City of Peachtree City
Minutes of Meeting
May 1, 2003
7:00 p.m.

The City Council of Peachtree City met Thursday, May 1, 2003, 7:05 p.m., in the City Hall Council Chambers. Council Members attending were: Annie McMenamin, Steve Rapson, Dan Tennant, and Murray Weed. Mayor Steve Brown was out of town.

Announcements, Awards, Special Recognition

There were no announcements, awards, or special recognitions scheduled.

Approval of Minutes

Weed moved to approve the March 7-8, 2003 Retreat minutes as amended. McMenamin seconded. The motion carried unanimously.

Monthly Reports

Mayor Pro-tem Dan Tennant announced that the City's annual spring clean-up would be held on Saturday-Sunday, May 3-4, at the Recycling Center. Weed noted that the annual National Day of Prayer was May 1.

Consent Agenda

1. **Ordinance Amendment – Renumbering of LUC-16 – Land Development Ordinance**

Tennant noted that the amendment was a housekeeping issue. It had not been numbered properly and the amendment would correct the numbering. McMenamin added that no text changes were made.

Weed clarified with the City Attorney that the amendment was simply a renumbering and not a rezoning. City Attorney Ted Meeker confirmed that the ordinance amendment was not a rezoning and was just housekeeping to correct the numbering.

Weed moved to approve Consent Agenda Item #1, Renumbering of LUC-16. Rapson seconded. The motion carried unanimously.

Old Agenda Items

04-03-CA2 Alcoholic Beverage License – Change in Licensee and License Representative – Wyndham Peachtree Conference Center

Tennant moved to reverse the order of the old agenda items and consider the alcoholic beverage license change for the Wyndham Peachtree Conference Center first. Rapson seconded. The motion carried unanimously.

Helen King-Simmons, the new general manager for the conference center and the applicant for license representative, addressed Council.

McMenamin said the paperwork appeared to be in order and moved to appoint Vickie Litton as the Licensee and Helen King-Simmons as the License Representative for the Wyndham Peachtree Hotel and Conference Center. Weed seconded. The motion carried unanimously.

03-03-05 Consider Refund of Alcohol License Fee

Tennant recapped the situation by reading the memo in the meeting book. He noted that the petitioner, John Proffitt, had been a campaign contributor and the City Attorney had verified that he could discuss the matter. Tennant said the point was what was the fair thing to do in this situation.

Rapson said his original concern had been that staff might have inadvertently contributed to the problem, but he did not see where staff had contributed to the situation after reviewing the events. Rapson said his heart went out to Proffitt, but he did not see this as a catastrophic event. If a chef had a heart attack, then most business owners would hire another chef. Rapson continued that the situation did not warrant a refund and set a bad precedent.

McMenamin disagreed and said the City could mirror what the state was doing in this case. She continued that she would like to see more definitive reasons for a refund included such as no alcohol was ever served, rather than just a change of mind for the applicant. McMenamin said Proffitt was not at fault and the situation was a unique circumstance. If refund was approved, Council should discuss guidelines on when it would be acceptable to return a license fee.

Tennant said if Council was going to be judgmental, it should be judgmental on intent, not action. The intent was honest and resolute. He said it was unfortunate the chef had a heart attack and plans had to change. Tennant noted that $3,700 was a lot of money for a service never received and that Andy Hay, the area representative from the Department of Revenue, had confirmed it was not uncommon for the state to return money for licenses if the business never sold alcohol and never accepted deliveries from wholesalers, which was the case in this situation. Tennant added that it was fair, right, and just to return the fee and said Council should instruct staff to come up with some objective guidelines for the future.

Rapson noted that the refund was not requested from the state until March 19. He said it was the timing of the events that led him to believe that a business decision was made. Whether or not it was a good business decision was hindsight and the matter could have been resolved at the staff level if he had communicated to staff what he wanted to do. The facts and timeline showed Rapson that a business decision was made. Rapson said he felt compelled that no extenuating circumstances were involved.

Weed noted that the situation was really a matter of choice. Licenses were a privilege, not a right. After someone had an alcohol license, it was very difficult to take it away. Weed continued that the applicant chose not to use the license in this case. The fee was a legitimate expense. Weed said he regretted the chef's situation, but the work for the license was done. The City acted in good faith. He added that the applicant could have chosen to use the license and hired a new chef.

Proffitt addressed Council and told them he had no choice. The state never approved his license because of a prior tax problem with a company he was a partner in at one time. He was not responsible for the problem, but was involved in the corporation, and the problem delayed his state license almost six weeks. The state license would have made a major difference for the restaurant. He said he never had the opportunity to use the license and it was the state license that gave the option to buy alcohol. The City license gave entrée to the state license so Proffitt said he never had a choice. Rapson noted that Proffitt did not ask the state to return his fee until March 19. Proffitt said he wanted to get his tenant to switch over to his license and the tenant was concerned that it might delay getting his own license, which the tenant had been advised to do. His tenant felt that liquor would be detrimental and only wanted to serve beer and wine. Proffitt said alcohol was a major part of the success of a restaurant and the tenant was concerned that a delay would jeopardize his business. Proffitt said they were looking at the most economical way to do things.

Tennant said it was simply unfair to collect a fee, whether it was $37 or $3,700 or $37,000, and then to keep the fee for a service that benefited no one. Rapson asked if Tennant thought the City should return fees for business licenses if the business never opened or failed. Tennant said it would depend on the circumstances.

McMenamin asked former City Clerk Frances Meaders if she recalled the City refunding an alcohol license fee. Meaders said the City did refund one fee, but took out an administrative fee to cover the staff time that had gone into the license process. Rapson recalled that the applicant had a felony warrant against him and the state denied the application. Rapson said the City kept a 20% fee to cover costs.

McMenamin moved to refund the alcoholic license fee to John Proffitt. Tennant seconded. The vote was tied 2-2 (Rapson, Weed). The motion died. Tennant noted for the public that it took three votes to pass any agenda item.

New Agenda Items

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

Tennant said that the signs had not been post two weeks prior to the meeting as required by ordinance and staff requested that the alcoholic beverage license for Mike & C's Family Sports Grill be tabled until the next meeting. Tennant moved to table the alcoholic beverage license for Mike & C's Family Sports Grill until the May 15 meeting. McMenamin seconded. The motion carried unanimously.

05-03-02 Award Contract for Fire Assessment Services

Financial Services Director Paul Salvatore noted that Council had previously discussed this issue at its annual Retreat. He said the proposals had been reviewed by himself, the interim city manager, the fire chief, and the purchasing agent. Salvatore continued that they determined that Emergency Services Consulting, Inc., had provided an excellent proposal at the lowest cost to the City. Salvatore continued that the company had good credentials and had also submitted the lowest bid. Salvatore added that the City had contacted several references and the company had pleased both fire chiefs and management with previous assessments. Staff recommended the City contract with Emergency Services Consulting, Inc., for $17,230 and that the funds be taken from the surplus sale of the ladder truck.

McMenamin told the Council she had met with Chief Lohr regarding the assessment. She said the assessment would be a comprehensive study of facilities, equipment, and staff and she felt comfortable it would be an objective assessment.

Rapson moved to approve the contract with Emergency Services Consulting, Inc., for $17,230 with the funding to come from the surplus sale of the ladder truck. Weed seconded. The motion carried unanimously.

Rapson asked if there was a time frame regarding when the City would receive the results of the assessment. Salvatore said they hope to have the results by the time the budget was put together.

05-03-03 Consider Stormwater Management Master Service Agreement

City Engineer Troy Besseche said staff had been working on several issues related to the stormwater management program over the last six months. Besseche listed several of the projects and said that they had tasked the engineering department to the point that outside support would be needed. Until the stormwater management department was staffed, staff would require outside support for design services, as well as other areas. The quality of several Atlanta engineering and design firms was evaluated for the Stormwater Program Action Plan Development and Water Quality Assessment contract in 2001. Integrated Science & Engineering was found to be experienced with utilities and was also the lowest bidder. The work was completed on time and on budget. Staff was convinced of the company's qualifications and thorough knowledge of the issues the City would face. An action plan was developed from that work and Besseche updated Council on the progress of the action plan.

Besseche said staff recommended ISE be selected as the stormwater consultant on a renewable annual basis. Besseche said the crucial element of the agreement was the task order form, which laid out the cost and scope of everything ISE would do associated with a project specific task. He said they would be constrained by what was in the current stormwater program budget. Besseche continued that he, the City Attorney, and the ISE representatives had gone through the master services agreement in detail. Besseche went over the changes in the red-lined copy of the agreement. One of the issues was the cost of sub-consulting for third-party work and the rate was set at cost plus 10%. The renewal date was set as December 31 of each year.

Besseche said this would be a brand name selection and staff recommended Integrated Science and Engineering be selected as the stormwater consultant on a renewable annual basis.

Rapson moved to approve the staff recommendation that Integrated Science & Engineering be selected on a brand name basis as the City's stormwater consultant by way of a master services agreement. Tennant asked Rapson to clarify which version he was referring. Meeker pointed out that the version Rapson referred to was marked at the bottom left corner as "Final document revised 4/29/03." Rapson confirmed that was the document. McMenamin seconded. The motion carried unanimously.

05-03-04 Consider Funding Mosquito Control/Health Department

Salvatore told Council that this was a housekeeping item. He said in previous years that $2,600 had been budgeted to combat West Nile Virus with larvicide briquettes. The Fire Chief had asked for an additional $2,040 this year for additional supplies to continue combating the problem. According to the City charter, the Fire Department was responsible for "other such hazards as the City Council shall deem appropriate." Salvatore said apparently Council never officially sanctioned a mosquito control program. He said the program was under the $5,000 amount allowed for staff to appropriate funds, but the funding required was getting close to that cap.

Another issue was that the expenses for mosquito control should be categorized under health and welfare according to the state-mandated chart of accounts and there was a specific line item for mosquito control. He noted that some other items, such as payments to non-profit organizations and expenses related to the senior center, should fall under the welfare heading. Salvatore said staff was asking for Council's permission to set up a health and welfare department to be in compliance with the state-mandated chart of accounts. Salvatore said funding also needed to be appropriated from Council and a line item would be added in the budget under the proper grouping of accounts. He added that a reallocation could be done as soon as the legal controls were set up. Salvatore said the proper line item would be there if the program were expanded or if other welfare-related issues came up.

Rapson moved to establish a health and welfare department as a legal control and to take $2,500 from Council Contingency. Weed seconded. The motion carried unanimously.

05-03-05 City Manager – Announcement of Finalists and Release Information

Tennant said the process had been lengthy and the City had been blessed to have excellent candidates apply for the position. It had been difficult to cut down to the finalists.

McMenamin moved to announce that Bernard McMullen was the leading candidate to fill the position of City Manager and that the Acting City Manager and the City Attorney were authorized to negotiate with Mr. McMullen as to the terms of his potential employment with the City for approval by the City Council at the next regular meeting.

Further, that Mr. McMullen and Donald Norton were the persons determined to be the best qualified for the City Manager position from among those who applied for the position. Rapson seconded. The motion carried unanimously.

05-03-06 Discussion of Development Authority Appointment

Tennant noted there had been a 2-2 vote on the Development Authority appointment and it would take three votes to approve an appointee. He continued that it did not make sense to have another tie vote. Tennant felt Council should start at the beginning and have staff re-advertise for a new member of the Development Authority. Tennant said hopefully at least three of the Council Members would agree on one candidate. He added that Doug Warner had agreed to remain as a member of the Authority until another person was appointed.

Tennant moved to instruct staff to re-advertise for a new member of the Development Authority. McMenamin seconded. The motion carried 3-0-1 (Rapson).

05-03-07 Discussion of Development Authority Debt

City Attorney Ted Meeker informed Council that the legislation regarding the Development Authority was still waiting for the Governor's signature and he was hopeful that would happen soon. Once the legislation was signed, Meeker and Development Authority Counsel Mark Oldenburg would work with bond counsel to issue bonds for the Development Authority debt. He said they were also working on new intergovernmental agreements. Once the legislation was signed, everyone would work as quickly as possible. Tennant said he felt it was important that everyone was aware the process was moving forward.

Council/Staff Topics

Interim City Manager Colin Halterman announced that the Employee Picnic would be held on Friday, May 16, at Shakerag Knoll.

Tennant questioned if the other Council Members would be willing to have a more relaxed dress code for Council meetings from Memorial Day through Labor Day. Rapson and Weed noted they both came from work and appreciated the idea. No action was taken.

Tennant moved to reconvene in executive session for a legal matter and a personnel matter. Rapson seconded. The motion carried unanimously.

Tennant moved to reconvene in regular session. Rapson seconded. 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 8:30 p.m.

Betsy Tyler, Deputy City Clerk

Dan Tennant, Mayor Pro-tem

Pamela Dufresne, Recording Secretary