City Council of Peachtree City
Minutes of Meeting
March 4, 2010
7:00 p.m.

The City Council of Peachtree City met Thursday, March 4, 2010, in the City Hall Council Chambers. Mayor Don Haddix called the meeting to order at 7:00 p.m. Council Members present: Vanessa Fleisch, Erik Imker, Kim Learnard, and Doug Sturbaum.

Announcements Awards, Special Recognition

Mayor Haddix gave the Oath of Office to Reserve Police Officer Pete Waldrop. Commission on Accreditation for Law Enforcement Agencies (CALEA) Commissioner Louis Dekmar presented the Police Department with its reaccreditation certificate, noting that the City's department had also been named as a Flagship Agency for demonstrating success in the accreditation process. Haddix presented a proclamation to ***Fayette Volunteer*** marking the publication's first anniversary. Haddix read the 2010 Census Partner proclamation, noting the City's commitment to partnering with the United States Census Bureau to ensure a full and accurate count in 2010. March 15 – 21 was proclaimed as DeMolay Week.

Citizen Comment

Keep Peachtree City Beautiful (KPTCB) Director Al Yougel addressed Council, noting that 4,555 community service hours had been performed since the program's inception in March 2009. He also showed photos of trash in several areas of the City. The trash included large bags of garbage and car doors.

Agenda Changes

There were no changes to the agenda.

Minutes

Learnard moved to approve the February 18, 2010, regular meeting minutes as written. Sturbaum seconded. The motion carried unanimously.

Monthly Reports

Haddix noted there was an additional document on the dais – the Building Department monthly report. Imker referred to the list of donations made to the City during January, noting that over $8,000 had been donated for various items, including funds for the Police Department and the historical marker.

Consent Agenda

1. **Consider Surplus of Fire Department Air Packs**
2. **Consider Braelinn Concession Expansion**

Fleisch moved to approve the Consent Agenda. Learnard seconded. The motion carried unanimously.

Learnard thanked Sturbaum and the Peachtree City Little League Association (Sturbaum serves as president of the organization) on the funding for the expansion and the hours spent getting the fields in shape. Sturbaum added that the travel baseball teams and the home school league also participated, adding it was a good community effort by all. Haddix also noted the importance of the community's volunteers.

New Agenda Items

03-10-01 Public Hearing – Consider Variance Request to Article IV of the Fire Protection and Prevention Ordinance

Pete Love of Marksmen Construction, Inc., addressed Council, saying that his company wanted to complete the Lexington Village townhome project in the same method of construction as the other 34 units. He continued that his company purchased the development from the Federal Deposit Insurance Agency (FDIC) in April 2009. All 34 of the completed units had been sold; they were currently in closing on the last one. Everyone on staff had been very cooperative. Marksman was very familiar with sprinkler systems and put in them all of their commercial structures. He pointed out that the other units all had two-hour fire walls and smoke detectors in every room. They felt the remainder of the project should be grandfathered along with the units already built. Council had amended the ordinance to require sprinklers in multi-family projects in 2008. They were not opposed to sprinklers, but it would put an undue hardship on the other owners. The final 12 units would not be in any more harm's way than anyone else without the sprinklers. Love said the process had started in October with the Fire Department, eventually making its way to the City Attorney, who said an opinion from Council was needed. His company simply wanted to finish the project in the same fashion as the other 34 units. They hoped to put 12 more taxpayers in the development this year.

Interim Community Development Director/City Planner David Rast gave a brief history of the project, noting that the final site plan had been approved in 2004 for 46 townhome units. The building permit was issued in January 2007 for the majority of the units, but the permit for the last 12 (units 23-34) was not picked up until June 29, 2007, and it expired on December 29, 2007. On November 14, 2007, the former owner asked to extend the building permit until June 29, 2008, and the Building Official approved the request on November 21, 2007. The former developer filed for bankruptcy, the property went into foreclosure, and the lending bank was closed by the FDIC.

Rast continued that, in the mean time, the Fire Department had been working on the ordinance to require sprinklers in multi-family developments and other buildings, and Council adopted the ordinance on March 6, 2008. The applicant purchased 14 partially completed units and the 12 undeveloped lots from the FDIC on April 9, 2009, then completed the partially finished units and sold them. Discussions began on the unconstructed units and whether they fell under the 2008 ordinance or not, and staff felt they did because the building permit had lapsed.

Staff recommended the variance not be approved. The sprinkler ordinance protected the structures and the people living in the homes and adjoining properties. Rast said it was an unfortunate situation, noting that Marksmen had put a lot of effort into revitalizing Lexington Circle. If the variance were granted, it would set a precedent for any future multi-family developments. Rast added that the previous developer had put all the infrastructure in place, including the roads.

Fire Marshal John Dailey gave an overview of the sprinkler ordinance and where it came from, adding that putting the sprinkler systems in residential construction was a relatively new concept, but had become a strong trend nationwide. Sprinklers in residential construction were valuable to the safety of the structure, the occupants, and firefighters. He added that sprinklers were no more expensive than any other amenity. Dailey referred to a fire on February 21 at The Retreat at Kedron apartment complex. There had not been much damage, and the building, which had 28 units, was fully protected with a sprinkler system. The fire could have easily taken out the entire first floor, but a single sprinkler extinguished the fire.

The public hearing opened. No one spoke for or against the variance. The public hearing closed.

Fleisch asked City Attorney Ted Meeker about the term "grandfathered" and whether it could apply to this project. Meeker said there had not been an active permit since 2008. If they had an active permit, then the argument would have had more merit. Meeker clarified the statement from the developer regarding seeking Council's opinion on issue, stating that there was an ordinance on the books that staff could not waive, and the developer would have to seek a variance from Council, rather than an opinion.

Learnard referred to the criteria Council had to consider to when looking at variances (Section 1207 of the City's zoning ordinance), noting that the request did not meet all of the criteria. She had not been able to find a way for the request to meet the six criteria.

Sturbaum agreed with Learnard, recalling a discussion with Fire Chief Ed Eiswerth about what the biggest disaster in the City could be. Eiswerth had answered a widespread fire in a multi-family facility. Sturbaum said he kept that in mind when the sprinkler ordinance had been approved. He could not support the variance. Haddix agreed.

Fleisch moved to deny the variance request for the Village at Lexington Circle. Learnard seconded. The motion carried unanimously.

03-10-02 Public Hearing – Consider Adoption of Transmittal Resolution for 2010 Partial Plan Update

Haddix noted there was an additional document on the dais – the Impact Fee Financial Report for FY 2009.

Rast said the resolution adoption was a housekeeping item. Each year, as part of the Comprehensive Plan effort, the City was required to provide an update to the Atlanta Regional Commission (ARC) and the Department of Community Affairs (DCA) on the progress made on the goals and objectives identified in the Comprehensive Plan. A partial update to the Comprehensive Plan was completed a few years ago, and certain tasks had been identified [Short Term Work Program (STWP)]. Basically, the ARC and DCA wanted to ensure the objectives were not adopted and put on the shelf. Rast assured Council that that had not been done. The Capital Improvement Element (CIE) included projects that funds were spent on, along with the annual financial report required for assessing impact fees. The ARC and DCA reviewed the yearly reports to ensure the City met all the standards established in Georgia planning law and the Impact Fee Act. The ARC and DCA would notify adjoining jurisdictions that the City was in the process, so they could review the information and provide comments. The ARC and DCA would send the comments to the City, then the City would officially adopt the partial plan update, which would become part of the record with goals to work on for the next year.

The public hearing opened. No one spoke either for or against the transmittal resolution. The public hearing closed.

Sturbaum asked Rast if there had been any word from the Legislature regarding changes to the state's impact fee laws. Rast said he was not aware of any changes.

Learnard asked why Council had to approve the transmittal resolution and a public hearing held if it was standard operating procedure. Rast said it was required by the Georgia Planning Act.

Sturbaum moved to approve the adoption of the transmittal resolution for the 2010 partial plan update. Learnard seconded. The motion carried unanimously.

03-10-03 Consider Addendum to Nonexclusive Curbside Sanitation Franchise Agreement – Frequency of Recycling Pickup

Public Information Officer/City Clerk Betsy Tyler addressed Council regarding a proposed addendum to the standard agreement. The City's ordinance required the companies to enter into the franchise agreement. The companies could set their own rates, and both the ordinance and agreement required garbage and recycling pickup to be included in the base rate. While the ordinance did not address the frequency of pickup for recycling, the agreement required weekly recycling pickup (Paragraph 3.1). Paragraphs 3.11 and 3.12 were the proposed additions.

One of the companies had asked the frequency be changed to every two weeks if they drastically increased the size of the container. Tyler noted that Kevin Flynn and Monica Moseley of Republic Services were available to answer any questions. Currently, most of the residents who recycled had an 18-gallon tote they carried to the curb for pick up each week. Republic Services wanted to offer residents a 65-gallon cart for recyclables as part of the company's new partnership with Recycle Bank, a program that provided points redeemable with local merchants to customers each time recycling was collected. The 65-gallon carts were embedded with a computer chip that was read by a device on the truck when recyclables were collected. Points would be given to the customers that could be used at local businesses. Tyler said any changes to the agreement would apply to all the franchisees. Residents who chose not to participate would continue as they were doing currently. She had not heard any comments from any of the other franchisees.

Haddix asked if anyone had an issue changing the frequency of the recycling pickup. Yougel said he was against anything that discouraged recycling. While he understood both sides, there was not a strong market for recyclables currently and the service was only offered because of the ordinances that required it. He did not want residents to be discouraged if they were not offered larger containers.

Tyler clarified that, if a franchisee provided at least a 40-gallon bin, they could opt to go to every other week pick-up. Some residents might not have room for the larger containers, and they would be able to keep the 18-gallon tote and request additional totes to use instead. Language was also included that would let Council look at the program each year to see how it was working.

Beth Pullias said it should be made very clear to all the franchisees that the increased capacity was required to change the frequency of the pick-up.

Sturbaum clarified that garbage pickup would still be once a week, and that the change in frequency for recycling pick-up was only if a larger container were provided. Tyler said the recycling would only go to two weeks if the larger bins were provided.

Fleisch asked how the residents would find out about the changes in the program. Tyler said the franchisee would be responsible for getting the word out to their customers.

Learned clarified the computer chip only identified that a customer recycled that day. She liked that there would be fewer trucks on the City's streets.

Haddix asked if a customer could get an 18-gallon bin along with the larger container. Moseley said they could. Yougel noted that the City also had two recycling drop-off stations.

Sturbaum said he would like to review the program for compliance in six months rather one year. The members were in consensus.

Sturbaum moved to approve the addendum to the nonexclusive curbside sanitation franchise agreement based on the frequency of recycling pickup and to review in six months for compliance and success. Fleisch seconded. Haddix asked if there should be any language added for additional containers. Meeker said that would be difficult to write into the agreement, and it was ultimately a customer service issue. The motion carried unanimously.

03-10-04 Consider Bid for Paschall Path Project

Rast said bids had been solicited for phases one and two of the project. Easements had been obtained from most of the property owners, with only two easements remaining. Phase One was the ramps to the tunnel constructed as part of the SR 74 widening project. Phase One was ready to go. Phase Two was the path along SR 74 to the Post Office. The owners of the medical building tract had agreed to donate the easement to the City. Staff was working with the owner of Menlo Park and the Post Office to get the required easements. There was already an agreement with FC&A for an easement on their property. The bidders had to be pre-qualified by the state's Department of Transportation (DOT). The low bid was from JHC Corporation at $346,000 for both phases.

Rast said, if Council approved the bid, then staff would move forward with the construction of Phase 1 while negotiating the easements for Phase Two. Once the Phase Two easements were acquired, the company would be given the go ahead to start Phase Two. Approximately $94,000 had been spent on design and right-of-way acquisition. Prior to DOT constructing the tunnel, the City had to agree to pay up to $150,000 for its share of the construction. Staff recommended moving forward with the project. He added that DOT had withdrawn its approval for the atgrade crossing at SR 74/Willow Road/Paschall Road, which had been used for many years, now that the road widening was completed. The tunnel provided an important connection on the path system from the residential area on the east side of SR 74 to the commercial and industrial area on the west side of SR 74.

Sturbaum asked if the City had used JHC for any other projects. City Manager Bernard McMullen said he knew JHC had been used, he just was not sure if it was in the City or in Fulton County. He pointed out that JHC was DOT qualified, which was a requirement from DOT for the work. Sturbaum noted that JHC had a higher bid for Phase 2 than the other companies. He asked if the phases could be broken out and bid separately. McMullen said the lump sum bid was $22,000 less than the next closest bid. It appeared they were not double charging for their mobilization and similar costs. If there were two separate contracts, the City would have the first contractor build Phase One, then re-bid for Phase Two. Sturbaum agreed that could drive up the cost.

Learnard asked what would happen if there was surplus of money, noting that $738,310 had been set aside in Special Local Option Sales Tax (SPLOST) fund for Phase One and $229,528 had been set aside in the Public Improvement Program (PIP) for Phase Two. McMullen said there were other costs for design and the $150,000 to be reimbursed to DOT. Learnard clarified that money left from Phase One funds would go to other SPLOST projects, and the Phase Two funds would be returned to the General Fund. McMullen said yes, adding that the SPLOST list would be discussed at Council Retreat.

Sturbaum moved to approve the bid for the Paschall Path project from JHC Corporation not to exceed $346,000 for Phase One and Phase Two. Learnard seconded. The motion carried unanimously.

03-10-05 Consider Bid for City Hall Parking Lot Repaving

Interim Public Services Director Scott Hicks asked Council to approve the bid from On-Site Paving, Inc., for $145,002.05 for the City Hall parking lot repaving. Hicks added that the areas to be repaved included City Hall, the Library, and Drake Field. Most of the parking lots were over 20 years old and were alligating badly. Hicks said they were not sure how old the Drake Field lot was. The longer the City waited, the more the repaving would cost due to the work involved. The estimate had been $229,000, so there would be a considerable savings. The funding would come out of the 2009 Bricks & Mortar loan.

Haddix asked if striping and marking was included in the cost. Hicks said it was part of the bid. Fleisch referred to a question from a resident regarding handicapped van parking. Hicks said staff could control that issue when the marking started. The bid specifications included blue striping for the handicapped spaces.

Imker said he supported the project but asked why one bid was $100,000 more. McMullen added that usually when a bid was really high the preparers were just throwing a bid in to see if they got lucky, they also might not be too interested in it. Sturbaum added that, for some governments, it was required to participate or be disqualified from the next bid. Learnard asked if the City had used the bidder previously. Hicks said the recommended company received the bid for the frontage road at the Police Department.

Learned moved to approve the bid for the City Hall parking lot repaving from On-Site Paving for $145,002.05. Fleisch seconded. The motion carried unanimously.

03-10-06 Consider Local Assistance Road Program (LARP) Contract

Hicks said the City sent a list of roads to the state for approval, and the state returned two roads – a 0.96 mile portion of Dividend Drive (TDK Boulevard to SR 74) and a 0.39 mile portion of Kelly Green (Dividend Drive to Terrane Ridge) for a total of 1.350 miles. The estimated cost of the paving projects was $195,700. The state should reimburse the City approximately $59,327 for the two roads, with the City responsible for $136,373 from the FY 2011 budget. Hicks noted that the funds would probably come from the reallocation of SPLOST funds. He asked Council to authorize the Mayor to sign the contract.

Sturbaum pointed out that the roads were well-used and important to the commercial and industrial areas of the City.

Fleisch asked if Dividend Drive was one of the roads wide enough to be striped for bicyclists. McMullen said Dividend Drive was wide enough, and other sections of Dividend would be discussed during Retreat. He needed to verify if SPLOST funds could be used to do the striping.

Learnard moved to accept the LARP contract in the amount of $59,327. McMullen said the cost would come later since it was the cost of the materials that the state would reimburse, so the motion should authorize the Mayor to sign the contract. Learnard rescinded her motion.

Learnard moved to authorize the Mayor to sign the LARP contract. Fleisch seconded. The motion carried unanimously.

<u>Council/Staff Topics</u>

Hot Topics

McMullen reported that the City had not received any applications for cell towers. He continued that Rast was reviewing the City's ordinance. The Planning Commission would hold a workshop on March 8, with tentative plans for a joint workshop on April 6. In addition, Rast was putting together information on the general areas where additional coverage was needed. The Flat Creek bridge elevated approaches were almost finished. Public Works hoped to pave them the next week depending on the weather. All of the base was down for the approaches to the SR 54 West/CSX bridge. Depending on the weather, they hoped to pave them the next week. Imker asked to add the estimated completion date for the Paschall tunnel approaches to the list at the next meeting, as well as the Police Department frontage road. McMullen said the contractor planned to start on the frontage road either the next day or March 8, and it was not expected to take more than a week to finish.

Sturbaum moved to convene in executive session for the acquisition of real estate and personnel at 8:35 p.m. Learnard seconded. The motion carried unanimously.

Sturbaum moved to re-convene in regular session at 9:26 p.m. Learnard seconded. The motion carried unanimously.

There being no further business to discuss, Sturbaum moved to adjourn. Learnard seconded the motion. The motion carried unanimously. The meeting adjourned at 9:27 p.m.

Pamela Dufresne

Pamela Dufresne, Deputy City Clerk

Don Haddix, Mayor