

City Council of Peachtree City
Minutes of Regular Meeting
August 5, 2004
7:00 p.m.

The City Council of Peachtree City met Thursday, August 5, 2004, in the City Hall Council Chambers. Mayor Brown called the meeting to order at 7:05 p.m. Other Council Members present were: Stuart Kourajian, Steve Rapson, and Judi Rutherford. Murray Weed was absent due to illness.

Announcements, Awards, Special Recognition

Mayor Brown recognized Tami Babb as the Supervisor of the Quarter. The Peachtree City Running Club presented the Police Department with a check to purchase a bicycle. The McIntosh High School Girls Soccer Team was recognized as the State AAAAA champions.

Minutes

Rutherford moved to approve the June 21, 2004, Regular Meeting Minutes as amended. Rapson seconded. The motion carried 4-0.

Rutherford moved to approve the July 15, 2004, Regular Meeting Minutes as amended. Rapson seconded. The motion carried 3-0-1 (Kourajian).

Monthly Reports

Brown announced several upcoming events – the Last Fling on Saturday, August 7; a budget workshop on Wednesday, August 11; millage rate hearings on August 11, 7 p.m., and August 19, 7:30 a.m. and 7 p.m.; City offices would be closed on Labor Day, September 6; and the Shakerag Arts and Crafts Festival on September 18-19. New businesses registered to date were 246. The Library had 898 new books put into circulation in June, which was a new record. The total number of internet users to date was 21,144. The Recreation Department spent 2,284 hours mowing grass to date. Part One crimes were down. The Top 5 accident sites were GA 54/GA 74, GA 54/Huddleston, GA 54/Line Creek Drive, GA 54/Peachtree Parkway, and GA 54/MacDuff Parkway.

Consent Agenda

1. **Alcoholic Beverage License – Change in Licensee and License Representative – Ruby Tuesday**
 2. **Alcoholic Beverage License – Add Distilled Spirits – Ted's Montana Grill**
 3. **Consider Amendment to Sec. 2-336c Relative to Filling Unexpired Terms on Commissions and Authorities**
 4. **Consider Request from Peachtree City Rotary Club to Use City Logo**
- Kourajian moved to pull Item #3 from the Consent Agenda. Rutherford seconded. The motion carried unanimously.

Rutherford moved to approve Consent Agenda Items #1, 2, and 4. Rapson seconded. The motion carried unanimously.

3. Consider Amendment to Sec. 2-336c Relative to Filling Unexpired Terms on Commissions and Authorities

Kourajian said he understood what staff was trying to do with the amendment, but he would rather the process be kept as it was versus changing the ordinance to fit the process. He noted that needs and personalities changed during a four or six-year period. A decision made at one point might not make sense down the road.

Rapson said he understood that the process was the same, and the amendment only pertained if an appointee had served for 12 months or less. A selection committee would be appointed to replace any member who served for 12 months or more.

There was a question regarding how long alternates served. City Manager Bernard McMullen said an alternate was normally selected every time a new member was selected, but he did not know if that worked out to every year for every authority or commission.

Administrative Services Director/City Clerk Jane Miller explained that, in general, at least one term on an authority or commission expired each year. An alternate was appointed until a committee was next impaneled to fill the next expired position. If a position opened in less than a year, the alternate filled the position. If more than a year had gone by, then Council might want to go back and open up the position.

Brown asked Council to consider continuing the agenda item so staff could work on the verbiage. Kourajian asked if something could be included in the ordinance that would require, or encourage, the alternate to attend meetings. Miller said that would be a good idea because it did not always happen. Rapson suggested the alternates meet the same attendance standards as the authority and commission members. Kourajian said that 30-40% attendance would be more in line for an alternate. Alternates who met the attendance requirements would have a better chance of moving into a vacated position.

Rutherford moved to table consideration of the amendment to fill unexpired terms to have staff work on the wording. Rapson seconded. The motion carried unanimously.

VII. Old Agenda Items

05-04-11 Consider Request from John Wieland Homes and Neighborhoods to Lift Annexation Moratorium

07-04-04 Discuss County Transportation SPLOST

Brown noted there was an additional document on the dais – an e-mail from Steve DeLoach.

Rutherford moved to table Agenda items 05-04-11 and 07-04-04, which was discussion of the County SPLOST (she added there was another document on the dais related to the

SPLOST). Rapson seconded. Rutherford noted that the request from John Wieland Homes could become moot after Council considered another agenda item and that there were still SPLOST discussions going on with the County. The motion carried unanimously. Brown noted that the document on the dais pertaining to Agenda item #07-04-04 was an e-mail from the City Manager to the Council with the subject of "SPLOST agenda item."

07-04-02 Consider Appointment of Municipal Court Solicitor

Miller told Council that staff requested no action be taken on the Court Solicitor appointment due to the proposed solicitor's position that would be discussed later in the meeting. Rutherford moved to take no action on 07-04-02 Consider Appointment of Municipal Court Solicitor. Rapson seconded. The motion carried unanimously.

VIII. New Agenda Items

08-04-01 Public Hearing – Consider Amendment to Section 704 (Annexation)

Brown noted there were additional documents on the dais – an e-mail from the City Manager to Mayor and Council with the subject, "Relationship to Comprehensive Plan" and a revised version of "Section III. Relationship to Comprehensive Plan, Page 4, Annexation Review Process, Last Revised 8/4/2004."

The following residents spoke in favor of the amendment:

Steve Lowther addressed Council and said it was critical to address the nightmare at MacDuff Parkway and GA 54. The only way to alleviate congestion at the GA54/GA 74 intersection was to extend MacDuff Parkway through to GA 74. If the area were annexed, the City could control the development.

Ted Thomas told Council there was some confusion. If the amendment were approved, then there would be a procedure for applying for annexation, and Council should consider whether it was in favor, or not, of a particular application. Thomas favored the amendment because it allowed the City to look at future annexation plans.

Brown explained that the request to lift the annexation moratorium from Wieland Homes had been tabled because the builder wanted to abide by the new protocol if the amendment to Section 704 were approved.

Bob Simmons told Council they should go ahead with the annexation process.

No one spoke in opposition to the amendment.

City Planner David Rast said he was not asking Council to approve any annexation. No one had applied. He was asking Council to amend the existing section that did not allow staff to even discuss annexation with a developer. The new procedure allowed staff to review annexation proposals. He continued that the application was a two-step annexation review process modeled after other communities' ordinances and the

Development of Regional Impact process, which was required by the Department of Community Affairs for large-scale developments.

Rast continued that the first step was information gathering, which allowed the applicant to show how the plan fit in with the existing Comprehensive Plan. Staff would evaluate the proposal and make a recommendation to Council. The burden in the first step was on the applicant. Staff evaluated the data and compared it to the Land Use Plan and Comprehensive Plan.

Council would decide if the applicant would move to the second step. Step 2 was a very detailed analysis of the plan, and the burden was on the applicant to provide the information. Step 2 included details about density, housing styles, infrastructure, streets, dedications to the City, and everything needed to analyze the proposal at a staff level. If Council decided to let an application go from Step 1 to Step 2, there would be no obligation to annex the property.

Rast said staff had received two to three inquiries from developers, but he did not think the City would be inundated with annexation requests if the amendment were approved. He added that the Planning Commission had unanimously recommended approval of the amendment.

Kourajian asked what would happen if Step 2 were not approved, and if the applicant could go back and re-submit a different Step 2 without having to re-do Step 1. Rast said it would depend on whether the plan included a rezoning or not. If the applicant addressed Council's concerns, then they would go back to Step 2. If a rezoning were requested, the applicant would have to wait six months.

Brown said if the plan just needed tweaking or adjusting, then the plan could be tabled and the applicant would work on the plan with staff and the Planning Commission. Rast said it would be beneficial to the applicant to work with staff and a member of the Planning Commission or Council to work out the issues.

Rutherford thanked staff for the work and noted that it allowed Council to move forward with possibilities. She asked if fees were involved for the application since staff time was involved.

Developmental Services Director Clyde Stricklin pointed out that the applicant would be doing all of the work and staff would not be involved until the applicant was ready for the zoning map. Rutherford said staff would spend time reviewing the information. Rast said that currently there was not a fee for Step One. Step Two included zoning, as well as the annexation, so the zoning fees would apply to that step. Rutherford noted that the applicant provided the information, but staff spent time reviewing the information when staff could be doing something else. Stricklin said the application was not under the fee structure, but it was something they would consider. Fees were based on staff time and there was not any information yet available.

Rapson asked if Step One were completed and Step Two was turned down, then would the City be in a position of liability. Meeker said no. Rapson said his biggest concerns were density and infrastructure. He suggested that, on page 4, every place where it stated "if applicable" be deleted under housing, commercial, and recreation. Rapson said he could not get a fairly good picture of what the applicant was doing if the applicant could not tell what type and number of residential units, pricing, or adjacent zoning densities, then he did not want to waste staff time on Step 2.

Brown asked if the words "if applicable" were used in the event there was no residential housing in a plan. Rast said yes. Rapson said "if applicable" meant an applicant did not necessarily have to do it and he wanted to make sure Council understood that the information was a requirement, not a judgment in the developer's point of view.

Rutherford moved to approve the amendment to Section 704 (Annexation) and that the process go forward and that staff look at fees. Kourajian seconded. The motion carried unanimously.

08-04-02 Public Hearing – Consider Rezoning Request – AR to OI – 153 Senoia Road

Rutherford moved to table the Broderick tract rezoning until the August 19 meeting. Rapson seconded. The motion carried unanimously.

08-04-03 Consider Resolution Changing Water Restrictions

Miller explained to Council that the state had adopted a new schedule based on the drought level. The County Board of Commissioners adopted the schedule on July 22 and the City needed to amend its ordinances to comply with the new state restrictions that were effective August 1. Residents with odd-numbered addresses could water on Tuesday, Thursday, and Saturday. Residents with even-numbered addresses could water on Monday, Wednesday, and Sunday. There would be no watering on Friday. The resolution adopted the restrictions and amended the ordinance.

Kourajian asked if the City had any choice in the matter. Miller said no.

Rutherford moved to approve the resolution changing the water restrictions. Rapson seconded. The motion carried unanimously.

08-04-04 Consider Amendment to Occupational Tax Ordinance Relative to Who is Required to Pay

Miller noted that Council had asked staff to look at exemptions in the ordinance. Staff looked at other ordinances in the area. One exemption staff had included in the current ordinance recognized people self-employed in domestic work. People who cleaned houses were currently exempted from the occupational tax. Staff recommended the exemption be eliminated. The amendment also included the addition of areas exempted by state law that were not enumerated in ordinance.

Resident and former City Clerk Frances Meaders told Council that the amendment would open a can of worms, especially with home help people who performed domestic work. She said there was no way to enforce it and it would be a nightmare. Miller pointed out that technically those people were in business. Rapson added that they had to decide whether or not to follow state law. Miller said the exemption could be left in the ordinance, but the question was whether or not people who cleaned houses were in business. Miller agreed it would be difficult to enforce. Rutherford said people left flyers on mailboxes and they could be tracked down. Rapson said it was the same argument as people who worked out of their homes. If the City found out about them, then they were sent a bill.

Rutherford moved to approve the amendment to the Occupational Tax ordinance relative to who was required to pay with the correction of removing the extra "persons." Rapson seconded. The motion carried unanimously.

08-04-05 Consider Options for Municipal Court Solicitor

Police Chief James Murray addressed Council and said bids had gone out for the contracted solicitor services, but had come back in at around \$8,000 a month for services. Staff looked into creating a full-time position, including hours and set-up costs, and determined that it would pay to bring in someone full-time. He compared the workload for Motions for Discovery between Fayetteville and the City. During the month of July, Fayetteville's court received four Motions for Discovery and the City received 45 motions.

Murray pointed out that the current solicitor had very little time to prepare witnesses or to review evidence. Kourajian noted the recommendation was to put the solicitor in the Police Department budget, and asked where the position was currently budgeted. Murray said the solicitor was currently in the Court budget, but the work was 99% police-related and one percent court-related. All the work would come through the Police Department, and the office would be located at the Police Department. McMullen verified that the position would be pulled from the Court budget and placed in the Police budget. Murray continued that he talked to the prosecuting attorney general, and the proposed pay rate would get the City a "barrelful of qualified prosecutors." Murray said they had already had calls from several attorneys based on previous discussions.

Kourajian asked if the solicitor would be allowed to "moonlight." Murray said the Police Department had strict accreditation standards, and he would probably approve the attorney doing wills on their off-time, but the person would not be allowed to take on defense work.

Murray said the average week was about 39 hours. He added that, once a system was in place, the work would go better. He said the position fell under the Captain's pay range and would be exempt from overtime. Rutherford asked about benefits, sick time, and vacation, and if the City would need someone to come in to cover the Court during those

times. Murray pointed out there were gaps in the Court schedule and hopefully vacation time could be worked around those gaps.

Rutherford asked if the City would have to carry special insurance for the solicitor. Meeker said no. Rutherford said her concern was that people would call the solicitor about matters that should go to the City Attorney. Murray gave an example that the Police Department could not call the Attorney General's office and ask for an opinion; however, the solicitor could call about specific criminal violations without having to ask the City Attorney to do so.

Rapson asked Miller how the Court would be impacted. Miller said she did not see moving the position into the Police budget having a major impact on the Court other than it would be easier to get in touch with the solicitor. Murray said it should be a smooth transition and should help Court run better since defense attorneys would be able to speak with the solicitor during the week. Rutherford said she wanted to take another look at the position in a year. Murray said the solicitor would be required to fill out a daily report of activities so time could be tracked.

Rapson moved to approve the Municipal Court solicitor position to the Police Department as outlined at salary and benefits not to exceed \$65,000 and an additional \$6,300 for one-time start-up costs. Rutherford asked Rapson to amend his motion to include a review of the position in nine months. Rapson accepted the amendment. Kourajian seconded. McMullen asked if the position could be approved immediately so the position could be advertised. Council agreed. The motion carried unanimously.

08-04-06 Consider Agreement with Coca-Cola for Field of Hope Scoreboards
Recreation Administrator Sherry McHugh addressed Council and recommended Council authorize the City Manager to sign an agreement with Coca-Cola to furnish, install, and maintain the scoreboards. In return, only Coke products could be sold at the recreation venues and all the sports associations had to buy the products directly from Coca-Cola. McHugh said the City had used Coca-Cola scoreboards since 1995.

Rapson asked if the Tennis Center would fall under the agreement since it was an athletic facility, although the Tourism Association ran it. Meeker said the Tennis Center would not, and that the agreement was with the sports associations. Kourajian asked if other fields needed scoreboards and who determined which fields needed them. McHugh said other facilities in the City had the Coca-Cola scoreboards, and that the City decided which sites needed scoreboards. The scoreboards were at all the City's facilities except the soccer fields and the roller rink. The roller hockey association had purchased its own scoreboard. Kourajian asked how long the agreement would last. Meeker said it terminated at the end of the year, with an automatic renewal for 10 years.

Rutherford said she did not have a problem with the contract, but she felt there might be a better deal available. She noted that the associations had to buy Coke products from the bottler at the price they charged with no other discount. Kourajian pointed out that other

types of companies also provided scoreboards. Rapson said nothing prevented the City from entering the agreement and terminating it 30 days prior to December 31. Kourajian asked if putting the scoreboards out for bid was feasible. McMullen said a Request for Proposal (RFP) could go out but that it would take some time. Kourajian said the risk would be that Coca-Cola would pull their offer.

Resident Bob Brown addressed Council and told them his concern would be that the City was binding an association or league to buy directly from Coca-Cola and not allow them to buy the product cheaper elsewhere, which meant more money for the organization. Rapson agreed with Brown. Rutherford said the City could also negotiate a better deal.

Rapson moved to table Agenda item 08-04-06 and requested staff develop an RFP to put out on the issue. Kourajian seconded. The motion carried unanimously.

08-04-07 Consider Ordinance Regarding Smoking in Public Places

Brown noted there were additional documents on the dais – an e-mail from the City Manager to Mayor and Council that was forwarded from Terry Childers, and two e-mails from the City Manager to Mayor and Council that were forwarded from James Stinson.

Brown continued that there had been a series of workshops and thanked those who participated. He noted that all the participants had been civil and had listened to differing viewpoints. Brown noted the required signage, which was displayed in a PowerPoint presentation. Brown said the signs were seven inches by seven inches.

Brown said the state had not taken action on this issue in 2004, leaving the matter up to counties and municipalities. Many ordinances had been written throughout the metro area, some good and some bad. Brown felt the City's ordinance was solid and created real compromise. Brown briefly went over the ordinance. He said most of the discussion had focused on the word "bar." A "bar" was defined in the ordinance as an establishment that had less than 60% of its total revenue from food. No one under the age of 18 would be allowed in a bar. Brown pointed out that the ordinance did not prohibit the sale of tobacco products or paraphernalia related to them. The effective date for the ordinance would be 90 days from the date of passage.

Brown opened the topic up for public comment, having those opposed to the ordinance speak first.

Harold Logsdon spoke in opposition to the proposed ordinance. He agreed that for most people smoking in public places was a health issue and to others it was an infringement issue. The ordinance was a good compromise, but was still a government regulation that was not needed. He said that, under the free enterprise system, it was not against the law to cater to nonsmokers, and it was a business decision. Government taking away a choice was an infringement.

Shannon Bradshaw, an employee at Longhorn Steakhouse, told Council that she did not smoke, but a smoking ban would kill her business. People would take the revenue from the City and go elsewhere. If the ban were statewide, she would support it.

Scott Trammell, managing partner at Longhorn Steakhouse, said he was also a nonsmoker, but his company had studied its businesses in areas where a ban had been passed and business had dropped off. Businesses found ways to cater to their customers. Smoking at his restaurant had been limited to four tables and the bar area. It should be the public's choice where to do business and eat. He did not want to lose business, but they were offering the best environment possible. The compromise was not a compromise for his establishment. A ban should be City-wide.

Brown asked what the feedback had been where smoking was not allowed. Trammell said the restaurants that had gone from smoking to no smoking had their business drop anywhere from seven percent to 17%. Some smokers would come eat dinner, but not buy dessert or an after-dinner drink. Some stores lost as much as \$250,000 a year, which was a substantial amount in his business.

Brown asked those in favor of the ordinance to speak.

Kathie Cheney spoke in favor of the smoking ban and said the ordinance had not been easy to work out. It had been a balancing act between individual rights and protecting the health of the people in the community. She continued that it was not just smokers who were affected, but also those who simply inhaled the smoke. She agreed a smoking ban was tough to do on a local level and that was why she worked to get the statewide ban passed. She said the City's own representative stopped efforts at the state level. The ordinance was not perfect, but was better than what the City had currently. It was a compromise the bar owners could live with.

James Aducci of Martini's told Council he appreciated everyone's work on the ordinance. It was a good ordinance. Martini's was a bar for adults, and adults should be allowed to make their own decisions.

Rick Parham, one of the owners of the Y-Knot, commended those on both sides who were involved in the process. He said about 70% of his business was from smokers and it was an emotional issue for some people. He still believed the ban should be statewide to ensure a level playing field.

Jim Hamilton spoke in support of the ordinance.

James Stinson told Council he knew enforcement would be tough, but it was Council's responsibility to protect the health of the citizens, not the profit of the businesses.

Kevin Cheney said the ordinance really had nothing to do with smoking, but allowed for Council to provide for the public health. All studies had shown that any smoke permeated a whole room. Majority ruled.

Steve Harrelson encouraged Council to approve the ordinance for the safety of the citizens and for the citizens who could not or would not speak up. Smoking did not have an immediate cause and effect, so it was swept under the rug.

Joe Coles supported the ban and urged Council to approve the ordinance.

Victor Vanburg suggested the smoking ordinance be seen as a positive. The restaurants might lose some business, but non-smokers could make up the loss by returning to those restaurants.

Bob Brown said there were three issues – health, economy, and philosophy. The philosophy was that people needed to be allowed to make their own decisions. From a philosophical viewpoint, Brown said he was opposed to the ordinance. Smoke at restaurants bothered him, so Brown did not return to those restaurants. As for the health issue, people could also make that decision. The choice might not be there for the workers, who could either work where smoking was allowed, or not work.

Public comment closed.

Kourajian said he was all for less government and he had hoped the state would address the issue. Citing #7 under Definitions, Kourajian asked if a driver in a delivery truck would be allowed to smoke. Rapson said a person could smoke in their personal car, but it was up to the company if drivers could smoke in company vehicles. Brown thought that part had been struck from the ordinance. Rapson asked about rental vehicles and the consensus was that an exemption would be needed for rental cars, such as with hotel rooms.

Kourajian asked about the Amphitheater and other City venues. Brown said the smoking area at the Amphitheater should be moved. Rutherford noted that the smoke from the smoking areas drifted down to the seats and that was a problem. Rapson said he was fairly confident that the Tourism Association would take this up as an issue.

Kourajian questioned the use of the word “combustible” in #3. Brown said the word was related to the carcinogens in smoke. Kourajian asked if that included incense or paper. Rapson suggested the words “or other combustible substance” be struck.

Kourajian asked about sports arenas in #14 and enclosed sports arenas. He considered sports arenas as football and baseball fields. He wanted to be sure people could not smoke at Riley Field and asked if smoking would be allowed in City parks. Brown said he felt they were covered since sporting pavilions were generally open spaces. He pointed out that the item also included “other similar places” that would cover other

public places were the public assembled for general exercise. Rapson said the key was "other public places where the general public assembled."

Kourajian asked about places such as City parks and the City Hall pavilion area. Rapson suggested striking the sentence in #18 that read, "including enclosed places and outdoor arenas." Kourajian said that was overridden by another sentence. Rutherford pointed out that it said "enclosed," and an outdoor pool was not enclosed, so people would be able to smoke. Rapson said "enclosed" should be struck in both places.

Brown said they needed to differentiate between public gathering places, such as ballparks, and private public places, such as The Avenue. Kourajian said that a public place should be better defined, as should a City facility.

Kourajian asked if residents would be allowed to smoke on their golf carts or when riding bikes on the cart path. He asked if the ordinance would be that all-encompassing. Brown said the word "enclosed" would leave out the cart paths and would not be all-encompassing. He continued that a special stipulation should be made regarding sports venues, public pools, and playgrounds. Rapson said there was no smoking in the bleacher areas at City facilities. Brown said it would be easier to leave in enclosed places and adopt a separate policy for City facilities. Meeker verified that the City could adopt a policy for City-owned facilities and it did not have to be part of the ordinance.

Kourajian noted #12 under Section 1004 and said the option for a separately ventilated area was no longer in the ordinance. Rapson said there needed to be an exception for restaurants and bars that wanted to have a separate system. Brown said the ordinance should then include a standard about the types of barriers and the way to monitor the filtration of the smoke.

Kourajian continued to Section 1006 and asked how a reasonable distance was determined. He noted that all commercial establishments would be required to have an HVAC system designed for positive air pressure, except for businesses with automotive facilities with bay doors and large warehouses. He suggested it might make more sense to have an application for exception, rather than trying to list every type of business and leaving one out. Rapson said those particular areas would not be under the smoking ban, but that the areas where the public would come into would have positive air.

Kourajian asked about enforcement of the ordinance, Section 1011(a) and if the City would go out looking for violations. Brown said the fire marshal would perform routine mandated inspections and the Police Department or Code Enforcement would handle complaints.

Kourajian asked about Section 1009 and the posting of signs. He felt it would be negative to display a "no smoking" sign in every window. Brown said there were a lot of stickers now and there had to be a way to distinguish between the facilities. Rapson suggested downsizing the seven-inch by seven-inch signs to five inches by five inches.

Brown suggested the ordinance be changed to read, "The signs would be available for purchase." He said he did not want to specify City Hall and that, hopefully, the sign shops in the City would carry the signs.

Rapson said the proposed smoking ban was an infringement issue, but Council had to regulate harmful activity. Exceptions were not made for how the Police Department enforced laws or how the health inspector regulated restaurants. Council did not have the latitude to compromise on health issues. He commended the bar and restaurant owners. Smoking was not against the law. There should be an exemption for owners who wanted to carve out a separate ventilation system. If smoking was a health issue, Rapson asked why bars were exempt.

Rutherford said smoking was either a public health issue, or it was not. She said a person did not have to be 18 to get sick. The ordinance said it was all right to smoke in bars, but not any place else. If smoking were truly a public health issue, she would support the ordinance. The compromise was a little of this and a little of that.

Brown said the reason for the compromise was that cigarettes were not against the law. They were trying to pull off the tiger's tail instead of going after the tiger. As long as people could buy cigarettes, he said he had no problem with places that catered to smokers. The ordinance excluded everyone under the age of 18 and 98% of the buildings in the City would be affected and was a tremendous step forward. The trend was heading to no smoking, but until that happened globally, Brown said he had no problem with there being places for smokers to go.

Rapson said he did not disagree, but again questioned if smoking was a health issue or not, or was it a safety issue.

Kourajian said a lot of things were a safety issue, such as cell phone use while driving. There was nothing illegal about smoking. If restaurant owners were willing to go the extra step to put in a separately ventilated area, then they should be able to do so. Brown said he had no problem with that, but he did not think the City had the ability to determine the criteria that should be met. Smoking was a health issue about which the federal government was doing nothing.

Rutherford agreed that smoking was a health issue and the ordinance should ban smoking across the board. She also agreed that not having a statewide ban put the City at a disadvantage. Kourajian said that smoking would only be allowed in homes. Rutherford added it would also be allowed in separately ventilated areas if someone were willing to pay to install one. If smoking was truly a health issue, then the ordinance should include all restaurants and public facilities. If it was a rights issue, then the City could not infringe on the businesses.

Brown moved to approve the Peachtree City Smokefree Air Act 2004 with the latest revision being July 19, 2004, with the following changes – Section 1002, #7, delete "in

vehicles” and place a period after hallways; Section 1002, #13, add the word “plant” and a period, delete “or other combustible substance in any manner or any form;” Section 1009, change last sentence to “These signs shall be available for purchase (period)” and eliminate the language “at City Hall, Peachtree City” and stipulate that the size of the sign shall be five inches by five inches. Kourajian seconded.

Kourajian acknowledged that the ordinance was not perfect, but he felt it was a step in the right direction as long as restaurants had the option to provide separate ventilation. Brown agreed on the issues, but said the City was suffering the problem of a lack of fortitude at the federal level. Kourajian called the question. The vote was 2 (Brown, Kourajian) to 2 (Rapson, Rutherford).

Rapson said he had no problem with the proposed changes to the ordinance, but his issue was that all restaurants and bars should be included. Rutherford said the issue was that if the business owner wanted to take on the expense to provide a separately ventilated area, then it should be in the ordinance. Rapson said the definitions for bar and restaurant were fine, but an additional exemption should be added for separately ventilated areas. Brown said it would be feasible, but they would have to work on the dimension issue.

Rutherford moved to send the ordinance back to staff to make the City totally smoke-free; however, if a bar or restaurant was willing to create a space that was ventilated appropriately, then they be allowed to do so and that staff figure how out how to create such an area. Rapson seconded. No vote was taken.

Rapson said staff should poll the bars and restaurants to see if they agreed. Rutherford said the anti-smoking people should also be polled. Brown suggested staff work on another draft to send back to a workshop.

Rutherford moved to table the ordinance to a future meeting. Rapson seconded. Brown added a friendly amendment that it was pending staff input and another workshop. The amendment was accepted. The motion carried unanimously.

08-04-08 Consider Expungement Fee

Chief Murray told Council that the Department had only received one request for expungement during 14 years. During the last 12 months, they had received 15 requests and he felt it was time to charge a fee. He explained there was a list of things that had to be done before an expungement could take place.

Rapson moved to approve the administrative fee for expungement. Kourajian seconded.

Kourajian clarified that an expungement meant people wanted to get a conviction off their record. Murray said that was correct, and added there was a lot of paperwork involved and a judge could approve the expungement, or not.

The motion carried unanimously.

08-04-09 Consider Approval of GDOT Agreement for West Village Bridge

Rast explained that the agreement with the Georgia Department Of Transportation (GDOT) was to acquire the right-of-way needed for the bridge over the railroad tracks on GA 54. The City would acquire the right-of-way and would own it, but would transfer it to the state during construction. Meeker added that this was just the DOT process.

Rutherford asked if the City or the state would own the right-of-way. Meeker said that in exchange for \$10 the City would acquire the right-of-way for the state to build the bridge. Rutherford asked who would own the bridge and land. Meeker said the City would own them and acquire the necessary right-of-way, and the state would construct the bridge.

Brown moved to approve the resolution as stated in the book with the correction that Mayor Brown's name be spelled correctly on the document. Rapson seconded. The motion carried unanimously.

Council/Staff Topics

McMullen told Council that the revised FY 2005 budget books were available.

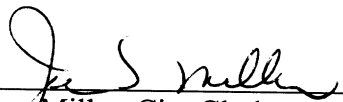
McMullen noted that the meeting packet had been downloaded on a laptop that he had been using during the meeting. He found it very easy to use the packet on the computer and asked if any of the Council Members would like to use the laptop for the next meeting. Rutherford volunteered.

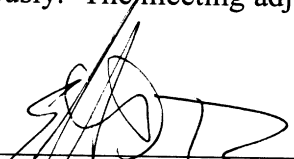
Meeker said there was a personnel matter and a matter of future or pending litigation for executive session. Rutherford moved to reconvene in executive session to discuss a matter of pending or threatened litigation. Kourajian seconded. The motion carried unanimously.

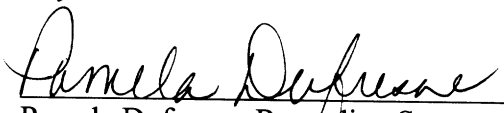
Rutherford moved to extend meeting past 11:00 p.m. Brown seconded. The motion carried unanimously.

Rutherford moved to reconvene in regular session. Rapson seconded. The motion carried unanimously.

There being no further business to discuss, Brown moved to adjourn the meeting. Rutherford seconded. The motion carried unanimously. The meeting adjourned at 11:15 p.m.


Jane Miller, City Clerk


Stephen D. Brown, Mayor


Pamela Dufresne, Recording Secretary