

City Council of Peachtree City
Minutes of Meeting
June 17, 1999
7:00 p.m.

The City Council of Peachtree City met in a regular session, Thursday, June 17, 1999, at 7:00 p.m. in the City Hall Council Chambers. Mayor Pro Tem Annie McMenamin led those attending in the pledge of allegiance. Other Council members present were: Bob Brooks, Carol Fritz and Jim Pace. Mayor Bob Lenox was absent.

ANNOUNCEMENTS, AWARDS, SPECIAL RECOGNITION

McMenamin presented the Employee of the Month award to Betsy Tyler.

McMenamin presented awards of recognition to Carol Hamilton for service on the Commission on Children and Youth and to Judi-ann Rutherford for service on the Library Commission.

McMenamin presented Distinguished Service Citations for Valor to firefighters Chris Campbell and Cery Fannin.

Councilmember Fritz pointed out that history was being made that evening because Mayor Pro Tem McMenamin was the first woman to ever chair a City Council meeting.

MINUTES

Fritz made a motion to adopt the minutes of May 20, 1999, as presented. Pace seconded the motion. Motion carried unanimously.

McMenamin said there would be several public hearings conducted that night. She asked Jim Basinger, City Manager, to read the rules for conducting the hearings. Basinger explained that each side would be allowed equal opportunity to the floor and the Mayor Pro Tem would announce the time allocations for each public hearing. The members of the council would become hearers and no action on their part would be in order until the Mayor Pro tem declared the hearing complete. The applicant and those supporting the issue, including the City staff position if appropriate, would be heard, followed by those opposing the issue, including the City staff if appropriate. Prior to closing the public hearing input portion of the meeting, the hearers and any member of the public would be given the opportunity to ask questions of either or both sides of the issue. Once the Mayor Pro Tem was assured the input complete, she would call the public hearing to a close and allow Council to debate the issue and render a decision.

Basinger explained that the applicant, Mr. Bob Adams of Adams Homes, desired that the Lallande property rezoning be combined with the Scott property rezoning, which was scheduled to be the first item of business under new agenda items. Basinger asked the Director of Developmental Services, Jim Williams, to give the history of the Planning Commission's consideration of the Lallande property, as well as action by the Planning Commission on the Scott property.

Williams explained that an application to rezone the Lallande tract was submitted on November 20, 1998. It involved 42 homes on 10 acres, a density of 4.2 units per acre. The Planning Commission recommended denial of the application at its meeting on January 25, 1999. Their recommendation was due to concern over the density of the proposal, as well as the fact that it was not part of a comprehensive plan for the entire undeveloped area, which comprised a total of 74 acres. The Lallande rezoning request was tabled at the Council meeting on May 20, 1999, at the request of the applicant. He had placed an option to purchase the adjoining Scott tract, and he wanted to have the zoning for both properties reviewed at the same time. Williams said Mr. Adams had prepared a master plan for both properties, and he had submitted a separate rezoning application to include the Scott property. The new Scott application was reviewed and approved by the Planning Commission at its meeting on June 14, 1999. Additionally, the Planning Commission adopted a resolution recommending approval of the joint development of the Lallande/Scott properties. The joint development would consist of 64 cluster home lots on about 18.4 acres (3.5 units per acre), plus a 1.6-acre site for a compatible office use.

Williams added that there have been several meetings recently between City officials and property owners in the area to try to reach a consensus on the overall development plan. Staff has recommended a concept that appears to be reasonably acceptable to the participants, and Mr. Adams' combined request for the Lallande and Scott tracts was consistent with that concept.

Pace made a motion to consider both the Lallande and Scott rezoning applications during one public hearing. Fritz seconded the motion. Motion carried unanimously.

OLD AGENDA ITEMS

**03-99-01 Public Hearing - Consider Rezoning – Lallande Property AND
06-99-01 Public Hearing - Consider Rezoning – Scott Property**

McMenamin called the hearing to order and allowed 30 minutes for each side to present its case. She asked first to hear from the applicant. Bob Adams addressed Council and presented written information explaining his proposal for a twenty-acre development, "Lexington Park". Both the Lallande and Scott tract were currently zoned R-43 Residential and the proposed zoning would be Limited Use Residential consisting of cluster homes and various setback requirements. He explained that the development would have an active homeowner's association, which would ensure that the community would continue to look as attractive as it would when created. Adams provided architectural renderings of the proposed homes and development.

Jim Williams spoke in favor of the proposed LUR rezoning. He recommended Council approve the rezoning with the following conditions:

1. The proposed development plan was intended only to suggest a concept. It shall not be considered the final approved development plan. That plan must be prepared and approved as part of the regular plat review process;
2. The development plan must include a 50-foot, City-owned greenbelt along its northern boundary with the adjoining Mathis tract;
3. The plan must include a 100-foot, City-owned greenbelt along its western boundary with the adjoining Parkway Estates Subdivision;
4. The plan must include a 100-foot, City-owned greenbelt along its eastern boundary with GA 54 in all areas where residential lots are platted;
5. The plan must include a 25-foot landscape buffer along its entire southern boundary;
6. The plan must be limited to a single right-in/right-out access point on GA 54;
7. The plan must be limited to a single site of not more than 1.5 acres adjacent to GA 54 for the development of office space. A minimum 60-foot landscape buffer must be provided along GA 54.
8. The plan must be limited to a single-family detached cluster home concept at a density of no more than 4.0 units per gross acre;
9. The plan must be developed in accordance with a unified architectural concept that must be approved by the Planning Commission as a part of the plat review process;
10. The plan must provide for the possible linkage of the property with the adjoining Heard tract; however, this linkage can only be implemented upon the approval of the City, and shall be based strictly on the benefit to the community of such a linkage;
11. The plan must provide for a fully landscaped entrance on GA 54, including a substantial landscaped median;
12. The plan must include, in addition to an architectural concept, a complete landscape concept, a site lighting plan, and a sign program, all of which must be approved by the Planning Commission as a part of the plat review process.

Chuck Lehman spoke in favor of the rezoning. He noted it was the first concept he was in favor of for the proposed property in over 18 years.

Mr. Lallande spoke in favor of the rezoning and noted that the property was already clear cut, which would make it a good use for cluster homes.

Ilene Shaw also spoke in favor of the rezoning.

Hearing no one else speak in favor of the rezoning, McMenamin asked to hear from those opposing the rezoning. McMenamin noted for the record that Judy Mathis had sent a letter to

Council opposing the rezoning. Phyllis Aguayo said she was not opposed to the rezoning, but that she was disappointed that the density was high. She commended the Planning Commission on their recommendation to save trees.

Hearing no one else speak in opposition to the rezoning, McMenamin called the hearing to a close and opened the floor for Council debate.

Brooks recommended that Adams reserve an easement on two of the lots to provide the possibility of extending the road to the traffic light if the adjacent property were to become available in the future.

Pace had concerns about requiring the developer to deed greenbelts to the City and asked the City Attorney if it was a legal request. Lindsey replied that the City could not force Adams to give the City property, but that if Adams wanted to donate the land to the City, it would not be a problem. Adams said that he was agreeable to the request and, in fact, he had deeded greenbelts to the City for his other developments. Adams also said he was agreeable to all of the conditions recommended by the Planning Commission except for the requirement of a 50-foot, City-owned greenbelt along its northern boundary adjoining the Mathis tract. Adams said he could try to meet the 50-foot requirement, but that he would be more comfortable with a minimum of 35 feet.

Pace made a motion to approve the rezoning as presented with the conditions recommended by Jim Williams and the Planning Commission with the exception of Condition 2. Pace amended Condition 2 to require a 35-foot requirement along the northern boundary adjoining the Mathis tract. Brooks seconded the motion. Motion carried unanimously.

03-99-02 Public Hearing – Variance – Photocircuits

McMenamin called the public hearing to order and asked to hear from the applicant. Mark Bunker presented the variance request for Photocircuits for their building located at 320 Dividend Drive. He said Photocircuits was requesting a variance to allow an encroachment into the setback area along Dividend Drive for a new parking area. He said Photocircuits had applied for two variances for the 320 Dividend Drive property on February 16, 1999. On April 15, 1999, Council approved one of the variances but tabled action on the second variance until the Planning Commission was able to review the site plan and make a recommendation relative to the second variance. Between the time the variance application was initiated on February 16th and the time Council took action on April 15th, Photocircuits participated in a number of meetings with nearby residents and City officials. Those meetings resulted in a consensus being reached on the variance and site plan issues. On May 10, 1999, the Planning Commission approved the conceptual site plan for the 320 Dividend Drive property contingent on Council approving the second variance. He said Photocircuits agreed to several conditions for the variance as follows:

1. Forty feet shall be permanently added to the rear (west) setback, and this area will be

- maintained as an undisturbed buffer.
2. With the exception of fire, safety, and building codes and other statutory and regulatory requirements, no noise-producing mechanical or ventilation systems or operations shall be located along the exterior of the west wall of any future construction. Additionally, said noise-producing systems and operations shall be oriented to transmit noise away from Planterra Ridge, located to the west of the site.
 3. When a future building or parking area is constructed on the site, the detention area shall be placed immediately west of the building or parking area and east of the rear setback.
 4. The established fencing and landscaping scheme shall continue to the west to the point where the southern setback extends to the full 50-foot setback, and where the fence shall terminate with a 90-degree return.

Jim Williams spoke in favor of the variance as outlined by Mr. Bunker.

Ilene Shaw spoke on behalf of the Planterra Ridge Homeowners Association and the Action Committee. She said both groups were in favor of the variance. She thanked McMenamin and the City for forming the committee. She felt her experience with City government had been open, honest and productive.

Jim Williams, Director of Developmental Services, spoke in favor of the variance.

Hearing no one else to speak in favor of the variance, McMenamin asked to hear from those opposing the variance. Hearing none, McMenamin called the hearing to a close and opened the floor for council debate.

Pace made a motion to approve the variance as requested with the conditions agreed to by Mr. Bunker. Fritz seconded the motion. Motion carried unanimously.

McMenamin noted that she anticipated the communication between Photocircuits and the residents of Planterra Subdivision to continue.

03-99-07 Public Hearing - Annexation & (Re)Zoning - Greenwood Lane

McMenamin called the public hearing to order. Jim Williams addressed Council and explained that on March 18, 1999, Council heard requests from the Hughes, Sanders, Care, and King families to annex property into the City and rezone other adjoining property that was already located in the City. At that time, Council agreed to annex the property after Tyrone acted to de-annex it, and Council tabled the matter until final action could be taken. Williams said that all administrative steps had been completed, and the Tyrone Council had scheduled a public hearing to decide on the de-annexation requests to become effective on July 1, 1999.

Williams recommended that a proposed annexation ordinance be adopted and the following

actions be taken:

1. Annex the Hughes Tract consisting of 3.7 acres and zone it ER Estate Residential.
2. Annex the Sanders Tract consisting of 3.9 acres and zone it ER Estate Residential.
3. Rezone the portion of the Sanders Tract within Peachtree City, consisting of 7.6 acres, from AR Agricultural to R-43 Residential.
4. Annex the Care Tract consisting of 1.3 acres and zone it ER Estate Residential.
5. Rezone the portion of the Care Tract within Peachtree City, consisting of 4.1 acres, from AR Agricultural to ER Estate Residential.
6. Annex the King Tract consisting of 2.7 acres and zone it ER Estate Residential.
7. Rezone the portion of the King Tract within Peachtree City, consisting of 4.6 acres, from AR Agricultural to ER Estate Residential.

Williams recommended that the above annexations and rezonings become effective on July 1, 1999, to correspond with the de-annexation action of the Tyrone Council.

Phyllis Aguayo spoke in favor of the rezoning/annexation and said she was pleased that the zoning would be R-43 and ER.

Hearing no one else to speak in favor of the annexation/zoning, McMenamin asked to hear from those wishing to speak in opposition. Hearing none, McMenamin called the hearing to a close and opened the floor for council debate.

Brooks made a motion to adopt the annexation ordinance and zone the property as described by Mr. Williams. Pace seconded the motion. Motion carried unanimously.

05-99-08 Public Hearing - Consider Variance - Cooper Lighting

At the request of the applicant, Brooks made a motion to withdraw the variance request from the agenda. Pace seconded the motion. Motion carried unanimously.

NEW AGENDA ITEMS

06-99-02 Public Hearing – Variance, 2501 Cranberry Lane, Lot 90, Village Park

McMenamin called the public hearing to order and asked to hear from the applicant, Mr. George H. Haudenschild. Mr. Haudenschild addressed council and requested a variance for a 10' x 20' concrete patio behind his house located at Lot 90, Village Park, 2501 Cranberry Lane. He wanted to construct a screened enclosure on the patio, and was denied a permit because the patio encroached into the rear setback. Mr. Haudenschild said he had received the approval of the Homeowners' Association and the neighbor on Lot 89 for the proposed enclosure.

Williams spoke in favor of the variance. He said the existing 10' x 20' concrete patio encroached 9.39 feet into the required rear setback area. He said the concrete patio was a permitted encroachment, but the proposed enclosure was not. Because of the configuration of Lots 89 and 90, and because of the location of the structures on those lots, there was a considerable distance (for Village Park) between the two homes. Williams said if the proposed patio enclosure was built, the distance between the two homes would still be about 40 feet, which was the established minimum standard for the subdivision. Williams recommended Council approve the variance since the proposal was supported by the Homeowners' Association, as well as the neighbor on Lot 89, who would be most affected by the project. While it was not a particular hardship situation, he did not feel the variance would not, in any way, adversely affect the neighborhood.

Hearing no one speak in favor of the variance, McMenemy asked to hear from those opposed. Mr. Bill Wheelock addressed council and stated that he was not opposed to the variance but that he wanted to point out that, if council were to approve the variance, they would be setting a precedent. Fritz asked the City Attorney if Wheelock's statement was accurate. Lindsey replied that any time council approved a variance it could set a precedent. He recommended Council review the requirements for approving a variance and to consider whether or not denying the variance would create a hardship on the applicant.

Hearing no one else speak in opposition to the variance, McMenemy called the hearing to a close and opened the floor for Council debate. Brooks did not feel it would create a hardship on the applicant if the variance was denied, but he also felt it would not create a hardship on anyone if it were approved. He pointed out that the homeowner's association and adjoining neighbors were in favor of the variance. Brooks made a motion to approve the variance as requested. Pace seconded the motion. Motion carried unanimously.

06-99-03 Radar Permit Amendment

Chief Murray recommended Council adopt an ordinance to update the Police Department's radar permit with the State of Georgia. He said it should be updated every three to five years to include new streets, which have been constructed in the City. Pace made a motion to adopt the ordinance as presented. Fritz seconded the motion. Motion carried unanimously.

06-99-04 Consider Ordinance – Health Department Review of all Building Permit/Variance Applications for Lots with Septic Tanks

At the request of Councilmember Fritz, Jim Williams prepared an ordinance to present to Council for adoption that would require the Health Department's review of all building permits or variances for lots with septic tanks. He said the ordinance had been reviewed by both the Health Department and the City Attorney, and their comments had been incorporated into the text. Williams said the Building Department did not anticipate any problems in administering

the ordinance and recommended it be approved. Williams noted that the City's relationship with the Health Department was extremely positive.

Lynn Bianco addressed Council and spoke in favor of the ordinance. However, he expressed his concern that the ordinance did not address heavy landscaping activity, which might affect a septic tank. He noted that landscaping projects generally did not require a building permit.

Rick Fehr from the Health Department addressed council in support of the variance. He said, while he did not look forward to more work, he and his staff were in favor of the ordinance. He felt it was in the best interest for the community.

Councilmember Pace felt that perhaps the issue addressed by the ordinance was a Countywide problem. He felt it should be addressed on a Countywide level.

Councilmember Brooks stated he had a problem with the proposed ordinance. He felt it would undermine the judgement of the Building Department. Fritz pointed out that the Building Department did not have records that indicated the locations of septic tanks. Tom Carty, Building Official, addressed council in favor of the ordinance. He said that, in many cases, the Building Department already requested Health Department approval, but that he felt that an ordinance would ensure that the Health Department would become involved each time a septic tank location became an issue.

McMenamin asked if the ordinance already in place would be sufficient. Carty said the current ordinance only applied to the installation of septic tank systems and did not address other building activity that could affect the integrity of the septic tank systems.

Pace suggested that instead of creating more work for City employees, the responsibility of obtaining the Health Department's approval be placed on the applicant. Fritz expressed concerns that the application being submitted to the Health Department may not be the same as submitted to the Building Department. She asked Fehr if a damaged drain field for a septic system could be repaired. Fehr said each case would be different, but that in most cases, an alternate drain field would need to be used.

Pace felt that there may be cases requiring a building permit that would not affect the septic tank, such as enclosing an existing porch. Fritz made a motion to table the issue until the next meeting and to instruct staff to modify the ordinance to address concerns that were raised. Pace seconded the motion. Motion carried unanimously.

06-99-05 Consider Ordinance - Industrial Sewerage Pretreatment

Larry Turner said Council had adopted an ordinance regulating the use of public sewers at the time of the acquisition of Georgia Utilities. Since that time, the Water and Sewerage Authority

had been in the process of developing an industrial waste pretreatment program that was acceptable to the Georgia Environmental Protection Division. He said the EPD required that the new sewer use ordinance be adopted by Council. Turner presented an ordinance that had been struck through and highlighted to indicate changes to the ordinance. He said the most significant change was the adoption of local limits and all other changes were mainly editorial in nature. Paced asked if Turner had verified all of the numbers and decimal points in the ordinance. Turner said that it had been checked and double-checked. Brooks made a motion to adopt the ordinance as presented. Pace seconded the motion. Motion carried unanimously.

06-99-06 Open Meeting/Records Law – Orientation by City Attorney

Rick Lindsey gave a Power Point summary presentation to Council to review the changes made to the Open Meetings and Open Records law. The information has been downloaded and incorporated into these minutes as follows:

Open Records Act Changes

Effective Date July 1, 1999

Expanded Records Coverage

Change - includes "... records received or maintained by a private person, firm, corporation or other private entity in the performance of a service or function for or on behalf of an agency".

Effect - Such records must be disclosed to the same extent that such records would be subject to disclosure if received or maintained by said agency, public agency, or public office.

Time Restrictions to Comply

Change – "...individual in control of...records must not only determine whether or not the records requested are subject to access...within three business days of the request, but also that such person permit inspection and copying within three days".

– "...if responsive records exist but are not available within three business days of the request, a written description of such records together with a time table for their inspection and copying, shall be provided within the three-day period."

Exceptions to Disclosure

-Records not subject to inspection under the law.

-No records need be made available for inspection or copying if the public office or agency in control of such records obtains, within three business days, an order based on an exception in the law from a superior court staying or refusing the requested access to such records.

Additional Exceptions (O.C.G.A. § 50-18-72)

- the release of the records that would reveal an individual's social security number and insurance or medical information in personnel records

- the protected information may be redacted from the records requested,

- accident reports released only upon written statement of need.

Computerized Records

Change *"... shall be made available where practicable by electronic means, including Internet access"*

Exception *- subject to reasonable security restrictions preventing access to non-requested or non-available records.*

Estimating Costs (O.C.G.A. § 50-18-71.2)

- "...no new fees other than those directly attributable to providing access shall be assessed where records are made available by electronic means".

Denial of Access

In Writing (O.C.G.A. § 50-18-72) *"... Specify in writing the specific authority exempting such record or records from disclosure, by code section, subsection, and paragraph".*

One Time *- Such designation may be amended or supplemented one time within five days of discovery of an error in such designation or within five days of the institution of an action to enforce this chapter, whichever is sooner.*

Penalty for Non-Compliance

–“A person who knowingly and willfully violates the Act... is guilty of a misdemeanor and upon conviction shall be punished by a fine not to exceed \$100.00.”

–The Court may also award attorney’s fees incurred in enforcing the open records laws.

Recommended Action

–Establish a policy for the internal handling of Open Records Requests.

–Questions to City Clerk.

–More than 24-hour delay - notify City Clerk.

–Any refusal to provide records shall be made by City Attorney.

–If the number of records requests increases, personnel records including all medical, social security number, address, dependent, insurance information should be kept in a separate file.

–Place a notice on all forms created and maintained by the City that the forms are public record and, thus, subject to public disclosure.

Open Meetings Act Changes - Effective Date July 1, 1999

Definitions

Agency

*–changed to include “**any public corporation**”.*

Meeting expanded to include where

*–“...**any public matter**, official business, or policy of the agency is to be discussed, **or presented**, or at which official action is to be taken.”*

In the case of a committee where

*– “...any **recommendations** on **any public matter**, official business or policy to the governing body are to be formulated, presented or discussed.*

Agenda of Meetings

–Agenda Must be Available to Public Prior to Meeting

–Shall be available upon request.

–Posted at the meeting site, as far in advance of the meeting as reasonably possible.

–Not be required to be available more than two weeks prior to the meeting and shall be posted, at a minimum, at some time during the two-week period immediately prior to the

meeting.

–Must include all matters expected to come before the agency.

– The failure to include an item on the agenda shall not preclude considering and acting upon such item.

–Item must “become necessary to address during the course of the meeting”.

Record Keeping Requirements

- A summary, rather than merely an agenda, of the subjects acted on and those members present at the meeting of any agency shall be written and made available within two business days of the adjournment of a meeting of any agency.

–Minutes available no later than immediately following the next regular meeting of the agency

Exceptions to Act

–All exceptions “provided by law” rather than simply the exceptions set forth in the statutory open meetings law.

–Will allow for such exceptions as attorney-client privilege.

Closed Meetings

–Affidavit Required

–The chairperson, or other person presiding over any meeting, of an agency;

–Closed to the public;

–Shall execute and file with the official minutes of the meeting;

–A notarized affidavit stating under oath;

–The subject matter of the meeting or the closed portion thereof was devoted to matters within the exceptions provided by law and identifying the specific relevant exception.

Recommended Action

–Revise printed agendas for ease of preparing summaries.

–Grant the Mayor, Chairman, City Manager and Assistant City Manager authority to amend the agenda at any time up to 24 hours prior to the meeting.

–Examine City Ordinance Section 2.1(3) for possible revision.

–Develop rules for when Council Members, Authority Members, and Commission

Members can meet with constituents or other people.

-Develop rules for when and how many council, authority, or commission members can discuss City matters.

-Develop rules for committee and sub-committee meetings.

-Each committee, sub-committee or other agency shall have a person designated to record the minutes of the meeting.

-No meeting or portion of a meeting should be closed without the advice of legal counsel.

-No agency shall go into executive session without the advice of legal counsel.

-Prior to any meeting being closed to the public, the specific reason for closing the meeting shall be entered on the minutes.

-A majority vote is required to close any portion of a meeting.

THINK OPEN

-The changes require more openness than ever.

Lindsey said he would be conducting a more intensive training, Tuesday, May 22, at 6:00 p.m. for all commission/authority members and City staff.

Pace asked if the law addressed social events and e-mail. Lindsey advised Council not to discuss City business if three or more of them were present for any reason. He also advised that e-mail was subject to disclosure, especially if it contained information about City business. Pace asked how long he was supposed to keep his e-mail. Lindsey said the law did not address that issue.

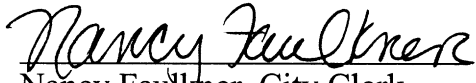
COUNCIL/STAFF TOPICS

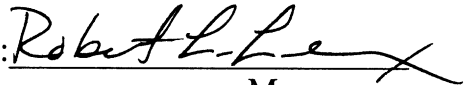
Jim Basinger reminded the public that because July 4 falls on a Sunday this year, the City's Independence Day activities would be held on Saturday, July 3. The parade would begin at 10:00 a.m. at Booth Middle School, ending at City Hall. At 1:30 p.m., the Fire Department would hold its annual equipment demonstration at Drake Field, with the water battle beginning at approximately 3:00 p.m. At 7:00 p.m., there would be a free concert at the Amphitheater, featuring the Peachtree Wind Ensemble. Finally, the fireworks display over Lake Peachtree would begin at 9:30 p.m.

McMenamin made a motion to adjourn the meeting for a brief recess to reconvene in Executive Session to discuss two legal matters. Brooks seconded the motion. Motion carried unanimously.

EXECUTIVE SESSION

No action was taken in executive session. Meeting adjourned at 9:45 p.m.


Nancy Faulkner, City Clerk

Attest: 
Mayor