

City Council of Peachtree City
Minutes of Meeting
July 6, 2000
7:00 p.m.

The City Council of Peachtree City met in a regular session, Thursday, July 6, 2000, 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: Carol Fritz, Annie McMenamin, Dan Tennant and Bob Brooks.

ANNOUNCEMENTS, AWARDS, SPECIAL RECOGNITION

Mayor Lenox announced that Carol Fritz had accepted a position on the Citizen's Academy to help guide the Georgia Regional Transportation Authority (GRTA) in its efforts to solve clean air problems.

Mayor Lenox presented a proclamation of congratulations to the McIntosh High School Boys Soccer Team for winning the state championship.

Mayor Lenox recognized Nick Harris for his service on the Commission on Children and Youth.

Mayor Lenox recognized the Employee of the Month, Vicki Roman.

MINUTES

McMenamin made a motion to approve the minutes of the June 15, 2000, meeting as presented. Fritz seconded the motion. Motion carried unanimously.

CONSENT AGENDA

1. Resolution - Outdoor Water Use Restrictions
2. New Checking Account for All Children's Playground

Fritz made a motion to remove the Resolution to Restrict Outdoor Water Use from the consent agenda for discussion. Lenox seconded the motion. Motion passed unanimously.

McMenamin made a motion to approve the remaining consent agenda item to open a new checking account for the Peachtree City Neighborhood Parks and Recreation Fund to be used for the All Children's Playground. Fritz seconded the motion. Motion carried unanimously.

Fritz said that she had read the memo stating that the Department of Natural Resources (DNR) had changed the water use restrictions because they did not have jurisdiction to regulate private well users or people taking water from privately owned streams. She said the DNR chose not to have jurisdiction over anyone pumping 100,000 gallons a day out of wells or streams. Additionally, she did not believe there were any privately owned streams in Peachtree City. She felt it would set a bad precedent to allow people to pump water from streams without a permit. She said she had talked to someone at the DNR and was told that the City could adopt an ordinance regulating the activity. She said she would rather leave the current water restrictions in place because well users and people drawing water from streams could affect other water supplies. She asked if the City had received any complaints concerning the matter.

Basinger said the City had received several complaints from citizens, challenging the City's authority to restrict water use from wells. McMenamin questioned ownership rights of drawing water from a well. Lenox felt there might be some legal problems restricting private well use. Basinger said he was not aware of Fritz's concern and suggested Council table the issue for further study. Fritz suggested staff read the City's watershed ordinance to help clarify some of the issues. Brooks made a motion to table the resolution to allow staff to research the issue. McMenamin seconded the motion. Motion carried unanimously.

Lenox read the rules for conducting the public hearings that would be held that evening.

OLD AGENDA ITEMS

06-00-04 Public Hearing – Rezoning – Cedarcroft Tract

Lenox called the hearing to order and set a time limit of thirty minutes for each side to present its case. He asked to hear from the applicant and those supporting the rezoning first. Doug Dillard, attorney for the applicant, addressed Council on behalf of his client and stated that at the last meeting he had requested the rezoning application be withdrawn without prejudice because there were several issues that needed to be worked out regarding the development of the property. He said the applicant did not want to move forward with the rezoning until he was assured those issues could be resolved. Dillard felt staff's current recommendation indicated those issues were still not resolved.

He was concerned that no criteria was established for the landscape plan and the noise study which left the City staff and Planning Commission with broad discretion, and the applicant with no instructions as to how to proceed or a time frame for it to be accomplished. Dillard said that the study that was commissioned since the last meeting indicated the applicant's plans to construct sound walls and a berm would be more than adequate to address the noise and vibration issues. However, Dillard said that staff's current recommendation stated they were not satisfied that an adequate sound study had been given concerning the adverse impact of train noise because only six or seven trains went by during the study. Dillard also said staff did not feel the landscape plan had been sufficiently prepared, but the applicant did not know what the sufficient criteria might be.

Dillard said residential development was permitted under the current zoning. He said while the applicant was prepared to go forward with the development, they felt it would be improper for the City to take the commercial zoning away from them if it were determined that it could not be developed for residential use. Dillard said the applicant had satisfied all of the existing development standards and there were no written rules in the city's regulations that addressed noise studies or how walls and berms should be constructed.

Lenox said the hearing was tabled from the last meeting to resolve two issues, which he felt had been resolved. He said while the noise study was not fully convincing to staff, he felt it was a sufficient effort to respond to a conceptual plat condition and he felt it was appropriate for preliminary plat approval. As for the other issue, Lenox said staff viewed the landscaping plan as a routine item and they did not perceive a problem in finalizing the details, which he added could not be implemented until the fall planting season. Lenox explained staff had not reviewed the construction drawings because the preliminary plat had not been approved, but he felt the preliminary plat would be approved the next day. He said he had instructed staff to review the

— drawings and be prepared to issue the development permit not later than Friday, July 14, unless they found some significant problem with the construction plans. He said no one expected to find problems because it was a fairly routine matter.

Lenox did not see any reason to withdraw the matter and made a motion to hear and consider the matter that evening. McMenamin seconded the motion stating that she felt the applicant's concerns had been addressed. The applicant, Mike Rossetti, addressed Council and said he had been led to believe the concerns were being addressed all along, but that he had continuously faced delays since September. Brooks said he supported the applicant's request to withdraw the application because he was not in favor of residential development along the railroad tracks. He also pointed out to Rossetti that the City's traffic impact ordinance would probably hinder commercial development on the property for an extended amount of time. Brooks said the City received information from the traffic consultants that significant commercial development in that area would over tax the road and create safety hazards. Motion carried with Brooks opposing.

Dillard asked if Council would continue the hearing until the next meeting, after the July 14th deadline to have the permits approved to ensure there would not be additional problems. Lenox asked the City Attorney if the City would be violating advertising requirements to table the issue again. Lindsey said tabling the issue until the July 20th meeting would not be a problem. Lenox made a motion to continue the hearing until the meeting on July 20, 2000. Fritz seconded the motion. Motion carried unanimously.

— **OLD AGENDA ITEMS**

07-00-01 Consider Alcohol License - Line Creek Package Store, 2763 B, Hwy 54 W

After a brief discussion concerning the ownership of Virsat, Inc., McMenamin made a motion to grant a license for a new liquor store, Line Creek Liquor, to be located at 2763 B, Highway 54 West. Virsat, Inc. was appointed as the Licensee in care of Mr. Spencer Kanner, and Ms. Shirin Nathani appointed as the License Representative. Fritz seconded the motion. Motion carried unanimously.

07-00-02 Public Hearing – Rezoning – Lynch/Peachtree City Holdings, Crabapple Lane W

— Lenox called the hearing to order and set a time limit of thirty minutes for each side to present its case. He asked to hear from the applicant and those supporting the rezoning first. Doug Dillard, attorney for the applicant, addressed Council on behalf of his client, Mr. Jimmy Halligan. He said the property was located on Crabapple Lane in close proximity to Highway 74, the water tower, the fire station, a parcel of land currently being condemned by Georgia Power for a substation, and a mobile home park. He said they were requesting an LUR zoning to develop up to 200 lots on 60 acres. He said the development plan provided 14 acres of open space, which would include a buffer along Highway 74 and the institutional uses surrounding the property. He said the Planning Commission and city staff recommended denial of the rezoning because it conflicted with the City's Land Use Plan calling for one-acre lots on the property. Dillard did not feel one-acre lots were appropriate for the property due to the fact that it fronted along a major thoroughfare. He said since the applicant experienced some resistance to his plan, Mr. Lincicome prepared another plan to provide some onsite transition in an effort to compromise the true intent and purpose of the Land Use Plan with the developer's goals and objectives. He said the onsite transition consisted

— of developing smaller lots along Highway 74 and then transitioning to half-acre and one-acre lots. Mr. Lincicome presented the new plan to Council, which resulted in a reduction of 40 lots from the original plan. The new plan called for 156 lots on 60 acres.

Lenox asked if anyone would like to speak in favor of the rezoning. Hearing no one speak in favor of the rezoning, Lenox asked to hear from anyone who would like to speak in opposition to the rezoning.

Phyllis Aguayo addressed Council to oppose the rezoning. She agreed that the water tower, fire station, Georgia Power substation were problems for the site, but she felt those problems were the precise reason that the property should be developed with larger lots. She felt larger lots would provide a buffer from those uses. She felt having small lots along Highway 74 was a bad idea because the depth of a one-acre lot could be used to protect homes from the sounds and impact of being along a major thoroughfare.

— Brooks said part of the property was zoned AR Agricultural and part of the property was zoned R-43. He asked if the previous owner of the property, Pathway Communities, requested the R-43 zoning. Jim Williams, Director of Developmental Services, said the property was zoned under a blanket rezoning for Kedron Village. He said it was zoned R-43 because the property was located along the highway and it was considered to be the transition area for that part of the City and because it was in keeping with the Land Use Plan that called for low density residential zoning in that area. He said Pathway Communities felt the R-43 zoning was appropriate and the highest and best use for the property. Brooks asked if Pathway Communities indicated any opposition to the rezoning at that time. Williams said they did not and that in fact they also requested and were granted the same zoning classification for a similar parcel located across Crabapple Road.

Williams said staff had not been given the opportunity to review the new plan, and suggested that it be submitted to the Planning Commission for review.

Robert Brown addressed Council in opposition to the rezoning. He agreed with Williams and felt the new plan should be reviewed by the Planning Commission. He also agreed that there were negative aspects surrounding the property and felt that reducing the size of the lots would cause more people to be affected by the negatives.

— Steve Brown addressed Council in opposition to the rezoning. He felt the applicant was overriding the Planning Commission by asking Council to consider a new plan. Lenox said the applicant had not asked Council to approve the plan because they were all aware of the process. He said they wanted some indication from Council. Lenox did not feel Council would approve 200 lots for the property, but he felt it was a very problematic piece of property which needed serious consideration as to how it needed to be developed. He said Council was not about to make a decision and the applicant did not expect Council to do so. He said the applicant would expect to go back to the Planning Commission with any revision and go through the process to receive the benefit of the Planning Commission's expertise and staff's input. Brown said that according to protocol the Planning Commission should consider the plan prior to Council's consideration. By presenting the plan to Council that evening, Brown felt the applicant was asking Council to make a decision to sway the Planning Commission's concerns. Lenox said he would never insult the Planning Commission by implying that anything Council said would sway their opinion one way or another.

Bonnie Beerbower addressed Council in opposition to the rezoning. She described the zoning of the surrounding property, which were all large lots. She also noted that plans for the Georgia Power substation had not been finalized.

Rita Cole addressed Council to speak in favor of the rezoning, stating she owned the property adjacent to the site. She said everything was so unsettled with her property and that the applicant had some devastating things happen to him regarding the substation. She felt the applicant should be allowed to do what he needed to do with his property.

Dilliard addressed Council and stated Georgia Power's efforts to construct the substation were real. He said even though the property was zoned R-43 several years ago, he understood that the master plan for the entire Kedron Village called for higher density than what was developed. He felt that if the R-43 zoning were viable, Pathway Communities would have developed it instead of selling it. He said the applicant was not opposed to going back through process for the Planning Commission's review, but he asked that it be done as quickly as possible because the applicant had some contractual deadlines he needed to meet. Dillard added that he did not believe that someone would purchase a one-acre tract of land and build a \$350,000 home next to a power station, but he felt there were people who would build a \$150,000 home next to a power station to be able to live in Peachtree City.

Lenox called the hearing to a close for Council to reach some sort of decision. Fritz said the application was submitted for a particular type of zoning and she asked the City Attorney if the plan could change in midstream. Lindsey said the application was submitted for an LUR zoning, which was unique to whatever was presented to the Planning Commission and City Council. He said the City ordinance stated that the City Council shall not conduct a hearing until it first received a recommendation from the Planning Commission. Lindsey felt that Council could not stretch the Planning Commission's recommendation to deny the original plan as a recommendation for the revised plan. He felt Council's only option would be to remand it back to the Planning Commission for consideration or to consider and decide the original plan.

Lenox said he did not know how to determine the issue without remanding it back to the Planning Commission. He felt the property had problems and the proper use for the property needed to be decided. He said cluster homes and high-density housing are usually located along highways. He could not think of a large one-acre subdivision that was contiguous to a highway in Peachtree City. He also felt it was appropriate to have higher density on the property because it was in the center of Kedron Village. He added that the density of Kedron Village was developed with approximately 3,000 lots less than was originally planned because of the infrastructure that was built. He felt the proposed development offered promise. He felt sorry for the people who lived on Crabapple Lane for many years because the nature of Crabapple Lane had changed from what it was. He said it was not the country road that it was when they bought their homes and would never be the same. He said he was more concerned with the design of the property to protect the surrounding property owners than the density.

Brooks respectfully disagreed with every point Lenox made. He felt that in good faith to the developer, Council should advise him if his efforts to rezone the property were an exercise in futility or if there was a real chance of having the property rezoned. He said he would not be supportive of the new plan, and he would only support a rezoning if the density was drastically

— reduced and if the proposal received positive endorsement from the majority of the property owners in the vicinity. He felt that the land was sold for much more than it was worth and he had a problem when someone said the price index on the property would not work with the current zoning. He felt he was being asked to change the zoning on the property to make the numbers work for the development to justify the cost of the land.

McMenamin felt proposal was too dense and she felt any comments made about the plan should be made at the Planning Commission level, but she did not want it to be a futile attempt to send it back to the Planning Commission. She did not want to waste the Planning Commission's time if the developer could not come up with something Council would approve. She also added that there were no amenities near the higher density.

Tennant agreed with Brooks' comments. He said he was concerned with the increased traffic and the increased number of school children. He asked Dillard why he felt the new plan satisfied the Land Use Plan when the new plan would triple the existing density. Dillard explained that the Land Use Plan made no reference to the problems facing this development, but that the proposed plan provided a mix of housing and step-down zoning.

The real estate agent who sold the subject property addressed Council with her opinion regarding its value and property values in Peachtree City.

— Fritz felt the second plan was creative, but she agreed with McMenamin that there were no amenities in the higher density area. She also agreed with Brown's comments that increasing the density would cause more people to be affected by the undesirable property surrounding the site.

Brooks made a motion to deny the rezoning application. Tennant seconded the motion. Motion carried with Lenox opposing.

Lenox made a motion to take a brief recess. McMenamin seconded the motion. Motion carried unanimously.

07-00-03 Public Hearing - Consider Development Impact Fees for Fayette County Jail

— Lenox called the hearing to order to discuss a proposed development impact fee for the new Fayette County Jail. Lenox asked Dennis Davenport, Assistant Fayette County Attorney, to explain the proposed development impact fees for the Fayette County Jail. Council discussed the issue at length with Mr. Davenport. In summary, Mayor Lenox expressed serious concerns with the proposal. While he originally supported the impact fee when it was first proposed for residential development, he had concerns that the City was now being asked to impose the development impact fee on commercial and industrial developments because it could have a negative impact on attracting industry to Peachtree City. He also expressed concern that if the City charged retail businesses a development impact fee to enter Peachtree City, the City could not negotiate road improvements, landscaping, traffic signalization, etc. He felt the City's current residential development ordinance was legally unassailable and he was reluctant to implement a new impact fee that could be challenged.

Davenport said a meeting had been scheduled for the following Tuesday for the municipalities to discuss their concerns with the County. He said there were certain steps the City must take to

adopt the impact fee. He said a Development Impact Fee Committee would have to review the proposed fee and make a recommendation to Council. Additionally, he said a Capital Improvements Element (CIP) would need to be added to the City's Comprehensive Plan and it would need approval from the Department of Community Affairs. (DCA). Davenport said Peachtree City's CIP did not have to be identical to the County's and that the City could impose the impact fee only on residential development.

Brooks said that if Peachtree City would be responsible for raising a certain amount of dollars based on its population, then the burden would be shifted to the residents and he did not feel it would be in the City's best interest to support the impact fee. Lenox said the impact fee would be placed on new residential development and the City was almost built out. Council questioned the County's method in determining the amount of money Peachtree City should be responsible for providing for the jail.

After much discussion Jim Basinger said he and Rick Lindsey would attend the meeting on Tuesday and would come back to Council with a recommendation. Lenox asked if anyone would like to address Council concerning the proposed fee. Robert Brown, Eileen Shaw, Tate Godfrey, and Pat Heberg addressed Council with comments and questions. No action was taken.

07-00-04 Consider Resolution – Emergency 911 Telephone and Wireless Telephone Charges

Basinger said the proposed resolution to implement a 911-service fee for cell phone users was necessary to obtain and maintain the necessary equipment to allow cell phone users to call 911. He said the State had authorized local governments to charge each wireless telephone subscriber \$1 per month to pay for these costs and that the fee would be added to the monthly cell phone bill. Brooks made a motion adopt the resolution as presented. Fritz seconded the motion. Motion carried unanimously.

07-00-05 Discussion – Retail Big Boxes

McMenamin suggested Council initiate a moratorium on mega-stores or instruct staff to prepare an ordinance that would address retail development in Peachtree City that did not complement the village concept. She felt smaller retail establishments that did complement the village concept could not compete with the larger mega-store establishments. She felt the success of mega stores depended heavily on bringing regional traffic to Peachtree City. McMenamin asked Jim Williams to comment on the issue.

Williams felt that McMenamin's concern may not be with the size of the store, but the marketing strategy of the proposed store. Other than the proposed Home Depot and Wal-Mart developments, he did not feel there were additional sites available on the west side of Peachtree City for a large retail development without a rezoning. He said property was available in the Braelinn and Kedron Shopping Centers. Instead of initiating a moratorium, Williams suggested Council consider adopting an ordinance to limit the size of new retail buildings to the size of the Kmart that was currently located on Crosstown Road, which was the largest retail building in the City.

Brooks said he felt citizens were not opposed to all 'big boxes' because he received comments

from a number of citizens who were in favor of having a Parisian's Department store in Peachtree City, but they were opposed to Home Depot. He felt the ordinance should address traffic issues and that retail stores should cater to the local residents and not depend on regional traffic.

Lenox suggested using a document prepared by Steve Brown that provided a good summary of the objections to 'big boxes' to prepare an ordinance. He said if a store could not overcome those objections it would not be a suitable development for Peachtree City, but if they could overcome the objections they would be welcomed to the community. He also suggested prohibiting the development of buildings over 80,000 square feet.

Lenox opened the floor for public comment and an informal discussion on the issue. Several citizens spoke on the issue. Council instructed staff to prepare an ordinance to be considered at the August 3rd meeting.

COUNCIL/STAFF TOPICS

Basinger announced Council would conduct a Budget Workshop on July 20th at 6:00 p.m. in the lower level of the Library prior to the regular scheduled meeting.

Lenox gave an update on the tax equity issue. He said the FUTURES Committee had agreed to hire a consultant to obtain an impartial opinion on the County's use of taxes. He said they agreed to abide by the results and take appropriate action based on whatever those results would be. However, Lenox said the County Commission did not like the results of the study and have said they would not pay any attention to it. Lenox said he would conduct an analysis of the County's budget and bring the issue to a head by whatever means were necessary. He said Peachtree City taxpayers had been subsidizing the County's budget for years and he was particularly tired of it.

Mayor Lenox made a motion to adjourn into Executive Session to discuss a personnel matter. Fritz seconded the motion. Motion carried unanimously.

EXECUTIVE SESSION

No action was taken in executive session.

Lenox made a motion to adjourn the meeting. McMenamin seconded the motion. Motion adjourned at 11:20 p.m.

Nancy Faulkner
City Clerk, Nancy Faulkner

Attest: Robert L. Lenox
Mayor Robert L. Lenox