

**MINUTES
MAULDIN CITY COUNCIL
MAY 18, 2009
7:00 PM**

Members present were Mayor Don Godbey, Council members Patricia Gettys, Bob Cook, Gabe Hunter, Dale Black, and Michael Reynolds. Councilman Kennedy was not present. City Attorney John Duggan and City Administrator Trey Eubanks were also present.

1. Call to order.- Mayor Godbey
 - a. Invocation- Councilman Dale Black
 - b. Pledge of Allegiance- Councilman Reynolds
 - c. Welcome- Mayor Godbey
2. Proclamations and Presentations- Representative from CCFB; Pat Pomeroy, Mauldin Chamber; Recognition of the firefighters who went to help with the fire in Myrtle Beach; Proclamation for Beverly Hunter; Freedom Shrine presentation
Doris and Clyde Ash came forward to talk about the gift of the Freedom Shrine from the Exchange Club. It will consist of around 30 historical documents to be displayed in the cultural center.

Karin von Kaenel and Tammy Morgan talked about the 25th anniversary of the Mauldin Legacy Book. There will be a meeting on Thursday, June 11th at 6:00 p.m. to talk about the direction the new book will take.

Mayor Godbey read the proclamation for Beverly Hunter.

Fire Chairwoman Patricia Gettys recognized Paul Cooper, Brian McHone, AJ Pearson, Shane Puckett, Todd Dorsey and Roy Wilkie and presented them letters thanking them for their service at the fire in North Myrtle Beach.

Scott Slatton from the MASC introduced himself. He is the upstate representative from the municipal association and assists municipalities with whatever they may need.

3. Reading and approval of minutes.

Councilman Black made a motion to accept the April, 2008 minutes with Councilman Hunter seconding. Councilman Reynolds pointed out that the vote on the East Butler rezoning was left out of the minutes. With that change, the minutes were approved unanimously (6-0). Councilman Cook made a motion to accept the May 5, 2009 minutes with Councilman Reynolds seconding. The vote was unanimous (6-0).
4. Public Comment.- None

5. Report from City Administrator- Trey reported about the train show coming up this weekend and Memorial Day weekend.

John Gardner mentioned the Holland Road paving project. The project is running about two weeks behind. Some construction may likely still be underway when school starts in August. A retention pond is required.

Councilman Black: Is the requirement for a retention pond new? I don't believe we were required to have one with the other part of Holland Road.

John Gardner: It is new with the NPDES permitting. The requirements are more stringent now. DOT adds this in almost all cases with road improvements. Gilder Creek is the most flood prone creek in the area.

Councilman Black: That is really going to run the cost of all road construction up if that is going to be required.

John Gardner: There is some impact. It did add some cost to the project- about 10%.

Mayor Godbey: Are we looking at options on how to get this pond done?

John Gardner: There is a tight budget on this and the alternatives are more expensive.

Mayor Godbey: Chief Turner has a good relationship with the schools as we get closer and all of us will need to help communicate with the schools to help minimize disruption at the start of the school year.

John Gardner: I won't rule out that the contractor will be substantially completed when school opens. A quick update on 276- we are waiting on DOT to conduct a complete review of the application we submitted two months ago. We are hopeful. They have changed the process for awarding transportation enhancement funds to local governments. This is the first application with the new process, so that has slowed them down a bit.

6. Reports from Standing Committees

- a. Fire (Chairwoman Gettys)

- i. Reports and Communications from Fire Chief

Chief Sapp thanked the families of the guys who went to help with the fire at Myrtle Beach. The average response time is 2.6 minutes- 247 calls for the month. Year to date is 977 calls, at this time last year, it was 839.

b. Police (Chairman Cook)

i. Reports and Communications from Police Chief.

The second annual Chief's Academy is coming up. The boys' camp is full and we are still looking for more girls for the girls' camp.

Chief Turner reported on the last session of youth court for the school year. It will be this Tuesday beginning at 4:00 p.m.

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

Angela Martin reported that Judge Robin Stilwell has accepted a Circuit Court judgeship appointment and will be conducting court for Mauldin for another month. His last day is June 17th.

c. Recreation (Chairman Reynolds)

i. Reports and Communications from Recreation Director.

June 3rd is community wellness day at the sports center. Van Brannon showed some pictures of the newly installed Pine Forest playground. Councilman Cook said he rode by the park and there was a line at the swings and thinks we ought to look into buying another swing set.

Mayor Godbey said that the neighborhood has a July 4th picnic and he would like the council to attend if they can to show how neighborhood-friendly the city is. Mayor Godbey said that reinvesting in older neighborhoods is one of council's priorities.

d. Planning and Economic Development (Chairman Hunter)

i. Reports and Communications from Building and Zoning
Director.

Peter Nomikos reported that permit activity has increased significantly. The dollar value is not very high but there is good residential activity. The shortfall on the business license revenues is now \$260,000. 43 days are left in the fiscal year, so we may get close to meeting the budgeted amount. Several companies are delinquent in their business license fees and will owe fees plus penalties.

On Mother's day, a contractor was caught at 110 East Butler after he took down a historic tree. Tickets were issued.

Councilman Reynolds asked when the NHC property would be completed. Mr. Nomikos said that institution property construction is very detailed and probably wouldn't be finished until August. Mr. Reynolds told Mr. Nomikos that he also appreciated the department taking care of the property posting requirements.

Mayor Godbey asked Mr. Nomikos to work with Mr. Brannon and bring a report to the next council meeting about rewording the tree ordinance and ways to stop the taking down of historical trees.

Councilman Cook asked where we were about Mr. Brannon being removed from the Tree Board.

Trey Eubanks: This is comparable to the way our staff acts as liaison to other boards and commissions. We have been working to meet and the Recreation Director has taken the lead in working on an updated tree ordinance that does structure the position to where the board will elect their own chairman. The board has to take formal action on that or at least weigh in on it. We will have a report for you by June 2nd.

Councilman Cook: June 2nd, we can remove Van from that?

Trey Eubanks: No, sir, I didn't say that. We will have a report for you. Van has drafted language for a revised ordinance that would structure it that way. We are going to try to get a meeting with the tree board.

Mayor Godbey: I would like a monthly update until we get resolution of these two issues.

Councilman Black: I saw the tree in question and I called and left Mr. Eubanks a voice message and I saw the police out there when I was coming home from church. Are we keeping up with these? I would like a report to council on the people who are issued fines. We never hear the end result. Did they pay the fine? Did they plant the trees they were required to? Is there any way to further educate the people on this? It is not fair to those who are trying to do right and obey the laws to let others just slip by.

Peter Nomikos: In the case of the tree at Mutt's, the property owner had applied for permission to remove it and the logger took it upon himself to remove it. We did write him a ticket for \$750 and the judge reduced the fine to \$75.00. In the case of 218 and 216 East Butler, the six historic trees there- the owner had those removed and we wrote him six tickets. He has requested a jury trial. Regarding the tree at 110 East Butler, the ticket has been issued in the amount of \$750, and I don't know what the judge may assess on that. When we do have activity on those pending cases, we will advise council.

Councilman Black: We have a \$750 fine on the books. Is there anything we can do to make sure these people pay it? I know the judge has the authority to reduce the fine. Is there something we can do to make them adhere to the fines? If a tree is cut down, it is cut down.

John Duggan: We can file a lien on their property so they have to pay it when they sell their property. This is civil, not criminal and we can't put people in jail over trees. We are asking the city judge to impose the maximum, but it is discretionary. I might add that it would be good if we notified the media and asked for some attention to this matter.

Maybe some public exposure might discourage this behavior. I think that might be useful. Ultimately, unless the legislature puts a law on the books with more teeth in it, we are doing as much as we can.

Councilman Cook: How can we encourage the judge? I know how we can, but legally? \$750 would hurt me.

John Duggan: Just like any other member of the public, you can write judges and express your views about their sentencing. Any member of the public can do that in your private citizen role. You can also complain to your state representative.

Mayor Godbey: There is a property in Knollwood where the grass is about a foot and a half high. You already have a violation sticker on the door. How long do you wait before you cut the grass and bill the homeowner?

Peter Nomikos: If we have made contact with the property owner, we don't sticker it. When we do put the stickers on there, we have exhausted all options in trying to contact the owner.

Mayor Godbey: How long do we wait?

Peter Nomikos: Typically two weeks. If we hear nothing in two weeks, we will go ahead and get a contractor to clean it up. It costs about \$45 a yard.

Mayor Godbey: That gets billed back to the property owner?

Peter Nomikos: The cost of recording the lien is greater than the amount of the grass cutting, so we have been absorbing that amount so far.

Mayor Godbey: It doesn't sting the property owner. Maybe we should take a hit so that they do have a penalty for not following the rules.

Peter Nomikos: We do issue tickets, though.

Councilman Reynolds: Can the cost to file the lien be applied to the fine?

John Duggan: Probably not. I can check on that. If you have someone who violates multiple times, you file one lien for the total amount. To some extent you have to have a judgment call on the cost/benefit issue. It's not like they have gotten away with it because they have had to come to city court and pay a fine.

Councilman Reynolds: Should we then address this through policy that we have a certain amount of time?

Mayor Godbey: Let's let Gabe's committee take a look at this.

Peter Nomikos: There are some properties like, for example, 111 McSwain. That property has been a problem repeatedly and we have not been able to contact the property owner. All of the correspondence has come back. It is probably going into foreclosure in the immediate future in which case we will contact the bank about picking the maintenance up on it. We have already cleaned that one up a couple of times and it looks like before the foreclosure is filed we may have to do it one more time.

Trey Eubanks: There are a couple of remedies we do employ. They are fined if they do not respond to the notification we send. If there are repeated fines and we cannot get action there, we will file a lien. We do have the ability to do that within our existing law. I do want to point out that if you see our building and zoning director's report, an awful lot of notices go out. It is a busy time of year- especially for overgrown lots. I just want to ask if you have anything to report please let us know. We are working to be proactive with this at this time. If any of you has questions or comments, please contact our building department and we will let you know where we are in the process.

e. Public Works (Chairman Kennedy)

i. Reports and Communications from Public Works Director

Greg Fincher reported that things were going well. The wall at Springfield Park is completed. The park fields are being redone. The department is being proactive and landfills have been contacted regarding disposal of televisions. The landfill has said we can continue putting them in a trash truck.

Councilman Black said he had seen an article in the MASC Newsletter about there being 8 pounds of mercury in each cathode ray tube in a normal television. The mercury contaminates the soil and the environment. Greg Fincher said he had the same concerns about computers and wants to recycle them.

Mayor Godbey asked if the city had contacted Goodwill as they do a lot with computers. Greg said you would be surprised how few computers and televisions are thrown away. People are concerned about identify theft and therefore don't just throw computers out.

John Duggan said that this coming Saturday, Upstate Forever is having an electronic recycling event.

f. Finance and Policy (Chairman Black)

i. Reports and Communication from Finance Director.

Trey Eubanks reported that the Finance Director position has been readvertised. We are accepting applications through the 26th of this month. The Finance Committee met May 4th and went through audit proposals. There is an item on the council agenda to appoint the new auditor. The city finances are still looking good. We are under in expenditures, but some sewer and paving expenditures will be hitting at the end of this month. These were budgeted expenditures in the capital projects line. Trey thanked department heads for watching their budgets closely. The fiscal year should close with expenditures under budget. Revenues are steadily coming in and property taxes are stronger than were budgeted. Hospitality is slightly under as well as business license fees.

Mayor Godbey reminded council that there will be a public hearing on the budget before committee meetings before the called meeting on June 2nd.

7. Unfinished Business

a. Fire 10 year CIP and GO bond (Committee of the Whole)

Chairwoman Gettys: Last year, both the Mauldin City Council and the Greenville County Council adopted a 10 year capital improvement plan to provide for fire suppression service in the Mauldin Fire District. Last October, the county issued \$2.7 Million in GO Debt for the plan. The City of Mauldin is considering issuing \$2.8 million in GO Debt for the 10 year Fire CIP. Last Month council passed on first reading \$4.5 million in debt. Very good discussion ensued resulting in a consensus that \$2.8 million was prudent at this time. This amount will fund our priorities in the plan and retain room in our debt capacity. I would like to make this a motion.

Councilman Black: This is a twenty year bond? With the understanding that after 10 years, we can retire this bond with no penalty which would save the taxpayers' money.

Brad Love: That is correct.

Trey Eubanks: A 20 year bond is more compatible with the life of the facility that taxpayers will be paying on. It does state in the official statement that we can retire it after 10 years.

Councilman Black: We are not binding the people's money for the whole 20 years if we get a lot of growth and can retire it.

Councilman Hunter seconded the motion and the vote was unanimous (6-0).

8. New Business

a. Consideration and action on Sports Center Software (Rec)

Chairman Reynolds: We have had a couple of discussions with the auditor about internal controls at the sports center. We will purchase software that will relieve that from future audits. We are asking for \$22,000 total for software, training and hardware. That will come from the sports center non-capital line item where there is money available.

Councilman Cook seconded the motion.

Councilman Black: I talked to Julia and this other town that has the similar software, has she checked to see if their financial software that runs the city is compatible with the city or if it is standalone.

Trey Eubanks: In comparing software, this rose to the top. They have a finance and accounting person on their staff that can speak the language that our accountants speak. There was good discussion between Holly Abercrombie and the recreation department on this software. It will not blend in with our CSI system, but will generate reports that we can format like we want to so we can easily reconcile the numbers. They are not integrated- but will reconcile with each other. That is what we want- to have one report say some things and the other report to agree with it.

Van Brannon: It provides reports that Holly can match up. Holly feels good about it and Julia likes it also.

Councilman Black: I wanted to make sure that they can get a true report on what goes on in another department.

Chairman Reynolds: It is like going online and looking at your bank statements and matching it with your checkbook. Two different entities but they both have to match. This will eventually be able to be used in the Rec department as well for other things such as signups.

The vote was unanimous (6-0).

b. Consideration and action on purchase of New Holland. (PW)

Councilman Reynolds: Both New Hollands we have are five years old. They were purchased used and are very well used. We are going to purchase another New Holland- and that is a brand of Bobcat. It will cost \$32,000 and we saved about \$70,000 when we purchased the two leaf trucks and that savings is what we will use to buy this New Holland. I will make a motion that we purchase \$32,000 for a New Holland out of the sewer capital line item.

Councilwoman Gettys seconded the motion and the vote was unanimous (6-0).

- c. Consideration and action on Duke Energy and Laurens Electric franchise agreements. (Finance)

Chairman Black: Council is aware that it is time to renew the franchise agreements with Duke Energy and Laurens Electric. After much discussion, council felt it was best to renew the franchises with no increase. The wording is that future councils have the option to raise the percentage from 3% to 5%. I would like to make a motion that we renew the current agreements as they are.

Councilman Hunter seconded the motion.

Mayor Godbey: It is an ordinance and takes two readings.

Trey Eubanks: The Laurens Electric agreement specifically states that the agreement will be adopted by council ordinance. You should have two ordinances. Tonight is the first reading of the ordinance to keep it the same rate.

Mayor Godbey: We are not disconnecting service with either group, and the current franchise contract will be enforced until the new one is voted on for second reading.

Councilman Cook: Duke and Laurens Electric don't care if we change the percentage, because all they are going to do is pass it on.

Mayor Godbey: That is part of why we decided to keep it at 3%.

Chairman Black: If we accept it without the wording to change it, we would be locked in at 3%. It gives us flexibility.

John Duggan: In all of these franchise agreements, they all have a pass-through. If you look at your bill, there is a separate line item that says franchise fee. You are saving the Mauldin citizens money by staying at 3%.

The vote was unanimous (6-0).

- d. Consideration and action on appointing new city auditor. (Finance)

Chairman Black: The Finance Committee, the administrator, and Holly Abercrombie met and went over the six proposals for auditing services. At that time, the committee left it with Mr. Eubanks and Ms. Abercrombie to do some background work to make sure that the firm we wanted would do a good job. Mr. Eubanks?

Trey Eubanks: At the direction of the Finance Committee, we did some due diligence and spoke to four entities that this firm has served before and receive good marks across the board. That being said, we want to move forward. If council wants to look at the proposals, they are available to you at any time.

Chairman Black: I would like to make a motion that we engage the firm of Scott McElveen to do our auditing services. The financial impact for the first year is \$19,500 and the total three agreement is about \$60,000. The firms we had bid were from \$61-82,000. This one fell in the range and got high marks from other cities and the municipal association.

Councilman Reynolds seconded the motion and the vote was unanimous (6-0).

Councilman Reynolds: Has Mr. Duggan reviewed the draft engagement letter?

John Duggan: I have not.

Trey Eubanks: That was provided just last week. Staff has reviewed it and it is boilerplate. If this council wants to adopt the motion provided that the City Attorney is ok with the engagement letter that is an option.

Councilman Reynolds: They are fairly boilerplate. I am fine with it if staff has reviewed it. I have had several discussions with Holly on this.

Mayor Godbey: As we move forward, we need to keep in mind that we can use a local firm. Council adopted a purchasing policy that give preferential treatment up to 5% in costs.

Chairman Black: Does this firm have a local office?

Trey Eubanks: This firm has an office in Fountain Inn. Columbia is their headquarters.

The vote was unanimous (6-0).

e. Discussion on cultural center memorandum of understanding. (Committee of the Whole)

Trey Eubanks: There was a discussion by city council and the cultural center foundation board heading towards a memorandum of understanding. Last October this council adopted by-laws associated with the cultural center and established how that board would function and now it is important to provide a more defined role for both entities to play. At the last foundation board meeting, they reviewed again the list of proposed activities that this council has given them. They also have the Cultural Center Foundation Board Executive Director's' memo. We have had good input from the city council and it has raised some questions about insurance and we need to get some more information from our provider. I am certain insurance is going to be a component of that memorandum of understanding. I know the goal is to get enough information to our City Attorney so that a outline can be drafted for a MOU.

If there is any further input, please forward that to Mr. Reynolds and myself. Ultimately I hope we will get what we have to the city attorney and get some direction from him.

Mayor Godbey: St. George has adopted us as a sister city now. They have a million dollar facility in Lorie. If you can Google it, it is worthwhile to see what they have done. A cultural exchange between the two communities is going to be of real benefit to both of us. The other thing is on Friday night, a number of us were at the cultural center for the art show. The local high school displayed a lot of good work. There was a good turnout and it really excited a lot of folks. You are getting both elements of that. It will enhance the relationship with the city and school. Designs on the auditorium were up and there is a real interest in all of this.

Trey Eubanks: This is the board the Mayor described. It is at the cultural center now. We are also going to get a version of this at the sports center and design at city hall in our lobby here. There are comment cards for public input as well as online. This is an agenda item for the next foundation board meeting. They will have a recommendation this summer for renovations to the auditorium. If I can add a note too, within a month we expect the Clemson work on the master plan to get engaged again. The graduate students will be involved. The last few meetings have been very positive on the cultural center.

Councilman Reynolds: Mr. Eubanks has done a lot of background work on this cultural center project that we don't see. Thank you and we appreciate the extra hours you are putting in. This facility will launch Mauldin into a direction that is good for the city. When do we look to have something from Mr. Duggan?

Trey Eubanks: I will work with the city attorney. I expect any day to get the final say on insurance from a question raised by council. I will get information to John later this week and see what else he needs to shape this up.

Mayor Godbey: Mr. Campbell said he would rather go slow and get it right than go fast and miss something. He has been very conscientious.

Trey Eubanks: We need to look at what goes towards operation, maintenance, and special events. Some good ideas have been drafted.

Councilman Reynolds: I would like to see something on this by next committee meeting if that is possible. This is like the marathon that Dale has never run. One step at a time.

- f. Consideration of using the Comp Plan Steering Committee for the 2010 Census Complete Count Ad Hoc Committee (Committee of the Whole)

Chairman Hunter: A complete count committee needs to be formed. Mr. Whitney from the Census Bureau addressed us and a suggestion was made that we use the Comprehensive Plan committee. I asked Mr. Nomikos to poll the committee, which he has done. He got one yes and one no and a lot of no response. I am not sure that committee is willing to take on these responsibilities. I would like to ask Mr. Nomikos to seek other members and bring this back as quickly as he can. We can adopt the idea of a committee but not membership.

Mayor Godbey: I am comfortable in adopting the idea of an ad-hoc committee particularly for revenue sharing. An accurate census count is extremely important and you only get one opportunity and a short window at that. We have grown substantially in 9-10 years and an accurate count is vital.

Councilman Hunter: I would like to make the motion that we adopt the idea of 2010 complete count committee and have Mr. Nomikos find volunteers to be part of that committee.

Councilwoman Gettys seconded the motion.

Councilman Reynolds: I had a concern about elected officials serving on this committee. There is probably nothing wrong with it, but some of these people will be walking door to door and calling and that sort of thing.

Councilman Hunter: It is more of a sense of direction to make sure we get everybody. This is a planning issue.

Mayor Godbey: The Census this year is paired down to I think eleven questions versus 60 last time.

Peter Nomikos: I think 1 in 11 households received the extended version.

Mayor Godbey: The committee is to make sure we get as accurate a count as we can and there isn't a doubt in my mind that we need to invest as much support as we can. If this is a way of doing that, it won't hurt anything.

Trey Eubanks: It is commendable the effort Greenville County has made to get the count. It is also prudent on our part to double-check all of the mapping work that has been done. We will do that. Pete has already got that on his list to do. We are reviewing that type of information with this committee. The goal is accuracy so we want to get as many citizens active in this as we can.

Councilwoman Gettys: Maybe we can put something on the website that we are interested in getting some people to do this.

Councilman Hunter: Perhaps we can get our local reporter to do a story on this that we are looking for volunteers.

The vote was unanimous (6-0).

9. Public Comment.

- a. Danny Day: I am Danny Day and I live at 912 Fargo Street. I basically wanted to add on to the discussion. I am pleased to hear the concern over continuing to lose historic trees by developers. One thing that will help you a lot is I had a discussion with the city attorney instead of all wringing our hands, we should lobby our state legislators to put in some very clear, stringent control to municipalities for penalties.

I can't remember if it was February, 2008 or April, 2008 council meeting, but at that meeting, your city planner talked about the 276 plan. The input that he gave you is any tree of significant size that you try to plant would run you \$8-10,000. That gives you a perspective of what losing a historic tree is. You can give a variance if it makes good economic sense, so you always have latitude, so it doesn't mean that every person who takes out a tree is going to have to pay a penalty. In some cases, you may have a business that doesn't last three months, and they take a tree out. You need to take action. I don't know on the civil side of the law, if you can do like federal sentences with three strikes.

When our legislative delegation comes to the County, the whole city council as well as Upstate Forever and 2025 should come to them and say we need stringent restrictions. If you cut all the trees down, then all you have is shell buildings. The recession helps you see it- there are a lot of empty buildings. Would you rather have empty buildings or trees? I encourage you to work with MASC and Upstate Forever. If it is a big project, they still won't be deterred by a tree penalty, but a small project will. Right now, you are Tree City, USA, but if we don't control how this happens, that can change.

- b. Leo Joyce: I live at 114 Old Bridges Road. I have three subjects. First is for public works, I used the free mulch and I would like to compliment PW on the cleanliness of the area. They have kept that clean and very accessible. The next is cutting trees. Did I hear correctly the man didn't have a license? OK. To me, that is criminal. You say that now, but more people that are out of work and have licenses and can't do it, that is criminal. I think a little time in jail might help them. Don't give him a ticket, take him to jail and let him appear before a judge. Let the judge work it out.

The third thing is cutting grass. On either side of Mutt's, are they waiting to reap it to feed the cows or what? I think that needs to be cut.

c. Skeet Prinze: 117 Hyde Circle and I hear tree board, tree board, tree board. We have been trying to have a meeting for seven months. How can we make decisions? We were given ordinances. I have talked to council , I have talked to the Mayor twice. Talk about getting things done, if you are not going to have a tree board, don't have it. We are not just a name.

10. Council requests.

11. Adjournment. – Mayor Godbey adjourned the meeting at 9:00 p.m.

Respectfully Submitted,

Cindy Miller

Municipal Clerk