

City of Peachtree City
Minutes of Meeting
August 15, 2002
7:00 p.m.

The City Council of Peachtree City met Thursday, August 15, 2002, 7:00 p.m., in the City Hall Council Chambers. Council Members attending were: Mayor Steve Brown, Annie McMenamin, Steve Rapson, Dan Tennant, and Murray Weed.

Announcements, Awards, Special Recognition

Mayor Brown read a proclamation of congratulations to the Peachtree City Girls 87 Lazer White U-15 Soccer team for an outstanding season and for winning the Georgia State Cup for the second straight year.

Regions Bank Fayette County representatives Mark Kearsley, Kimberly Mitchell, Bonnie Smith, and Elena Baker presented Police Chief Jim Murray with a check for \$4,000 for community service use by the Police Department.

Police Corporals Terry Blackburn and Brian Jantosciak accepted the Fayette County Public Safety Games trophy. The Police Department won the games for a second straight year.

Tony Hicks of the Building Department was recognized as the Employee of the Month for July.

Mayor Brown recognized Barbara Langlois from The Gathering Place who spoke concerning Agenda Item 08-02-05 FY 2003 Budget. Langlois reminded Council about a recent meeting with The Gathering Place, Pioneers Club President Bill Chapman, and Golden K representative John Alford regarding the decision to move The Gathering Place expansion out of the FY 2003 budget. She continued that the reasons were explained to them and they understood. Langlois presented each Council Member with a copy of a letter signed by 126 people who use The Gathering Place. She read the letter to Council, which asked Council to keep the older adults in mind when planning the next budget. Langlois continued that Council had no idea how much a place like The Gathering Place meant to older adults who lived here. She said many of those who came to the facility had moved away from a lifetime of friends or had lost spouses and came to Peachtree City to be near family members.

Approval of Minutes

McMenamin moved to approve the August 1, 2002, meeting minutes with corrections. Tennant seconded. The motion carried 4-0-1 (Rapson).

Consent Agenda

There were no items on the Consent Agenda.

Old Agenda Items

07-02-02 Public Hearing – Variance – 206 Riviera Court

Donald Schaum addressed Council regarding his request to extend a proposed sunroom three (3) feet into the rear building setback. Schaum thanked City Planner David Rast for attending the Cypress Pointe Homeowners Association meeting on Tuesday, August 13. Schaum explained it was a called meeting and 12 families attended. Several others had given their proxies prior to the meeting. The total vote was 12 nays, 10 yeas, and two (2) abstentions. He added that some people who voted did not live on Riviera Court, but on Monterrey.

Schaum continued that he understood his neighbors' concerns and they were valid. Some voted no because a complete set of architectural drawings were not available. Schaum added that he had not planned to get a complete set of drawings until he received the variance. Schaum said he and the homeowners association president had both abstained. If they had voted, the vote would have been 12-12.

Rast told Council he attended the homeowners association meeting and explained the situation to the members. He also explained how staff determined whether or not to support a variance request. Rast continued that staff felt what Schaum was doing would benefit the homes in the neighborhood and would complement the home. The adjoining property owners were in agreement and the room would not be visible from the street or greenbelt.

Terry Malmer, treasurer of the homeowners association, told Council that the homeowners association met and the majority voted against the variance. He said the majority should speak. They were not against the sunroom and the sunroom could be built without a variance.

Betty McClure told Council Cypress Pointe was supposed to be a planned area of 39 homes similar to Fairways and Masters Square. McClure said she was the third person to move into the subdivision and was told when she moved in that she could not cover anything. She could not even have an awning unless it was retractable. McClure was not opposed to the addition, but to any variance that opened the door to more changes.

Sherwood Hanft told Council that before he bought his home he spent two hours going over the papers with an attorney. Once the door was open to variances, Hanft said there would be serious problems. He pointed out seven families on Monterrey had been on vacation when the meeting was held and had not been able to vote. Hanft believed a variance would injure the community.

Tennant noted that Schaum said he could understand those who voted no regarding the variance request. Schaum answered that each variance was looked at individually. Each variance was examined and the merits of the request were sought. He said he was requesting the variance to enclose the patio, not to add any more space.

Brown asked Rast if there were any extenuating circumstances. Rast explained that the area of the house Schaum wanted to enclose jutted into the building setback by seven feet. Ten to 12 feet of the rear yard was also taken up by a tiered retaining wall, which limited the size of Schaum's backyard. Rast said installing the sunroom and enclosing the hot tub should be considered. Rast did not know if there were any health reasons for the hot tub. Brown asked if the patio was out of compliance. Rast said no and added that patios at grade and decks at 30 inches were allowed in the setback.

Rapson said he had not heard any special circumstances and that the hot tub itself did not justify a variance. He said he did not want to send the message that a sunroom could be built if there was a patio. One of the things that made Peachtree City wonderful was its stringent code and he was not in favor of a variance.

Weed echoed Rapson's comments. Occasionally, there was bad news for good people. Weed said he had to weigh the request by the ordinances and he had not heard any special hardships or circumstances.

McMenamin said it was always hard to have neighbor against neighbor and it was contradictory to approve the variance based on the recommendation of the homeowners association. Schaum pointed out the association's board of directors had approved the request. McMenamin felt the variance would create a disturbance and open a Pandora's box.

Tennant commented that this variance was tough and asked Schaum if both of the immediate neighbors approved the project. Schaum said yes and added that one neighbor had changed his mind after he understood what Schaum was planning to do. Tennant said in light of staff's support that he was willing to support the variance request.

McMenamin moved that the variance request from Schaum for his property at Lot 21 Cypress Pointe subdivision be denied. Rapson seconded. The motion carried 4-1 (Tennant).

02-02-10 Golf Cart Committee Recommendations

Leisure Services Director Randy Gaddo addressed Council and said that a committee was formed at the March 7 meeting to review the golf cart ordinance and make recommendations. The committee met three times and the main issues included whether or not to change the ordinance and allow grandparents to oversee children ages 12-15 when driving a golf cart, whether or not to allow 15 year-olds to drive without an adult, and charging a registration fee to non-residents when they registered a new vehicle. Gaddo continued that after the committee made its recommendations that others had been received, including recommendations from the Police Chief.

Rapson felt the best way to handle the discussion was to take the recommendations one at a time. Rapson read Peachtree City Code 78-939(c). The first proposal was to add the word "grandparent" to the section.

Tennant said he was a long time proponent of allowing grandparents to drive with their children. Brown said that, as a parent who had a grandparent living in the City, he had no problem with adding grandparents to the ordinance so his mother-in-law could chaperone his children on a golf cart.

Rapson moved to accept Proposal #1 which simply added a grandparent to Peachtree City Code 78-93(c). Weed seconded. The motion carried unanimously.

Rapson read Proposal #2, which would strike the words "who holds a valid motor vehicle drivers license."

Kathie Cheney asked what was meant by the term "legal guardian." She explained that when a neighbor was out of town she was given a medical authorization and asked if that qualified her as a legal guardian. It was fine for her to allow surgery on the child, but she was not able to give them permission to drive a golf cart. Rapson answered that the committee had debated that question and that legal guardian was a legal position.

Phyllis Aquayo said striking the wording raised a question for her and asked what happened if the person did not have a license because of incapacity. She continued that she would not want a 12-15 year old driving with a person who was not able to drive him or herself. Aquayo said she did not see a need for children to drive golf carts and had witnessed many dangerous situations on the cart path because of a driver's youth and inability to know what to do. She pointed out that driving a cart was more serious and dangerous than most people thought.

Gwen Nelson told Council she was a grandmother and she was opposed to anybody driving a golf cart who did not know the rules of the road, whether they were grandparents or not, and did not have a drivers license.

Karen Davis pointed out that the way the law read now a senior citizen did not need a license to drive a golf cart. She continued that the State of Georgia gave permits to teens on their 15th birthday so their parents could teach them to drive. When her children turned 12, she put them on a golf cart to teach them to drive. Davis said it was the responsibility of adults to teach teens the rules of the road.

Tennant felt Mrs. Cheney had a good point and suggested adding the wording "or parent-approved guardian." Rapson said they would have to define who was a parent-approved guardian and the police would have to track and identify a child with a parental permission slip. He felt that could get out of hand and create a difficult situation.

Weed said he had a great deal of respect for senior citizens and the community was geared to young families and senior citizens. He added that the day might come when he did not want to bother with a license or that he needed to get a license, but he wanted to use the cart paths. He would like for seniors to have this opportunity. Weed pointed out that one of Chief Murray's recommendations dealt with people who lost their licenses.

Tennant moved to approve Proposal #2 as written in the Council book. Weed seconded.

McMenamin suggested if Proposal #2 was approved that Council might want to put strict guidelines in place. She said she was concerned and noted that, as a grandparent, it was a lot more difficult to turn down a grandchild than one's children. McMenamin added she did not want to restrict grandparents just because they did not have a license. McMenamin and Rapson agreed that the ordinance could always be modified.

The motion carried unanimously.

Rapson read Peachtree City Code 78-93(b). The committee recommended the following language be added to the section for Proposal #3—*All operators and passengers must remain seated at all times during the operation of the golf cart. No person may sit on the operator's lap during the operation of the golf cart.*

City Attorney Rick Lindsey pointed out a possible problem to Council. He said the previous motion relieved guardians, parents, and grandparents of the need for a valid license. This section required a valid license. Lindsey continued that it was up to Council to decide if they wanted an 18 year-old without a valid license in charge of a 15 year-old. He said that needed to be addressed. Rapson said the group debated that question and the consensus was they wanted an 18 year-old to have a valid license. Lindsey noted there was always trouble when they tried to amend substantially an ordinance proposal, but they needed to do something about whether a 15 year-old must be accompanied in the front seat by a parent, grandparent, or legal guardian if they do not have to have a valid license; however, if it was an 18 year-old they had to have a valid license. Lindsey recommended he make that change and bring it to the next meeting. He felt trying to make the change during the meeting would tie it up. McMenamin asked Lindsey if it was the first time he had seen the recommendations. Lindsey said no, but it was the first time he knew what Council was going to do regarding a valid driver's license. Lindsey added that Council could do what they wanted, but Judge Sams had ruled golf cart operators had to have a valid driver's license and anybody without a valid license driving on the street could be ticketed. Lindsey said that could be a problem in State Court. Council agreed with Lindsey and said the language needed to be firmer.

Golf Cart Committee Member Marie Washburn addressed Council and said she knew there was a movement to delete the part of the ordinance, which required a valid license holder to be with a 15 year-old. She pointed out a number of teens served on the committee and they approved the recommendation. Washburn said the state allowed 15 year-olds in a car with a licensed adult and the committee felt they should hold the line. Everyone had their own definition of what a responsible 15 year-old was. Washburn said she was not putting down 15 year-olds, but a line had to be drawn somewhere and the committee felt it should be kept with the state guidelines.

Cheney commented that a lot of parents in the City were seen driving golf carts with children on their laps, but a lot of those parents did not realize they could crush the child

if they hit something. She continued that a golf cart could do a lot of damage and she knew people would object, but she felt there was a valid reason for the restriction.

Brian Dingivan asked Chief Murray if there was an ordinance that dealt with small children and car seats. Murray said it was only a matter of time before a child was hurt or killed by having the child sit on the operator's lap. He said the biggest problem was the four-six year olds who sit on someone's lap and steer. Murray continued that there was no seat belt attached to a golf cart. He added that golf carts also were not designed to roll over. Murray noted that it was up to adults to secure their children, but putting children on their laps was not a safe way to secure them. He said this change to the ordinance would eliminate a lot of problems.

John Poticny told Council he was scared when he saw small children in laps. His family installed seatbelts from a car dealer in the golf cart and mounted the seat belts on the back seat. He also spoke in support of requiring those who accompanied 12-14 year-old drivers to have a valid drivers license.

Kris Fiest spoke in support of the recommendation. She felt the decision whether or not to let a 12-14 year old drive accompanied by someone who did not have a valid license should be the responsibility of the parents.

Rapson moved Council adopt and create a new section for Proposal #3 as worded. Weed seconded. The motion carried unanimously.

Rapson read Peachtree City Code 78-92. Rapson said the section would stay intact with the following addition—*unless the nonresident had previously paid the registration/user fee the same calendar year, in which case a one-time transfer fee of \$5.00 would be applicable.*

Tennant moved Council accept Proposal #4 as written in the Council books. McMenamin seconded. The motion carried unanimously.

Rapson read Chief Murray's first proposal—*No passengers other than those included in the ordinance 78-93(c), (e.g. parent, grandparent or legal guardian, based on the ordinance approved by Council), be permitted to ride in a golf cart when a 12-15 year old is driving.*

Chief Murray explained that the City had gone from 1,900 golf carts to almost 10,000. He continued that it was common to see four or five children riding in a golf cart driven by a 12 year-old. He felt there needed to be some restrictions and added that the City did not need 12 year-olds driving a golf cart with small children. Murray noted that the state was going to a tiered license and that the City might want to try to do the same thing with the golf carts. Murray added that it could be a moot discussion since a case was pending in the Court of Appeals. The decision involving the case could require that everyone who drives a golf cart on City streets have a license.

Tennant pointed out that the sole purpose of letting a 12-14 year-old drive a golf cart was to teach them how to drive. Murray agreed, but said there needed to be some parameters. He was trying to eliminate victims that might be small children.

Murray's other recommendation was that no person who had a suspended or revoked license be permitted to operate a golf cart on the streets or recreational paths of the City. Murray explained that if a person lost their license they could not use any motor vehicle for transportation. The City needed to make it clear that people who lost their license, or had them suspended, were not allowed to operate a golf cart on the paths or streets. Murray said that was a good policy. Rapson agreed and said it was almost as obvious as not putting a child in the driver's lap.

Rapson commented he felt there were too many conflicts with Murray's first recommendation that meant a family could no longer go to the pool or the grocery store if a 12 year-old drove. He added there were too many logistical problems. McMenamin said there would not be a logistical problem; the parent would drive.

Weed moved that the current ordinance be amended to provide that no person who has a suspended or revoked driver's license be permitted to operate a golf cart and that the language would be as inclusive as possible with regard to people who have violated the laws. Rapson seconded.

Tennant suggested the wording be "not permitted to drive anywhere in the City, or on any public property. Lindsey said he liked the words "public property." Lindsey explained that he did not want to get an ordinance worded so broadly that a defense attorney could defeat a violation because the ordinance was unconstitutional.

Weed said he had a problem with what was, or was not, public property. Lindsey said there was wording in the ordinance about areas accessible to the general public. He continued that the ordinance should include streets, public paths, and areas accessible to the public in general. He said he would put the wording in and bring it back to Council. Weed said he would agree to the recommendation as amended. Rapson agreed. The motion carried unanimously.

No action was taken regarding Chief Murray's first recommendation that persons other than those designated in 78-939(c) be permitted to ride in a golf cart when a 12-15 year-old was driving.

Rapson noted that e-mails had been received regarding the elimination of gas golf carts. He asked anyone for or against the suggestion to speak.

Frances Meaders told Council that she owned a gas golf cart and she knew there were environmental concerns. She pointed out that gas golf carts had to be inspected every year and the certificate had to be presented to the City.

McMenamin pointed out that a number of seniors lived in units that did not have electrical outlets for golf carts and that was one of the reasons gas golf carts were allowed. She also noted the gas carts required yearly inspections and said she was not in favor of eliminating their use. Chief Murray said only about two percent of the City's golf carts were gas.

John Judy commented that he owned an electric and a gas-powered golf cart. He found the gas cart was slower going down hills because it was heavier. He said it would not be fair to eliminate gas carts for the people who owned them, but a ban on future carts would be fine. He pointed out that electric golf carts caused pollution. He explained that Peachtree City received its electricity from the Yates plant, which was powered by coal. It may not pollute here, but was still polluting the environment.

Brown asked Council if anyone wanted to take action on the recommendation to ban gas-powered golf carts. Rapson said the answer was no.

Rapson said all of the items were covered except for the one that brought everyone to the meeting. He asked Kathie Cheney to give her presentation on allowing 15 year-olds to drive carts without supervision.

Cheney's presentation was included in the official meeting file. She told Council 15 was an appropriate age to drive a golf cart without supervision, but the privilege should be limited to 15 year-olds who had shown themselves to be responsible. She said it was the parents' job to ensure their 15 year-old was responsible. Her presentation included a parental permission slip, as well as a golf cart driver's license.

Judy Hall addressed Council and suggested that 15 year-olds be required to take a driving test. She continued that when someone saw a 15 year-old misbehaving on the cart path, the police should be called. She felt the City was missing the boat by not giving the teens a chance to drive golf carts. If her child messed up, Hall said she would take responsibility.

Kevin Cheney told Council allowing 15 year-olds to drive golf carts was a win-win situation. He said allowing the teens to drive golf carts would make safer drivers in a car since the experience the teen would get driving a golf cart alone would be invaluable. He continued that it was a quality of life issue. There were a lot of single parents in the community whose quality of life would be greater if their teen were able to run errands, etc. Cheney also pointed to reward and punishment. Allowing teens to drive alone rewarded the good kids and their parents, rather than punishing them. The irresponsible kids were driving anyway.

Brian Dingivan said he talked to his insurance company to find out if his son would be covered in a golf cart without a valid license. The answer was yes.

Karen Davis, who told Council she was a teacher at McIntosh High School, said parental responsibility was important and she realized that some parents wanted others to make decisions for them. She continued that parenting was her job and it was her responsibility to decide if her child was responsible enough to drive a golf cart without supervision. Her daughter Lauren started the changes in the golf cart ordinance because Davis would not let her drive the golf cart without a parent. It was a parent's job to say no. She added that 14 was the legal age to obtain a boating license in Georgia. Davis continued that the form suggested by Cheney gave parents the opportunity to think about accountability and would make them accountable.

Gwen Rower asked if the committee considered putting any limitations on the time of day that a 15 year-old could drive a golf cart by themselves, such as 6 a.m-8 p.m. She pointed out that those hours gave teens the opportunity to drive to school and get to their activities, but would not be out all night. Rapson said the committee had not discussed any time limitations.

Gordy Van Remmen told Council he would be 15 in November. He said teens had basically had a permit to drive the golf cart since they were 12 with parents supervising them. He continued that driving unsupervised at 15 would be the next level up and would benefit everyone. McMenamin asked Van Remmen the benefit of driving a golf cart. Van Remmen said he had discussed it with his parents and his parents would put limits on where he could go and how late he could stay out. He added he would go to his friends' houses.

Lauren Davis told Council that when a teen got a permit the state trusted them with an automobile. If a teen was trusted with an automobile at 15, Davis said they should be trusted with a golf cart, which was smaller and had less risk of injury.

Sophia Garrett and Amber Conrad agreed with Davis. Conrad said if teens passed their permit test, then they had proven they could drive a vehicle around the City at 12 miles per hour.

Rapson felt it was good for teens to gain an extra year behind the wheel; however, he was concerned about keeping track of the parental permission slips. He continued that a 15 year-old with a valid permit should be eligible to drive golf carts. If the teen was not mature, then he or she should not get a permit. Rapson said he was coming down on parents controlling the situation with permits.

Tennant said he supported the issue. He said without question driving a golf cart was a valuable learning experience for teens. He continued that parents needed to be parents and there were certain guidelines when there were laws in a community. Tennant felt this was a gray area where parents needed to be parents, although he would be supportive also if permission slips were required.

McMenamin recalled some advice she received as a young mother—a 15-year old had 15 years of parents' influence, but it only took 15 seconds of peer pressure to turn the child. She told those teens attending that they were all responsible and good children, but her concern was when they got in a golf cart with someone else that could turn a very responsible child into an irresponsible child. McMenamin said she had no problem with 15 year-olds with a permit driving a golf cart, but wanted to restrict the number of other kids allowed in the cart, if any at all.

Brown said he knew there were a lot of responsible 15 year-olds. He asked how to measure the level of responsibility and said he was more inclined to go along with McMenamin's suggestion of limiting the number of teens in a golf cart. Golf carts could be exceptionally dangerous, just like a car. He added that a car had more safety features than a golf cart. When a golf cart was rolled, the top was crushed onto the seats. He said he would not support it without restrictions.

Tennant asked if it would not be reasonable to let a teen have one or two friends in the cart. Brown said no, not unless there was a guardian or parent with the child.

Weed noted he was the McIntosh High School Interact Club sponsor and was convinced that 15 year-olds could be responsible. He said he wanted a reasonable compromise, which would be 15 year-olds with permits and possibly some other restriction on the number of people who rode with them. Weed continued that three 15 year-olds suffered from "group think," just as three 35 year-olds could. He felt they were close to coming up with something; he just was not sure what that would be. Brown noted that anything Council decided could be a moot point based on the case currently before the Appeals Court.

Rapson moved to approve 15 year-olds driving golf carts with a valid learner's permit and restricting the number of individuals in the cart, including the driver, to three. Tennant seconded.

McMenamin said three was too many and said she was concerned about having even two in the golf cart. She continued that driving the golf cart was a privilege and should be very restrictive for 15 year-olds.

Rapson pointed out that teens got a driver's license at 16 and were restricted to driving alone for six months, then they were allowed to have three passengers. He felt three passengers was reasonable, but he was not opposed to two.

Brown said he could not support the motion. He said he had to look at safety issues. He pointed out that most roads were designed for optimal driving, but the cart path was not and presented some unique problems. He had no problem with a 15 year-old driving him or herself, but if there were others in the cart there should also be parent or guardian.

McMenamin stated they all apparently supported 15 year-olds with permits driving carts; it was just a matter of the terms of the restrictions. Tennant did not want to penalize the majority who would abide by any restrictions because of the 10% who would not. He thought three people in a cart was reasonable.

The motion was denied 2-3 (McMenamin, Weed, and Brown).

Weed said he had an alternate motion. He continued he did not mind two 15 year-olds in the golf cart, but he noted the City had a tough time patrolling the heavily-wooded areas. He would rather a young person had a friend with them than drive a cart by themselves. He moved that drivers of golf carts drive at 15 years of age with a learner's permit and have at least one person with them who was at least 15 years old. McMenamin seconded.

Rapson said he was concerned since the motion would not allow younger siblings to ride in a golf cart with a 15 year-old. He said the restriction made sense when talking about friends, but not family. Tennant asked Weed if he would amend his motion and change the age of the passenger to 12 years. Weed said he would not accept the amendment. Rapson suggested a minimum age of 15 and a family member. Weed said he felt equally as nervous. Brown supported Weed's age restriction and said Weed worded it that way for safety reasons. In case something happened on the cart path, someone else would be there.

Weed stated the basics of the motion – 15, learners permit, and at least one other person who was 15 or older. Rapson said he would be in favor of that since it was a step closer to where they needed to be. Tennant said he would be in favor of it, but he felt they were missing out on practical applications.

Weed restated the motion – 15 year-old drivers with learner's permits be allowed to operate on the cart paths and streets as long as they had at least one other person with them who had to be at least 15 years old. Weed said the minimum amount of people needed to operate the golf cart would be the driver and at least one other person. McMenamin said the way she understood it was there had to be at least two people in the cart. Tennant asked Weed if he meant a 15 year-old and at least a 15 year-old passenger and/or a parent. Weed said yes. Tennant said he thought they all agreed that a 15 year-old with a permit could drive alone, with one additional passenger. Weed said he meant that a 15 year-old could drive alone, even with a learner's permit. They had to have another person with them who also had to be at least 15 years of age. McMenamin withdrew her second. Tennant said he needed a clarification of the motion. Weed said the second had been withdrawn so there was no motion. Tennant said he was prepared to second the motion once it was clarified. Tennant asked Lindsey for a point of order. Lindsey said Council could not act on the same motion.

Rapson moved that a 15 year-old with a valid learner's permit could drive a golf cart and/or could drive with one additional person at least 15 years old. Tennant and McMenamin seconded. The motion carried 4-1 (Brown).

Brown told those attending the meeting that the agenda order needed to be changed. He explained that, by law, 08-02-05 Public Hearing – FY 2003 Budget had to be done at this meeting. He moved to move the agenda item up so Financial Services Director Paul Salvatore could make his presentation at this time. Weed seconded. The motion carried 4-0 (McMenamin had not yet returned to the dais).

McMenamin asked Lindsey if Council needed to vote to continue the meeting after 11 p.m. Lindsey said Council needed to vote to hear any new agenda items after the 11 p.m. deadline. Tennant moved Council stay as long as needed to cover the agenda items as long as it was not past 1 a.m. Rapson seconded. McMenamin said her only concern was that if someone stayed for an agenda item until 12:45 a.m. and then had to leave without Council hearing the item. Tennant amended the motion to stay until all the agenda items in the Council book were heard. McMenamin seconded.

McMenamin asked if there was anyone in the audience who would like to table an agenda item late in the evening so they could go home. Doug Dillard, attorney for Jimmy Halligan, asked Council to table item 08-02-07 Consider Proposed Internal Road Connection from Maple Shade Subdivision (Crabapple Lane) to Adjoining Subdivision in Tyrone. Tennant amended his motion to include tabling item 08-02-07 until the September 5 Council meeting. Rapson seconded. The motion carried unanimously.

08-02-05 Public Hearing – FY 2003 Budget

City Manager Jim Basinger told Council the FY 2003 budget had more attention than any other budget and the result totaled right at \$28 million. In order to address a concern for cash reserves in 2003 and 2004, Basinger said the budget was based on a nine percent (9%) millage rate increase, which replenished the cash reserves by approximately \$538,000. Basinger continued that Council discussed using \$600,000 of the cash reserves in FY 2004 to reduce the projected millage rate increase from 35% to 12%. He added that, during the budget process next year, they hoped to pare down the projected millage increase. The proposed millage rate for FY 2003 was now 4.703 mills. Basinger continued that even with the nine percent (9%) increase Council still had to cancel projects in the Public Improvement Program (PIP) and it was doubtful the projects could be returned to the 2004 PIP. The projects were placed on the Future PIP Projects list and would be reviewed when the 5-Year Staff Plan was reviewed next year.

Salvatore reviewed the major factors that impacted the FY 2003 budget. A copy of the PowerPoint presentation was included in the meeting file. The factors included significant increases in insurance costs and pension costs. Other factors included a decline in revenue sources, such as impact fees, the industrial tax base, hotel/motel taxes, interest earnings, and LOST, as a result of the state sales tax holidays.

The budget overview showed the total resources available for the FY 2003 budget were \$27,951,471. The breakdown was \$24,200,101 in FY 2003 Appropriations, \$887,334 in FY 2002 Carryover Funds, and \$2,864,036 on Estimated FY 2003 Ending Cash. Salvatore then detailed the cuts made to the budgets. He continued that there would be a

nine percent (9%) increase in the millage rate. Salvatore said the millage increases would be tiered, rather than in one big hit. He continued that all future increases were estimates and might not be necessary. Salvatore said the only thing certain was the nine percent (9%) increase for FY 2003.

Salvatore detailed the breakdown of the appropriations, department operating budgets, and revenues. He said the LOST distribution with the County was being renegotiated. He emphasized there could be a big impact on the budget if changes were made to the LOST formula. Salvatore pointed out that the hardest hit area of the budget was insurance. Health insurance claims/costs increased 62% or \$539,000, property insurance increased 11% or \$89,000, and Workers Compensation increased 46% or \$60,000. Salvatore said the insurance cost problems were ongoing and some experts believed costs would double.

There was no comment from the public. No action was required at this time on the FY 2003 budget.

06-02-04 Report from Special Counsel Relative to Intergovernmental Agreements

Special Counsel Winston Denmark addressed Council and said he had been appointed to investigate the validity of the agreements between Council and the Development Authority and the Airport Authority. He was also asked to look into the existence or non-existence of a concert of action among certain individuals to engage in either unlawful activity or to defraud the City in a civil manner. Denmark continued the investigation was conducted from May until August. He reviewed numerous documents and the verbatim transcript of the June 7, 2001, meeting. Denmark also interviewed all current members of Council, the members of Council at the time the agreements were considered, and members of both authorities. The report was turned in August 8, 2002.

Denmark said he would not go over the report point by point, but would summarize and brief Council on his conclusion. He added that the complete report was available on the City's website for those who were interested. Denmark concluded that the City's agreements with the Development and Airport Authorities were not authorized by Council and were invalid. He felt the best way to handle the matter was with a declaratory judgment. Denmark continued that he found no evidence of a conspiratory action, but added the lack of evidence cut both ways. He recommended Council abandon the issue, or at least stay it until more evidence became available.

07-02-06 Public Hearing and Discussion of 2001 Intergovernmental Agreements between the City and the Airport and Development Authorities

Mayor Brown read the guidelines for the public hearing and discussion and noted that Council was not required to take action on the matter.

Bob Brooks of the Development Authority addressed Council. He confirmed Council's intention to meet with the Development Authority on August 22 to discuss the

intergovernmental agreement. He said the major objective would be talk and get ideas on the table regarding the issues they needed to discuss. Brooks continued that it was presumed the flow of funds would stay the same until everything was worked out, otherwise Council would default.

John Dufresne said the report had a clear agenda and that was to declare the agreements invalid. He pointed out there was no mechanism to retire funding in the original agreement, but it was addressed in the revised agreement. There was also a mechanism to reduce payments. Dufresne said the revised agreements benefited the City more than the original agreements and the investigation into the agreements' validity started 12 months after the agreements were signed.

Sharon Waples told Council that the Special Counsel seemed to contradict himself several times. She saw many contradictions and was upset the City spent a lot of money on the report.

Bob Lenox, former mayor who signed the agreements, told Council he had hoped some rational dialogue would have taken place. He continued that only a court of law could determine if the contracts were valid. The goal of the investigation was to come up with something to intimidate the authorities. Lenox said a lot of people were accused of a lot of things during the investigation. He read from page 27 of the report and said there were not enough facts to even give rise to the inference of wrongdoing. Lenox continued that if Council wanted to negotiate in good faith, they needed to quit inferring that anything wrong was done.

Tonya Holder said she had watched the conflict unfold and had been struck by an overwhelming feeling of tremendous fatigue. She said she was not alone and had lost faith in Council. Holder said Peachtree City was the best place to live, but this Council was not responsible. It was City staff and the people of the Development Authority who volunteered their time. She told Council if they wanted to repair the reputation of the City they should do things in the public interest, not in political interest.

Margie Swart told Council she had talked to the general managers at the City's hotels and motels and she felt, as a citizen, she had been misled about the hotels and motels support of the two percent (2%) increase. She continued the former mayor led her to believe all the hotels and motels supported the tax increase, but they told her they did not have a say in the matter. Swart said Denmark had to rely on past Council minutes in his investigation and she felt the minutes contained information that was misleading to the public. She told Council she was proud of them and knew the City had open government.

Nancy Faulkner, former city clerk, addressed Council and said the agreements with the authorities were in the works when she left the City. She questioned whether or not the first agreement would have been valid. Faulkner continued there was no conspiracy on this matter and if the agreement had not been revised there would have been problems in the future.

Jeff Troxel said the whole idea was a waste of time and money. He asked Council if they intended to go to court over the agreements or if they intended to sit down with the authorities and come up with a sensible, logical conclusion. Brown pointed out that Brooks had just agreed to a meeting on August 22 on behalf of the Development Authority.

McMenamin asked Lindsey if there was any gag order since there could be a possible lawsuit. Lindsey said there was not a gag order, but if the agreements were taken to court, any statements made in a public meeting could be used for or against Council. Troxel asked if any meetings with the authorities would be open and Brown answered absolutely. Rapson noted that he was abstaining from any discussion.

New Agenda Items

08-02-01 Public Hearing – Variance – 113 Crown Park

Mark Willie, vice-president of Olde Town Builders, Inc., the Cardiff Park subdivision, addressed Council and said his request was for a variance to correct the encroachment of a deck into the rear setback. He said the home was a model home in the community and was for sale. Willie did not want to penalize the homeowner in the future because it did not have a deck.

Brown commented that the homes in Cardiff Park subdivision were unique, but the decks were not on the preliminary drawings. He asked if the decks could be brought closer to the house. Willie said there was no room to do that. The deck was about 10 to 12 feet off the ground and the lot requirement was very steep.

Mike Robinson, a homeowner in Cardiff Park, said the homes were beautiful, but the product was difficult to put on lots because of the center island in the subdivision, which put constraints on the lots. He felt the deck encroachment presented very little problem and was not noticeable at all since a fence surrounded the subdivision. John Jordan and Tim Lydell agreed. Jordan said his home was on a similar lot, but was shorter and he did not see where the decks created a problem. Lydell added that no one was around the subdivision to see slight encroachments into the setbacks. Willie said there were 28 lots in the subdivision and eight homes had been sold.

City Planner David Rast noted the property was zoned G-C (General Commercial) until Jefferson Consultants asked for the rezoning to LUR-7 (Limited Use Residential). The G-C zoning would have allowed a variety of uses at the entrance to Planterra and it was felt the LUR zoning would be good between Planterra and the G-C zoning on Highway 54. The LUR zoning requirements were stringent and included a 20-foot rear setback. He indicated many of the lots could possibly have problems with the setback. Rast continued that when the applicant provided the plans for the subdivision the deck was not shown. If the deck had been shown, staff would have notified the builder at that time. The Building Department had not been aware the deck was in the setback either. Because the home has not been occupied, staff saw no reason to approve the variance request. Rast said removing or shortening the deck might create some hardships, but the

deck was done without the knowledge of the City and was not noticed until the certificate of occupancy was issued. One of the things to be considered that everything was done without the City's knowledge and had gone through the building permit process. Rast explained that was why there were several variance requests on the meeting agenda. Staff's recommendation was to not grant a variance. He added that quite a few lots would be affected and the rear of many of the homes were right on the rear building setback line.

Tennant commented that staff had listed several mitigating circumstances. He asked Rast if staff would be more willing to grant a variance if the home were occupied. Rast answered yes since the encroachment was the builder's fault rather than the homeowner who bought the home without any knowledge of the encroachment.

McMenamin noted that other homes had been sold and that the encroachment should have been noticed at the beginning. Rapson pointed out that staff had specified special circumstances for homeowners, but held the developer to a different standard. He felt if the hardship was valid for citizens it should probably be valid for developers.

Phyllis Aquayo pointed out there were 28 lots and eight homes had been sold and three variance requests had been turned in. She asked what the potential was for more variance requests.

Weed said the developer was required to present the decks in the drawings and decks were not included. He said that was the developer's responsibility.

Tennant asked if a certificate of occupancy should have been issued. Rast answered when the building official went to the site the encroachment was missed. Notes were made on the plats that specified the setbacks. Rast said a certificate of occupancy should not have been issued.

Jordan told Council that the matter was an aesthetic issue and it would not be easy to sell a home without a deck.

Rapson asked Willie since about 12 lots were impacted by the setback, if there would be more variance requests. Willie said that was a fair statement.

Tennant commented that he was thinking about down the road. He continued that the City made a mistake and there were mitigating circumstances. Tennant was in favor of granting the variance.

McMenamin gave a brief history of previous variances and pointed out that one subdivision's builder forgot to put chimneys on the plats. She recalled that one time a builder had to move an entire home because of an encroachment. McMenamin said she looked at the impact of a variance on the entire subdivision. She was concerned about doing something like removing the decks would destroy property values, but at the same

time did not want to open the door to more variances. She asked Rast if there were recommended conditions. Rast said staff requested the same conditions as with other variances. The oversight was the builder's, as well as the City's. Rast continued that this house was right on the cart path. He said he would like to impose similar conditions placed on the lots of other variance applicants from the neighborhood to try to get some vegetation to screen the view of the decks. Rast added that softening the impact of the view of the decks would benefit the neighborhood, as well as Planterra. McMenamin asked if the builder had agreed to the conditions listed for the other requests. Willie said yes.

Weed asked Willie how many variances he actually wanted. Willie said that was a good question and depended on whether or not the City wanted to change the product. He estimated there would be possibly three more variances if the product were not changed. Rapson said it looked like there might be more lots than three.

Brown expressed concern that the City was giving away its buffers. He asked if there was any kind of rezoning that could be done that would straighten things out. He continued that if the product changed now it would be a disaster. Brown said he was not against taking the area and doing some kind of overlay zone so all the lots could be taken care of at once rather than piecemeal. Rast commented that it might be easier to look at the Limited Use Residential zoning rather than doing an overlay. He said he would sit down with the builder, and then come back to Council.

McMenamin said she wanted to table the matter until staff and Willie sat down and worked things out. Brown agreed and said all of the requests could be wrapped up in one fell swoop. McMenamin moved to table all three of the rezonings (agenda items 08-02-01, 113 Crown Park; 08-02-02, 119 Crown Park; 08-02-03, 126 Crown Park) until staff and the builder came back to Council with a plan. Weed seconded. The motion carried unanimously.

08-02-04 Public Hearing – Variance – 645 North Fairfield

Steve Weyandt, owner of the property at 645 North Fairfield, addressed Council regarding his variance request. Weyandt applied for a variance to allow for a 10.1-foot encroachment into the rear building setback line. He told Council he wanted to build a deck on the rear of the home, which backed up to a City greenbelt. Weyandt commented that his next-door neighbor had already had a variance request for a deck approved. He had approached all of his neighbors and they all approved of his plan. Weyandt told Council he would do nothing to degrade the appearance of his home.

Rast reminded Council that the lots in Fairfield subdivision were relatively small. The home was built to the setback and was over a basement. Rast continued the home backed up to a dense greenbelt and staff felt the variance request should be granted for no more than 10.1 feet. Similar variances in Fairfield had been requested, including a request from the adjoining property owner. Rapson clarified that the entire deck would be in the setback. Rast said yes, as was every other house in the subdivision.

Brown said the variance request was the perfect example of buffer erosion. He continued that the zoning in Fairfield was no longer effective and the City had lost control of the subdivision. Lindsey suggested that if only decks were allowed, then they should say so. The City could end up with a lot of decks in the subdivision, but no sunrooms.

Brown commented that the first time homeowner usually knew the rules in the cluster subdivision, but the second homeowner did not. He said something should be in place to warn subsequent homeowners that there was only so much space on the lots. Lindsey pointed out that most of the variance requests were for decks on the backs of the cluster homes. He continued that maybe it was time for Council to instruct staff to look at the matter. If Council was going to allow decks, then what kind of screening was required? There also should be some disclosure requirements on all sales in the City. Lindsey continued there had also been similar requests in the older neighborhoods and Council might also want to look at the older areas, rather doing things piecemeal. Brown asked if there was any way Council could globally tell Fairfield that decks were alright. Lindsey said he could not answer that question and would have to look at the circumstances. Rast added that in this case the topography of the lot was a big factor.

Rapson moved to approve the 10.1-foot variance as requested and that the encroachment be limited to a deck. McMenamin seconded. The motion carried unanimously.

08-02-06 Consider Naming Tennis Center Pavilion after Thomas E. Farr

Basinger told Council the Development Authority of Peachtree City had recommended the Tennis Center's new pavilion be designated as the Thomas E. Farr Pavilion.

McMenamin said she had spoken to City resident Jim Price, who had written the City a letter requesting the Tennis Center be renamed in memory of Farr, and Price supported the Development Authority's recommendation. She read the letter concerning the recommendation from Tate Godfrey, chairman of the Development Authority. McMenamin moved to support the Development Authority's recommendation and name the pavilion the Thomas E. Farr Pavilion. Weed seconded.

Rapson commented that Farr was a good man who gave a lot to the community. Weed said he could not think of a finer tribute for a fine man. The motion carried unanimously.

08-02-08 Consider Land Use and Zoning around Peachtree Skate Property

McMenamin moved to table this item. She pointed out that a number of people interested in the item were at the meeting earlier and probably should be present. Tennant seconded.

Rapson said he had gone through the Land Use Plan carefully and advised his fellow Council Members that this item should be tackled quickly. McMenamin said the people involved needed to be at the meeting since there were some concerns about the taking of property. She felt regardless of what was done there might be some lawsuits. Rapson said he was concerned if Council did not act quickly enough a developer could do

something to lock in a plan at the current zoning that was not appropriate for the area. Lindsey noted the property was currently zoned Limited Industrial and asked Rast if there were not some restrictions already placed on the properties in the area.

The motion to table was denied 2-3 (Weed, Rapson, Brown).

Lindsey continued that he understood some of the surrounding properties were also zoned Limited Industrial and some of the limitations required the properties to be developed like The Avenue's architecture. Rast said the property at the corner of Clover Reach and Clover Reach was zoned LUC-16A (Limited Use Commercial-16A) and was an appendix to The Avenue. He said it was the only property that had the architectural requirement. Rast said a site plan had been turned in for the vacant property opposite Peachtree Skate and the site plan adhered to the LUC-16A zoning. ABRA was going into the Peachtree Skate property and changed the scenario. ABRA was an automobile body shop. He continued that Cousins Properties, the developers for The Avenue, had discussed the Peachtree Skate site with tenants, but there were several issues to be considered including visibility and signage. The Planning Commission was concerned about what would happen along the corridor and staff felt it would be a good idea for the Planning Commission to look at the area as a whole, including Clover Reach.

Rapson said he understood why Council needed to have the discussion. The Land Use Plan recommended the area as Commercial and the new use of the Peachtree Skate property would be Limited Use Commercial, which was the current zoning.

Rapson said he did not think any official action needed to be taken. Lindsey said Council should direct staff and the Planning Commission to look at the area again. Brown said Council should give them some kind of direction as to what they wanted to see. He continued that the Clover Reach corner was key and something good needed to happen there. Rast said the site plan being considered was exciting. Rapson expressed concern that the matter had to come to Council so Council could direct staff and the Planning Commission to look at the area again. Lindsey suggested Council direct staff to start the land use plan review process for the area, and then it would have to go before Planning Commission and Council and through the process. Brown agreed that Council needed to give the Planning Commission some direction. Rapson said all that was required was for the applicant to turn in a good plan to put something that was Limited Industrial. Rapson asked if there needed to be a vote and Lindsey said the discussion was sufficient.

Council/Staff Topics

Basinger said two Council Members were needed to serve on a selection committee for the Development Authority. McMenamin and Weed volunteered to serve on the committee. Brown said he also wanted to serve on the committee. He commented if the three Council members served on the committee then the interviews had to be open meetings. Basinger said the committee would be interviewing applicants and the applicants would be more comfortable in a closed situation than in a public meeting. Lindsey read from the City's ordinance regarding selection of members of the Airport

Authority. Council would appoint the Authority member based on the committee's recommendation. Lindsey said he did not have the Development Authority's enabling legislation, but it would be similar to the Airport Authority's enabling legislation. McMenamin noted there had never been a problem before with having more volunteers than needed. Brown moved that Weed and Brown be appointed as the interviewers for the Development Authority. Tennant seconded. Tennant suggested Council come to a consensus rather than vote on the matter. Lindsey clarified that the Mayor selected the selection committee and could serve as an ex-officio member of the committee. Brown withdrew his motion and appointed himself and Weed to the selection committee for the Development Authority.

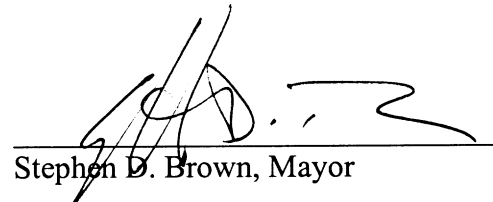
Brown moved to recess and reconvene in executive session for a personnel matter. McMenamin seconded. The motion carried unanimously.

Tennant moved to recess out of executive session and reconvene the regular meeting. Brown seconded. The motion carried unanimously.

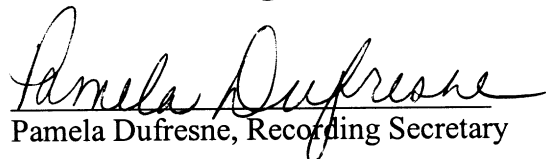
There being no further business to discuss, Brown moved to adjourn the meeting. Rapson seconded. The motion carried unanimously. The meeting adjourned at 1:45 a.m.



Betsy Tyler, Deputy City Clerk



Stephen D. Brown, Mayor



Pamela Dufresne, Recording Secretary