

**MINUTES
MAULDIN CITY COUNCIL
JULY 20, 2009
7:00 PM**

Members present were Mayor Don Godbey, Council members Bob Cook, Patricia Gettys, Gabe Hunter (who came in around 7:20 pm), Dale Black, James Kennedy, and Michael Reynolds. City Administrator Trey Eubanks and City Attorney John Duggan were also present.

1. Call to order.- Mayor Godbey

Invocation- Councilman Cook

Pledge of Allegiance- Councilman Reynolds

Welcome- Mayor Godbey

2. Proclamations and Presentations- Representative from CCFB; Pat Pomeroy, Mauldin Chamber; Presentation to Rob Stilwell

Greg Campbell was present from the CCFB. He mentioned that 6 Furman classes will be offered at the cultural center this fall. A meeting is being worked on for the renovation of the auditorium and for the master plan for the second week in August. The center is working with the city's online calendar for scheduling events and this is working well . The cultural board has two vacancies for members and two more will rotate off in September.

Pat Pomeroy advised council that the chamber has an intern from Hillcrest High School named Vincent Henderson. He is learning about business and chamber events.

Councilman Cook presented a plaque to Judge Stilwell. He served for almost 10 years in Mauldin and is now a Circuit Court Judge. Mr. Stilwell made some nice comments about council and the great department heads and staff the City has.

The Mayor read a letter from Jeri Byington in appreciation to the Police Youth Camp for cleaning up the cemetery in Knollwood.

Wayne and Rosielee Shuford wrote a letter to the Mayor for the Pine Forest Park dedication to Hazel Hines.

3. Reading and approval of minutes.- June 15, 2009

Councilman Black made a motion to approve the minutes with Councilman Cook seconding. The vote was unanimous (6-0).

4. Public Comment.

- a. Cassie Gorton: I am Cassie Gorton and I live at 203 Stapleford Park Drive. I home school a special needs child. We organized a day with the Garden Club to tour the cultural center. They did an unbelievable job. We reserved an hour, and they took two. They told stories and did songs and I can't tell you the reaction we had from the families and the children. It was a phenomenal experience and I wanted to let you know that the Garden Club continues to do a great job.

The second reason I am here is, and I am really hoping this is a misunderstanding, about the cycling accident on Bridges Road. One of the victims is the husband of a friend of mine. The other hat I am wearing is through CAN the Citizen Action Network. We also have representatives from the cycling community as well. There was an accident and from what I understand a motorist hit both cyclists from beyond and our friend was in ICU for more than 24 hours and will have months of rehabilitation. When the family came here to get the police report, they were told that the motorist was not cited. That started a firestorm in the cycling community. I know you don't want the cycling community with this race coming next month to meet at Carolina Triathlon and not come through Mauldin. I hope that is not what happened. You need to be aware of that.

There are cycling laws that are fairly recent that were just passed and I brought those with me. They told me that there is training available and the Greenville Sheriff's Office has attended that. Hopefully this is not necessary. The family was told the person was not cited or given the \$1000 fine that is required. That is it. I just wanted to let you know that this is why we are here and this is a big concern.

John Duggan: I was asked to look into this. My wife and I are cyclists and my daughter was a pro cyclist racer out of LA all over the west. I am a great believer in cycling. The rumor that is out there is incorrect. The driver was cited by the officer. The specific charge was operating a vehicle too fast for conditions by overtaking the cyclists. That driver has been charged with a criminal offense. In addition, the families have a civil remedy against the driver of the vehicle for which we have no jurisdiction. That will take place in Circuit Judge. I wanted you to know that the officers did a proper investigation and if someone at city hall incorrectly stated that they were not cited, that was wrong. I also want the cyclists to know that our officers rendered aid and waited until the scene was cleared and the cyclists were transported before they left. I hope that helps those who are concerned to know that when these types of things happen, we are going to make charges.

Cassie Gorton: I appreciate that. I have a feeling that there are some people here who want to know why the cycling violations were not cited. I am concerned as a citizen with the US Pro Race and there are thousands

of people coming to that and I want the message to be good. I want Mauldin to have a good reputation.

- b. Jonathan Heald: I live at 17 West Earle in Greenville. I do not live in the City of Mauldin, but I am here to talk about cycling. This issue is unfortunate. It sounds like you did the right thing. The laws are new and it takes time. There are several opportunities out there for training. The Greenville Spinners which I am a member of has training and we support bicycling safety. We are here to help you. We will help with any questions we might be able to answer for you. You can go to our website and take a look at it.

John Duggan: I would like to ask you a question. The statute that Cassie is referring to creates a dilemma for the officers. The express wording says in the absence of another violation cited, it will be a civil fine. Here a criminal charge was cited because the lady violated criminal law. It appears to me that in the wording of the statute, you can't cite this if you are cited with a criminal charge. Has the officer not acted correctly here?

Jonathan Heald: I am not an attorney. I have been involved in many misses and several accidents. I always credit the officers on the scene being in a difficult position with what law to cite at the time. That is why we have issues.

John Duggan: If you are training the officers, I expressly have this concern unless you have something that says you can cite both. I want to be clear that I believe based on our responsibility, that our officers have done exactly what they were supposed to do. If not, I invite you to educate me and I will educate them.

Mr. Heald: I believe from what I heard that you were right. I don't know whether the cyclists were at fault. Cyclists tend to take liberties they shouldn't take- running red lights, speeding. Some cyclists exceed the posted speed limit. There was a crackdown in the City of Greenville in an area frequented by cyclists who were running a stop sign. We should obey the law also. I think if you think they did everything right, I am not going to question that.

Mr. Duggan: I invite you to question that. My point is that we care about the public. I work with a Mayor and Council that are very sensitive to these issues. We obviously don't want people seriously injured on our streets. If any of you have information that can aid us, call me. I don't want to take any more time, but I want to say that I think we are being knocked for something as best as I can tell we didn't do.

Mayor Godbey: Michael Reynolds is the Chairman of our Rec committee. We have a Greenway/ bikeway plan. Mr. Cook is Chairman of our police committee. Committee meetings are the first Tuesday of every month at 6:00 p.m. All council members and usually I am there.

c. Danny Day: I live at 912 Fargo. A few issues. One I hope I have an answer to from last month and the month before. The background is in the May council meeting, there was dialogue that in some neighborhoods, there is tall grass growing and the homeowner wasn't keeping up their property. The City was sending a landscaper to cut the grass for about \$45. There was a question about the cost of applying a lien to the property. It was more expensive than the cost to cut the grass. So as a follow-up, I was wondering if we could apply to recover the cost of the lien as a penalty. Otherwise there are a lot of property owners who are getting their grass cut for free by the city.

John Duggan: I have a fascinating answer for you. Nobody knows. Here is the situation. Some local governments are assessing it and sending it to the clerk's office. Others have taken the position that they cannot assess it because it is not expressly in the statute. Some take the position that it is discretionary with the hearing judge. I have now asked the court administration to clarify the question for all of us. They hopefully will get me a definitive answer.

Danny Day: I suggest you assess it and wait and see. The City administrator should issue an order that you will file a lien. Second issue, not necessarily an ordinance in place today, but I suggest you possibly strengthen an ordinance. The PW Department does a great job and they tell you what to do with debris and grass clippings. On my street at the crest of a steep hill, there is a citizen that has not elected to bag his grass clippings. People are dodging it on top of the hill. I keep seeing an orange ticket on it so maybe it has been cited. I suggest that you take a look at this ordinance and maybe decide that PW will pick it up after so many weeks and bill the person. In this case it is a safety issue. I have seen people who have to stop all of a sudden to avoid it. You need to not only strengthen your ordinances, there needs to be action.

I know tonight you are looking at the second reading of your tree ordinance. I don't know what is in the tree ordinance, but I have a couple of questions. In February 2008, the property on East Butler was cited for removal of historic trees. Has it ever gone to court?

Peter Nomikos: The case has not been to jury trial yet.

Mayor Godbey: It is their legal right to request that.

Danny Day: I know. We have had several dialogues about the tree ordinance and historic tree removal. I know that the one on East Butler was over Memorial Day. At the corner of Old Mill and Miller across from the Great Wall a large tree has been cut down there in the last week or so. I come back to you again and I tell you the ordinance has no real action behind it. I used to work for a guy that would say, "Rome is burning- what are you doing about it?" The City is not doing a good job in protecting these trees. I suggest you take a look at these ordinances. Commercial developers are ignoring the laws. I suggest you refuse them a business license, lobby your legislature or tell Tree City, USA to keep their award. Most of the developers are not Mauldin residents or Mauldin taxpayers. Look at these photos and say which do you like best? Clear cut or trees?

John Duggan: If we try to deny someone a business permit and do some things you suggest, state law does not allow us to do that. We would get our britches sued off and pay a lot of taxpayer's money to defend the suit. This problem is at the state level. Until the state government gives municipalities the authority to do more, we can't.

Danny Day: I understand that. How many of you have volunteered or are willing to go to our state legislature and lobby to get more control? Have any of you?

Mayor Godbey: I have talked with Garry Smith about Home Rule. Home Rule has been eroded. That was the state legislation undercut when state aid to subdivisions was cut. The State needs to hear your voice.

Danny Day: I have indicated that I am willing to go with you and support you. I am also willing to let Rep. Bedingfield know that he can be replaced. Any of these people who can't understand can be replaced.

Mayor Godbey: Be an advocate for Home Rule.

John Duggan: Our legislative delegation meets once or twice a month at county council chambers. We ought to get the Garden Club and start making noise about it. That is how we get things done. I completely share your sympathy.

Danny Day: We need to get the developers out of their pockets who pay for their campaigns. The citizens need to have certain controls.

d. Joan Haygood Norris: I live at 219 Barrett Drive and have lived there since 1980. I appreciate your time. My concern has to do with uninformed citizens and workers coming in to Mauldin and not knowing the proper procedures to follow. Case in point, Tuesday, June 16th there were some people from American Wood Fences and Decks who were fencing in the property next to me at 217 Barrett. I went to the window and saw them walking along my fence so I went outside to ask them what they were doing. They said they were going to place a fence along the side of 217. I explained to them where my stakes are marked in red. One is close to the fence and one is at the end of the yard. I explained to the gentleman please don't come across my property to place a fence. Stay on 217. I also told them when my family moved here in 1980, there was a leash law which had to do with animals and it is to keep your pets within the confines of your yard. I told them that we were told in 1980 that we had to stay within 3 feet of our property line. When Sears installed our fence that is exactly what we instructed them to do. We did our homework and did this to respect our neighbors.

On June 17th, the gentlemen came back and I was inside and I could hear them placing the fence and they had put two of the poles on my side. One of the stakes was knocked down. I called Mr. Nomikos and spoke with him. I explained to him what was going on and what we were told in 1980 about three feet within our property line. First he said the fence should be six inches back from the property line. We continued our conversation and he said that there is no rule that says what to do. I called Mr. Nomikos back because the gentleman placed the wood on my side and asked him to move it. I asked Mr. Nomikos to come down here and give me some help. Nonetheless, I feel that when these workers come into our city, they need to be aware of what they can do. I know you are probably sitting there thinking this is a legal problem, but I don't have the money for that in this economy.

I explained to Mr. Nomikos that when I decide to sell my property I don't want any repercussions because of this incident and that could be avoided if the fence installers had been properly informed of the dos and don'ts in the City. Because of this lack of knowledge, I am the one that lost out. Now they are gone. I could place the blame where it all began, but I won't do that. I find non-information quite disturbing. We need to keep updated information on our codes and ordinances. We have been named one of the fastest growing cities in the state. We certainly need and must be able to provide updated information to our citizens and workers. If there is a regulation that has to do with where people place their fences, shrubs, etc., I would appreciate it if someone could point it out to me because no one could find it.

The last thing I want to mention is solicitation. Several people have come to my home and rung the doorbell. One was wanting to sell an appliance. One time, two young men came to the door. I looked out and did not open my door because I was afraid to do that. Another time was a lady from some church. I don't know if that was true or not. Those are the two topics I hope you will address.

e. Tommy Shaleuly: I live at 961 Fargo Street. I want to do some venting. But, first, I would like to say that you did a great job on the 2010 budget. Some of you held firm in managing costs versus raising taxes, thank you. I am no stranger to a budget. I know what goes on behind the scenes – a lot of stress, overtime, frustration... I would like to thank Mr. Eubanks and his staff for a good job. Ok. In May, Mr. Reynolds made a motion to purchase a \$32,000 loader. It was seconded and approved and that was it. The citizens just paid \$32,000 with no questions asked. As a taxpayer, I don't know how to take that and I have some questions. One, why do we need that? That was never answered. The comment was made that we had two loaders that were two years old. It wasn't that we retired one or replaced one or we are going to add this one because of the additional work we have. If we are going to retire one, I would like to know the number of hours it has on it. You don't measure construction equipment by year, you measure by hours. The third question is why didn't we take bids? This is purchasing 101. Everyone takes bids. We are in a recession and people will just about give you things to make a sale. Yet, we didn't ask them. With that, I will close. I look forward to the answers.

Councilman Cook: Would you instruct the City Administrator to answer those questions for him in writing?

Mayor Godbey: Please get something back to him. Thank you.

f. Douglas Gooth: I live at 101 Lake Lennox Drive in the sister city of Simpsonville.

Mayor Godbey: Our sister city is St. George. Simpsonville is our neighbor.

Douglas Gooth: I am a personal friend of the man who was struck by the vehicle and I am a member of the Palmetto Cycling Corporation. SC has the dubious distinction of being number 2 on cycling fatalities. Now we are number 5. I have a letter here from Garry Smith. He sent me an email yesterday. My inbox is full of emails since this has happened.

“Doug, sorry to hear about this. I hope both recover without any lasting damage. I wanted you to know that both men have the same right to the road and the Mauldin Police Department the same responsibility to prosecute this as if the young lady hit another vehicle under the Bicycle Safety Act that was passed. Palmetto Cycling Association has been training people on this Act and has been a great resource.”

He sent me some references and safety tips also. But, my personal concern was that I never doubted the sincerity or lack of appreciation of our police officers. I have been scraped off the road by police and firemen and they are my heroes. I have \$26,000 worth of steel in my shoulder from one of those incidents. This was a clear day, clear roads, the widest part of Bridges Road. The young lady had been involved in an accident an hour before. She probably was distracted. There was no breathalyzer given. These gentlemen had on bright clothing and had bright flashing lights on their bicycles. I drive for a living. I am on the road continuously. I was concerned

that maybe we don't need more concern from the police department, but maybe some education on how to investigate these accidents. One of my friend's wives has a bag full of pieces of her car that were left on the road. There was no investigation into skid marks or anything. Just signed, sealed and delivered. The copy of the report is cursory. These families are in a hardship. Their moneymakers are out of business for a while. It will be hard to investigate this in the future. It is my hope that the police department can be educated on how to do a more thorough investigation. That is why I was here tonight.

5. Report from City Administrator

Trey Eubanks reported on the Freedom Shrine that the Woodruff Road Exchange Club presented to the City on June 24th. Some pictures were shown of the exhibit.

The Pine Forest Park dedication was held on July 4th. 20-25 members of Hazel Hines' family were in attendance.

We have an insurance audit every year. Our Municipal Clerk always does a good job facilitating our response. The department heads comply with safety guidelines and if we do a good job with that, we can save on our insurance premiums. We will realize a savings of about \$18,800 on our premiums.

From 2007-08, our population rose about 7%. From 2000-2008, that is over 39% increase. We are now the 18th largest municipality out of 270.

On Holland Road, there are still some issues on some rights of way. It is doubtful that the widening will be complete by the beginning of school. This project will benefit Samsung and we will inform them and our schools of the timeline as it develops.

As for our finances, we are still going to post things to the ledger as we wrap up the fiscal year. We will be tight on revenue projections. Expenditures will be under budget overall. The fiscal year should conclude in good shape. Our new auditors started field work today.

Councilman Cook: Have we found any monies for another swing set at Pine Forest?

Trey Eubanks: We did. There is some left over in the PARD grant line. We will have to match some money to that.

Van Brannon: We are finalizing the match from Public Works. That will give us a better idea on the wiggler room. We should know by the next committee meeting.

6. Reports from Standing Committees

a. Fire (Chairwoman Gettys)

i. Reports and Communications from Fire Chief

Chief Sapp reported that there have been 256 calls this month and the response time is 2.6 minutes. He said he just returned from the firefighter's conference at the beach.

b. Police (Chairman Cook)

i. Reports and Communications from Police Chief. (JAG grant and Youth camp participants)

Chief Bryan Turner reported that he had also received letters about the Pine Forest Park and the clean-up of the cemetery in Knollwood. The boys' youth camp went to Donaldson Center and flew in airplanes.

National Night Out is August 4th, committee meeting night.

We received an alcohol enforcement award again. This is the placement of underage people in businesses that try to buy alcohol to make sure the merchants are checking IDs.

The JAG grant opportunity has come around. It is a \$10,000 grant that has no match requirement. We have provided a list of what we would like to do with that money if we receive it. The department would like to outfit the cars that we bought with the \$40,000 grant. Chief Turner anticipates that we hear from them any day on whether we got the grant. The grant is based off of departmental statistics.

The girls' police youth camp was introduced. Their graduation will be July 31st at 10:00 a.m.

Councilman Kennedy asked what was being done to enforce traffic laws at the intersection of Laurens Road and Butler Road. Chief Turner answered that the traffic task force was brought in to the city, and the timing of the lights is being looked at. Traffic is increasing with the population.

Councilman Kennedy then asked about the synchronization of the traffic lights. Chief Turner said they have been adjusted near the high school. It is hard to get the timing exactly right.

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

c. Recreation (Chairman Reynolds)

i. Reports and Communications from Recreation Director.

Van Brannon reported on the amazing race fitness challenge at the sports center. The senior program is continuing to grow. The summer bash was a great success. He thanked Chief Sapp, Greg Fincher, June Crawley, and Julia Monson.

Julia thanked council for giving her the opportunity to do something for the community and thanked the department heads for their help.

Chairman Reynolds said he had several families that approached him and said how much they appreciated the fact that it was free and was a good family activity. Someone also mentioned that there was no trash around and that Greg's department did a great job keeping it picked up.

d. Planning and Economic Development (Chairman Hunter)

i. Reports and Communications from Building and Zoning Director.

Peter Nomikos: The year to date total permit value is \$22 million. Construction starts are rising. 311 new businesses have gotten licenses. 208 Hickory has been bush hogged. The bank paid the \$135 and the money has gone back into the general fund.

Mayor Godbey asked if a bill could be sent to recover the cost of cutting grass instead of putting a lien on the property.

Councilman Cook: Where did the \$120 go?

Peter Nomikos: The \$135 went into the general fund.

Councilman Cook: What fund?

Peter Nomikos: I gave the check to Holly for other expenses. I don't know if she put it in the account since the fiscal year ended. I think it is just back in the general fund.

Councilman Cook: Ok. Who cut the grass?

Peter Nomikos: A contractor that we have asked for bids from in the past. He is the lowest one.

Councilman Cook: You answered my question. Thank you.

Peter Nomikos: As far as the issue of fencing at Ms. Hagood-Norris, there is no regulation, building code, or zoning ordinance that addresses setbacks for fences. What we typically tell people is that it would be best if they build six inches from the property line to prevent encroachment on to a neighbor's property. That is not a regulation, just a recommendation.

Councilman Cook: I know we discussed this several times. Have we implemented a check off list for when a business comes in and we say these are the guidelines and what we expect to do?

Peter Nomikos: Because there is such a wide variety of contractors that we have coming in, it is difficult to create a checklist that covers all.

Councilman Cook: Mr. Administrator, would you address that and gives me some kind of answer and not this kind of answer? I want to know... I think we could have a basic checklist. Thank you, Peter.

Councilman Kennedy: There is a house on Neely Ferry as you enter Meadowood. It is a vacant, dilapidated house. It is run down and the grass needs to be cut. If you would check that, I would appreciate it.

Councilman Black: Whose responsibility is it- there is a house on the corner of my street where it comes out to Bridges, the house on the corner that cuts the grass occasionally, but there is grass in the ditch that adjoins the property. Is that DOT property?

Peter Nomikos: That is a state right of way. We can't force them to cut that.

Councilman Black: It looks awful. It is three or four feet tall.

Peter Nomikos: We can usually get someone out there in a reasonable amount of time.

Councilman Black: There is another one where the house burnt down. Is that on your list?

Peter Nomikos: I believe I sent something out to get a price on it.

Chairman Hunter: I shared with you an email about the Chandler property and parking the cars at the high school and it looking like a junk yard.

Peter Nomikos: The property is in the County and is zoned RS. We have referred to the county about the violations and their inspectors are supposed to get out there and look at that. My understanding was that a family member had died and they were moving all the vehicles over there, but it does look bad. RS does not allow storage of junk or commercial vehicles. Hopefully the county will get that rectified soon.

e. Public Works (Chairman Kennedy)

i. Reports and Communications from Public Works Director

Greg Fincher showed pictures of recent PW projects. He showed the fields at Sunset Park, work that has been done at the sports center, mulch that will be given to the high school, the new stairs at city hall, and several other things.

f. Finance and Policy (Chairman Black)

i. Reports and Communication from Finance Director.

7. Unfinished Business

a. Consideration and action on tree board ordinance (Rec)

Chairman Reynolds made a motion to accept the tree board ordinance on second reading. Councilwoman Gettys seconded the motion and the vote was unanimous (7-0).

8. New Business

a. Consideration and action on Knights of Columbus candy day request. (Police)

Chairman Cook made a motion to accept the request with Councilman Black seconding. The vote was 6-1 with Mayor Godbey voting against due to safety concerns.

b. Consideration and action on approval of cultural center uses (Rec)

Chairman Reynolds made a motion to accept the proposed cultural center uses. Councilman Cook seconded the motion and the vote was unanimous (7-0).

c. Consideration and action on interstate highway rehabilitation agreement with DOT. (PW)

Chairman Kennedy made a motion to accept this agreement. The motion was seconded by Councilman Black.

Trey Eubanks mentioned that these were two separate projects- one is the resurfacing of the north bound lane of 385 and one is a widening at the interchange 385 and 85. The resurfacing may not take place. We are waiting for confirmation of the project.

The vote was unanimous (7-0).

d. Consideration and action on sewer collection system alliance. (PW)

Chairman Kennedy made a motion to join the system alliance. Councilman Reynolds made the second and the vote was unanimous (7-0).

- e. Consideration and action on executive session for contractual/ personnel matters. (Finance)

Chairman Black made a motion to go into executive session with Councilman Cook seconding. The vote was unanimous (7-0).

Council returned and Councilwoman Gettys made a motion to authorize the Mayor and City Administrator to purchase property at a cost of up to \$210,000. The motion was seconded and the vote was unanimous (7-0).

- f. Consideration and action on associate judge appointment. (Committee of the Whole)

Councilman Cook made a motion to appoint James Brehm to the associate judge position. Councilman Hunter seconded the motion and the vote was unanimous (7-0).

9. Public Comment.
10. Council requests.
11. Adjournment. – Mayor Godbey adjourned the meeting.

Respectfully Submitted,

Cindy Miller
Municipal Clerk