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

The City Council of Peachtree City met Thursday, September 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

Brown presented a 10-year service pin to Wayman Luke of the Fire Department and recognized Bob Lancette, outgoing conductor of the Peachtree Wind Ensemble Community Band.

Approval of Minutes

Deputy City Clerk Betsy Tyler noted that Council Member Weed had requested two minor corrections to the minutes that were not substantive changes, and said Council could proceed with approval if they were comfortable doing so, or could postpone approval until the next meeting. Weed moved to approve the August 12, 2002, Budget Workshop minutes with corrections. Tennant seconded. Motion carried unanimously.

Monthly Reports

Brown mentioned the September 11 Commemorative Event and noted the drop in the number of prisoners at the County Jail from 2001, which represented a cost savings. Brown asked about the increase in vandalism, and Halterman said it was the dollar amount to repair damage to property and signs.

Consent Agenda

1. **Consider Amendment to CAR to allow Electronic Signatures on Accounts Payable Checks**
2. **Consider Amendments to Finance Ordinance for GASB 34**

Brown said there were some revisions for item #1, and made a motion to pull item #1 from the Consent Agenda. Tennant seconded. Motion carried unanimously.

Director of Financial Services Paul Salvatore said the remaining Consent Agenda item was really a housekeeping issue to make the city's ordinance consistent with the new Government Accounting Standards Board 34 requirements. Rapson noted that the amendment was well organized, and made a motion to approve the ordinance change as presented. Weed seconded. Motion carried unanimously.

Brown then returned to the proposed Amendment to the City Administrative Regulation (CAR) for electronic signatures on Accounts Payable checks, noting that there were some amendments on the dais. Salvatore said that it had always been an unwritten procedure that the City Manager and he did not sign checks payable to themselves. He said they were making that part of the formal procedures now that the city was using facsimile signatures. Salvatore noted again that staff was already using this procedure. Tennant confirmed that the changes just added another level of checks and balances. Rapson made a motion to approve the amendments. Tennant seconded. Weed asked if one of the proposed changes would affect arbitrage, and Rapson and Salvatore said arbitrage really only applied to bonds. Motion carried unanimously.

Old Agenda Items
08-02-05 Public Hearing – Adopt FY 2003 Budget
Mayor Brown called the public hearing to order, and Tyler read the procedures. Salvatore noted that staff was presenting the budget resolution for FY 2003. He said there had been questions about some of the appropriations for the Airport and Development Authorities. He stressed that approving the budget was not a guarantee of payment of the amounts listed, but was an estimate based upon current agreements. It was not a contractual obligation to pay those amounts due to the appropriations.

Salvatore said the millage rate would be set at a later date, following three additional public hearings, but that staff recommended passing the FY 2003 budget as presented. Tennant asked what millage rate was assumed in the "Sources of Funds." Salvatore said it was a millage rate of 4.703, a 9% increase, as discussed in the previous workshop. Tennant asked how Council could adopt a budget assuming a millage rate that had not yet had public input. Salvatore said the budget was an estimate and could be amended if a different millage rate were set. City Manager Jim Basinger noted that the city never knew when the digest figures would be received, and they were often received in October, by which time the City had to have an approved and balanced budget. Rapson added that the advertising requirements for both processes also dictated the timing. Tennant said he wanted to make a point to the public that Council would still listen before setting the millage rate.

Library Commission Chairman Chris Clark addressed Council, saying that the Library Commission had not objected several weeks previously when Council removed the funds for the Library expansion. He said that now the city had a chance at a $1.7 million grant if the city could guarantee the required matching amount of $728,000, to achieve the 10,000 sq. ft. expansion. Clark noted the city was unlikely to see that level of grant funding again in the future, and asked Council to reevaluate the project.

McMenamin asked when the matching funds would need to be available. Clark said on or about October 1, 2003. Salvatore said that was the beginning of the FY 2004 budget, but noted that even if the $728,000 were in place for the facility, there would be an additional annual operating cost.

There being no other comment, Brown called the hearing to a close. Rapson noted for the record that his son-in-law worked for the Public Works Department and that there was funding for the Development Authority in the budget. McMenamin said her son-in-law worked for the Police Department. City Attorney Rick Lindsey said neither situation presented a conflict in the general budget approval. His associate, Michelle Bradley, agreed.

Rapson made a motion to adopt the FY 2003 Budget Resolution. McMenamin seconded. Motion carried unanimously. Tennant encouraged additional citizen input during the public hearings for the millage rate.

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

Attorney Doug Dillard spoke on behalf of the applicant, Jimmy Halligan of Hyland Properties. Brown noted that several documents had been placed before Council that evening. Weed noted that Council had a letter, dated September 3, stating that if Council were going to deny the request based on the City Engineer's recommendation, Mr. Halligan wanted an opportunity to meet with staff prior to that vote being taken. Weed said he would like to give the applicant the chance to meet with staff before Mr. Dillard made his presentation. Dillard said that time was of interest to Mr. Halligan, noting that his client had met with City Planner David Rast and former Director of Developmental Services Jim Williams. He said Halligan had not met with City Engineer Troy Besseche, and Dillard felt the information in Besseche's memo was incorrect.

Dillard referred to the letter from the Fayette County 911 center saying that several developments in Fayette County crossed jurisdictional boundaries, and that was fine as long as the street numbers and names were different. He said Crabapple Lane had this issue, and the 911 Center could handle it.

Weed again asked if Dillard wanted to meet with staff prior to his presentation. Dillard said no, that Council could approve the request subject to the concerns being resolved, but if they were going to deny it, his client should have an opportunity to meet with the City Engineer first. Weed asked why not just meet with the City Engineer first, noting that he wanted to give the request a fair hearing. Weed made a motion to table the matter. Rapson seconded for discussion purposes.

Rapson said he had a concern because the city had received a letter from Tyrone Town Manager Barry Amos saying the internal connection was not part of the conceptual approval, but was merely part of the presentation for the zoning that was approved. Rapson suggested holding a joint Tyrone/Peachtree City Planning Commission meeting. Brown said he had no problem with doing a joint project with Tyrone, but wanted to make sure Tyrone was in favor of the project. However, all Tyrone had done to date was approve the zoning, and the details of the plan that would be finalized through the Planning Commission process had not been approved. Dillard said that was not true, and Brown said the word he had gotten was that the road extension on the plan had not been approved.

Weed noted that there was a motion on the table to revisit the issue once the applicant had met with staff. Brown asked for any further discussion. McMenamin said, considering Mr. Dillard's desire to move forward, she had no objection to moving forward with that as a condition. Rapson reiterated his concern was that the Peachtree City Planning Commission was in favor, staff was opposed, and Tyrone had not taken any action relative to the road connection. Rapson said he was not willing to approve it and make those entities sort it out – he would rather it was sorted out and brought back to Council. Weed said that was not part of his motion. Rapson amended the motion to include the applicant working out whatever differences existed among all three entities. Weed accepted the amendment. Tennant asked what the financial costs would be to do that. Mr. Halligan said historically, financial situations did not carry much weight. However, to have all three parties agree, he would have to go through the conceptual plan, the site plan and the engineering process. Halligan said the Tyrone letter was covering their future options on what they would approve, and while they might agree conceptually that the road connection was fine, there might be some problem with engineering. Halligan said this plan was what Tyrone saw and what they agreed to and what they understood. While they would not say they approved the road until all the work was done, they agreed that physically it could happen. Halligan noted that the letter presented from AT&T gave several clauses saying the letter was not a contract. Rapson said the issue that was holding him up was the statement that the Mayor and Council of Tyrone took no formal action approving or denying the connection. Dillard said that was Mr. Amos' opinion, and Rapson said Amos was the executive officer of Tyrone. Dillard said the minutes incorporated the presented design, and the Council approved the rezoning of the property with this conceptual site plan. The only conditions they put on the property related to other issues. Dillard said annexation was discussed with both the Tyrone Planning Commission and Council, but Council's final action was to adopt the site plan that showed the connection, knowing that they would have to work it out.

Dillard said they had a lot of issues to work out that might prevent the project from happening, but they wanted the conceptual idea of the road connection approved because their approved plan in Peachtree City showed a cul-de-sac.

Weed again pointed out that there was a motion and a second that needed a vote. Rapson requested that the motion be read again. Tyler said the motion was to table pending the applicant's discussion with the city engineer, which Rapson seconded, and then Rapson amended the motion to include all three bodies (Tyrone & Peachtree City Planning Commissions and the Peachtree City staff). Tyler said Weed had accepted the amendment. Rapson seconded the amended motion.

Rapson said his concern was the contradictory information. Rather than deny the request and send the applicant back to the table, he would prefer to table the matter and send them back to the table. Weed said he wanted to give Mr. Dillard the opportunity to talk to whomever he wanted to and protect the interests of his clients, and then have a full hearing. McMenamin said she had spoken to Amos quite some time before, and they had not had any strong objections to the connection, but were concerned about the services to the residents. Brown said he met with both Amos and Tyrone Mayor Lee, and they had concerns. Brown said the road would not come into being until it was approved by the Planning Commission, and it would be simplest to let it go back to them. It was a moot point to Peachtree City if Tyrone did not approve the connection. Brown reiterated that he did not mind doing the project, but did not want to force something on Tyrone.

Dillard expressed concern at trying to have Tyrone approve a project that Peachtree City had not approved. Brown said they had not indicated a lack of approval, and Rapson said they were trying not to take any action. Dillard requested that, to avoid confusion, any Peachtree City staff member who had any interest in the project be directed to meet with his client. Weed said that was certainly fair. Brown called the question following a request from Weed. Motion carried 4-1, with McMenamin opposed. Dillard asked to be placed on the next agenda.

Weed made a motion that the issue be addressed at the September 19 meeting, and that the City Manager direct staff to discuss the matter with Mr. Dillard to Dillard's satisfaction. Rapson seconded. Motion carried unanimously.

02-02-10 Consider Changes to Golf Cart Ordinance
Rapson said there had been a lot of discussion regarding the Golf Cart Ordinance, and Council had a revised ordinance drafted by the City Attorney. Rapson suggested taking action on the specific ordinance before them, and then address some additional issues that had been brought up. Rapson noted that the ordinance permitted 12-14 year olds to drive with grandparents in addition to parents and guardians, and allowed 15-year olds with a learners permit to drive alone or with another individual that was at least 15 years old. It also added sections saying everyone must be seated during operation, and no one could sit in the driver's lap. McMenamin noted that there had been no discussion of penalties. Rapson added that the ordinance allowed the $5 transfer fee for out-of-city golf cart. Tennant asked if that was a motion, and Rapson said yes. Tennant seconded for purposes of discussion.

Tennant said he had been a strong supporter of 15-year olds having the opportunity to drive carts under the conditions stated, and said he believed in the responsibility of most 15-year olds to handle the carts safely. Tennant said he would like to add the ability for 15-year olds to transport siblings, noting that he had received a number of calls requesting that addition. Rapson said he preferred to vote on the ordinance as presented, and then address the additional issues. Motion carried 4-0-1, with Brown abstaining because he had voted in opposition to the original proposal at the preceding meeting.

Tennant made a motion to open the meeting to public discussion on the golf cart ordinance. Rapson seconded. Motion carried unanimously. Brown said the public hearing rules would apply, and asked if any members of the audience wanted to speak in favor of 15-year olds driving carts with siblings.

Bill Aleshire addressed Council, saying that he supported 15-year olds operating carts, but felt the Council should require insurance for all drivers. Tennant asked if the city had the authority to impose that requirement. Michelle Bradley of the City Attorney's office said she had not researched it, but thought the city could. Tennant requested that they research the issue.

Shelton Barker, 120 Ardenlee, was in favor of 15-year olds with siblings, noting that he was 16 so it would not affect him. J.T. Beerbeck was also in favor of the change. Kathie Cheney said allowing 15-year olds would allow them to take on and learn to handle more responsibility. Amy Graham said she had a 15-year old and two younger children, and said most parents would know if their 15-year old was not responsible enough to be entrusted with the younger ones, and she supported the law allowing this option. Robin Tennant, 120 Ardenlee, also spoke in favor of the change.

Mayor Brown then asked if any residents opposed the change. Wayne Roberts said that, while he was not necessarily opposed, he felt Council was passing something over which there really would not be any control, and asked if the younger siblings would have to have identification to prove the relationship. Police Chief Murray agreed that the requirement would be unenforceable.

Rob Rothley, Teal Vista, asked about the impact on the GEM vehicles, which are licensed. Tennant said those vehicles were in a different category, and this law applied only to golf carts. Brown added that the LSMVs were regulated by the state. McMenamin expressed concern that the drivers under 16 might not be allowed on the streets. Rothley asked if this would create a law enforcement problem and wondered if they should specifically exclude the LSMVs. He noted that the path system really required use of the streets. Michelle Bradley said the changes to the golf cart ordinance would not affect the LSMVs because they were required by the state to be operated by licensed drivers.

Amy Graham noted that licenses for 16-year olds restricted passengers to family members, and that was the same as what was being proposed for the carts. Frank Kimble expressed concern about a 15-year old driving a cart with no liability insurance, and asked if the city could ever be held liable. McMenamin said they would need to look at that because insurance agencies might not insure 15-year old drivers. Tennant said that was a legitimate point, but the key issue was responsibility, and golf cart owners who did not have insurance were acting irresponsibly and that was the risk they took. Kimble said that was well and good, but it would not help someone injured by a 15-year old on a golf cart with no liability insurance. He felt it was a big mistake.

Hearing no others who wanted to speak in opposition, Brown called the public hearing to a close. Rapson made a motion to direct Lindsey to draft an ordinance allowing 15-year olds with a valid permit to drive with siblings. Tennant seconded. McMenamin said she wanted to make it clear that this action did not allow this activity the following day, and it would not go into effect until the ordinance was adopted. Motion carried unanimously.

Rapson added that he would like to have the answers to the insurance questions, both whether the city could require insurance and if the agencies would cover 15-year old drivers. McMenamin asked that they also discuss any additional limitations or laws applying to the 15-year old drivers, and she asked Chief Murray to verify that the 15-year olds could drive on city streets. Rapson reviewed that the only law decided that evening was that 15-year olds with a learners permit could drive alone or with up to one passenger at least 15 years of age. However, that might prove to be a moot issue if the state decided that golf cart drivers had to have valid drivers licenses. McMenamin said she thought a ruling had been made, and Bradley said it had gone to the court of appeals, but the appeal had been dropped, so there would not be a court decision. Rapson reiterated that if it ever came back up, the city would change its ordinances to comply with state law. McMenamin added that the rules allowing 15-year old drivers did not apply to private paths, such as those on the golf course.

A citizen suggested coordinating the ordinances with Tyrone as they begin to put in paths and connect them to Peachtree City. Brown noted that he had discussed that with Tyrone's Mayor, and Tyrone required that golf cart drivers be licensed and at least 16 years old. Brown called a brief break in the proceedings.

New Agenda Items

09-02-01 Alcoholic Beverage License – NEW – Wal-Mart

Brown said the new Wal-Mart had applied for a license to sell alcoholic beverages, and noted that Council had a corrected application on the dais. Mr. Randy Willis, who was requesting to be the License Representative, addressed Council on behalf of Wal-Mart. McMenamin said she found the historic information interesting, and noted that the Wal-Marts in Louisiana had an excellent record relative to their alcohol sales to minors. She said she hoped the Peachtree City Wal-Mart would operate in the same manner. Willis highlighted the sales procedures and said they would place a high emphasis on that. Brown made a motion to approve the alcohol license for Wal-Mart Supercenter #3461 in Peachtree City, with David Bullington as the Licensee and Randy Willis as the License Representative. Tennant seconded. Motion carried unanimously.

09-02-02 Alcoholic Beverage License – Change in License Representative – Ruby Tuesday

Mary Ann Milliken and Michael Sard, attorney, addressed Council regarding the request. Mayor Brown noted that they had a letter before them on the dais from Ruby Tuesday addressing several concerns on which the Mayor had met with Ruby Tuesday employees. Brown noted that the matters appeared to have been addressed satisfactorily. McMenamin made a motion that Ms. Mary Ann Milliken be appointed as the License Representative for Ruby Tuesday. Weed seconded. Motion carried unanimously.

09-02-03 Consider Lease for SCT Building

Brown stated that a revised version of the lease had been forwarded that day and was before them on the dais. Director of Administrative Services/City Clerk Jane Miller addressed Council, saying that several years ago when the city built the new Recreation Administration Building, Southern Conservation Trust (SCT) leased the old Recreation building. Several months ago, the Development Authority and SCT began discussing joint use of the building to enable the Amphitheater offices to be moved into the building, which was more convenient to the Amphitheater and would free some space in the Recreation Administration building. Miller noted that the proposed change placed a limit of $200,000 on the cost of the renovations for which the city would be responsible. Miller said she had spoken with Jerry Peterson of SCT, who also requested one other change. The current lease had a non-exclusive use clause, and Peterson had asked that the clause be removed now that more of the building would be utilized.

Peterson addressed Council, saying SCT had been in the building for a number of years, and had shared space with other tenants during that time. He said now that two tenants would be sharing the building equally, it would be very difficult to split it further. Peterson requested that Council consider making the use of the building exclusive to the two tenants. Weed asked if SCT was a private organization. Peterson said SCT was a non-profit, 501C3 Land Trust. Brown asked Development Authority Executive Director Virgil Christian if the authority had any problems with the request, and Christian said there were none. City Manager Jim Basinger said staff was also supportive of the request.

Weed said he felt this was a good idea, but in an effort to avoid future problems, he wanted to note a couple of concerns. He first noted the $1 per month rent, and wanted to be sure that they were not violating the anti-gratuity clause. He asked if the City Attorney could expand the consideration language to stress the benefit the city would be getting. City Attorney Rick Lindsey noted the benefit, which was SCT's management of the nature areas and the programs they operated. He said something to that effect could be added to the lease, but there were other documents that also outlined that partnership. Weed asked to have an exhibit added to make that clear.

Weed then pointed out Page 11, Section 32, about binding effect on successors, and asked Lindsey if he was comfortable with that language and the current law. Lindsey said he had no problem with it.

Weed made a motion to approve the lease subject to the following modifications: 1) Page 2, Subsection I, to cite the public benefits from SCT; 2) that the $200,000 modification cap be included; and 3) that Section 10 be deleted. McMenamin seconded. Rapson said he would be abstaining because the lease dealt with the Development Authority. Motion carried 4-0-1.

09-02-04 Presentation by Fayette County Chamber of Commerce on TDK Boulevard
Jim Pace of the Fayette Chamber addressed Council, noting that at the last Association of Fayette County Governments meeting, the Chamber was asked to be a liaison on this issue that affected so many jurisdictions. Pace said he and Chamber Chair Mike Hofrichter had met with Coweta County, with Greg Dunn of the Fayette County Board of Commissioners, and with Mitch Seabaugh representing the state. Pace said all three entities expressed a willingness to work together to make the project happen.

Pace said this project had been in the works for over ten years, had been identified in the Fayette County Task Force assigned to look at traffic in the County and had been given one of the top two priorities, the other being the widening of Highway 74 South. Pace said the Chamber was asking the Peachtree City Council to take a leadership role in making this project a reality. They felt it was vital to the continued success of the Industrial Park. Pace offered the Chamber's support in whatever way they could assist the city and the other entities. Pace said he realized the city was also working to get Highway 74 South widened, and that was looking better and better. Pace said the TDK Boulevard extension would improve traffic between Coweta and Fayette, and was doable with all the entities working together.

09-02-005 Discuss Position on TDK Boulevard
Mayor Brown introduced the next related item, saying he initially had concerns about TDK Boulevard because he did not want to supercede the emphasis on widening Highway 74 South, which was still important. Brown said that there had been significant progress on Highway 74 South, with cooperation from state representatives to local representatives, leading to some major

breakthroughs. Barring anything happening to delay Highway 74, Brown said he had no problem with the TDK Boulevard project. He just did not want to create another problem.

Brown also expressed appreciation for Coweta County's support of the project. He said funding for the project was the number one concern, and Peachtree City's budget was very lean. A balancing act would be needed to prioritize the projects. Brown said he had mentioned to Greg Dunn that they would probably be approaching the County for some funding assistance. Brown said he had previously written to Commission Chairman Dunn and to Mr. McGuffey in Coweta, and he would like to change that document and, with the progress and spirit of cooperation on Highway 74 South, he would be willing to go with the TDK extension at this time.

McMenamin said the TDK extension, which was now being termed the Coweta-Fayette Connector, had been an opportunity for Peachtree City for many years. She said she felt if Peachtree City could have built this road, it would have been done five years ago, but now they were about five years behind the curve.

McMenamin said the recent AFCG meeting included representatives of Coweta County, and she knew Fayette County stood solidly behind the project. The next AFCG meeting would be in October, and she asked Council to sign a resolution to be forwarded to the other entities in the County and then to the Coweta County Commissioners. McMenamin noted that there were many funding opportunities because the two counties were working together. She said it did not have to come out of the DOT monies and would not affect Highways 54 or 74 because Coweta was under a different region with different funding mechanisms.

McMenamin made a motion that Council sign the resolution to be forwarded to the other entities in the record. Brown pointed out that there was currently not a draft available. Basinger said it would be a standard resolution of support. McMenamin said the final version could be presented on September 19, but she wanted a vote of support tonight. Brown said he had seen a draft, but none of the other Council Members had seen it. McMenamin said Chairman Dunn had called her the previous day asking where the resolution was and saying the County Commission was ready to make some commitments or hold discussions about it, but would like to see Peachtree City's commitment first.

Brown asked if the document could be introduced that night. Basinger said it would be a standard resolution that could be forwarded for their signatures the following week. Brown seconded the motion. Tennant said he had no problem with that process, and that their intent was to be the supportive of the project, as he had been for a long time. Tennant noted that Coweta County had committed $1 million to the project. He was in favor of signing off on the resolution as fast as possible. Brown also noted that State Senator Mitch Seabaugh had done a tremendous job in putting the project together. McMenamin asked staff to send a letter of thanks to both Senator Seabaugh and Chairman Dunn for their efforts on this project in meeting with DOT and the Chamber. Brown added that Senator Seabaugh had addressed his original concerns on the problem as well. Brown noted that the city had also received several letters from industries on Highway 74 South, and the City was very aware of the problems there and would be looking at it. McMenamin concluded by commending the teamwork and the regional solution that had gone into this problem. Motion carried unanimously.

09-02-06 Discuss Position on Stallings Road Improvements

Brown mentioned that Council had on the dais a letter from Jerry Cobb of the Airport Authority and a letter from Lee Hearn of the Fayette County Public Works. Airport Authority Chairman Cathy Nelmes addressed Council, saying the authority desired to have Stallings Road paved to open up some current hangar sites and to provide access to some land the Authority was looking to acquire. Nelmes referred to a letter from Airport Manager Jim Savage to City Manager Jim Basinger outlining several things that needed to happen in the process.

Nelmes said they would like to get the design completed and have the City Engineer review and approve it. That was something that could be underway immediately. Nelmes also asked the city to consider making Stallings Road a city project so the County, who was supportive of the project, could provide the equipment and labor for the project. Nelmes said they might also be able to get state funding, although not LARP funding, and she did not think the project would cost the city any money.

Brown said he did not want to interrupt the LARP paving schedule or incur a cost for the city. He said he thought the project would not do either due to the way the Authority had worked things out. Brown said he was also concerned about the city's agreement with the Authorities, but felt progress was being made. Brown said if he could get a commitment from the Authority to work with the city, that would be fine. Nelmes said absolutely. Brown said he would like to see a definitive statement from the County that funding would come out of the County budget, not the Peachtree City budget or the Peachtree City LARP funds. Nelmes said she would love to have that as well, and that was why she could not say definitively that it would not cost the city, but she did not think it would. Brown said he had brought it up on three different occasions, but they still did not have a letter from the County saying this would not affect the city's road program. Nelmes said she did not think Mr. Hearn would be able to write a letter binding the commission, and Brown agreed the letter would need to come from Chairman Dunn.

Savage said he had talked to Hearn, County Administrator Chris Cofty and Peachtree City Public Services Director Colin Halterman, and he understood the usual practice for the LARP projects was for the city to submit to the state a list of streets in the fall, indicating how much funding was needed. Then the state responded with how much the city would receive, and the city prioritized the paving list according to that figure. That list was then submitted to the County and an agreement was reached as to how much work the County would do. The Commissioners would pass that, and then it would come back to Council for approval. Finally, Hearn scheduled the paving according to the approved list. Savage said he talked to Hearn that day and, because Stallings Road would not be a LARP project, which was only for resurfacing, Hearn had said there was another fund the state had for actual construction projects. The same process would occur if the city adopted the project as a city project. The City would apply for the funding, the state would indicate the funds available, and then the request would go to the County and an agreement would need to be reached. Savage said the Authority then agreed to pick up the costs not covered by the State or the County's labor, but the process had to take place. Savage said

County staff had indicated they could not commit for the commissioners, and there could not be a letter of commitment until the process reached the point of an agreement between the city and the County. Savage said currently, the authority was asking for Council to say they would move forward on the project and turn it over to staff to begin the process.

Nelmes added that, if at any time during the process it looked like the city might incur costs, then they would go to a Plan B or Plan C to address that issue. Brown said that if the city applied for the funds, there was a required match from the governing body of a specific percentage. Nelmes said she certainly was not asking the city to sign any such commitment. Rapson said the discussion was circular, and that his position was to go ahead and instruct staff to request Fayette County's assistance in the construction of Stallings Road and to apply for the state funding for the project. Rapson added that the project was a revenue generator for the airport, and he was fully in favor of doing whatever needed to be done on behalf of the city, as well as asking Fayette County, to get the project underway as soon as possible.

Basinger commented that there were both LARP and local funds for the annual resurfacing program, and there was an agreement with the County for the projects. He said staff would draft a separate agreement for Stallings Road. Basinger said the city had received state grants for every resurfacing project on unpaved roads in the city, and he did not see any problem doing so for Stallings Road. Rapson said the funding mechanism could also be included in the Hotel/Motel Tax agreement with the Airport Authority. Rapson made a motion to allow staff to continue with completing the road design and whatever was needed with the City Engineer, to communicate with the County in pushing the project through and asking for assistance, and to apply for funding from the state. McMenamin seconded. Motion carried unanimously.

Brown thanked Nelmes for the Airport Authority's cooperation with the city. McMenamin said she hoped in the future, before the Mayor stopped a project that was Council related, that it come before Council for everyone's consideration. The Mayor said certainly.

09-02-07 Discuss Ethics Matter Raised by Mayor Brown

Brown referred to the complaint letter he filed on himself, and asked Tyler to review the procedures. Tyler said earlier in the year each of the Councilmembers selected two representatives to serve as Ethics Board Candidates. She said she had their names for a drawing, with the exception of Rob Rothley, who recused himself prior to the drawing. Tyler said each Councilmember would draw one name from the box, and then the Mayor would draw two additional names to serve as alternates.

Tyler had each member draw from the box of names, reading out the names as they were drawn. McMenamin drew Barry Amos, Tennant drew Frances Meaders, Brown drew Steve Fraas, Rapson drew Iola Snow and Weed drew Bill Webster to serve as the Ethics Board on the complaint. Then Brown drew the alternates, first Rob Williams and then Ann Matwick. Tyler said the City Clerk would contact the members the following day and schedule the hearing.

09-02-08 Discuss Charter Change Relative to City Attorney and City Solicitor Position

Brown said Council had discussed the possibility of splitting the two positions in order to save funds in the future, but the charter would have to be changed before they could bid those positions separately. McMenamin asked when the change would go into effect, and Lindsey said since it was a charter change, the soonest it could happen would be October 18. Tennant made a motion to ask Lindsey to develop the charter change to make the City Attorney and City Solicitor positions separate. Rapson seconded. Lindsey asked if they would allow it to be a permissive change, to allow it to be the same person or separate people. Tennant amended the motion and Rapson accepted the amendment. Motion carried unanimously.

09-02-09 Amendment to Peddlers/Solicitors Ordinance

Lindsey said the city currently had an ordinance in place requiring those going door to door to register with the city. Certain individuals were required to pay a $25.00 per person per day fee, while others, such as religious and political groups, were excluded from paying the fee. The Supreme Court of the United States recently handed down a decision that would negate the existing ordinance, so Council had before them a revision to the Ordinance that would comply with the Supreme Court decision. The ordinance defined who was a peddler and who was a solicitor, and did not require 501C3 forms to register. Lindsey noted that there might need to be some additional changes to the "non-profit" definition, but he recommended passing the wording before them that evening. Lindsey said it could be changed in the future if it became an enforcement problem, but the goal was not to make it too cumbersome. Lindsey said the other change was to try to gear the hours of allowed solicitation to daylight, for the safety of both the residents and the solicitors. Lindsey said solicitation was prohibited on Sundays. The ordinance was as restrictive as possible to try to protect the citizens from unscrupulous individuals, but to allow the businesses just trying to make a living to do so.

Brown asked how the city checked on solicitors. Lindsey said staff and the Police Department had some ability to verify, but the city could not guarantee that it was not a scam. Tyler added that solicitors had to have a valid Georgia picture ID, or else they had to go to the Police Department, who then ran a check and signed off on the solicitors permit. Weed said he had a concern about Section15-5 (2), with the time restrictions on religious or political solicitation. Lindsey said that was permissible under the previous Supreme Court rulings, and the most recent decision did not address that particular element. Lindsey said the current ordinance was more restrictive, but this one allowed solicitation until 8 PM in the summer, and until 6 PM in the winter. Lindsey said the city had a legitimate interest in protecting its citizens from criminal activity, and he believed those restrictions would stand up in court. Lindsey said with the current case law, he was comfortable with the wording.

Tennant said Council received a lot of complaints about fliers on mailboxes and residents asked how they could stop that activity. Lindsey said that was also covered because businesses doing that had to register. Lindsey said the amendment allowed the homeowner to put up a "No Soliciting" sign that should cover leaflets. Lindsey said the matter had been discussed for many years, and there were difficulties because religious and political speech were protected. Lindsey said if someone were abusing the right, the city could address the individual abuser. Lindsey said the reputation for affluence in Peachtree City, with houses close together, made it a very attractive location for that type of activity. Tennant asked if the flier distributors had to have a daily license, and Lindsey said yes, and Code Enforcement tried to keep up with it, but it wasn't always possible. Tyler said if residents called about a business leaving a leaflet and the business had not registered, then staff followed up for retroactive payment of the fee.

Tennant said he felt the $25 fee was not high enough. McMenamin said raising it would make it hard on small, local businesses trying to make a living. Tennant said he received three to four calls a month on this issue and was looking for a way to address the concerns. Rapson noted that the city would do a revenue and fee comparison with surrounding areas the following year, and Council could look at it then.

McMenamin made a motion to make the proposed amendments to the Peddlers/Solicitors Ordinance. Weed seconded. Motion carried unanimously.

09-02-10 Consider Changes to the Adult Entertainment Ordinance

Lindsey said Federal cases this summer impacted the ordinance, granting the right of appeal to Superior Court and keeping personal information gathered on such a business confidential. Lindsey said the second issue seemed to fly in the face of the Open Records Law, but he had tried to balance the two conflicting areas of the law by saying the information would be disclosed subject to the Open Records Law. Lindsey said the ordinance revision required the city to notify the individual about whom the information had been requested, saying the information had been requested and who had requested it. Lindsey said that gave the individual an opportunity to take whatever appropriate action they felt necessary to protect themselves from harassment.

Weed made a motion to approve the amendments. McMenamin seconded. Tennant said, for clarification, the amendments were to Sections 10-36 and 10-126. Weed amended his motion, and Tennant seconded. Motion carried unanimously.

09-02-11 Update on LOST Renegotiation.

Basinger said state law required the formula for distributing Local Option Sales Tax (LOST) revenues to be updated every ten years following official release of the U.S. Census. To this end, the mayors and city managers of Fayetteville, Tyrone and Peachtree City met to discuss the upcoming LOST negotiations with Fayette County and to attempt to reach consensus on what formula the city should pursue with the County for dividing the LOST collections. A number of options, such as a formula based solely on the population, or on the digest, or a combination of the two, as well as other possible options, were discussed. The current formula was based on a combination of digest and population. After much discussion, it was the consensus of the mayors and city managers to retain the existing formula and percentages for the next ten-year period.

Basinger said Peachtree City, as the largest municipality in the County, and the County, were designated to sign the appropriate form that is forwarded to the state each year. Thus it was Peachtree City and the County that must reach agreement on the formula. However, the other cities would, as a minimum, receive a per capita share of the LOST.

Basinger reviewed the history of the current formula, saying that Peachtree City and Fayette County were designated by state law to sign the form containing the formula split submitted to the state each year. If the form was not updated annually, the state used the latest form on file for LOST distribution. Basinger said the current formula was negotiated in the 1980s, and expired in 1993. For whatever reason, it was not renegotiated in 1993, and the County had continued to use the formula and accompanying percentages to this day. This was because the County elected not to send a revised form to the State Department of Revenue each year, although Peachtree City initiated that form and submitted it to the County. Basinger said the reason the form was not updated was because most of the growth in the County during the 1990s was taking place in the municipalities, particularly Peachtree City. The County knew that, if the existing formula were updated each year, the County would continue to receive less LOST funds each year. As a result, by not sending in an updated form each year since 1993, the County gained about $3.1 million in additional LOST revenues, while Peachtree City lost $2.6 million, Brooks lost $18,763, and Fayetteville lost about $1 million. Tyrone actually gained about $43,000.

Basinger said that over the years, the cities had no problem with the current formula. However, they had a problem with the fact that the formula was not updated each year with current digest and population statistics during a period of significant growth in the cities.

Basinger then reviewed the current percentage splits under the static 1993 formula. Brooks received 0.59%, Fayetteville received 11.36%, Tyrone received 4.91%, Peachtree City received 35.64%, and the County received 47.50%. Basinger said now the major growth was projected to be in the County, and the County wanted to change its portion to 50%. Basinger said the city should strongly object to this increase. He reiterated that it was the consensus among the mayors and city managers that the current formula remain in place for the next 10-year period, and the current percentages remain static for that time. Then the County's share would not be increased, allowing the cities to recoup some of the funds lost over the past decade. To this end, Basinger said staff recommended that Council adopt the resolution in their books endorsing the continued use of the 1993 LOST Distribution Formula and percentage splits, and that such percentages remain static for the next 10-year period. Basinger said it was his understanding that the Councils of Tyrone and Fayetteville would be considering similar resolutions. Basinger then asked the City Attorney to address the legal ramifications of the city and County failing to reach agreement by year-end.

Lindsey said under the law, the cities and counties were requested to renegotiate and submit a new formula dividing LOST proceeds that would be okay for 10-years. Once every 10 years after the Census, a formula had to be submitted. Lindsey said if it were not submitted by the December 30 deadline, then effective January 1, 2003, Fayette County and the cities could no longer collect Local Option Sales Tax until an agreement had been reached. Lindsey said it was up to Peachtree City and Fayette County to enter into the agreement. Lindsey said he had heard rumors that the County thought they could convert to a Home Owners Sales Tax (HOST), through which the County would get all the money. However, that conversion could not occur until the legislature approved it and it was adopted through a referendum. So realistically, it would probably take 12 months to put that into effect. Lindsey said presently the LOST collection in the County was about $18 million per year, so there was a huge risk and a huge amount of money at stake.

Brown added that LOST was the largest source of revenue for Peachtree City, and Salvatore confirmed it was over $6 million per year. Brown said there had been a meeting with the County and municipalities, and the County gave a presentation. Brown said he spoke up and said he would like to keep things the way they were, and no one expressed disagreement. Brown said Dunn had indicated there might be some minor modifications, but Brown felt the 50-50 split was not minor and would be a $400,000 per year loss to Peachtree City. Lindsey said he felt it would actually be worse than that because in conversations he had had with representatives from Fayetteville and Tyrone, they indicated they would not sign a 50-50 split agreement. If they did not sign, they would automatically get a pro-rata share based on their populations, and due to population growth in Fayetteville, they would get an increasingly larger share of the pie. So Peachtree City would be impacted by the sister cities as well. Tennant asked if Fayetteville and Tyrone had no vested interest in signing the agreement, and Lindsey clarified that applied only to the 50-50 split proposed by the County. Tennant asked about Basinger's figures on what the County gained over the past decade. Brown said the County held to a formula during Peachtree City's growth, and Peachtree City could not reap the benefits of that growth in LOST. Brown said now the position was changing, and the County was about to have significant growth, and the city was asking, in the name of equity, to give the cities the same type of arrangement that the County had during the 1990s.

Tennant asked if it would go to arbitration or mediation if no agreement were reached. Lindsey said there was nothing forcing the entities into arbitration, but the hammer was that agreement had to be reached by the end of December or the funding would be lost.

Brown noted that DeKalb County had implemented a HOST, which worked great while the economy was good, but was now a real problem, and the chairman of the DeKalb County Commission now said adopting the HOST was one of the biggest mistakes they had made. Lindsey said that entities were really all at risk being too dependent on a funding source, whether LOST or HOST, that could be so easily impacted by the economy. Tennant asked what percentage would be needed for the city to break even. Basinger said the current percentage was what was needed.

Rapson said he thought it was fair to say that, if no one signed and the LOST revenue source went away, the only way to make it up was to double the millage rate. Tennant asked if the County had a large reserve fund, and Brown noted that the County also had a substantially larger budget. Basinger said that to give up an $18 million revenue source would be political suicide. Brown added that the County Commissioners voted 5-0 in support of the 50-50 split, which was surprising.

McMenamin made a motion to sign the resolution supporting the current formula and percentages. Rapson seconded. Motion carried unanimously.

09-02-12 Consider Petition to Discuss and Vote on Payment of Rapson Ethics Violation Legal Fees by the City

Brown noted that Council had before them on the dais a September 5 email from the City Manager regarding a legal opinion from the City Attorney. Brown added that the item would not be a Public Hearing. Brown said the city requested and received a third party legal opinion on the matter, and the opinion was that Councilmember Rapson was entitled to having the legal fees paid. Brown said the City Attorney also confirmed that opinion. McMenamin said she had received numerous questions on this matter from citizens, only one of whom was listed on the petition received by the city, and that was why she requested the opinion. Council agreed that, in light of the legal opinion, Council had to uphold it.

Council/Staff Topics

Weed said he wanted to clarify some apparent confusion that occurred. He noted that Alison Chambers had expressed an interest in applying for the Development Authority. He said that, although he had no recollection of the request, Ms. Chambers indicated she had asked him to notify her of the deadline for those applications and he failed to do so and took full responsibility for Ms. Chambers not having her application submitted on time. Weed said Ms. Chambers did not want to pursue the issue further, but he wanted to make a note of the situation for the record.

Basinger said there would be a Special Called Meeting at 7 PM on September 10 to discuss Golf View Drive.

Basinger also noted that the city would hold a Commemorative Event on September 11, 7 PM at the Amphitheater.

Weed made a motion to recess into Executive Session to discuss a personnel matter. Tennant seconded the motion. Lindsey said he also had an update on a legal matter. Weed amended his motion to include the legal matter and McMenamin seconded. Motion carried unanimously.

Executive Session

Brown moved to reconvene into open session at 11:10 p.m. Rapson seconded. Motion carried unanimously.

Tennant made a motion to accept changes to the City Manager severance agreement discussed by the City Attorney. Brown seconded. Motion carried unanimously.

There being no further business to discuss, McMenamin moved to adjourn the meeting. Rapson seconded. The motion carried unanimously. The meeting adjourned at 11:15 p.m.

Betsy Tyler, Deputy City Clerk

Stephen D. Brown, Mayor