

**MINUTES
MAULDIN CITY COUNCIL
AUGUST 17, 2009
7:00 PM**

Members present were Mayor Don Godbey, Council members Patricia Gettys, Bob Cook, Gabe Hunter, James Kennedy, Dale Black and Michael Reynolds. City Attorney John Duggan and City Administrator Trey Eubanks were also present.

1. Call to order.- Mayor Godbey
 - a. Invocation- Councilman Gettys
 - b. Pledge of Allegiance- Councilman Reynolds
 - c. Welcome- Mayor Godbey
2. Proclamations and Presentations- Representative from CCFB; Pat Pomeroy, Mauldin Chamber; Constitution Week Proclamation; Patricia Gettys and Laura Gurley proclamations; Swearing in of officers; Jimmy Walters- Tree City, USA; Sue Zedick, United Way

Greg Campbell from the CCFB reported that six Furman University art classes are scheduled for the cultural center.

Pat Pomeroy was present from the chamber. She thanked the city for the support of the Capri's ribbon cutting. A press conference for a new business in Mauldin will be held Tuesday at 10:00 a.m. A grassroots meeting will be held at 4:00 p.m. on Tuesday at the BMW Zentrum.

The constitution week proclamation was read by the Mayor.

Patricia Gettys and Laura Gurley were given proclamations regarding their Coach of the Year designations.

Stephanie Hunt, Jimmy Brehm, and Ralph Lloyd were administered the oath of office.

Jimmy Walters gave Mauldin its 4th annual Tree City award.

Sue Zedick of the United Way came forward to talk about the services they support and the 211 system, where you can dial that number and get information on where to receive the services you need. Linda Smith of the Center for Community Services passed out their new flyer with their services that are partially funded by United Way.

3. Reading and approval of minutes.- July 20, 2009

Councilman Hunter made a motion to approve the minutes with Councilwoman Gettys seconding. The vote was unanimous (7-0).

4. Public Comment.

- a. Vera Balloch: I live at 304 Vesper Circle. In all my residence, I have never had a problem to my knowledge that I have now. We have a drug problem and I don't know how really to address it. There are others here who are closer to the situation than I am. It is not my next door neighbor. They came in a little late and probably did not get to sign the sheet to speak. We have an excellent police chief and I think with him and his staff, we can nip this in the bud.
- b. Darby Langston: I also live on Vesper Circle. I am at 226B Vesper. I have several members of the community if they want to raise their hands. We have recently had some issues with the downturn in the economy. Some houses have become vacant and in one of the houses, for lack of a better term, squatters. Some teenagers got into the home and lived there for about a month until they were removed. Several calls were made to the police department and it took several weeks before anything was done. It took a neighbor making calls to the real estate agent and the owners of the home to get it resolved. The consensus was for me to come in tonight. I spoke with Chief Turner this afternoon, so he was aware that I was coming so I wouldn't blindside him. They have made several trips out there and do have the gentlemen under arrest. They were out there today on another call, so we do know they are responding. There are some dealings going on also around the 300 block of Vesper Circle where the other lady lives that we are not sure of.

I have a 3 ½ year old and a 1 ½ year old. I am there by myself and I cannot live in fear. I need to make sure that things are being done. I do own a gun, but I don't ever want to have to use it. We have also had an issue apparently with a peeping tom. I don't know if that was ever called in, but there were two sightings of the gentleman. He was spotted looking into the windows of houses. When he is confronted, he says he is looking for his lost dog. Yeah, right.

In defense of Mr. Turner, he is responding, but we would like to have a little more. I have seen them in the neighborhood, but it does not appear they are hitting the area where the lady was discussing. I have seen them come down and turn before they get into the area. I know of three other families where the mothers are home by themselves. One of them is a correctional officer's wife and they have an infant. We would just like to know that the neighborhood is being maintained. I feel bad that you have had an upbeat meeting until we came. I talked with Mr. Turner about a community watch. Anything that can be done would be appreciated.

Mayor Godbey: Council is receptive to proactive crime prevention and we will do everything we can. The police force will be working with our community.

- c. Tammy Morgan: I am at 114 Fairlane Drive in Simpsonville. This is an update for the legacy book. We had an article in the Tribune Times reminding people that we do want their information and the deadline is September 1st. Sharon Scott and I went to the cemetery in Holly Springs and it is in bad condition. If we have any groups that want to take on a project, there are several that need to be cleaned up. I tripped over one headstone. Sharon has been taking photos of activities and businesses. Karin has been in touch with the schools about helping with the project and we are hoping for student involvement. We are going to try to come up with a contest and maybe even the front cover of the book.

Mayor Godbey: For the people who might not know about this, could you tell us what the Legacy book is?

Tammy Morgan: The first book was published in 1984- Mauldin's Legacy and Its People. This book will continue that so that we can celebrate the 25th year of the book coming out. We want to put family histories, all of the departments, city council, etc.

5. Report from City Administrator

Trey Eubanks reported on the Holland Road project and that it should cost \$450,000. Three funding sources will complete the project. The grading is complete. The cultural center public meeting will be August 24th at 6:00 p.m. Open House begins at 5:30 p.m. Trey Eubanks asked that council ask the City Attorney to develop some wording for the memorandum of understanding between the CCFB and the City.

Councilman Black: I think at the last council meeting, there was a question about purchasing a piece of equipment. Could you for clarification, and I know you answered the individual's question, but could you cover the purchasing policy pertaining to state bids?

Trey Eubanks: Yes. This was the New Holland that was discussed? Yes. We went with state contract for that and there was an interested citizen that inquired about this. We do routinely go to state contract, however, not always. In this case, the equipment was under Mr. Fincher's department. He checked with some other providers and the state contract price was the lowest. I gave an example where last year, our police chief found patrol vehicles cheaper from a dealership rather than going through state contract. We spend the citizens' money wisely and have a good procurement policy.

Councilman Black: Isn't it a fact that the state contract does the bidding process with the vendors and because of the volume that they deal with, they are normally the lowest though we have found certain vendors have come under state bid.

Trey Eubanks: We are not required to go with state bid. We can, and you are right, they have already done the bid work. We also do our homework, and if we find something better elsewhere, we do that. The other thing in the case of the New Holland, the model recommended was not the one with all the bells and whistles. We could have gotten that one, but we didn't need it. Greg determined that the basic model was adequate.

Councilman Reynolds: Do I need to make a motion to have Mr. Duggan draft the memorandum, or can we just ask him to do that?

Mr. Duggan was directed to start drafting that document.

6. Reports from Standing Committees

a. Fire (Chairwoman Gettys)

i. Reports and Communications from Fire Chief

Chief Sapp reported that the response time for his department was 2.8 minutes. 255 calls were received. There was a fire in Butler Station on Friday and they did a good job of stopping the fire where it started.

b. Police (Chairman Cook)

i. Reports and Communications from Police Chief.

Chief Turner: I want to thank Ms. Langston and Ms. Ballock for their comments. Your community and neighborhood is about all you have in some situations. I spent about 35 minutes with Ms. Langston today on the phone. I want to let you know that we are here to help them. In doing so, we need the community's help. Crime Watch is a great way to solve some of the issues. Call us if you see something out of the norm. I will get you some information on this.

Pictures of National Night Out were shown. Pictures were also shows of the girls' youth academy helping at the soup kitchen downtown.

Chief Turner thanked Public Works for helping set up the tents and providing the dumpsters for National Night Out.

Councilman Reynolds asked about the school traffic and about bicycle accidents.

Chief Turner said there is a lot of traffic through that area and Wednesday is going to be a very heavy day as some students do not start out riding a school bus. He also said that to his knowledge there have been no more bicycle accidents since last month.

ii. Reports and Communications from Municipal Clerk of Court /
Administrative Judge

Ms. Martin's report is on file.

c. Recreation (Chairman Reynolds)

i. Reports and Communications from Recreation Director.

Van Brannon reported that the senior program had 2200 participants in its programs. Today they went to Harrah's. Baseball and football practices have started and some guidelines have been developed for the heat index levels. Movie night last Friday night went well.

d. Planning and Economic Development (Chairman Hunter)

i. Reports and Communications from Building and Zoning Director.

Peter Nomikos has his report on file. There is no permit or business license data available because of the computer problems.

e. Public Works (Chairman Kennedy)

i. Reports and Communications from Public Works Director

Greg Fincher reported public works is very busy. The department is helping with the construction on Holland Road. They are also maintaining sidewalks and mulching parks. The trees on the walking trail are being trimmed back as well.

f. Finance and Policy (Chairman Black)

i. Reports and Communication from Finance Director.

Trey Eubanks: I look forward later on to discuss filling the position of Finance Director with council. We have a solid and capable staff that is doing a tremendous job. We really did well by having our rating agencies examine our financial condition. Standard and Poor's and Moody's both improved our rating. That helped us with an external assessment of the city's financials. It also carries forward and has ramifications that benefit our taxpayers. We have a great interest rate on our lease that we will talk about in a little while. It is less than last year.

Councilman Cook: When will we start getting our financials again?

Trey Eubanks: The data is being put back in now. It is going to take some time to get it entered. I don't know that we will have a monthly report by the September committee meetings. You will have an update, but it will probably take a month and a half or so.

Councilman Reynolds: We had a citizen at the last meeting asking about liens on grass cutting and we were waiting on a response from court administration. Have we gotten a response?

John Duggan: Yes. We have learned that our state legislature mandated that all agencies adopt the International Building Code. With respect to structures, it allows us to place a lien on those. With respect to grass and things like that, our remedy is to cite the individuals and go to city court. The judge has the discretion to impose restitution for the cost the city incurs and can add a lien if we have to. I suggest that we request the city judges to sentence them to time suspended on restitution. If they fail to pay restitution, they will serve time in jail. That is the only remedy we have available to us.

Councilman Reynolds: We have asked our judges to do this?

John Duggan: We have not had a case go to jury trial. Those are the only cases we prosecute. It is up to the department heads on non-jury trials whether they need our help. They don't ask us to help unless it is problematic.

Councilman Cook: Would it be proper, or legal, that we ask our administrator to convey our wishes to the judge?

Angela Martin: When restitution is not paid, we can put a lien on their state income tax refund. I may not get all the money, but I can get some of it. If they owe hospital bills or school money, that gets paid first.

John Duggan: Bear with me. You only ask for restitution for cost if you file the lien. If it is \$45.00, do you want to spend the extra money to file the lien when we are trying to get restitution.

Councilman Cook: Mr. Attorney, you haven't answered my question.

John Duggan: It is a difficult thing with judicial independence, but my belief is this. An expression of concern and the cost to the city and asking them to take it into consideration is not a problem. They will take it on a case by case basis. If we comment on a particular case, that would be inappropriate.

7. Unfinished Business- None

8. New Business

a. Consideration and action on daffodil proclamation. (Rec)

Chairman Reynolds made a motion to accept the proclamation with Councilman Cook seconding. The vote was unanimous (7-0).

b. Consideration and action on business license appeals. (PEDC)

Chairman Hunter: There are three business license appeals before us and they appear to be very similar in nature. You also received a letter from our law firm concerning this matter from Andrew Culbreath. You need to remember and recognize the requirements there for adjudication.

Peter Nomikos: The property owner owns a rental warehouse in Mauldin and they have been licensed since 2002 with no prior late renewals. He came in and paid the delinquent license fee after receiving his ticket. He is requesting a refund of the \$40.80 because he did not receive an application or a phone call. As stated previously we send out notices, delinquent notices, and then tickets by certified mail. None of the prior correspondence has been returned to us by the post office.

Chairman Hunter: This was not his first time?

Peter Nomikos: In this case, it was his first time.

Chairman Hunter: This is his first time paying license fees?

Peter Nomikos: Paying late.

Chairman Hunter: He has paid fees on time on the past?

Peter Nomikos: Yes, since 2002.

Chairman Hunter: Is there any reason to believe that we didn't follow proper procedure?

Peter Nomikos: I have no reason to believe we did not. We sent all the business license renewals in December.

Chairman Hunter: Next case is American Tire Distributors.

Peter Nomikos: They have a warehouse inside city limits and have had a license since 1995. They have had two prior delinquent renewals. They failed to remit income tax verification which is noted in bold print on the notice. They are requesting that \$5271 in late fees be refunded.

Chairman Hunter: So they have a history of filing late?

Peter Nomikos: Yes.

Chairman Hunter: Is there any reason to believe that we didn't follow proper procedure?

Peter Nomikos: I have no reason to believe we did not. They did send in their renewal minus the income tax verification.

Chairman Hunter: It is in bold print. That is my recollection. Piedmont Plastics?

Peter Nomikos: They operate a distribution facility and have had a license since 1997 with no prior late renewals. They state they did not receive application or reminder notice and that they have never filed an application late. They are requesting refund of \$1783 in late penalties.

Chairman Hunter: Is there any reason to believe we didn't follow procedure?

Peter Nomikos: No, sir.

Chairman Hunter: And they have paid on time in prior years?

Peter Nomikos: Yes, sir.

Councilman Reynolds: On the American Tire Distributors, it said that they followed procedures from the previous year, submitting numbers from the general ledger. Can you confirm that?

Peter Nomikos: The previous year was the first year we started requiring income tax verification. In that instance we required the ledger from the accountant. They filed their income tax forms when they were complete. This year, they filed the ledger and we already informed them that would not suffice this time.

Chairman Hunter: I reject the appeals for reinstatement of business license appeals.

Councilwoman Gettys made the second.

The vote was unanimous (7-0).

- c. Consideration and action on tree removal request from Hadley Park.
(PEDC)

Chairman Hunter: There is a historic tree in Hadley Park off East Butler and we have had an arborist look at it. Both recommend taking the tree down due to damage to limbs and the possibility of them falling on someone. I make a motion that we approve the removal of the historic tree at Hadley Park.

Councilman Kennedy seconded the motion.

Councilman Black: If they remove the tree, are they still following under the same guidelines for replacement?

Peter Nomikos: They will have to provide four new tree credits.

Councilman Kennedy: Is the tree, I was reading where the top is dead, is the whole tree dead?

Peter Nomikos: The tree is apparently hollow on the inside where it has rotted out. When they were doing construction on Hadley Park they compacted around the tree root and the tree has been declining over the years. They have tried to bring it back to health, but it is not going to happen.

Councilman Reynolds: As I recall, they were trying to save another tree as well.

Peter Nomikos: Yes, they are trying to preserve that one as well.

The vote was unanimous. (7-0).

d. Consideration and action on acceptance of bids for capital lease.

(Finance)

Chairman Black: This pertains to capital lease equipment for purchases inside the city. The city put out bids for lease which allows us to get the best rate on major equipment approved in the budget. All local banks received the packet and were invited to bid. Bids were received on August 13th and we had three bids. I make a motion to take the low bid, BB&T of a 3.23% fixed rate for four years.

Councilman Hunter seconded the motion and the vote was unanimous (7-0).

e. Consideration and action on holiday policy. (Finance)

Chairman Black: We ran into a situation over the July 4th holiday where the city observed the holiday on Monday after the 4th, which fell on a Saturday this year. The county and state observed the same holiday on Friday. We have run into problems in the past where the county and landfills and things like that were closed on a different day than we were. It really puts the people out of the loop for two days if we do it that way. We recommend that we go along with, not the state, because if you go with the state, you are adding two more holidays that we don't have here, but I make a recommendation that we follow the county schedule at the administrator's discretion whether we take a holiday on Monday or Friday.

Trey Eubanks: The recommendation is to allow me to set the holiday schedule to be closely aligned with the state schedule and certainly take the county into consideration. On July 4th, we were open when a lot of businesses were closed and closed when a lot of businesses were open. The goal here is to be able to be closed and open more in alignment with our businesses and the state and county schedules.

Councilman Hunter seconded the motion and the vote was unanimous (7-0).

- f. Consideration and action on sale of fire equipment (Committee of the Whole)

Chairwoman Gettys: We are wanting to consider approval of a possible sale of a 1996 Ford F150 rescue vehicle. It has been deemed unsuitable for our use. I would like to make a motion to approve the sale.

Councilman Hunter: Do we have a bid at this time?

Chief Sapp: We do not have one in hand. We were notified by a vendor that knows the background of our equipment and they have an interested department. I wanted to get this done so I could approve the sale when we do get one. Spartan Fire and I feel that \$30-35,000 is a really good buy for this truck. A smaller department that runs less calls and doesn't carry as much equipment could use this vehicle. It is unsuitable for us. We were notified of this after the committee meetings.

Chairwoman Gettys: Do we have guidelines that we use to determine that it is unsuitable? Is it strictly by use?

Chief Sapp: This vehicle is a commercial vehicle. You can't set guidelines on fire equipment. This is on the volume of calls, weight, and maintenance on the vehicle. This vehicle has had 5 turbos changed on it. The first three were under warranty. The other two were not and they are not cheap. The truck, as we get new rescue equipment, and the weight of the equipment over weighs the truck. We are about scared to drive the truck because the tires in the front almost won't touch the ground.

Councilman Black: If we adopt this with the figures and the figures come in lower, do we have to revisit this?

John Duggan: You need to have the discretion to sell to the highest bidder.

Mayor Godbey: The motion has no figures and doesn't state an amount.

Councilman Cook made an amendment to put the \$30-35,000 figure in the motion.

Councilman Black seconded the amendment.

The amendment carried unanimously (7-0).

Councilman Reynolds: Is Spartanburg to be paid a brokerage fee?

Chief Sapp: No.

The motion as amended carried unanimously (7-0).

- g. Consideration and action on executive session for contractual/ personnel matters. (Committee of the Whole)

Councilman Hunter made a motion to go into executive session with Councilman Reynolds seconded the motion and the vote was unanimous (7-0).

Council returned from executive session. Councilman Black made a motion to accept the city administrator's recommendation and appoint Holly Abercrombie the new Finance Director. Councilman Reynolds seconded the motion and the vote was unanimous (7-0).

9. Public Comment.

- a. Tommy Shaleuly: 961 Fargo Street. This is concerning the New Holland. The point I was trying to make was that the state bid is not always the best bid. I thank you, Mr. Eubanks, for pointing that out. That is the reason we need to go out for formal bids. Not calling around and asking what is cheaper, we need formal bids. For a piece of equipment that costs \$32,000 and we don't bid it is poor management. I would like to ask council to make that a requirement. I think you should at least go out for bids, not necessarily take the lowest bid, but do take bids.

10. Council requests.

11. Adjournment. – Mayor Godbey adjourned the meeting.

Respectfully Submitted,

Cindy Miller
Municipal Clerk