City of Peachtree City
Minutes of Meeting
May 15, 2003
7:00 p.m.

The City Council of Peachtree City met Thursday, May 15, 2003, 7:00 p.m., in the City Hall Council Chambers. Council Members attending were: Mayor Steve Brown, Annie McMenamin, Steve Rapson, Dan Tennant, and Murray Weed.

Announcements, Awards, Special Recognition

Mayor Brown presented Fire Lieutenant Ron Mundy with a 20-year Anniversary pin. Art Bernard of Developmental Services was recognized as Employee of the Month.

Approval of Minutes

Rapson moved to approve the minutes of the April 3, 2003, regular meeting minutes with changes. McMenamin seconded. The motion carried unanimously.

Consent Agenda

1. **Consider Appointment to the Library Commission**
2. **Alcoholic Beverage License – Change in Licensee and License Representative – Creekside Chevron**
3. **Consider Bids for Emergency Generators for Stations 83 and 84**

Brown stated for the record regarding consent agenda item #1, additional documentation had been provided.

McMenamin made a motion to remove Consent Agenda Item #2 from the Consent Agenda to ask a question. Weed seconded. The motion carried unanimously.

Weed made a motion to approve Item #'s 1 and 3 of the Consent Agenda. McMenamin seconded. The motion carried unanimously.

Mr. Larry Jack Wallace, Jr., applicant for the change in Licensee and License Representative for the Creekside Chevron came forward at the request of Mayor Brown. McMenamin stated that all paperwork was in order, and stated that the City was very cognizant of drug abuse in Peachtree City and noted that the Creekside Chevron sold rolling papers. McMenamin advised that the City had approached all the stores in Peachtree City to request the removal of rolling papers from their stores and wondered if Wallace would be interested in removing rolling papers from his store. She said he did not have to answer tonight, but would like him to take it into consideration and contact the Police Department to advise whether he would be willing to do so. Wallace agreed to contact the Police Department.

McMenamin made a motion to approve Mr. Larry Jack Wallace, Jr., as the Licensee and License Representative for the Creekside Chevron. Rapson seconded. The motion carried unanimously.

Old Agenda Items

05-03-01 Alcoholic Beverage License – NEW – Mike & C's Family Sports Grill

Mr. Michael Francis Healy came forward at the request of Mayor Brown. McMenamin stated that all the paperwork appeared to be in order and made a motion to approve Healy as the Licensee and License Representative for Mike & C's Family Sports Grill. Tennant seconded. The motion carried unanimously.

New Agenda Items

05-03-08 Consider Bids for Purchase of New Asphalt Paver

Brown noted that this item did not appear on the Consent Agenda because it was not a budgeted item for 2003, but that the equipment had failed and the repair costs were so exorbitant that it would be more economical to buy a new one. Interim Public Services Director Bobby Thompson addressed Council and stated there was another paver budgeted for 2004, but that the current paver was unusable. Thompson said the estimated repairs to fix the machine without a guarantee was $10,000, and that it had cost over $7,500 over the past two years for repairs. Thompson advised that Tractor & Equipment Company of Forest Park, Georgia, was the low bid of $27,866 with a trade-in.

Rapson made a motion to award the bid to Tractor & Equipment Company and declare the 1994 asphalt paver as surplus property to be used as a trade-in and to finance the purchase through the Lease Purchase Program. Tennant seconded. The motion carried unanimously.

05-03-09 Consider Appointment of City Manager

City Attorney Ted Meeker addressed Council and stated that the Interim City Manager and he were satisfied with the agreement, hoped the Council was as well, and after speaking with the proposed new City Manager, Mr. Bernard McMullen, that he seemed satisfied as well. Mr. McMullen addressed Council and introduced his wife, Cathy McMullen. Tennant stated that, after a very prolonged procedure, all Council members were very pleased with the selection and made a motion to adopt the proposed City Manager contract effective May 15, 2003, and that Mr. Bernard McMullen would become the new City Manager effective Monday, May 19, 2003. Weed seconded. The motion carried unanimously.

05-03-09 Discuss Commercial Dumpster Collection Times

Brown stated for the record that two additional documents had been provided; a sample of the proposed ordinance for Article III, Section 42-83, and a 32-page document addressed to Mayor and Council from the Deputy City Clerk.

Meeker said Council had requested that he prepare an ordinance to prohibit commercial dumpsters from being cleaned out between the hours of 11:00 pm and 6:00 am. Meeker advised that he had taken a portion of the existing ordinance, which said that this service could not be provided during the prescribed time period, and created an exception in case of emergencies or any other hazards that needed to be considered. The Interim City Manager had provided Meeker a copy of the ordinance prepared by the previous City

Attorney that indicated there was a flat prohibition between the hours of 11:00 p.m. and 7:00 a.m. unless the dumpsters were located on property zoned for industrial use. Meeker said either ordinance would be fine, but there would be times when an exception would have to be created, he did not know how often, but he felt there should be some flexibility. Meeker advised that under the old version prepared by Richard Lindsey's office, if Council went with that version, he recommended that the sentence end where it stated "7:00 a.m." Meeker noted that, whether it was commercial or industrial property, he thought the net effect would be same, and that there would be disturbances if the dumpsters were emptied in the middle of the night.

Brown commented that he liked the language pertaining to the proximity to residential areas, and thought that would cover most situations.

Rapson indicated he did not want to approve an ordinance that might need exceptions in the very near future, and that he would not want to make the ordinance so prohibitive that dump trucks that had been emptying garbage at 2:00 a.m. would then be driving around the City when people were trying to get to work around 8:00 a.m. Rapson stated further that he was concerned about what the impact would be on residents and sanitation companies if the time were to be restricted.

Jim Bennett, Environmental Partners, addressed Council and stated that the only problem they had been advised about was the pickup time for Sherwin-Williams, located on Highway 74. Bennett said they had been picking up at that location early in the morning, but had changed the pickup time to about 3:00 p.m. Bennett explained that the only other problem was the pickup times for Fayette County schools because the school system wanted them in and out before 8:00 a.m.

Dave Wade, Operations Manager for EPI, addressed Council and stated that it was a safety issue with the Fayette County school system contract, and that the school system would like EPI to complete the sanitation pickups at the schools before the school children arrived. Wade pointed out that it would cause even more confusion due to the traffic congestion at that time of the morning when children were arriving. He said if people would contact them when they had a problem with the pickup times, they could work with them, but if Council told the sanitation companies they could not make pickups until 6:00 a.m., it would put them in a bind with the Fayette County Schools and create more traffic problems. Wade said he had instructed the drivers to be as quiet as possible, especially around the schools.

McMenamin said in past years the City had responded to a number of complaints throughout the City, not just in one location, but that she had not heard of any complaints since the City had begun working with the sanitation companies on a case-by-case basis through Deputy City Clerk Betsy Tyler. Halterman confirmed there had only been approximately 13 complaints since September 21, 2000.

Rapson pointed out the fact that *Article III* of the *Solid Waste Management* portion of the Peachtree City Code outlined the process for complaints, and thought that perhaps it was more of an education issue and suggested that the sanitation company place something on their vehicles identifying a phone number to call if there was a problem. Wade said he dealt with problems immediately when phone calls were received from the City.

McMenamin commented that Tennant had responded to only one individual citizen, and wondered if a change could be made for that person. Tennant confirmed the citizen's residence was located by Braelinn Baptist Church. Wade said changes could be made here and there, but not for the whole City.

Weed had Halterman clarify that the number of complaints on Attachment 5 was incorrect, and that there were actually 16 complaints, not 13 complaints, since September 21, 2000. Rapson suggested that Wade obtain a copy of Attachment 5 to ensure that all complaints had been addressed, and thought perhaps that would alleviate Tennant's concerns.

Tennant said it sounded like EPI was more than willing to work with the citizens to work around schedules on an individual basis. Rapson noted that 9 of the 16 complaints were just relocation (e.g., Fielding Ridge, Morgan's Turn and Blueberry Hill), and that if those three problems were corrected 60% of the problems would be eliminated. Tennant asked Wade to work on pick up time at the Braelinn Baptist location, and Wade said he would do so.

Brown requested a member of the press to advise the citizens of Betsy Tyler's phone number for these types of complaints.

Tennant added that the City was in a difficult situation because Council needed to be responsive to the citizens, but that Council certainly did not want to burden the business community. He said it was encouraging that EPI also wanted to be fair and cooperative, and that Council did not want to over-regulate.

Rapson made a motion to table this item from the May 15, 2003, City Council agenda and directed City staff to contact all sanitation companies that serve Peachtree City to ensure that all problems listed on Attachment 5 were addressed. Weed seconded the motion. Motion carried unanimously.

05-03-11 Public Hearing – appeal of Subdivision Covenants, Deed Restrictions and Architectural Guidelines – 141 Kenton Place

Executive Assistant Gloria Reid read the procedures for the Public Hearing protocol at the Mayor's request.

The applicant, Mr. Scott Weller, of 141 Kenton Place, addressed Council and stated that he had applied to put an above ground pool in the backyard of their home. He stated that the permit had been denied on the basis of the Kenton Place Subdivision's Covenant and

Deed Restrictions, but that it was his understanding that those restrictions would expire in 2008. Mr. Weller explained that the pool was a 30' above ground pool and that he wanted put it down in the ground where it would not be fully exposed. Weller provided copies of photos indicating where he wanted to place the pool and advised that he planned to build a deck around the pool so there would be no danger of anyone falling, and that he would abide by any rules that the Building Department deemed necessary.

Brown noted for the record that an additional 18-page document had been provided along with the position paper from the Interim Developmental Services Director/City Engineer dated May 12, 2003.

Rapson asked Weller what his neighbors thought of the idea. Weller said one neighbor had an in-ground pool, that there was a high fence, and that he had spoken with his neighbors and they had no problems.

McMenamin asked if extra precautions would have to be taken regarding chlorine, and Weller said it would be a regular above ground pool, but would be placed in the embankment. Weller said further he intended to put in a retention wall around it to keep the dirt from falling into the edges of the pool and to prevent a mud slide. McMenamin asked if it would be all right to bury an above ground pool. Building Inspector Tom Carty verified that 30" above the ground, at any point, constituted an above ground pool in answer to Weed's inquiry.

Hearing no one else speak in favor of the application, Brown asked if anyone wanted to speak in opposition to the request.

Interim Developmental Services/City Engineer Troy Besseche addressed Council and stated that the Wellers had approached City staff with an application to install an above ground pool in the backyard at 141 Kenton Place. Besseche continued that part of the review process was to check the covenants and deed restrictions and that Council had been provided with copies of the ordinance, Chapter 18, Article 12, Section 18-2, paragraph (b) (3) of the Code of Ordinances that dealt with construction of swimming pools stating "*There has been compliance with the requirements of the design review board resolution.*" Besseche stated further that, based on that section, Building Department personnel had checked to determine whether there was an active Homeowner Association.

Brown pointed out for clarification that Article XXI. 1., of the Architectural Guidelines for Kenton Place Subdivision stated that no above ground swimming pools shall be permitted; therefore, the baseline document for the subdivision confirmed that fact.

Besseche said the Kenton Place Subdivision Covenants and Deed Restrictions as well as the Architectural Guidelines addressed that issue, and reiterated that Section 18-2 of the Peachtree City Code gave staff the authority to make that decision. Further, in this situation, the City had been assigned the enforcement rights for the Covenants and Deed

Restrictions by Pathway Communities, which gave the City the authority to make the decision not to allow above ground pools at the Kenton Place Subdivision. Besseche said that Peachtree City's ordinance allowed above ground pools, but in this instance the covenants in the Kenton Place Subdivision took precedence over the City's ordinance, and on that basis, City staff denied the permit application.

Weed asked if this object could be safely converted into an in ground pool and again requested clarification that 30" at any point above the ground constituted an above ground pool.

Rapson said clearly there were Covenants and Deed Restrictions as well as Architectural Guidelines that stated this type pool was prohibited, but the question was whether Mr. Weller could take a free, 30-inch above ground pool and make it into something that would not require a variance and that would, in fact, be subjective to a fully enclosed in ground pool.

Building Official Tom Carty addressed Council and said that the Building Department would refer to the manufacturer's installation instructions, but that unless the manufacturer's instructions stated that the walls were strong enough to bury, the permit could not be approved.

Brown commented that the structural integrity of an in ground swimming pool was pretty specific regarding enforcement.

After some discussion regarding the structural stability of the pool, the fact that that the material the pool was made of was not galvanized steel, Rapson said he could not approve anything that was prohibited by the Covenants and Deed Restrictions as well as the Architectural Guidelines that establish the character of the neighborhood and because Carty, as the head of Code Enforcement, had major concerns about the matter.

Carty answered yes to Weed's inquiry about his professional opinion that putting the proposed pool in the ground would make it unsafe.

Weller addressed Council again and stated that there would be a hole in the ground with railroad ties so there would not be any pressure against the wall of the pool, which would be down in the ground with a decking around it.

Hearing no one else to speak in favor of the applicant's request, Brown closed the public hearing portion of the meeting.

Senior Code Enforcement Officer Tami Babb addressed Council and pointed out that Peachtree City Development Corp. had gone to a lot of trouble to establish deed restrictions, and that the Kenton Place Subdivision had written their Architectural Guidelines, which stated that no above ground pools would be allowed. Babb stated further that there were currently 12 pools in the Kenton Place Subdivision and there were no above ground pools.

Brown commented that Kenton Place Subdivision had written Architectural Guidelines, which were not the norm for Peachtree City, and that people purchased homes in that subdivision thinking that those guidelines would be in effect; therefore, he saw no reason to go forward with the request.

McMenamin said it would set a dangerous precedent in other subdivisions that have the same guidelines.

Weed made a motion to deny the variance request and accept City staff's recommendation based on the fact that the request violated the Kenton Place Subdivision's Deeds and Covenants, and based on the information received regarding the fact that the pool could not be configured in a safe manner. Rapson seconded the motion. Motion carried unanimously.

Council/Staff Topics

Interim City Manager Colin Halterman invited Council to the Employee Picnic on Friday, May 16, 12:00-1:30 p.m., at Shakerag Knoll.

Halterman announced the City's annual Memorial Day event would be held Monday, May 26. The golf cart parade was scheduled to leave The Gathering Place at 7:30 a.m. and the program would begin upon the parade's arrival at City Hall Plaza.

Rapson said he had received several calls from reporters recently regarding the contention between Council Members. He asked staff for a list of how the Council Members had voted over the last 17 months. Rapson prepared a statement regarding the voting summary (a copy of the summary is included in the official meeting file) and gave a copy to Council and the members of the press present at the meeting. He noted that Council voted on 197 items and had cast 910 votes. According to his calculations, Rapson said 88% of the votes had been unanimous. Council only disagreed with each other 3.8% of the time. Rapson said the members in general had a very cooperative working relationship. He noted there were only a handful of issues on which the members had not agreed and those issues had been well publicized. Rapson assured the residents that their elected officials worked and supported each other to the benefit of the community.

Tennant thanked Rapson for his analysis. He pointed out Council was composed of five individuals and all were stubborn with strong beliefs. He said it was not important to have a unanimous vote on all issues. McMenamin added that if there were a unanimous vote on all issues, then the members were not representing everyone in the community.

Brown said his recent trip to San Francisco, the Atlanta Regional Commission (ARC)-sponsored LINK (Leadership, Involvement, Networking, Knowledge) trip, had been budgeted and the budget had been approved by a unanimous vote. Brown said the trip had been very worthwhile.

Brown noted that an agenda item had been added to the May 1 agenda when he was on the LINK trip regarding the Development Authority debt. He said the matter would probably come up again. He directed staff to contact Bill Foley, the architect for the Tennis Center expansion, to see if he could attend a Council meeting or a session to discuss how the overages on the expansion came about.

Weed moved to reconvene in executive session for a personnel matter and a real estate matter. Rapson seconded. The motion carried unanimously.

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

Weed moved to make an offer of purchase on certain real estate described in a memo dated May 8, 2003, subject being Huddleston/Dividend Drive intersection improvements in the amount stated in the memo. Rapson seconded. Weed amended the motion to authorize the Mayor to sign any documents necessary to complete the transaction. Rapson seconded the amendment. The motion carried unanimously.

There being no further business to discuss, Weed moved to adjourn the meeting. Rapson seconded. The motion carried unanimously. The meeting adjourned at 8:45 p.m.

Betsy Tyler

Betsy Tyler, Deputy City Clerk

Stephen D. Brown, Mayor

Pamela Dufresne

Pamela Dufresne, Recording Secretary