City Council of Peachtree City
Minutes
June 7, 2001
7:00 p.m.

The City Council of Peachtree City met in a regular session on Thursday, June 7, 2001, at 7:00 p.m. in the City Hall Council Chambers. Mayor Robert L. Lenox led those attending in the pledge of allegiance. Other Councilmembers present were: Carol Fritz, Annie McMenamin, Steve Rapson and Dan Tennant.

Announcements, Awards, Special Recognition

Mayor Lenox presented Awards of Recognition to Outgoing Library Commission members Cynthia Helmick and David Satterthwaite.

Karen Steiber presented the "Hope Print" to Peachtree City on behalf of the Second Annual Leukemia & Lymphoma Society.

Mayor Lenox recognized Georgia Power for their $5,000 contribution to the All Children's Playground.

Peachtree City resident Fred Wellman, representing the Oak Grove Middle School PTO, recognized Fire Chief Lohr for his participation in the school's Spring Festival.

Mayor Pro Tem Annie McMenamin read the following statement:

For the past several months, and more intensely, the last several weeks, I have been asked questions regarding my political intentions in the upcoming Mayoral/Council election for our city. Two years ago, I was elected for a fourth term by over 60% of the vote to continue my service in representing the citizens for four more years. I have always tried to act and make decisions beneficial to the long-term success of the city. I appreciate all of the calls of support and encouragement, but I believe the city will be better served if I remained in the seat I now hold for the remainder of the 2.5 years of my term. Announcing early that I will not run for Mayor will allow those individuals interested in announcing their candidacy for Mayor or Council seats the opportunity to do so sooner rather than later. Hopefully, a candidate or candidates will come forward who will provide a conciliatory message that is fair, positive, and energetic and who will show a willingness to work with and to hear all members of our community in order to advance the best interest and positive vision of our citizens. As a voter, I know I will be looking for that candidate capable of tackling the challenges we face, continuing the quality strides that have been accomplished and the ability to be a fair hearer to all.

Approval of Minutes

Fritz made a motion to approve the minutes of the May 17th Council Workshop as written. McMenamin seconded the motion. Motion carried unanimously.

McMenamin made a motion to approve the minutes of the May 17th Council Meeting with one change as Councilmember Rapson requested. Fritz seconded the motion. Motion carried unanimously.

<u>Consent Agenda</u>

1. Alcohol Licensee and License Representative Change – Valentinos
2. Consider Amended Election Resolution

McMenamin made a motion to approve the consent agenda items as presented. Fritz seconded the motion. Motion carried unanimously.

Old Agenda Items

04-01-07 Senior Facility Authority

City Manager Jim Basinger addressed Council and stated that, at the May 17th Council meeting, Council established a committee to evaluate a Residential Care Facilities for the Elderly Authority and tasked him with conducting a meeting of the committee. He said the committee met on Friday, May 25th. Citizen committee members were Floy Farr and Jim Steinbach. Committee members representing the Development Authority were Tom Farr and Tate Godfrey. Staff members were Chief Murray and Chief Lohr, Jim Williams, David Rast, Jane Miller, and Betsy Tyler. Basinger said the committee met for one and a half hours and referred to the copy of the minutes provided to Council. Basinger reminded Council about the Fire Chief's memo that was forwarded to them earlier, in which Lohr expressed a number of safety concerns about this project. Basinger advised that Jim Steinbach was selected to present the committee's recommendations to Council, but recommended that Council address Lohr's concerns following Steinbach's comments.

Jim Steinbach addressed Council and stated that the evaluation committee members who met on Friday, May 25th to discuss the creation of a Senior Housing Authority asked him to report back to Council this evening. Steinbach said the discussion of a Senior Housing Authority stemmed from the need for Prime Communities to obtain the tax-free bonds to build a Senior Independent Living Apartment Complex on the corner of Peachtree Parkway/Crosstown Road adjacent to the Village Park. The location would be called Parc at Peachtree City. He said the location was already zoned and land-used for multi-family construction.

Steinbach said Council had received (via email) a copy of the May 25th meeting minutes and a copy of Chief Lohr's memo about his June 5th visit to a similar Prime Communities project called Parc at Piedmont in East Cobb County. Steinbach said he would not restate what was contained in both documents; however, he would highlight a few of the salient points from the committee meeting. He said at the conclusion of his remarks, if Council had any specific questions regarding the law, he would defer to Mr. Lindsey; safety issues should be addressed by Chief Murray; EMS and Fire questions be addressed by Chief Lohr; and Project Development questions should be addressed by David Rast.

Steinbach continued and stated that this project would be developed for renters over the age of 62. A spouse might be younger, but no children would be permitted unless they met the minimum age of 62. He said this was not a Section 8 housing project, and that the very design of this project and all its amenities was tailored to a senior aged individual.

Steinbach said of key concern to Chief Lohr and to him was the EMS and Fire Evacuation issue. He said these would be issues, in his judgment, even if the construction of Parc at Peachtree City were all brick. Firewalls, fire doors, personnel recovery zones/areas were a must. Further, there must be easy access to the building from all points of the compass by the Fire Department. Steinbach said this was required and he thought it could be easily worked into the landscape design. Steinbach said it was his view that the safer the design of this project, the more likely that it would be a success. He said the representatives of Prime Communities understood these concerns and knew they would be required to meet Peachtree City's requirements in the Fire and Safety areas. In the project review process these requirements would need to be checked by City staff and the Planning Commission as required.

Regarding staffing, Steinbach said Chief Lohr and Floy Farr made the particular point that the staffing element of the project was key - everything from the need for CPR training to experience in gerontology. He said Mr. Floy Farr had stressed that experience in senior care was very important. Steinbach said that the Parc management representative had acknowledged the need for special attention to the care of seniors and had employed an individual with eight years experience in senior care including a Masters Degree in Gerontology. He said they would hire staff with the knowledge they needed to respond to senior needs.

Steinbach concluded by saying that the committee recommended that Council approve the establishment of a Senior Housing Authority made up of the existing members of the Peachtree City Development Authority and two senior citizens. The establishment of the Senior Housing Authority would provide the means for the issuance of the tax-free bonds for this project. Further, it had been suggested that Mr. Floy Farr and he be appointed as the two senior representatives on the authority. He said Mr. Farr and he were willing to serve should Council elect to establish the Senior Housing Authority as recommended by the Committee.

McMenamin noted Tate Godfrey's comments from the committee meeting minutes about the high level of interest in the market place for a facility of this type and that Prime Properties had the resources to accomplish this because of their 20 years experience in the field. Lindsey stated that he believed Prime Properties was dedicated and determined to make this project work.

Rapson asked City Attorney Rick Lindsey if the Senior Facility Authority would be temporary or short term. Lindsey said if Council desired to appoint the existing Development Authority and two senior representatives, and if this was the only project of this type, that the Authority could disband at some point, but that if another project of this type was presented in the future, the Authority might be needed. He said this question could be answered at a future date.

McMenamin asked if another company could go to the Authority for this type of project and if an existing property owner could obtain this type of financing. Lindsey said he had discussed this with Mr. Norman Hansen of Prime Communities, and Hansen had advised that it would be difficult for another company to convert to tax-exempt status and obtain the financing under the Federal tax laws. Lindsey said they could look at the law and see about creating the authority and requiring all future requests to come before Council. Lenox said perhaps the Authority could be created for a fixed time, but also thought it might have to exist through the life of the bond.

Tennant asked about for-profit entities obtaining a volume cap allocation in lieu of having a non-profit status to obtain the funding in the future. Hansen said that would be very difficult to accomplish because the volume cap allocation funds were so limited. He illustrated by saying that, for this project, they might have been able to obtain $5 to $7 million in volume cap allocation funding, but they needed $18 million.

Rapson noted that there were currently nursing homes and assisted living facilities in Peachtree City, but nothing of this nature. He felt that, for traffic and public safety reasons, it was a good thing to do, noting that if 144 units were developed as normal apartments, it would increase traffic by approximately 250 cars. He asked Hansen if he was prepared to address the safety issues brought up by Chief Lohr in his memo, and Hansen responded that he had only just received the memo that day (June 7th), but assured Council that it was their intent to satisfy Lohr's safety concerns.

Tennant asked Hansen what would be the worse case scenario if the project failed. Hansen said that if the project had financial problems because the units did not lease as anticipated, the current owners had reserves that could be put into the project. If that was not enough, that Prime Communities and its investment partners would also provide funding to preserve their corporate names. Finally, if the project failed completely and went bankrupt, it might sell for the remaining funds due, and the new owners would then operate at a lower rental rate. However, the residents and the City would not be aware of these occurrences. The transition would happen much like a hotel foreclosure, with the rooms still renting and the food still being served.

Tennant asked if the facility would have to remain a senior facility, and Hansen said yes, it would have to be age restricted because of the financing. Long-term, the layout of the apartments and the volume of shared space, such as the dining room, also made the project inappropriate for any other type of use.

Rapson asked about bond counsel, and Hansen said his partnership had selected their bond counsel. Rapson noted that Tom Farr had indicated a desire for the authority to have separate counsel, and Development Authority member Jim Fulton confirmed that the authority always used their own attorney when issuing bonds. Lindsey said the Housing Authority would have the same right.

Lindsey asked if Council wanted to instruct him to draw up the documents to create a Senior Housing Authority. Lenox said it would be acceptable to use the Development Authority, and appoint Jim Steinbach and Floy Farr as senior representatives. Lenox asked Lindsey to look into the life of the Authority and whether it could be used for other projects, and Lindsey said he would do so.

Tennant noted that some of the Village Park residents were upset about the potential impact on their entrance. Tennant asked if Prime Properties would include the Village Park Homeowner Association in discussions about the project, and Hansen assured him they would include them during the planning review process and would stay in touch with them during the construction period as well.

Rapson asked what the time frame would be for building the project from beginning of construction to completion, and Hansen replied that they would be selecting an investment banker the next day, but that they anticipated a four to six-month period to put financing together and thought the time frame would be from about October 15th to December 15th, 2002 – about fourteen months to completion.

01-01-10 Public Hearing - Proposed Charter Change

Lenox advised that this was the first of two required public hearings before Council could make a decision regarding changes to the Charter. He said Council would not follow formal public hearing procedures regarding opposition or support, but wanted to have public input. He then convened the public hearing.

Fritz said that some people were concerned about the different forms of municipal government, but felt the Council/Manager form used in the Charter provided adequate checks and balances because the City Manager reported to all of Council rather than to the Mayor only. Tennant thanked Lindsey for putting the Charter changes into easy to understand language. Lenox called the public hearing to a close hearing no public input. Lindsey advised that there were a number of ordinances to draft regarding the Charter changes and said he would try to complete them before the next three meetings. McMenamin commented that it was very important that the ordinances match the Charter. Lindsey said the proposed draft and explanations of the changes could be accessed on Peachtree City's web site that they were filed with Peachtree City's City Clerk and were also filed with the Fayette County Superior Court.

05-01-10 Proposed Improvements to SR 74/54

City Engineer Troy Besseche addressed Council and stated that he had prioritized the list of improvements to SR 74/54 as a result of the May 17th Council meeting. Besseche said there were three considerations – estimated cost, level of service at the intersection, and whether the widening of SR 54 would impact the improvements. Besseche reviewed the following list of prioritized projects.

<u>Short Term Projects</u>:

1. EB Right Turn Lane Extension: GA 54 @ Huddleston (250'). In addition to work associated with Wieland Project – Estimated Cost: $85,000
2. NB Right-Turn Lane on Huddleston (250')* - Estimated Cost: $102,000
3. SB Left-Turn Lane on GA 74 at GA 54 (add 250') – Estimated Cost: $40,000
4. SB Right Turn Lane on GA 74, from Longhorn Drive; continue a through lane to Clover Reach – Estimate Cost: $150,000
5. NB 2nd Left Turn Lane on GA 74 at GA 54* - Estimated Cost: $55,000

<u>Long-Term Projects</u>:

6. Huddleston/Dividend Intersection Realignment* - Estimated Cost: $175,000
7. WB Left & Right Turn Lanes on GA 54 (new). Includes by-pass (Huddleston) and through lanes – Estimated Cost: $570,000

*Not reimbursable under the Development Agreement with Wal-Mart/Home Depot

Rapson asked Attorney Doug Dillard why the Development Agreement had not been signed. Dillard assured Rapson he would make a commitment to have the agreement signed when the permits were issued. Lenox said that, due to the high costs, the City would be constrained to the short-term items presented, some of which were not part of the Development Agreement.

Dillard said the Development Agreement and the issuance of permits were anticipated to coincide. He said Home Depot had applied, then WalMart came in and the developer lost a little time between Home Depot and the WalMart approval. He said it was their understanding that subject to execution of the

Development Agreement, they were ready to receive permits for this property. They were prepared to make the traffic improvements contemplated by the development group. He said if the City wanted to work with them to make it happen more quickly, the developers were prepared to reimburse the City as long as the scope of work was in the Development Agreement and the costs were reasonable. Dillard said further that the list of prioritized projects had only been received the day before the Council meeting, and their engineers had not had a chance to look at the estimates. He said if the Development Agreement could be executed within the next week and the permits issued immediately thereafter, they were prepared to begin work immediately. He said as long as the costs and scope of work was what they had anticipated at the time they agreed to make those improvements they were ready to go forward. Dillard said subject to the DOT's approval, everything was ready to go once the Development Agreement was signed. He said they were prepared to cooperate with the City to make all the improvements.

Rapson was in favor of approving the short-term projects with an additional $157,000 for contingencies to start alleviating some of the traffic problems at SR 74/54. Lenox said he had reservations about the right turn lane from Huddleston to SR 54 due to the topography. Tennant said he would like Lindsey to go over the analysis and asked why the City had not started at ground zero. Lindsey confirmed that Tennant was referring to the Traffic Impact Ordinance (which stipulates that, if a developer's traffic impact determination expires, he shall be required to repeat the traffic analysis and determination and shall have no vested rights as a result of the expired determination). Lindsey said the phrase "no vested rights" applied only to the Traffic Impact Ordinance and had no bearing on the Big Box Ordinance or the zoning of the property.

Basinger said the City Planner had reminded him that the improvements to SR 54 were issued for the developer, and that the City would still have to get approval from DOT. Lenox said he would like to authorize the City to go forward. Rapson made a motion to approve the short-range projects and directed staff to come back to Council on northbound turn lanes, funding to come from the Council Contingency Fund. Tennant seconded the motion. Motion carried unanimously.

Lenox made a motion to take a five-minute recess. Rapson seconded the motion. Motion carried unanimously.

New Agenda Items

06-01-01 Consider Alcohol License – NEW – Romano's Macaroni Grill – Licensee and License Representative

McMenamin made a motion to appoint Ms. Barbara Lynn Mahoney as the Licensee and Mr. Nick Malegni as the License Representative. Tennant seconded the motion. Motion carried unanimously.

06-01-02 Public Hearing–Variance Request–Front Setback Encroachment–Lot 54, Kedron Hills

Lenox read the rules for a public hearing and opened the floor to comment. The applicant, Mr. Kenny Johnson of Kenny Johnson Homes, addressed Council and said based on a survey dated April 3, 2001, a corner of the house under construction on Lot 54 encroached into the setback 3.1 feet. Johnson stated further that the right-of-way on Loring Lane changed from 50 feet to 80 feet and the setback lines from the curb changed from 12 feet to 19 feet, and that this was peculiar to the west side of this lot only. The balance of the lot facing Portico Place as well as the 193 other lots in Kedron Hills had a 12-foot setback from the curb. Johnson said this situation posed a hardship because the house was framed and roofed and altered the structure to comply with the existing building line would result in an unsightly structure at the entrance to the neighborhood. Also, the home was sold and the purchaser had an occupancy date of September 28, 2001. Johnson explained further that the variance request was due to an honest mistake made by field personnel because they did not pick up the fact that the setback line from the curb had changed and because the recorded plat for Kedron Hills did not reflect the change in the setback line either. Johnson said the mistake was not intentional and he did not think that granting the variance would cause any substantial detriment to any other parties. He said his company had built over 200 homes in Peachtree City without need for a variance and that the situation was not the result of intentional disregard of the ordinance.

McMenamin commented that she felt the request met the criteria for a variance for three important reasons – she had looked at the site and felt the encroachment would not be noticeable, the homeowner association had requested approval, and that Kenny Johnson Homes was a very credible company. Rapson said he thought the variance would not present a problem because it was not noticeable from the road. Fritz agreed and said would not have a problem because this was an unusual set of circumstances. McMenamin made a motion to approve the variance request for Lot 54, Kedron Hills. Tennant seconded the motion. Lindsey asked that McMenamin's motion be amended to include the fact that the variance was 3.1' in the front setback. McMenamin said so amended. Tennant seconded the motion. Motion carried unanimously.

06-01-03 Public Hearing - Variance – Land Development Ordinance Relative to 100' Wide Greenbelt – Hyland Developer's Subdivision at GA 74 and Crabapple Lane

Attorney Doug Dillard addressed Council and stated that he represented the applicant, Jimmy Halligan. Dillard said when this property was rezoned there was an issue regarding the buffer along GA 74 that was required by Peachtree City's ordinance. He said the ordinance required that the property be conveyed in fee simple. He said the applicant had requested that Council allow them to reserve the buffer and to create a buffer with a deed, but that they be allowed to create a conservation easement that would allow them to use the buffer area in the calculation of the lots because it had been deeded to the City and then the setbacks had changed and it affected the density. Dillard said that when Council approved the rezoning, it was approved with the condition that a conservation easement be worked out with the City Attorney, and that the applicant be required to submit a variance request – he thought it was a collective determination – since the ordinance was very specific in requiring that the form of conveyance be a fee simple conveyance. Therefore, the applicant had submitted a conservation easement to the City Attorney and Jim Williams. He said they had agreed on the conservation easement, but that it had not been executed as yet because the final details had only been agreed to on that same day. Dillard asked that Council approve the variance in accordance with the conservation easement as recommended by the City Attorney.

Lenox said that the variance request had six conditions and asked if the applicant was agreeable to those conditions. Dillard responded that the conditions were agreeable to the applicant.

Rapson said his only concern would be the third or fourth generation property owner because it was his understanding that the conservation easement would have to be a part of the closing documents when the house was sold so that the new citizen coming in – who did not understand greenbelts or conservation easements – would at least be apprised of the fact that this was part of his property, but might not understand that it prohibited them from doing certain things to their property. Rapson asked Dillard if this information would be presented at the actual closing. Dillard said that was correct because the easement would be recorded, and that it would be picked up in the title search, and there would be monuments marking the lot (as one of the six conditions recommended by staff) so that it would be clearly shown on the lot. He said the owners would not be able to do anything to the lot without the City's approval because it was an undisturbed buffer. Lenox asked if this was stipulated in the deed itself, and Dillard replied yes. Dillard said further that one of the conditions Jim Williams had suggested was to put this information in the sales contract so that there was notice, that it would be recorded as part of the zoning minutes, and that this would be plenty of opportunity for any property owner to avail himself of the existence of the buffer.

Rapson said he was still concerned about the third or fourth property owner who realized his lot went to Highway 74, and that often home owners cleared the greenbelt, but that it seemed that the conservation easement would at least put the new property owner on notice because it was very explicit in the document.

City Planner David Rast addressed Council and stated that staff was in support of the proposed conservation easement. He said the Planning Commission had looked at this plat on a number of occasions and was set to approve the plat with the conservation easement. Rast said the applicant, Jimmy Halligan, had met with each of the Planning Commission members and they were in support of the conservation easement. Rast said in the past the City had trouble enforcing any disturbance within the City's greenbelts. He said a number of individuals had been taken to Court, and the maximum the Court could fine a property owner was $500. Further, that with the conservation easement on the six lots, staff felt there were more teeth in preserving the property as open space rather than having a dedicated greenbelt, and that was one of the main reasons staff felt the conservation easement would not be such a bad idea. Rast said in looking at the SR74/54 corridors, there was not any other residential property abutting those corridors where staff would have to look at setting a precedent for those developments. He said this was the only property that was currently zoned residential. Rast said that the six conditions were pretty specific as far as what, in addition to the conservation easement, would be required. He said he thought it was important to note that the last condition (number six) required that the rear setback of 30 feet for each lot be measured from the conservation easement rather than from the property line. He said this added protection and provided a backyard for those six homes along Highway 74.

Lenox commented that the City did not have any other property that fit this description, and that it was a peculiar situation as part of an overall zoning that Council found to be a satisfactory use for the property. Lenox said the conservation easement provided more protection for the land than when it was simply a greenbelt and was not unhappy about the fact that it would remain taxable land.

Rapson said the conservation easement would provide the 100 foot buffer – just in a different manner – and would give the City more enforcement and communicate the fact better for the citizen who would buy the property at a later date.

Fritz asked why something could not be added to the deed stating that the house backed up to an important buffer, saying she understood that the conservation easement gave the City more teeth to enforce it, but she thought it was unfair to everyone else on Highway 74 who had been required to meet the buffer requirement. She said they would be allowing someone to go into the buffer and take it as part of their land, and there was currently no comparable property in the City, but she was having a real problem with it because something like this could happen in the future. Fritz said further if the developer would only lose one lot by providing the greenbelt, she did not see why Council should approve the variance. She said that, even as greenbelt, she would like to see something added to the deed about it. Fritz said she agreed that this would be setting a precedent. Fritz commented that the entrance to Peachtree City was extremely important at the present time, and that Tyrone was planning another office park on that side of the highway that would abut to Peachtree City.

Phyllis Aguayo asked if the variance were to be denied, would it preclude the additional lot from being developed. Lenox replied that it would unless the subdivision was redesigned. He said it had been remanded to the Planning Commission specifically with the instructions that they see if there was an acceptable way to permit what was talked about at the rezoning hearing. He said the Planning Commission had come up with this solution, which they and staff felt very comfortable with, and that was why the variance request was before them tonight.

Dillard addressed Fritz' concerns, stating that the effect of what the applicant was doing was the same as the ordinance requirements – that they were giving the 100 foot buffer. He said the problem they had was two-fold. First, the ordinance required a conveyance, which was clearly in his opinion, a taking because they were losing a lot that they would otherwise be able to use. Dillard said they had tried to accomplish the same thing – and really make it better and stronger – than the ordinance required and yet not lose a lot, which represented several thousands of dollars. He said additionally that the easement would allow the applicant to develop the property as they would have without the greenbelt requirement, but because it was an acre lot there was enough room to reserve the greenbelt as if it was conveyed to the City and still leave the applicant enough room to build a house on. Therefore, it was a win-win situation for everyone and gave the property owner a greater awareness of the existence of the buffer through the easement and the conditions that were imposed by staff because the ordinance did not require these conditions. He said he did not think it would set a precedent because the property across the street was non-residential for the most part.

Hearing no one else to speak, Lenox called the public hearing to a close for Council discussion.

Fritz added to her previous comments, stating that everyone else had been required to give the 100 foot buffer, and understood the additional conditions, but she was not convinced the easement would protect that land. She said they would be giving the developer the City's buffer to accommodate his property.

Lenox said he agreed with Rapson, that it better protected the land and put the property owner on notice, that he did not feel it would set a precedent, and that this was one of the last parcels on Highway 74 where there was a 100 foot buffer requirement that a lot of developers had never agreed with. He said fortunately the City had been able to maintain and enforce the Buffer Ordinance through a variety of negotiations – this being one of them – and felt a good job had been accomplished on that stretch of roadway. Lenox said further that when Council discussed the situation at the original rezoning hearing, there had been some good give and take on that whole subdivision – as to how it would be designed because it had been a very problematic area.

Tennant said he thought one of the key issues was the *fairness* issue, that it would not be fair to change the rules when everyone else had to abide by the rules; therefore, he concurred with Fritz and would not be in favor of granting the variance.

Rapson said he was originally surprised to find that the Developmental Services Director, Jim Williams, was in favor of the conservation easement, but after reading the agreement, he felt comfortable enough to think that it would be in the best interest of the City. Rapson questioned whether Council had enough facts before them, with enough documentation, to actually make a decision. Rapson said he thought the agreement still held the 100-foot buffer intact and gave the City more enforcement and communicated to the citizens so that in later years provided a measure of security he thought the City wanted.

Fritz asked what would happen if the variance were not approved, and Lenox said the developer would lose a lot. Lenox said there had been a question of legality and that the City had made it stick through a lot of battles and negotiations.

Dillard commented that he thought if the variance was not approved, it would be unconstitutional and violated the due process provisions of the Fourteenth Amendment. He said this solution was a good compromise, retaining the buffer while giving his client the additional lot to sell. He said he would recommend a lawsuit to his client to test an ordinance he felt to be unconstitutional.

Fritz asked if there were any other land for any other situation like this in Peachtree City that Council might have to deal with in the future – not just Highway 74. City Planner David Rast said very little undeveloped land existed that would be similar, with the exception of the future development in the Smokerise area, which had similar buffer requirements that would apply to the future northeast collector.

Lindsey said there was some great risk regarding the constitutionality of the ordinance, although he did not think there would be a problem, but that it would be very difficult to win in Court because there was the takings issue.

Fritz asked if the conservation easement would be a part of the closing documents, and Lindsey replied that he could not say what a closing attorney would do, but when someone bought property in this state, they were put on notice of everything that was in the record, and that the easement would definitely be in the line of title in the record. Lindsey said further that what he liked about the easement from an enforcement point of view was that he could go through the criminal route as he did with any other greenbelt problems, but that he could also go civilly – which he did not have the ability to go to with greenbelts. He said from a practical point of view there was less risk with the easement.

Tennant said from a philosophical standpoint, he thought Council had to look at history and perspective. He said the history was that everyone loved this City because it was restrictive and was thankful to the founding fathers for making it so restrictive. The other side of the coin was whether Council should run every time they were threatened with a lawsuit by a developer. McMenamin said she certainly thought Council had not done that. Lenox said during his and McMenamin's terms, there were many things they had negotiated to maintain the quality of Peachtree City. He felt Peachtree City often pushed the envelope with its requirements, and they did not get what they wanted by saying "take us to court" because, having pushed the envelope as far as they had, the City would lose. He said Council simply followed a process of doing everything it could by making it easier to go along with the City than to fight.

Resident Walt Mashburn addressed Council and stated that it seemed they were arguing about something that had been discussed many years ago when the buffer program had been set up. He said it was agreed that they would negotiate when it came to something like this, but that he understood that we were saving the 100-foot buffer, and did not know why it was being argued about.

Lenox made a motion to approve the variance as presented with the stipulations and conditions set forth by the staff and agreed to by the applicant during the course of the hearing tonight. McMenamin seconded the motion. Motion carried 4-1 with Tennant opposing.

06-01-04 Reconsideration of Distribution of Hotel/Motel Tax Increase
06-01-05 Intergovernmental Agreements with Airport Authority and Development Authority

06-01-06 GMA Lease/Purchase – Tennis Center Expansion/Amphitheater Improvements

Lenox introduced the item and advised that Rapson had requested discussion on the issue. Rapson said he had looked at the actual motion for the Hotel/Motel Tax increase on April 19, and embedded in that motion was a reference to the formula on Attachment One, and he wanted to review some of the facts. He said he looked at the Georgia Law, which required the Hotel/Motel tax funds be spent for programs specifically promoting tourism, conventions or trade shows, and, as he understood it, the funds could also be spent on sports complexes and cart paths that could be defined as tourism related. He believed that Georgia Law would allow that as well. Rapson said he had four main issues with building a $2.5 million dollar Tennis Center. One was that the facility was never included in the master recreation plan. The second issue was that, in 1999, the City conducted a survey asking the citizens what recreation items they wanted, and they said the Amphitheater improvements was number one, which Council had already effected; number two was the community center, and number three was playgrounds, picnic centers, etc. He said the Tennis Center ranked thirteenth out of fifteen choices. The third reason was that City Council had never taken formal action to approve the $2.5 million dollars expenditure, which was why he had asked that it be placed on the agenda that night. He said he thought the City already had a state-of-the art Tennis Center that was regionally and nationally recognized. He said the Amphitheater had been put on the map largely due to the Development Authority's efforts. Rapson said the Amphitheater improvements, which were part of the bond issue, should also be at issue. He said he did not have a problem expanding the Tennis Center or improving the Amphitheater, but personally agreed with the citizens that Peachtree City needed a community center and cultural arts center, and that he was questioning Council's approach. Further, he did not think the City should be negotiating any deals with the Authorities or Associations, or going to the hotels behind closed doors, and negotiating their approval to increase the hotel/motel tax for this particular project and this particular purpose. Rapson stated that he thought an expenditure of this magnitude, $2.5 million dollars, should be decided by the public in a bond referendum. He said he did not think the issue should be clouded with a lease/purchasing proposal or any backroom negotiations, and that any association, performing arts center, the soccer association could make the same argument that the Tennis Center was making about promoting tourism that would fill up hotels. Rapson said he would like to make a motion to proceed with the hotel/motel tax distribution, effective July 1st, but to hold that money in reserve until such a time that the bond referendum passed and use that money to fund whatever the citizens vote for. Tennant seconded the motion.

Lenox stated for the record that nothing about the hotel/motel tax effort was done behind closed doors, that Rapson was not on Council at the time of Retreat, that the other four Council members all agreed, and he was instructed by them, including Dr. Brooks, to do exactly what was done. In essence, he was instructed to go to the hotel and motel operators who were expected to pay for this – not the citizens of Peachtree City – and that he had explained in great detail with reports back to Council about what was being planned. The hotels and motels agreed that this was a project they could support and felt this was a legitimate use of the hotel/motel tax money and they agreed to pay it. Lenox said he would not impose a 2% hotel/motel tax on those hotels after they shook hands on a particular, carefully negotiated deal that he was specifically instructed to make by Council. Lenox said he did not mind Rapson's argument, but did mind the implication that it was done behind closed doors in any backroom negotiations. He said it was done publicly at the Retreat, publicly at meetings subsequent to the Retreat, it was advertised in the Press, and that he had reported to Council.

McMenamin asked Rapson what he meant by meeting *behind closed doors*. Rapson said he was at the Retreat on both days, and when the hotel/motel tax increases were discussed, it was in the context of the City receiving 3% from the hotels and wanting to increase it to 5% because everyone else was actually at 8 or 10%. At no time during the Retreat, other than in that schedule, was it discussed that the Tennis Center was the reason for the 2% increase. Rapson said that no formal vote had ever been taken, and he had even asked Mr. Basinger and Mayor Lenox specifically where in a public meeting the decision was made. Their reply had been that no formal vote had been taken. Rapson said understood that Lenox was given the direction to talk to the hotels and motels about increasing the tax by 2%, but he questioned whether a decision of this magnitude should be decided by Council or if it should be voted on by the public. He explained that the soccer association could argue for an indoor soccer center to fill up hotels just as well as Virgil Christian could for the Tennis Center and that the performing arts people could do the same. Rapson clarified that when he said this effort was negotiated behind closed doors, he was saying that Lenox met directly with the hotel/motels operators, so that it had the appearance that the decision was not made based on any motion that City Council had taken. McMenamin could not remember whether a motion was made, but stated that Dr. Brooks was on Council at the time and that Council sat in the meeting and, after listening to a very detailed presentation by Tate Godfrey and maybe Virgil Christian, instructed Lenox to go to the hotels and motels on the City's behalf. She said Council did not have to ask the hotels and motels, that it was a courtesy from the Council. She said the law was very explicit about what the 2% increase could be spent on and Council wanted to see a direct return to the hotels/motels. She said she resented the fact that Rapson would even consider that it was done behind closed doors because it could not have been done more openly, with much public discussion and a lot of meetings with the Tennis Center to justify the fact that the hotels/motels would benefit greatly from the expansion of the Tennis Center.

Tennant said he thought the main reason that everyone was looking at the hotel/motel tax increase was that they realized how low the tax had been compared to the surrounding communities, and he thought that the primary purpose was to get Peachtree City's hotel/motel tax up to where it should be in order to be competitive. He said he did not think it was done specifically for the Tennis Center expansion.

Development Authority member and former Councilmember Bob Brooks addressed Council and stated that he thought there was a problem with how the issue had been framed, and that Council began talking about what they could possibly do at the Tennis Center seven or eight years ago. He said Council had, over the past three to five Retreats, talked about where they wanted the Tennis Center to be and how it might work as a development issue for the City. He said he had participated in the Retreat held 15 or 16 months ago, and there had been an extensive conversation in which Steve Brown and Dan Tennant (at his first Retreat) had participated, and one of the issues discussed was where Peachtree City was headed in the future. He said they discussed what "out-of-the box" type thinking would provide certain resources be provided for the City. Brooks said the Tennis Center was very different from the other entities Rapson had talked about. He said he had received an email from Christian that the National Tennis Tournament recently held brought in $1.5 Million of economic impact into Peachtree City, and that that was one of the major frames of the situation. He said what the Tennis Center did, which no other entity in town did, was provide the City a venue that if it was put there and if it was funded – not from the general fund, but from another source of revenue – basically people coming into Peachtree City used the facility and helped to pay for it. No other facility in town, for the most part, would be able to do that. He said they were also looking for things that could distinguish Peachtree City beyond all the other communities in the area. He said one of the things Council had discussed was the fact that in the next five to ten years there would be any number of golf course communities between Peachtree City and the airport. What kind of things would be done in Peachtree City to differentiate the City so that when a person wanted to live within 20 minutes of the airport – what could Peachtree City do to foster someone's desire to live here, or how do we obtain a nationwide reputation? Brooks referred to several families who had flown into Falcon Field and stayed in local hotels, so that their children could participate in tennis tournaments. There were also coaches from UCLA, Tennessee, the University of Alabama, etc., that participated in the tournaments. Brooks said he thought to some extent there was a tendency to lose focus of the issue. He said the City had a unique opportunity, and that the Tennis Center had been unique ever since the beginning of the project and it had initially been developed with impact fees for recreation. The City had been able to avoid (for the most part) subsidizing the Tennis Center with general fund dollars. However, at the same time, it was a public facility that citizens were able to use, and there had been tremendous secondary advantages to Peachtree City's high school children because they were exposed to excellent professional coaching. Brooks said that it transcended almost any other facility in the City. He said it was within Council's ability to build one of the finest facilities in the nation that would literally put Peachtree City on the map in a way that did not cost the taxpayers any money, and it would pay for itself with an unbelievable number of secondary benefits. He said anything the City could do to enhance the livability and the desirability and advertise Peachtree City reinforced every citizen's investment in their home and in the City. He said the Tennis Center expansion had been discussed in public over a period of six or seven years, and that it had only been a couple of years after the Tennis Center had gotten off the ground when the Development Authority began coming to Retreats with presentations on their future plans. He said if Council could think of other ways to do the same thing in other areas, they should. Brooks said another reason it was nice from a development standpoint was that Virgil Christian had been trying to recruit other organizations to set up their headquarters here, which would bring potential new residents. Brooks said there were many other secondary issues that did not relate to a lot of other standard recreational items. Brooks told Rapson that, when he likened this issue to all the more traditional recreational services offered, it was bothersome that the real point was being missed.

Rapson stated that part of why they were talking about a lease-purchase agreement was because the Development Authority could not make the improvements on its own. The Development Authority was a unique entity and there were only two things Council did that impacted it -- appoint the members and provide funding. He thought if you asked the average citizen how they wanted to spend $2.5 million dollars of money that was available, regardless of where the money came from, they would not choose the Tennis Center. Brooks said Rapson was making an analogy that they were talking about spending $2.5 million dollars of taxpayer's money that was available in some way, shape or form to be used for something else, when they were actually creating an asset that would generate revenue that currently did not exist. Brooks said when Rapson made the comment about going to the citizens and saying you would be able to use this revenue for something else, that was not true because you don't have that revenue.

Rapson said the $239,000 a year from the tax increase, which would be allocated to the Development Authority to pay for the $2.5 million asset, revenue that could be spent in the general fund as long as the expenditure generated tourism-related. With those funds, the City could perhaps build another facility that would meet that same economic guide.

Brooks said it was extremely gray, but there had been an overwhelming consensus among Council, staff, the Planterra Ridge Homeowner Association, and that a lot of citizen input had been obtained. Brooks said it was unprecedented for Council to go in a direction with so much consistency and an almost unanimous recognition that the Tennis Center expansion was something great for Peachtree City, and to make certain commitments to local business leaders, and then suddenly Rapson was saying "let's just put the money into the general fund." Rapson said that was not what he was saying. Rapson clarified that, if the City built a $2.5 million dollar facility that would have economic development and tourism benefits, there were things that could be built other than the Tennis Center expansion, and he felt strongly that if Council did something like that, he thought the most appropriate way to do it would be to put it in a bond referendum and let the citizens decide. Rapson was not comfortable using the GMA Brick and Mortar Program and the intergovernmental agreements Council was trying to set in motion.

Tennant asked what would be the down side to placing the item on the bond referendum and letting the voters decide.

Development Authority member Jim Fulton addressed Council and stated the City had contracted with the Development Authority to take over the development of the Tennis Center and the Amphitheater and to run them in a business-like manner. Fulton said further that he had presented a master plan for the Tennis Center about seven years ago that showed 24 courts, to be completed in three phases, and that the only way to have the center succeed was to have the best center, the best run facility, something of which Peachtree City would always be proud. He said the Development Authority came back every year at Retreat with plans for improvements. Twelve courts were built first, then six clay courts that were an improvement over the original plan. Three Retreats ago, the Development Authority began presenting the proposal for seven covered courts, which was reduced to six for other reasons, to demonstrate how the center was being improved. Fulton said the proposal presented at the 2001 Retreat, when all this came about, was the final completion of basically an eight year project. He said the discussions had been very public and to come back now and ask them to make it just a recreational project was not consistent.

Tennant reiterated his question about what the down side would be if the voters decided the issue. Brooks said he thought if you entertained the thought that the millage rate would be raised 1% or 1.5%, and the citizenry was subjected to a significant tax increase, at that point in time it would be extremely appropriate to take the vote to the citizens. However, he thought this situation was a little different and a little more complicated. Brooks said he thought the down side was that if you asked the citizens for a vote on a project that everyone agreed was of tremendous benefit to the City for a wide range of reasons, and it was voted down because a lot of people had not studied the issue and would not know essentially what they were voting on due to misconceptions about the benefits of the facility. He was concerned that some people would evaluate it simply on the basis that it was a $2.5 million dollars facility that they personally would not use. So if the City had something that, whether it was an overwhelming consensus among the people who had been able to work with this idea over eight to ten years and convert it to fruition in a way that would significantly enhance the overall lifestyle of Peachtree City, he thought that was what the City should pursue.

Tennant said that the presentation made at the 2001 Retreat was a great presentation and it was hard not to get excited about it, but that Council had to remain objective. He said Rapson brought up a legitimate point that Council would be remiss not to discuss it. Tennant said he would like some clarification on whether any action to approve the Tennis Center expansion had been taken.

McMenamin said Council had approved the 2% hotel/motel tax increase and it was directed to go entirely to the expansion of the Tennis Center. She said Council had made a commitment to the Tennis Center, a commitment to the hotel/motel people and she did not know how it could have been any clearer.

Rapson said he disagreed because he was the one who had made the motion, and if the actual minutes were read, Council would see that the same issue he had now was the same issue he had then. He had no problem committing to the capital expenditures for the airport, their operations and debt service, as well as to the Development Authority, Tennis Center debt and Amphitheater debt to pay for operations. However, what he took issue with then was the $239,000 for the Tennis Center expansion. He said primarily he took issue with it because he did not want to put it in a bond referendum, have it get voted down, and the next day have the project go out for bid anyway. He thought if the citizens were asked what they wanted and they voted, the City could not just ignore their wishes because the expansion was planned. Rapson said he understood Brooks' approach – that Council was not really asking the citizens whether to do it or not, that they were really just talking about financing. However, he felt that, but that from a layman's perspective, even though Peachtree City's citizens were well educated, they did not understand that. He said when he was at the soccer field or the Kedron Fieldhouse and Aquatic Center, the questions that citizens always asked was why was the City building the Tennis Center when they had already told elected officials they did not want it. Rapson said he understood that it was an amenity; however, he thought Peachtree City was already recognized regionally and nationally. Brooks said he thought that was where they disagreed, noting that several communities had a lot of tennis courts and facilities about the size of the Tennis Center, but the City's long-range plan was to become better than those facilities.

Rapson said he had no problem with that and he agreed that perhaps the City should pursue the Tennis Center expansion, but he felt Council should not forget the funding. Rapson said that, in previous years, the City's growth created a lot of revenue and the City could pretty much build whatever facilities were wanted through the Public Improvement Plan. The expansion would not have been an issue back then, but the fact that a deficit budget was passed last year and Council would have to address that in the coming year, had brought the issue to the forefront. Rapson said when the City was in a deficit mode, what was done from a capital perspective took on a new meaning and this was the first time that Peachtree City had been there. He said he thought one of the primary reasons why he was appointed a Councilmember was because he had the financial expertise in that regard.

Brooks reiterated that the expansion had been discussed very publicly for more than seven or eight years, and that this issue was not framed as a standard recreational issue, but was framed in a much more thinking outside the box type manner for the secondary benefits of advertising the community, maintaining home resale value, making Peachtree City stand out, and a lot of other issues that had nothing to do with just recreation.

Rapson said this was part of a bond referendum that the Mayor proposed at Retreat, and Lenox said his manner of presentation may confused the issue. Brooks said the City government had always tried to do things very cost effectively, so that in an effort to try to do this, the conversation about bonding and funding had muddied the water when this project had been planned out in very clear terms. Rapson said his comment at Retreat was if you were going to build it regardless, it did not need to be part of the bond referendum. Brooks said he thought almost everyone on the Development Authority agreed.

Lenox noted that there were two facilities in the City that virtually every citizen would agree, that were Peachtree City's most important and finest facilities – the Amphitheater and the Tennis Center. Even residents who did not play tennis would be aware of the Tennis Center, and Council had never asked the public to finance those facilities or for the public's approval of them. Lenox said part of Council's job was to think long-term and try to do those things that were really important to enhance the community. What really concerned him, especially regarding the Tennis Center, was that the City was at the culmination of a seven or eight year plan that Council had consistently worked toward, and now it was at the point where it could be finished. Lenox said he completely agreed with the comment made earlier – he did not like spending our citizen's money without asking them, but in the case of the Tennis Center, there was a dedicated source of revenue that had to be reverted to a recreational kind of facility that enhanced tourism. He said they would not get the hotel and motel operators, whom he regarded as the constituency paying this tax, to buy into paying for cart paths, a performing arts center, or any other recreational facility, because they knew the impact of the Tennis Center on the community. He said Brooks made a key point that building in Peachtree City was just about completed and that everyone had a lot of money invested in their houses. He said all the things the City did in recreation added $20 per month for a year (or whatever it worked out to) to their tax bill but would add $25,000 to the value of a house. This included the Tennis Center, and it was what made this community so attractive. Lenox said further that modernity, quality, and forward thinking had to be maintained and that was what Council was doing.

McMenamin said part of the process was that a commitment was made to the Tennis Center. The Authority had proceeded so far in their plans that they had met with the Planterra Ridge Homeowners Association, which was the neighborhood that would be most affected, and the expansion was presented. She thought there was a consensus from Planterra that the Tennis Center was an asset to Planterra Ridge, and a certain commitment had been made that had moved the Tennis Center toward this final step.

Tennant said he did not know if it was really the final step because he thought they had talked about maybe building a nice restaurant or office facility – who knew what the final step would be. Lenox said this was the final step as far as the original master plan, and that anything else that happened at the Tennis Center would have to happen with private investment money.

Eileen Shaw, 172 Terrane Ridge, Planterra Ridge Subdivision, addressed Council and stated that she had been involved in this discussion for the past seven years, and was very pleased when the Development Authority came to the homeowners association to give them background as to why the Tennis Center was built there. She said it was a commitment by the City to help give Planterra an anchor. She said the homeowner association, for which she was the president at that time, felt they were very well informed and they felt that the residents were in favor of the Tennis Center. She said she was still very much in favor of the Tennis Center and what it brought – not only to Planterra, but also to all of Peachtree City, because the big picture needed to be considered. She said she wanted to go from there to what Rapson had said, and that she thought they were two very different things. She said again that she was very much in favor of the Tennis Center and the expansion and thought that it would bring economic development as well as other benefits to Planterra Ridge and all of Peachtree City. She thought what she had been hearing was that there was no objection to what the Tennis Center could and would do, and that it was just how it would be funded or how those dollars – the 2% the hotel/motel tax increase that was paid by people from outside of Peachtree City – would be spent. Shaw said she thought the question came down to whether the funds were available and if a commitment been made to the Tennis Center. If so, the expansion should go forward. If the commitment had not already been made, then why not do so now. She said if Council believed it was their decision, if this was the third step and the right thing to do for all of the right reasons, why not make that commitment and go forward. If they believe that the citizens have said this was 13th on their list, and Council wanted to talk to the citizens, then do that. She said the value of the Tennis Center was there, and the decision was how to fund it if they decided to do it. Shaw said she thought the decision had been made because she attended the 2001 Retreat when Virgil Christian and the Development Authority presented the plan and while sitting in the audience, she thought this was the third phase, they would go with the 2%, and then the dollars would come from non-residents. She said she thought the bottom line was, did they want to do it, and if so, how to fund it. She referred to Rapson's comment about whether to ask the public if they wanted the expansion, or try to get the word out that this was the third phase, there was a commitment, and the City wanted to do this.

Resident Steve Brown addressed Council and stated that, as someone who also benefited from the Tennis Center, living in Planterra, he appreciated the project and thought Virgil Christian had done a great job. He said he saw a lot of logic in what Rapson had said, and the deficit financial mode had to be kept in mind because it would have an impact on a lot of things the City did in the future. That might be a reason to place the item on a referendum for a vote. However, Brown thought the City had three marquee projects, adding the airport to the list, and he thought the City had to try to find a way for the Tennis Center to sustain itself - much like the Amphitheater did. Also, he thought that the big problem with the Tennis Center in general was that it had always been an inside sell – all the presentations were made in the closed niche of the Council Chambers and he thought the people at large would use the arguments, like "I don't play tennis," and "it doesn't benefit me." Brown thought it was simply a matter of selling the method and the reasoning behind it, that it was a public relations issue, and the people needed to know that the whole City would benefit. Further, he thought that Council should start trying to find ways for the facilities to sustain themselves because that was a big part of the argument as well and residents didn't want them acting as a black hole when the City was going into a deficit mode.

Lenox said the Amphitheater did operate on a self-sustaining basis, the Tennis Center was never intended to operate on a self-sustaining basis until it was fully developed, and that part of what Council was looking at with the covered courts would lead to it operating on a self-sustaining basis. Lenox said he probably confused the issue because the sequence of events was that first Council decided it was time to finish the expansion of the Tennis Center, and having made that decision, the question then was how it would be paid for. Council then decided to pay for it by going to the hotels and motels and asking if they would support the City on a quid pro quo basis to raise the hotel/motel tax by 2%. He said paying for the Tennis Center had nothing to do with the fact that the City had other budgetary problems looming in the City. He said if Council decided not to expand the Tennis Center, he would make a motion to rescind the 2% hotel/motel tax increase because he was the one who went to the hotels and motels and asked them to do this. Lenox said further that the expansion would be paid for by revenue that would not exist unless the tax increase was for this specific project. He said he did not know why Council was even having this argument.

Tennant said it was not an argument, that it was just a discussion. Fritz agreed but said comments had been made that all this transpired behind closed doors, when the discussions had been ongoing for seven years with articles in the newspaper and numerous public meetings, and she did not think the Council Chambers were a closed chamber. She said if someone was not paying attention, it was not her fault. Fritz said she had heard about it in the newspaper before she became involved in politics, and she thought the Tennis Center was a great asset to the City.

Brooks addressed Council again and stated that Steve Brown had brought up a good point when he alluded to the fact that the budget was getting tighter, but that the tennis facility would be built from hotel/motel taxes and would generate possibly $15 to $20 million dollars in tourism and trade, and that money would be going into the community, that the money would be spent at fast-food restaurants. He said the revenue from sales tax would help with some of the budgeting concerns.

Tennant asked about the action to approve the $2.5 million dollars. Rapson said it sounded like a prior City Council commitment and Council directed the Mayor to talk to the hotels and motels for the purpose of funding this expenditure, with a future Council approving the tax increase. He asked if that summary was incorrect, and Fritz said it was correct. Rapson said he would rescind his motion about the distribution of the tax increase. Tennant seconded the withdrawal.

Resident Walt Mashburn addressed Council again and stated that he understood the City would have impact fees and hotel/motel taxes for a specific purpose – to enhance the Tennis Center and help out the Amphitheater. Regarding a public forum vote, it was not the public's money; the hotel/motels were paying the money and it was Council's job to approve what Council said they would do.

Lenox said the next two agenda items were, in effect, follow-ups to this discussion, and said if Council approved those two items, they would be formally approving the expansion to the Tennis Center, the financing methodology, and the operational system that would be used.

Rapson made a motion to approve the intergovernmental agreements associated with the Airport Authority and the Development Authority as well as the GMA Lease/Purchase agreements for those facilities, with the disclaimer that his wife, Kristi Rapson, was the Amphitheater Director, and that Council approve those as stated so that the project could move ahead. Tennant seconded the motion. Lindsey advised that the intergovernmental agreements presented this evening were drafts, that the Airport Authority intergovernmental agreement was pretty much finalized because he had met with Doug Warner and Jim Savage. Lindsey said he had not finalized the intergovernmental agreement for the Development Authority, but would like the motion to authorize the Mayor to sign an agreement that was substantially similar to the two before Council. He said if there were a substantial change, he would advise the Mayor that he thought this was something that he would it being brought back to Council in two weeks. Rapson amended his motion to include the language "substantially as presented to City Council." Tennant seconded the amendment to the motion. Motion carried unanimously.

Lindsey asked for clarification on the terms regarding GMA Brick and Mortar agreement, asking if Council wanted the fixed or variable rate. Rapson and Finance Services Director Paul Salvatore advised that the fixed rate would be preferable, and Council agreed to the fixed rate.

06-01-07 Discussion of Councilmembers' "Letters to the Editor"

McMenamin said she brought this up after receiving comments regarding ongoing arguments between elected officials in the newspaper. She said while it was certainly not her intention to violate anyone's First Amendment rights, she felt communicating through *Letters to the Editor* did not allow for a fair and balanced picture of the issues. Citizens could read the paper one week and not the other. Referring to other Councilmembers in the body of the letter left that Councilmember at a disadvantage to explain or disqualify statements that were made. Citizens needed to know that despite disagreements on issues, Council could work together for the good of the community instead of sending mixed signals to the citizens. She said it was better to disagree in a civil, mature manner, and preferably in a public meeting. If not in a public meeting, then behind closed doors. She said Council had all been elected by a majority of the voters, and to not at least show some respect for the person elected was showing less than respect for the voters.

McMenamin proposed a signed agreement to make a good faith effort to not communicate with each other through *Letters to the Editor*. She said she had heard numerous concerns by the citizens about the negative tone of the letters in comparison to the positive feelings about the community expressed by residents and visitors. She said she thought it defeated the purpose when public officials argued with one another in the newspaper and she and a lot of citizens agreed. Lenox said he was ready to sign any time. Fritz said if that were a motion, she would second it. McMenamin said it would have to be worded so that it did not any way infringe on first amendment rights -- Councilmembers could certainly write letters to the editor defending their position, but taking to task in personal manner a Councilmember who voted differently would be quite offensive. Fritz agreed and said she also received a lot of comments about the same topic.

Rapson commented that he appreciated McMenamin's intent, but could not ignore the fact that one of the reasons why he served in the United States Marine Corp was to protect free speech and free thought. He said he thought those who engaged in demeaning behavior demeaned themselves. He said he thought what McMenamin was basically talking about was a Gentlemen's Agreement and common sense to behave courteously. McMenamin said it was very awkward recently when two officials were exchanging letters and mentioned any of the non-participating officials in a way that might not be quite accurate, then they were in a position of having to write their own letters to set the record straight. She reiterated that she was not saying they could not write letters to the editor, only that they agreed not to engage in personal attacks and disputes in that forum. Rapson said he would not write a letter to the editor while he served as a Councilmember and would sign something to that effect.

Lenox said he welcomed the opportunity to sign such a statement because he hated writing letters to the editor. Lenox said he managed to be Mayor for nine years without writing a letter to the editor, and in the 33-year history of Peachtree City, he did not know of any other Councilmembers who had gotten into writing letters to the editor. Lenox said he was willing to say publicly that he would not write any more letters to the editor, and if citizens did not like what they read about him in the paper and wanted his answer, his office door was open and they could discuss it, but he was not going to respond in the paper because it was not the proper place. Lenox said he could differ with Council, and had done so on occasion, and still have personal respect for the members.

Rapson said he did not think anyone had to sign anything, but that it was a matter of integrity. Fritz said she thought it would be nice if some of the people who read these things in the paper would at least call and ask questions about the issues. Fritz said she was always willing to sit down with people who were upset about something and to do her best to explain or provide information so that they understood the situation.

06-01-08 Discuss Golf Cart Safety Issues

Tennant said he recently had a personal situation arise that he felt compelled to talk about. His little boy had been accidentally run over by a golf cart a couple of weeks ago when the keys were left in the cart ignition. He said he was not present at the time, but wanted to thank Jim Basinger, members of emergency services, and Chief Murray for the job they did. He said his son was hurt, though not critically injured. Tennant said when it came to golf cart safety, the keys should be taken out of the ignition every single time the cart was parked. McMenamin clarified that whether a golf cart had a key in it or not, if the gas pedal were depressed, the brake would come off and the cart could roll. She said an unattended cart was a danger.

Tennant said the other item he wished to talk about was the age restriction for driving golf carts. He said a constituent, Joe Walker, approached him about this, and even though his children were grown, Mr.

Walker's contention was that operating a golf cart at the age of 15 should be permitted without supervision because it would be a good trial run before driving a car. Tennant said the more he thought about it, and as big as he was on safety issues, he was also big on personal responsibility, and he felt 15-year olds were old enough to drive a golf cart by themselves.

Lindsey explained the golf cart operation law and stated that 16 and older could operate a golf cart without supervision. A 15-year old must have someone on the front seat that was at least 18 years of age or older. Those persons 12 years of age, but not yet 15, could drive as long as their parent or legal guardian was on the front seat with them.

Tennant said he would not object to changing the requirement from 16 to 15 because he thought it probably made sense and it would be good practice for young people preparing for their driver's license. McMenamin commented that most 16-year old children today were driving and had at least gone through driver's training, or had some driving experience, but that one of the worst accidents that had occurred in Peachtree City was caused by teenagers in a golf cart who were using hills to play on and ran into a motorist. She said the Police Department had quite a bit of input setting up these rules and that it came from the responsibility of having gone through some type of driving training and experience. Fritz said some people even questioned whether 16-year olds should be driving a car. Lenox said it had been one of the most contentious, long lasting, difficult, issue. Tennant withdrew the issue.

06-01-09 Discuss Status of Home Depot/WalMart Projects

No discussion was held on this agenda item.

VIII. Council/Staff Topics

Basinger said there were no council/staff topics and no executive session topics in response to Lenox' inquiry.

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

Betsy Tyler

Betsy Tyler, Deputy City Clerk

Robert L. Lenox

Robert L. Lenox, Mayor