

City Council of Peachtree City
Minutes of Regular Meeting
May 19, 2005
7:00 p.m.

The City Council of Peachtree City met Thursday, May 19, 2005, in the City Hall Council Chambers. Mayor Brown called the meeting to order at 7:05 p.m. Other Council Members present were: Steve Rapson, Judi Rutherford, and Murray Weed. Stuart Kourajian arrived late.

Announcements, Awards, Special Recognition

Mayor Brown recognized the companies and volunteers that participated in Community Action Day on May 14.

Consent Agenda

- 1. Alcohol License – Change in Licensee and License Representative – Wal-Mart**
- 2. Consider Sanitary Sewer Easement for Line Creek**
- 3. Consider Easement Agreement with Fayette County for Weather Warning Siren (Braelinn Road)**
- 4. Consider Appointment of City Attorney**
- 5. Consider Library Commission Appointments**
- 6. Consider Disposal of Surplus Property**

Brown noted there were additional documents on the dais regarding Consent Agenda Item #3 – a letter from City Attorney Ted Meeker dated May 17, 2005, regarding the City Attorney appointment and a memo from the Assistant City Manager to Mayor and Council dated November 15, 2002, with the subject, "Appointment of City Attorney/City Solicitor."

Rutherford moved to approve the Consent Agenda. Rapson seconded.

Rapson asked if staff had confirmed the easement line with Southern Conservation Trust (SCT) (Consent Agenda Item #2) since they were responsible for the Line Creek conservation area. Developmental Services Director Clyde Stricklin said the easements were right on the edge of the property. He added that he had discussed the matter with SCT.

Rapson asked if the residents along Braelinn Road knew the weather-warning siren (Consent Agenda Item #3) was going in their area rather than at the Baseball/Soccer Complex on GA 74. City Manager Bernard McMullen told Council he did not know if Fayette County had notified the residents or not. Rapson said, in that case, they should pull Item #3.

Rapson noted that his mother-in-law was the Library Commission chairman (Consent Agenda #5).

Rutherford amended her motion to approve Consent Agenda #1, #2, #4, #5, and #6. Rapson seconded the amendment. The motion carried 4-0.

Rapson moved to table Consent Agenda #3 until staff could find out if Fayette County sent notification to residents. Rutherford seconded.

Weed asked if Council was saying they were not committed to putting the siren on Braelinn Road at all, or if they were just making sure the County notified the residents. Weed clarified that if Council's approval was contingent upon notifying the neighbors, then they could go ahead and approve the siren. Rapson said he was not in favor of putting the siren in that area if the neighbors did not like the location. He understood that the County felt the Braelinn Road location was better than GA 74 South. Rutherford, a resident of the Braelinn Road area, said she understood why Rapson wanted to notify the residents. She noted that the siren would be tested in February during National Severe Weather Week, and she would be glad to know whether the roaring noise was the train or tornado. In the end, Rutherford said it was good for the whole community.

McMullen asked which areas should be included in the notification. The siren could be heard for one and one-half miles. Rapson said the issue was aesthetics, not noise. Assistant City Manager Colin Halterman said the siren would be located in a greenbelt area and would be brown, similar to the warning siren located on Robinson Road. Halterman said the pole on Robinson Road could not be seen from the road. Rutherford clarified that Rapson's objection was to the pole, not the siren. Rapson said he wanted to know what the pole would look like before the City just put it somewhere. Brown suggested that something about the siren be placed in the newspapers to get comments. Rapson said he would approve the siren based on staff's recommendation that the location was not an issue. Weed said he felt better about that position.

Rapson rescinded his prior motion and moved to approve Consent Agenda #3 based on staff's review of the location and the look of the pole. Rutherford seconded. The motion carried 4-0. Meeker clarified that, pending staff's approval, the Mayor could sign the easement. Weed said yes.

Kourajian arrived at 7:40 p.m.

New Agenda Items

05-05-09 Consider Appointment of Solicitor Pro Hac

Public Information Officer/Deputy City Clerk Betsy Tyler addressed Council. She explained that a solicitor pro hac was needed in the event City Solicitor Marcia Moran took vacation or was ill. Keith Martin had agreed to provide the services for \$100 an hour for two court days, or approximately 16 hours. Tyler said there might also be a few hours of prep time. Tyler said Martin was very experienced and currently served as the solicitor for Tyrone and Fayetteville.

Rutherford asked if the City had advertised for the position. Tyler said they had not advertised for the position due to the short duration. Rutherford said that, potentially, if something were to happen to the City Solicitor, there was no pro hac. She had no problem with approving the appointment for June only. If there was a need for a back-up

long term, she would prefer the position be advertised. Tyler said Council could approve the position for up to three or four times in event something else happened. She agreed that anything repetitive or long-term should go out for bid.

Rapson suggested they approve the appointment through July and advertise for a solicitor pro hac. Council could include the position with other appointments at the end of the year.

Rutherford moved to approve the appointment of the solicitor pro hac through July 2005 and, in the interim, to advertise the position. Rapson seconded. The motion carried unanimously.

05-05-10 Consider Change in Planning Assistant Position from Part-time to Full-time

Stricklin requested Council increase the current planning assistant's position from part-time to full-time. Since the approval of the original request, the Department of Community Affairs (DCA) had changed the deadline for submittal of the Comprehensive Plan from February 2007 to October 2006. The citizens advisory committee had also grown from 12 members to 30 members. The original request had been for two years, five months of time for \$43,500. Stricklin proposed that the change in the position start now rather than in October for an increase of \$6,000 this fiscal year. The budget for the position would increase from \$18,000 to \$40,000 next fiscal year. Stricklin said the increase looked like it would be \$20,000, but that was not the full picture. He said the actual increase over the \$43,000 originally requested to fund the position through February 2007 was \$9,000. Stricklin said they could double the amount of time worked for about \$20 an hour, which was a reasonable expense. The person had been trained, knew the system, and was a cost effective way to get the job done. Stricklin said this was not something he wanted to do, but he felt it needed to be done to get the job done in the cost-efficient manner.

Rutherford moved to approve changing the planning assistant position from part-time for two years and five months, to temporary full-time through October 2006. Kourajian seconded.

McMullen said the position should be approved through September 30, 2006.

Weed said approval of the agenda item would be fiscally irresponsible since they had not looked at hiring an outside consultant. He continued that, not more than four months ago, the Planning staff had assured Council that two and one-half people could handle the workload with the annexation study. Now the department was abandoning the budget to do something different. Weed said the request was totally reactionary and was a perceived crisis. He continued that this was exactly the concern he had expressed during the annexation application. If approved, there would be three full-time planners for the City, which was an incredible number of people for a City this size.

Rapson asked what the funding source was. Financial Services Director Paul Salvatore said the money would come from salary savings, or if not, there was ample money in the general administration contingency account. Rapson asked if there was full support from the City Manager. McMullen said he supported the request.

Rapson said he understood the need associated with filing for the Qualified Local Government status. His concern was that once the position became full-time, it would be hard to take the position out. He asked what would prevent the person holding the job from leaving the position early. Rapson said the argument would be more persuasive if they needed an extra person to handle re-development issues, or other issues the City was handling as buildout approached. Rapson continued that he supported the funding through the end of the budget cycle and through the first quarter of the next fiscal year. Rapson said, based on his experience, that it was more expensive to outsource such positions. He suggested that the person could be utilized in other areas. He said Council could look at the position in October, then decide whether to fund it through the end of the next budget year.

Weed said a consultant, not an employee, was hired when there was a definite termination point. Rapson said the work could be done by an employee for \$40,000, rather than spending \$65,000-\$70,000 for a consultant. Weed said they did not know that because the work had not gone out for bid. Rutherford pointed out that some people were willing to take such a position for the experience, and the person could work on a project they enjoyed. She felt hiring a consultant might also be fiscally irresponsible when someone on staff with experience could do the job. Weed said Rutherford's logic was false since no effort had been made to determine if a consultant would be less expensive. Rutherford said Council had discussed the issue during the budget cycle. Weed said they should try to find out if a consultant would be cheaper. If not, then the person should be hired full-time.

Kourajian said the temporary position was really a consulting position. It might not have gone out for bid, but it was a fixed price contract. He asked if the position was contract or at will. McMullen said the nature of temporary employment was that it was at will. The request was to fund the position through September 30 of this fiscal year. They would bring the position forward to fund it through FY 2006.

Kourajian asked if the employee would be let go if the position were not needed in March 2006. Meeker said all Council was doing was creating and funding a position as a temporary position. A temporary employee could be let go at any time. Weed said the City would have to provide benefits and they would not have to do that for a consultant. McMullen said a consultant would pay for their own benefits out of their rate. McMullen said, even if the position were approved in next year's budget, the longest the person would work for the City would be through September 2006. They would not be spending the money for retirement that was spent on a normal employee. Kourajian said that was a good point, but noted that a consultant would have a fixed contract and they would have to keep the consultant the entire time.

Rapson proposed a compromise that they take the incremental difference and offer the employee a contract to give him incentive to stay through the end of September 2006. McMullen said the position could be done as a contract employee. Rapson said it would depend on how important health insurance and other benefits were to the employee, but the City could make it palatable for the person to stay through September 2006. Weed said he was willing to do that as long as Council knew the actual figures. Rutherford said health insurance would cost more for an independent contractor, anywhere from \$500-\$900 a month. She noted that one of the reasons consultants made so much was because of the expenses. The City would require them to carry liability insurance. She said it was not realistic to hire the person as a contractor for the same amount he was paid now.

Kourajian asked if this matter was coming up because the employee wanted health insurance. McMullen said no. He continued that, after Council Retreat, he and Stricklin had discussed everything that had to be done in order to ensure the Comprehensive Plan was completed. About the same time, they received notification that the plan was due October 1, 2006, rather than February 28, 2007. Staff now had five months less time to complete a monumental task. Someone was already working for the City that was doing a good job. McMullen said it had been his recommendation to hire that planning assistant full-time and he had been agreeable. Brown reiterated that they had to have someone to help meet the DCA deadline.

Weed said the position would not be needed if the City had not taken on the annexation study. Rutherford asked if the employee would work on the annexation study. Stricklin said the employee would not work on the annexation. Weed asked Stricklin how he would accomplish the annexation process. Stricklin said he did not know. They would deal with that issue when it was time. Stricklin noted that Council had asked John Wieland to provide \$20,000 for additional staffing to work on the annexation. Stricklin said when he needed that additional staff he would come to Council. Weed said Council had not asked for additional staff, but funds to cover the costs of the work.

Rapson asked if Council could go back and request the part-time planner be a contract employee, then pay the employee an additional \$5,000 for this year and \$15,000 over next year. He said that would be less expensive than making the person a full-time employee. Rutherford said she was not looking at three full-time planners, but someone to help with a very large project for a short period of time. Rapson said the solution was to make a contract offer to the employee, paying more than he was making today, with a known termination date. Rutherford noted Council had discussed sharing information and consultants with Fayette County and pulling out the City's piece of it, but the person working on the City's Comprehensive Plan should be focusing on the City and not what other things their company was doing at the same time.

Brown asked McMullen how he felt about looking at a consultant and bringing the information to the next meeting. McMullen said, in his experience, consultants took the amount paid to the City employee and marked it up by a 2 or 2.5 ratio to cover their costs. McMullen said his concern was the time. It would take two to three months to put

an RFP together and get it approved. They would also need someone familiar with the area, or who had worked with other jurisdictions. It would take time to bring the consultant up to speed.

Kourajian asked how many hours a week the part-time employee worked currently. McMullen said he worked 20 hours a week. Weed named three planners and said there were a lot of credible planning people in the metro area.

Rapson asked Rutherford to amend her motion to add the stipulation that staff speaks to the individual to see if he was willing to accept a contract with the \$5,000 for this year and \$15,000 next year, which would be cheaper. Rapson said the person would not be paid any more as a full-time employee, but the person would not have benefits. As a contractor, the money would be in the paycheck. Rutherford did not accept the amendment.

Rutherford restated her motion to extend the position to temporary full-time to September 2006. Rapson said he had abstained. Meeker asked the reason for abstention. Rapson said he did not have a reason. Meeker said an abstention for no reason, or without a conflict, counted in favor of the motion. The motion failed 2 (Rapson, Rutherford)-3 (Brown, Kourajian, Weed).

Kourajian said he preferred to wait until the next meeting to make a decision rather than throwing out another motion. Weed said he would provide a list of planning consultants the next day to call. Rutherford said she would not support that without advertising.

Rapson moved to increase the position's hours from 20 hours to 40 hours through the end of the calendar year at the current rate. Kourajian said that was a good idea, but he was not ready to vote. Rapson withdrew his motion.

Weed said he wanted to talk to the employee about a contract and to talk to some consultants. If a third planner was needed, then staff should convince Council during the budget process.

Brown moved to bring the matter up on the next agenda. Kourajian seconded. The motion carried unanimously.

05-05-11 Discuss Term Limitations for Commissions and Authorities

Brown said the City turned down a lot of very qualified people for available positions. He wanted to get feedback.

Rutherford moved to move "05-05-12 Public Hearing – Consider Rezoning – Ergle Tract, GA 74/Wisdom Road – AR to LUC" to be the next item on the agenda. Rapson seconded. The motion carried unanimously.

05-05-12 Public Hearing – Consider Rezoning – Ergle Tract, GA 74/Wisdom Road – AR to LUC

Brown noted there was an additional document on the dais – one page of photos entitled “Ergle Tract (GA74 N & Wisdom Rd.).”

Jerry Peterson represented the owners, Virgil Ergle and Annette Ergle, and applicants, Level 5, the development management team. Peterson requested that the 4.03-acre parcel located at the intersection of GA 74 and Wisdom Road be rezoned from AR Agricultural Reserve to LUC Limited Use Commercial. The plan was to build two multi-tenant office buildings connected by an enclosed atrium. The Delta Employees Credit Union (DECU) would occupy the lower floor of one building. Peterson introduced Joe Kassler of Level 5, who represented the DECU management team who were not able to attend the meeting.

Kassler told Council that the DECU had an office in Braelinn Village for two years. The DECU was a member of the Chamber of Commerce and was the largest credit union in the state with 178,000 members worldwide. Fayette County was home to 5,800 members and half of those members lived in the City. The facility would allow DECU to better serve its growing membership. The DECU would own the buildings, which would be an addition to commercial class A office space. Other projects were proposed in Fayetteville, Mt. Zion Road area, and Eagle’s Landing. Rutherford asked if the Braelinn Village office would close. Kassler said it would remain open.

Peterson said the proposed rezoning was consistent with the Land Use Plan, which was commercial, as well as what was going on along GA 74. He noted that the parcel was surrounded on the north side by another LUC tract, Dalton Carpets and a building under construction. Fairfield subdivision, zoned GR-12, was to the east. The Shell station and the Wisdom Pointe retail center were located across Wisdom Road to the south. The four-lane highway and railroad tracks were located to the west.

Peterson continued that DECU was buying the entire site, so the City would not be dealing with three or four little owners, but one quality development. The plan included the credit union, office space, and limited retail for businesses such as a coffee shop or copy center to serve the development. The proposed plan had 37,600 square feet, with one two-story building and one three-story building connected by an enclosed atrium. Peterson pointed out that the building under construction in Wisdom Pointe was three stories. Other three-story buildings in the area included the Brookside building (60,000 square feet) and the old Siemens building (100,000 square feet). Peterson said the scale of the building would be appropriate for the site.

Peterson pointed to a proposed site plan. He noted there was a 40-foot setback from GA 74, a 25-foot setback from Wisdom Road, and a 75-foot building setback from the residential neighborhood. Although the site was four acres, the area where the building could go was limited. The building had been pushed up as far as possible to GA 74 to get as far away as possible from the residential. Peterson added that it would also present the

right image for GA 74, rather than having the parking all around. He said the use would be good for the site and would put away worries about another gas station or strip center. The internal drive would extend down to Wisdom Road. There would be five drive-in tellers and two ATMs. The headlights would not point toward the residential. There would be four parking areas broken up by landscaping. Detention would be underground. Peterson said they agreed with all of the conditions from staff and the Planning Commission.

Fairfield residents who spoke regarding the proposed rezoning included Rick Walton, Ruth Cooper, and Iris Wong, who lived with her sister, Wendy Wong, and also gave a letter to Council listing her sister's concerns.

Their concerns included:

- A need for more information on what was going in their backyards;
- Security concerns due to the money kept at the credit union;
- Noise and light pollution;
- More information on buffers and lighting; and,
- Traffic flow in parking lot area close to residential.

Stricklin addressed Council and noted that the first step was for Council to approve the rezoning. The next step would be the concept approval. The Planning Commission would have a hearing so the residents could hear specifics about the site plan. The Planning Commission would also approve the final concept plan and the landscape plan. Stricklin pointed out that the building location was restricted due to the setbacks. Limited Use Commercial required a minimum rear building setback of 75 feet. The schematic plan showed that the building would be at least 110 feet from the property line. The site plan met, or exceeded, the building setback requirements for LUC districts.

Stricklin pointed out there were 14 conditions. He read condition #6, which addressed lighting, and limited parking lot lighting to 250-watt metal halide fixtures with a maximum pole height of 30 feet. The illumination level was not to exceed three foot-candles, except at the ATMs. Condition #8 addressed the area between the parking lot and the subdivision. Additional landscaping was required in the buffer area. Stricklin said the applicant showed a 10-foot area of landscaping, and that staff would prefer a 20-foot area. Stricklin said he had discussed the change with the applicant, who indicated they would discuss the change this evening. He said staff felt there was merit to rezoning both parcels LUC. The classification would be consistent with the zoning to the north and would provide a reasonable transition between the commercial developments to the south. He added that a three-story building was under construction in that development. Stricklin referred to attachment "F," the ordinance proposal, and suggested that Section (h) Landscape concept be changed to include the proposed 20-foot landscaped area.

Stricklin referred to the traffic study supplied by the applicant, that indicated a signal was needed at the GA 74/Wisdom Road intersection. The warrants for a signal had been met.

Brown said he would like for the parking lot lighting to be measured, and the limit set on the adjacent properties rather than on the tract. Stricklin said they could require a light analysis with measurements taken every 10 feet. Brown said he wanted a specific reading taken on the adjacent residential properties.

Weed noted there was a huge oak tree on the parcel that looked like it might have to be taken down. Peterson said they had spent a lot of time on the tree and a tree botanist had looked at the tree. The tree was fairly healthy, but it was old. The drip line was about three-quarters of an acre. The expert said any disturbance close to the drip line would endanger the tree. Peterson said they had to remove the existing house and shed, which would endanger the tree. The tree would sit right in front of the building. Weed said the tree would not impact the zoning, but it was an issue that would be there. People would be upset if anything happened to the tree. Rapson said it was more acceptable if the tree died due to the site work rather than from a chainsaw. Peterson added that sometimes it took a few years to know if the tree would survive.

Weed clarified that the drawing they were looking at was Exhibit A and that Council was not by any action accepting the proposed site plan. Weed said he would prefer the rear portion of the tract, which was originally two parcels, be zoned OI Office Institutional. Weed said the OI zoning protected the residents and allowed the applicant to accomplish their goals. He continued that the entire area was either LUC or OI. He felt OI on the rear portion would be a better blend into the residential. Council had been consistent about step-down zoning. Peterson said he was not sure what that would accomplish.

Kourajian clarified that Weed's suggestion would maintain the precedents Council had established. He said splitting the zoning on the parcel could help Council in the future. Peterson said that, under LUC zoning, Council could condition the back portion to OI uses. Rapson said Council's ability to impact future zoning terminated when the zoning was changed. Peterson asked if they could have the drive-in tellers in OI. Weed said they would find out. Kourajian suggested moving the drive-in tellers into the LUC portion. Peterson said that the rear portion of the parcel could be restricted to OI uses under LUC zoning. He pointed out that OI zoning setback requirements were less than LUC requirements. Weed said that could be dealt with in the site plan review. Meeker said Council would have to establish the setbacks now if they wanted them to be stricter than the OI requirements. Peterson pointed out that the setback and buffer areas in their plan were already quite a bit more than required and were more than what was in place on the Dalton Carpets tract. They wanted to be a good neighbor and recognized they had residential neighbors.

Rutherford said she was concerned about the buffers, especially since there was little vegetation in them. Stricklin said that, conceptually, Council could do that, especially with LUC zoning. If Council was concerned about future uses, then there would be more buffer control with LUC. The track record with LUC zoning was also better. Weed asked about OI zoning in the back to be consistent with step-down zoning. Brown said they could create OI zoning within the LUC. Brown noted that LUC zonings were

recorded as ordinances and the ordinance would specifically list the uses. He said it was feasible both ways. Meeker said the property could be zoned OI with conditions. Stricklin pointed out that the LUC with OI uses there would be one zoning, one set of documents, and one set of conditions. The portion was less than an acre.

Stricklin said the proposed rezoning would comply with step-down zoning theory. Applying the theory on a small case-by-case basis was really not consistent with the overall concept. Council could do it that way, but they would accomplish the same thing with the LUC zoning. It was more convenient to have one zoning on one parcel and there was no question what could be done with the property if it was sold.

Rutherford pointed out that the purpose of LUC was to limit the use. Peterson agreed with Stricklin. Peterson said the City really had not done step-down along GA 74, but categories. He pointed out examples on the map. Weed said the "we" was important. Past Councils might have done that, but this Council had not.

Brown said they should take a more in-depth look at appearance, not just consistency of materials, in LUC. Stricklin said that was looked at during the plan approval process. Weed said that the City was ripe for an architectural design ordinance, which was part of Stricklin's mission.

Rapson commented that nothing Council did, except for setting the millage rate, was more important than rezoning. The Planning Commission would handle the conceptual site plan. Council's control ended the moment the lot was rezoned. Meeker said that was correct, unless there was an appeal if the conceptual site plan was denied. Rapson, who voted against the rezoning on the Dalton Carpet parcel, said it was important to set the standard in the corridor to be LUC with step-down to OI. It would make a difference as the corridor was built.

Rapson continued that he was concerned with the height of the buildings and how they looked from Fairfield. The residents would be able to see the buildings. The Planning Commission made decisions on enhanced buffering and landscaping. He would rather see the buffer extended to the east and the ATMs pulled back. Rapson said he did feel the proposed use was good for the property, but he was not prepared to relinquish zoning until he had some answers.

Peterson said there was a 75-foot building setback along the back portion, so there would be no buildings in that area no matter what the zoning was. Rapson agreed, but said the cars would come in along the crest. He suggested pulling the entrance to the west and increasing the buffering. Peterson said the Planning Commission was trying to reduce impervious surface. The plan was already at the minimum number of parking spaces. Peterson said they were open to looking at the landscaping. Rapson said the subdivision appeared to be higher than the parcel and asked Peterson if they would consider a berm. Peterson said if a berm worked they would consider it. He said he would rather save any trees.

Rutherford said there should be enough buffering so the residents could not see people using the ATM. She did not want the residents to feel like they were in the middle of a commercial area. Peterson said they could use a combination of fencing, berms, and trees. Rutherford said she preferred the buffer be green.

Rapson asked about the cart path connections. Peterson said the path was not on the map, but was a condition. The path currently ended at the Fairfield entrance. Stricklin said condition #13 referred to the cart path. Stricklin read from condition #8, and said they could add a fence to the condition.

Brown said to add language to condition #6 so the light must be measured off the property.

Walton asked if the public would have the opportunity to speak when the Planning Commission reviewed the site plan. Stricklin said yes.

Rapson referred to condition #3 and said that it was confusing as written. The condition could be interpreted to read that one building should exceed 37,600 square feet, rather than the maximum for both buildings. Stricklin said the numbers were on the plan and that the larger building was 21,000 square feet. Rapson said he wanted the condition to read, "the total square footage for all buildings will not exceed 37,600 square feet and the maximum for an individual building will not exceed 21,000 square feet."

Peterson said that, for building inspection purposes, the project would be considered as one building since they connected by an enclosed atrium. Rutherford said she could not support Rapson's proposed change. Rapson asked which building would be three stories. Peterson said the northern building would be three stories and approximately 58-60 feet tall. Rapson said they should clarify that the northern building would be three stories and the southern building would be two stories. Peterson showed the buildings on the map and noted the atrium was three stories.

The public hearing closed.

Brown said the proposed use was good for the property. He reiterated that they needed to include measuring the light off the property in condition #8. Brown said he would like to lock up the architecture and materials more. He wanted to ensure what was built fit in with the other developments. He would like to see a pattern book, similar to what had been done with the Lexington commercial area. Rapson asked Brown if he was talking about a design overlay. Brown said they should condition the buffer to include trees and fencing. Rutherford said she did not want to see a straight stockade fence. Brown said they should ensure some understory plantings in front of the fence, on both sides, and overstory trees to help with the view of the building from Fairfield. Rutherford said those items would be covered during the Planning Commission's landscape plan review, but anything Council wanted would not have to be considered at that time. Brown said if there was a 20-foot area with no trees he would rather mandate that a berm go in.

Kourajian said they might need both. Brown said there could be 11 feet, with a five-foot berm and a six-foot fence, then there would be overstory trees staggered on either side of the fence. The understory would block the view of the fence.

Rapson looked at condition #14, the allowed uses. He wanted to narrow and define "restaurants and any business involving the sale of food or beverages on the premises." Rapson discussed the allowed uses, which he said were too generic. He said the uses should be narrowed as much as possible. Brown noted that the uses were listed in the proposed ordinance for the LUC. Weed said they did not want to have another Hangar 74. Brown agreed and said they should condition that there be no 24-hour operation on the site other than the ATMs. Kourajian said the site could become overflow parking for the Wisdom Pointe area. Weed agreed.

Rapson asked Peterson about restaurant uses. Peterson said restaurants were a permitted use, but they planned to have a restaurant that would primarily serve the building's needs, not a bar. He noted that the ordinance said the restaurant should serve the needs of the building. Weed said that was reasonable, but asked what reasonable meant.

Rutherford suggested Council table the rezoning. She said the applicant and staff knew Council's concerns and they should sit down to work on the request, and then come back to Council. Kourajian agreed. He added that Council had thrown out a lot of little ideas that needed to be pulled together. Weed said he was not beyond the OI issue. Rapson said the OI was a deal breaker and was doable.

Rutherford moved to table the rezoning to June 2. Kourajian seconded.

Peterson said he could deal with the OI issue, but it would complicate things. He was not sure if ATMs and drive-in windows were allowed in OI. The restaurant would not be a 24-hour operation and they could finalize that now. He was bothered by the architectural overlay. This was one custom building. An overlay was used for multiple buildings to ensure the buildings tied together. Weed said they had not seen a rendering of the building and had no idea how it would look. Brown said the visual appearance of the corridor was paramount. There were good things, but also some deterioration. Peterson said this building would be better looking than any of the others, but did not want to be tied to the look of the gas station or carpet store.

The motion carried unanimously.

05-05-12 Discuss Term Limitations for Commissions and Authorities

Brown reiterated this agenda item was for discussion only. He pointed out that Council had term limits. A lot of qualified people were turned down for the positions. His philosophy was that if it could not be done in two terms, then perhaps it should not be done. Kourajian agreed to consider it since they were turning away good people to keep someone in a position. He continued that he felt the commissions and authorities were there to help guide, lead, make decisions, and develop a vision, not a specific task.

Brown agreed, but said the inverse was true. People became stagnant and lost their innovation. Kourajian said Council was remiss if they were turning away qualified people just to keep people in a position because they have been there.

Weed said they should call this what it was. The fear was that long-term appointees created powerful fiefdoms and retained control, and began to ignore the wishes of Council. Rutherford said every Council had the opportunity to change that. People had served on boards for 20 years, which was a bad decision made by a lot of Councils. She said she would rather limit the length of the terms so the terms would roll over faster. Rapson agreed and said if there was a fiefdom, then Council let it happen. The length of terms varied from three to five years.

Weed said the point of the appointment process was to take the politics out, but it also took the accountability out. Elected officials were accountable to the voters. He said he would talk about shorter terms, which also meant more community voices would be involved in the governing process other than the elected officials.

Rapson and Rutherford both said terms should be three years. Rutherford said she had always been concerned about the length of the terms, even when she served on the Library Commission. Three years were sufficient. If the person was doing a good job, then Council would put them back in the position. They did not need to limit the number of terms, but the length of terms.

Meeker pointed out that the Water and Sewerage Authority, the Airport Authority, and the Development Authority had been created by local acts of the legislature. The state law limited Development Authority terms to four years. Halterman said the WASA terms were five years. Meeker said WASA's terms were set by the enabling legislation and any change must be made by the General Assembly. Rutherford said she was not opposed to asking for a change in the legislation. Weed said they should also look at the Tourism Association. He noted that McMullen was a member as long as he was the city manager. The Recreation Commission chairman was also a designated member. Weed said there might be nuances to tweak.

Rapson said three or four years would be a good length. Weed said multiple Councils would have the opportunity to review appointments if the terms were limited to three years. Staff was directed to look into the matter.

Council/Staff Topics

Brown noted that a resident stated the home values were plummeting in Planterra Ridge during the May 3 meeting. Brown asked Karen Demsky, the Planterra Ridge Homeowners Association president and a realtor, to provide some information. Brown pointed out that compared to Fayette County and the rest of the City, the home sales in Planterra Ridge outperformed the others in all areas. (A copy of the information is included in the meeting file.)

McMullen noted that Council had received a letter from Virginia Gibbs, the president of the Fayette County Chamber of Commerce, concerning the Chamber's support for the TDK project. Rapson had suggested Council send a response. McMullen said he e-mailed the response and had received no changes. Rapson said he had some changes and suggested that the "we" used in the last two sentences of the middle paragraph be changed to "they," since the sentences referred to the Airport Authority. Rapson also wanted to add the following sentence at the end, "Finally, there is nothing, I repeat nothing, that the City can be doing, is not doing, nor will not do, in regards to expediting this project." Weed said he would not sign the letter if it said there was nothing the City would not do to support the project. Weed was not willing to spend more money. Rapson suggested adding, "There is nothing the City is doing that we have not done." Council directed Tyler to make the corrections and bring the letter back for signature.

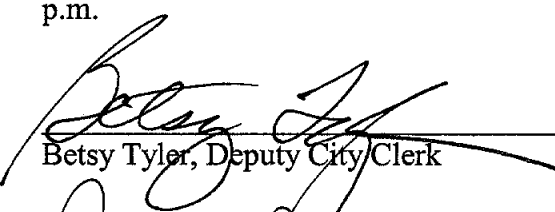
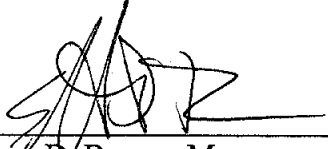
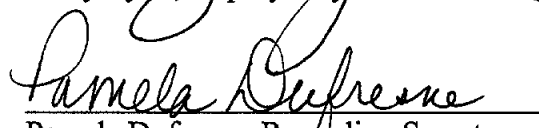
Rutherford moved to convene in executive session to discuss pending litigation and personnel. Rapson seconded. The motion carried unanimously.

Rutherford moved to reconvene in regular session. Rapson seconded. The motion carried unanimously.

Rutherford moved to authorize the City Attorney to file the appropriate legal action, if necessary, regarding the matter discussed in executive session. Kourajian seconded. The motion carried unanimously.

Weed moved to waive any potential conflicts regarding one law firm, Mullins, Whalen and Westbury, representing the City and the other defendants in the Jennifer Geddie case, and to authorize the Mayor to sign the conflict waiver form as requested by James Westbury. Rutherford seconded. The motion carried unanimously.

There being no further business to discuss, Brown moved to adjourn the meeting. Rapson seconded. The motion carried unanimously. The meeting adjourned at 10:15 p.m.


Betsy Tyler, Deputy City Clerk
Stephen D. Brown, Mayor
Pamela Dufresne, Recording Secretary