee schedule based on a percentage of the maximum across the board. The City could also go by categories (police, fire, library) and could change the percentage of total of what was in the category. The second public hearing would be held on September 3.

The public hearing opened.

Dan Petrie, Home Builders Association of Midwest Georgia, said their position remained the same as on May 7. The City had never collected impact fees on non-residential projects. The home builders had been carrying the burden since the fees were implemented. The building industry was already on its back. Increasing the residential impact fees would be a deterrent and would raise the cost of building houses. He noted there had been a suggestion during the Advisory Committee meetings to defer the increase on residential development.

Robert Brown noted that the impact fees became part of the house price, so increasing the fees would increase the house price. He disagreed on going to a single service area. He said the money should be used to support the area with the new development. A lot of the City's infrastructure had been built by developers, and the home owners had paid that price as well.

Scott Bradshaw said the proposed fees were based on inflation, which resulted in a 60% to 70% increase. The residential impact fees would triple. For example, the existing fee for a new house/lot in the Kedron service area was $1,200. The proposed increase would raise the fee to $3,400 per lot. Those fees were passed on to the homeowner. He continued that "maximum allowable impact fee" was Ross's terminology and formula; it was not in Georgia law. The law said a "developer shall be charged no more than their share of the need for infrastructure caused by their development." Tripling the residential impact fee was excessive, especially in the older areas and when the City was adding commercial and industrial impact fees.

Bradshaw, who served on the Impact Fee Advisory Committee, continued the committee had recommended that residential fees stay as they were for a year to see how the commercial fees were going. That recommendation somehow got lost. The committee did not write a formal report with specific recommendations. He noted that $134,000 in impact fees could be collected from SR 54 West commercial development compared to $519,000 from the residential lots in Smokerise.

Phyllis Aguayo said she never understood why commercial, industrial, and office developments never had to pay impact fees since there were definite infrastructure and service costs for those projects, especially commercial projects.

Beth Pullias said she had attended some of the Impact Fee Advisory Committee meetings. Most of the members felt the commercial impact fees should begin immediately and the residential should be increased over time due to the economy and because they had footed the bill in the past. She understood why there should be one City-wide service area. A new fire station might service one area, but it was built so as not to take away from other areas. The commercial fees should begin immediately, but the residential increase should be weaned in.

The public hearing closed.

Logsdon asked if the 75% rate equated the fee with inflation. Ross said the state law said the City could charge a particular project no more than its fair share. The maximum allowable was the fair share. Logsdon asked if the 75% equated to what the fee should be if the fees had been adjusted for inflation over the years. Ross said it would for about half of the areas, but it would be more for the other half. McMullen noted that there were calculations in the staff memo regarding this question. The adjusted fee would be $2,974 for those areas that still had lots to be developed compared to $3,466, which was staff's recommended residential impact fee.

Plunkett asked if there would be an impact fee for a redeveloped home in Aberdeen Village. Ross said there were no impact fees on residential redevelopment. A dwelling was a dwelling. Commercial fees on redevelopment would be based on the difference in the square footage.

Plunkett said she wanted to see a report from the Advisory Committee. Ross said a report was delivered in April at the Council workshop, and Rast could probably provide that. As the City's consultant, Ross recommended that all land uses be treated the same. It had been unfair to charge only residential impact fees to this point, but it would also be unfair to only charge non-residential the maximum fee. Logsdon said Council would like to see the report. Plunkett said the committee was appointed to evaluate the program, and she wanted to know about their recommendations. Boone asked if the committee met after April. Rast said there was a report, with a tabulation of the votes. Bradshaw said the votes for the recommendations were taken hurriedly at the end of a meeting, and not all the views/comments had been included in the document Ross was referencing.

08-09-02 Public Hearing – Consider Amendment to Capital Improvement Element (CIE) (Will be continued to September 3)

McMullen said the hearing had to be continued to September 3 to meet the requirements. The funding for the CIE came from the impact fees. The CIE amendment did not require two public hearings.

Plunkett moved to continue the public hearing to consider the amendment to the CIE until September 3. Sturbaum seconded. The motion carried unanimously.

08-09-03 Public Hearing – Amended Step 1 Annexation Application, Scarbrough Property, Wilksmoor Village

Mark Forsling, attorney for the applicants, Brent West Village, LLC, and Donna Stillwell, noted that the property had been annexed and rezoned by the City in 2007. The annexation had been challenged in a legal proceeding, and although the City had prevailed, the judgment had been appealed. As part of that action, the property owner had reapplied for Step 1 annexation and had been re-approved last year. They had not moved to Step 2 of the process yet, but had filed an amended Step 1 application due to a modification in the tract. Forsling continued that the modification dealt with an issue brought up in the challenge, which was that an unincorporated island had been created by the annexation. The 10-foot strip deleted from the amended application connected a tract owned by C.W. Matthews Contracting Company and a tract owned by Nancy Davis and Diane Crawley with Coweta County. The annexation of the Scarbrough tract less the 10-foot strip did not cause the creation of an unincorporated island, which was consistent with a 2004 Georgia Court of Appeals decision based on a case out of Fayette County.

The public hearing opened.

Phyllis Aguayo said she was still against the annexation. The tract was adjacent to a cement factory and a quarry. The factory dust was dangerous to health, and the blasting was a danger to people and property. The plans for the area were still against the City's Land Use and Comprehensive Plans.

The public hearing closed.

Boone said this was just an amendment to the original annexation and moved to approve the amended Step 1 annexation application for the Scarbrough property in Wilksmoor Village. Haddix seconded. The motion carried unanimously.

08-09-04 Donation of Land to the Airport Authority

McMullen noted that Council was probably aware of the Airport Authority's plans to build a veterans memorial at entrance to Falcon Field. The City owned the small circular piece of property just forward of the sign. The Airport Authority requested that the City donate that piece of land so the sign could be re-located.

Sturbaum moved to approve the donation of land to the Airport Authority. Haddix seconded. The motion carried unanimously.

08-09-05 Consider Revised PCTA FY 2009 Budget

Plunkett moved to approve the revised Peachtree City Tourism Association's FY 2009 budget. Boone seconded. The motion carried unanimously.

08-09-06 Consider Amendments to Personnel Policy

Logsdon noted there was an additional document on the dais – two additional changes to the Personnel Policy. Plunkett moved to approve the amendments to the Personnel Policy with the two adjustments on the dais. Sturbaum seconded. The motion carried unanimously.

08-09-07 Consider Bid for Flat Creek Multi-Use Path Bridge Approaches

Logsdon noted there was an additional item on the dais – an e-mail from Kim Cort to Stormwater Manager Mark Caspar. Caspar said staff recommended Council accept the low bid from Backwoods Bridges for $227,000, which was significantly lower ($100,000) than the next lowest bid. He noted that the company, which was based in Florida, was familiar with the type of construction required in the wetlands area.

Plunkett asked Caspar if staff had done the due diligence on the bid, noting the company was relatively new. Caspar said they had called several municipalities the company had done work for, and all of the comments had been good. Staff had checked the financial background, which was very good. The company was from a coastal region and was familiar with the top-down construction that the City had asked for.

Haddix moved to approve the bid for the Flat Creek multi-use bridge approaches from Backwoods Bridges. Boone seconded.

Kim Cort, who lived next to the Flat Creek wetlands, gave a brief history of the project, noting that the bridge had changed the whole environment in the wetlands and had been built incorrectly. A lot of questionable things happened during the construction. She said there had been significant erosion around the concrete metal structure. The wetlands areas here were different from areas in Florida, and she was concerned that the company would use techniques that would kill tree roots in the wetlands. She said the residents understood the flooding potential and flood elevation differences prior to the start of the project. The neighbors had never seen the results of the floodplain elevation survey that was done. She asked Council to show the neighbors the flood elevation differences before accepting the bid. The bid was also $100,000 less than the other two bids. They wanted to know why there was such a difference. It did not make sense to go forward with the project if the future floodplain conditions for the project put them back into the floodplain.

Nancy Gillman said she was also concerned. She was all for getting the work done for less money, but wondered why the bid was so much lower.

Phyllis Aguayo said she had serious concerns about the loss of wetlands. Anything that impacted them must be carefully visited. She noted there was undeveloped land adjacent to those wetlands and asked Council to ensure there was a significant buffer and erosion control when that property was developed.

McMullen said that he had no knowledge that the bridge had not been built correctly. Caspar said the bottom of the bridge was well above the existing FEMA (Federal Emergency Management Agency) floodplain.

The motion carried unanimously.

08-09-08 Consider Intergovernmental Agreement with Fayette County Board of Commissioners Regarding 2010 Six-year SPLOST

Meeker apologized for all the minor gyrations that had gone on, but the form had been in effect when the agenda package had been distributed. He noted that Council had some redlined changes in the document on the dais, but the percentages had not changed and the net for each jurisdiction was the same. Some of the language had been modified for City projects, including some general obligation debt. Some of the capital loans the City had acquired over time were also eligible. The word "extensions" had been added to the multi-use path items. A copy of the County Commissioners' resolution was just for information.

Plunkett said that most of the entities would use the SPLOST to retire debt, and the County would use most of the money for the Justice Center, saving $30 million in interest. She pointed out that the Fayetteville bypass project was not part of the list.

Sturbaum moved to approve the intergovernmental agreement with the Fayette County Board of Commissioners regarding the 2010 six-year SPLOST. Haddix seconded. The motion carried unanimously.

08-09-09 Consider Amendment to Fee Schedule – Roofing Contractors

Sturbaum moved to approve the amendment to the fee schedule for roofing contractors (minimum $50 permit fee). Haddix seconded. The motion carried unanimously.

Council/Staff Topics

Plunkett asked if there was any progress on the signal light at SR 74/Wisdom Road. McMullen said the contractor was working on guardrails. The poles would be set in the next week, and the lights should be in flashing mode in 30 days.

Plunkett asked if there was an update on the SR 54 West/CSX bridge. McMullen said that on July 30 the Department of Transportation (DOT) told staff the paperwork had been prepared and sent to their management for signature. Staff was waiting for those papers. Once they were received, the project could be put out for bid. Logsdon added that he had spoken to State Senator Ronnie Chance, who was to call the new DOT director. He also left a voicemail with Sam Wellborn of the state's Transportation Board. McMullen said there were still a few steps to go through with DOT, including a DOT review of the bidding process. Logsdon asked if the work would be completed by the end of the year. McMullen said he was afraid it would not.

There being no further business to discuss, Sturbaum moved to adjourn the meeting. Plunkett seconded. The motion carried unanimously. The meeting adjourned at 8:55 p.m.

Pamela Dufresne
Pamela Dufresne, Deputy City Clerk

Harold K Logsdon
Harold K. Logsdon, Mayor