

**Minutes of Meeting
September 16, 2010
7:00 p.m.**

The City Council of Peachtree City met Thursday, September 16, 2010, in the City Hall Council Chambers. Mayor Don Haddix called the meeting to order at 7:00 p.m. Council Members present: Vanessa Fleisch, Erik Imker, Kim Learnard, and Doug Sturbaum.

Announcements, Awards, Special Recognitions

There were none.

Citizen Comment

Robert Brown thanked Mayor Haddix for his reports in the newspapers regarding the Atlanta Regional Commission's (ARC) Transportation Special Purpose Local Option Sales Tax (TSPLOST), which should be on the ballot in 2012. He said he was not surprised that the TSPLOST would actually be a huge drain of funds from the outlying counties to the inner-ring counties. He urged everyone in the outlying counties to organize and vote it down.

Minutes

September 2, 2010, Regular Meeting Minutes

Sturbaum moved to approve the September 2, 2010, regular meeting minutes. Learnard seconded. The motion carried unanimously.

Consent Agenda

1. Consider Appointment to DAPC – Carl “Dan” Adams

Learnard moved to approve the Consent Agenda. Fleisch seconded. The motion carried unanimously. Robert Brown had a point of information, asking who had resigned from the Development Authority of Peachtree City (DAPC). Council noted that Grey Durham had resigned, and Adams had served as the alternate to the board.

New Agenda Items

09-10-05 Consider Amendments to Animal Control Ordinance – Leash Law

Public Information Officer/City Clerk Betsy Tyler addressed Council, saying this item had been discussed in several meetings over the past year and Council had asked staff to look at a variety of options. She said staff felt the best option in terms of staffing and proactive enforcement was to mirror the County ordinance by eliminating “voice command” from the ordinance and to require dogs to be on a leash.

Learnard asked Police Chief H.C. “Skip” Clark whether including “voice command” in the ordinance had hampered enforcement. Clark said the proposed amendment had evolved from a dog bite case a few years ago. Usually, when the Police investigated an incident, a dog had either bitten a person or another animal. There was no way to regulate “voice command.” An animal could appear to be under “voice command” as long as the owner was in sight, but the only way to clearly define control of a dog was for it to be on or off leash. The ordinance would be more clearly defined and enforceable.

Imker said he had e-mailed staff earlier with questions. The first was whether the amendment could be written to allow dogs to be off-leash when no one else or any other animals were in the area, noting that many people walked their dogs early in the morning in parks where no one else was around. He said those owners should be able to let their dog off-leash without fear of a citation. He had also asked whether the amendments could include letting dogs play in the water, adding that dogs did not seem to be a threat then. He did not want to penalize responsible owners, suggesting a trial period.

Fleisch said those amendments could make the ordinance too convoluted to enforce. Learnard asked Clark if he could enforce those suggestions if they were added to the ordinance. Clark said it would be a no-win for the Police Department and the dog owners. They usually received complaints after the fact. At least when dogs were on a leash, the owners looked like they had physical control of their animals.

Learnard asked if there was any information regarding "voice command" certification programs. Clark said he had talked to many people, and they always recommended that owners have a leash with them, especially in certain areas, so he did not know of any way to have a certification process.

Imker said the City was 50 years old, and he did not know how many years "voice command" had been on the books. A lot of incidents were not reported. While he felt dogs on the paths should be leashed, he wanted to assist the responsible owners when they were on their own. Imker referred to his communications with staff on the issue, noting that Tyler had suggested one alternative of leaving "voice command" in the ordinance, but defining it with a distance clause such as no one within 100 yards. Imker said the enforcement would not be practical. He suggested listing the potential areas where dogs could play in water in the ordinance, and Tyler had come up with a list of possible areas. He understood the concerns about enforcement, but felt it was a shame to have owners leash their dogs at all times, with the exception of the Dog Park. He was not an expert on many of the issues that came before Council. He was just a citizen who was one of five who had been asked to make a decision, right or wrong.

Learnard agreed that one pleasure for dogs and owners was playing in the water. She suggested having Drake Field at a minimum as an area with access to Lake Peachtree that was open to "voice command." Clark said that might be enforceable.

Sturbaum said the issue went back to basic civility, adding that a couple of incidents had made it bad for everyone. Owners had not made reparation and had not been kind and courteous when the incidents took place, according to the e-mails and calls.

Fleisch said they were also imposing another layer of government. Ultimately, it was a safety issue, adding that even the police dogs, who were very well-trained, were leashed and muzzled at times.

Haddix said he had a friend with a little dog who was very friendly when on a leash. When the dog was off-leash, it attacked other dogs. It did not matter what the size or disposition of the dog

was. If it was feasible, he would like to have an area where dogs could be off-leash, even if the hours were limited. Drake Field might be an excellent place for that, and he deferred to Chief Clark on that issue.

City Manager Bernard McMullen said an area like Drake Field, with proper signage, was feasible. His concern with limited hours was that a person working a late shift or weekends would not be able to take advantage of it. If Council wanted to have Drake Field as a "voice command" area, then it should be restricted for special events, and would give Chief Clark something doable in terms of enforcement.

Sturbaum agreed that Drake Field should be a "voice command" option area, and dogs would be allowed to play in Lake Peachtree. Fleisch said she had talked to a veterinarian about that option, who said the concern was safety for dogs because they were not in a controlled environment like a dog park. She felt they should look into whether something like that could hurt more than help.

Haddix said he would rather see wording similar to "leash-free zones as designated," so the ordinance would not have to be re-written if other areas were added in the future. He asked City Attorney Ted Meeker if that was practical. Meeker suggested adding paragraph (c) to ordinance – *This section 14-34 shall not apply to Drake Field and Lake Peachtree, except during a special event or city event.* Haddix said he just wanted to allow for flexibility if the area needed to be moved. Meeker said Council could either revise the ordinance or grant a variance.

Imker said he would like to consider a three to six-month trial period to get feedback from residents and the Police Department. The areas could be designated now. He suggested continuing the discussion and vote until October 21 to ensure the amendment was right. McMullen said the language could be added to the ordinance at this meeting, and staff would report to Council at the 2011 Retreat on any issues. Imker said he would like to look at other areas at that time.

Meeker said the motion to approve should include the addition of paragraph (c) *This section 14-34 shall not apply to Drake Field and Lake Peachtree, except during a special event or city event.* Haddix said he agreed with the additional language. He added that he wanted a statement to the public that keeping the "voice command" option at Drake Field was the responsibility of the dog owners. If it could not be done, then Council could remove Drake Field and Lake Peachtree from the ordinance.

Learnard said there had been only eight or nine incidents in 2009, half of them had occurred on the owners' property, with only one or two instances that were stranger on stranger on the cart paths. Clark agreed the number was relatively low, but incidents with dogs were not always reported. Animal on people incidents were reported. Animal on animal incidents were not usually reported, nor were they investigated by Fayette County Animal Control. Clark said he did not want to overreact. It was easier to have a regulation that was clear to enforce. Overall, there might have been a dozen incidents in 2009 in various locations, and the Department did not have good statistics except when bites were involved.

Haddix agreed, adding that he had not reported it when a dog had gone after him. He recalled that his neighbor had been attacked by a cat when she opened her door. The neighbor had been badly cut and had gone to the Emergency Room for treatment, but the incident had not been reported.

Learnard said that Leisure Services Director Randy Gaddo sent an e-mail on September 15 asking several other jurisdictions what they did. He had received 12 responses prior to the meeting. Learnard reported that Hapeville and Cobb County had leash laws. Gwinnett County required physical control by leash or lead line at all times. Pike County had a no pets policy for its parks. Paulding and Oconee counties, Acworth, Valdosta, and Moultrie required dogs to be leashed. In Roswell, dogs could run free within the confines of its two dog parks. Rockdale County allowed "voice command." Alpharetta required dogs to be a six-foot leash.

Fleisch referred to a government class she had recently attended, and one municipality had looked at breed-specific legislation, but had dropped it. The municipality now required dogs to have obedience training before they were allowed in the city's parks because of problems with dogs in parks.

Clark said the goal of the legislation was not to cite people, but for everyone to feel safe when out on the paths. The Police would probably issue warnings to try to educate people.

Imker said he would like to address any issues that might arise as a "hot topic." If anything happened, Council would know something had to be done. If no issues were reported after six months, other areas could be opened up for "voice command." Learnard said it sounded as though problems were expected at Drake Field, even though "voice command" had been allowed throughout the City for years. Haddix said it was just a change of tune. The City had recognized there were problems and wanted to experiment at Drake Field. If the experiment went wrong, and there were still incidents City-wide, then Council wanted to know about them. They were willing to take a shot at Drake Field to see how it went. Imker said there was a concern that people might think their dogs could just be off-leash at Drake Field without any control. There had to be some kind of voice control if a dog was off-leash, and that part of the ordinance had not changed. There was no way to prove a dog was not under "voice command," and Imker did not think a dog could truly be under voice control. He foresaw situations where an owner's dog could be attacked by another dog. The owner was not going to shock his dog to stop and let his dog get chewed up by another dog. Residents must know that dogs were under "voice command" at Drake Field. Haddix said the City needed to get the information out in the newspapers, websites, and *Updates*, and proper signage should be installed.

Meeker said the motion should be to approve the ordinance as proposed with an additional paragraph (c) which would read – This section 14-34 shall not apply to Drake Field and Lake Peachtree, except during a special event or city event.

Fleisch moved the question. Imker seconded. Learnard said her resolve had crystallized to look for a bigger passive dog park opportunity for the City. The motion carried unanimously.

09-10-06 Consider FY 2011 KPTCB Budget & Update on Sanitation Franchise Data

Assistant Finance Director Janet Camburn went over the FY 2011 budget for Keep Peachtree City Beautiful (KPTCB), adding that Council had approved the KPTCB line item as part of the City's overall FY 2011 budget on August 19. A detailed budget had not been available at that time. Camburn presented the detailed budget for the estimated \$41,125 revenue as submitted by KPTCB Executive Director Al Yougel, which she said included a few minor changes made by the City's Financial Services Department. Camburn noted that the projected franchise fee revenue from the waste haulers included \$10,280 for the first, second, and third quarters, and \$10,285 for the fourth quarter, for a yearly total of \$41,125. Camburn said the total for purchased/contracted services was \$32,925, and the total for supplies was projected at \$3,200. The total of projected expenditures was \$38,925, with \$2,200 available for reserves for future capital expenditures. She asked Council to approve the FY 2011 budget so it could be entered into the detailed budget accounting system to process payments for the coming year.

Learnard moved to approve the budget for KPTCB fund 265. Fleisch seconded. The motion carried unanimously.

Tyler gave an overview of the history of the franchise fee, noting that Council had adopted the standardized non-exclusive franchise agreement in August 2009, which required the base rate to include garbage and recycling, as well as the payment to City of the \$1/customer/quarter franchise fee to support the KPTCB program. Currently, there were four franchisees – IWS/Integrated Waste/Recycling Solutions (ANS), CLM/Waste Industries (Cardinal, Titan), Republic (Allied/EPI/Environmental Partners/Allsouth Robertson/BFI), and Waste Management. Tyler pointed out that the companies had purchased other companies during the past year, so most residents' garbage containers did not have the correct information on them. Tyler continued that she had received 58 complaints during the past year for missed pickups, missed recycling, not picking up canisters if service was changed, and early pickups prior to 7:00 a.m. Most of the problems occurred when the companies merged or changed routes, and Tyler added there were 20 calls in October, nine in June, but the average was four calls per month.

Tyler compared the recycling participation for the third quarter of 2009 and second quarter of 2010. She noted that 9,160 customers contracted for garbage pickup in the third quarter of 2009, with 23% signed up for recycling and 4% of the waste stream diverted. In the second quarter of 2010, 8,378 customers had garbage service, with 46% signed up for recycling and 12% of the waste stream diverted. Tyler noted that the companies were letting the City know when service was discontinued for non-payment, which allowed the City to check to see if garbage was accumulating on any properties.

Learnard asked why there was an 8% drop in customers. Tyler suspected the economy was the reason, with many people sharing the service or taking trash to the dumpster at work. Brown said his subdivision of 28 homes paid one bill to the waste hauler that had been negotiated this year, although he did not know if that meant there were 27 fewer customers, but they paid the \$28 per month franchise fee.

Camburn said that franchise fees collected year-to-date for FY 2010 totaled \$35,128.23, which was approximately \$2,500 less than what it should be. She noted that one of the companies had sent a check for four months of franchise fees instead of three, and the City had not been aware of that, and some of the money had been accrued in 2009. Based on the actual fees, Camburn said that the total collected in franchise fees in FY 2010 would be \$35,138, and the total projected for FY 2011 would be \$37,638. Camburn added that it was possible she would bring a budget adjustment early in 2011 to either reduce the total expenditures or use some of the reserves in the fund.

Council/Staff Topics

Hot Topics

McMullen reported that the Planning Commission met September 13 and had recommended approval of the amendments to the cell tower ordinance, including the guidelines for office/institutional and commercial zoning areas. The ordinance would be on the October 7 Council agenda. McMullen continued that Community Development Director/City Planner David Rast had shown the potential sites in the City, along with the various setbacks overlaid on the sites. The information was available on the City website if residents wanted to see it. The website information would be published in the weekly *Updates*.

Staff was still working with Camden Apartments' legal team on the easements for MacDuff the tunnel. The attorneys had asked for their design team to look at an alternative design in terms of alignment.

McMullen reported that the City's website was one of six in Georgia to be named a "Top City Government Website" by *juggle.com*. He said the entire Information Technology (IT) Department and members of other departments worked on the website; it was a total team effort to keep it updated.

Learnard noted that the City was considered the safest in the metro area according to an article in the *Atlanta Journal-Constitution* on September 14. According to the article, the City had the lowest per capita crime rate, while College Park had the highest.

Imker said the gas golf cart issue was scheduled for the December 2 Council meeting.

Learnard said there had been big changes in the budget and DAPC, and she wanted to clarify one thing. She thanked Todd Strickland for his efforts to put a meeting together between Council and the DAPC after the August 19 decision. Council had been invited to DAPC's September 7 meeting, but Meeker had not been able to attend, so Strickland tried to re-schedule the meeting for September 1. Learnard said that trying to pull so many people together in a short time was hard. She read from an e-mail Strickland sent to Council and the DAPC – *Kim and I both agreed that it would be beneficial to open a dialogue sooner rather than later. Thus, I would appreciate it if everyone would please respond to this e-mail stating whether or not they could meet on September 1. If we could achieve a quorum from both the City Council and DAPC, then I suggest we meet.*

Learnard recalled that the Mayor had an ARC meeting followed by a Regional Transportation Roundtable (RTR) meeting, and Sturbaum had a list of conflicts for the night. Learnard said everyone understood. She continued that a few days went by, and she and Strickland were so bothered that Haddix and Sturbaum could not attend the September 1 meeting, that Strickland called her on a Sunday afternoon, suggesting they look for another date. Since Haddix's schedule was iron-clad, Learnard sent an e-mail to Sturbaum noting Strickland's efforts and concerns that Haddix and Sturbaum could not attend and asking to reschedule the meeting. Learnard read several portions of the e-mail to Sturbaum, asking him to try to come by the meeting for at least an hour if possible. Learnard continued that Sturbaum responded there were just too many things going on that day. His e-mail said "to just roll with the meeting and we can catch up on Thursday. I will call Todd tomorrow and explain." Learnard said that was the reassurance she and Strickland had needed, as they both had angst over Haddix and Sturbaum not attending the meeting. Learnard said that she still called the City Attorney and asked him what she should do. She said Meeker would not advise her on what to do, but told her someone had to make a decision, and she decided to meet.

Learnard continued that Haddix might have misunderstood her intention to have him there, and he had alleged that he tried to reschedule the meeting. Learnard said she did not know anything about Haddix trying to reschedule the meeting. To the best of her knowledge, she had not refused anyone's overtures. She read from Haddix's e-mail – *I have a meeting followed by RTR issues*. Learnard said she understood, but needed clarification. As far as she knew, no one else tried to reschedule that meeting and she had not gotten in anyone's way trying to do so. Haddix said he never said that. Learnard said his online blog had indicated that had happened. Haddix said the discussion was not appropriate to the dais, but since it had been brought up, he said that the meeting could have been rescheduled. There was a distinction between saying something could be rescheduled and someone interfering with a meeting being rescheduled. He had spoken with Strickland, Mark Hollums, and other DAPC members. There was a lot of sentiment in a lot of different directions, and it was not appropriate to get into how everyone felt. Haddix said it was a good issue to leave where it was. Learnard agreed, reading from Haddix's blog on *The Citizen* website on September 3 – *Did we try to get the meeting rescheduled? Yes. The other three Council Members decided to proceed without us after both individually notified them we could not attend.*

Learnard said it had been an emotional time, and she needed to let it go. However, she had worked very hard to put it together, and the clarification was important. Haddix said he and Sturbaum both had reason to bail out of the meeting. The other three had a decision to make whether or not to proceed with the meeting. Learnard said she was the one who made the decision to proceed. Haddix said they decided to proceed and that was all he had said.

Learnard referred to a letter in *The Citizen* on September 7 written by Haddix – *As for the demand DAPC come to council project by project for funding, I do not believe that is legal. This is legally a question that must be answered for liability and other reasons. The answer is being sought from the state.* Learnard said she had no issue with that whatsoever. If answers were being sought from the state, they should get common ground on what department from the state was answering the question, possibly holding a conference call with the City Attorney and the

state to get the legal ruling ironed out. She added that there could be an item on the next meeting agenda to discuss the findings. Haddix said every Council Member had a right to proceed on their own to request any legal information they wished or by bringing all the Council together. Learnard asked if there was any anticipated time frame for an answer. Haddix said not when dealing with the state. It could take weeks or months.

Fleisch said that, after the meeting with the DAPC, she had realized there were a lot of definitions that needed to be clarified, and the best way to do that was to get everyone in the same room. She had spoken with Brant Herndon of the Fayette County Development Authority (FCDA), who was working with Georgia Power and Georgia EMC to hold a workshop to discuss economic development. She said the workshop was scheduled on October 19, asking everyone to save the date. The cities of Tyrone, Fayetteville, and their development authorities would also be invited. The location had not been nailed down yet. She said that, during the interim period before the economic development coordinator was hired, she wanted to discuss with the DAPC how to best help the retailers to help them get through Christmas. Haddix asked why they were going to Georgia Power and Georgia EMC for an economic development summit. They were public utilities. Fleisch said both held economic development workshops throughout the state on a daily basis and knew what they were doing. Haddix asked if the controlling agency, the Department of Community Affairs, had been invited. Fleisch said they had not; it was ultimately FCDA that was the host. Sturbaum asked if Brooks and Woolsey had been invited. Fleisch it would be a County-wide workshop. Administrative Services Director Nikki Vrana said Herndon, his staff, and Virginia Gibbs with the Chamber of Commerce were organizing the workshop, and Herndon said the other day that it might be held on the third floor of the Chamber's offices due to budgetary concerns. Haddix said, if they were going for structure, they should want the state controlling agency to be included. Fleisch said she was leaving that to the organizers.

Sturbaum moved to convene in executive session to discuss pending or threatened litigation at 7:55 p.m. Learnard seconded. The motion carried unanimously.

Sturbaum moved to reconvene into regular session at 8:06 p.m. Learnard seconded. The motion carried unanimously.

Sturbaum moved to enter into a contract with ISE to perform an assessment of the Bradford Estates pond for a not to exceed amount of \$45,000. Fleisch seconded. The motion carried unanimously.

There being no further business to discuss, Sturbaum moved to adjourn. Learnard seconded. The motion carried unanimously. The meeting adjourned at 8:06 p.m.


Pamela Dufresne, Deputy City Clerk


Don Haddix, Mayor