City Council of Peachtree City
Minutes of Special Called Meeting
November 29, 2006
6:30 p.m.

The City Council of Peachtree City held a Special Called Meeting on Wednesday, November 29, 2006, in the City Hall Council Chambers. Mayor Logsdon called the meeting to order at 6:35 p.m. Other Council Members present were: Steve Boone, Stuart Kourajian, Cyndi Plunkett, and Judi Rutherford.

The purpose of the meeting was to consider a bond resolution and agreements regarding the Development Authority of Peachtree City (DAPC) and a construction contract for site grading and drainage at the Peachtree City Tennis Center.

Logsdon noted that City Manager Bernard McMullen and City Attorney Ted Meeker were finishing an earlier meeting with the DAPC and should arrive soon.

Plunkett moved to adjourn the meeting until the City Attorney and City Manager finished their meeting with the DAPC and arrived. Rutherford seconded. The motion carried unanimously.

At 6:46 p.m., Rutherford moved to reconvene the meeting. Plunkett seconded. The motion carried unanimously.

Meeker addressed Council. He said Council was to consider a proposed transaction, which included the revenue bond issue as well as settlement agreements with respect to the DAPC lawsuits. Staff had spent a considerable amount of time going through the DAPC records to track expenditures for capital projects. Peachtree National Bank had claimed that the loans were made for capital improvements, rather than other expenditures. Staff had been able to track the DAPC's capital expenditures and offset the amount with funding provided by the City during the 10-year period the DAPC operated the venues. They arrived at a number, and there were negotiations with the bank, which resulted in the proposed settlement.

Meeker continued that the issues with Group VI and Foley Design Associates dealt with Phase 3 of the Tennis Center. The amounts included the principal amounts that were claimed less a credit that would be given to the City with respect to some remedial work required to take care of the drainage issues at the Tennis Center.

Bond Attorney Earle Taylor explained the transaction. The City currently owned the Amphitheater and the Tennis Center. The City would sell the venues to the DAPC, which was authorized to buy the assets by virtue of the changes to development authority law made by the state legislative. To raise the money to buy the venues, the DAPC would issue a revenue bond with RBC Centura Bank in a private placement transaction. It was a taxable bond bearing interest of 5.93% over 10 years.

Taylor continued that the City would take the proceeds from the sale of the venues to the DAPC and settle the lawsuit claims with Peachtree National, Group VI, and Foley. The City would then agree to buy back the Tennis Center and Amphitheater from the DAPC for installment payments on the purchase price equal to the debt service payments on the DAPC's revenue bond. The DAPC would immediately convey the titles to the venues back to the City so that at the end of the day of closing the City would have sold the venues to the DAPC and bought the venues back from the DAPC. There would be a deed from the City to the DAPC, then the DAPC would deed the property back to the City so the City would then own, operate, and manage the venues just as it was currently done.

Taylor said the City would be left with an obligation to make installment payments on the purchase price over the 10-year term of the bond equal to debt service payments on the bond. The DAPC would collaterally assign to RBC Centura Bank its rights in that agreement of sale entered into with the City so that RBC Centura Bank, in the event of a problem over the life of the bond, could enforce the contract in the name of the DAPC against the City to have the City make the payments. The City's obligation, under the agreement of sale, would be an absolute and unconditional obligation backed by the City's full faith and credit and taxing power.

Taylor continued that they were able to convey the venues from the City to the DAPC and buy them back pursuant to the intergovernmental contracts clause of the Georgia constitution, which allowed two government bodies such as the DAPC and the City to contract with one another in this manner. The transaction structure was devised in order to carry out the settlement.

Logsdon said it had been a long process. This was not a good chapter in the City's history. He did not know if there was a right decision, but this was the best decision for the City, in his opinion.

Steve Brown, former mayor, said it was a done deal. There was no easy way to take out garbage, but it had to get out of the house sometime. He asked Council to reconsider taking the Council Member off of the Peachtree City Tourism Association (PCTA). He noted that was how the City had gotten into this situation in the first place. The accountability had broken down. There was no harm in having a Council Member serve on the PCTA because the Council Member would be in every executive session and would be responsible for reporting back to the other Council Members.

Logsdon asked Brown if he felt a Council Member should serve on all the City's authorities and commissions. Brown said he would not have a problem with that at all. He noted that the Peachtree City Airport Authority (PCAA) had had its own problems recently. Sometimes those boards needed guidance, and a Council Member could be a rational voice from another entity who also had access to legal and financial expertise. Rutherford said every Council had the opportunity to make the authorities accountable. If a Council chose not to do that, then what happened happened. Council Members had the opportunity to attend the other boards' meetings and to have them make presentations to Council. Several Councils chose to not hold the DAPC accountable. She questioned why there would be a need for the authorities if a Council Member served on each one. The accountability came back to Council.

Juan Matute said Council needed to be more transparent. The notice for the special called meeting had gone out the day before Thanksgiving, when many residents had gone out of town. The perception was that Council was trying to get around the residents. He questioned the City's liability for the DAPC's loans. Logsdon said the intent had been to give a week's notice for the meeting, and Thanksgiving happened to be in the way.

Dave Gardner told Council he was glad it was over. He asked what safeguards would be put in place if a Council Member did not serve on committees and authorities. He asked if there was a ceiling on the amount of debt the entities could enter into. Meeker said the process had been educational for the City and the local business community in terms of how local governments were to transact business. At this point, whether it was the DAPC, WASA, or the PCTA, there typically had to be some backing from the City for any bond issues. Since the matter came to the forefront, bank loans were now going through different channels. There were safeguards in place. Now it was a question of better oversight by Council, the authorities, and everyone involved. Logsdon said the awareness of the Council and the authorities was better now than in the past. Rutherford added that the DAPC had also been in a unique situation at that time as far as the bank loans since one of the DAPC members was president of the bank, and things had happened that might not have happened otherwise. The safeguards were in place and had been addressed.

The discussion continued from the audience. Gardner asked if a member of Council could attend executive sessions of any of the City's boards. Plunkett said they could attend meetings, but only the members could attend executive sessions. Rutherford said the purpose of an authority was to run things the City should not directly run. If a Council Member sat on an authority, the authority was not conducting business. WASA conducted a business and billed the City for services just as it billed everyone else. A board with a Council Member serving on it could wind up making political decisions not business decisions. Gardner said a volunteer with special interests was dangerous. Rutherford agreed, and added that was one reason why the applicants were interviewed, and the interview panel tried to ask those kinds of questions. Kourajian said that was also the reason there were interviews for anyone who was re-appointed, and that the terms were set.

Brian Dingivan asked what mechanisms were in place to ensure the venues were profitable and would not cost the City further. McMullen said, in terms of guarantees, they were businesses. The PCTA worked on profitability every day. He continued that he and Finance Director Paul Salvatore served on the PCTA's Finance Committee, which met monthly with the executive director and her staff to ensure they complied with the budgets, which were more detailed than in the past. There were no guarantees, but everyone worked very hard to make the venues profitable. The venues had been profitable since they had been run by the PCTA; a majority of the profit had been reimbursed to the City for any tourism-related events, which had happened for the three years the PCTA had managed the facilities.

Rutherford said that the PCTA budget revenue was comprised of the hotel/motel tax, Tennis Center membership fees, and Amphitheater ticket sales. She said, while the City was reimbursed for the tourism-related events, it did not guarantee that either venue made a profit. One of the philosophical discussions every community faced was whether recreational facilities supported by tax dollars should make a profit or cover their own costs. Part of the problem with the Tennis Center was the perception it was a private club rather than a public recreational facility. She noted the cost to run all the pools was over $1 million, and the offsetting revenue was not $1 million. Logsdon added that the cost to run the Kedron Fieldhouse and Aquatics Center alone was over $1 million annually, and that was not recouped.

Taylor said there should be a motion to adopt the authorizing resolution, which authorized the City to enter into the agreement of sale with the DAPC and to enter into a settlement agreement with Peachtree National Bank and into a settlement agreement with Group VI and Foley. The DAPC would also be a party to those settlement agreements, and the DAPC had authorized all in the earlier meeting.

Rutherford asked Meeker if he was comfortable with all the paperwork. Meeker said he and Taylor had drafted everything.

Rutherford noted the draft and final version of the authorizing resolution was on the dais. Rutherford questioned the $36,000 that was to be held in escrow. Meeker said that money was being held in escrow pending completion of the drainage work at the Tennis Center. If Group VI failed to complete the work, that money would be used to get the work done.

Logsdon moved to adopt the authorizing resolution. Kourajian seconded. The motion carried 4-1 (Rutherford).

Meeker referred to the proposed construction contract for the drainage work at the Tennis Center. The original estimate was approximately $80,000. The contract price had been reduced to correspond with the offset that corresponded to the money held in escrow. The City was receiving a credit for that amount.

Rutherford asked for clarification. Meeker explained that there were some extras that were needed. The $36,000 was the reduction in the contract price from the original price of approximately $87,000. The contract Council was to consider was for approximately $52,000. The $36,000 was to be withheld pending completion of the contract. The City was paying the money under the terms of the settlement agreement, but was withholding that portion of the payment. The scope of the project was larger than $52,000 based on the cost estimate. Rutherford asked if the $52,000 included the extra work the City wanted done. Meeker said it included the extra work and the remedial work. McMullen continued that the City was settling with Group VI for $180,000. The estimate of the work at the Tennis Center was $87,000, which was a total of $267,000. Of the $180,000, the City was holding back $32,605 of the $87,000.

Rutherford moved to approve the construction contract with Group VI and Foley Design for $54,587.80. Boone seconded. The motion carried unanimously.

Rutherford said that, before the escrow money was released, there should be a report on the work to Council, and nothing was to be paid until it rained.

With no other business to discuss, Rutherford moved to adjourn the meeting. Kourajian seconded the motion. The motion carried unanimously

The meeting adjourned at 7:20 p.m.

Jane Miller, City Clerk

Harold K. Logsdon, Mayor

Pamela Dufresne, Recording Secretary