

City of Peachtree City
LAKES KEDRON AND PEACHTREE VIOLATIONS WORKSHOP
Minutes of Meeting
August 7, 2006
6:30 p.m.

The City Council of Peachtree City met in a workshop session on Monday, August 7, 2006, at 6:30 p.m. Council Members attending were: Mayor Harold Logsdon, Stuart Kourajian, Cyndi Plunkett, and Judi Rutherford. Steve Boone was out of town and unable to attend.

Staff members attending were: City Manager Bernard McMullen, Assistant City Manager/Developmental Services Director Colin Halterman, Director of Administrative Services/City Clerk Jane Miller, Public Information Officer/Deputy City Clerk Betsy Tyler, City Planner David Rast, City Engineer Dave Borkowski, Code Enforcement Officer Tim Maret, Code Enforcement Officer Tami Babb, and City Attorney Ted Meeker.

Maret gave a PowerPoint presentation on the various violations found on Lake Kedron and Lake Peachtree. (A copy of the PowerPoint is included in the official meeting file.) Maret said the purpose of the workshop was to identify enforcement responsibilities and changes in enforcement efforts, identify boundaries and differences between what is platted and state and local laws and ordinances, identify potential violations along the lakes, and to present a plan of action.

Maret continued that the City had received complaints from the Fayette County Water Department, the Fayette County Marshal's Office, and concerned citizens. Some sort of enforcement action was needed. The Fayette County Water Department leased Lake Peachtree from the City, and the County owned Lake Kedron. Entities responsible for enforcement included the Georgia Department of Natural Resources (DNR), the Georgia Environmental Protection Division (EPD), the County Marshal's Office, City Code Enforcement, and the City Police Department.

Enforcement activities included boat tags, holding up processing of tree removal permits, reactive notices of violation, and reactive citations. Boat tags (construction paper placed in a plastic bag) were notices posted with the aid of the Marshal's Office on Lake Kedron on illegally located boats. In June 2001, 40 were posted and officers ran out of notices to post. In June 2002, 64 boat tags were posted. Residents on Telfair Park (North Cove/Kedron), Newport Drive (The Point/Kedron), and Mickleton Lane (Stoneybrook/Kedron) had tree removal permits denied by Code Enforcement. Some permits were approved, while others were denied because they were in the platted buffers. Citizens were directed to the City Planner for additional assistance. The City Planner provided citizens with the necessary information to comply with state laws and City ordinances by conducting site visits and assessing areas the homeowners wanted to cut.

Maret continued that reactive notices were given based on information provided by citizens or other employees or agencies. The complaints were investigated, and notices of violation were given. He added that a reactive citation was issued for non-compliance with a notice of violation for aggravated circumstances such as destruction of the greenbelt. The fine for greenbelt destruction was \$1,000 in a recent case, which was based on non-compliance of a notice of violation. Destruction of a watershed protection buffer was also \$1,000. The citizens had actually destroyed property in the greenbelts. The City had tried to get the citizens to make amends, but it had not gone well. Kourajian asked if the violator had to pay to replace what they had taken out. Maret said they did not. In one recent case, the replacement cost per caliper inch for the trees taken out of the greenbelt was over \$7,000, but the fine was only \$1,000. Another resident decided to clean out an area in the greenbelt while the lake was being dredged, and burned the material in the lakebed. The resident was cited for destruction of the greenbelt and given a \$250 fine.

Maret discussed the City's capabilities for enforcement. Previously, the enforcement had been strictly reactionary and complaint-based due to limited access to the lakeside of properties. There had also been location issues, since they did not always know where they were. The GPS capabilities had improved, so now they were able to find the violations. There had also been improved coordination of effort, as well as better access.

Maret said that state law established a buffer around all state waters in 1977. Meeker was to investigate what the state law said prior to 1977. The state waters definition was any and all rivers, streams, creeks, branches, lakes, reservoirs, ponds, drainage systems, springs, wells, and other bodies of surface or subsurface water, natural or artificial, lying within or forming a part of the boundaries of the state which are not entirely confined and retained completely upon the property of a single individual, partnership, or corporation. Maret explained that just about any body of water was technically controlled by the state as state waters. In 1983, the City became an issuing authority through a memorandum of agreement and was responsible for not only plan review and issuance of land disturbance permits, but also for the enforcement of the state law on buffers.

Maret said that currently there was a 25-foot buffer along the banks of all state waters, as measured horizontally from the point where vegetation had been wrested by normal stream flow or wave action. He explained that wrested vegetation was where the flow of water had stopped the natural growth of vegetation. No land-disturbing activities should be conducted within any such buffer; and a buffer should remain in its natural, undisturbed state of vegetation until all land-disturbing activities on the construction site were completed. Once final stabilization of the site was achieved, a buffer could be thinned or trimmed of vegetation as long as a protective vegetative cover remained to protect water quality and aquatic habitat, and natural canopy was left in sufficient quantity to keep the streambed shaded. The quality of the water had to be protected.

Maret then reviewed the City policy on Lake Peachtree and Lake Kedron usage, CAR 8-7, which was written in June 1999. Code Enforcement could not enforce a City

administrative regulation on the public, but the public knew of its existence. The policy followed the wording of Chapter 54 of the City's Code of Ordinances. Code Enforcement needed to be added as an enforcement agency to the ordinance, which could be enforced on the public. Rutherford and Logsdon asked why the regulation could not be enforced. McMullen explained that the regulation was approved by the City Manager and was not a policy approved by Council. Part of what needed to be done was to update the ordinances.

Maret went over the City ordinances. They included:

- **Greenbelts – Sec. 50-16. Destruction of, damage to property – Public generally.** It shall be unlawful for any person to damage, break, mutilate, alter, deface or in any other manner destroy or injure public property, either real or personal, belonging to or used by the City. (Code 1980, § 14-17)
State law references: Criminal trespass, O.C.G.A. § 16-7-21; damaging utility property of a municipality, O.C.G.A. § 16-7-25; criminal interference with government property, O.C.G.A. § 16-7-24.
- **Accessory Use – Appendix A Zoning Art. IX Sec 908. Accessory Uses.**
(h) Private boat docks and boathouses on zoning lots adjoining a water body to which the residents of the principal building have legal access rights. (*West side of Lake Peachtree*)
(l) No trailer, recreational vehicle, travel trailer, camper pick-up coach, motorized home, boat trailer or boat shall be permitted to be parked in front of or at the side of the main building or within 20 feet of the rear lot line, unless same is parked or stored completely within an enclosed garage or roofed carport.

Maret noted that (h) was specific to the west side of Lake Peachtree. He added that people on the west side of Lake Peachtree were in compliance with (h), but were in violation of (l).

- **Appendix B Land Development Sec. 201(ttt). Undisturbed Natural Buffer**
A tract of land in its natural undisturbed state where no vegetation can be removed or planted without a city permit. No herbicides, pesticides, or other chemicals, either natural or manmade can be used in this buffer.
 - ✓ City may permit trimming of branches.
 - ✓ City may permit removal of noxious weeds, woody plants that were not trees, undesirable vegetation.
 - ✓ No impact to water quality allowed.
 - ✓ Installation of vegetation allowed.
 - ✓ No grasses commonly used for lawns allowed.

Maret noted that staff needed to look at the terminology. Everything should be spelled out, and there should be a decision on what was desirable and undesirable.

- **Appendix B Land Development Art. X Sec. 1004. Watershed Protection Buffers.**

(4) Around all existing or proposed water supply reservoirs and their perennial tributaries, as shown on the appropriate United States Geological Survey (USGS) Quad Map or as defined herein, the following requirements are established:

- a. An undisturbed natural buffer area shall be maintained for a distance of 100 feet measured from the normal pool elevation or the stream banks. Utilities shall not be located within this buffer if they can feasibly be located outside this area. All disturbances of this buffer require prior approval by the city.

Maret pointed out that the ordinance was required by the Department of Community Affairs in order to retain Qualified Local Government status. The buffers were more stringent because both lakes were water supply reservoirs. Meeker said there was the general 25-foot state waters buffer, while the drinking water supply buffer requirement was 100 feet.

- **Appendix B Land Development Art. X Sec. 1007 Flood Control**

(b)(1) No new development will be allowed in the intermediate regional floodplain. Variance procedures in accordance with article XIII are required to obtain approval to perform any development activities in the floodplain.

(b)(6) When on- or off-site debris has accumulated within an intermediate regional floodplain in such a manner as to interfere with the free flow of water so as to increase the risk of hazardous inundation of upstream properties adjacent to the intermediate regional floodplain, the city shall require the owner of the property where this debris was generated, if its source can be identified, to clear and remove the debris so as to permit the free flow of water.

Maret noted there was basically no activity allowed in the floodplain. He said the ordinance was required because the City was part of the National Flood Insurance Program. Maret said he would go over the definition of "debris" later.

Maret looked at the sections of Chapter 54 specific to Lake Kedron:

Lake Kedron

- **Sec. 54-87. Hours of operation.** Lake Kedron shall only be open daily to the general public from and to those public access and facility areas as designated by the county from sunrise to sunset. (Code 1980, § 15-31)
- **Sec. 54-88. Prohibited activities.** The following shall be prohibited on or about Lake Kedron and any other and all property surrounding the area as being property of the owner: (1) Swimming, wading. (2) Any activity allowing bodily contact with the water with the exception of official training exercises by the county and/or city dive teams. (3) The operation of any hydrocarbon or alcohol fueled power boats or other watercraft so powered. (4) Water skiing. (5) Scuba diving. (6) Consumption of alcoholic beverages. (Code 1980, § 15-32)

- **Sec. 54-89. Public access.** The general public shall have access to Lake Kedron only at those areas designated as public access and facilities by the owner. (*Fayette County Water*) (Code 1980, § 15-33(a))

Maret said there were some other sections specific to Lake Kedron, but they dealt with minors operating watercraft and were not pertinent. He noted that the only public access designated by Fayette County was the boat docks.

Maret looked at the subdivision buffers and greenbelts as platted for the Lake Kedron area. They included the following:

- **Interlochen** – Owned to the waterline with a platted 25-foot undisturbed natural vegetation buffer and an additional 25-foot watershed buffer. It was also platted with an 840-foot contour easement for the benefit of Fayette County Water.
- **Southern Shore** – Phase I at Four Winds Point was owned to the water with a 100-foot undisturbed buffer and an additional 50-foot non-impervious buffer. The area below the 840-foot contour was the 100-year flood and drainage easement for Fayette County and Peachtree City.
- **Southern Shore** – Phase VI was platted that they own to the waterline with a 100-foot undisturbed buffer and an additional 50-foot no impervious buffer.
- **Southern Shore** – Phase V had a large greenbelt, which varied in size between the properties and the waterline. Some lots were affected by the 50-foot non impervious buffer where the greenbelts were smaller than 150-foot. Phase IV at Lighthouse Lane had a 100-foot “undisturbed greenbelt” and then again, some lots were affected by the 50 “impervious” buffer.
- **Sutton’s Cove** – A very large greenbelt of 150-foot plus/minus, which runs between properties and waterline. A strip of greenbelt also runs between 307 and 309 Coronado Ct. This was being used for lake access.
- **The Point on Lake Kedron** – Phase I owned to the waterline with a platted 100-foot undisturbed buffer and an additional 50-foot no impervious buffer. 234 Newport was re-platted in 1999 to allow a 10-foot easement for lake access for lot 52 which previously had been landlocked.
- **North Cove** – On selected lakefront property, 100-foot from waterline was platted as homeowners association (HOA) property. There was also an additional 50-foot no impervious buffer on the private lots.
- **Smokerise** – Property line was the 840-foot contour. Between there and the water was owned by Fayette County. There were no buffers platted.
- **Stoneybrook** – Phase IV was platted with a 25-foot undisturbed natural vegetation buffer and an additional 25-foot watershed buffer. Phase I was platted with a common area between the property lines and the lake, which varied anywhere from 60 feet to 100 feet. Phase III was unclearly platted stating that the property line was at the 835-foot contour with no platted buffers.
- **Peninsula** – Owned to the waterline with a 100-foot undisturbed natural buffer and an additional 50-foot no impervious buffer.

Maret pointed out that Lake Kedron was owned by Fayette County, which utilized the 840-foot contour line as a boundary by either easement or property line. The flood plain on Lake Kedron had since been lifted to 841-foot line.

Maret noted that the plats in Interlochen did not meet the state requirements. The buffers and greenbelts only totaled 50 feet. Maret noted that the re-platting of 234 Newport gave the property owners access to a lake they were not supposed to have access to by state law and City ordinance. When Smokerise was platted, Lake Kedron was not there.

Maret said there were 161 residential lots within 100 feet of the lake (lots/homes that were within 100 feet of the lake), and 83 parcels (51.55%) had one or more violations within 25 feet of the water line. The numbers were not exact. They were unable to get to two points since the lake had dropped. The assessment was made on July 7, 2006, with the assistance of the Fayette County Water Department and the City's Information Technology division. Maret showed maps and photos of the various violations, which included boats (73 individual boats counted), furniture (39 parcels - benches, chairs, hammocks, picnic tables), fireplaces (7 lots), composting, treehouse, electric fence, electric lights, and clearing in the greenbelt (43 parcels).

Maret then discussed Lake Peachtree. City ordinances specific to Lake Peachtree included:

- **Sec. 54-46. Who may use.** Lake Peachtree can be used only by city residents and their accompanied guests. (Code 1980, § 15-24)
- **Sec. 54-47. Access.** Access to and use of Lake Peachtree shall be only through specifically designated areas, to be designated by the mayor and council; however, lakefront property owners [on the West side of the Lake] may continue to use the lake through their own property. (Code 1980, § 15-25)
- **Sec. 54-48. Use of power boats.** (a) Except for residents owning lakefront property and those having vested rights, no power boats shall be allowed on Lake Peachtree other than electric fishing motors. (b) Residents owning lakefront property and those with vested rights may continue to use power boats on the lake as long as the quality of the lake for drinking water purposes is not significantly endangered because of such use in the opinion of the mayor and city council. (Code 1980, § 15-26)

Maret said there were a few sections specific to Lake Peachtree concerning catching grass carp, but those were not pertinent to the discussion.

The subdivision buffers and greenbelts as platted for Lake Peachtree included:

- **Section I:** 40-foot utility easement from pool level which was determined by a concrete marker at the point of Lot 13 Block A. Per Fayette County tax records, this lot had been combined with lot 12 Block A, and was also known as 102 Pebblestump Point.

- **Section II:** 40-foot utility easement from pool level with no points of reference given. Some lots had property lines, which ended before the pool level line leaving minimal areas of open space between.
- **Section III:** 40-foot utility easement from pool level with no points of reference given. Some lots had property lines, which ended before the pool level line leaving minimal areas of open space between.
- **Section IV:** Boundaries of "Common Area" intended for dock construction/lake access for landlocked lots ran between lots 64 and 70. Access was through a 30-foot drainage easement. Lot 61 has a large portion of property, which actually fell within the pool level.
- **Lakewood:** Greenbelt ran between all lots and the pool level. Greenbelt varied with no distinct landmarks or measurements given. Lake ran behind lots 7-15. 10-foot GA Utilities easement behind lot 7, 8, and 9 with a 10-foot sanitary sewer easement as well. Lots 10-15 had 15-foot utility and sewer easements.
- **Sweetwater Oaks:** Greenbelt or land platted as N/F (Now and Formerly) Peachtree City ran between all lots and the pool level. Greenbelt varied with no distinct landmarks or measurements given. Lake ran behind lots 7-16. 20-foot GA Utilities easement ran from lot 7-14.
- **Lake Forest Cove:** Greenbelt ran between all lots and the pool level. Greenbelt varied with no distinct landmarks or measurements given. Lake ran behind lots 10, 11, 20, 21, and 22.
- **Spyglass Hill:** Greenbelt ran between all lots and the pool level. Greenbelt varied with no distinct landmarks or measurements given. Lake ran behind lots 38-45. 15-foot utilities easement ran from 38-43.
- **Lakeside:** Greenbelt ran between all lots and the pool level. Greenbelt varied with no distinct landmarks or measurements given. Lake ran behind lots 3-22.
- **Edgewater:** Greenbelt ran between all lots and the pool level. Greenbelt varied with no distinct landmarks or measurements given. Lake ran behind lots 22-36.
- **Wyndham Peachtree Conference Center:** No info available in Building Department.
- **Tinsley Mill Village:** Plat from 1973 showed no buffers, easements or the like around North Lake Lagoon or Cherry Branch.
- **Flat Creek Villas:** No info available in Building Department.
- **Ridgelake Condos:** No info available in Building Department.

Maret said the City had an agreement with Fayette County Water Department to lease the water of Lake Peachtree for 50 years (1984-2034) in return for maintenance of the dam and control of water level. The County was also responsible for the water quality.

Maret said the Lake Peachtree Association actively enforces their own rules and regulations regarding the permitted activities of the homeowners on the west bank of Lake Peachtree. There were 36 boat docks on the west bank of the lake. As of July 10, 2006, there were 44 boat docks and houses, 19 irrigation pumps, three sand beaches, one construction disturbance, and pesticides/herbicides were being used that could affect

water quality. One professional landscaper was observed spraying weeds at the water line on Pinecrest.

Maret continued that the assessments were made July 10, 2006, with the assistance of the Peachtree City Fire Department and Information Technology. There were 85 residential lots within 100 feet of Lake Peachtree. Twenty-one parcels (24%) had one or more violations. Maret showed photos of the various violations. Maret said the homeowners had rights to use the lake water for irrigation; however, Code Enforcement's concern was that the pumps were right on the water line, and no electrical permits had been issued. The pumps should be at least 25 feet back from the water line. The homeowners had to follow the watering restrictions. There were also residents using irrigation pumps on the east side of the lake. The sand beaches were an issue because they were within 25-feet of the water line. The sand would go into the water, affecting potential dredging issues, as well as potential water issues. There was one construction site, but the owners were doing things as instructed by the City. The other violations included barbed wire, walkways, a canoe stored at the spillway, electrical lights, furniture, electrical boxes attached to trees on City property, clearing in the greenbelt, and burning in the greenbelt.

Maret said staff's action plan included rewriting the current City ordinances to ensure compliance with State laws and other City ordinances, as well as to resolve conflicts within various ordinances. Staff also needed to determine applications of State and City regulations from a legal standpoint (i.e., vested rights, grandfathering issues), to clarify requirements for permits and follow up inspections, and to establish minimum mandatory fines for violations.

Maret continued that educating the public was also important. Homeowners and real estate agents did not know what areas were owned and what could be done. He suggested using stormwater bill inserts, the media, and other avenues.

Maret said staff wanted to move to proactive enforcement by improving access for enforcement and coordination of efforts with other agencies and departments, assessing the lakes quarterly, and a possible lot-by-lot evaluation of each "lakeside" lot.

Kourajian asked if there were fines in place for violations currently. Maret said the fine was up to the judge's discretion; there were no minimum mandatory fines. Rutherford asked if any of the violations were covered under the landscape ordinance. Rast said the landscape ordinance dealt mainly with industrial and commercial zoning and new planting. The ordinance did give teeth to enforcement when vegetation was removed from City-owned greenbelts. Meeker said state law allowed up to a \$2,500 fine per violation. The charter allowed \$1,000, but there was authority for the judge to fine up to \$2,500.

Meeker continued that there was no question as to buffers that were platted as part of subdivision plat. They were clearly shown on the plat. The same went for the City greenbelt, and there was no question about that. The ordinance required a City permit for

any activity within the buffer. The 25-foot state water buffer and when that went into effect was more problematic. There were only a few subdivisions with issues with the platted buffer of record, especially on the west side of Lake Peachtree and Smokerise. Meeker continued that he was sure the state water buffer was in effect no later than 1977. He said he would have to research further the issue of when and how the 100-foot buffer affected those lots that were platted before the watershed protection buffers were required.

Rutherford noted that some deeds had a 150-foot buffer, so there was no question that those homeowners should not be in the buffer. Maret said that was correct. Meeker said deeds incorporated the information by reference and legal description. If it was on record at the courthouse, then the homeowner was charged with constructive knowledge.

Logsdon asked what the City risk was for enforcing, or not enforcing, the rules. Meeker said the City could lose its issuance status. Logsdon said the impact could be significant.

Plunkett said that, realistically, a canoe or a chair was not going to bother the water quality, but someone cutting down trees or using pesticides would. Maret said there was a list of things the property owners could do, but there was not a list of things they could not do. Rutherford said she had a problem, from a practical standpoint, with making exceptions to allow canoes or chairs in the buffers. McMullen noted that state law said boat access was where it was designated by the owner. The County said the access was the boat docks. The Marshal's Office was the County's enforcement official.

Logsdon opened the workshop up to the public. The residents who spoke included Bob Bexley, John Hedge, Dennis Chase, Phyllis Aguayo, and John Higgins. Their concerns included:

- What was the definition of impervious surface, and did a rock path qualify?
- Which buffer would be used – 25 feet or 100 feet?
- Why could a canoe not be stored in the buffer?
- Vegetation helped protect the water quality as the stormwater ran off into lakes.
- There were signs of overnutrification on Lake Kedron.
- The public should be made aware of reasons for buffers and rules against herbicides/pesticide use.
- Water quality was also affected by what happened in other areas, not just on the lakefront.
- It was in everyone's interest to keep the water clean.
- People who lived on the lake were usually the stewards of the lake.
- Information was needed as to what types of vegetation would be preferable.

Borkowski read the definition of impervious surface from the Code of Ordinances – *a manmade structure or surface which prevents the infiltration of stormwater into the ground below the structure or surface. Structures or surfaces which are constructed so as*

to only minimally affect the infiltration of stormwater are not considered impervious structures. These include: playground equipment, picnic tables, and specially designed decks and patios which allow for infiltration of stormwater.

McMullen said that staff would continue to work with Meeker to work out the ordinance conflicts and would come back with a recommendation for Council.

Plunkett said educating the public was important. McMullen said that had been started. A flyer had been sent to the Lake Kedron residents with information on the current ordinances. Logsdon said the key would be clarifying the ordinances and resolving the conflicts.

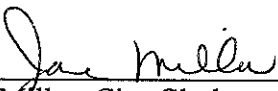
Rutherford said the education process should be City-wide and could start in the *Update*. There were also a lot of people who come to fish in the lakes. The clubs in the area that used the lakes would also be good places to start the education process. Civic groups were always looking for speakers. Plunkett said the homeowners associations were also good avenues.

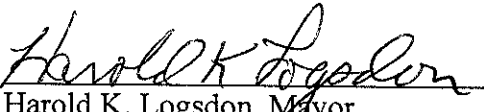
Logsdon asked what the time frame would be. Meeker said he would have broader answers within the next two weeks for at least the legal issues. There were legal questions, but there were also clear legal answers. Logsdon said he would like something by the first meeting in September.

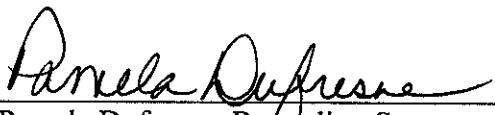
Logsdon asked Maret to explain what was meant by "improved access for enforcement." Maret said Code Enforcement did not have a boat, but the Fire Department had a boat. The coordination had gotten better. A golf cart could also be used so Code Enforcement could get back into some areas. The City needed the ability to take care of the complaints right away.

Logsdon thanked staff for the presentation.

There being no further business to discuss, the meeting adjourned at 8:07 p.m.


Jane Miller, City Clerk


Harold K. Logsdon, Mayor


Pamela Dufresne, Recording Secretary