City Council of Peachtree City
Minutes of Meeting
May 15, 2008
7:00 p.m.

The City Council of Peachtree City met Thursday, May 15, 2008, in the City Hall Council Chambers. Mayor Logsdon called the meeting to order at 7:02 p.m. Other Council Members present: Steve Boone, Don Haddix, Cyndi Plunkett, and Doug Sturbaum.

Announcements, Awards, Special Recognitions
Mayor Logsdon recognized the graduates of the Citizens Police Academy. Logsdon recognized the Hawks, first place, and Team Asia, second place, of the Peachtree City Mayor's High School Basketball League. The senior members of the Youth Council Serving Fayette County were recognized for their service. The winners of the Building Safety Week coloring contest were recognized. Kathy Thomas of the Building Department was recognized as the Employee of the Month.

Public Comment
There was none.

Agenda Changes
There were no agenda changes.

Minutes
Plunkett moved to approve the May 1, 2008, special called meeting minutes and May 1, 2008, regular meeting minutes as written. Boone seconded. The motion carried unanimously.

Consent Agenda

1. **Alcohol License – Change in License Representative – Outback Steakhouse**
2. **Alcohol License – Addition of Distilled Spirits – Bia's**
3. **Consider Easement from Southland Nursing Homes, Inc., for Riley Field Driveway**
4. **Consider 2008 LARP Contract**
5. **Consider Appointments to the Library Commission – Paul Lentz, Sally Meyer**

Plunkett moved to approve Consent Agenda items 1-5. Sturbaum seconded. The motion carried unanimously.

Old Agenda Items
03-08-01 Consider Comprehensive Revenue Analysis/Fee Changes

- **Occupational Taxes**

Acting Administrative Services Director/City Clerk Betsy Tyler reported that, since the April 3 meeting, she had contacted the Fayette County Chamber of Commerce and the Fayette County Development Authority regarding the proposed fee increase. Both entities had concerns about imposing a tax increase during the current economy and felt the estimated $20,000 in revenue the City would receive was a poor trade-off for the negative feelings it would generate. There was also concern about the equity of how the increase was distributed. Based on the input for a more equitable distribution of the increase, staff proposed a minimum fee of $105 and a maximum fee of $6,000. She asked Council to clarify whether staff could charge the $20 administrative fee to organizations not required to pay the occupational tax but that wanted to be included in the database, to cover administrative costs. There were several business categories that were exempt from the tax, but either wanted to have a business license or be included in the business database on the City website. Currently, those companies were not charged anything, but the administrative costs were the same. It was a modest amount and was a fee to cover the costs, not a tax. Tyler recommended the revised proposal be imposed for the 2009 occupational tax and that the $20 administrative fee to be included in the database be effective immediately.

Logsdon said he had spoken with Virginia Gibbs of the Chamber of Commerce and was surprised by their concern. He pointed out that the increase was less than one percent for most of the businesses in the City. Tyler said it would be an approximate five percent increase for the City's top four employers, but the tax had not changed since 2004.

City Manager Bernard McMullen noted that Council had two additional documents on the dais relating to the agenda item – an e-mail from Gibbs regarding the proposed increase in the Occupational Tax and the proposed Developmental Services fee schedule.

Sturbaum said he had read the e-mail from Gibbs and understood the economic state in the country. However, the City had a responsibility to provide services, and the City also incurred additional expenses. Council used *jurisprudence* when looking at these things. He commended staff for providing an alternate option.

Plunkett agreed that the alternate option was better, but she did not see the correlation between the increase and services. She saw no need to increase the fees now. She was especially concerned about smaller businesses, and felt $5 could be a lot. Logsdon said he had concerns, but felt there was a direct correlation to services. The cost of running government continued to increase. Seventy percent of the City's budget was salary and benefits, which continued to increase. If they looked at the fees annually or they were based on inflation and the cost to run government, then the numbers would probably be significantly higher than what was proposed. He did not like raising the fees, but the alternate option had done a better job of dispersing the cost through the spectrum. Boone noted that there could be a turnaround in the economy in the next year. Services had to be provided. A one to two percent increase was very legitimate.

Haddix said he had paid a lot more when he was in business. He was more comfortable with the alternate option, too. Either businesses or residents had to pay the cost. Haddix moved to approve the Occupational Tax fee changes. Boone seconded. The motion carried 4-1 (Plunkett).

- **Developmental Services Fees**

City Planner David Rast said staff had compared the fees to other cities and found those cities charged for things the City did not. They also looked at the staff time involved with plan review, inspections, re-inspections, and other tasks, and staff felt establishing fees for certain tasks was warranted. Developmental Services included Planning, Engineering, Stormwater, Building, and Code Enforcement departments. Each department had individual tasks; some mandated by the state. They had tried to make the process as simple as possible through ordinances and the plan review process. However, staff was sometimes being used as plan checkers in the plan review arena. A plan review fee needed to be incorporated to encourage developers to complete their plans prior to submittal and to compensate the City for the time spent on them. With inspections, staff found that the building inspectors were doing a punch list with contractors on site as opposed to having the contractors call when the building was ready for inspection. They found the development inspector was requested to do things that others should have done, which led to several re-inspections. Since the April 3 meeting, the proposed fees had been posted on the website and had been presented at the quarterly builders meeting on April 24. The builders felt the re-inspection fees were more than they should be, so staff looked at them again and restructured them to be more in line with fees charged in other jurisdictions. The plan review fees were also lowered so they were more in line with jurisdictions on the south side of the metro area.

Plunkett said she was concerned that the increased fees would keep people from going back to staff and the Planning Commission. She appreciated the time staff had spent on the plans that came before Council. She knew it created additional work, but she was concerned that the City would not receive the same caliber of plans. Rast said staff went over the conceptual site plans with a checklist. If everything was not complete, then the applicant was notified. When the plans were resubmitted, then the resubmittal fee would be charged. He did not see it as a deterrent, but a "get your act together before submittal" fee. Plunkett said she wanted to ensure the City got what it wanted.

Scott Bradshaw, chairman of the government affairs committee for the Homebuilders Association of Midwest Georgia, said the proposed increases had come up suddenly in April without a chance for study. They had studied the proposed fees and had come up with some of the same findings as staff. They found the fees in their 10-county area to be varied. Some fees were on the development side, while others were on the builder side. They took a hypothetical situation and ran it through all the entities, excluding the impact fees and Health Department fees. The increase in the City's fees would add an additional $2,950 to a developer's cost, which was not unreasonable. The City was not the most expensive jurisdiction to do business with on the development end. On the building end, they had not included re-inspections, since that was a separate issue. The City was within a reasonable parameter with a cost of a little over $1,600 for a house. His organization was fairly comfortable with the proposed increases.

Bradshaw said the biggest issue was the re-inspection fees. He noted there were two reasons for a re-inspection – a good reason and plain stupidity on the builder's part. He proposed that staff be given flexibility on levying the fee for re-inspection depending on the severity of the problem. Building Official Tom Carty said the policy was a little different from other cities. There might be a list of five to six items, but they would pass the inspection. A fee would not be charged for the first visit because an inspector would have to go back anyway. An automatic fee was charged if an inspector found that the items on the list had not been corrected. Logsdon said what happened was similar to what Bradshaw suggested. Boone said he liked the flexibility on the front end.

Boone moved to approve the Developmental Services fee schedule proposed by staff and to incorporate them into the appropriate City ordinance. Sturbaum seconded. The motion carried unanimously. Sturbaum thanked Bradshaw for working with the City.

- **Recreation Facility Rental Fees and The Gathering Place User Fees**

Leisure Services Director Randy Gaddo gave a brief PowerPoint on the proposed Recreation and Gathering Place fees. He noted that staff and Council had met with the Senior Adult Council in late April. Based on that meeting, Gaddo said the recommended fees for The Gathering Place were $10/person/year for City and County residents and $20 per year for out-of-County users. The access fee did not include rentals or people taking instructional classes offered by the Recreation Department at The Gathering Place. It would be effective January 2, 2009, and staff would begin collecting fees in the November/December time frame. They were also looking at access cards or other identification devices for users.

Gaddo continued that the facility rental fees would be charged to groups that had not been previously charged, such as churches, schools, and civic groups. The 3-No-Fee bookings per year (could be bumped up to one week before event for rental or instructional class) were still recommended. The 3-No-Fee bookings would be based on "organizational" events, not individual classes or groups. The civic groups must be based in the City and show an IRS "Letter of Determination" as proof of the organization's 501c(3) status. Gaddo said staff recommended tabling this proposal to allow staff more time to determine a means of defining the various groups more closely to avoid conflicting policy. The differences included those groups existing for public service (civic groups, homeowners associations) and those strictly having a social event. Gaddo said they were not abandoning the proposal, but were asking for time to ensure an equitable policy. He added that the Senior Adult Council also had other concerns.

Plunkett asked if the City could charge higher fees to the County residents. Gaddo said that had been discussed, but it could not be done due to the City's agreement with the County for the funding it provided every year. Plunkett noted that Fayette County charged City seniors more to use the County facility. She said they should discuss the issue with the County Commission. Logsdon said that senior issues were on the agenda for the July meeting of the Association of Fayette County Governments. Haddix said he had spoken to someone from the County who stated that the City came up on the short end of the stick because it had its own recreation program and was not entitled. Plunkett noted that was an ongoing issue.

Plunkett moved to continue the topic to give staff additional time. Haddix seconded. The motion carried unanimously.

03-08-07 Consider Rezoning, GC to LUC-21, Wisdom Road (Fairfield Inn)

Logsdon said that the applicant had requested the item be tabled until the June 5 meeting. Plunkett moved to continue the rezoning until June 5. Boone seconded. The motion carried unanimously.

04-08-15 Consider Contract – EMS Billing

Fire Chief Ed Eiswerth stated that the billing had been a joint effort between Capt. Dave Williamson and the Purchasing Department. The Department asked for a staff assistant to help with billing and had been turned down. The federal law changed a lot and often, including the Medicare and Medicaid programs. They could also send their staff assistants for training, but there were so many changes in federal mandates that a bigger expert was needed. It would also help with liability issues. Staff recommended outsourcing the collections to Ambulance Reimbursement Systems, Inc.

Plunkett asked if the funds were budgeted. Eiswerth said that the funds would be included in the budget for the 2008-2009 fiscal year, but $8,125 was needed for the remainder of this budget year.

Logsdon agreed that an expert was needed due to the changes, but said they should consider passing the cost on to those who used the service. Plunkett noted that Council had recently increased the EMS fees, adding that this should have been considered at the time so the additional cost could be passed on to those who used the service. McMullen noted that the vendor would be paid based on collections, and the collection rate was expected to increase. Eiswerth added that all the agencies Williamson had spoken with that used an agency reported their collections had increased.

Plunkett moved to approve outsourcing the EMS billing to Ambulance Reimbursement Systems, Inc., in the amount of 6.5% of net collections. Sturbaum seconded. The motion carried unanimously.

New Agenda Items

05-08-04 Public Hearing – Consider Variance Request – Sign, Kedron Office Park

Plunkett moved to continue the variance request indefinitely at the applicant's request. Boone seconded. The motion carried unanimously.

05-08-05 Public Hearing – Consider Variance Request – Buffer, Northlake/Aberdeen Parkway

Plunkett moved to continue the variance request to June 5. Boone seconded. The motion carried unanimously.

05-08-06 Citizen Request to address Council Regarding Brown Bagging

Ric Hunt noted that Council had banned brown bagging in November, but he preferred to call it "byob," bring your own bottle. It had been going on for years in the City. Many of the restaurants had limited space, as well as a limited variety of spirits. He was a wine collector and liked to bring one of his 20-year old cabernets to have with his steak dinner. It was a quality of life issue. It was acceptable in many places to bring in your own wine and pay a corkage fee. The City allowed patrons to bring their own beverages to the Amphitheater, and it should be allowed in restaurants. Hunt said that, as far as he knew, brown bagging had not caused a problem in the City. He gave Logsdon another 47 signatures to go with the petition he had presented to Council at the May 1 meeting. He asked Council to change the ordinance back as it was or consider another proposal that met reasonable objections.

Logsdon said he had not known that brown bagging was allowed in the City until Council had approved the ordinance amendment that prohibited it. City Attorney Ted Meeker clarified that brown bagging had not been prohibited until the recent amendment. The City's ordinances had been silent until then. Plunkett asked why the issue had come up. Meeker said that staff had been looking at what was needed to be done for private events and golf clubs. It was found the

City did not have a prohibition against brown bagging. Meeker noted that, historically, brown bagging became a practice when cities tried to prevent adult entertainment venues from opening. The Georgia Supreme Court ruled that the venues were allowed, but could not serve alcohol. The venues found a way around it by encouraging brown bagging, so jurisdictions prohibiting brown bagging. It was a loophole that staff wanted to tie up before something happened.

Plunkett said she did not have a problem with businesses that already had an alcohol license letting people bring in their own and charge a fee to do so. She had a problem with brown bagging being allowed in restaurants that could not get a license due to their proximity to schools and churches or businesses that could not get an alcohol license due to their police record. There was also a liability issue. Businesses that were licensed had people on staff eligible to serve. Meeker said he heard two things that needed to be done. First, the business should have an alcohol license. Second, the business had to have the type of license for the libation that was brought it. Patrons should not bring in liquor if the business was licensed for beer and wine. Boone said brown bagging should be limited to wines and malt beverages.

Hunt noted that the reason a restaurant might not have a full alcohol license was because it did not have enough business to justify it or enough space to have it. Meeker said allowing patrons to bring in distilled spirits in that case expanded the license the business received from the City.

Boone asked about re-corking a bottle upon leaving a restaurant and noted that bottle should be placed in the trunk. Hunt said that was a common practice in many states. As a practical matter, Hunt discussed the issue with a restaurant owner in the City, who had asked a City police officer whether a person could be arrested for the open container. The officer said that, technically, the person should be arrested, but they would not be stopped without reason, such as driving erratically. Hunt said that was a reasonable way to do it and encouraged people to not drink as much. Boone asked what the restaurants had to say about the issues. They were making a profit from alcohol sales. Hunt said that was why a corkage fee was charged. They would rather allow brown bagging that than lose someone's business.

Meeker said that, technically, if an open bottle was in the car, even in the trunk, it was still an open container. A bigger issue was that the state prohibited businesses with on-premise consumption licenses from letting people pour their own drinks. Customers had to physically give their bottles to the bartender so the server could bring it to the table.

Sturbaum asked, if he brought in his own spirits, how a restaurant owner could stop someone from drinking an entire bottle. Meeker said they could refuse to serve the customer even under that circumstance. Sturbaum asked if the business would refund the corkage fee. Meeker said they would not, but could allow the customer to take the remainder of the bottle home. Hunt said they could just ask the patron to leave if they were misbehaving or abusing alcohol.

Plunkett said she meant no disrespect, but the restaurants made money on alcohol. She asked staff to work with Hunt, query the restaurants, then draft an ordinance for Council to look at. Logsdon said he also wanted to hear from the restaurants. If an overwhelming majority were against brown bagging, then there was no need to draft an ordinance.

Haddix expressed concern that a 17-year old server might not be able to monitor the intoxication level of a customer. Meeker said that, in order to serve a drink, the server had to be at least 18. If a bottle was brought into a business, then it had to be checked at the bar.

Juan Matute said that brown bagging was not a novel idea, especially with wines since there were so many. He said he guaranteed a local restaurant would not have the Georges de Latour Private Reserve wine he wanted. There were regulations that governed serving wine in the establishment. The customer would only be bringing in a wine the restaurant did not have and paying a corkage fee. Meeker agreed that wine was the market that was most impacted.

Meeker clarified Council's direction – to look at the issue and draft an ordinance, depending on the response from the restaurants. Haddix asked if a restaurant would be required to post whether brown bagging was allowed or not. Hunt noted that most people called a restaurant before taking their own wine.

05-08-07 Consider Position Reclassifications for Staff Assistant and Executive Assistant

Tyler presented a request to formally reclassify the staff assistant to staff assistant/deputy city clerk (grade 72 to 73) following Council's appointment, and the executive assistant to administrative services supervisor (grade 75 to 77). Plunkett moved to approve the reclassifications. Boone seconded. The motion carried unanimously.

05-08-08 Consider Ordinance Amendment – Alcoholic Beverage Handling Permit

Police Chief Skip Clark said staff had been working on the amendment for a while to have some uniformity between all cities and Fayette County regarding the permits.

Plunkett said she was concerned that servers who had pled *nolo contendre* would not be able to get a permit. Sometimes the plea was used when there was not enough evidence or the court was trying to be lenient. Meeker said that a plea of *nolo contendre* was not a finding of guilt under the law. Plunkett said it was considered as guilty under the permit process because they would not be able to get a permit. Meeker said that was not one of the amendments under consideration. It had been in the ordinance.

Logsdon clarified that the process had been worked out between the City and Fayetteville. Clark said it had. The agreement provided some consistency in the process. Tyrone was not at that stage yet.

Logsdon said the one change had to do with wearing the badge. Council had, at one time, agreed to have the permits on the premises rather than requiring the servers to wear them. It could be a problem for young ladies to have their full names displayed. The amendment included wearing the badge, but the badge would only have first name and last initial on the back side. Clark said the servers had to wear the permits. They had made sure it was consistent.

Boone asked Plunkett if she wanted to take out the portion dealing with *nolo contendre* pleas. Plunkett said no, but the judge should be aware that accepting *nolo* pleas on those types of cases could keep people from getting an alcoholic beverage handling permit.

Boone moved to adopt the ordinance revision and authorize the Mayor to sign the associated intergovernmental alcohol control agreement. Haddix seconded. The motion carried unanimously.

Council/Staff Topics

Logsdon recognized Atlanta Christian College President Dean Collins, who announced that the City and Newnan had been selected as the top two venues for consideration for the college's relocation during that day's Board of Directors meeting. A task force would be appointed for the next phase. Logsdon thanked Mark Hollums for his work. Haddix and Sturbaum thanked Collins. Logsdon said the work had just begun.

Rast noted that the Georgia Regional Transportation Authority (GRTA) had ruled the Fischer's Crossing commercial development in Coweta County was a Development of Regional Impact (DRI). There were some required transportation improvements in the City and in Coweta County, and the City would have the opportunity to respond to the findings in the next several weeks. The findings were similar to those for the McIntosh Trail development. There would be over one million square feet of commercial space with spray irrigation, which was another concern. Rast said they would forward the report to Council. Logsdon said he spoke with the legal department at GRTA earlier, and that person had assured him that all the requirements for the City would be withdrawn. Boone asked if the plans included the widening of State Road (SR) 154. Rast said it did not. Most of the improvements were at SR 34/Fischer Road. Meeker said one of the conditions was to build an additional turn lane out of Planterra, rather than widening SR 154. Logsdon noted that the new head of GRTA had no transportation experience. Rast said that 90% of the 150-acre project was impervious surface, with 561 tons of solid waste disposal per year upstream from Wynn's Pond and Line Creek. Logsdon expressed concerns about stormwater and Lake McIntosh, and noted that the ***Newnan Times-Herald*** reported that there might be a delay if the developer could not answer questions by May 16. Rast said the plan that was submitted to GRTA included a road network that Coweta County said they would not approve. Plunkett said the City should continue to monitor the project.

Plunkett moved to convene in executive session to discuss pending or threatened litigation and personnel at 8:45 p.m. Boone seconded. The motion carried unanimously.

Sturbaum moved to reconvene in regular session at 9:05 p.m. Boone seconded. The motion carried unanimously.

After coming out of Executive Session, Logsdon and McMullen announced that they had formed a partnership to renovate houses.

There being no further business to discuss, Sturbaum moved to adjourn the meeting. Haddix seconded. The motion carried unanimously. The meeting adjourned at 9:17 p.m.

Pamela Dufresne

Pamela Dufresne, Deputy City Clerk

Harold K Logsdon

Harold K. Logsdon, Mayor