

**MINUTES  
MAULDIN CITY COUNCIL  
APRIL 19, 2010  
7:00 PM**

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

1. Call to order.- Mayor Godbey
  - a. Invocation- Councilman Kennedy
  - b. Pledge of Allegiance- Councilman Reynolds
  - c. Welcome- Mayor Godbey
2. Proclamations and Presentations- Representative from CCFB; Pat Pomeroy, Mauldin Chamber; Presentation by architect regarding new fire station

Brian Daughhetee reported that they are searching for a new Executive Director, 60 applications were received and nine were picked for interviews. Mr. Daughhetee also mentioned that council may suspend the rules to add the consideration of Betty Thacker as a new member of the foundation board.

Mr. Cook said that he had talked to a man named Van in Fountain Inn and they have had 10,000 people attend events at their Fountain Inn activities Center and that is what we need to strive for.

Jerry Smith reminded everyone that National Day of Prayer will be Thursday, May 6<sup>th</sup> at 12:00 p.m. at city hall. Mayor Godbey read the proclamation.

Jim Stewart of Stewart, Cooper, and Newell gave a presentation on the options for the new fire station.

Councilwoman Gettys made a motion to suspend the rules to put Betty Thacker's nomination to the CCFB on the agenda. Councilman Reynolds seconded the motion and the suspension of the rules passed unanimously (7-0). Councilwoman Gettys made a motion to accept Betty Thacker to the board with Councilman Hunter seconding. The vote was unanimous (7-0).

3. Reading and approval of minutes.- March 15, 2010

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

#### 4. Public Comment.

- a. Richard Witmer: The property is 447 West Butler Road. I live in Powdersville. I have two licenses for one property. One license and then I have to have a license. I pay taxes on that building. 19% for Mauldin taxes and I don't think it is proper to be charged another business license. I thought it was a joke when I got the letter. I called the lady that leases the building and she didn't know anything about it. I called zoning and asked her after 15 years, why are you approaching me now? She said the party before us didn't think it was proper to charge the property owner, but we do. Who is we? I asked where did you come up with 45%? She said "we", again, we thought it was cheaper than 5% for four years. That got me angry the way she was answering the questions, like they were making up their own rules. I called Channel 7, Bob Inglis, and the Greenville News. Of the 50 or 60 people that I have spoken to, there is not one that agrees with this type of license. I have never heard of it and I am 66 years old.

I pay taxes already and I don't think I should be penalized for the mistakes of building and zoning. They should have caught this early. I think I should get at least my 2007, 2008, and 2009 money back. You know what I am saying? I had no idea this was out there. I pay everything that is supposed to be paid and I got this the 5<sup>th</sup> and it had to be paid by the 30<sup>th</sup> of this month. I could have gone and computed this, but this letter, they should have at least told me what to pay. This is confusing. There are 7 classes. What class am I in? Non resident and resident? It doesn't make sense. Then I didn't send the right amount and she sent a letter and gave me nine days to pay. She gave me 25 days. I didn't have a chance to check into anything. I got frustrated and that is why I called channel 7. I said this is impossible this is happening. I have been around 66 years and have never heard of this. I know you need money, but this is a poor basis to get it. If this is a law that it can be held up, I think it is unethical.

- b. Ron Reese: I live at 18 Chestnut Ridge Road in Greenville and I have property here in Mauldin. I am speaking on the same issue. I received notice about a business license for landlords, which I found incredible, because I have property in other places and never heard of such a thing. In addition to that, it was three or four years back and penalties of 45% on the first years. I called and she informed me that there were some people who were skipped over, and you happen to be one of them. This is not my responsibility to know about this and I don't understand it. I am paying property taxes and now you ask me to pay a business license as a landlord. I thought a business license was for an operating business. There is no indication on the website for how long this has been in effect. I know you need money, and I appreciate the interest you have in the Mauldin area, but I don't appreciate this particular ordinance.

- c. Angel King: I live at 14 El Jema Forest Drive in Piedmont. I also received a letter and when I called, she was very nice to tell me what I needed to know and all I am doing is respectfully asking that my penalties be waived. I understand if it is required of us to lease a property here to pay a business license, I am fine with that. We didn't know we were supposed to pay them, or we would have. We certainly would have. I am just asking for my penalties to be waived. Otherwise, we have no problem paying what we need to keep a business here. Thank you.
- d. Dr. Pennington: I have the same thing. I am Jeff Pennington. I live on Lancelot Drive in Simpsonville. I came to Mauldin in 1961 and opened my dental practice on Sunset Drive. I turned in my license in 1996. I paid my license every year for thirty five years. I retired and came to city hall and they thanked me and seemed happy that I had been here for 35 years. Made me feel kind of good. I was the first dentist in Mauldin.

Mayor Godbey: We need to have you talk to our folks about the Legacy Book.

Dr. Pennington: I have. I have talked to Karin and I have talked to her and John Gardner a lot. I also received a letter in March for a business license for 2007, 08, 09, and 2010. I received my first and only notice for that in March of this year. I don't think it is fair since I paid my license for all these years to be given a 45% penalty. I paid my license regularly. When I turned my license in, I was not told I would be responsible for this. I do rent my office, or have been trying to rent it. If I knew of this I certainly would have paid it. I don't think I am responsible for 2007, 8 and 9. When I came to Mauldin in 1961, I wasn't quite as fortunate as Dr. Wells who came here in 1954 and city council secured from Jim Griffith office space and he had free rent. I wasn't quite that lucky.

## 5. Report from City Administrator

Trey reported on the Census. Through April 15<sup>th</sup>, the national participation rate is 67%, the state is 68%, the county is 71% and our rate is 73%. We exceed all of the levels. 10 years ago we were at 74%. Pete has been working hard to get the information out on the importance of this. The City was recognized with the state-wide award in public safety by the efforts for our youth in the City through the fourth quarter, explorer posts, youth camp, and youth court. We were competing with cities like Lexington and Charleston. This is the first time the City has won the award in recent history. We did win back in 1999 in our population category.

Chief Turner reported that a 20 minute presentation was given and 10 minutes for questions. The board never took notes because we had their full attention. The vote was not even close. Youth camp will be done again this year. The session will be four weeks long. We have gotten good response from city businesses and even businesses out of town that help with sponsorships.

6. Reports from Standing Committees

a. Fire (Chairman Black)

- i. Reports and Communications from Fire Chief- report on file

b. Police (Chairman Cook)

- i. Reports and Communications from Police Chief.- report on file

Jacqueline Brown was given the oath of office.

- ii. Reports and Communications from Municipal Clerk of Court /

Administrative Judge- report on file

c. Recreation (Chairwoman Gettys)

- i. Reports and Communications from Recreation Director.

Van Brannon reported the Senior program has 2600 participants. The City bus will be used to go to Woodruff and downtown Greenville. Miracle League, the Mauldin Maulers, and softball and baseball have started. Summer bash and movie night plans are being made now for the Centennial celebration. The Garden Club spring fling is this weekend.

- ii. Report on cultural center.- none

Councilman Cook did say that he thinks the auditorium should be fixed before any plans for the amphitheatre begin.

d. Planning and Economic Development (Chairman Hunter)

- i. Reports and Communications from Building and Zoning Director.- report is on file

e. Public Works (Chairman Kennedy)

- i. Reports and Communications from Public Works Director

Greg said the department has been busy with updating the street paving list for COTRANSCO. A major drainage project has been completed in Planters Row. Recycling has been picking up from the PAYT discussion. Councilman Reynolds asked Greg if it was possible to put some recycling brochures on the trash bag aisles at the grocery stores.

f. Finance and Policy (Chairman Reynolds)

- i. Reports and Communication from Finance Director

Holly Abercrombie reported that the department is busy with the budget. Councilman Hunter thanked for the quick response on his questions.

7. Unfinished Business

a. Consideration and action on alcohol ordinance (PEDC).

Chairman Hunter made a motion to approve the alcohol ordinance. Councilwoman Gettys seconded the motion. The vote was unanimous (7-0).

8. New Business

a. Consideration and action on rezoning of 108 Bon Air Street. (PEDC)

Chairman Hunter made a motion to accept the rezoning on first reading to residential. Councilman Black seconded the motion and the vote was unanimous (7-0).

b. Consideration and action on NPDES agreement. (PW)

This is an agreement between us and Greenville County. DHEC previously provided the service and then the County took over in 2008. Chairman Kennedy made a motion to pass this on first reading. Councilwoman Gettys seconded the motion and the vote was unanimous (7-0).

c. Consideration and action on storm water ordinance. (PW)

Chairman Kennedy made a motion to accept this ordinance on first reading. Councilman Cook seconded the motion and the vote was unanimous (7-0).

d. Consideration and action on alcohol policy. (Finance)

Chairman Reynolds made a motion to approve the policy with Councilman Hunter seconding. Councilman Black asked that a copy of the ordinance be given along with a copy of the policy when alcohol is requested because ordinance refers to the policy. Councilman Cook asked about the part of the ordinance that states up to 10 feet of the exterior. Trey Eubanks said that was a comment from the attorney based on a question about interior and exterior use.

John Duggan: Before the ordinance was changed, you couldn't tell whether it meant ten feet from inside the door or ten feet outside the building. I clarified it to ten feet outside the building.

Councilman Cook: That's not what we decided to do. We didn't want it outside the building. Ok, what if you had it in the auditorium, they walk all the way through the cultural center and then 10 feet in front?

John Duggan: The reason is because the wording was ambiguous. At that time, Mr. Hunter and his committee had it at that time and were discussing it so you could go outside the building up to ten feet from it. That is why it was drafted that way.

Councilman Cook: I am saying that we left that out. I might be wrong. You can't consume any alcohol outside the building.

John Duggan: I have not been privy to any changes since I drafted this.

Councilman Cook: I am talking about prior to this. This was talked about before this was written.

Chairman Reynolds: I will amend my motion to table this. Tell me your concerns.

Councilman Cook: You have heard them. One other thing, explain the designated area. What is that? In the same paragraph- no item 3.

Chairman Reynolds: This is outside so you could have wristbands for the consumption of alcohol.

Councilman Cook: We eliminated that.

Councilman Hunter: Mr. Cook eliminated that. It was not my committee that did that. As it left my committee, there was a designated area outside designated by the officer on duty.

Mayor Godbey: I will go back to Mr. Reynolds. There is an amended motion to table this. We need to discuss these details.

Councilman Cook: Would you get me the minutes and then prove I am wrong?

Trey Eubanks: Council has weighed all the issues. The exterior of the building is one of the issues that has been up for debate. As a result, Mr. Duggan changed this to allow ten feet from the exterior to the door. Council can change that to keep it to the interior only. I will put together a report with previous minutes and actions. We will table this and rescind the ordinance that we just approved.

Councilman Kennedy: I am confused. Which committee handles this?

Mayor Godbey: The ordinance is PEDC. The policy is Finance and Policy.

Councilman Kennedy: We need to table this. You don't have cohesion in the committees.

Councilman Black: The ordinance mentions article 1 and two of the policy and you have to get that clarified for the ordinance to be valid.

Mayor Godbey: Mr. Duggan said that we should not act on the policy tonight.

The vote was unanimous to table (7-0).

e. Report on Hwy 276 project. (PEDC)

John Gardner reported that a few changes have been made by SCDOT. One median has been eliminated near Forrester Drive and there have been minor landscaping changes. DOT did not approved dedicated left turns at Knollwood and Murray. An application for \$127,000 has been sent to the transportation committee of the county for sidewalks. Trees Greenville may participate in the project. We will meet with them next Thursday. Final cost estimate is \$782,000. We have \$688,000 in the budget. The \$782,000 includes 10% contingency. Other projects have come in under budget. That will depend on the bids. DOT will bid the project. Chairman Hunter made motion to submit plans to DOT for bidding. Councilman Reynolds seconded the motion and the vote was unanimous (7-0).

f. Consideration and action on business license appeals. (Committee of the Whole)

Reese's- Peter Nomikos reported that the late penalties have been appealed. The ordinance states that any person engaged in a business is required to pay a license fee. In our efforts to find all sources of revenue, we started examining rental properties. 24 notices were sent out.

Councilman Hunter asked if there was any notice prior that a license was due. Peter said not before March of this year. Councilman Hunter asked if he was sent a copy of the ordinance. Peter said no. Councilman Hunter asked if there was any reason to believe that the department failed to advise him that he had to pay. Peter said during review of the property, it was found out that the postal service does not own the building.

Councilman Cook said it is a sad time that we started looking for this when we need money and not before now. Why did it take so long to find this? He also said the administrator should have known about this before the notices went out. Councilman Cook said he would not support any of this. The penalties should be waived. He asked if certified letters were being sent. Peter Nomikos said he wasn't sure.

Councilman Hunter asked Mr. Reese if he received a certified letter from the City saying that back taxes were owed. Mr. Reese answered no. Dr. Pennington was asked the same question and answered no as well.

John Duggan said this has been a difficult issue because smaller landlords don't know that they have to get a business license. Council does have the right to waive penalties, but not the license itself.

Mayor Godbey said there is a proper way to do this and the penalty portion is concerning to him. He would like all penalties to be waived. Councilman Hunter asked if the two to three years back taxes could be given back also. Mr. Duggan said no, because then you are treating some people differently. Penalties, however, are used to penalize people who know they are supposed to pay and don't. There is an intent to not pay their business license.

Councilman Hunter asked Peter if these business owners were all the same, in that there was no intent to not pay the licenses. Peter said he thought that was fair. They just did not know. Councilman Hunter made a motion that all the penalties be overturned. Councilman Black seconded the motion.

Councilman Black asked if the administrator or other staff had the discretion to waive the penalties without this coming to council. John Duggan said no. This process is built in because it is a form of tax. Staff cannot make tax judgments and cannot waive taxes.

The vote was unanimous to waive the penalties (7-0).

Councilman Cook asked the administrator to make sure that the department is following council instructions in sending out certified letters. He also said he doesn't understand why the software does not tell us when someone has not paid their business license fee. He said we need to find some kind of software and that this is embarrassing for a city our size.

- g. Consideration and action on new fire station bid process. (Committee of the Whole)

Councilman Black made a motion to send the design of the station out to bid with alternates 1 and 2. Councilwoman Gettys seconded the motion and it was unanimous (7-0).

#### 9. Public Comment.

- a. Ron Reese: In my letter, I protested the penalties and I appreciate what you have done. I wasn't sure how to approach the ordinance and I am confused with an ordinance that calls a landlord fee a business license. I am a landlord, I have property in Greenville that I own, and I don't pay a fee. The other thing I am curious about, is if I am an owner like the dentist, does the dentist pay a fee as an operator and then a rental fee for his own place. I am a landlord of my own building and be in that building with my business, I have to pay a license to operate and then if I am renting to myself I have to pay extra? That is what it looks like.

John Duggan: I don't think you are renting from yourself unless you have a separate company. If you have a company and you are renting from yourself, then you have to pay a license fee.

Mayor Godbey: The committee meetings are the first Tuesday of the month and that is when we talk about policy and ordinances. The public is invited to make comments so if there is an issue we need to address.

- b. Dr. Pennington: When I retired in 1996, I was not told that I would have to have a license to rent my property. I have not been too successful in that.
- c. Danny Day: I am Danny Day and I live at 912 Fargo Street. My subject is transparency in your budgeting process. I too was at the spectacle that you called a public forum on PAYT. I don't think it served the citizens or the city very well. I also don't think it served you very well. One of the things I would advocate you to consider, and I am not looking for a response tonight, but I have sent each of you many emails on the issue of taxes, franchise fees, and all of the above. The thing I sensed out of that, is that people will tend to not like to have to take bad medicine. Most of the citizens were so myopically focused on the one bone, they walked away with no knowledge of the other taxes and fees that are going to be placed on them. They didn't help you solve your problem. You had a politically expedient bone and you got rid of it. I am pretty sure PAYT will not happen. At least not this year.

I think you missed the boat that as a Council, you have worked hard not to raise millage. You also advocated that you have one of the lowest millage rates around- 51.7. But what you didn't tell them was you have a \$2 million problem. I have heard that you cut out \$954,000 out of the expenditures for the next year's budget, but you need to raise \$1.1 million. You will go up 2% franchise fees which equates to 6 mills plus. On a rough calculation, the 3% franchise fees we now pay for energy is about 10 mills. We are in reality paying 61.7. Energy has nothing to do with city operations. They are collecting taxes for you. It is also a regressive tax. It hits the elderly, poor, and lower income people. It is no different than millage on businesses. Give people the whole picture. I am a strong advocate that Holly or Trey really take a look at this. I am not a wealthy person. I am a whole lot better paying millage than I will ever be paying franchise fees. I look to you to do the right thing and be as pragmatic as you can be. You should develop a five year plan and start doing the millage to replace the franchise fees. You should also look at the tipping fees. You know the options; y'all are pretty smart. Be very transparent and when you focus on one thing, you are going to get the result you got the other night and it was not pretty.

The other thing is people walked away unhappy. It does not matter whether you do it or not, they are unhappy. First off, they presume you will do it anyway. I think if you would take that approach and I have given you multiple, very detailed memos. I look more favorably at PAYT than most people would because it is directly a city function. There are smaller franchise fees, but the energy one is a bad dog. I am willing to almost bet that you will take 2% on energy because you don't have a whole lot of choice. I see the problems you have. You need to advocate what you have done and say we shouldn't have waited seven years and we haven't raised your taxes. Look at all of your options. I have spent a lot of time given you information through emails and if WORD radio got a hold of the franchise fees being equivalent to 10 mills, you would be in trouble. All my emails are going to Anna to quote me. This is a small municipality- no wonder the state and federal government can't get anything done.

10. Council requests.

Councilman Black: The billboard on 417 coming in to town needs to be brought up to code or taken down. It is an eyesore and there are panels missing.

Councilwoman Gettys: I want to make sure that the other businesses that were not present tonight are advised that their business license penalties have been waived.

11. Adjournment.- Mayor Godbey adjourned the meeting at 9:00 pm.

Respectfully Submitted,

Cindy Miller  
Municipal Clerk