City Council of Peachtree City
Agenda
January 16, 2003
7:00 p.m.

I. Pledge of Allegiance

II. Announcements, Awards, Special Recognition
Remind Attendees to Turn Off Cell Phones
Present Builders Awards
Recognize Supervisor of the Quarter
Recognize Employee of the Month

III. Minutes
December 5, 2002 Regular Meeting Minutes
December 19, 2002 Regular Meeting Minutes
January 2, 2003 Regular Meeting Minutes

IV. Consent Agenda
1. Alcoholic Beverage License – Change in License Representative – Ted's Montana Grill
2. Alcoholic Beverage License – Change in License Representative – Kroger #654
3. Alcoholic Beverage License – Change in License Representative – Kroger #422
4. Consider Intergovernmental Agreement with the Airport Authority Relative to Stallings Road
5. Resolution to Call for Election and Establish Qualifying Fees
6. Consider Amendments to the Alcoholic Beverage Ordinance (letters and numbers are incorrect due to recodification)

V. Old Agenda Items
08-02-09 Discuss Intergovernmental Agreement with the Development Authority

VI. New Agenda Items
01-03-04 Alcoholic Beverage License – NEW – Chic'N D'Lite
01-03-05 Consider Creation of Recreation Authority
01-03-06 Fayette County Development Authority Presentation
01-03-07 Consider Funding for Highway 74/Dividend Drive Intersection Improvements

VII. Council/Staff Topics

VII. Executive Session

This agenda is subject to change at any time up to 24-hours prior to the scheduled meeting.

City of Peachtree City
Minutes of Meeting
December 5, 2002
7:00 p.m.

The City Council of Peachtree City met Thursday, December 5, 2002, 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 recognized the contributors to the First Call Emergency Warning System. Fred Gisler, outgoing president of the Peachtree City Girls Softball Association, was recognized for his service.

Rapson asked City Attorney Rick Lindsey if it was permissible to add the LOST to the agenda under Council/Staff Topics. Lindsey said it was as long as there was only discussion.

Consent Agenda

1. **Alcoholic Beverage License – Change in License Representative -- Kwickie/Flash Foods #246**
2. **Consider Contracts for Police Vehicles and Equipment**
3. **Consider Employee Christmas Holiday Schedule**
4. **Execute Additional Right-of-Way Deeds for Highway 54**

Brown noted there were additional documents on the dais regarding item #1. Rapson thanked Chief Murray and his crew for doing an excellent job of pulling together the information for item #2.

McMenamin moved to approve the Consent Agenda. Rapson seconded. The motion carried unanimously.

Old Agenda Items

12-01-02 Discuss Status of Rye Property

McMenamin met with Rye and he had supplied a chronology of events. McMenamin noted Rye had complied with two of three conditions set by Council and asked Council to allow Rye more time and extend the deadline through the holidays to remove the retaining wall from City property. McMenamin suggested the work be completed no later than January 30.

Laura Grounsell, 107 Saint Andrew's Square, explained to Council that she and her husband were Rye's neighbors and asked Council if there had been any discussion regarding the water flow that had been diverted to their property due to Rye's work in his yard. Grounsell said Rye's drainpipes diverted all the water to their property.

McMenamin said she saw that all the water in the neighborhood went downstream from one house to the next.

Grounsell said they were the first to move into a house on the street and that Rye's work had considerably changed the flow of water. Brown asked Grounsell if they had discussed the matter with City staff. Grounsell said they had and reiterated that Rye had definitely changed the flow.

Building Official Tom Carty said staff had not looked at the Grounsells' property and suggested the City Engineer evaluate the situation.

Rapson noted that he lived in the Saint Andrew's subdivision and would abstain.

Brown moved to extend the deadline no later than January 30, 2003, to give the homeowner time to complete the job he had begun. McMenamin seconded.

Weed said that this Council had originally addressed the issue in February 2002 and Rye had been given clear instructions about what to do at that time. Rye appeared before Council again on September 19, 2002, and Weed asked Rye how much time he needed to complete the work. Rye said he needed 90 days. Rye built a wall illegally on City property and he had been given nine months to move it. Weed said the wall must come down and must come off the people's property.

The motion carried 4-0-1 (Rapson).

08-02-07 Consider Proposed Internal Road Connection from Maple Shade Subdivision (Crabapple Lane) to Adjoining Subdivision in Tyrone

Doug Dillard, attorney for developer Jimmy Halligan, addressed Council. He reminded Council that Maple Shade was one subdivision located in two cities. Council had requested that the Planning Commissions from the two cities meet and wanted to be assured that Tyrone approved the connecting road. Dillard said they were satisfied that all of Council's concerns had been met. He asked Council to approve the plan so the road could connect the subdivision.

Rapson asked Dillard about the amenity package for the subdivision. Dillard said there was a lake and there might be a clubhouse and a pool. Dillard added whatever was constructed would be available to all residents of the subdivision.

Brown noted that his main concern was people speeding through the subdivision and he felt the two stop signs at intersections on the connecting road would help. Dillard added that the city limits would also be clearly delineated.

Rapson said he was unclear on whether or not Tyrone had approved the plan with the connecting road and had directed the City Manager to call Tyrone, whose officials assured him everything was ok.

Brown said the next issue would be the golf cart paths. The City had different regulations from Tyrone. He added that this could become a problem throughout the County that would have to be addressed.

Ralph Hale told Council he was concerned that the connecting road would increase traffic on Crabapple Lane in front of the school.

City Planner David Rast explained that, as part of the school construction, the Board of Education was building a cart path from Crabapple Lane through the school property to the St. Paul's Lutheran Church area and the path system in Ardenlee. Halligan would have another cart path connection from Maple Shade. He continued that Tyrone had plans to extend their paths.

McMenamin moved to approve the internal road connection within the Maple Shade subdivision between the municipalities. Rapson seconded. Brown noted that Tyrone wanted to meet in January to discuss the matter. The motion carried unanimously.

11-02-02 Public Hearing – Variance – Lot 46, Wilshire Estates
Brown announced that the developer had withdrawn this agenda item.

<u>New Agenda Items</u>
12-02-01 Alcoholic Beverage License – NEW – Casa Vieja
Brown explained this was the second time Council would look at the alcoholic beverage license for Casa Vieja. The license was granted the first time, but there had been construction problems that caused the license to lapse. Brown continued that Council would also consider waiving the fee and not make the owner, Susannah Reyes, pay twice for the license.

Reyes told Council that Casa Vieja would be a Mexican restaurant in the Wilshire Pavilion. Because of construction problems, she had been unable to open within the six months required by City ordinance and she had to re-apply for the license.

Weed move to approve the alcoholic beverage license for Casa Vieja and to waive the fee. McMenamin seconded. The motion carried unanimously.

12-02-02 Alcoholic Beverage License – NEW – The Meat and Mustard
Applicant Bruce Scott told Council the restaurant would be located in the former Café Havana site and would specialize in roasts. He described the restaurant as an "upscale Cracker Barrel."

Weed moved to approve Bruce Scott as the licensee and license representative on the alcoholic beverage license for the establishment named The Meat and Mustard. Rapson seconded. The motion carried unanimously.

12-02-03 Alcoholic Beverage License – Change in License Representative and Addition of Distilled Spirits – Valentino's
Weed noted that both Bob and Mike Stieber had helped with his campaign and he would abstain from voting.

McMenamin moved to approve Michael Stieber as license representative and the addition of distilled spirits to the alcoholic beverage license for Valentino's. Rapson seconded. The motion carried. 4-0-1 (Weed).

12-02-04 Discuss Proposed IRS Revisions to GMEBS Retirement Plan
Administrative Services Director Jane Miller told Council this was actually a two-part item. She said the Georgia Municipal Association (GMA) had submitted the Georgia Municipal Employees Benefit System (GMEBS) master plan to the IRS for review to ensure continued tax-qualified status. The IRS approved a new format and GMA forwarded the information to the City for approval. Miller said the adoption agreement needed to be re-approved, and then GMA would put the plan in the final format and send it back to the City.

GMA recommended the City incorporate the "Terminated Vested Death Benefit" into the plan. Miller explained this would allow benefits to be paid to beneficiaries of vested employees who left City employment prior to retirement and died prior to applying for benefits. The cost was estimated to be one-tenth ($1/10^{th}$) of 1% of payroll, or approximately $9,000, annually.

McMenamin said she would abstain from the vote since her son-in-law was a police officer. Rapson also said he would abstain since his son-in-law was also on City staff. Lindsey said the Council Members could vote on the adoption agreement, but not the change in the Terminated Vested Death Benefit.

Rapson moved to adopt the agreement as presented. Weed seconded. The motion carried unanimously.

Brown moved to add the Terminated Vested Death Benefit to the defined benefit plan. Lindsey recommended Council specify Option A since the cost was an estimate. Brown amended his motion to specify Option A Death Benefit to the GMEBS retirement plan. Tennant seconded.

Tennant asked where the additional $9,000 would come from. Miller said the cost increase would not come into play until November 2003 when the actuarial study was done and the cost could be put into the budget.

Financial Services Director Paul Salvatore told Council the total cost for the plan was $925,000 and the increase would be taken care of during the budget process for next year. He said there was a line item that could absorb the increase due to salary vacancies.

The motion carried 3-0-2 (McMenamin, Rapson).

12-02-05 Consider Funding Request from The Association of Village PRIDE
Executive Director Opal Murray addressed Council and explained The Association of Village PRIDE (AVP) was a non-profit youth development agency that served youth in Fayette County. The program served around 90 youth, and 43 of those youth lived in

Peachtree City. She said there were three components to the program. One was an after school program at Harmony Village for children who attended Oak Grove Elementary School, which served about 30 students. The Rites of Passage program helped middle school students develop a sense of purpose. The Youth Leadership Corps was designed for high school students and they had adopted the Youth Leadership 101 program. The program was designed for students who did well academically, but needed support to advance. The curriculum included tolerance and ethical leadership and prepared the students to become leaders. In addition, the AVP was developing a mentoring program and a family support program.

Murray discussed the Board of Directors and how the organization was set up. She also discussed the budget and how funds were spent. The AVP requested $5,000 from the City to support the Youth Development Program. The funds would be used to offer tutoring and youth leadership development training for school age children residing in Peachtree City. The funds would also be used for field trips and administration. Murray said 43 of the nearly 90 students enrolled in the program were Peachtree City residents and attended Oak Grove, Booth Middle School, and McIntosh High School. Murray said the AVP worked with children so they could understand citizenship and learn to make healthy choices.

Brown noted the support for the AVP from the Board of Education. He gave the Board of Education a great amount of credit for helping students who needed help to prosper. He said if the Board of Education supported the program, he did, too.

Rapson asked how the organization received funding. Murray went over the AVP's funding sources. Foundation grants received by the AVP included the Community Foundation for Greater Atlanta and the Arthur M. Blank Family Foundation. Murray said they were also looking at other grant sources. She said that the organization was planning a special event for 2004 and hoped to raise about a third (1/3) of the budget from the event. The Harmony Village clubhouse had also been designated as a classroom, which allowed the program to receive supplies from the school system.

Tennant told Murray it looked like the organization did a lot of good things and he was thankful for that. He noted that less than one-half (1/2) of the program's participants were City residents. He asked where the funds from the City would come from. Salvatore said there was a $25,000 line item in the budget for non-profit requests. Tennant said the City could be approached by many worthy organizations, but questioned if it was the role of government to give taxpayer money to worthy organizations. Tennant felt that should be done by the private sector and said he was uncomfortable with the concept.

Brown said he was familiar with the Harmony Village project and it was safe to say the funds would be used for the betterment of the City. Murray added that what the AVP did complemented the Council's goals for the community and the school's efforts. She said

she was asking Council to help address the issues now before the youth became part of the justice system.
McMenamin recalled in the past that the money had gone to enhance school facilities, such as playgrounds. She was concerned the program was a little outside of what the CAR stated. She asked how the program could meet what the CAR required.

Rapson noted there were three components of the CAR – basic needs, general needs, and public schools. He read the section of the CAR that pertained to general needs. Rapson said he felt the AVP was eligible for the $5,000, but the organization could not come back for additional funding for five years. If the request was approved, Rapson said there needed to be an agreement about the services to be provided before the check was written. He agreed with Tennant about the benefit to City residents and suggested Council allot $2,500 instead of $5,000.

Weed asked Murray how many Hispanic students participated in the AVP's programs. Murray said the programs were open to anyone who wanted to participate. Currently, she said there were three Hispanic students participating. The program has served African-Americans, Native Americans, and Euro-Americans. The program was open to all races.

McMenamin said she was not opposed to making a donation to assist with the Harmony Village program. She did not feel it was right to provide money that would be used outside the City. Murray said it was AVP's intent to supplement the cost of providing services to Peachtree City students.

Rapson said there was a valid CAR regarding non-profit organizations and he believed the AVP met the criteria in the CAR. He moved that the funding request be approved for the Association of Village PRIDE as stated, but at $2,375, a prorated share for the 43 City students for the purposes outlined in the program and, further, to take it to a contract and reflect in that contract the benefits associated with entering into the agreement with the association. Weed seconded.

Lindsey said Council was usually asked to fund a specific program. Council would like to see an identified service in the contract. Lindsey suggested leaving the wording flexible so the services could be worked out with the AVP.

Rapson amended his motion to include identifying projects and to target the after school program at Harmony Village. Weed seconded the amendment.

Tennant said the CAR needed to be re-examined. Lindsey suggested discussing the CAR at Council's Retreat. Tennant asked where the contributions this year had gone. Salvatore said Council had approved $7,500 for Fayette Senior Services and $7,500 to the Fayette County Council on Domestic Violence. Rapson pointed out both organizations fell under the basic needs category and received funds every year. Weed said the request met the requirements of the CAR and the motion was tailored to meet the needs of Peachtree City. Council had narrowed the motion down enough so it served the City's children.

The motion carried unanimously.

Council/Staff Topics

Interim City Manager Colin Halterman announced that City Hall would be closed on Friday, December 6, noon-1:30 p.m., for the Employee Christmas Lunch. All Council Members were invited.

Rapson asked to discuss the Local Option Sales Tax and told Council he had tried to put on paper the difference between the City's offer versus the County's offer. Rapson went over his spreadsheet and looked at the offers. The County Commission met December 12. If the City did not accept the current offer, the split would go back to the original 50/50, which would be a loss to Peachtree City. The difference between what the County proposed and what the City wanted was less than 1% (one percent). Rapson said he would like to see Council reach a consensus to call a special called meeting and let the County know they agreed. He continued that Brown could let County Commission Chairman Greg Dunn know Council would hold a meeting and agree to their terms. Brown said he agreed to that.

Brown noted that state law was ambiguous for LOST and that it came down to population. The census was the only reliable source of data on population. The state only broke down sales tax figures by county, not municipality. He said the only thing the City could do was to cross-reference its business applications with the County's model and that was not reliable. He continued that there needed to be some real help from the Legislature to work this out. Only one metro Atlanta county had decided on the LOST. Brown added that the Legislature was to consider a MOST (Municipal Option Sales Tax) this session, which would allow municipalities to hold a referendum to decide on an additional 1% (one percent) sales tax for infrastructure projects within the jurisdiction. If approved by the Legislature, the City could add a MOST for capital projects and to assist with matching funds for DOT projects.

A special called meeting was tentatively scheduled on Tuesday, December 10, at 7:30 a.m. Brown asked all Council Members to check their schedules so the date could be finalized on Friday, December 6.

There being no further business to discuss, Tennant moved to adjourn the meeting. Weed seconded. The motion carried unanimously. The meeting adjourned at 8:25 p.m.

Jane Miller, City Clerk

Stephen D. Brown, Mayor

Pamela Dufresne, Recording Secretary

City of Peachtree City
Minutes of Meeting
December 19, 2002
7:00 p.m.

The City Council of Peachtree City met Thursday, December 19, 2002, 7:00 p.m., in the City Hall Council Chambers. Council Members attending were: Mayor Steve Brown, Annie McMenamin, Dan Tennant, and Murray Weed. Steve Rapson was unable to attend due to a death in the family.

Announcements, Awards, Special Recognition

Mayor Brown recognized the winners of the Recreation Department's Holiday Door Decorating Contest. Brown recognized outgoing Little League President Bob Smith. Mr. Robert Mucklow made a presentation to the Police Department on behalf of the American Jewelry Industry in appreciation of a recent arrest of suspected participants in a ring of jewelry thefts. Brown presented $200 in unclaimed money to Brian Blaylock, who found the money and turned it into the Police Department. Brown recognized Nancy Jurchenko of the Library as the November Employee of the Month.

Approval of Minutes

No minutes were presented for approval.

Consent Agenda

1. **Consider Appointments to Recreation Commission**
2. **Consider Appointments to Airport Authority**
3. **Consider Appointments to Water and Sewerage Authority**
4. **Consider Budget Reallocation Approval**

Brown noted that Council had one additional document on the dais relating to the budget reallocation. He noted that there had been a great host of applicants for the Commission and Authority posts, and said Peachtree City had a true luxury in the number of over-qualified candidates. Brown said it had been very difficult to narrow the selection down, and encouraged those applicants not selected to participate to be involved in other ways. Tennant noted that the proposed Airport Authority alternate appointee, Vern Darley, had been a contributor on his campaign, and Lindsey said Tennant could vote on the appointment. Tennant made a motion to approve the consent agenda with the budget amendment provided for Consent Agenda Item #4. Weed seconded. Motion carried unanimously.

Brown noted for the record that the Airport Authority appointees were Matt Davis and James Toombs, with Vern Darley as alternate. The WASA appointee was Tim Meredith, and the Recreation Commission appointees were George Martin, Robert Learnard and Michael Williams.

Old Agenda Items

There were no old agenda items.

New Agenda Items

12-02-06 Alcoholic Beverage License – NEW –Johnny Romano's Diner

The applicants, Ms. Carmen Sardosky and Mr. John Proffit were present. Mr. Profitt, the owner, said Ms. Sardosky would be the License Representative. McMenamin noted that Profitt had a long history of experience with and knowledge of the city's Alcohol Ordinance. McMenamin made a motion to appoint John Profitt as Licensee and Carmen Sardosky as License Representative. Weed seconded. Brown asked if there was a conflict with a campaign contribution, and Lindsey said no. Motion carried unanimously.

12-02-07 Public Hearing – Rezoning of Numerous Parcels of Property (Land Use Plan Update)

Deputy City Clerk Betsy Tyler read the rules for a Public Hearing, noting that the Mayor would allow ample opportunity for the public to speak. City Planner David Rast said this was the second round of rezonings generated by the Land Use Plan update. He said an additional review of the villages revealed that a couple of parcels had not been brought to the Planning Commission and City Council the last time, and those were included, as well as the other villages that had not been considered previously.

Rast said there were 35 proposed rezonings in Aberdeen, Braelinn, Kedron and the West Villages, as well as in the Industrial Park. Rast said that when the Planning Commission considered the rezonings, there had been several requests from property owners to leave their zoning the same, so those parcels had been removed from the proposal. Rast said the majority of the rezonings were owned by the city, so this was more of a housekeeping issue. He added that a couple of sites were owned by the Airport Authority, and those were being considered at the Authority's request.

Brown asked Rast to go village by village, saying they would take public comment then consider those rezonings in order.

Rast began with Aberdeen Village, saying there was one parcel in Clover Reach, owned by the city, and the proposed rezoning was from R-1 Residential to OS Open Space. Dennis Benson asked for a definition of Open Space. Rast said Open Space was a zoning category used for mostly city-owned property, including recreation facilities, greenbelts, and other civic functions. Rast said it took the property out of a residential or office category, noting that there had been some confusion that OS actually stood for Office Space. Mayor Brown stated that the city would also be following up a lot of these rezonings by deeding the property as permanent green space, which would provide the city some benefits from the state.

Tennant made a motion to approve the Aberdeen rezoning. Weed seconded. Motion carried unanimously.

Rast then addressed the rezonings in Braelinn Village, saying there were six tracts:

1. Weber Fire Station, owned by the City, GR to OS
2. Fayette County Animal Shelter, owned by the County, GI to OS
3. The parcel just north of the Animal Shelter, owned by the City, GI to OS
4. Meade Fields, owned by the City, GI to OS
5. Peachtree City Recycling Center, owned by the City, GI to OS
6. Braelinn Elementary School, owned by the Board of Education, R-43 to OS

McMenamin asked if the city had heard from the Board of Education. Rast said no, but they had been notified, and the rezoning actually made the Braelinn site the same as the other schools. Tennant asked if Rast could foresee the city regretting having any of the sites zoned OS. Rast said that it would probably be better to have it zoned as Open Space versus holding industrial zoned property. He said he did not see any downfalls. Brown noted that the zoning safeguarded the property, and Council could rezone it if there were a valid reason to do so.

Tennant made a motion to approve the six rezonings as presented. Weed seconded. Motion carried unanimously.

Rast then addressed four tracts in the Industrial Park:

1. South 74 Baseball/Soccer Complex, owned by the city, GI to OS
2. Airport Authority property at Echo Court, GI to AI
3. Dixie Wing property at Echo Court, GI to AI
4. Detention Pond in Southpark, owned by Peachtree City Holdings, GI to OS

Airport Manager Jim Savage addressed Council, saying the Authority had requested the rezoning of their property to Airport Industrial, and supported the Dixie Wing rezoning as well. Rast noted that there were four additional parcels originally recommended to rezone from GI to OS, and asked Council to continue those items due to the extensive notification requirements of adjacent homeowners. Lindsey recommended continuing those items to February 6.

Weed made a motion to approve the four rezonings presented. Tennant seconded. Motion carried unanimously. Brown made a motion to continue until the February 6 meeting the consideration of four sites relating to Planterra Golf Club and Lake McIntosh. Weed seconded. Motion carried unanimously.

Rast then addressed the proposed rezonings in Kedron Village:

1. Leach Cemetery on Hwy 74 N. by Blueberry Hill, owned by the City, GR to OS

2. Stoneacre Park, owned by the City, R-12 to OS
3. Kedron Pond A, owned by the City, R-12 to OS
4. Kedron Pond B, owned by the City, R-12 to OS
5. Smokerise Park, owned by the City, R-43 to OS
6. Ardenlee Park, owned by the Ardenlee Association, GR-4 to OS
7. Fire station 84 site, owned by the City, R-43 to OS

Several residents expressed concerns regarding the proposed rezoning of the two ponds, due to their property bordering the ponds or extending into the ponds. Their concerns included the City putting in a path or feature that would allow and attract the public into their yards, and prohibiting them keeping up their yards and the pond shoreline in the manner they have in the past. Residents also questioned what would be allowed in the OS zoning category and what the benefit was to having the property rezoned. Residents who spoke included Bill and Shirley Valentine, Kevin Kerns of Southwood Lane, Mike Burden of Bridgewater, Dennis Benson, Greg Wittle, and other residents who did not give their names, and the primary feeling was the zoning of the ponds should not be altered.

Rast addressed the questions, saying the benefit of changing the zoning was to update the Land Use Plan and make the zoning of the parcels consistent with the usage. He said the intent was not to change any of the usage, such as making the ponds open to the public, but to remove the residential zoning from the pond. Brown added that the intent was to preserve areas such as the ponds. Rast also noted that there were buffers around the ponds that should be kept natural, and those buffers probably already restricted clearing around the ponds.

McMenamin asked if there had been any opposition to the pond rezonings at the Planning Commission meeting. Rast said a couple of citizens had attended but no opposition was expressed. A couple of residents also said they had not received notice of the rezoning, and they were asked to leave their names to determine why they were not notified.

Weed made a motion to remove Pond A (item #3) from the list being considered and continue it to the February 6 meeting. Brown seconded the motion. Motion failed 1-3, with Brown, McMenamin and Tennant opposed. Tennant asked why they would want to continue the discussion. Brown said he wanted the residents to have an informed opinion and have their questions answered by staff. Weed said he wanted to determine what property the city owned because he did not want to affect private property, and he needed more information before he could vote.

McMenamin made a motion to remove Pond A (item #3) from the list being considered for rezoning. Tennant seconded. Motion carried unanimously.

Tennant made a motion to pull Pond B (item #4) from the list being considered. McMenamin seconded. Motion carried unanimously.

Weed made a motion to approve the rezonings of items #1,2,5,6 and 7 as recommended. Tennant seconded. Tennant noted for the record that he and Weed both lived in Ardenlee.

City Attorney Rick Lindsey said they did not stand to gain financially from the decision so they could vote on the item. Motion carried unanimously.

Council discussed residents' concerns about notification for the rezonings. Recording Secretary Pam Dufresne said notices had been mailed out to the required property owners identified by the Fayette County Tax Office, but several had been returned as undeliverable. She added that signs had also been posted on the properties, and the legal advertisement had run as required by the Ordinance. Lindsey added that the Ordinance required the use of the Tax records for ownership. Deputy City Clerk Betsy Tyler said she would investigate what happened for any resident who did not receive the notice and advise them later.

Rast then addressed the final three tracts under consideration, which were located on the West Side.

1. West side of Wynnmeade Entrance on Hwy 54, owned by the City, R-1 to OS
2. East side of Wynnmeade Entrance on Hwy 54, owned by the City, R-1 to OS
3. Fayette County's Water Tower Site behind The Avenue, LI to OS

McMenamin asked if the City had heard from the County regarding the rezoning. Rast said no.

Tennant made a motion to approve the three West Side rezonings. Weed seconded. Motion carried unanimously.

Council/Staff Topics

Interim City Manager Colin Halterman announced that City facilities would be closed on Tuesday and Wednesday, December 24 and 25, for the Christmas holidays.

McMenamin offered the City's condolences on the death of Dr. Richard Schumacher, who served on the Planning Commission.

Brown announced that Council had two legal matters to discuss in Executive Session following a brief recess.

Weed made a motion to come out of executive session. Tennant seconded. Motion carried unanimously.

There being no further business to discuss, Weed moved to adjourn the meeting. Tennant seconded. The motion carried unanimously. The meeting adjourned at 8:52 p.m.

Betsy Tyler, Deputy City Clerk	Stephen D. Brown, Mayor

City of Peachtree City
Minutes of Meeting
January 2, 2003
7:00 p.m.

The City Council of Peachtree City met Thursday, January 2, 2003, 7:00 p.m., in the City Hall Council Chambers. Council Members attending were: Mayor Steve Brown, Annie McMenamin, Steve Rapson, and Dan Tennant. Murray Weed was absent.

Announcements, Awards, Special Recognition

Mayor Brown recognized Linda Morton as the Employee of the Year. Brown recognized outgoing Recreation Commissioners Jan Shannon, who served as chairman, and Beth Andrews and outgoing Airport Authority Member H.E. Buffington.

Minutes

Tennant moved to approve the November 21, 2002, Regular Meeting Minutes as written. McMenamin seconded. The motion carried unanimously.

McMenamin moved to approve the December 10, 2002, Special Called Meeting Minutes as written. Tennant seconded. The motion carried unanimously.

Election of Oath of Office of Mayor Pro-tem

Brown moved to appoint Dan Tennant as mayor pro-tem. Rapson seconded.

McMenamin said she had been privileged to serve as mayor pro-tem. She continued that this was her last year on Council and she would continue to work as hard in her last year as she had in her first year.

The motion carried 3-0-1 (Tennant).

Consent Agenda

1. **Consider Annual Indemnification Resolution**
2. **Consider Appointment of City Attorney**
3. **Consider Appointment of City Solicitor**
4. **Consider Appointment of City's Legal Organ**
5. **Consider Design Contract for Highway 54 Bridge Enhancements**

Tennant moved to withdraw Items #3 and #5 from the Consent Agenda. McMenamin seconded. The motion carried unanimously.

Rapson moved to approve Consent Agenda Items #1, #2, and #4. McMenamin seconded. The motion carried unanimously.

Tennant discussed Item #3 (Appointment of City Solicitor). He noted that Council had changed the Charter recently to break the City Attorney/City Solicitor position into two separate positions. Tennant continued that the City would save around $78,000 a year by appointing the positions separately. He wanted to bring that to the public's attention. He also thanked the previous appointees for their service to the City. Tennant moved to approve Consent Agenda Item #3. McMenamin seconded. The motion carried unanimously.

McMenamin asked if any of the costs associated with Consent Agenda Item #5 could be deferred until next year. Rapson noted the funding was part of the last budget amendment. City Engineer Troy Besseche said the design work must be completed before DOT began work on Highway 54 this summer.

Tennant moved to approve Consent Agenda Item #5 as it related to the LCI project and the Highway 54 widening. McMenamin seconded. The motion carried unanimously.

New Agenda Items

01-03-01 Alcoholic Beverage License – NEW – Buckner Petroleum, Inc.

Robert Buckner, applicant, addressed Council. McMenamin asked Buckner if he had had any problems with his alcohol license in Fayetteville. Buckner said he had the license at another convenience store he owned for two years and had had no problems.

McMenamin moved to approve the appointment of Robert Buckner as the alcoholic beverage licensee for Buckner Petroleum, Inc. Tennant seconded. McMenamin amended her motion to appoint Buckner as the license representative also. Tennant seconded the amendment. The motion carried unanimously.

01-03-02 Senator Mitch Seabaugh/Discussion of Transportation Issues

State Senator Mitch Seabaugh addressed Council regarding transportation issues. Seabaugh said he listened to his constituents when he devised his vision for transportation. His vision included widening Highways 34/54 from Thomas Crossroads to Peachtree City, widening Highway 74 from Highway 54 to Highway 85, working on access issues from Highway 16 to Interstate 75 for Industrial Park members, re-directing Rockaway Road on Highway 74, and putting up a traffic light at Highway 74 and Dividend Drive. Seabaugh said something also needed to be done regarding the Coweta-Fayette Connector, also known as TDK Boulevard extension.

Seabaugh continued there had been a lot of discussion regarding the Highways 34/54 corridor recently. He said the corridor was one of the first things he started to work on after he was elected in 2000, and the efforts of Bob Lenox and Greg Dunn were very clear. Seabaugh said he had just added his concerns to theirs. Construction would start soon.

Seabaugh continued that, after listening to the constituency in the Industrial Park, he had gone to DOT to try and move up the widening of Highway 74, and the first step in that process was accomplished when $5 million was earmarked for right-of-way acquisition. Seabaugh reported that funding for a traffic signal at Highway 74 and Dividend Drive had been secured from DOT, but DOT was still waiting to hear from Peachtree City before making the light a reality. Brown clarified that DOT would fund the signal, but the City had to fund the lane improvements. Seabaugh noted that he had received another letter from Panasonic expressing concern and urgency for the safety of the company's employees.

Seabaugh continued that the TDK extension would provide alternative routing, which would be critical when construction began on Highways 54 and 74, especially when the bridgework began on Highway 54. He pointed out that he could have used an alternative route 14 times since Thanksgiving. Seabaugh said he understood the TDK extension might not be critical to Council, but it was to Coweta County and to the workforce in the Industrial Park, and the workers from Troup and Meriwether Counties. He added that truck traffic would flow better. Seabaugh said Coweta County was ready to do their part.

Seabaugh acknowledged it was not his vision that counted, but Council's, and that it appeared they did not share the same vision. He said he wanted Council to understand his position, and the question from DOT was "Are you sure they want it?" He asked Council to communicate its priorities and said politicians were elected to turn problems into opportunities. Seabaugh said he had to work with the DOT chairman, whether the current one or a new one, on assessing his district's priorities. The City had been his greatest effort and highest priority for transportation. Council had seen what had happened to the industrial park in the last two years, and Seabaugh said he wanted to turn it around into the best industrial park in the state. Seabaugh said he and Council had to work together to make things happen.

McMenamin told Seabaugh she knew he had worked diligently to make the road improvements move faster. She said she had made no commitment as a Council Member regarding the turn lanes at Panasonic and did not know anything about a commitment made regarding turn lanes. When McMenamin received the letter from Panasonic, she called John Newman of Panasonic to express her concern about not being informed of the turn lanes. Newman told her some commitments had been made and Panasonic had been asked to bear some of the expense for the turn lanes. McMenamin read the letter, which is included in the official meeting file. McMenamin recalled talk about the TDK extension started about nine years ago, but Coweta County had no interest in the project at that time. She continued that Council earmarked $350,000 for a design plan, which was about 90% (ninety percent) complete. The municipalities that belonged to the Association of Fayette County Governments signed a resolution of support and the resolution would be given to County Commission Chairman Greg Dunn. In the resolution, the municipalities agreed the TDK extension was a priority for the County. She noted that the extension had been included in the County transportation plan for three-five years. McMenamin continued that one thing that had not happened was to have the City, the County, Coweta County, and Seabaugh meet to discuss funding. She said they were seven years behind the curve on getting TDK extension built and said she would set the meeting.

Tennant agreed with McMenamin and said there was nothing like good communication to get things done. He noted they were all passionate about protecting citizens. Due to the difficult financial situation, they needed to be as creative as possible, and he pointed out there were many expenditures the City had no control over, such as the rising cost of insurance.

Seabaugh stressed that team effort was needed and he needed to communicate the team plan. He said all issues, not just transportation, needed to be prioritized. The first little hiccup of disagreement could pull the road project. Seabaugh added he had talked to more than one industry that wanted to come here, but did not because of the transportation issues.

Tennant said Council wanted to be a good neighbor to Coweta, and wanted to be responsive to the constituents in the Industrial Park. They were important to the tax base.

Rapson agreed all the projects were very important and needed funding. He clarified that the only money for TDK that existed in the budget was $350,000 for the design work. He continued that the City was the only one to sign a check this far. This Council inherited a lot of traffic problems, and Rapson said it was a misconception that this Council was not proactive on traffic. Council had done all it could think of for Highway 54/74, but obviously the model was flawed. Rapson said he had always been in favor of TDK, but Highways 54 and 74 took precedence. No funds were committed to TDK extension until 2005 and $825,000 was on the table.

Seabaugh said Highways 54 and 74 were basically the state's responsibility, but TDK had to be done locally. He said he was at their mercy and reiterated the road would be critical to traffic flow when 54 and 74 were under construction.

Brown said the south side had always been neglected, but was making progress. There was a County transportation plan and the modeling was flawed on Highway 54. Priorities were essential and the Council had made serious prioritizations. The City had spent enough on recreation projects to pay for TDK and 54 West. He continued that the land on the Coweta side was the most heavily speculated land in the region. Highway 54 would be in good shape when it was widened, but Highway 74 was weak.

Brown continued that if TDK were built before Highway 74 was widened it would create a collector road to a weak arterial. He said the road would not withstand the choke-off. Council made a commitment to Panasonic to work on the signal at Highway 74 and Dividend Drive. There was also a problem to consider at Crosstown and Peachtree Parkway. New volume from new development in Coweta County was a concern and TDK would no longer be a relief valve. Brown said they were ignoring long-term traffic infrastructure in exchange for a short-term pay-off. The City needed a reasonable expectation for the Highway 74 widening.

Seabaugh emphasized that he had gone to DOT and gotten funds for right-of-way acquisition for Highway 74. They had to have alternate routes to move traffic east to west. If an alternate route were provided, everyone would not be jammed onto one road. Seabaugh said the ground was not as solid as he would like to fight for something in the City.

Brown said there was not a person on Council against TDK. He just did not want to create a problem that might be diverted with proper planning. He noted the City was heavily dependent on the vacant parcels in the Industrial Park. Brown said the City had to generate a revenue source and the MOST (Municipal Option Sales Tax) the Legislature was to consider was one. He agreed solving the transportation issues would bring in the industrial tax base. He emphasized the City had to have a viable revenue source to generate dollars in a hurry.

Tennant asked Seabaugh what his time frame was. Seabaugh said he had not seen the state budget for next year and no decision had been made on the DOT chairmanship. Opposition might also present itself in two to three years, and if the roads were not in the plan they would not be able to move forward.

Rapson said price tags needed to be put on the projects. It was not a matter of support, but funding. There needed to be a priority list even if the City could not afford it all.

Former Mayor and industry owner Bob Lenox addressed Council, saying that much of what Seabaugh addressed was crucial. He noted he was a major taxpayer in the City. Council was responsible to provide infrastructure. He was willing to pay more taxes if he saw a viable plan. He told Council everybody could take the blame for the problems, but it was their job to solve it.

McMenamin noted that now the County was providing assistance on the City's road improvement projects. She asked Halterman to look at the figures and get an idea of how much money that would save the City.

Salvatore noted that there was close to $6.5 million in the five-year PIP for road and transportation improvements. He pointed out that there were funds appropriated for Highway 54, but the funds had to be re-appropriated because the state moved the project up. Highway 54 was funded, but had been underfunded for this year.

01-03-03 Discuss Gerald Reed Memorial Park Proposal

Brown noted that Vern Darley of FC&A had asked that this agenda item be tabled to give FC&A representatives and City staff time to meet and work out some issues. Rapson moved to table the Gerald Reed Memorial Park proposal. McMenamin seconded.

McMenamin said she had been under the impression that the park design had gone out for bid when Council originally approved the project. She continued that the City had numerous requests to purchase the property and the City had maintained that the property was not for sale. McMenamin said she did not mind looking at the design, but she was very concerned about the process. She would like to see the property go out for bid, then have the design go through the Planning Department and Planning Commission.

Rapson agreed with McMenamin and said the proposal should go back to staff. Brown said the proposal would go to the Planning Commission and there would be a workshop.

Frances Meaders asked Council when they decided to sell the property and why. Rapson said there had been no decision to sell the property. He continued that FC&A had submitted a proposal for the park and the property. He added Council had not decided if they even wanted to sell it and that a decision as a Council had not been made.

The motion to table was approved 3-0-1 (Brown). Brown noted that he abstained because of contributions to his campaign by a principal in FC&A.

Council/Staff Topics

Brown appointed a City Manager Selection Committee composed of himself, Rapson, Paul Massey, Interim City Manager Colin Halterman, and Terry Garlock.

McMenamin said all of Council should have input on this matter since it was such an important position. She suggested each Council Member review the applications and use the grid she suggested for City Attorney to record their top 10 choices. She continued that she had already looked at the applications and collated them into priorities. McMenamin said Human Resources could collate the information and come up with a short list. Human Resources might also have some suggestions regarding things Council might have overlooked. She felt it was very important that all of Council participate in the process. Brown said the committee would narrow down the applicants.

Tennant said a panel interview, such as the process used when a Council Member was selected to fulfill an unexpired term in 2001, would be a good idea.

Brown said the committee would just be a culling process and narrow down the numbers. He added that some candidates would be excluded almost immediately because they were not qualified.

Rapson suggested Council come up with some methodology the members could use to narrow down the candidates. He said he liked Tennant's idea for the final three candidates. Rapson felt McMenamin's suggestion had some merit. McMenamin said, while each Council Member might have different priorities, they might be surprised when some names turned up on everyone's list. Tennant noted the City Manager was the most vital City employee and he preferred to err on the side of more input. Miller said she would have copies of all the applications made the next day and placed in the Council Members' boxes.

There being no further business to discuss, Tennant moved to adjourn the meeting. Rapson seconded. The motion carried unanimously. The meeting adjourned at 8:46 p.m.

__________________________ __________________________

Jane Miller, City Clerk Stephen D. Brown, Mayor

____

Pamela Dufresne, Recording Secretary

CITY OF PEACHTREE CITY

INTEROFFICE MEMORANDUM

TO: **Mayor and Council**

VIA: **Interim City Manager**

FROM: **City Clerk**

DATE: **January 7, 2003**

SUBJECT: **Alcoholic Beverage License – Change in License Representative – Ted's Montana Grill**

Ted's Montana Grill, a restaurant located at 314 City Circle, Suite 1320, has applied for a change in the alcoholic beverage license. Mr. Keith O. Jones has requested he be appointed as the License Representative.

Mr. Jones will attend the January 16th Council meeting to answer any questions you may have.

JSM:pd

Attachments

Peachtree City
Georgia

State of Georgia

City of Peachtree City:

I, James V. Murray, Chief of Police, for the City of Peachtree City, do hereby certify that:

KEITH O. JONES
Name

196 BRADFORD STATION DR. SHARPSBURG, GA. 30277
Address

has been investigated and found not to have been convicted of, nor to have entered a plea of nolo contendre, to any felony or misdemeanor relating to the sale or use of alcoholic beverages or illegal drugs within five (5) years prior to the date of the application for this license.

James V. Murray
Signature

Dec. 19, 2002
Date

Major R.M. Dubee
Witness

678-829-0272

CITY OF PEACHTREE CITY
151 WILLOWBEND ROAD
PEACHTREE CITY, GA 30269
(770) 487-7657

APPLICATION FOR ALCOHOLIC BEVERAGE LICENSE

Business Name: Ted's Montana Grill	Business Location: 314-City Circle; P'tree City 30269	
Nature of Business: restaurant	Mailing Address: 255-East Paces Ferry Rd Ste 350, Atlanta 30305	Business Phone Number: 404-233-6717
Name of Licensee: George McKerrow	Home Address: 1320 Monte Carlo Dr, NW Atlanta, GA 30327	Home Phone Number: 404-983-3318
*Name of License Representative: Keith Jones	Home Address: 196 Bradford Station Dr Sharpsburg Ga 30277	Home Phone Number: 770-254-4341

Retail Consumption Dealer		Retail Package Dealer		Wholesale Dealer	
✓	Malt Beverage		~~Malt Beverage~~		~~Malt Beverage~~
✓	Wine		~~Wine~~		~~Wine~~
	Distilled Spirits		~~Distilled Spirits~~		~~Distilled Spirits~~

NAME Individual Owner's Name, Partners' Names, Corporation Name and the name of the name of a Contact Person regarding License Changes, Taxes, etc.	ADDRESS Please provide Home Addresses for the individuals listed:	PHONE NUMBERS Please provide Home and Business Phone Numbers for individuals listed:
George McKerrow	1320-Monte Carlo Rd	404-983-3318 (H)
	Atlanta, GA	404-266-1344 (B)

Is any person who owns an interest in the license an employee of the City of Peachtree City? NO

~~196 Brad~~

~~29609~~

① 196 Bradford Station Dr.
Sharpsburg GA 30277

② 1000 Stevens Entry # A213
Peachtree City GA 30269

③ 29609 Lori
Livonia MI 48154

④ 30956 Springlake Blvd # 21103
Novi MI 48377

⑤ 201 Coco View # 207
Brandon FL 33511

⑥ 1817 Sterling Palms Ct # 301
Brandon FL 33511

⑦ 41638 Village Green Blvd
Canton MI 4818 ?

CITY OF PEACHTREE CITY

INTEROFFICE MEMORANDUM

TO: **Mayor and Council**

VIA: **Interim City Manager**

FROM: **City Clerk**

DATE: **January 7, 2003**

SUBJECT: **Alcoholic Beverage License – Change in License Representative – Kroger #654**

Kroger #654, a grocery store located at 100 North Peachtree Parkway, has applied for a change in the alcoholic beverage license. Mr. Eugene Edens has requested he be appointed as the License Representative. Mr. Edens previously served as the License Representative for the store when it first opened.

Mr. Edens will attend the January 16th Council meeting to answer any questions you may have.

JSM:pd

Attachments

Peachtree City
Georgia

State of Georgia

City of Peachtree City:

I, James V. Murray, Chief of Police, for the City of Peachtree City, do hereby certify that:

EUGENE EDENS
Name

104 KIRTON TURN PEACHTREE CITY, GA 30269
Address

has been investigated and found not to have been convicted of, nor to have entered a plea of nolo contendre, to any felony or misdemeanor relating to the sale or use of alcoholic beverages or illegal drugs within five (5) years prior to the date of the application for this license.

James V. Murray
Signature

Dec. 30, 2002
Date

Major R.M. Dufree
Witness

CITY OF PEACHTREE CITY
151 WILLOWBEND ROAD
PEACHTREE CITY, GA 30269
(770) 487-7657

APPLICATION FOR ALCOHOLIC BEVERAGE LICENSE

Business Name: KROGER STORE # 422	**Business Location:** 1101 PEACHTREE PKWY., NORTH	PEACHTREE CITY, GA. 30269
Nature of Business: RETAIL GROCERY SALES	**Mailing Address:** 2175 PARKLAKE DRIVE ATLANTA, GA. 30345	**Business Phone Number:** (770) 486-7200
Name of Licensee: TIMOTHY FLOYD BROWN	**Home Address:** 400 BETHANY GREEN COVE ALPHARETTA, GA. 30004	**Home Phone Number:** (770) 569-4400
Name of License Representative: GENE EDENS	**Home Address:** 104 Kirton Turn PTC, GA 30269	**Home Phone Number:** 770-487-2369

[illegible]

	Retail Consumption Dealer		**Retail Package Dealer**		**Wholesale Dealer**
	Malt Beverage	✓	Malt Beverage		Malt Beverage
	Wine	✓	Wine		Wine
	Distilled Spirits		Distilled Spirits		Distilled Spirits

[illegible]

NAME Individual Owner's Name, Partners' Names, Corporation Name and the name of the name of a Contact Person regarding License Changes, Taxes, etc.	**ADDRESS** Please provide Home Addresses for the individuals listed:	**PHONE NUMBERS** Please provide Home and Business Phone Numbers for individuals listed:
NATHAN BUCKLES	2175 PARKLAKE DR. ATLANTA GA. 30345	(770) 496-7539 wk
		(770) 367-9996 cell
		(678) 583-4182 hm

Is any person who owns an interest in the license an employee of the City of Peachtree City? NO
Edens

CITY OF PEACHTREE CITY

INTEROFFICE MEMORANDUM

TO: Mayor and Council

VIA: Interim City Manager

FROM: City Clerk

DATE: January 7, 2003

SUBJECT: Alcoholic Beverage License – Change in License Representative – Kroger #422

Kroger #422, a grocery store located at 1101 Peachtree Parkway North, has applied for a change in the alcoholic beverage license. Ms. Carrie L. Phelps has requested she be appointed as the License Representative.

Ms. Phelps will attend the January 16th Council meeting to answer any questions you may have.

JSM:pd

Attachments

Peachtree City

Georgia

State of Georgia

City of Peachtree City:

I, James V. Murray, Chief of Police, for the City of Peachtree City, do hereby certify that:

CARRIE L. PHELPS
Name

41 CARMEL RD. SENOIA, GA 30276
Address

has been investigated and found not to have been convicted of, nor to have entered a plea of nolo contendre, to any felony or misdemeanor relating to the sale or use of alcoholic beverages or illegal drugs within five (5) years prior to the date of the application for this license.

James W. Murray
Signature

Dec. 30, 2002
Date

Major L.M. Decker
Witness

P. O. Box 2371 • Peachtree City, Georgia 30269 • (404) 487-7657

CITY OF PEACHTREE CITY
151 WILLOWBEND ROAD
PEACHTREE CITY, GA 30269
(770) 487-7657

APPLICATION FOR ALCOHOLIC BEVERAGE LICENSE

Business Name: KROGER STORE # 654	**Business Location:** 100 N. PEACHTREE PARKWAY	PEACHTREE CITY, GA. 30269
Nature of Business: RETAIL GROCERY SALES	**Mailing Address:** 2175 PARKLAKE DRIVE ATLANTA, GA. 30345	**Business Phone Number:** (678)364-0318
Name of Licensee: TIMOTHY FLOYD BROWN	**Home Address:** 420 BETHANY GREEN COVE ALPHARETTA, GA. 30004	**Home Phone Number:** (770)569-4400
Name of License Representative: Carrie L. Phelps (formerly Watson)	**Home Address:** 41 Carmel Rd. Senoia GA 30276	**Home Phone Number:** 770-599-1303

[illegible]

Retail Consumption Dealer		Retail Package Dealer		Wholesale Dealer	
	Malt Beverage	✓	Malt Beverage		Malt Beverage
	Wine	✓	Wine		Wine
	Distilled Spirits		Distilled Spirits		Distilled Spirits

[illegible]

NAME Individual Owner's Name, Partners' Names, Corporation Name and the name of the name of a Contact Person regarding License Changes, Taxes, etc.	ADDRESS Please provide Home Addresses for the individuals listed:	PHONE NUMBERS Please provide Home and Business Phone Numbers for individuals listed:
NATHAN BUCKLES	2175 PARKLAKE DR. ATLANTA, GA. 30345	(770) 496-7539 wk.
		(770) 367-9996 cell
		(678)583-4182 Hm.

Is any person who owns an interest in the license an employee of the City of Peachtree City? No

CITY OF PEACHTREE CITY

INTEROFFICE MEMORANDUM

TO: Mayor and City Council

VIA: Interim City Manager

FROM: City Engineer

DATE: January 9, 2003

SUBJECT: Stallings Road Improvements – Airport Authority Agreement

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In order to construct improvements to Stallings Road in the most expeditious and cost-effective manner, city staff has been working with Airport staff on developing an implementation plan involving Fayette County, the Airport Authority, the City, Pathway Communities, and Georgia Department of Transportation (GDOT). In order to make the project a reality, GDOT's state aid program would be pursued to provide funding for materials, anticipating that labor and equipment would be provided by Fayette County Public Works. The City would be the mechanism by which the contract with GDOT would be established and aspects of the project coordinated.

This arrangement places much of the control for how the project is managed and constructed in the hands of city staff, which is a much better situation for the ultimate owner, the City. The described arrangement is being drafted in the form of several agreements, the first of which is attached. This agreement between the Airport Authority and the City defines the responsibilities of both parties as it relates to the planning, implementation, and funding of the road project. It has been the intent of the Authority from the beginning to provide all of the necessary funds for the construction of the road, as has been indicated in the agreement.

The City will be pursuing separate agreements with Fayette County and the Georgia Department of Transportation for construction of the road improvements on Stallings Road. Those agreements will be presented to Council at a later date. It is my recommendation that City Council authorize the Mayor to sign the Intergovernmental Agreement with the Peachtree City Airport Authority for the purpose of constructing improvements to Stallings Road.

Attachment

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STATE OF GEORGIA

COUNTY OF FAYETTE

INTERGOVERNMENTAL AGREEMENT

FOR IMPROVEMENTS TO STALLINGS ROAD

This Intergovernmental Agreement for Improvements to Stallings Road is entered into on the date of the last signature by and between Peachtree City, Georgia ("City"), a municipal corporation duly created by the State of Georgia; and the Peachtree City Airport Authority ("Airport Authority"), a government authority organized and existing under the laws of the state of Georgia.

WITNESSETH

WHEREAS, the City and Airport Authority desire the proper construction of roads within the corporate limits of the City to promote adequate and safe means of transportation; and

WHEREAS, the City and Airport Authority desire to coordinate their efforts and work together in the construction of certain roadway improvements to Stallings Road, within the corporate limits of the City;

NOW, THEREFORE, for and in exchange of one dollar ($1.00) in hand paid, from the Airport Authority to the City, the sufficiency of which is acceptable, the parties agree as follows:

1) Scope of Services. For purposes of this Agreement, the term "Project" shall mean the paving of Stallings Road, together with all drainage, curbing and guttering and related improvements necessary for the proper construction of said paving in accordance with those certain Engineering Drawings prepared and submitted by Wilbur Smith and Associates, on October 23, 2002, (the "Engineering Drawings") as may be reasonably revised by the City to conform with the City's standard roadway requirements. The responsibilities for each party, with respect to the Project are as follows:

   a) The City. The City shall act as the lead coordinator of the Project and shall designate an appropriate City staff person to serve as the primary point of contact for all matters relating thereto. The City shall provide all usual and customary services typically rendered by the City in reviewing and approving the engineering for the Project. The City shall assume project management responsibilities to include coordination of utility relocation within the Project area, assembling bid documents for procurement, preparation of construction contracts, and executing contracts reasonably required for the completion of the

Project. Project related contracts which the City shall be responsible for preparing and entering shall include, but not be limited to, the construction of curbing, guttering and drainage facilities associated therewith. The Airport Authority shall be financially obligated for the entire project's construction, utility relocation, and all other related costs not provided for by third parties. The City shall further exercise its best efforts to apply for all available Georgia Department of Transportation funding for the Project. The project management services described in this subsection (a) shall be provided by the City at no cost or expense to the Airport Authority. The City shall contract with Fayette County for the provision of such equipment and labor as may be reasonably necessary to complete all rough-grading, preparation of base course and paving relating to the Project and shall cooperate with the County and the Airport Authority in scheduling such work to provide for the completion of the Project as set forth hereinbelow. In the event the City is unable to contract with the County as provided for herein, the Airport Authority shall have no further obligations with respect to the construction or dedication of Stallings Road. Notwithstanding the foregoing, the City's agreement regarding Access, as set forth in Paragraph 7 below shall survive any termination of this Agreement.

b) Airport Authority. The Airport Authority shall be responsible for providing all funding for the Project that is not otherwise provided by the State of Georgia, the City or the County as contemplated in subsection (a) above. Notwithstanding the foregoing, the undersigned parties acknowledge and agree that the Airport Authority has secured commitments from Peachtree City Holdings, L.L.C. and Peachtree City Water and Sewerage Authority for a portion of said funding in the cumulative amount of $150,000.00 (the "Third Party Commitments"), and that the Airport Authority is relying upon said Third Party Commitments in entering into its obligations under this subsection (b). The Airport Authority's funding commitments set forth herein are expressly conditioned and contingent upon the fulfillment of said Third Party Commitments.

2) Maintenance. The City and Airport Authority agree that Stallings Road shall be part of the road system of the City and as such, shall be completely and solely within the City's jurisdiction and control. As such, the Airport Authority shall dedicate said right-of-way of Stallings Road to the City at such time as the City may require such dedication, subject to the terms and conditions set forth in this Agreement. The maintenance and repair of Stallings Road shall be the sole responsibility of the City up to the limits of right-of-way ownership. Notwithstanding the foregoing, the Airport Authority shall, at its sole expenses, for a period of two (2) years from the date of this Agreement, maintain and keep in good repair, that portion of Stallings Road adjacent to land now owned by the Airport Authority.

3) Compliance with City Ordinances. The Airport Authority and the City and their designees shall comply with all of the ordinances of the City relative to construction and building projects and soil erosion.

4) Starting and Completion Dates. The Project shall commence promptly upon final approval of the Engineering Drawings, which approval shall not be unreasonably withheld or delayed by the City, and shall be completed on or before September 30, 2003.

5) Access. As an inducement to the Airport Authority to develop that certain property more particularly described as Hangar Area "B" on the Master Plan for the Peachtree City Airport Authority and to encourage prospective tenants to occupy such development, the City does hereby agree that, from the date of this Agreement until such time as the paving and improvements to Stallings Road are completed, access to said property via the existing Stallings Road shall remain open to vehicular and pedestrian traffic. The City does further agree that no application for development permits or certificates of occupancy relating to Hangar Area "B" shall be denied or unreasonably delayed on the basis of access, or the impairment thereof, arising out of or relating to the Project contemplated herein, it being acknowledged and agreed by all parties that the granting of such permits and certificates of occupancy are vital to the economic viability of the Airport Authority. In addition, the City shall permit such curb-cuts as may be reasonably requested by the Airport Authority, to permit access to Hangar Area "B".

6) Entire Agreement. This Agreement encompasses the entire agreement between the parties. No modifications shall be binding unless such are reduced to a writing executed by all of the parties.

7) Severability. Should any portion of this Agreement be found by the arbitrator or court of competent jurisdiction to be invalid, the offending portion shall be struck and the remaining Agreement shall be read as if the offending portion was never included.

8) Multiple Counterparts. This Agreement may be written in multiple counterparts, each which shall be regarded as an original.

Signature page follows.

IN WITNESS WHEREOF, the parties, by and through their representatives who have been properly authorized to enter into this Agreement, hereby affix their hands and seals on the date written below.

CITY OF PEACHTREE CITY

By:__________________________ Date: ______________
Steven D. Brown, Mayor

__________________________ (SEAL)
Witness

AIRPORT AUTHORITY OF PEACHTREE CITY

By:__________________________ Date: 1-9-03
Catherine M. Nelmes, Chairman

__________________________ (SEAL)
Witness

CITY OF PEACHTREE CITY

INTEROFFICE MEMORANDUM

TO: **Mayor and Council**

VIA: **Colin Halterman, Interim City Manager**

FROM: **Jane Miller, City Clerk**

DATE: **January 7, 2003**

SUBJECT: Resolution to Call for Election and Establish Qualifying Fees

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The State Election Code governing Municipal and County elections requires that Council set and publish qualification fees not later than February 1st of any year in which an election is to be held.

The law requires the fee to be set at 3 percent of the total gross salary paid for the elected position in the preceding calendar year and that the fees are published in our legal organ.

The resolution to establish such fees and call for the election is attached for your consideration and approval.

JSM:pd

Attachment

RESOLUTION ESTABLISHING DATE FOR CITY ELECTION FOR PURPOSE OF ELECTING COUNCIL MEMBERS FOR POST 1 AND POST 2; ESTABLISH FEES AND DATE FOR QUALIFYING OF CANDIDATES; ESTABLISH DATES FOR VOTER REGISTRATION AND FOR OTHER PURPOSES

WHEREAS: A municipal general election shall be conducted on November 4, 2003, for the purpose of electing a mayor and council member for Post One and Post Two, and,

WHEREAS: Candidates who are elected in said election shall serve for a term of four years, and,

WHEREAS: Persons eligible to become candidates for said election shall be at least 21 years of age and be a qualified elector of the City who shall have continuously resided and maintained his or her domicile in Peachtree City for at least six months immediately preceding the election, and,

WHEREAS: Candidates for said election shall qualify with the City Clerk in City Hall. Qualifying shall open at 8:30 a.m. on the 8th day of September, 2003, and shall close at 4:30 p.m. on the 12th day of September, 2003, and,

WHEREAS: Voter Registration for said election shall close at 5 p.m. on the 6th day of October 2003, and,

WHEREAS: The date for a run-off election, if required, shall be November 25, 2003, and

WHEREAS: The City Council does hereby declare that the qualifying fee for Council Post 1 and Council Post 2 shall be $180.00.

NOW, THEREFORE BE IT RESOLVED by the Mayor and City Council of Peachtree City that the general election is hereby authorized pursuant to the rules and regulations set out in this Resolution and pursuant to the Georgia Municipal Election Code as amended.

FURTHER, The Superintendent of Elections and Absentee Ballot Clerk shall be the Fayette County Board of Elections who is hereby authorized to provide an appropriate number of poll workers to conduct said election. Polling places within Peachtree City shall be open from 7:00 a.m. to 7:00 p.m. on the day of the general election and on the day of the run-off election, if required.

Adopted this 16th day of January 2003.

____
Stephen D. Brown, Mayor

____
Annie W. McMenamin, Council Member

____
Steven A. Rapson, Council Member

____
Daniel R. Tennant, Council Member

____
Murray V. Weed, Council Member

______________________________ Attest
City Clerk

CITY OF PEACHTREE CITY

INTEROFFICE MEMORANDUM

TO: Mayor and Council Members

VIA: Interim City Manager

FROM: Administrative Services Director/City Clerk

DATE: January 9, 2003

SUBJECT: Amendments to Alcoholic Beverage Ordinance

Attached are two housekeeping amendments to Sections 6-38 and 6-47 of Peachtree City's Alcoholic Beverage Ordinance. The changes proposed are underlined, and the replaced text has been struck through. As you will note, both proposed amendments are housekeeping issues to address minor issues that arose following the recodification of the Ordinances in 2000.

Staff recommends that Council adopt these amendments to ensure consistency and appropriate referencing in the Alcoholic Beverage Ordinance.

JSM/bt

ORDINANCE # 798

AN ORDINANCE TO AMEND ARTICLE II SECTION 6-47 OF THE PEACHTREE CITY CODE OF ORDINANCES TO PROVIDE FOR ALCOHOLIC BEVERAGE LICENSE TRANSFERS, CHANGE LICENSEE OR LICENSE REPRESENTATIVE, OR RELOCATION OF BUSINESS, AND FOR OTHER PURPOSES.

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF PEACHTREE CITY, and it is hereby ordained by authority of the same, that Article II, Section 6-47 (3) be amended as follows:

Section 6-47. License transfers, change licensee, or license representative or relocation of business.

(3) All provisions of section 6-37 shall be completed by the new owner except for subsection (d) ~~(e)~~ provided license fees are current; and

All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed in their entirety. Done, Ratified, and Passed this ______ day of January 2003.

____
Mayor

____

____

____

____

Attest: ______________________________
City Clerk

ORDINANCE # 799

AN ORDINANCE TO AMEND ARTICLE II SECTION 6-38 OF THE PEACHTREE CITY CODE OF ORDINANCES TO PROVIDE FOR ALCOHOLIC BEVERAGE SUPPORTING DOCUMENTS TO BE FILED WITH APPLICATIONS.

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF PEACHTREE CITY, and it is hereby ordained by authority of the same, that Article II, Section 6-38 be amended as follows:

Section 6-38. Supporting documents to be filed with application.

Those applying for a license under this article shall submit in support of the application for license the following documents:

(a)~~(1)~~ A certificate from a registered land surveyor showing a scale drawing of the location of the proposed premises and the shortest straight line distance from the premises to any church building, alcoholic treatment center building, school building, educational building, school grounds, college building, or college campus located within a radius of 200 yards of the premises.

(b)~~(2)~~ The affidavit of each person whose name appears on an application for a license, pursuant to section 6-37(2), swearing that such person has not, within five years prior to the date of the application, been convicted of nor entered a plea of nolo contendere to any felony or misdemeanor relating to the sale or use of alcoholic beverages or illegal drugs.

(c)~~(3)~~ A copy of a deed showing the applicant to be the owner of the premises for which the license is sought or a copy of a lease showing any interest the owner of the premises has in the business for which the license is sought. The applicant for a license for retail consumption dealer at the Frederick Brown, Jr. Amphitheater shall be required only to present a copy of the contract that he has to operate as a retail consumption dealer at the amphitheater.

(d)~~(4)~~ A certificate of the chief of police of the city certifying that each person named in an application pursuant to section 6-37(2) has been investigated and found not to have been convicted of nor to have entered a plea of nolo contendere to any felony or a misdemeanor relating to the sale of alcoholic beverages or illegal drugs within five years prior to the date of the application for a license. For those applicants who, within the last five-year period, have resided or do reside in a state other than Georgia, the applicant must furnish a certified copy of a driver history and criminal background history from the state or states in which he has resided or resides to the chief of police.

(e)~~(5)~~ If the same person is serving as the licensee and the license representative, he shall submit an affidavit certifying that he is at least 21 years of age, a resident of the state and a manager of the business.

(f)~~(6)~~ If the licensee is not the license representative, an affidavit from the license representative certifying that he is at least 21 years of age, a resident of the state and a manager of the business.

(g)~~(7)~~ Other appropriate information may be required as determined by the city clerk.

All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed in their entirety. Done, Ratified, and Passed this ______ day of January 2003.

____
Mayor

____

____

____

____

Attest: ______________________________
City Clerk

CITY OF PEACHTREE CITY

INTEROFFICE MEMORANDUM

TO: **Mayor and City Council**

VIA: **Colin Halterman, Acting City Manager**

FROM: **Paul Salvatore, Director of Financial Services** P.S.

DATE: **January 7, 2003**

SUBJECT: **Discuss Intergovernmental Agreement with Development Authority**

At the November 21, 2002 City Council Meeting, Council instructed the City staff and the City Attorney, or his or her designee, to revise paragraph 3(c) of the proposed intergovernmental agreement in subject. The purpose of this assignment was 'to *legally and with fiscal responsibility* provide for debt service of debt incurred by the Development Authority in the amount of approximately $1.45 million'. A copy of the November 21 Council Meeting minutes is attached for your reference (Attachment 1). To this end, staff asked the City Attorney to provide an opinion in regard to how the city may legally assume the authority's debt. Earle Taylor of Kilpatrick Stockton, who is an expert in intergovernmental agreements and who is also the city's bond attorney, was also asked to assist the City Attorney in drafting this opinion. A copy of the legal opinion is also attached for your reference (Attachment 2).

It is important to mention that in the opinion, legal counsel disclosed that 'it is doubtful that the development authority is authorized by law to operate or manage either the tennis center or amphitheater on behalf of the city' and that 'it is also doubtful that any contracts authorizing the Authority to do so are valid'. Since the validity of the contract itself is in question, so too is the City's ability to assume the indebtedness of the authority. However, legal counsel has also identified several ways that the City can satisfy the indebtedness incurred by the authority. Keep in mind though, that the attorneys have opined that for any of the options enumerated, the operation and management of the tennis center and amphitheater facilities should be turned over to either City staff, or a newly created Recreation Authority.

One of the options for satisfying the debt would be to hold a referendum on whether the debt can be incurred, and issue G.O. Bonds to pay off the debt if the referendum passes. Although economically feasible, it is doubtful as to whether or not such a referendum would pass. Also, it would only be logical to use this debt mechanism if management and operation of the facilities were turned over to City staff, which is not currently prepared to handle these responsibilities in an optimal manner. Therefore the potential for a lack of operational efficiency may also result in a lack of economic feasibility, should this option be pursued.

Another option to consider would be use of lease/purchase debt financing through GMA's Bricks & Mortar program. Although the city has utilized this financing method before due to lack of viable alternatives, it is not as cost efficient as bond financing. In addition, as there are strict statutory limitations on how much of this type of debt can be issued, the City should caution against becoming saturated in lease/purchase debt. This debt capacity may be needed for emergencies and other capital priorities. This alternative would also only be used if the city were to operate and maintain the facilities. Therefore, this option would probably be the least economically feasible.

A third option would be to have a Recreation Authority created by the Georgia legislature through local legislation. Such an authority would be able to legally manage and operate the facilities, and would be able to issue cost-efficient revenue bonds to satisfy the existing debts of the development authority. Of the three options, it is staff's opinion that this third option would best meet the criteria set forth by the City Council of being both *legal* and *fiscally responsible.*

08-02-09 Discuss Intergovernmental Agreement with Development Authority
Weed gave a brief history of the work on the intergovernmental agreement. He continued that, at the outset, the Development Authority and Council did not see eye to eye. Weed said the committee had spent about 20 hours over the last three months working on the agreement and the draft agreement was on the dais. The agreement addressed the subsidy issues. He noted the Development Authority had accepted serious reductions in the subsidy to reach a compromise. Weed said the Development Authority had incurred substantial debt over the years, which must be paid by someone, and the City would assume the debt according to the agreement.

Weed moved to approve a funding subsidy contract with the Peachtree City Development Authority as found on the dais and recorded as Item # 08-02-09 contingency upon the following three contingencies:

1. A revision of Paragraph 3(c) by the City staff and the City Attorney, or his or her designee, to legally and with fiscal responsibility provide for debt service of debt incurred by the Development Authority in the amount of approximately $1.45 million.
2. That the provision of a highly-detailed and fully itemized accounting of what projects, programs, and activities the debt was incurred for be presented to the Mayor and Council for their consideration, and further,
3. That after the language described in the first contingency was developed, that such language be presented to the Development Authority for their consideration, review, and hopefully, consent by majority of the Development Authority and they would approve any revisions necessary in the contract.

Weed followed up and said Council realized $1.5 million was a great deal of money and the Development Authority was responsible to account for where the money had gone. He said he had no doubt they would do so to Council's satisfaction. He said he was also aware the City had to find an appropriate, fiscally responsible, and legal mechanism to service the debt. Tennant seconded.

Brown asked Weed to clarify his motion. Brown said that technically the Development Authority's debt was not the City's. Weed agreed, but pointed out the Development Authority had no other funding and the City owned the facilities (Tennis Center and Amphitheater).

Tennant noted the Development Authority was a separate legal entity from the City, but agreed with Weed that the City was ethically on the hook for the money. He complimented Weed and thanked the Development Authority members who worked on the agreement – Bob Brooks, Doug Warner, and Brian Palmitessa. The goal of the subcommittee was to come together professionally and honorably. Tennant continued the City had negotiated a favorable contract. The agreement was not the best of both worlds, but it was fair.

McMenamin said she was very encouraged by the contract and felt it was something that would allow the Development Authority to move ahead and get on with the business of economic development.

Salvatore noted that the City gave the Development Authority $5,000 a month for debt service under the existing agreement. He asked if he should stop paying the debt service to the Development Authority. Weed said the Development Authority had to approve the language and that the City should continue to pay under the alleged existing contract. He pointed out that until both entities signed it was not an agreement.

Brown expressed concern that the City might not legally be able to assume the Development Authority debt. He pointed out that the Airport Authority's debt service reduction had to go to referendum. Brown continued there needed to more openness between the two entities and that he wanted an open dialogue with the Tennis Center members. He said they had to avoid overages and running expenses out of debt.
Weed said it was a "time to heal" and asked Brown to support the agreement.

The motion carried 4-0-1 (Rapson).

SANDERS, HAUGEN, SEARS & MEEKER, P.C.

ATTORNEYS AT LAW
11 PERRY STREET
P. O. BOX 1177
NEWNAN, GEORGIA 30264-1177

(770) 253-3880
FAX (770) 254-0093

THEODORE P. MEEKER, III
E-MAIL: tmeeker2@numail.org

WALTER D. SANDERS
(1909 - 1989)

TO: Paul J. Salvatore, C.P.F.O.
Director of Financial Services
City of Peachtree City

FROM: Theodore P. Meeker, III
Sanders, Haugen, Sears & Meeker, P.C.

Earle R. Taylor, III
Kilpatrick Stockton, LLP

DATE: January 3, 2003

RE: Opinion on Intergovernmental Agreement between the City and the Development Authority of Peachtree City

---

We have been asked to provide a legal opinion with respect to the proposed Intergovernmental Agreement between the City and the Development Authority of Peachtree City (hereinafter "Authority"). In particular, we have been requested to provide an opinion with respect to the City assuming the indebtedness of the Authority and to further opine with respect to any other issues regarding the Agreement.

At the outset, certain facts will be assumed in this Opinion. First, it is our understanding that the Authority was established pursuant to O.C.G.A. § 36-62-1 *et seq.* Secondly, this opinion will <u>assume</u> that any debts incurred by the Authority are valid. Finally, it is our understanding that the Authority assumed operational control of the Amphitheatre and Tennis Facility in 1993 under an agreement with the City.

The first issue is whether the City can assume the Authority's indebtedness. Based upon the express language of O.C.G.A. § 36-62-10, it is our opinion that the City cannot assume such indebtedness. That provision states:

> "No bonds or other obligations of and no indebtedness incurred by any Authority shall constitute an indebtedness or obligation of the State of Georgia or of any county, municipal corporation, or political subdivision

> thereof, nor shall any act of any Authority in any manner constitute or result in the creation of the indebtedness of this State or of any such county, municipal corporation, or political subdivision."

In addition to O.C.G.A. § 36-62-10, Article IX, Section V, Paragraph I of the Georgia Constitution also prohibits the City from "assuming" or "paying" the Authority's debts without the assent of a majority of the City's qualified voters or as otherwise provided by law. This constitutional provision, also known as the New Debt Clause, functions to prevent a City from incurring new debt without a referendum on the issue.

One exception to the New Debt Clause is the Intergovernmental Contracts Clause that is found in Article IX, Section III, Paragraph I of the Georgia Constitution. This provision allows municipalities to contract with other governmental entities for joint services, for the provision of services, or for the joint and separate use of facilities or equipment provided that such contracts deal with activities, services, or facilities that the contracting parties are authorized by law to undertake or provide. It is important to note that the language of the Intergovernmental Contracts Clause requires both contracting parties to have the authority under law to undertake or provide the activities, services, or facilities.

This analysis was further clarified in Clayton County Airport Authority v. State, 265 Ga. 24 (1995). In Clayton County, a citizen objected to the validation of certain revenue bonds that were being issued. At issue was an agreement between Clayton County and the Airport Authority in which the Authority acquired the existing Airport Facility. In its analysis of the agreement, the Court reviewed whether the contract dealt with an activity, service, or facility which both Clayton County and the Airport Authority were authorized by law to undertake. As both entities had the requisite authority, the Court determined that the agreement was a valid intergovernmental contract.

Development Authorities, like municipal corporations, are creations of the State and possess only those powers that have expressly or implicitly granted to them, and such powers are to be strictly construed. *See* Porter v. City of Atlanta, 259 Ga. 526, cert. denied, 100 S.Ct. 1297, 494 U.S. 1004, 108 L.Ed.2d, 474 (1989). If there is any reasonable doubt of the existence of the power, it will be resolved against the entity. Kirkland v. Johnson, 209 Ga. 824, 825 (1953). While it is clear that the City is authorized by law to provide the activities, services, or facilities at issue, the question is whether the Development Authority has the same power.

O.C.G.A. §36-62-6 sets forth the powers of Development Authorities. In reviewing that code section, most of the enumerated powers are tied to a "project", as the term is defined in O.C.G.A. § 36-62-2(6). In addition, the exercise of a power by a development authority must further its constitutional purpose of developing trade, commerce, industry, and employment opportunities or the power is unconstitutional. *See* Odom v. Union City Development Authority, 257 Ga. 248 (1983). The Georgia Supreme Court held in Odom that projects that fulfill governmental functions do not develop trade, industry, or employment opportunities. None of the enumerated powers set forth in O.C.G.A. § 36-62-6 appear to authorize a development authority to own, operate or manage an Amphitheatre or tennis center. Even if these enumerated powers authorized a development authority to own, operate, or manage an amphitheatre or tennis center, the exercise of these powers would likely be unconstitutional under the reasoning employed in Odom, since the amphitheatre and tennis center are municipal facilities.

The question then becomes whether the operation or management of an Amphitheatre and/or tennis center is a "project" as the term is defined in the O.C.G.A. § 36-6-62-2(6). In reviewing the definition of the term project, there is not express authority given for the construction, operation, or managing of a tennis center or Amphitheatre. There also appears to be no implied power that would authorize such an undertaking by the Authority.

In Haney v. Development Authority of Bremen, 271 Ga. 403 (1999), the question presented was whether a proposed public golf course met the statutory definition of "projects" set forth in O.C.G.A. § 36-62-2(6). The Development Authority in Haney argued that two (2) paragraphs in O.C.G.A. § 36-62-2(6) provided the basis for concluding that the proposed golf course promoted trade, commerce, and industry. In particular, paragraph (H)(i) defines "project" to include "sports facilities". Secondly, paragraph (N), the final catch-all in the definition of "projects", provides that a project may be for "any industrial, commercial, business, office, parking, public, or other use" where the authority resolves that the project furthers "the essential public purpose of the development of trade, commerce, industry, and employment opportunities."

Construing the list of "projects", the Court concluded that the proposed golf course was not a sport-facility permitted under paragraph (H). According to the Court, the term "sports-facility" refers to a stadium, coliseum, arena, or similar structure used for professional and competitive sporting events and other large scale entertainment events. The Court further opined that term "sports-facility" does not mean a youth ball park, tennis complex, swimming pool, or golf course that is designed primarily to provide recreational opportunities for local residents and taxpayers.

The Court then considered whether the proposed golf course came within the Constitution's paragraph on Development Authorities or the catch-all provision set forth in Paragraph (N) of O.C.G.A. § 36-62-6(2). The Court concluded that the proposal to construct a public golf course was designed to fulfill the governmental function of providing recreational facilities and services to area residents. Despite charging admission fees in an attempt to cover its operating expenses and debt service, the Court determined that the project was not a traditional business enterprise conducted for profit and thus does not meet the definition of a trade, industry, or commerce.

Accordingly, the Court held that the golf course was neither a sports facility nor within O.C.G.A. § 36-62-6 (2)(N), and was therefore not a project within the meaning of the development authorities law as it was not a project as defined, the Development Authority could not issue revenue bonds for the construction of the facility. The Court also held that the golf course violated the Georgia Constitution since it was not for the public purpose of developing trade, commerce and industry. Rather, it merely fulfilled the governmental function of providing recreational facilities and services to area residents.

It is doubtful that a Development Authority could own, manage, or operate an amphitheatre or tennis center based upon the Supreme Court opinion in Haney. While Haney dealt with the issue of whether a Development Authority could issue revenue bonds for the project at issue, the core principle in that decision is the power granted to Development Authorities under Georgia Law. This conclusion is based on (1) the lack of power for such an authority to do so as set forth in O.C.G.A. § 36-62-6, (2) the apparent failure of either of said facilities to be included in the definition of the term "project" in O.C.G.A. § 36-62-2(6), and (3) the constitutional limitation on powers of development authorities, namely, that they be exercised to promote trade, commerce, industry, and employment opportunities.

In addition, O.C.G.A. § 36-62-7 provides that no project acquired by a development authority shall be operated by said authority or any municipal corporation, county, or other governmental subdivision. It again naturally flows from this premise that, if an authority is unable to manage or operate one of its own projects, it cannot operate similar projects or facilities of other governmental entities. Again, the power of the Authority is to be strictly construed, and any ambiguity will be resolved against the Authority.

In summary, it is doubtful that the development authority is authorized by law to operate or manage either the tennis center or amphitheatre on behalf of the City. Given this conclusion, any agreement between the City and the Development Authority would not come under the Intergovernmental Contract Clause of the Georgia Constitution, as said provision requires that any such intergovernmental contract must deal with the activities, services, or facilities which the contracting authorities are authorized by law to undertake or provide.

Furthermore, as the Development Authorities Law seemingly does not provide that such an Authority is authorized to operate or manage these types of facilities or provide these types of services, it is also doubtful that any contracts authorizing the Authority to do so are valid.

Again, if the contract is drawn into question, so to is the City's ability to assume the indebtedness of the Authority. Even if we were to assume that the agreement was a valid intergovernmental contract, O.C.G.A. § 36-62-10 seems to preclude the City from assuming such indebtedness. In Nations v. Downtown Development Authority, 255 Ga. 324 (1986), the Georgia Supreme Court held that a city's guarantee of a downtown development authority's debt was not a contract for services, facilities, or equipment that comes within the Intergovernmental Contract Clause of the Georgia Constitution, or an activity, service, or facility that the city was authorized by law to undertake or provide. The City's assumption of the Authority's debt would probably be analyzed in a similar manner.

There are different ways that the City can satisfy the indebtedness incurred by the Authority. First the City can hold a referendum on whether the debt can be incurred. The second option would be to have a Recreation Authority created by the Georgia legislature through local legislation. If a Recreation Authority was established, that Authority could then operate and manage both facilities, and could also make provision for the existing obligations of the Development Authority. Those obligations could then be satisfied through the issuance of revenue bonds by the Recreation Authority, to be repaid from funds paid to the Recreation Authority by the City under an intergovernmental contract and revenues received from the operation of the facilities. Finally, the City could utilize GMA's Bricks & Mortar Program under which the City would sell certain assets and lease them back from GMA. Based upon our previous discussions, it is my understanding that the City is familiar with this type of lease/purchase financing. Please note, however, that the lease/purchase financing scenario would still require the creation of a Recreation Authority to operate and manage the facilities unless, of course, the City chose to handle such functions.

Of course, we are willing to meet with both the City Council and Development Authority and its counsel to discuss the opinions set forth in this memo in greater detail. In addition, we are also willing to consider any contrary viewpoints that can be offered from either the Development Authority or its attorney in an effort to clarify and resolve the issues addressed in this memo.

CITY OF PEACHTREE CITY

INTEROFFICE MEMORANDUM

TO: Mayor and Council

VIA: Interim City Manager CWA

FROM: City Clerk

DATE: January 7, 2003

SUBJECT: Alcoholic Beverage License – NEW – Chic'N D'Lite Cafe

---

Chic'N D'Lite Cafe, a new restaurant located at 520 Crosstown Road, has applied for an alcoholic beverage license. Mr. Wayne P. Morrison has asked that he be appointed as the Licensee. Ms. Lori Elizabeth DeLeonardis (DeLemardis) has requested she be appointed as the License Representative.

Both Mr. Morrison and Ms. DeLeonardis will attend the January 16th Council meeting to answer any questions you may have.

JSM:pd

Attachments

Peachtree City
Georgia

State of Georgia

City of Peachtree City:

I, James V. Murray, Chief of Police, for the City of Peachtree City, do hereby certify that:

Wayne P. Morrison
Name

4862 Watson Circle Gainsville, GA 30705
Address

has been investigated and found not to have been convicted of, nor to have entered a plea of nolo contendre, to any felony or misdemeanor relating to the sale or use of alcoholic beverages or illegal drugs within five (5) years prior to the date of the application for this license.

James V. Murray
Signature

Sept. 26, 2002
Date

Major R. M. DuPree
Witness

151 Willowbend Road • Peachtree City, Georgia 30269 • (404) 487-7657

Peachtree City
Georgia

State of Georgia

City of Peachtree City:

I, James V. Murray, Chief of Police, for the City of Peachtree City, do hereby certify that:

LORI ELIZABETH DELEMARDIS
Name

234 CEDAR DRIVE PEACHTREE CITY, GA. 30269
Address

has been investigated and found not to have been convicted of, nor to have entered a plea of nolo contendre, to any felony or misdemeanor relating to the sale or use of alcoholic beverages or illegal drugs within five (5) years prior to the date of the application for this license.

James V. Murray
Signature

Dec. 19, 2002
Date

Major R. M. Dufer
Witness

peach tree city

CITY OF PEACHTREE CITY
151 WILLOWBEND ROAD
PEACHTREE CITY, GA 30269
(770) 487-7657

APPLICATION FOR ALCOHOLIC BEVERAGE LICENSE

Business Name: Chic'N D'Lite Cafe	**Business Location:** 520 Crosstown Road Peachtree City, GA 30269	
Nature of Business: Restaurant	**Mailing Address:** 520 Crosstown Road Peachtree City, GA 30269	**Business Phone Number:** -
Name of Licensee: Wayne P Morrison	**Home Address:** 4862 Watson Circle Gainesville, GA 30705	**Home Phone Number:** 770-535-1822
Name of License Representative: Lori Elizabeth De Leonardis	**Home Address:** 234 Cedar Drive Peachtree City, GA 30269	**Home Phone Number:** 678-364-9011

[illegible]

Retail Consumption Dealer		Retail Package Dealer		Wholesale Dealer	
✓	Malt Beverage		Malt Beverage		Malt Beverage
✓	Wine		Wine		Wine
✓	Distilled Spirits		Distilled Spirits		Distilled Spirits

[illegible]

NAME Individual Owner's Name, Partners' Names, Corporation Name and the name of the name of a Contact Person regarding License Changes, Taxes, etc.	**ADDRESS** Please provide Home Addresses for the individuals listed:	**PHONE NUMBERS** Please provide Home and Business Phone Numbers for individuals listed:
Chic'N D'Lite Cafe	520 Crosstown Road Peachtree City, GA 30269	
Wayne P. Morrison	4862 Watson Circle Gainesville, GA 30705	770-535-1822
Junior Moss	2600 Brushy Nob Lane Stockbridge, GA 30281	770-474-9105

Is any person who owns an interest in the license an employee of the City of Peachtree City? NO

CITY OF PEACHTREE CITY

INTEROFFICE MEMORANDUM

TO: **Mayor and City Council**

VIA: **Colin Halterman, Acting City Manager** CWH

FROM: **Paul Salvatore, Director of Financial Services** P.S.

DATE: **January 7, 2003**

SUBJECT: **Consider Creation of a Recreation Authority**

As mentioned in the discussion on the intergovernmental agreement with the Development Authority, it is staff's opinion that issuance of revenue bonds through a Recreation Authority, responsible for managing and operating the tennis center and amphitheater facilities, would provide an arrangement that is both legal and fiscally responsible. If Council wishes to pursue this option, they will need to authorize staff to proceed with taking actions necessary to create the new authority and issue debt. In particular, we will need to identify a sponsor on the local legislative delegation that will work with City legal counsel to draft and introduce the enabling legislation necessary to create the recreation authority. The legal fees required to accomplish this are estimated to be about $8,500, according to Earle Taylor.

Mr. Taylor has also stated that the legal fees associated with creating new intergovernmental agreements can be paid with the proceeds of the revenue bonds that would be issued in order to satisfy the development authority's existing debts. Staff does not yet have an estimate for this expense, or other bond issuance costs. However, we do anticipate a cost savings as a result of refinancing the development authority's debts through the issuance of revenue bonds.

As the state legislature is now in session and there is a two-week advertising requirement for the Notice of Intent, City staff, legal counsel and the sponsor would need to act expeditiously in order to move such a bill on to the local legislative committee and have it considered for enactment. Also, as interest rates are currently very low, it would be a good time to move forward with issuance of revenue bonds.

Again, staff requires Council's authorization to move forward with taking these actions, should Council decide to pursue this option.

Pam Dufresne

From: Chris Clark [cclark@fayettega.org]
Sent: Wednesday, January 08, 2003 3:19 PM
To: Pam Dufresne
Subject: RE: Jan. 16th City Council

Pam-

As per your request please accept this email as verification that I will attend and address the City Council on Thursday, January 16 at 7pm. During my time I will provide the Council with an overview of our most recent economic development quarterly report. This report will detail the amount of business prospect activity, announcements to date and small business contacts. I will then accept questions from the Council. If possible, I would like to bring my projector and laptop to better illustrate my presentation. Thank you for your help in coordinating this presentation.

Chris

--

CHRIS CLARK, CEcD
PRESIDENT/CEO
FAYETTE COUNTY DEVELOPMENT AUTHORITY
200 COURTHOUSE SQUARE
PO BOX 142340
FAYETTEVILLE, GEORGIA 30214
770.461.5253
770.460.0259 (FAX)
cclark@fayettega.org
www.FayetteGa.org

CITY OF PEACHTREE CITY

INTEROFFICE MEMORANDUM

TO: **Mayor and Council Members**

FROM: **Colin Halterman**

DATE: **January 10, 2003**

SUBJECT: **Funding for Hwy 74/Dividend Drive Lane Improvements**

Council Member McMenamin requested that this item be added to the agenda for discussion. As you know, DOT is willing to provide for the installation of a traffic signal for the Highway 74/Dividend Drive intersection (see attached letter) but funding for the needed lane improvements will be the City's responsibility.

City Engineer Troy Besseche is finalizing costs for this project and will forward the information to you prior to the January 16 Council meeting

CWH/jsm

Attachment

Department of Transportation

J. TOM COLEMAN, JR.
COMMISSIONER
(404) 656-5206

FRANK L. DANCHETZ
CHIEF ENGINEER
(404) 656-5277

State of Georgia
#2 Capitol Square, S.W.
Atlanta, Georgia 30334-1002

HAROLD E. LINNENKOHL
DEPUTY COMMISSIONER
(404) 656-5212

EARL L. MAHFUZ
TREASURER
(404) 656-5224

September 5, 2002

The Honorable Mitch Seabaugh
P. O Box 504
Sharpsburg, GA 30277

RE: SR74 in Fayette County

Dear Senator Seabaugh,

As you are aware, in response to our meeting of August 8, 2002, we were able to accelerate the acquisition of right of way for the widening of SR74 from Crosstown Rd. to SR54 in Fayette County. Further to that meeting I requested that you and Mr. Dunn identify potential activities that might provide interim relief until the widening of SR74 could get underway.

In follow up to that request, you proposed that the Department assist with the installation of a traffic signal at SR74 and Dividend Dr. We have investigated your request and find that the signal permit was issued to Peachtree City in February of this year. The permit calls for a stop and go traffic signal and auxiliary turn lane installation on SR74 and Dividend Dr. In response to your request, the Department is willing to provide for the installation of the traffic signal. Responsibility for the turn lane construction will remain with Peachtree City. Please have the appropriate person from Peachtree City contact Mr. Phillip Allen at (404) 635-8129 to coordinate this activity.

Sincerely,

Tom Coleman

J. Tom Coleman, Jr.
Commissioner

JTC:PVM:gc

Cc: Mayor Steve Brown
Harold Linnenkohl
Frank L. Danchetz, P.E.
David Studstill
Phillip Allen