City Council of Peachtree City
Minutes of Regular Meeting
November 18, 2004
7:00 p.m.

The City Council of Peachtree City met Thursday, November 18, 2004, in the City Hall Council Chambers. Mayor Brown called the meeting to order at 7:00 p.m. Other Council Members present were: Stuart Kourajian, Steve Rapson, Judi Rutherford, and Murray Weed.

Announcements, Awards, Special Recognition

Mayor Brown announced "Christmas at the Fred" on Saturday, November 20, 6:30 p.m., at the Frederick Brown, Jr. Amphitheater. After the program, the tree lighting would be held at the City Hall plaza.

Mayor Brown proclaimed November 26 through December 24 as "Shop Peachtree Month." Building Official Tom Carty was recognized for 10 years of service. Nancy Moll of the library was recognized as the Employee of the Month for October. The Starr's Mill High School Girls Volleyball Team was recognized as the state's 5A champion and the first public school on the south side to take the state title.

Minutes

Rutherford moved to approve the October 21, 2004, regular meeting minutes as amended and corrected. Rapson seconded. The motion carried unanimously. Brown noted that the official transcript from the court stenographer was used as the minutes for the Target agenda item.

Rutherford moved to approve the November 4, 2004, regular meeting minutes as written. Rapson seconded. The motion carried unanimously.

Consent Agenda

1. **Alcohol License – Change in Licensee and License Representative – Buckner Petroleum/BP**
2. **Alcohol License – Change in License Representative – Kwickie/Flash Foods**
3. **Consider Appointments to WASA**
4. **Consider Budget Amendments**

Rutherford moved to approve the Consent Agenda. Weed seconded. The motion carried unanimously.

New Agenda Items

11-04-07 Consider Request from Lawson Mardon for Use of Existing Smoking Room

Ron Syrkos, vice-president and general manager of ALCAN Packaging (formerly known as Lawson Mardon), addressed Council regarding his request to allow his employees to use an existing smoking room in the facility. He said ALCAN Packaging Atlanta had approximately $70 million in annual sales and employed approximately 170 people. The Atlanta facility was part of the ALCAN Corporation, a Canadian company with over $25 billion in revenues. The corporation made aluminum and packaging products, with the packaging side serving the cosmetic, food, and tobacco industries.

Syrkos noted the recent news stories about his request and said he did not feel the request warranted that type of publicity. He added that his company had nothing to do with the publicity. The letter had been sent only to the Mayor. He continued that his company made folding specialty cartons for many industries, including the tobacco industry.

Syrkos continued that an employee had complained about bad smells and secondhand smoke in the facility. The complaint originated from the cafeteria, which was half smoking and half nonsmoking, separated only by an imaginary line. He added that the company's employees were highly trained and their goal was to accommodate the employees if possible. Over $100,000 was spent to renovate the cafeteria, which including the addition of a smoking room with proper ventilation. The engineers and builders, Tiernan & Patrylo, researched and chose an adequate system. The room was separate and isolated, with proper ventilation and negative air pressure.

Syrkos said the City Manager and Assistant City Manager recently visited the facility and looked at the smoking room. Syrkos said they found their report satisfactory and were requesting that the company be granted its request.

Brown explained to Syrkos that his letter about the request was included in the meeting packet, which was available on the City's website. Brown said that ALCAN had gone to a lot of trouble to build the room, which seemed to perform as intended. He questioned whether Council should create a standard for such rooms before granting a variance.

City Manager Bernard McMullen told Council that staff had used the mechanical code adopted by the City, which included standards for a smoking lounge. The room met all those qualifications. He recommended that the City use the standard in the mechanical code.

Weed clarified with City Attorney Ted Meeker that a smoking lounge was not currently allowed under the ordinance. He noted that people were not prohibited from smoking on private property, but had to be 10 feet away from the front entrance. Weed said ALCAN's employees could smoke to their heart's content, outside. Syrkos said he had a problem sending his highly trained, highly skilled employees outside to smoke in 30-degree temperatures and rain, when they could smoke inside. Weed said he had a problem with secondhand smoke affecting people who did not smoke. Syrkos said he agreed and that was why they built the smoking room to address the problem before the ordinance was in effect.

Weed expressed concern about the tone of Syrkos' letter. He read the following excerpt from the letter:

> *I am asking that you amend your act to ensure that the rights of everyone in this community are protected and upheld and not only those of the non-smokers. We will not support a Community that does not support our legal rights to choose and make our business and personal decisions freely.*

Weed asked Syrkos if he intended to close the Peachtree City facility since there seemed to be a veiled threat. Syrkos said they did not plan to close the facility at this point.

Kourajian asked questions about the mechanical code. McMullen said the mechanical code was used by the Building Department to evaluate all the mechanical systems submitted. The requirements for a smoking lounge were part of that mechanical code. McMullen conferred with Building Official Tom Carty when the smoking room was evaluated. Kourajian asked how the criteria in the mechanical code stacked up to the code used in other states and countries. McMullen said the City used the 2000 International Mechanical Code, which was widely used in the United States and internationally. Not every municipality adopted this particular code. Carty verified that the code was widely used. Syrkos said they had similar plants in other countries and the governments in those countries allowed smoking rooms. Syrkos pointed out that the room was not a lounge, but an area where smokers could have a cigarette without affecting nonsmokers. In some countries, television, couches, and other comforts were prohibited.

Rapson said they needed to amend the ordinance and define a smoking room to be the same standard for compliance as what was found in Table 4033 of 2000 International Mechanical Code. Other bullet points Rapson considered essential were that the air would not be recirculated, there be negative air pressure, the room be separately ventilated, and the number of people in the room would be restricted (60 cfm per person), and that businesses comply with that standard. Rapson said the only reason the criteria was not included in the ordinance in the first place was because Council did not want businesses to spend a lot of money to build such rooms. Rapson added that Council hoped the state would prohibit smoking statewide and make the issue moot.

Brown noted that traditionally businesses had gazebos or other covered areas outside for smokers. He asked if there would be a mechanism to test negative airflow. Rutherford asked if it would not be the responsibility of the building inspector to check the negative airflow. McMullen said the airflow in the ALCAN smoking room was verified by the check and balance report from a testing and engineering firm. Rapson said such a report should be another bullet point. Syrkos said his instructions to the engineers were to do build the room right the first time.

Kourajian asked if the 2000 Code was the most recent. Carty verified that it was the most recent. McMullen said the ordinance could read, "the most current code adopted by the state," rather than stating a year. Kourajian said they should also add to the ordinance that the air would go directly outside, and there should be a physical barrier. Rapson said that would be redundant, but he would rather see the ordinance specifically state what was required. Syrkos said they offered to pay for lunch and breaks to keep their equipment running continuously. Only five or six people were in the room at any one time.

Rutherford commended Syrkos and his company for what they had done for their employees. Kourajian asked Syrkos if employees were still permitted to smoke in their offices. Syrkos answered that smoking in offices would cease according to the ordinance. He continued that the plant was nonsmoking due to solvents and other safety issues. All public areas and rooms where there were multiple employees were nonsmoking. People had been permitted to smoke in individual offices, but no one else had to enter those offices.

Rutherford moved to have staff amend the ordinance based on the mechanical code and the direction of Council. Rapson seconded. The motion carried unanimously.

Syrkos told Council that ALCAN Packaging had been in Peachtree City since 1996. The company was proud to be part of the community. Weed told Syrkos that the Council was a reasonable group that did not have to be threatened. Weed said he voted in favor of the request because it was reasonable. He suggested that next time Syrkos appeal to Council's reason.

Brown directed staff to send out a press release denoting the guidelines in the amendment when the amendment was ready.

11-04-08 Consider Appointment of Auditing Firm

Financial Services Director Paul Salvatore recommended that Council appoint Mauldin & Jenkins, LLC, for auditing services for the fiscal year ending September 30, 2005, with two one-year automatic renewals. Salvatore also recommended Council authorize the Mayor or City Manager to sign the agreement required for services after the agreement was reviewed by the City Attorney.

Salvatore continued that Mauldin & Jenkins were the premiere government auditors in the state. The company also audited the Development Authority of Peachtree City and the Peachtree City Tourism Association, which would provide operational efficiencies with same firm auditing all three entities. He said the fees were reasonable and would not impact this fiscal year since all the services were after the year-end. Rutherford expressed concern that only one firm responded to the RFP. Salvatore said the Request for Proposal (RFP) was sent to 14 firms. Two firms attended the pre-proposal conference. Mauldin & Jenkins submitted the only proposal.

Rutherford noted that the auditing services selection would be almost a sole source situation. Salvatore said the reasons for not submitting a proposal included too much travel time, and too many other audits at the same time. Rapson said most firms were transitioning away from small cities to counties. He added that he served on the selection committee for Fulton County, which had selected Mauldin & Jenkins. He questioned whether that would be a conflict of interest. City Attorney Ted Meeker said there was no conflict since Rapson would not gain anything personally from the selection. Weed added that he and Rapson both served on the Tourism Association and asked for verification that that relationship was not a conflict of interest. Meeker said there was no conflict. Rapson noted that the Tourism Association's approval of Mauldin & Jenkins was contingent upon the City's selection. Rapson said the Tourism Association wanted to use the same audit services as the City, and if Mauldin & Jenkins were not approved, then they would have to go through the process again.

Rutherford moved to approve the appointment of the auditing firm as directed by staff. Rapson seconded. The motion carried unanimously.

11-04-09 Consider Amendment to Defined Benefit Pension Plan for Part-time Employees

Administrative Services Director/City Clerk Jane Miller addressed Council and said staff had found, after leaving the Georgia Municipal Association plan, that not all of the City's part-time employees had worked the required 1,040 hours per year. She said the City had 11 part-time employees who had worked 1,040 hours for at least one year of their employment. Miller said staff recommended eliminating part-time employees from future participation in the plan by the end of the year. Part-time employees who had worked 1,040 hours for at least one year would be grandfathered into the plan and allowed to participate. Future part-time employees would not be allowed to participate in the plan.

Miller continued that staff had met with all employees that were affected. Only one employee had some concern. Many of the employees were not working for the pension benefit, while others did not know they were eligible. Part-time employees would continue to be eligible under the 401/457 plans. She added that employees had to qualify for five years to be vested. Rapson said eliminating part-time employees from the plan would favorably affect the pension benefit obligation in future years since some of the employees would be removed from the calculation.

Kourajian questioned how the grandfathering would work and if every year a part-time employee worked 1,040 hours applied to retirement after the required five years. Miller said every year a part-time employee worked 1,040 hours, that year would be credited toward retirement.

Rapson moved to approve the attached proposed amendment to the defined benefit pension plan regarding part-time employee eligibility. Rutherford seconded. The motion carried unanimously.

11-04-10 Consider Amendment to Pension Plan Regarding Payment to Estate

Clark Weeks, consultant, addressed Council and recommended that Article VI, Section 6 of the pension plan be deleted. The plan already had provisions for employees to choose a beneficiary, and to allow the spouse, children, or parents, to benefit in the event there was no beneficiary named. Deleting the section liberated the City from the freak occurrence of having to search for people if the employee had no family left when the employee died. Weeks said this could happen if an employee had not submitted a form and no one in his or her family was alive when the employee died. Kourajian asked if they could allow the will to take over in that event. Weeks said that there had to be a beneficiary.

Weed said this was similar to a contract engagement, rather than a will. He said insurance proceeds were basically contracts. A friend could be made a beneficiary under the contract rights, while the rest of the estate could go to the family.

Rutherford moved to approve the amendment to the pension plan regarding payment to estate as submitted by staff. Rapson seconded. The motion carried unanimously.

11-04-11 Consider Amendment to Pension Plan Regarding Actuarial Equivalences

Weeks noted that this amendment was an equity issue. He said the City's earlier plan had set a standardized factor and assumed everyone would retire at age 65. The plan was subsequently changed so Public Safety employees could retire at 55. The factors were not equitable for someone who retired at a younger age. The amendment changed the plan so the math was the same.

Rapson moved to approve the amendments to Article X, Sections 1—7 and to add Section 8 as outlined. Weed seconded. The motion carried unanimously.

11-04-12 Consider Amendment to Pension Plan Regarding Special Retirement Benefits

Brown noted there was an additional document on the dais – an e-mail from the City Manager to Council dated November 16, 2004, with the subject "Additional Change Reference Agenda Item 11-04-12."

Weeks explained that this amendment reduced the cost when it was elected to use the pension plan to pay someone a benefit for any purpose. The amendment allowed the City to do this as long as it was done in a way that was nondiscriminatory without having to amend the plan again. He said overhead and cost would be reduced if the City ever elected to do anything.

Weed moved to approve the amendment to Article IV. Retirement Benefits and read *Section 5. Special Retirement Benefits The Board may at its sole discretion, from time to time, offer benefit enhancements, or the opportunity to retire under specified terms and conditions to an Employee or group of Employees*. Rapson seconded. The motion carried unanimously.

11-04-13 Consider Increase in Employee Life and AD&D Insurance

Miller asked Council to consider staff's recommendation to increase the Employee Life and AD&D Insurance from one times the annual salary to a maximum of $50,000 to one times the annual salary to a maximum of $100,000. She explained that when the insurance was initially provided, no employee made $50,000. Since then salaries had increased and there were now 45 employees who made more than $50,000 a year. Increasing the maximum would cost the City approximately $2,184, or approximately seven percent, each year. There would be some minor tax ramifications for the employees; however, that would not be difficult to track according to the Finance Department.

Rutherford moved to approve the recommendation to increase the Employee Life Insurance and AD&D to the $100,000 maximum. Rapson seconded. The motion carried unanimously.

Rutherford moved to reconvene in executive session to discuss pending litigation. Rapson seconded. The motion carried unanimously.

Rutherford moved to reconvene in regular session. Rapson seconded. The motion carried unanimously.

There being no further business to discuss, Rapson moved to adjourn the meeting. Brown seconded. The motion carried unanimously. The meeting adjourned at 8:00 p.m.

Jane Miller, City Clerk

Stephen D. Brown, Mayor

Pamela Dufresne, Recording Secretary