City Council of Peachtree City
Meeting Minutes
May 3, 2018
6:30 p.m.

The Mayor and Council of Peachtree City met in regular session on Thursday, May 3, 2018. Mayor Vanessa Fleisch called the meeting to order at 6:30 p.m. Others attending: Terry Ernst, Mike King, and Phil Prebor. Council Member Kevin Madden was absent.

Announcements, Awards, Special Recognition
The Mayor presented a proclamation to Jerry Peterson, representing Southern Conservation Trust, declaring May 19, 2018, as Kids to Parks Day. Officers of VFW Post 50 honored Police Sgt. James Harris as Law Enforcement Officer of the Year and Battalion Chief Robert Harkins as Firefighter of the Year. Representatives of the Georgia Chapter of the American Society for Public Administration at The Point University, Peachtree City Campus, presented certificates of appreciation to the Mayor, Council Members, Police Chief Janet Moon, and Fire Chief Joe O'Conor in commemoration of Public Service Recognition Week.

Minutes
April 19, 2018, Regular Meeting Minutes
King moved to approve the April 19, 2018, regular meeting minutes as written. Prebor seconded. Motion carried unanimously.

Consent Agenda
1. **Consider FY 2018 Budget Amendment – Reimbursement Grant, Georgia Association of Emergency Medical Services**
2. **Consider Non-profit Funding Request – Promise Place**
3. **Consider Non-profit Funding Request – Fayette Senior Services**

Ernst moved to approve Consent Agenda Items 1, 2, and 3. King seconded. Motion carried unanimously.

New Agenda Items
05-18-01 Public Hearing – Request to Lift Multi-family Moratorium, Chadwick Homes
Planning and Development Director Mike Warrix said Chadwick Homes had appealed to the City to lift the current multi-family zoning moratorium. He said Chadwick Homes was considering submitting a rezoning application to build multi-family housing, but in order to start the process, the moratorium must be lifted. He showed a general location map, saying the site under consideration was about 5.1 acres, adjacent to Falcon Field, Lake McIntosh, Lake McIntosh Park, and the Planterra Golf Course, with access off TDK Boulevard. The property was currently zoned General Industrial (GI), and the surrounding property was Open Space - Public (OS-P) and Open Space – Conservation (OS-C), as well as GI.

Jerry Peterson, representing Chadwick Homes, said builder Chad Floyd was present if Council had any questions for him. Peterson noted that this site used to be part of the Industrial Park, but over the years it had been separated, first by the building of the Planterra Golf Course, and then by the construction of Lake McIntosh. He noted there were magnificent views from the property.

The expansion of Falcon Field meant the airport's clear zone had to be expanded, Peterson reported, which forced the relocation of two holes at the golf course as well as the re-routing of TDK Boulevard. He said the clear zone was an open space that would never be developed. To the south was Lake McIntosh Park and its amenities. All the surrounding property was zoned as open space, but this was still industrial on the zoning map and land use plan. Peterson again noted the views and the nearby park and golf course, saying it would be a shame to put an industrial or even an office building on such a site.

He said there was access to TDK Boulevard, then to Dividend Drive, which provided easy access to SR 74 and Crosstown Road. Peterson remarked there were still some industrial sites left on the golf course, but they had been vacant for about 30 years, and it was hard to sell industrial sites that bordered on amenities. He said this piece of land was quite expensive, due to its location.

Peterson commented there was interest in amenity condominiums such as these, and there had not been a development such as this in the City in a long time. He said people already had approached Floyd and expressed interest in the project.

He referred to a page from the 1985 Land Use Plan, which said multi-family development should be encouraged near the Industrial Park along Lake McIntosh to promote proximity to workplaces and also to allow more people to enjoy the lake. Peterson noted that the 1985 Land Use Plan said multi-family housing in this area would promote the step-down theory of higher-density housing near the City center and lower density farther out. He pointed out that the east side of Lake McIntosh had no industrial development, just residential, golf course and a park.

Peterson told Council he was asking them to lift the moratorium so they could move forward with architectural studies, site planning studies, and working with City Staff on a rezoning request, which would first be presented to the Planning Commission.

Fleisch opened the public hearing. No one spoke in favor of lifting the moratorium. In opposition, Bob Grove of Lakeside subdivision pointed out that much of the surrounding land was a bailout area. If a plane had an engine failure coming off the 31 runway either right or left, it would be in that area. He recalled that a young pilot put a plane down on the golf course last year. Grove noted that there would be an increase in jet traffic over the next six to nine months, which would increase airport operations by about 30% to 40%, and he wanted Council to keep that in mind.

Ralph Hale of Crabapple Woods had a few questions. He wanted to know when and why the moratorium on multi-family housing was passed and wondered what the impact of lifting it would be on the community.

Fleisch closed the public hearing.

King clarified that lifting the moratorium would be only for this piece of land. City Attorney Ted Meeker confirmed this and added that it would be wise to include a sunset clause and not leave it open-ended. King noted that if Council lifted the moratorium, it would allow them to see a proposal of what Chadwick Homes wanted to build, but they would not be approving anything at this time.

Ernst made sure that it would not open the floodgates for other multi-family zoning requests, and Meeker assured him it would not.

King moved to approve Agenda Item 05-18-01, Request to Lift Multi-family Moratorium, with the stipulation that the moratorium be lifted for six months (November) to allow for a rezoning request. Prebor seconded. Motion carried unanimously.

<u>Council/Staff Topics</u>

Assessment of Right-of-Way Management and Franchise Fees

Financial Services Director Paul Salvatore said the City imposed a 4% tax on cable television services, which generated about $475,000 annually. However, this revenue was in a steady decline, with about $420,000 projected for next year's budget. Nationwide, about 63 million people paid a cable franchise fee, and providers were reporting a 3.16% loss of customers each year. Most customers were going to high-speed broadband services, but there were also a number of new broadband customers who never had cable service at all.

Salvatore pointed out that over the past decade, there had been an increase in cable franchise revenue due to an increase in on-demand and pay-per-view services, not from an increase in customers. He said that growth would not keep pace with the trend of people leaving cable for fiber services. Also, broadband was increasing speeds without increasing rates, so that would not generate more revenue.

Salvatore presented a chart showing that, for a number of years, revenues increased due to the on-demand and pay-per-view services, with a high of $520,000 in franchise fees in 2015. But, starting in 2016, revenues began a steep decline that mirrored the nationwide trend. He said this trend would continue, and cable would probably be gone entirely in five or six years. Broadband provided access to Netflix and Hulu, accounting for some of the loss of cable revenue. Cable providers might want to see this shift since there was a higher margin on broadband services. Salvatore said this could happen very rapidly.

He continued that federal legislation called the Permanent Internet Tax Freedom Act was passed in 2015, but had a history going back to the Clinton years. It prevented the City from shifting the cable franchise fees over to broadband charges.

Allen Davis of Community Broadband, LLC, communications consultant for the City, told Council he had looked into the City's service providers and the franchise fees they were paying, in addition to checking on the companies that were building fiber optic facilities. He said he went to each service provider to see how they derived their franchise fees and to see if their numbers matched what they were reporting to the City.

He explained that this franchise fee was imposed only on providers of cable television services. The 4% fee was passed through the bill to the customers, and the money remitted quarterly to the City. Peachtree City was one of only two cities in Georgia that charged a 4% rate; the others imposed a 5% fee, he said. It was possible for the City to pass a resolution to notify the Secretary of State that the fee would be increased from 4% to 5%. He told Council one of the service providers was already mistakenly charging and paying 5% to the City.

As traditional linear cable services went away, franchise agreements would yield to service-independent right-of-way agreements that compensated cities for facilities in rights-of-way, Davis explained. The Georgia Department of Transportation (GDOT) charged a per-mile, per-year, fee to providers that built in its rights-of-way. Some cities were telling providers they must be compensated for maintaining the rights-of-way and monitoring the construction of the systems.

The City might want to adopt a policy in case a provider came in and wanted to build a significant amount of fiber on a basis other than to provide cable television, Davis remarked. Zayo, which provided fiber service to the cell tower, and Uniti Group, which was also building in the City, had already been approved as utilities by the City. As of now, they had only built small extensions, but at some point, Davis commented, it would be in the City's and the service providers' best interests to have a fee agreement in place to make sure all the terms, conditions, and compliance could be managed more efficiently than through a permit process. He said permitting every provider could become cumbersome.

In this year's Georgia General Assembly session, three related bills were discussed, Davis reported. One was the Achieving Connectivity Everywhere (ACE) Act, designed to bring broadband into unserved areas. He said it sounded good for rural areas, but Peachtree City would not see any major material benefits from it. The City could be certified to be named as a Broadband Ready Community, but he doubted if that was needed to attract more providers.

Davis noted that the City had seen applications from providers that wanted to build monopoles in rights-of-way as part of a nationwide effort to establish these facilities. Two pieces of legislation were introduced to further this cause by limiting the rights of local governments to regulate the building of these facilities. Davis said the type of small cells that could be installed on an existing power pole were usually not a problem, but the real problems arose when providers wanted to build a 75-foot tall monopole in the right-of-way. These bills did not pass, but Davis commented that much of the City had underground utilities so this could pose a big problem and should be watched for in upcoming legislative sessions. He said the City should be proactive and try to obtain some accommodation.

Fleisch brought up a citizen who claimed there was no broadband in the City. She asked Davis to substantiate that there was, indeed, ample broadband service throughout the City. Davis stated that he had worked in and visited many cities and did not know of a city this size that had more broadband. There were three fiber-based service providers in AT&T, Comcast, and WOW, which was extremely unusual, plus Verizon and LTE. He pointed out that a recent upgrade of the tower behind City Hall made the broadband extremely robust throughout the City. He pointed out the City's map showed a lot of density, and the entire area was being served.

Prebor asked City Manager Jon Rorie about a recent ordinance Council passed. Rorie said it was a right-of-way maintenance ordinance, and this was a different issue. He said there would be some tweaks required to the maintenance ordinance as the 5G and microcell sites were rolled out and permits granted, but right now it did not address a right-of-way fee on a per-mile or per-foot basis. The purpose of bringing this up was to look at how the right-of-way maintenance ordinance could be tweaked to establish fees. He said any time something was on the agenda regarding utility fees, the City got a lot of feedback from utility companies, and that was fine. The point, however, was that the City should not allow free utilization of the public right-of-way for profit by a private company except for the fact that they wanted to expand broadband.

The cable franchise fees were declining, and losing $400,000 would amount to about a quarter-mill in taxes, Rorie noted. He went on to say he intended to come before Council with a resolution to the Secretary of State to raise the franchise fee from 4% to 5%. That would be on the agenda before the budget adoption so Council would know the revenue projections.

Salvatore went over the figures again, saying raising the fee by 1% would generate an additional $124,000 in revenue, putting it back to 2015 levels and buying a little more time until some of the right-of-way agreements could be put in place. He said the City had a good ordinance requiring companies to register, but needed a policy to impose fees for use of the rights-of-way. Salvatore asked Davis if he had a model policy the City could use. Davis said he did, adding he was a big believer in adopting one. Davis gave Council a preview of what would happen in the near future.

He said a provider would come in with a substantial plan, one that went beyond a fiber extension. The provider would want to come to the City and present an initiative for a major fiber deployment. At that point, Davis stressed, the City needed to be positioned to move directly into a right-of-way agreement. Salvatore agreed there should be a policy in place when that day came.

Rorie reiterated that a resolution was needed to change from a 4% to 5% franchise fee as a short-term mechanism to balance revenue streams related to the budget. The second step would be for staff to work with consultants and legal to tweak the right-of-way ordinance to include a fee for service. As technology shifted, certain industries died off, such as cable television, and the City must find something to take the place of the franchise fee revenue.

Fleisch asked Davis if the provider currently paying 5% was going to ask for a rebate. Davis said probably not, and added it was one of the smaller providers. He said the company had been charging the extra percentage and remitting it, so it had not benefited, and it would be too difficult to calculate the amount that was overcharged.

Davis explained that he had taken all the revenues provided by the service providers for the past fiscal year, then divided it by the total number of households in the City, according to the last census. He said, based on this, the increase in the franchise fee would equal about 73 cents a month per household. Rorie said he did not want to undervalue 73 cents per month, but there was a service delivery model that the City must adopt and conform to, and during the budgeting process the City must look at this trend and explore how to adapt to it. He asked what they would do if $500,000 disappeared over night, saying, while not that drastic, these revenues were dropping 3% a year.

Davis added that this decrease was not an intermittent situation, and providers wanted the cable side to disappear. He said the Federal Communications Commission (FCC) authorized franchise fees of up to 5%, and that was the industry standard, adding it was unusual to have a number other than that.

Ordinance Preview – Sewer Use Ordinance Update
Water and Sewer Authority (WASA) Interim General Manager Susan Lee said the updated Sewer Use Ordinance was adopted by the WASA board at its April 23 special called meeting, and she was bringing it to Council for consideration to supersede and replace the 1999 ordinance. She explained that a new ordinance was needed to update the language for procedures and enforcement and because WASA was required to routinely evaluate headworks loading for treatment plants for determination of waste stream characterization changes that could lead to local limits modifications.

Lee continued that multiple levels of input and review were utilized to assure rigorous process. Feedback from staff indicated the update was needed several years ago, and WASA began the process in 2015, with staff reviewing each section, resulting in suggestions for revisions and deletions. Engineering Strategies Inc. (ESI) was retained as the consultant to assist staff with the revisions. ESI gathered several years of data from plant testing, as well as industrial user reporting, and calculated headworks loading analysis. A list of revised limits resulted from this study, and the analysis calculations and results were submitted to the Environmental Protection Division (EPD) for approval, Lee explained.

The primary changes to the Sewer Use Ordinance were for the local limits and grease interceptor requirements, Lee remarked. The local limits were primarily applicable to the industrial pre-treatment program, which was mandated through the National Pollutant Discharge Elimination System (NPDES) permits to protect the collection system, treatment plants, and personnel from dangerous substances and provided the Authority with a vehicle to address violators.

Grease, oil, and sand interceptors protected the system from clogging substances that caused backups and overflows. The Sewer Use Ordinance provided details of the fats, oils, and grease program requirements and provided authority for actions against violators, Lee related.

The Sewer Use Ordinance, Lee pointed out, was the toolbox WASA used daily to operate the sewer system. The new document had been reviewed, and the consultant conferred with management and staff. Lee said the new document had been advertised, the Georgia EPD had approved the changes and accepted public comment. The WASA board approved the ordinance, and the final step would be adoption by Council.

Fleisch asked Rorie if this would be on the next meeting's agenda, and he said it would, and a copy of the full ordinance would be included in the meeting packet. Fleisch noted that it was big document, and Rorie agreed, but said it could be summed up by saying that the more mess allowed in, the harder and more costly it was to clean. The goal was to prevent the problem to begin with. Fleisch noted that most traps and other equipment in the City were already up to standards stated in the ordinance.

Lee said the City's very assertive grease interceptor program, which won an award in 2014, had prevented many problems. She said Xavier Davis was in charge of WASA's program and was very involved in the state organization for grease interceptor programs. She said they had attempted to incorporate all of their good practices into this new ordinance.

Rorie reminisced about when, earlier in his career, firefighters dumped a pot of grease down a drain, so this was an important aspect to him. He said the ordinance would be before the Council for adoption at the next meeting.

2015 Facilities Bond Project Update

Rorie noted that the list of projects funded by the 2015 facilities bond was close to being completed. Of the remaining projects, the contract had been awarded for the Drake Field Pavilion; tower improvements for replacing the BMX hill, which was almost 40 years old, were completed; Kedron rink improvements had an encumbrance of $76,000 for resurfacing; and the Skate Park construction was ongoing, with a sidewalk poured that day.

Amphitheater improvements were underway, but Rorie wanted to look at replacing seating, and wanted to move $100,000 into that project. He said it would be about a $75,000 project to replace the seats. The Police Department parking lot project was moving ahead, with the cutbacks on the curb to widen the road completed, and the parking lot itself would be resurfaced. The bottom line for Facilities Bond projects, Rorie noted, showed about $64,000 in contingency, but that could change.

There was a lot going on, not only with these projects, but SPLOST projects, Capital Improvement Projects (CIP), and General Fund projects, Rorie commented. Fleisch asked if he had any idea on time for the seat replacements, and Rorie said he did not, but the Amphitheater would never be without a full complement of seats, even if they had to replace them in sections. He pointed out this was especially vital since there was an expanded season of events this year.

There being no further business, Prebor moved to adjourn. Ernst seconded. Motion carried unanimously. The meeting adjourned at 7:37 p.m.

Martha Barksdale, Recording Secretary

Vanessa Fleisch, Mayor