

City Council of Peachtree City
Minutes of Meeting
July 7, 2005
7:00 p.m.

The City Council of Peachtree City met Thursday, July 7, 2005, in the City Hall Council Chambers. Mayor Brown called the meeting to order at 7 10 p.m. Other Council Members present were: Judi Rutherford, Stuart Kourajian and Murray Weed. Steve Rapson was unable to attend.

Announcements, Awards, Special Recognition

- Member of the *Music Alive Musical Group* performed the *Pledge of Allegiance*
- Mayor Brown recognized the following July 4th Parade Winners:
 - Grand Marshal's Trophy – Mom's In Touch – Elise Shankle
 - Mayor's Trophy – Partner's Pizza – Marilyn Royal
 - Most Creative – CJM Consulting, Inc. – Chuck & Amy MiCallef
 - Most Patriotic – Music Alive – Sandi & Linda Hooper
 - 1st Place Golf Cart – Red Hot Peaches – Anita Vaughn
 - 2nd Place Golf Cart – New Neighbors League – Carol Jensen-Linton

The 3rd Place Golf Cart winner, Smiling Faces Pediatric Dentistry, was unable to attend the meeting to accept the award.

Minutes

Rutherford moved to table the June 14, 2005, workshop minutes. Brown seconded the motion. Motion carried unanimously

Weed moved to approve the June 16, 2005, regular meeting minutes. Kourajian seconded the motion. Motion carried 3-0-1 (Rutherford).

Consent Agenda

1. Consider Acceptance of Federal Fire Grant
2. Consider Amendment to Hotel/Motel Tax Ordinance
3. Consider Award of Bid for Huddleston Pond Gazebo
4. Consider Award of Bid for Natural Gas
5. Consider Award of Bid for City Vehicles
6. Consider Easement Agreement with Fayette County for Weather Warning Siren (Peachtree Parkway/Braelinn Road)
7. Consider Atlanta Gas Line Easement at GA 54/Planterra Way
8. Consider Approval of Letter to Congressional Delegation Opposing Any Changes to Cable Franchising
9. Consider Intergovernmental Agreement with Fayette County Board of Education for Use of Riley Field
10. Consider Correction to Peachtree City Tourism Association By-Laws
11. Consider Purchase of Surveillance Equipment

Rutherford moved to remove consent agenda item #11. Brown advised that a motion was not needed, but that the item would be removed.

Weed said he had not seen any design drawings for the gazebo (consent agenda item #2) and asked Randy Gaddo for clarification on the design. Gaddo said the gazebo looked like the gazebo at Beaver Dam Park, shaped like a hexagon with a green roof and black metal posts. Gaddo clarified for Kourajian that Leisure Lines was the low bidder

Rutherford moved to approve items 1 through 10 on the Consent Agenda. Weed seconded. Motion carried unanimously

Rutherford moved to table Consent Agenda item #11 for further information. Kourajian seconded the motion. Motion carried unanimously

New Agenda Items

07-05-01 Public Hearing – Consider Variance for 1402 Shale Terrace, Wilshire Estates Subdivision

Brown stated, for the record, there was an additional document on the dais from the Wilshire Estates Community, Inc., to M. Todd Tucker, dated May 27, 2004

Applicant Todd Tucker addressed Council and stated there were no trees in the backyard of his residence, they were looking for some relief, and decided to build a pergola. Tucker said prior to building the structure, they had talked to their neighbors and they had all been in favor of the structure. Further, that since applying for the variance, they had obtained ten or twelve positive written responses from their neighbors, who stated the structure added character to the neighborhood and the house. Tucker said when they originally built the house, they had wanted a screened porch on the back, but Centex had advised that, as long as some kind of structure was attached to the house within the setbacks, it was not allowed. However, he asked Centex if he could build a pergola and they said as long as it was not attached to the house, he could do so.

Brown asked if anyone else would like to speak in favor of the variance. Having no one else to speak in favor of the variance, Brown asked if anyone would like to speak in opposition to the variance.

City Planner David Rast addressed Council and gave the following history of Wilshire Estates Subdivision. Rast said when the Planning Department was working with Centex on the initial plan for the subdivision, one of the things the Planning Commission wanted to see was preservation of vegetation on the lots. That, with the size of the homes Centex was proposing, and the size of the lots that were designed into the plan, Centex said it would be hard to save trees on the lots. The Planning Commission did get Centex to save some rather large pockets of trees in the midst of the subdivision and between some of the homes, but in some of the areas the topography would not allow the preservation of trees on the properties. The lot that the Tuckers purchased was one of those lots, and was in the last phase of the Wilshire Subdivision. One of the things Centex wanted, and the Planning Commission reluctantly agreed to, was to allow Centex to clear-cut the property to get the drainage working on several lots that backed up to each other

Rast said none-the-less, the property itself had setbacks identified in the zoning. The property was zoned R-12, the minimum rear setback was 30 feet and the foundation survey, which was approved by the Building Official, clearly showed the 30 feet and also showed that the house was not located within the 30 foot setback. When that plan was submitted to the Building Department, it was routed through the City Planner, City Engineer, and the Plans Examiner. Rast said as these plans came in, notes were written on the foundation survey, which goes into the permanent file for the lots so that when either the current owner or future owners come in, the foundation survey would have a tag on it so that certain things would be watched for. In this case, the Plans Examiner did add a note that no structure would be allowed in the setback.

Kourajian asked for clarification of the word *structure*. Rast said the Building Department defined structure as anything that is higher than 30 inches from finished grade. Rast said further that swing sets were allowed as an accessory use and that there were certain items that were allowed within the setback as an accessory use. The Building Department viewed this as a structure because it exceeded the 30 inches in height.

Rutherford asked if that was how the patio got approved because the patio was clearly in the setback, and it was an accessory use and was not more than 30 inches. Rast said yes, that a lot of times patios extended into the rear setback, and the Building Department had been receiving a lot of requests to enclose patios with sunrooms, and people had been told they could do that when they purchased the home, and then they found out they had to apply for a variance.

Rast said further that the Building Department visited the site and found that the structure was already in place and notified the Tuckers they needed to apply for a building permit. Had they come in initially and looked at the foundation survey, it would have been noted that no structures were allowed, and the Building Department would have been able to work with them at that point. Rast said he talked to Tom Carty about the situation to confirm the definition the Building Department used because the pergola was not attached to the home, and would that make a difference in how the Building Department viewed it. In essence, pergola structures are permitted as an accessory use, but based on the width of the rear property line; the maximum size was 125 square feet. Rast said he met with Tucker at his home to look at the pergola, and they initially thought the pergola was 14½ feet wide by 44 feet in length for a total of 638 square feet, which far exceeded the 125 square-foot threshold. Rast said he asked Tucker to go back and look at the pergola and determine exactly how much was within the setback. Rast provided slides of the foundation survey for Council's review, which provided three options he had discussed with the Building Official.

The first option left the entire pergola and trellis intact. Rast stated the overall size of the structure was 498 square feet, with 96 square located outside of the setback, which left 402 square feet within the setback area. Because the allowable size of a structure within the setback cannot exceed 125 square feet, a variance of 277 square feet would be necessary in order to approve this option.

The second option left the pergola and trellis over the patio and along the rear of the home. The overall size of this structure was 278 square feet, with 68 square feet located outside of the setback, which left 210 square feet within the setback area. A variance of 85 square feet was necessary to approve this option.

The third option left the pergola and trellis over the patio, but removed the remainder of the structure. A variance of 85 square feet was necessary to approve this option.

Because the size of the pergola exceeded the accessory use, Planning recommended that it not be approved. Rast said they would be willing to work with the applicant on a number of options depending on what Council suggested.

Kourajian asked if the structure was measured by the roof size or by the post size. Rast said the Building Official interpreted that the dimensions were measured to the inside edge of the post. The Building Official would allow roof overhangs up to one foot to extend into the building setback, and in this case, what needed to be done was that the timbers coming off the edge of the pergola needed to be trimmed so they would not extend more than 12 inches. Brown asked if the variance was for the entire structure. Rast said yes.

Applicant Todd Tucker addressed Council again and stated that he was not trying to bypass the system, his time was limited due to family obligations, and he put the structure up as quickly as possible for his family. Tucker apologized for going ahead without the permit, but said that even if he had applied for the permit, he would still have requested a variance because he did not build it as a decorative piece, but for shade for his family and to provide some energy savings.

Rutherford asked if he paid a builder or if he built the pergola himself. Tucker replied that he had built it himself.

Brown called the public hearing to a close.

Brown told Tucker he had done a nice job, but unfortunately, there were a lot of people who had built something and the quality was there, but that Council could not set a precedent. He pointed out the fact that previous Councils had given so many variances in one particular subdivision in the past, that the zoning laws no longer applied to that subdivision because so many people had been allowed to build in the setback in that particular subdivision, and that residents could now do just about anything they wanted. Brown said further that the Tuckers had a beautiful neighborhood, and they took good care of it, but if the variance were to be granted, he would have to allow it for someone else because there were no extenuating circumstances, which made Tucker's particular property unique as opposed to his neighbors.

Rutherford commented that the variance had to meet three very distinct warrants so that as Councils change, they could not say, well we like this, but we don't like that. This variance did not meet the criteria.

Weed moved to deny the variance because it did not meet the three warrants. He said he did not believe Council could make an honest finding that there was any special circumstance that contributed to their request that was peculiar to Tucker's particular piece of property. Further, that the variance did not meet the second warrant that the situation posed an unnecessary hardship for the applicant in this case. Weed continued that he thought Tucker certainly had not intended, by his actions, to violate the requirements of the ordinance, but since he had not met two out of the three warrants, he would make the motion to deny the variance request. Rutherford seconded the motion. Motion carried unanimously

Weed told Tucker that this was one of the best applications he had ever seen and that he was really sorry he could not approve the variance request.

07-05-02 Consider Award of Bid for Library Furniture and Fixtures

Leisure Services Director Randy Gaddo addressed Council and stated that staff was requesting approval of the bulk of the new and refurbished furniture and shelving for the Library project from Dekalb Office totaling \$204,817 72. In accordance with purchasing regulations, the City Manager had already approved separate awards to Georgia Institutional, CWC and GSI who had low bids for some of the items in the other categories. In addition, other items had already been purchased totaling \$28,800.00 off of State contracts. Gaddo pointed out that the yellow highlighted numbers on the spreadsheet before Council showed the lowest or the best qualified bids in each of the categories of furniture for each company. Overall, they were well within the budget for the furniture with \$44,900 00 left in that account, most of which would be used for computers, technology and science as the project continued. Gaddo clarified for Rutherford that the computers were supposed to be in that part of the project.

Gaddo said to summarize the process, bid notifications had been mailed to 28 furniture vendors, 11 had attended a mandatory pre-bid meeting, and five qualified vendors submitted full or partial bids. One of the five companies did not have the lowest or the best bid in any of the categories, so a total of four companies shared the bid. Further, there were a few cases where some of the low-bid furniture that was presented as an equivalent was not what was asked for; therefore, they went with the next best price. Seventy percent (70%) of the existing furniture and 100% of the existing shelving was being refurbished and reused, so they had been very frugal. Gaddo clarified for Rutherford that this was for new and refurbished furniture. Gaddo said the process that had been used to select, identify and purchase the best furniture had been difficult and wanted to give credit to Angela Egan and Jill Prouty, who worked very hard and had put in many hours to put this together and make sure the City was getting the best quality, and that the City was getting exactly what was needed in every category. Gaddo said that same process involved the staff, the Library Commission, Leo Daley and the public. Gaddo continued that staff even went as far as having furniture shipped in and everyone tested it to see that it was exactly what was needed.

Rutherford moved to approve the bid from Dekalb Office in the amount of \$204,817 72 for the Library expansion project, and that it would come from the Bond. Kourajian seconded the motion. Motion carried unanimously

07-05-03 Consider Cancellation of Construction Contract with Fincher Commercial Construction – Satellite Auto Shop

Brown moved to cancel the construction contract with Fincher Commercial Construction for the Satellite Auto Shop. Rutherford seconded the motion. Motion carried unanimously.

07-05-04 Discuss Impact of the Supreme Court Decision on Eminent Domain

Rutherford moved to table this item because Council Member Rapson was not present. Weed seconded the motion, and stated that he had a discussion with Council Member Rapson, and he specifically asked Weed to make this motion in case someone else did not. Motion carried unanimously.

07-05-5 Consider City Ordinance Adopting State Licensing for Residential and General Contractors

Developmental Services Director Clyde Stricklin addressed Council and stated that the adoption of State licensing for residential and general contractors was something his division had been looking into because there were citizens that wanted the City to adopt some rules for general contractors. Stricklin said just about the time they began looking into it, the State had decided to do it. Stricklin said the State had now established some rules and adopted a State Licensing Board that provided for the licensing of general contractors, both residential, general and light contractors. The State had established a Board that anticipated issuing licenses in the first part of January. An ordinance was attached for Council's review, and it required that contractors provide their license number and identify their businesses. Stricklin explained further that the ordinance would make it unlawful for the City to issue permits to contractors who did not have licenses, and exempted the owner and any specialty contractors. The enforcement would be done by the Licensing Board and their two divisions through the Superior Court in any particular county, and in this case, it would be Fayette County. The State Licensing Board also requested that the City go through an education program. The City was also asked to look at the bonding capabilities. Stricklin continued, saying staff could not add an additional rule as a part of this ordinance, but could add it to the application form.

Rutherford asked if the State ordinance defined *specialty*. Stricklin said it was very specific as to what the specialty would be, and the contractors would have to be working in their particular specialty. Stricklin said further that people could hire a specialty contractor, and the contractor would not have to be licensed as long as he was working in his particular specialty.

City Attorney Ted Meeker suggested that Paragraph "D" (the enforcement paragraph) be eliminated. Paragraph "D" represented the power given to the Licensing Board under State law, and putting it in the City's ordinance was kind of superfluous. Meeker said he would re-designate Paragraph "E" (education) as Paragraph "D."

Kourajian asked if the City's ordinance was redundant, and what benefit would the City receive if the State already said this was what was going to happen. Kourajian asked what if the City said no. Meeker said he thought there was a current provision that the

City would be amending by this ordinance, and it had some requirements in terms of local regulations.

Rutherford said, as she understood it, the City was bringing their ordinance in line with the State ordinance. Weed said there was no need for the City to have their own penalty provision and did not see why the City needed local regulations on it. Weed asked if the City was going to rely on a State penalty, why did the City need local regulation.

Rutherford moved to table this item until staff clarified the need to have the ordinance. Weed seconded the motion. Motion carried unanimously

Council/Staff Topics

Administrative Services Director/City Clerk Jane Miller gave an update on the medical condition of City Manager Bernard McMullen.

Developmental Services Director Clyde Stricklin provided the following updates:

Georgian Park lights. The City's Consultant, Qk4, has revised the Traffic study to include the traffic that will result from the Target Development and the Study has been forwarded to GDOT for consideration of traffic warrants for the signal.

TDK Boulevard Extension. The Airport authority will be meeting with the appraisers on July 8, 2005 Stricklin said the Airport Authority expected the appraisals 45-60 days from signing the appraisal agreements

Rutherford stated she had asked Stricklin to ensure the Comprehensive Planning Advisory Board receive copies of the Land Use Map, the Zoning Map, and the goals and objectives of the previous Comprehensive Plan.

Salvatore confirmed for Kourajian that the Budget Workshop was scheduled for Monday, August 1, at 6.30 p.m. Salvatore stated staff had incorporated some of Council's suggestions at the last workshop, and that if those who were unable to attend had additional suggestions, he would be happy to receive them.

Rutherford moved to convene in executive session for pending litigation and future acquisition of real estate. Kourajian seconded the motion. Motion carried unanimously
No action taken.

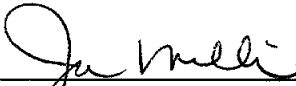
Rutherford moved to reconvene in regular session. Kourajian seconded the motion. Motion carried unanimously

Rutherford moved to authorize the filing of an appeal or other necessary legal action regarding the GRTA decision on the Senoia/Twin Lakes DRI. Kourajian seconded the motion. Motion passed unanimously

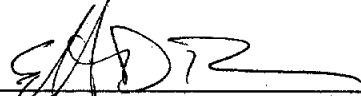
Weed moved to deny the claim of Sara Walker, individually and as Administratrix of the Estate of Johnny Walker as such claim was presented. Rutherford seconded the motion. Motion carried unanimously

Rutherford moved to authorize the filing of a lawsuit by the City against the architect on the 1993 library project for the problem that was discovered in the current expansion project. Weed seconded the motion. Motion carried unanimously

There being no further business to discuss, Brown moved to adjourn. Rutherford seconded the motion. Motion carried unanimously The meeting adjourned at 8 45 p.m.



Jane Miller, City Clerk



Stephen D. Brown, Mayor



Gloria Reid, Executive Assistant