

City of Peachtree City
Minutes of Meeting
July 18, 2002
7:00 p.m.

The City Council of Peachtree City met Thursday, July 18, 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 recognized the winners in the July 4th Parade and presented trophies. Earl Spell was recognized for his service on the Recreation Commission from January 1996 to June 2002. Outgoing Youth Association Presidents Brad Williams (PTC Hockey Association) and Craig Evans (PTC Youth Soccer Association) were recognized for their efforts. Harvey Garcia, landscaping supervisor for Public Works, was recognized as the Supervisor of the Quarter.

Approval of Minutes

Rapson moved to approve the minutes of the June 20, 2002, workshop as written. Tennant seconded. The motion carried unanimously.

Weed moved to approve the minutes of the June 20, 2002, regular meeting. Rapson seconded. The motion carried unanimously.

Tennant moved to approve the minutes of the May 16, 2002, executive session as written. McMenamin seconded. The motion carried unanimously.

Weed moved to approve the minutes of the May 2, 2002, executive session as written. Tennant seconded. The motion carried unanimously.

Consent Agenda

1. Consider Bid on Asphalt Milling
2. Consider Annual Contract for Geotechnical and Materials Testing Services

1. Consider Bid on Asphalt Milling

Rapson moved to approve the bid for the 2002 asphalt milling program as stated. Weed seconded. The motion carried unanimously.

2. Consider Annual Contract for Geotechnical and Materials Testing Services

Rapson said he had asked the City Engineer for more information and had not gotten the information as of yet. He asked to pull Consent Agenda item #2 off. Brown moved to table Consent Agenda item #2 until the August 1 meeting. Tennant seconded. McMenamin asked Rapson if he would be attending that meeting and Rapson said he could convey his thoughts to the rest of Council since he would not be able to attend the August 1 meeting. Weed noted that the contract was not part of the agenda packet and that he would like to look at the document itself. The motion carried unanimously.

Old Agenda Items

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

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

Basinger informed Council that the City had not yet received the report from Special Counsel concerning the Intergovernmental Agreements (#06-02-04) and the related agenda item #07-02-06, Public Hearing and Discussion of 2001 Intergovernmental Agreements between the City and the Airport and Development Authorities.

McMenamin moved to table Agenda Items #06-02-04 and 07-02-06 until the City heard from Special Counsel. Basinger noted that Winston Denmark, the special counsel, said he would try to have the report ready by the end of the week, but it might be next week. McMenamin added that Rapson would be out of town for the August 1 meeting so she amended her motion that the items be placed on the agenda no sooner than August 15. Tennant seconded. The motion carried unanimously.

06-02-CA1 Change in License Representative for Outback Steakhouse

Bryan Chadwell, the proprietor at the Outback, introduced himself to Council. McMenamin noted that Chadwell had to amend his criminal history request and told him that her concern was his previous issues with alcohol. She said she wanted to impress upon him that Council took the alcoholic beverage licenses seriously. McMenamin moved to appoint Paul Bryan Chadwell as the license representative for Outback Steakhouse. Tennant seconded. The motion carried unanimously.

New Agenda Items

07-02-01 Alcoholic Beverage License – Transfer – Augustino's Ristorante Italiano

Anthony and William Ragozzine addressed Council. The Ragozzines purchased Baci's and requested to transfer the license to their names. McMenamin noted William Ragozzine's past issues with alcohol. The incidents were outside the time limit, but McMenamin stressed that Council took alcoholic beverage licenses seriously. Weed asked William Ragozzine for information regarding a probation violation. Ragozzine explained the circumstances regarding the violation. McMenamin moved to approve the license transfer with Anthony Ragozzine as the licensee and William Ragozzine as the license representative. Tennant seconded. The motion carried unanimously.

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

Donald Schaum, owner of the property at 206 Riviera Court, addressed Council regarding the variance. McMenamin informed Schaum that Council had been given a petition signed by his neighbors in opposition to the variance. She asked Schaum if he wanted to table his request and go back and talk to his neighbors. Schaum's variance request was for a three-foot extension into the required building setback to allow him to build a sunroom. He had received approval for the sunroom from the Cypress Pointe Community Association Board of Directors.

Schaum told Council that the individual who presented the petition had been outvoted at the Board of Directors meeting and had gone out and gotten the signatures. McMenamin said there was a letter of support from the homeowners association, but there were enough signatures on the petition to be considered serious opposition. She told Schaum Council was willing to table the variance to give him the opportunity to satisfy his neighbors' concerns. Rapson and Brown agreed. Rapson added that he was reluctant to take action with the contradiction before him. He continued that the petition had more than 30 signatures of neighbors who were opposed to the variance. He recommended City staff get with the homeowners association and clear things up.

Schaum said he would like to proceed. His variance request was for 36 inches and he wanted to enclose his patio and build a sunroom. If the variance was not approved, he would have to cut 18 inches of concrete that was already there (the original patio extends 18 inches into the rear setback). He said he did not think the addition or the variance would diminish the value of the homes. Schaum said the concern was that if he got a variance, someone else might get one. Schaum continued that it was up to other homeowners to request a variance. One objection the homeowners association had was that Schaum did not have a complete architectural drawing of the sunroom. Schaum explained that he wanted the variance before spending \$800-\$1,400 on drawings. He continued that he did not plan to decrease the value of his home, which backed up to the greenbelt on Peachtree Parkway. Schaum added that he was not too sure the truth was told when people were asked to sign the petition. McMenamin said the petition appeared to have been signed after the Board of Directors meeting. Schaum gave Council a letter of support from his neighbor at 208 Riviera Court who would be the only neighbor to see the sunroom.

City Planner David Rast told Council that the lots in Cypress Pointe were very small parcels of land with fairly large homes. Most of the homes were built to the setback. Schaum's home was about three and one-half feet from the setback and the patio extended into the setback. He said Schaum wanted to enclose the patio and extend a total of three feet into the setback. Rast continued that staff felt the encroachment would not be detrimental and that the lot backed up into a 50-foot greenbelt. The area was vegetated and Schaum had a six-foot tall fence. Rast said the petition had been delivered to staff earlier that week and that there did appear to be animosity in the community. All permits must come to the City for approval. Rast said staff recommended approval of the variance request.

Brown asked Rast if there was any merit to the argument that there would be more variance requests if this one was approved. Rast said the variances were really considered on a case-by-case basis and this structure would not be visible, but was one of only a few in the neighborhood that backed up to the greenbelt. Rast continued that staff had run into this situation before in cluster subdivisions where the homes were built from setback to setback. In this case, staff did not feel the variance was detrimental to the other homes.

Brown asked Rast if he thought approval of this variance would encourage other residents to go into the setback since all the residents were in the same boat. Rast said that in the past variances had been approved because of medical/health needs. He continued that Council might want to consider that this was a relatively minor encroachment at just three feet. After looking at the plat of the property, Rast said the way the house sat also played into consideration.

Rapson pointed out that nine of the 16 homeowners in the cul-de-sac had signed the petition. Rast said if staff had gotten the petition earlier staff would have gone back to the homeowners association.

McMenamin asked City Attorney Rick Lindsey if a precedent would be set if Council approved the variance. Lindsey said for each variance Council had to look at the facts. If there were no special circumstances, an approval would set a precedent. If there were special circumstances, a precedent would not be set. He continued that Council usually looked at the surrounding property owners to see how the request affected them and Council was getting mixed signals in this case. Lindsey suggested going ahead with the hearing so anyone present at the meeting could be heard, then the variance could be tabled.

Terry Malmer spoke in opposition to the variance. He said he served as the treasurer of the Cypress Pointe Community Association. Malmer continued that he polled the neighborhood after the Board of Directors meeting. The residents were not against sunrooms, but were against granting variances. Brown asked Malmer when he obtained the signatures and Malmer replied last weekend (July 13-14). Weed asked if all of the signatures were from owners. Malmer said there were two rental houses on the street, but he had obtained the owners' signatures since the owners lived in the City. He gave Council another copy of the petition with an additional three signatures on it. Weed asked if the homeowners association meeting was duly advertised and Malmer said the board meeting was. He added that the entire homeowners association only met once a year. Weed asked if anyone who wanted to could attend the board meeting. Malmer said yes.

Tennant told Malmer that he read the petition and thought it was misleading. He thought it meant the building would extend 20 feet into the setback. Shaum pointed out that, although there were 39 homes in the subdivision, only seven backed up to the wall. The other homes were back to back.

Brown closed the public hearing. McMenamin suggested the variance be tabled and that the homeowners association call a public meeting. She asked that Rast attend and set out the reasons for staff approval and provide more detail. She added that at this point she was inclined to turn the variance down.

Rapson moved to table the variance request and directed staff to work with the homeowners association on the matter. Tennant seconded. Rapson continued that with

the number of signatures on the petition there was a major concern. He felt getting the homeowners together was the fairest and best way to treat all parties. McMenamin agreed and said it was the best way for everyone to get the facts at the same time.

Brown wondered what limits would be set for determining whether to approve a variance. He asked if a variance could be denied if it was for five feet instead of three feet. He continued that there was absolutely no room to put anything else on lots in cluster subdivisions and the City was continually allowing the homeowners to budge. He asked if something could be put in homeowners' contracts that addressed the issue. Rast answered that patios were prevalent on most of the homes and that anything less than 30 inches could encroach into the setback. He said it was a problem the City had to deal with and there were some lots that needed to be looked at. Schaum said he was the owner of his property and had no idea prior to the variance request that he could not do what he had planned.

The motion to table carried unanimously.

07-02-03 Public Hearing – 518 Clearwater Cove

The owner, Theresa Ahneman, was represented by her daughter, Vanessa Roth. Ahneman requested a variance of five feet into the rear building setback line. Roth said Ahneman wanted to screen in the existing patio, which extended five feet to the rear setback. Roth said her mother wanted to screen in the porch for several reasons. There was water damage to the door caused by the chimney that jutted out onto the patio. Her mother also had health issues and was allergic to bug bites and the medication needed to treat the bites. Roth had letters of support from the adjoining property owners. She continued that the Brookfield Homeowners Association was agreeable and felt the porch would be an asset. The greenbelt behind the lot was heavily wooded.

Rast told Council that Brookfield was another cluster subdivision and there had been issues with homes that encroached into the undisturbed buffer. He pointed out that this home was different because it backed up to the greenbelt. The homeowner planned to screen in the existing structure and there were some medical conditions that should be considered. Rast said staff recommended the variance be granted for five feet and that the property owner be allowed to build the porch.

Brown asked if putting in additional vegetation on the cart path side would be appropriate. McMenamin pointed out that the vegetation was already pretty thick. Rapson agreed and said the vegetation was thicker there than in other areas. He said the rear property line extended 10-15 feet into the natural area. Brown closed the public hearing.

Rapson continued that this variance seemed similar to the previous one, but there were special circumstances. The key was that the owner would not encroach more than the concrete already on the ground. He said he had no problem with the variance.

Tennant agreed and moved to grant the variance request for Lot 52, Brookfield subdivision. Rapson seconded. McMenamin asked Tennant to amend his motion to include a condition that the plans for the porch meet the approval of the Brookfield Homeowners Association. Tennant accepted the amendment. The motion carried unanimously.

07-02-04 Public Hearing – Variance – 102 Tuliptree Terrace

James Shealy, owner of the home at 102 Tuliptree Terrace, addressed Council and said he requested the variance to allow for a structure that had existed in the setback for years. He said the problem came to light when he wanted to repair the roof on the existing porch. He said he wanted to increase the pitch on the roof for better drainage and to extend the open porch along the rear wall of the house. The porch encroached a minimum of 4.3 feet and a maximum of 11.6 feet into the required rear setback. The porch was part of the original home, which was the first built in the Belle Grove subdivision.

Weed said the staff report said Shealy wanted to repair and extend the porch and asked Shealy to go into detail. Shealy said he wanted to extend the length of the porch from 20 to 24 feet for additional seating. The extension would be on the farthest corner from the rear property line and all of it would be within the setback except for a small corner. Shealy said he had spoken to everyone in the neighborhood but one person and no one was opposed to his plans. Brown suggested Shealy get his neighbors to put it in writing.

Rast told Council that this situation was different than the previous requests. It was an older subdivision and the homes did not comply with the current building setbacks. Staff felt the best way to handle the situation was with a variance. In case of future damage, the owner would have to come back and go through the variance process again. To prevent that, Shealy also asked if he could rebuild on the existing footprint of the structure in case the home was destroyed. Staff recommended approval. Brown asked how the City got in this situation. Rast said he did not know what the setbacks were at the time the home was built, but there were problems in the older subdivisions. Permits could not be issued without going through the variance process. Brown said he would like to see something in the house documentation so the next owner would have a clear understanding of what was going on with the house. Tennant said he had no problem with the staff recommendation.

Brown moved to approve the variance of 11.6 feet, to allow for the extension of four feet, and that all further work take place without further variances, and that staff ensured proper documentation be included with the deed so future homeowners would be aware of the situation. Tennant seconded.

McMenamin asked how the information would be put in the deed. Brown said the document could be amended to include what had taken place at the meeting to note the restrictions. Rast said staff might need to get with the City Attorney. Rapson pointed out that the homeowner would keep a copy of the variance so that if the property burned to

the ground it could be built back. McMenamin suggested the motion be amended to include that any improvements, or rebuilding, must fit within the existing footprint of the house. Brown accepted the amendment. Tennant also accepted. The motion carried unanimously.

07-02-05 Public Hearing – Variance – 100 Surrey Trail

Valerie Reynolds, homeowner, addressed Council. Reynolds requested the variance for the wooden deck on the rear of the house that encroaches seven feet into the rear building setback. She also requested an additional four-foot encroachment into the setback so she could enclose the deck and add a gabled roof. Reynolds pointed out that a neighbor had added cypress trees and provided a nice buffer. She continued that the homeowner behind her had no problem with her plans. She hoped that her plans would add some architectural interest to the home. Most of the homes in the neighborhood were 20 to 24 years old. Reynolds said she had purchased several homes, renovated them, and then sold them. She added that she and her husband also owned the home next door and they did not mind.

Weed said while he was pleased with what the Reynolds were doing in Peachtree City, he had not heard any special circumstances. Reynolds said there was really no other place to put a porch. There was no access from the house anywhere else. Rapson said he was more interested in the additional four-foot encroachment. Reynolds said her plans were not really cost justifiable in terms of resale without the additional encroachment. The house had been completely redone. Reynolds said they needed more space and she had always wanted to put the gabled roof on the deck.

Rast told Council that the home itself was built within the required setback, but the deck did encroach into the building setback by seven feet. He pointed out there were really two items to be considered – one was the variance for the existing seven-foot encroachment and the other was the consideration of the deck extension and the additional four-foot encroachment. Rast continued that staff recommended granting the seven-foot variance, but not the additional four-foot extension, mainly because of the proximity to the rear. An additional four-foot encroachment would encroach too close to the rear neighbor. However, the neighbor had no problem with the encroachment. He said there were other plans for the house, but hopefully there would be no other variances.

Brown suggested that the City might want to require applicants for variances to get letters from their neighbors. If the building started and then the neighbors did not like it, there would be a problem. Brown said he would feel better if the variance was broken into two motions.

Brown moved to grant a seven-foot variance for the original deck and covering for the deck for Lot 7, Fetlock Meadows. Weed seconded. The motion carried 4-1 (Brown).

Brown moved to approve an additional four-foot encroachment in addition to the original seven-foot encroachment of the structure for Lot 7, Fetlock Meadows. Tennant seconded.

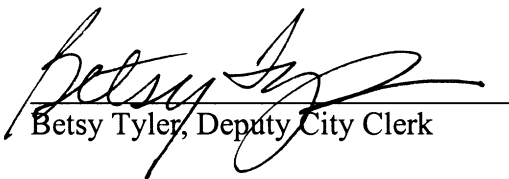
Rapson told the Reynolds that he thought what they wanted to do was great, but there were no special circumstances other than the cost. Brown also noted that this might set a precedent for other homes in the subdivision. McMenamin said she was delighted they were buying older homes, fixing them up, and increasing their value, but she was not able to support the additional encroachment. Tennant said under the circumstances he was in favor of granting the four-foot extension. The motion was denied 1 (Tennant) - 4.

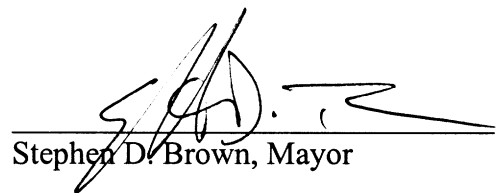
Council/Staff Topics

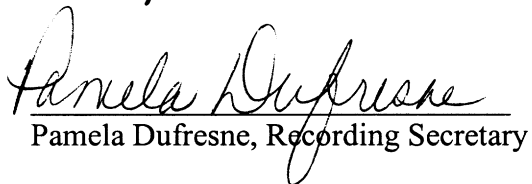
Basinger informed Council that Jim Price had dropped off a letter today for Council to consider. In his letter, Price asked Council to rename the Tennis Center in memory of Tom Farr. Basinger said he had given a copy of the letter to the Development Authority's Executive Director Virgil Christian so the Development Authority could discuss it and make a recommendation to Council. The Development Authority meets July 29 and it would be on the August 1 Council agenda. The letter was read into the record.

Basinger read the list of public hearings that had been scheduled for the millage rate. The hearings will be held on Thursday, September 5, at 7:30 a.m. and 6:30 p.m. The third hearing was slated for Thursday, September 19 at 7 p.m. Another budget workshop was scheduled on Monday, August 12.

There being no further business to discuss, Tennant moved to adjourn the meeting. Brown seconded. The motion carried unanimously. The meeting adjourned at 9:00 p.m.


Betsy Tyler, Deputy City Clerk


Stephen D. Brown, Mayor


Pamela Dufresne, Recording Secretary