

City Council of Peachtree City
Meeting Minutes
February 16, 2012
7:00 p.m.

The Mayor and Council of the City of Peachtree City met in regular session on Thursday, February 16, 2012. Mayor Don Haddix called the meeting to order at 7:00 p.m. Other members attending: Vanessa Fleisch, George Dienhart, Kim Learnard, and Eric Imker.

Announcements, Awards, Special Recognition

Haddix proclaimed March 2012 as DeMolay Month in Peachtree City.

Public Comment

Steve Thaxton, Smokerise Trace, asked Mayor Haddix to stop his public vendetta against Eric Imker through letters to the editor and other venues.

Agenda Changes

There were none.

Minutes

January 5, 2012, Regular Meeting Minutes

Learnard moved to approve the minutes of the January 5, 2012, meeting. Fleisch seconded. Motion carried unanimously.

Monthly Reports

Imker noted the revenue and expense status was at the 33% mark for the year and pointed out that Local Option Sales Tax (LOST) was at 35.4%, slightly ahead of pace for the year. Imker said there had been a lot of discussion about sales taxes dropping, but the lowest year had been 2009. He felt the City had turned a corner with sales taxes in the economy.

The second item Imker pointed out were the Hotel/Motel Tax revenues, which were at 32%. Imker noted that the first quarter of the year was typically the slowest season, and the Convention & Visitors Bureau (CVB) was anticipating a good year.

Consent Agenda

1. **Consider Statewide Emergency Management Mutual Aid Agreement**
2. **Consider Residential Curbside Sanitation Franchise Agreement – Pollard Residential Waste Services**
3. **Consider New Alcohol License – Georgian Package, 1003 Georgian Park**
4. **Consider Request to Surplus Goods**
5. **Consider Memorandum of Understanding with the Fayette County Board of Education for School Resource Officers**

Imker said item #4 dealt with the surplus of several vehicles being taken out of service, removing additional vehicles from the Citywide fleet. Public Services Director Mark Caspar noted that the first seven vehicles on the list would be replaced under the new leasing program.

City Attorney Ted Meeker referred to item #2, noting that the memo referenced he had performed legal work for Pollard Residential Waste Services, but the contract was the standard agreement for all the sanitation companies. Meeker wanted the disclosure of the relationship reflected in the minutes.

Imker moved to approve the Consent Agenda. Fleisch seconded. Motion carried unanimously.

Old Agenda Items**02-12-03 Consider Policy for Peachtree City Jobs & Investment Grant**

City Manager Jim Pennington noted this item and the next item (02-12-04) had been discussed at the previous meeting. Staff was asking Council to move forward with the policy for the grant that evening, and asking that the agreement with the Fayette County Development Authority (FCDA) be continued to the next meeting. Pennington noted that the President of the FCDA, Matt Forshee, was present to answer any questions.

Fleisch thanked Nikki Knox, Brandt Herndon (formerly with the FCDA), Matt Forshee, Jim Pennington, and Fayetteville City Manager Joe Morton for helping to put her thoughts together into a practical format.

Learnard moved to approve the policy for the Peachtree City Jobs & Investment Grant. Fleisch seconded. Motion carried unanimously.

02-12-04 Consider Contract with the Fayette County Development Authority

Penning said staff was requesting that this item be moved to the March 1 meeting. Dienhart said he would like to see feedback from the FCDA on the program's activity, any difficulties, and successes. Pennington indicated he and the City Attorney had been meeting with the FCDA to develop measurable goals.

Learnard moved to continue the item to the March 1, 2012, City Council Agenda. Fleisch seconded. Motion carried unanimously.

New Agenda Items**02-12-05 Discuss/Consider Intersection Improvements – Robinson Rd and Redwine Rd**

City Engineer Dave Borkowski noted the location of the intersection at the southern end of the City near the Starrs Mill school complex. Borkowski said Robinson Road eastbound toward the intersection had a Level of Service (LOS) "F" during the morning peak times for approximately one hour. The afternoon peak was an LOS "C," and traffic flowed freely on other approaches. The F rating was primarily due to the school traffic.

This intersection was included for review on the Transportation Special Purpose Local Option Sales Tax (SPLOST) List. Staff had reviewed every possible form of improvement. The study recommended signalization, if warranted, by 2020 (the intersection did not currently meet the warrants); considering realignment of the intersection to at 90-degree angle, but the sight distances were good; and construction of turn lanes.

Borkowski continued that developing a concept plan and obtaining construction cost estimates would cost \$29,975. There was \$110,000 budgeted in SPLOST to complete the design work, but there was no money for construction. Borkowski suggested updating the traffic and accident data (from Fayette County) and approaching the County to determine if they shared an interest in funding, since the intersection was partially outside the City Limits.

Borkowski said, that evening, staff was attempting to determine if Council wanted to move forward or reallocate the funds to other projects.

Haddix asked if the traffic data had been updated since 2009, and Borkowski said no, only the 2% increase projected by that study. Fleisch asked about accident data for the intersection, and Borkowski said he would contact the County for that information.

Learnard said it only made sense to make this type of decision in the context of the citywide list of transportation needs and funding options. She asked how important it was to fund the study if the City did not plan to move forward with the project, and felt the projects needed to be prioritized.

Borkowski said construction costs would also be a factor, noting that a traffic signal cost approximately \$200,000, with an additional \$200,000 or more for turn lanes. His recommendation, if the data did not reflect a significant number of accidents, was not to invest that amount for a single direction of traffic. Council noted there had not been any citizen email about the intersection, and Borkowski said he would check with the County on complaints they may have received.

Imker said the turn lane of concern was on Robinson Road, and two lanes were needed to allow both left and right turns from Robinson. He asked about a reduced conceptual study for that improvement only. Imker said he would also like to revisit the Peachtree Parkway/Crosstown intersection for improvements to eastbound traffic coming from Crosstown and turning south onto the Parkway. Incorporating that single lane improvement with the Robinson/Redwine turn lane would make more sense to him. Imker asked if Borkowski could come back at the following meeting with a cost estimate for a conceptual study for those two limited projects.

Fleisch noted that the Crosstown intersection improvements had included turn lanes, a signal, and a roundabout as options. Borkowski said staff had also reviewed the right turn only option, and staff would bring that information back. Imker asked if Council agreed to do a reduced study and then put the rest of the funding back into other transportation projects.

Fleisch recalled that a problem with the individual lanes had been that there would be no way to measure the level of service. Borkowski confirmed this and said that precluded a cost-benefit analysis. Haddix expressed concern about spending the funds on a lane that might later have to be removed to make improvements that were more permanent. Imker said that was why he wanted pricing for a conceptual study to look at the two options. He said he suspected that, instead of \$28,000 for the full study at Robinson/Redwine, the price might be much cheaper for the two turn lanes only. Learnard said that approach made sense to her.

Borkowski said he would come back with the revised numbers for further discussion for a turn lane at Crosstown and a turn lane at Robinson. At Learnard's request, Borkowski said the lane of travel experiencing delays at Robinson/Redwine would be the left turning traffic onto Redwine. Imker said adding a turn lane would cut the wait at Redwine.

02-12-06 Consider Gathering Place Remodel Budget

Haddix noted an additional document on the dais, the staff memo to Council.

Community Services Director Jon Rorie noted that, effective January 1, the City had entered into an agreement with Fayette Senior Services to manage The Gathering Place. Part of the agreement committed the City to perform painting, replace the flooring, and make some additional repairs early in the year. Rorie noted there were also some problems with the air conditioning for the facility. Staff was asking for approval of up to \$60,000 to address those issues, and include the funding in the Facilities Authority Bond.

Fleisch asked how quickly the improvements could be made. Rorie said they had gotten some pricing so they could move quickly on all items except for the flooring, which needed to be scheduled to minimize impact on the programming.

Fleisch moved to establish a budget of up to \$60,000 to pay for remodeling of The Gathering Place, with funding to come from the Facilities Bond. Learnard seconded. Motion carried unanimously.

02-12-07 Consider Final Costs for Kedron Bubble Construction

Haddix noted an additional document on the dais, the revised staff memo.

Borkowski said the bubble and pools had opened the previous weekend, and everything had gone well. Some punch-list items remained, and some additional unforeseen issues had required change orders with the contractor. The contractor had requested an additional \$146,170 for the water line relocation, unsuitable soil issues, electrical revisions, and other issues. Staff disputed several of the items and felt \$93,000 was the appropriate amount for the change orders. Staff was back-charging the contractor for damages of items that should have been warranted under the contract, and therefore disputed some of the charges.

Staff was requesting that Council set aside the full amount, in the event the contractor successfully disputed some of the contested items. Learnard noted they were planning for the worst but hoping for the best, and Borkowski confirmed this.

Imker asked, if the City approved the \$93,468.29 amount, was staff ready to cut that check now. Borkowski and Meeker felt that was possible. Imker said he preferred approving only the undisputed \$93,000, and if staff successfully disputed the other charges, the matter would not have to come back to Council. Dienhart and Haddix agreed.

Learnard moved to approve spending \$96,468.29 for the final change orders and expenses for the construction and installation of the bubble at Kedron, with funds to come from the Facilities Bond Contingency Fund. Fleisch seconded. Motion carried unanimously.

02-12-08 Consider Ordinance Amendment – Service Delivery Review and Local Option Sales Tax Negotiation Panel

Haddix noted an additional document on the dais, the staff memo and proposed ordinance.

Imker said he had reviewed the ordinance and felt it was a good measure to include. Learnard explained that the U.S. Census occurred every 10 years, and the state required that, based on the Census data, two years after each Census, counties and their municipalities had to renegotiate the distribution of the Local Option Sales Tax (LOST) collected in the County. Learnard said the ordinance allowed Council to vote on the representative to negotiate on the City's behalf. She said she could not imagine any issue that was more important to every Peachtree City citizen for the next decade.

Dienhart added it was important to remember that the other municipalities were fighting for the City's portion of the pie following the Census, and the revenue would have to come from somewhere. Fleisch said it was the municipalities that negotiated with the County, so preserving the relationship with Tyrone and Fayetteville during the negotiation was important.

Haddix agreed that the LOST negotiation was of critical importance to the City but felt there was a legal problem with the proposed ordinance. The City Charter gave power to the Mayor to appoint committees and groups, except for specific commissions, authorities, and bodies covered by the State of Georgia (development authorities, planning commissions, etc.). State law did not address a body for service delivery and LOST. Title 36 of State law, which addressed service delivery, did not address a committee, and was being met through the annual budget and Retreat. Title 48 on legalities, challenges, and mediation was also silent on how the

representatives were chosen and said nothing about establishing a panel. Without State legislation, the appointment fell under the City Charter.

Haddix said this was not a power of the City Council, but that of the Mayor. He said he had discussed the matter with the City Attorney, who agreed there were legal questions and the matter should be reviewed by a judge. This was a temporary, ad hoc committee, and the Administration Ordinance dealt with permanent committees and boards.

Haddix said he was also concerned that, but incorporating the panel into the Boards and Commissions section of the Administrative Ordinance would require the City to post the positions and hold interviews prior to making the appointment.

Dienhart said he did not think posting the interviews would be an issue if City staff members were appointed. Haddix said the authority to appoint the committee or representative was the issue, and under the City Charter, that power lay with the Mayor.

Learnard asked Meeker, if Council adopted the ordinance that evening, was the next logical step the appointment of the panel. Meeker said that would be the next logical step. Meeker clarified that he had talked to the Mayor, and there were legal questions in his mind for which he had no definitive answers. The only way to get a definitive answer would be from a judge. He said the Charter listed the Mayor's powers. There was some support for Council being able to create this panel, and the LOST legislation referenced decisions by the governing authority.

Meeker continued that the other point of the panel was to carry out a constant review of the delivery of services in Peachtree City and Fayette County, so it would be an ongoing process.

Haddix reiterated this was a Charter issue because there was no act of the legislature dictating how the LOST negotiations would be conducted. If Council wanted to move forward with a panel for LOST review, then they should include property taxes, fees, and the other revenue sources that funded the City's services. Council could not hand pick their approach based on the type of tax. Haddix said he liked the current system of staff bringing forward their recommendations for the budget and any changes, and the Mayor and Council could bring forward their ideas and everyone discussed and considered all the input.

Dienhart noted the LOST negotiations were not part of the City's annual budget process and only occurred every 10 years. Haddix noted that State legislation created and authorized development authorities, planning commissions, water & sewerage authorities, but not a committee for this function.

Fleisch asked, if Council passed the ordinance that night and appointed the negotiation team, was the Mayor saying he would issue some type of legal challenge to the process. Haddix said he was not saying he would or would not, but legal action would not be limited to a member of Council and the decision could be contested by anyone.

Dienhart said the most important goal to remember was what would be best for Peachtree City. Learnard agreed, saying her one job was to serve the citizens of Peachtree City. They needed to send the best representatives for the City, representatives with financial expertise, a deep understanding of the City's budget, who can negotiate in good faith, work well with others, maintain good working relationships, and bring back factual information to Council. Learnard said she supported the ordinance.

Haddix said he was hearing that they were saying they did not care if the ordinance was legal. Learnard disagreed, saying they realized there might be a legal question, but that the interests of the citizens were best served by the ordinance.

Imker said they had established this would not be a temporary committee. Imker asked Meeker if the Recreation & Special Events Advisory Board was recognized under State law. Meeker said yes. Imker said the City Charter also outlined Council's duties, and included working with the Mayor to draft ordinances. Imker added that he was removing himself from any consideration for the negotiating team and felt staff could better handle the process.

Dienhart said this was an ongoing process. The elected officials served for four or eight years, while staff held the institutional memory of the organization. It was not fair to the City to send anyone other than the ones with the full information at their fingertips.

Haddix asked Meeker what the Charter stated under Mayor's authority. Meeker said there were 13 items, including appointing and being an ex-officio member of all committees. Learnard said both rights were in the Charter. Imker added that the Mayor's authority also included ensuring that ordinances were being faithfully executed.

Haddix accused Imker of spinning the issue and skipping the section about the Mayor appointing committees. Imker said there appeared to be some conflicts within the Charter. Haddix asked where the Charter said Council Members had the power to create a committee. Learnard and Imker said they had the power to create an ordinance. Haddix said that was spinning the questions since they were creating an ordinance to create a committee.

Fleisch said she thought, since the City Attorney drafted the ordinance, that it would be legal. Her concern was that they pass the ordinance and then have a legal challenge from within the City. Dienhart said that was not in the best interest of the City.

Haddix clarified that, if instructed to do so, Meeker would draft an ordinance even if he disagreed with it. Haddix said Meeker drafting it did not mean it was legal, but that he was instructed to draft it.

Meeker said he would certainly draft an ordinance if instructed, and clarified that he co-drafted the ordinance with the City Clerk. However, whenever he drafted an ordinance, he worked to draft an ordinance in the most legal way possible. There had been ordinances he had drafted that had been subject to legal challenge.

Haddix said he was seeking clarity for the meeting minutes.

Learnard moved to approve the ordinance for the Service Delivery Review and Local Option Sales Tax Negotiation Panel. Dienhart seconded. Motion carried 4-1 (Haddix).

Fleisch moved to appoint Ted Meeker, Jim Pennington, and (Financial Services Director) Paul Salvatore as the LOST negotiation panel for the City of Peachtree City. Haddix suggested appointing five members because every time the group met, it would be subject to Open Meetings advertising. Meeker confirmed that the meetings would need to be posted whenever a quorum of the members met. Council was not averse to posting the meetings. Dienhart seconded the motion. Motion carried 4-1 (Haddix).

Council/Staff Topics

Pennington said staff was continuing to work on issues with the recreation programming and facility condition. The executive staff had met that day in an all-day retreat in preparation for Council retreat.

Dienhart thanked Rorie for his responsiveness in some issues Dienhart had approached him about.

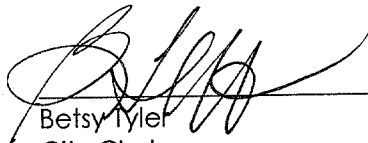
Haddix thanked staff for holding up and pushing during some personnel shortages.

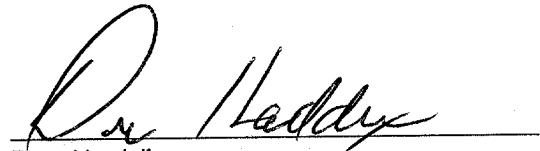
Learnard moved to convene into Executive Session to discuss the acquisition of real estate, pending or threatened litigation, and a personnel matter at 8:06 p.m. Fleisch seconded. Motion carried unanimously.

Learnard moved to reconvene into regular session at 8:37 p.m. Fleisch seconded. Motion carried unanimously.

There being no further business, Learnard moved to adjourn the meeting. Fleisch seconded. Motion carried unanimously.

The meeting adjourned at 8:40 p.m.



Betsy Tyler
City Clerk

Don Haddix
Mayor