

**City Council of Peachtree City**  
**Minutes of Meeting**  
**August 5, 1999**  
**7:00 p.m.**

The City Council of Peachtree City met in a regular session, Thursday, August 5, 1999, at 7:00 p.m. in the City Hall Council Chambers. Mayor Robert L. Lenox led those attending in the pledge of allegiance. Other Council members present were: Annie McMenamin, Carol Fritz, Jim Pace and Bob Brooks.

**ANNOUNCEMENTS, AWARDS, SPECIAL RECOGNITION**

There were no announcements, awards or special recognitions.

**MINUTES**

McMenamin made a motion to approve the minutes of July 12, 1999, as presented. Pace seconded the motion. Motion carried unanimously with Brooks abstaining.

McMenamin made a motion to approve the minutes of July 15, 1999, as presented. Fritz seconded the motion. Motion carried unanimously.

Brooks made a motion to approve the minutes of July 22, 1999, as presented. McMenamin seconded the motion. Motion carried unanimously.

**OLD AGENDA ITEMS**

There were no old agenda items.

**NEW AGENDA ITEMS**

**08-99-01      Public Hearing – Proposed Land Swap of 0.202 acres with  
McAllister, 205 Creekbed Court**

Lenox read the rules for conducting a public hearing and set a time limit of 10 minutes for each side to present its case.

Jim Williams, Director of Developmental Services, explained that on July 1, 1999, Council directed staff to initiate a land swap which would affect the property located at 205 Creekbed Court. The owner of that property, Mr. Brian McAllister, had offered to swap an 8,810 square foot parcel of land containing a section of the City's cart path in exchange for an 8,804 square foot parcel of City-owned greenbelt. The greenbelt was adjacent to McAllister's lot and had been fenced and used as part of his property for many years. Williams suggested if Council approved the land swap, that it be conditional on Mr. McAllister reimbursing the City for its legal and advertising expenses.

Hearing no one speak in favor or in opposition to the land swap, Lenox called the hearing to a close and opened the floor for Council debate.

McMenamin asked the City Attorney, Jim Webb, if he had reviewed the situation and if everything was in order. Webb replied that he had reviewed the situation and everything was in order. McMenamin expressed concern about having McAllister pay the City's legal expenses. She said there had been many instances in which the City had to obtain a legal opinion to address a citizen's need and the City had never been reimbursed for the expense. She also felt that the City was partly to blame for the situation. She said she would feel more comfortable sharing the expenses with McAllister. Pace agreed with McMenamin.

Fritz had concerns about the land swap. She said 60 feet was a substantial amount of land and she felt that allowing a citizen to acquire such a large portion of the City's greenbelt would set a harmful precedent.

McMenamin made a motion to approve the land swap with the understanding that McAllister and the City would equally share the advertising and legal expenses. Pace seconded the motion. Motion carried with Fritz opposing.

**08-99-02      Residents of Sagamore/Belvedere – Petition/Concerns  
                  AMLI Apartments and Line Creek Parkway**

Mr. Jere Williams presented a petition to Council, signed by 176 residents of Sagamore and Belvedere Subdivisions. The petition expressed their concerns about the entrance/exit of the AMLI Apartments and the proposed Line Creek Parkway. Williams said all of the 97 homes located in the subdivisions were represented on the petition and several residents were present to support it. Williams explained that the petition objected to the one and only entrance/exit from AMLI Apartments onto Kedron Drive, and requested that the entrance/exit be relocated to Senoia Road. The petition also requested that the proposed Line Creek Parkway not be developed. The citizens felt the road would only accommodate Coweta County residents. The petition asked that, if the Line Creek Parkway had to be developed, it should be relocated to merge with Kedron Drive South so that it would not be close to a residential subdivision.

Harry Vander crab, 209 Brighton Path, spoke in favor of the petition. He said he had previously lived in apartments and felt that residents of the apartments would want two entrances. He felt that if only one entrance/exit was located on Kedron Drive, there would be traffic problems.

Jerry Peterson, Pathway Communities, discussed the background pertaining to the Line Creek Parkway. He said that it needed to be located, as proposed, because it was the only suitable place for a bridge to cross over the railroad tracks. He said there were over 300 acres of land that would be developed and need access to Highway 74.

Robert Brown felt that the Line Creek Parkway was needed. He felt the Planterra Subdivision was greatly impacted by traffic on Highway 74.

Mildred Harris spoke in favor of the petition. She felt if the Line Creek Parkway were developed, as proposed, Kedron Drive would become a freeway.

Mayor Lenox said the Line Creek Parkway would not be developed until Highway 54 had been widened and the dysfunctional intersection at Highway 54/74 had been repaired. He also said the Line Creek Parkway was intended to serve the neighborhood and that it had never been intended to be used as a major collector road nor to alleviate traffic from Highway 54 or Highway 74. Pace said the road was also intended to eliminate the "at-grade" railroad crossings.

McMenamin said the Line Creek Parkway would be developed by property owners and not the City. She did not feel that the property owners were remotely close to agreeing on a master development plan for the area.

David Russell felt the intersection of Kedron Drive and Highway 74 was already hazardous, and that the situation would be worse when the apartments were developed. Brooks agreed and felt that a traffic light would be needed at the intersection. Lenox said the Georgia Department of Transportation would have to approve the installation of a traffic light at the intersection of Kedron Drive and Highway 74.

Brooks pointed out that many of the homes built in the area had been developed on land that had been zoned for apartments. He also said the apartments that were currently being built had been zoned for multi-family use since 1980.

Pace said the City had resisted the development of the apartments and had even been sued over the issue. He said the City had placed a moratorium on building apartments, but that it could not be left indefinitely. Pace said he remembered specifically requesting a second entrance/exit from the apartments to Senioa Road, and he asked Jim Williams, Director of Developmental Services, if it was being considered during the site plan approval process. Williams said that it was being recommended. Pace also felt the concerns about the safety of the intersection were valid. He suggested that if Kedron Drive were extended to Senioa Road it would provide an alternate route.

McMenamin suggested the citizens stay alert to upcoming Planning Commission meetings. She also felt that the apartments had to have an access to Kedron Drive as a matter of safety because having one entrance/exit on Senioa Road would increase response times for the Police and Fire Departments. She said she had talked with the Mayor about what could be done with Kedron Drive until the road was extended. She said they discussed the possibility of a tot lot or cul-de-sac. Lenox said the road just ended and something needed to be done

— to improve its appearance. He did not think the road would be extended anytime soon.

A citizen addressed Council and pointed out that the traffic problems at the intersection of Highway 54/74 was due to the bridge over the railroad tracks and the creek. He felt the highway and the bridges needed to be widened. Lenox agreed, but said the Federal Government would not allow any construction to take place.

McMenamin felt since there were Federal mandates to comply with the Clean Air Act, it was imperative to take aggressive measures to slow growth and development until Highway 54 and Highway 74 could be widened. She asked that staff be prepared by the next meeting to discuss a moratorium on all building permits from Line Creek to Highway 74 for any property accessing Highway 54.

Lenox said if residents wanted to improve the appearance of the end of Kedron Drive, or if they wanted to turn it into a useful amenity, staff would be willing to discuss it.

**08-99-03      Public Hearing – Appeal, Ruling on Conceptual Site Plan  
for Peachtree City Methodist Church**

— Lenox called the hearing to order and explained that there were two appeals, one from the Methodist Church concerning a specific point of the Planning Commission's recommendation, and the other was an appeal from citizens appealing the Planning Commission's entire decision. He asked to hear from the church first.

A large number of people attended the meeting in support of the church's appeal. Patrick McKee represented the church. McKee explained that the church had submitted a site plan to the Planning Commission, which described how the church intended to develop its property over the next 50 years. He said the Planning Commission had approved the plan with 11 conditions, and the church was in agreement with all of the conditions, except one. He said the one condition that was being appealed would require the church to permanently set aside 25 acres of its site as permanent open space. McKee said it was unreasonable to ask the church to permanently set aside 30% of its property as unbuildable. He also did not believe the Planning Commission had the authority to do so. He also pointed out that the United States Supreme Court had ruled that to impose such a condition would be an unconstitutional taking of property under the United States Constitution.

— McKee explained that the entire 63-acre site was zoned ER, Estate Residential. He said the church had not requested a variance or a rezoning because a church was a conditional use under the current zoning. McKee said that the proposed plan described what the church intended to do with the property over a period of 50 years and that while there were some ball fields and recreation uses, they could not designate a use for the entire site. He said a portion of the site had been left undesignated because the congregation did not know how they intended to use the property. He said the church would come back to the City before

— developing the property.

Brooks and McMenamin asked for a legal opinion on the issue. Webb felt that the restriction was an improper taking of the church's property.

Jim Williams, Director of Developmental Services, said the plan was a master plan and not a site plan. He said it was intended to serve as a guide. He congratulated the church for preparing a long-range plan to develop the property, but he felt a master plan had nothing to do with zoning ordinances or improper taking laws. He felt a master plan should include the entire property and, if the church did not have specific plans for a portion of it, then it should be designated as open space. He felt that it may have been inappropriate for the Planning Commission to use the words "permanent open space" and that perhaps the appeal was a matter of semantics.

— Lenox agreed that perhaps it was a matter of semantics. He said if he were the property owner, he would not want the property designated as permanent open space, but if he were a neighbor, he would want some kind of designation placed on the property. Lenox said he felt like an expert on the issue because he lived adjacent to a large church. He suggested the Planning Commission's condition be changed to designate the property from "permanent open space" to "open space" and to clarify that any change would need approval by the City. He also suggested that the condition should state that in no case would the City approve an assisted living facility, halfway house, thrift shop or another use the City could reasonably construe to be a non-church or commercial type use.

Phyllis Aguayo addressed Council and said Peachtree City was a nice community because the Planning Commission had authority to make recommendations concerning the development of land.

Dan Tennant felt the community should trust the church to do the right thing. He said the church did not know how it intended to use the property other than to serve and glorify God. He felt religious freedom should reign. He also felt that the church should be allowed to use its property, as it deemed fit.

— Dennis Chase, a retired fish and wildlife biologist, addressed Council and said that he had sampled water taken from the stream that ran through the property. He found organisms that indicated the stream should be designated as a perennial stream. He said there would be different regulations and setbacks for the Church to consider. Chase said the church would also have to consider wetland issues. Chase said he would submit a more detailed report at a later date.

Lenox said all Federal and State permits would have to be obtained for the church to proceed with development.

— Randy Hough, 289 Spear Road, opposed the church's appeal. He felt the church had good intentions, but if the City granted their appeal the church would appeal future decisions as well. He asked what the City could do to govern the future development of the church. Lenox said that the Council could not bind a future Council. Hough said the Planning Commission had placed the condition on the property for a reason. He questioned the ambiguity of the word church. He said members of the church called the development a "Christian Life Center." Hough said the Zoning Ordinances allowed a church and church functions on the property, but the proposed development was far beyond the scope and size of what was intended by the ordinance.

Jim Webb said he had spoken privately with Williams and McKee. He said McKee would agree to language Lenox proposed. He said Williams and McKee had both agreed to designate the property as "open space" rather than "permanent open space."

Pace felt Council should act on the church's appeal and then consider the other appeal. He said he agreed with both attorneys, and the condition as written was illegal and unconstitutional. He felt Council should simply strike the condition.

— Fritz liked Lenox's suggestion to designate what would not be developed on the property. She realized it would not be binding, but she felt there needed to be guidelines as to the church's intent for planning purposes. Pace respectfully disagreed. Brooks agreed with Pace.

Brooks made a motion to grant the church's appeal and strike the Planning Commission's 11<sup>th</sup> condition. Pace seconded the motion.

Webb said Council should make sure that no other person wished to speak against the appeal.

Larry Manwarring said he lived across from the property in question. He asked the church to give him an idea of the kinds of things that might be built. He said he had respect for the church, and he asked the church to consider his side of the issue. He said he had purchased his property thinking he would have certain guarantees. He wanted to maintain his lifestyle. He appreciated his privacy and the serenity of his neighborhood. He wanted to maintain as much of it as he could and allow the church to become part of it. He was not asking for a guarantee - just a direction. He asked the church to give him peace of mind and let him know what they would not be doing with their property. He said he wanted to be able to enjoy his yard without crowds cheering across the road or lights glaring in the night. He begged for their kindness.

— Fritz felt if the types of uses for the property were not clarified, it would be difficult to determine a use in the future. Lenox said that a future Council could do whatever it chose to do. Pace suggested Council act on the church's appeal and then consider Mr. Hough's appeal. He said he did not have a problem clarifying things, but he felt it might mislead residents if Council could not guarantee its action.

Webb said it would make the City's legal position stronger, in the future, if the City could get a commitment from the Church as to what it would not develop.

McMenamin felt Council should go ahead and act on the issue. She urged the church to use the City to facilitate discussions between the church and citizens.

Fritz did not want to leave anyone hanging. Pace agreed and felt that if the City were to try to impose restrictions that were unnecessary, illegal and unconstitutional, a great majority of citizens would be left hanging. Pace called for a motion on the floor. The motion carried unanimously.

Brooks asked if it was legal to hear the second appeal that night. He reminded everyone that Council had recently been briefed on the new Open Meetings Law. He said he understood the second appeal had not been available to the public. Webb asked McKee if he knew the basis of the appeal. McKee said he had not known about it until that night. Webb was concerned about providing due process. McKee said that in the spirit of cooperation, the church wanted to proceed with the discussion. They felt there were many people attending the meeting who were prepared to speak about the issue. Webb was hesitant to continue. A discussion took place concerning the Open Meetings Law. Lenox said the agenda item was advertised as "Public Hearing – Appeal, Ruling on Conceptual Site Plan for Peachtree City Methodist Church." He felt that was sufficient to continue with discussion. After further discussion, Webb agreed.

Randy Hough addressed Council to appeal the Planning Commission decision to approve the church's plan. He restated many comments that he made previously. He said the development of the church would violate his 14<sup>th</sup> and 15<sup>th</sup> amendments. He was not opposed to the church, but was opposed to what they wanted to build. He said that the church members referred to the project as a "Christian Life Center" and not a church. Therefore, he did not feel it should meet the same zoning definition as a church. He did not feel a Christian Life Center would be a good blend with a residential area.

Phyllis Aguayo spoke with concern about the number of parking spaces and the possibility of a traffic problem being generated by the church. Lenox said the traffic should not be a problem. Aguayo was also concerned that the streams and wetlands on the property needed to be protected.

Larry Manwarring asked the church members to show good faith and give the residents some idea of what they did not intend to build.

Kim Kendall addressed Council and said she could not trust the church. She said she had heard members of the church cursing and making comments about having "spies on Council." She was concerned that the development of the church would affect her property value.

Jackie Freeman addressed Council and said she wished the church could find a more suitable area to develop.

A representative of the church addressed Council and apologized for using the term "Christian Life Center." He said he did not realize the terminology would create such controversy. He said the church had contacted its neighbors during the planning process and made many changes based on their comments.

Webb felt uses proposed by the church would fall under the definition of "church" in the Zoning Ordinance.

Pace said it would take a number of years for the church to develop the area. He felt the church would help keep the area in a more natural state than if it had been developed with single family homes.

Brooks made a motion to deny Hough's appeal and uphold the Planning Commission's decision and its 10 conditions. Pace seconded the motion. Motion carried unanimously.

**08-99-04      Consider Request to Lift Moratorium on Annexation  
Robert House/Bob Adams 12.52 acre tract on Senoia Road**

Debbie Lowe addressed Council on behalf of the applicants, Mr. and Mrs. Robert L. House, who requested that the moratorium on annexation be lifted. She explained that they owned a 12.52-acre tract of land on the east side of Senoia Road (Old GA 74) adjacent to the City limits of Peachtree City and within the Town of Tyrone. She said they wanted to de-annex their property from Tyrone and annex it into Peachtree City. She said Bob Adams Homes wanted to develop approximately 50 to 60 homes on the property. Colin Roteman, Bob Adams Homes, said the development would be similar to Village Park. Fritz was not in favor of lifting the moratorium. McMenamin agreed and felt the applicant was shopping for zoning. McMenamin also felt that the proposed density was too high. Ms. Lowe said the property was currently zoned for commercial use and a portion of the property had been de-annexed from Peachtree City a few years ago. McMenamin said she was aware of that and made a motion to deny the request to lift the moratorium on annexation. Fritz seconded the motion. Motion carried unanimously.

**08-99-05      Consider Bid Proposal, City Auditor**

Joe Morton, Assistant City Manager, said staff initiated a Request for Proposal (RFP) process for City Auditor services because of an anticipated increase in the current auditing fees. He said the RFP was mailed to 16 Certified Public Accounting (CPA) firms with offices in Fayette County. Only one firm, the City's current Auditor, Geeslin, Cordle, Johnson and Wetherington, responded to the RFP. They submitted a fee of \$24,000 for the annual audit,

— which included the Annual Financial Audit, Report on Compliance and Internal Accounting Control and Memorandum of Advisory Comments, and assistance with the Comprehensive Annual Financial Report (CAFR). They also submitted a fee of \$5,000 for the Single Audit Act Requirements. He said, based on the amount of Federal funds expended during any fiscal year, the City could be subject to the Single Audit Act Amendments of 1996, which required that audits be completed in accordance with the provisions of the U.S. Office of Management and Budget (OMB) Circular A-133, Audits of State and Local Governments and Non-Profit Organizations. He said they also submitted a fee of \$2,000 for general accounting services, which would include the preparation of a number of schedules and the review and adjustment of accounts. Morton said the current audit fees were \$12,500 annually and had been at that rate for over ten years.

Morton said the City had received excellent service from Geeslin, Cordle, Johnson and Wetherington over the years, and staff felt they would continue to provide the City with excellent service in the future. The firm's management team had been in place for several years and was familiar with the City's operations. In addition, the management team was in compliance with the continuing education requirements of Government Auditing Standards. Morton said the finance staff also surveyed several cities in the surrounding area and felt that the fees offered were comparable with those being proposed.

— Morton said staff did not recommend acceptance of the fee for general accounting services, but recommended contracting with the firm for those services as needed. The fees were offered for a three-year period assuming the operations of the City remained substantially the same for those years when compared to the current year.

Pace made a motion to name Geeslin, Cordle, Johnson and Wetherington as the City Auditor for FY 1999, and accept the fee of \$24,000 for the Annual Financial Audit and \$5,000 for the Single Audit Act (if required) as detailed in the Proposal for Audit and Accounting Services dated June 15, 1999. McMenamin seconded the motion. Motion carried unanimously.

**08-99-06      Consider Amendment to Comprehensive Plan  
Short Term Work Program**

David Rast, City Planner, presented a resolution to Council to adopt changes to the Comprehensive Plan/Short Term Work Program as recommended by the Georgia Department of Community Affairs. Lenox made a motion to adopt the resolution as submitted. Pace seconded the motion. Motion carried unanimously.

— **08-99-07      Consider Ordinance to Adopt and Enact New Code Book**

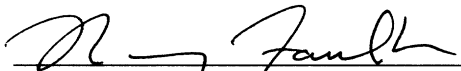
Nancy Faulkner, City Clerk, said Council had approved the recodification of the City's Ordinances in March of 1999. She said the new codebooks had been printed and delivered. She presented an ordinance to Council to adopt and enact the new codebooks. Pace made a

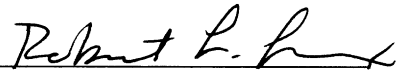
— motion to adopt the ordinance as submitted. Brooks seconded the motion. Motion carried unanimously.

**COUNCIL /STAFF TOPICS**

There were no Council/staff topics.

Lenox made a motion to adjourn the meeting. McMenamin seconded the motion. Motion carried unanimously and the meeting adjourned at 10:30 p.m.

—  
  
Nancy Faulkner, City Clerk

Attest:   
Mayor