

**MINUTES OF MEETING  
CITY COUNCIL OF PEACHTREE CITY  
JUNE 2, 1994  
7:00 P.M.**

The City Council of Peachtree City met in regular session on Thursday Night June 2, 1994 at 7:00 p.m. in the City Hall Council Chambers.

Mayor Lenox led those in attendance in the pledge of allegiance. Present were Mayor Robert Lenox, Councilmembers Annie McMenamin, Edward Bradford, Robert Brooks and Caroline Price.

Mayor Lenox made a motion to add an item to the agenda to consider bids for the sod and irrigation system at the Kedron Fire Station. McMenamin seconded the motion. Motion carried unanimously and was added as item 6-94-4.

**Department Reports**

Mayor Lenox stated that Department Reports would be available at the next regular Council meeting.

**Minutes**

McMenamin made a motion that the minutes of the May 19, 1994 City Council meeting be approved as presented. Price seconded the motion. Motion carried unanimously.

**Old Agenda Items**

5-94-8 Consider Change in License Representative  
New York Pasta & Grill

Mayor Lenox stated that the item to consider a change in license representative for New York Pasta & Grill was tabled at the last meeting. Mayor Lenox stated that the item was tabled to give the applicant time to clear up discrepancies that were found in the application concerning stockholders of the corporation and work history of the applicant. Mayor Lenox asked the applicant, Mr. David Affrunti, to come forward.

Price stated that it appeared that clarification had been made on the application concerning Mr. Affrunti's work history and urged Mr. Affrunti to work closely with the Police Department to ensure that violations did not occur. Brooks asked Frances Meaders, Director of Administrative Services, what had transpired between the last meeting and the present concerning the stockholders. Meaders stated that Mr. Jamal Hussein had been put back on the application as a stockholder. McMenamin asked Meaders if all stockholders should share in making the decision on who would be the license representative. Meaders stated that the City had never gotten involved in those matters and that the City only required

that the license representative be a full time manager. McMenamin asked if New York Pasta & Grill had any violations concerning the sale of alcohol and Meaders stated that they had not.

Mrs. Jamal Hussein, came forward and stated that she was representing her husband, and stated that her husband had entered into a partnership with Mr. Guiseppe Affrunti that did not work out and that Mr. Affrunti had defaulted on payments to her husband to purchase his share of the corporation. Mrs. Hussein stated that her husband did not feel that Mr. David Affrunti would be a worthy license representative and asked that Council put off appointing Mr. Affrunti as the license representative until her husband could be present to address the Council. Mrs. Hussein stated that her husband and Mr. Affrunti would be going to court at the end of the month concerning the matter of non-payment and that most likely her husband would gain control of the restaurant back at that time.

Mr. John Proffitt III, licensee for New York Pasta & Grill, came forward and stated that Mr. Guiseppe Affrunti owned 45% and he owned 10% and that it was in their power as majority stockholders to appoint a license representative. Mr. Proffitt asked that if all paperwork was in order that Mr. Affrunti be approved. Mayor Lenox asked if Mr. Affrunti was on the premises on a full time basis and Mr. Proffitt stated that he was.

McMenamin asked for a legal opinion from the City Attorney. City Attorney Jim Webb stated that Council should only consider if Mr. Affrunti met all the requirements to be the license representative, not who owns what shares of the corporation.

Mr. Leslie Rowell, License Representative for Corelli's Restaurant, came forward and stated that he did not feel that Mr. Affrunti was capable of being the license representative due to his young age and lack of education. Mr. Rowell went on to say that if Council would appoint Mr. Affrunti there would be a risk to businesses and citizens of Peachtree City. Mr. John Proffitt stated that a person of eighteen years of age could fight for his country and that he should also be allowed to oversee the sale of alcohol. Proffitt stated that the principals of the corporation felt he would be able to run the restaurant and that as Ms. Meaders stated, there had been no violations at the restaurant.

McMenamin stated that Mr. Affrunti was of legal age and while she had misgivings about his inexperience, not his education, she felt the burden would fall on Mr. Proffitt if problems arose. McMenamin made a motion to approve Mr. David Affrunti as license representative for New York Pasta & Grill. Price seconded the motion. Price stated that she would like for staff to address the age issue in the ordinance for future licenses so that licensees and license representatives would be required to be twenty-one. Bradford stated that he would also like to see the age issue looked at and a requirement made that licensees and license representatives must be twenty-one.

Bradford stated that Mr. Affrunti had met all the requirements for a license representative and would support the request. Lenox stated that he also felt the burden of proof that Mr. Affrunti had the capability to be the license representative would fall on Mr. Proffitt and that he would support the request. Motion carried unanimously.

6-94-1 Consider Variance - Price Exhibits  
211 Huddleston Road

Mayor Lenox stated that the item to consider a variance for the Price Exhibits Building on Huddleston Road would be conducted as a public hearing and allowed each side of the issue twenty minutes. Mayor Lenox read the rules for a public hearing for the benefit of the public and asked to hear first from the applicant.

Mr. Gordon Price came forward and stated that he was asking Council for a variance for his building on Huddleston Road because he had been unable to purchase the five feet needed to bring the building into compliance from Mr. Powers. Mr. Price stated that when Mr. Powers was before Council two weeks ago his attorney Mr. Jim Bischoff had offered to sell the land to him within 48 hours and that he had attempted to do so, but the offer did not reach Mr. Powers within the 48 hours due to mail delivery and the offer was rescinded. Mr. Price stated that an unusual occurrence had taken place in 1990 when a surveyor by mistake subdivided his property. Mr. Price stated that he felt the situation met the requirements for a variance to be granted and requested that Council give him the variance. Mr. Price stated that the building as it was now could not be sold and that any profits from the sale of the property would be for his parents retirement and that he would hate to see them penalized for the mistake that was made.

Mayor Lenox asked to hear from anyone else in favor of the variance and hearing none asked to hear from anyone opposing the variance.

Mr. Jim Williams, Director of Developmental Services, came forward and stated that he felt he had no choice but to speak in opposition since the situation did arise as a direct result of the applicant and the circumstances required to grant a variance could not be met. Williams stated that staff recommended denial of the variance.

Mayor Lenox asked to hear from anyone else in opposition and hearing none called the public hearing closed and called for Council debate.

Price stated that the outcome of the last meeting was that the remedy to the problem was for Mr. Price to purchase five feet of land from Mr. Powers to bring his property into compliance with code. Price stated that she did not believe that sufficient effort had been made to purchase the property and that she could not support a variance.

— Mayor Lenox asked City Attorney Rick Lindsey about the offer made to Mr. Price by Mr. Jim Bischoff at the last meeting. Mr. Lindsey stated that any real estate transaction made would need to be in writing and while Mr. Price did make an offer in writing within the 48 hours, it was not received by Mr. Bischoff within the 48 hours and the mail box rule, transactions are valid if in the mail within a specified time, did not apply to contracts. Lindsey stated that Mr. Price should have gotten acceptance in person or over the phone during the 48 hour period. Lindsey stated that his technical response would be that the offer was too late.

Mayor Lenox stated that he felt Attorney Jim Bischoff, representing Mr. Powers, wanted something from Council at the last meeting, and made an offer to Mr. Price in order to get Council approval. Mayor Lenox stated that he did not feel that Mr. Bischoff's offer was made in good faith and felt that Mr. Price did try to purchase the property.

— Brooks echoed the comments of Mayor Lenox and added that if an offer had not been made on the adjacent property he would not be sympathetic to Mr. Price's situation. Brooks went on to say that it was a tough situation for Council to decide but he felt that Mr. Price had made an offer in good faith based on the discussion at the last Council meeting. Brooks stated that normally he would agree with Mr. Williams but he felt Mr. Price followed through with what Council had asked of him at the meeting and stated that he would support the variance.

McMenamin stated that she too felt Mr. Price made a good faith offer and that she would be in support of the variance.

Bradford stated that he could not support the variance because he felt the situation was created directly by an action controllable by Mr. Price.

Price stated that she did not make a decision to put Mr. Price Sr. in jeopardy and that she would like to see another attempt made to purchase the five feet of property needed. Price stated that she felt this would be a precedent setting issue.

— Mayor Lenox asked Attorney Lindsey if Mr. Bischoff could be persuaded to come back before Council to address the issue and Mr. Lindsey stated that it would be possible that Mr. Bischoff could be persuaded to address the Council. Mayor Lenox asked Mr. Price if he could wait two weeks before hearing a decision from Council. Mr. Price stated that he could not wait two weeks, that a possible sale was pending on the property and also stated that he had contacted Mr. Powers after the offer was rejected in an attempt to again purchase the property and that Mr. Powers had quoted a purchase price six times what he paid for the property. Brooks stated that he felt Mr. Powers was attempting to hold out for a large purchase price on the five feet of land. Price stated that she did not feel that two weeks would infringe on a possible

sale and that she would prefer to see another purchase attempt made.

Lenox stated that he agreed with Brooks and Brooks made a motion that, based on extenuating circumstances, a five foot variance to the zoning setback be granted for the Price Exhibits property at 211 Huddleston Road. McMenamin seconded the motion. Motion carried with Lenox, McMenamin and Brooks voting aye and Price and Bradford voting nay.

#### 6-94-2 Consider Alcoholic Beverage License - B.J.'s Sandwich Shop

Mayor Lenox stated that B.J.'s Sandwich Shop on Huddleston Road was requesting an alcoholic beverage license to sell malt beverage as a retail consumption dealer and asked the applicant Mr. Burton Acree, applying to be the licensee and license representative, to come forward.

Price asked Mr. Acree the hours of operation of the restaurant and Mr. Acree stated the hours were being extended from 8:30 a.m. - 3:00 p.m. to 8:30 a.m. until 9:00 p.m. Monday through Friday and that the restaurant would be open until 11:00 p.m. on Saturday. McMenamin stated that all paperwork appeared to be in order and made a motion that B.J.'s Sandwich shop be granted an alcoholic beverage license to sell malt beverage as a retail consumption dealer and that Mr. Burton Acree III be appointed the licensee and license representative. Price seconded the motion. Motion carried unanimously.

#### 6-94-3 Consider Bids - Highway 74 Sports Complex

City Manager Jim Basinger stated that the City had solicited bids for the construction of the fields at the Highway 74 Sports Complex and that three firms had responded as follows:

|                             |              |
|-----------------------------|--------------|
| Flanders Construction, Inc. | \$544,500.00 |
| Greenglade Irrigation, Inc. | \$741,075.00 |
| Couch, Inc.                 | \$761,878.00 |

Basinger stated that it was staffs recommendation that the project be awarded to the low bidder, Flanders Construction. Basinger stated that the Recreation Commission had recommended Flanders Construction and that reference checks were done on the company. Basinger stated that Flanders would begin work as soon as possible so that the fields could be ready for next season.

McMenamin asked if there were any warranties if the grass would not grow. Bill Foley, architect for the project, came forward and stated that the City would be involved in a training program to manage the growth of the fields, and that the contractor guaranteed disease free grass for one year. Foley stated that the City would accept the fields at the sprigging stage and would be responsible

for maintenance. Basinger stated that a consultant/expert was in the budget for 1995 to oversee the maintenance of the fields.

Brooks made a motion to award the bid for the construction of the Highway 74 Sports Complex Fields to Flanders Construction in the amount bid of \$544,500.00. Price seconded the motion. Motion carried unanimously.

6-94-4 Kedron Fire Station Sod and Irrigation System

City Manager Jim Basinger stated that the City solicited bids from nine landscaping contractors for the supplying, delivering and installation of rolled Bermuda sod and design and installation of an irrigation system to irrigate approximately 6,500 square feet of the sod. Basinger stated that three firms responded to the request as follows:

Ivy Green Lawn Service, Inc.  
Tyrone, GA

|                   |             |
|-------------------|-------------|
| Bermuda Sod       | \$ 6,637.50 |
| Irrigation System | 1,700.00    |
| Total Base Bid    | \$ 8,337.50 |

Landers Landscaping, Inc.  
Sharpsburg, GA

|                   |             |
|-------------------|-------------|
| Bermuda Sod       | \$ 9,225.00 |
| Irrigation System | 1,785.00    |
| Total Base Bid    | \$11,010.00 |

Greenglade Irrigation, Inc.  
Woolsey, GA

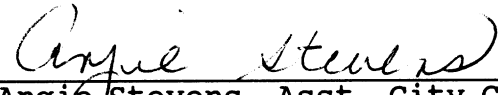
|                   |             |
|-------------------|-------------|
| Bermuda Sod       | \$14,410.00 |
| Irrigation System | 1,800.00    |
| Total Base Bid    | \$16,210.00 |

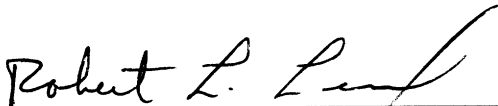
Basinger stated that staff recommended the contract be awarded to the low bidder Ivy Green Lawn Service, Inc. in the amount bid of \$8,337.50. Price asked if Ivy Green had done the landscaping on Highway 74 and was told that they did and had done a good job. Price made a motion to award the bid for Bermuda Sod and irrigation system at the Kedron Fire Station to Ivy Green for the amount bid of \$8,337.50. Brooks seconded the motion. Motion carried unanimously.

There being no further business to come before Council Mayor Lenox made a motion that the meeting be recessed to be reconvened in executive session to discuss a legal matter. Bradford seconded the motion. Motion carried unanimously.

**Executive Session**

No action was taken in executive session and Mayor Lenox made a motion that the meeting be adjourned at 8:15 p.m. Brooks seconded the motion. Motion carried unanimously.

  
Angie Stevens, Asst. City Clerk

  
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Mayor

Attest: