

City Council of Peachtree City
September 2, 2014
Meeting Minutes
6:30 p.m.

The Mayor and Council of Peachtree City met in workshop session at City Hall on Tuesday, September 2, 2014. Mayor Vanessa Fleisch called the meeting to order at 6:30 p.m. Others attending: Mike King, Terry Ernst, Kim Learnard, and Eric Imker.

The purpose of the workshop was to discuss Council desires regarding City policy on sidewalks and maintenance bonds in future developments.

Development Bonds

Community Services Director Jon Rorie explained that the City's Land Development Ordinance addressed two types of bonds from developers, performance bonds and maintenance bonds. Performance bonds ensured that improvements, such as landscaping, path connections, and storm drainage, would be installed at a later date, while maintenance bonds ensured that already-installed improvements were maintained or repaired if damaged or became inoperable during the first two years.

The City's current ordinance (Section 406 under Procedure for Plat Approval and Construction Authorization for All Subdivisions) was adopted in 2009 and imposed a performance bond equal to 110% of the cost of construction to guarantee installation of infrastructure and a maintenance bond equal to 110% of the cost of construction to assure structural durability, stability, and integrity of the improvements.

Prior to 2009, the ordinance required a maintenance bond without a specified value, and either the completion of all improvements required or a performance bond equal to 110% of the construction costs of improvements not yet completed.

Rorie said that, in 2009, the City apparently added the bond amount to the maintenance bond requirement. He noted that the 110% assumed all infrastructure would fail, which was unlikely. Rorie continued that bonds were only cashed in if a developer could not or would not make the required repairs or improvements. Research indicated that developers who had bonds cashed in could not obtain future bonds.

Staff was coming to Council to determine whether the 110% maintenance bond was a reasonable amount. Adjacent cities charge between 15% and 50%. Developers had asked for a review of the amount, since this was the first time since 2009 the requirements had been tested.

Fleisch asked if the City had disallowed corrugated metal stormwater pipes under roadways, and Rorie confirmed this.

Learnard asked City Manager Jim Pennington what his experience had been with maintenance bonds in other cities. Pennington said he had seen 10% – 50%, and Learnard noted that 50% would then be on the high side of normal.

Imker asked if any other cities imposed a 110% maintenance bond. Rorie said not to staff's knowledge, and Imker said he thought when staff originally discussed the matter, there were others.

Imker continued that The Gates, currently under development, had met the requirements of the current ordinance. That project would be in competition with the upcoming development in

Wilksmoor, and if Council lowered the amount, the Wilksmoor projects would be given an unfair advantage. Imker felt the 110% amount had been developed for a good reason, noting that if infrastructure failed, it affected all of it. Replacement two years after the fact would probably equal 110% of the original cost. He saw no reason to change the current amount.

King disagreed, saying a developer putting in a subdivision would stand by the product two years later. He suggested setting the amount at or slightly higher than the average for the area.

Ernst said he understood Imker's position, but felt developers who did this for a living would not walk away from a problem and risk ruining their reputation. He said he could go along with a lower rate.

King added that the City vetted its projects and did not have fly-by-night developers. Ernst agreed, noting that Wieland, who was developing a large portion of the Wilksmoor area, had built hundreds of homes in Peachtree City over decades and was still in business.

Fleisch pointed out that the developer of The Gates would also be working in Wilksmoor, so that would negate the unfair advantage Imker noted. She felt that the 100% amount put an onerous burden on the developer. She felt an amount between 25% and 50% was more reasonable. King asked if 30% was the right amount, and she said she was thinking more along the lines of 30%. Learnard asked if staff had a recommended amount.

Rorie said staff felt 50% for the maintenance bond was reasonable. There was no desire to change the performance bonds from 110% due to the additional requirements Peachtree City imposed for landscaping, path connections, and other items not required in other areas.

Learnard, King, Ernst and Fleisch indicated they were supportive of changing the maintenance bond requirement to 50% of the cost of construction. Pennington thanked Council for their input and estimated the ordinance would come back for consideration on the September 18 agenda.

Sidewalks

Rorie said the Land Development Ordinance imposed design and installation standards for access, right-of-way (ROW) width, design grade, and speeds for streets, but did not have any direction regarding sidewalks. The City neither required nor prohibited sidewalks in subdivisions; instead, a connection to the nearest path was required.

Rorie continued that sidewalks were required by the State to be installed in the upcoming neighborhoods in Wilksmoor as part of the Development of Regional Impact (DRI) review. Additional future developments might also want to install sidewalks due to their growing popularity.

The City currently owned and maintained approximately 43,200 linear feet of concrete sidewalks in the ROW of nine neighborhoods. Six additional neighborhoods owned and maintained their own sidewalks along with their streets. Once sidewalks were installed in City-owned ROW, the City inherited the responsibility for the maintenance and repair, along with the liability for failure to do so.

Previous discussions with Council suggested the City did not want to prohibit sidewalks, but did not want to be responsible for maintaining and additional sidewalks that were put in neighborhoods.

Staff had researched sidewalk ordinances from other jurisdictions and had reviewed a 2012 Georgia Tech case study, "The Costs of Owning and Maintaining Sidewalks: A Strategy for the City of Atlanta." The key issues for consideration in developing an ordinance included the liability, the costs of repairing damaged or failing sidewalks due to improper installation, ground settlement, etc., design standards and compliance with the Americans with Disabilities Act (ADA), the timing of installation of sidewalks in developing neighborhoods, and the ultimate inspection and enforcement of the City's requirements.

Rorie then gave an example of sidewalk liability, noting the 2011 case of *Hancock v. the City of Atlanta*, as reported in the Georgia Tech study. In that case, the City of Atlanta had been notified of loose concrete in a sidewalk in its ROW but neglected to make the repair that would have cost roughly \$450. A Fulton County Jury had awarded \$1.1 million in damages to the plaintiff.

Rorie continued that it cost the City approximately \$27.50 per linear foot to repair sidewalks, putting the combined repair and maintenance liability for the existing 43,000 linear feet at \$1.185 million.

Imker asked if a developer could install sidewalks and expect the City to maintain them. Pennington indicated that was basically the current process because, once the sidewalks were in the City-owned ROW, they became the City's responsibility. City Engineer David Borkowski noted that the preliminary and final plats that went to the Planning Commission showed whether sidewalks would be installed.

King asked about enforcement and Code Enforcement monitored sidewalks that were the responsibility of the Homeowner Associations (HOA).

Fleisch asked if current sidewalks had not been built well. Rorie said he was not saying that, but there had been settling in some areas that required repairs.

Imker asked if the Planning Commission was ultimately committing the City to maintenance costs, either inadvertently or not.

City Planner David Rast said the City Attorney might need to provide a more detailed answer to that question. Council authorized the Planning Commission to review and approve various site plans and subdivision plats, some of which included sidewalks. The existing subdivisions with sidewalks had all been reviewed and approved by the Planning Commission, and the plats included language about the City assuming maintenance. Some jurisdictions took final plats to Council for acceptance, but Peachtree City had never done that.

Moving forward, Rorie said the City should develop a more comprehensive ordinance if sidewalks were to continue being built. This should include requiring an encroachment permit and maintenance bond for sidewalks and establishing design guidelines to meet or exceed ADA standards, along with those adopted by the American Association of State Highway and Transportation Officials and the Georgia Department of Transportation (DOT). Then an inspection process would be required to ensure compliance.

Ernst asked Rorie to expand on Wilksmoor's requirement to have sidewalks. Rorie and Rast explained that, due to the size of the total project, a DRI had been required to be submitted for review by several agencies, including the Georgia Regional Transportation Authority, the Atlanta Regional Commission, and the Governor's Office. After the review, the State issued a Notice of Intent (NOI) identifying specifying requirements to minimize a project's impact on the

surrounding areas. A City had to ensure those requirements were met to be eligible for State funds for future improvements. This was all done in 2007.

The City could also require that sidewalks be installed in the ROW with a permanent easement, or allow installation outside the ROW. Rast showed slides of several neighborhoods with sidewalks, noting there was a two-foot strip of grass from the back of curb, the four-foot wide sidewalk, and approximately six additional feet of ROW for utilities. There was approximately 12 feet of City-owned ROW from the back of the curb on most residential lots in the city. In some neighborhoods, based on the distance the homes were set back from the ROW, there might still be room for a sidewalk. However, in others, homes were set much closer to the street, meaning installing a sidewalk outside the ROW would be impossible.

Rorie said another component for consideration was the neighborhood trees installed along the roadway. Roots could damage both home foundations and sidewalks, so the design guidelines should address how close a tree could be to the sidewalk or impose a requirement for root barriers.

Rorie then reviewed some sample language on design guidelines and inspection and enforcement, asking for Council direction. He noted that, even if the City put the maintenance responsibility on the HOA, some liability still remained due to the location of the sidewalk in City-owned ROW. If the HOA or adjacent property owner did not make the necessary repairs, the City would ultimately have to make the repairs and try to recoup the costs via a lien on the adjacent property. In those cases, reimbursement could not be collected until the property sold.

Fleisch expressed concern about possible confusion between paths and sidewalks from a user standpoint, noting that the wider concrete paths on Highway 54 West allowed golf carts, but those on Highway 74 South did not. She asked if it made sense to amend the golf cart ordinance as well. Pennington noted that was already being reviewed due to the changes in State Law regarding golf carts, and staff would look at that element.

Finally, Rorie noted that staff had originally proposed requiring developers to complete the installation of subdivision sidewalks all at once. However, that would be impractical.

Rorie said staff would be bringing back an ordinance for Council approval incorporating the concepts covered. Imker asked staff to make sure the Planning Commission was aware of the new requirements. Fleisch and Ernst were supportive of the elements proposed, and the majority of Council appeared to endorse the direction staff was heading with the ordinance.

Highway 74 Repaving Update

Borkowski advised Council that the DOT would begin repaving Highway 74 North the following week and would impact traffic during the 45 day project.

There being no further issues to discuss, the meeting adjourned at 8:15 p.m.



Betsy Tyler, City Clerk



Vanessa Fleisch, Mayor