City Council of Peachtree City
Minutes of Regular Meeting
May 5, 2005
7:00 p.m.

The City Council of Peachtree City met Thursday, May 5, 2005, in the City Hall Council Chambers. Mayor Brown called the meeting to order at 7:08 p.m. Present were: Steve Rapson, Judi Rutherford, and Murray Weed. Stuart Kourajian arrived at 7:55 p.m. due to a late flight.

Announcements, Awards, Special Recognition

Brown recognized Sonia Volz for her efforts to help single parents and parents who work out of the City in regards to recreation programs for children. Paul Massey was recognized for his efforts to protect the City's scenic views. Proclamations were read for Older Americans Month and Building Safety Week. The Line Creek Association and several McIntosh High School students were recognized for their work with the Adopt-A-Stream program. Dennis Chase of the Line Creek Association gave a short presentation on the program. The Starr's Mill High School Debate Team was recognized for its participation in the National Forensic League's national tournament. The Booth Middle School Science Olympiad was recognized for winning the state competition.

Brown noted that there was an e-mail from Council Member Kourajian on the dais. He continued that Kourajian asked for New Agenda Items 05-05-01 and 05-05-02 to be held until he arrived. Rutherford said Kourajian was on his way.

Minutes

Rutherford moved to approve the April 21, 2005, regular meeting minutes as amended. Rapson seconded. The motion carried 4-0.

Monthly Reports

Brown announced that the annual Touch-a-Truck event for children was scheduled on May 7. A Wellness Fair was scheduled in conjunction with Touch-a-Truck. The Second Annual Community Action Day was slated for May 14. Spring Clean-up at the Recycling Center would be held May 14-15. The Top Five Accident Sites for April and March were GA 54/74, GA 54/Peachtree Parkway, GA 54/Huddleston Drive, GA 74/Clover Reach, and GA 54/Planterra Way. Rutherford noted that the Police and Fire Departments had been making more calls than last year, but their response times had gone down.

Consent Agenda

1. **Appoint Members to Comprehensive Plan Committee**
2. **Consider DOT LARP Contract**
3. **Consider Donation of Surplus Fire Department Equipment**

Brown noted there was an additional document on the dais for Consent Agenda item #3 – a memo from the City Planner to Mayor and Council dated May 5, 2005, with the subject "Appointments to Comprehensive Plan Advisory Board."

Rutherford moved to approve the Consent Agenda. Rapson seconded.

Rutherford asked City Attorney Ted Meeker if he had read the LARP contract. Meeker said he had.

Weed asked Meeker to ensure that the receiving City Councils accepted the donation of the fire equipment. Weed noted that the fire chiefs could not bind the Councils. Meeker agreed that a formal acceptance of the donations would be needed from elected officials. Brown explained the donation program.

The motion carried 4-0.

Rapson pointed out the members of the Comprehensive Plan Committee included 27 members from different areas of the City. The first meeting would be held within three weeks. Brown said all groups, political parties, and areas of the City were included. The Comprehensive Plan update was to be completed in 2007.

<u>New Agenda Items</u>

05-05-01 Public Hearing – Consider Change in Land Use Plan – CS to COM

05-05-02 Public Hearing – Consider Rezoning – Christ Our Shepherd Lutheran Church – OI to LUC

Brown moved to postpone agenda items "05-05-01 Public Hearing – Consider Change in Land Use Plan – CS to COM" and "05-05-02 Public Hearing – Consider Rezoning – Christ Our Shepherd Lutheran Church – OI to LUC" until Council Member Kourajian arrived. Rapson seconded. The motion carried 4-0.

05-05-03 Consider Extension of Moratorium on Sign Ordinance

Meeker told Council his cover memo was self-explanatory. Staff had finished its review and proposed changes had been sent to the Planning Commission. Meeker continued that he had hoped the changes would be on the Planning Commission's May 9 agenda, but it could be on the May 23 agenda due to the City's computer problems this week.

Rutherford moved to extend the moratorium on the sign ordinance. Weed seconded. The motion carried 4-0.

05-05-04 Consider Extension of Moratorium on General Commercial (GC) Zoning Ordinance (Big Box)

Meeker reported that there had been problems meeting with the consultant. Meeker said he and City Manager Bernard McMullen met with the consultant on Monday, May 2. The changes should be ready to present to Council within 45 days.

Rutherford moved to extend the moratorium on the General Commercial Zoning Ordinance (Big Box). Rapson seconded.

Rapson pointed out that the moratorium only applied to buildings in excess of 32,000 square feet and was not a blanket moratorium. Meeker said it was the same moratorium adopted previously and was very limited in scope.

The motion carried 4-0.

05-05-05 Update on Status of Stormwater Utility Formation

Brown noted there was an additional document on the dais – a PowerPoint presentation entitled "Peachtree City Stormwater Utility Setup Update, May 5, 2005." Brown added that the state and federal governments had many requirements regarding the quantity and quality of water going back into the streams. He added that a stormwater utility would be the best way to make the needed improvements.

City Engineer Dave Borkowski and Ron Feldner of Integrated Science & Engineering (ISE), the City's stormwater consultant, addressed Council. (A copy of the PowerPoint presentation is included in the official meeting file.)

Feldner said that the City was in Step Four of the Stormwater Utility Setup's Flow Chart. One of the elements was to continue the public education program. Feldner continued that they were doing everything possible to raise awareness regarding stormwater issues. Feldner showed a detailed schedule, which slated the proposed stormwater utility bill issuance in February 2006. Details included operation and maintenance of the actual system, capital improvement projects that must be undertaken, and regulatory compliance issues.

Borkowski noted that the personnel details were still being worked out. He continued that City employees were currently serving in some of the functions, so he cautioned Council not to write the personnel numbers in stone. Feldner said the new state and federal regulatory requirements required additional staff both in the field and in the office. The summary of the cost of service from FY 2006-FY 2010 included Enterprise Fund Admin, \$130,000-\$145,000; Personnel, \$85,000-\$223,000; Water Quality Monitoring, \$30,000-\$35,000; Operations & Maintenance, \$280,500-\$480,000; Capital Projects (debt service), \$200,000-\$300,000; and Equipment, (\$500,000 loan). The estimated cost was \$1 million-\$1.275 million. The current stormwater program cost was \$500,000-\$550,000 annually.

In addition to continuing the public education program, the Step 4 tasks included updating impervious area data, creating the utility/rate ordinances, developing a credit manual, creating master account files, linking master account files to the billing system, setting up the customer service program, and issuing stormwater utility bills. Feldner concentrated on the update of the impervious area data. He explained that impervious areas were those where water could not readily infiltrate, such as parking lots and rooftops. He noted that recent color aerial photography would help with the data collection and could be used for other purposes by the City.

Feldner continued that they were also looking at the projected billing units as part of the study of the impervious area data. The customer classes were residential and non-residential. The City accounts included roads and cartpaths. The total number of units was 27,428. The estimate of the billing units from the feasibility study had been 25,500 billing units, so the revenue projections were in line. Feldner referred to the FY 2008 rate model summary and noted that the program cost per year should be $1.117 million. The revenue adjustments included a fund balance carryover ($246,839), delinquencies at 10% (-$135,000), and credits at 5% (-$67,500). The adjusted total revenue should be $1.072 million. The total number of billing units in FY 2008 should be 28,350, with a monthly charge of $3.95 per billing unit. The charge would be the flat rate charge for a residential customer. Non-residential units would pay $3.95 for every 4,100 square feet of impervious area in their parking lot and rooftop areas.

Feldner said they were working on credits for customers who reduced the burden on the storm drainage system. The credits would be finalized over the next several months. They were working with the City Attorney on establishing utility and rate ordinances, which would also finalize the billing mechanism and frequency. He said they were considering an outsourced billing and collection system, which was common in Georgia. The estimated cost was $75,000-$100,000 annually, which would fall under the administrative category. They were also working to finalize the cost of service, the rate structure, and to develop the credit manual and policies.

Feldner said they would establish master account files (MAF), which included calculating individual customer billing amounts and creating the accounts/bills. They would work with City staff on customer service training and developing the future customer service base management system so the City could continue to update and manage the database for the utility.

Brown recalled that the City had a list of projects that needed to be rebuilt or worked on, and asked Feldner how much those projects would cost. Feldner said that the estimate had been $9 million at the 2004 Retreat. Council tasked them to do a more thorough assessment of the 45 projects. The projects were re-evaluated and the cost was down to $5 million -$6 million. Approximately $2 million-$3 million were high priority projects that impacted public health and safety. Failure of the projects could lead to road failure or downstream flooding. Second tier projects were about another $3 million. Brown said those projects could take some time with revenues projected at approximately $1 million annually. Feldner explained that was why they were looking at GEFA bonds or loans to address the high priority projects, then retire the debt over 10-20 years. About $550,000 was spent out of the City's general fund annually to address stormwater problems. The City's share of the utility's annual cost should be approximately $400,000. Borkowski said the list of projects was growing everyday. No action was required.

Council Member Kourajian arrived.

05-05-01 Public Hearing – Consider Change in Land Use Plan – CS to COM
05-05-02 Public Hearing – Consider Rezoning – Christ Our Shepherd Lutheran Church – OI to LUC

Brown asked if there were any objections to combining the two agenda items. No one objected. Weed asked the attorney for Christ Our Shepherd if he had any objections to combining the public hearings. He did not.

Ted Thomas spoke for Christ Our Shepherd Lutheran Church. Thomas, a former planning commissioner, noted there had been many changes to the zoning ordinances and Land Use Plan over the years. A lot had changed since the church requested the property be rezoned from AR Agricultural Reserve to OI Office Institutional in 1981. The biggest change Council face today was re-development. Thomas said they hoped to present a win-win situation. He said they had appreciated working with staff, but had been surprised and disappointed by the negative recommendation. The staff report had required the church to seek outside information, and they had asked for a delay in the public hearing before Planning Commission. He introduced John Weber, the church's pastor, who gave a brief history of the church.

Weber said the church had 1,800 members and was located on three acres of land. The lack of space severely restricted the church's ministries. There were two services on Sunday. Parking had always been a serious issue and over 100 cars had to park across the street, which was not a problem on Sundays, but was a problem during the week or for special services such as funerals. He said the church was unable to host the Community Good Friday service due to the parking issues on business days. Their top priority was to secure land for a move. They needed a family life center, room for their adult and youth education ministries, and a safe outside area for children and youth. Their present space was maxed out.

Brown noted that he had been handed an additional document – a copy of a PowerPoint presentation entitled "Christ Our Shepherd – Yesterday, Today & Tomorrow."

Thomas continued that the members had explored many avenues, including starting another church, starting a satellite operation, and expanding on the site. Those solutions were either unworkable, undesirable, or cost prohibitive, and none met their needs for growth. The best way to facilitate relocation was to pursue a LUC Limited Use Commercial zoning. They had worked with the developer to come up with development restrictions. A rezoning to LUC gave an avenue to enhance the beauty of the property and provide buffers and landscaping. They met with neighbors and staff to develop a site plan that enhanced the project and improved the public safety of the community. A denial of the request would not keep things as they were. The church would relocate, just later rather than sooner. The members were frustrated that some believed the rezoning request was about money. The money would not be a windfall. Office Institutional zoning was not attainable due to the acreage requirement. They could get a variance on the acreage, but OI was not economically feasible. The Land Use Plan prohibited much of the OI potential. The land use designation of CS Community Service only permitted government buildings, churches, and schools. Thomas said the church's attorney would address the OI potential question and the restrictive nature of the Land Use Plan.

Newton Galloway, the church's legal counsel, addressed Council. Galloway presented a PowerPoint on a Planning and Zoning Analysis and an Appraisal and Economic Use Analysis prepared for the church. The consultants who prepared the reports were Bill Johnston of Strategic Planning Initiatives, LLP, a consultant in planning, zoning, and economic development, and James Lawton of Lawton & Associates, Inc., a member of the Appraisal Institute, who looked at the economic value of the property subject to use. Copies of both reports had been delivered to Council after the Planning Commission hearing. (A copy of the PowerPoint is included in the official meeting file.)

Galloway said the emotion had to be removed from the case, and that they must look at and assess the factors in the zoning ordinance. He reviewed the criteria for rezoning as stated in the City code Section 1304(1)(d). He said that until the Johnston report had been completed, there had been no staff analysis on these factors.

Galloway continued that the staff report had been dreadfully incomplete. Due to the press coverage, he said the inappropriate considerations included the number of people attending a hearing, the number of people who supported or opposed the rezoning, the number of signatures on a petition, newspaper editorials, non-existent covenants, and "we don't want it." The bulk of opposition fell into the "we don't want it" category. Galloway pointed out that was not a factor listed in 1304(1)(d).

Galloway reminded Council that judicial standards on zoning decisions looked at whether the decision was arbitrary, without factual or legal support, denied equal protection, if the applicant had been treated differently from others in similar situations, and whether the decision denied the owner of reasonable economic use and value of the property.

Galloway analyzed the staff recommendations. He said the staff report said the church had reasonable use of the property under OI zoning. Office Institutional zoning required a minimum three-acre tract. The tract started as three acres 30 years ago, but was no longer three acres. The legal problem was that the church was a non-conforming use that could not expand or enlarge on the property. Whoever used the property would need a variance. The City might not allow expansion of a nonconforming use, which could also be controversial. A practical consideration was what else could go on the property, or the existing facility. The existing structure was 32,000 square feet. There was no available room for parking. There were too many Lutherans per acre.

Galloway addressed staff's findings that the redevelopment was not consistent with the village master plan and the village center. Galloway said he had looked at all the plans and documents since 1970. Peachtree City Development Corp. (PCDC, currently Pathway Communities) had called the area the village center for Glenloch. The Land Use Plan specifically identified the area as a village center. Village centers were identified as those areas at major intersections located along major thoroughfares. The concept was to discourage strip development. The area was obviously the village center and, under the Land Use Plan, the property was appropriate for commercial development.

Galloway continued that, after the Planning Commission meeting, he had analyzed the parcels on GA 54. Seventy-one percent of the parcels on both sides of the highway had been identified for commercial use. There were 84 parcels from the City limits at Governors Square to the Coweta County line. Fifty-eight of the parcels were commercial. He said the staff opinion was their request would expand the commercial strip development. Galloway said the request would concentrate the commercial zoning at the village center.

Galloway addressed staff's position that the applicant had not shown how the development met the needs of the residents and that the proposed use was a duplication of uses. He said those criteria were not found in the zoning ordinance, Section 1304(1)(d). Galloway said it was not appropriate for any City to manage the market.

Galloway addressed staff's statement that the proposed rezoning was not consistent with the Comprehensive Plan and the Land Use Plan. He noted that Community Service (CS) designation had been applied to all church property since 1995 and was applied retroactively. The CS land use design was not consistent with the village center plan since commercial zoning should be concentrated at the intersections. According to the Land Use Plan, the CS uses included water systems, health facilities, recreation, schools, EMS, and libraries. The CS designation was applied after a finding in the 1995 update to the Land Use Plan. He read from paragraph 13 of the 1995 Land Use Plan:

All churches should be located on land that is shown on the Land Use Plan as Community Service. Churches should be permitted only in Open Space, Office, and Commercial zoning districts.

Galloway pointed out the churches were the only private property use in the CS designation. The City had, intentionally or unintentionally, established a policy that confined churches to their location.

Galloway addressed how Section 1304(1)(d) applied to the rezoning. He referred to Johnston's analysis regarding the suitability of use and read the following:

Limited commercial is appropriate in view of the intense commercial use and development of adjacent and nearby property that is Peachtree Crossing Shopping Center, Eckerd's, Ruby Tuesday's, and Edward Jones forming this commercial node.

Galloway addressed Section 1304(1)(d)(3) which dealt with adverse impact on adjoining or nearby properties. The only single-family residential zoning on the north side of GA 54 was The Highlands, which was adjacent to the portion of the tract that would remain OI. The properties already adjoined property zoned OI, and those uses would not change. He said they would have preferred to divide the property into two tracts with the LUC in the corner and the remainder OI; however, the three-acre requirement for OI prevented that. The only thing that could be done was to limit development of the property closest to The Highlands. Galloway said Lawton had looked at the residential properties located behind Eckerd and Ruby Tuesday to determine the economic impact the commercial properties had on the residential properties. Lawton said there was no market evidence that those homes sold at a discount compared to other homes in the neighborhood, and there was no reason to believe the market would discount homes in The Highlands.

Galloway continued that property owners were entitled to reasonable economic use of property. The question was whether there was a market for the property if it remained zoned OI. The market value and appraisal of the tract exceeded $3.1 million, if commercially zoned. Lawton determined that the market value of land zoned OI was $175,000-$250,000 per acre. The difference was approximately $2.5 million. To recover their costs, the office space in a 10,000 square-foot building would have to rent at $25 per square foot. The current market rate was $19-$21 for Class A office space. The development cost would be $250 per square foot for one acre valued at $3.1 million. He compared the project to the World Airways building in Kedron Village, which sold for $140 per square foot in 2004. Lawton's conclusion was that the "LUC zoning is clearly a 'reasonable and probable use that supports the highest present value' of the land. In the appraiser's opinion, there was no reasonable economic use of the property as zoned OI in today's market."

Section 1304(1)(d)(5-6) dealt with the burden on streets, transportation, and schools. Galloway said they had provided the Fayetteville customer transaction counts, which was what Walgreen's counted. The Fayetteville store had 507-716 transactions per day. The weekday car count at the church was 296 and the Sunday car count was 564. The right in/right out made the intersection safer. He encouraged Council to test it by trying to turn into the church. He said there would be no burden on schools and the zoning would be consistent with the village center plan. When the factors were considered, there was a different picture. Galloway said the Johnston report also applied the Guhl v. Holcomb Bridge Road Associates factors, and the factors supported the rezoning.

Galloway addressed comments made by staff and the Planning Commission. He noted that City Planner David Rast had questioned whether or not redevelopment at this intersection created a "slippery slope" of redevelopment where there might be unexpected redevelopment such as the Aberdeen, Stevens Entry and Petrol Point office centers. He said those properties were not located in the village node and, according to the Land Use Plan, rezonings should be denied in those areas. The value of those properties still allowed a "reasonable economic use" under OI zoning. The values of those properties were worth $4.32-$4.96 a square foot on resale, or a value of $188,000-$216,000 per acre. Lawton found that was the going rate for OI in the City. The church's location made the property unique.

Galloway said the Planning Commission told the church that their growth was "their problem" and they should be creative. The Catholic church hired police to help direct traffic. The Methodist church had split campuses. Galloway said that was the beginning of a policy where the City was telling churches how to expand. The other churches might have reached a compromise, but the Lutheran church's options were limited. It was not appropriate to tell a church to shuttle people back and forth between campuses.

Some of the Planning Commissioners said they would rather see a bookstore or coffee shop at the location. Galloway said that some members appeared to be willing to give full commercial zoning to the property, which would have been required for those uses. The issue was whether the property was commercial, not whether anyone liked the use.

Galloway continued that the argument that the church did not complain in 1981 was also inappropriate. He said it was not appropriate to impose a standard that applied when the population was 10,000 people.

Galloway referred to page 20 of the April 11, 2005, Planning Commission draft minutes. He said Commissioner Mullin noted none of the criteria addressed a "sense of community." Galloway said the City established the criteria. If the City wanted that as a factor, then it should be added as a standard. The bulk of the Planning Commission's objection related to "a sense of community," which was not a factor that could be considered legally.

Galloway reiterated the legal issues. The value of the property was too high to support OI redevelopment. If the criteria were properly applied, the rezoning to LUC was supported by the Land Use Plan as a village center redevelopment. There would be no harm to the value of the adjoining property. Galloway said he was sympathetic that people might not want the commercial development, but that was not a factor for consideration under the zoning ordinance. Council's first and foremost obligation was to follow the law.

Thomas summarized the church's position and said there were Walgreen's representatives, Paul Montgomery from Commercial Net Realty and Kris Sand from Walgreen's, at the meeting who could address site plan issues. He continued that the congregation had examined all the options and the solution was relocation. They had presented a solid case for rezoning and Land Use Plan Amendment. There would be no negative impact to nearby property owners. There was no data to support the claims regarding traffic, lighting, or noise problems. Limited Use Commercial zoning provided a win-win situation for the needs of the church and community.

Residents who spoke in favor of the proposed rezoning included John Durden, Bill Graybill, Steve Bingham, Andrew Markel, Keith Moore, James Arnold, Diane Durden, Ashley Helvig, Michael Muetzel, Fairy Wortham, and Lance Rothfusz.

The reasons to support the rezoning included:

- Church landlocked and could not grow at present location;
- Church had outgrown facilities;

- Church did not have enough parking;
- Church parking lot used as short cut to avoid light at GA 54/Peachtree Parkway;
- Church was concerned about public safety and safety of members crossing street;
- Church ministries contributed to City's quality of life;
- Church members did not want to harm community, but to help;
- No outdoor play space for children or recreation area for youth.

Residents who spoke in opposition to the rezoning included Bill Nigro (he also gave a PowerPoint presentation entitled "Ten Reasons to Deny the Rezoning," and showed photos he took of traffic at the intersection), Fran Plunkett, John Paul Jones, Ray Helton, Rob Welch, Phyllis Aguayo, Bob Brown, Michael Moore, Jeff Kern, Nancy Ames, Pat Hancock, Robert Smith, and Paul Fisher.

The reasons to oppose the rezoning included:

- Rezoning opposed by community;
- Rezoning would set a bad precedent;
- Rezoning would add to existing traffic problems;
- Traffic congestion would increase fire/EMS response times;
- Rezoning would compromise safety;
- Moral covenant ignored;
- A drugstore would be supersized;
- Rezoning violated planned community concept;
- Rezoning would lessen quality of life;
- Rezoning ignored City ordinances and Land Use Plan.

Brown closed the public hearing. Weed clarified that only the evidentiary portion had closed. Brown said the applicant would have the opportunity to rebut.

Rutherford moved to go beyond the 11 p.m. time limitation. Rapson seconded. The motion carried unanimously.

City Planner Rast addressed Council. Rast said he understood what the church's congregation was going through. While researching the issues, Rast said he tried to find as much factual information as possible on the church and the village center concept. He referred to drawings from the mid-1970s with maps that identified areas. He said a church had been planned at the intersection as far back as the 1970s. The 1985 Land Use Plan identified the village centers and the future land use pattern. He read from the 1985 Land Use Plan that "development of Peachtree City around the four village centers should and will promote the basic development concepts described in Chapter 1." He said Chapter 1 discussed commercial, transportation, and economic development. He continued to read, "crucial to this idea are mixed use and step-down development. Mixed use involves a proximity of various uses in a compatible manner. Village centers should include retail, office, and community facilities, and be situated at major intersections...The village center should provide the major convenience retail shopping, local office space, community recreational and educational activities that would be used by residents on a daily basis. The village centers will vary in size of retail activity dependent upon road access and population served."

Rast said the 1985 Land Use Map identified the property that Christ Our Shepherd was developed on as CS. All property was originally zoned AR when it came into the City. As the village centers were planned and developed, the zoning was adopted and incorporated into the Land Use Map. The tract was originally brought into the City as AR (Agricultural Reserve) and was rezoned from AR to OI in 1981. Every document he could find identified the tract as OI and CS.

Rast continued that the applicant stated that current zoning prohibited the development of the tract as OI because of the required lot size. The proposed plan for the site was two-thirds LUC, with the remaining to be OI, and would not work anyway. The OI zoning district had a minimum lot area of 20,000 square feet. The property could be developed as currently zoned and meet the requirements. Rutherford clarified that multiple lots could go on the property. Rast said that was correct.

Rast said he did not believe the church had marketed the property as OI. Walgreen's came to the church with an offer. Rast continued that the study claimed the office market was overbuilt; however, approximately 140,000 square feet of office space had been approved in the last two-three years, and it was all located in OI or already zoned LUC to permit the office component.

Rast noted that the rezoning was an emotional issue. He said it was not staff's intent to limit growth or deny the church the right to move. The recommendation was based on the fact that the property has been zoned OI since 1981, and had been land used CS since 1985. Changing the land use designation and changing the zoning would set an awful precedent for future rezonings. He continued that staff knew redevelopment was coming and all redevelopment to this point had been consistent with the Land Use Plan and zoning.

Rast continued that the applicant's analyst said, because the property was located on a corner lot at a signalized intersection, that the highest and best use for the property was commercial. The Eastbrook Bend office park was a quarter mile down the road, which was located on a corner that probably met the warrants for a signal. The building was 25-30 years old and a similar request could come for that area. It was also one of many areas in the City where redevelopment might occur that neither the City nor the Land Use Plan had planned. The Planning Commission unanimously voted to deny the request. Staff's recommendation was that the rezoning not be approved.

Weed asked Rast to show the zoning areas on the map. Kourajian asked if all the churches were zoned OS. Rast said they were not, but it was a recommendation of the 1995 task force to give all churches a land use designation of CS and rezone the church tracts to OS. The City went through the process of implementing the task force recommendation, but the churches made it clear they did not want the OS zoning. Some of the churches stayed in their zoning categories. The Line Creek Baptist Church property had always been zoned GC, and that area along GA 54 West had been designated as the town center. All of the property was zoned GC and was supposed to be the major concentration of large retail in the City.

Galloway rebutted the points made by the opposition. Galloway asked where to find the minimum lot size in the OI ordinance. Meeker said it was under Section 1005A.4(a). Galloway said he pulled his copy of the ordinance off the City website and could not find any reference to 20,000 square feet. He said, based on his information, the minimum lot requirement was three acres. A correct copy was provided from the website.

Galloway addressed the opposition's ten reasons. The first point, opposed by the community, was not relevant to zoning. Zoning was not a popularity contest, but a land use contest based in large on planning and value. He noted the offices at Eastbrook Bend, but said the big difference in property values was that GA 54/Peachtree Parkway was a commercial corner with a signal. If commercial uses were restricted to commercial nodes and village centers, then there would not be an issue of commercial spreading into Petrol Point and Stevens Entry.

Galloway continued that there was a decrease in traffic coming up the parkway because the accel/decel lanes on GA 54. Those lanes improved and protected traffic at the corner. The purpose of the traffic pattern was to improve traffic, not make it worse. He did not believe that the traffic would be a threat to the school bus stop located past the fire station, especially since 50% of the traffic coming in and out of Walgreen's would be passing traffic, not destination traffic centered on that location.

Galloway explained that the covenant in the deed to the church had been designed to protect PCDC. In 1970, there had been no village plan at Peachtree Parkway/GA 54. The village node, or center, became planned when PCDC got an offer to buy property across from the church, or what was now the shopping center. The covenant was designed to protect PCDC from the risk of the church selling to a commercial developer.

As for the "supersize" defense, Galloway said the stores in Fayetteville were mature stores. Mature stores were 30 months old, or had gone through two Christmas seasons. Both of the stores had been in existence since 2002. The issue was the use of the property.

Galloway noted the opposition's assertion that the rezoning was not consistent with the planned community concept. He reviewed the same plans the City reviewed, and the plan called for this type of development at the village center. Churches were not listed as a use in the 1985 Land Use Plan village center definition, but offices were.

Galloway said a sale to another church ignored the market value of the property and the investment of Christ Our Shepherd. It was a multi-million dollar acquisition, and another church would have the same issues. A feeder church was not a likely purchaser based on the economics.

Galloway continued that, according to his research, the CS land use designation started in 1995 when the Land Use Plan was amended. He and Rast disagreed on that point. If development was required according to CS, and churches were the only private property in CS, churches' capacity was strapped since churches were not a public use. He noted they agreed with Nigro's traffic count. In an area with 10,000 cars going one way and 20,000 going in the other direction, it was not realistic to believe that traffic would double because of a Walgreen's.

Galloway said a request had been made to rezone the church property to C-2 in 1977. The request had been tied to the shopping center development. The church was developed at the same time as the shopping center.

As for the quality of life issue, Galloway said the property could not reasonably be used for what the church planned to do, which was a valid consideration for Council. He continued that the church represented a different quality of life than a bike path or good landscaping. He asked if the church's quality of life and the role it played were equal to that. He asked if quality of life was tied to golf carts. The church had impacted his quality of life. His son was adopted through the Lutheran Ministries of Georgia. That quality of life was more important than a particular building.

Weed asked Galloway if he agreed with the six standards in Section 1304(d). Weed asked Galloway if he agreed that the rezoning could be denied if any one of the six criteria were not met. Galloway disagreed. Weed said there was no magic formula as to how many, or which, criteria must be met. Galloway agreed that zoning was a balance of those factors based on how Council made the call, and the burden of proof was on the applicant. Weed clarified that Galloway agreed that, beyond one criterion the applicant failed to meet, there was no magic formula for Council to consider. Weed asked Galloway if he agreed that the property had never been zoned commercial. Galloway agreed.

Weed noted there had been a lot of discussion on the mixed-use element referred to in the future land use patterns and village center description. He read from Galloway's paper he submitted, "Crucial to this idea are one, mixed use, and, two, step down development." Galloway said that was correct in regard to the village centers, but he wished it had been applied to the other village centers as Council was going to apply it at this village center. Weed said the other village centers were not relevant to the rezoning request before Council. Galloway said the policy on implementing the village centers was relevant. Weed asked what policy Council had established. Galloway said there was not another village center with mixed use at all; they were all commercial. The policy was in the Land Use Plan. Weed read the village center definition.

Kourajian asked Rast to identify the four village centers on the map. Rast said the Aberdeen Village center was at the intersection of GA 54/Northlake. The center was commercial/mixed use on two corners and greenspace. The Braelinn Village center was at the intersection of Peachtree Parkway/Crosstown Drive, which included the retail center, Crosstown Court was retail, a bank on the corner, and open space. Kedron Village was at GA 74/Peachtree Parkway. Kedron Village retail center was on one quadrant, the Kedron Office Park was on the north quadrant, Crabapple Elementary School was on one quadrant, and a fire station and open space was on the fourth quadrant.

Weed asked Galloway if he concurred that staff and the Planning Commission could only make non-binding recommendations and could not set policy. Galloway agreed staff and the Planning Commission were supposed to assess the policy and apply it to applications as they came through. Weed noted that the City owned the land behind the fire station adjacent to the parcel. He asked, if the City was willing to help the church expand, would the church be committed to leaving the site. Thomas said the three-acre size limited the use of the property. They had looked at the land behind the fire station and had spoken to Council Members. There had been no violent objection and a soil evaluation had been done. The land was not considered a wetland, but there would have to be some serious culverting done for run-off. The ability to build on the property was almost impossible. They would have to sink pylons into the soil because the soil would not support the weight of a building. The land could be used for additional parking, but would not meet the needs of the church. It also would not meet the church's need for growth. A three to four story building would have to sit right on the setback. There would also be no buffering.

Weed asked if the property had ever been marketed as OI. Thomas said the only offer they had received was from Walgreen's. The property had not been marketed as OI.

Weed asked about the traffic figures in the applicant's packet and who supplied the figures. Galloway said the traffic figures came from Walgreen's. Walgreen's traffic engineer was Ashford Engineers.

Weed asked Galloway why Council could not consider what was on the ground in the area. Weed also asked Galloway if he agreed that it should be a suitable and compatible use in view of the development of nearby property. Galloway said Council could not deny the rezoning because a competitor was located across the street. The zoning around the property was relevant. Weed said it was not just the zoning, but also the use of the surrounding property. Weed asked Galloway if he concurred that the map accurately portrayed the zoning on the ground. Galloway said he could not attest to the zoning for the Latter Day Saints church located on the opposite corner of the intersection or the subdivision tracts. He was not disputing the zoning map. Rast said the City had prepared the map for the applicants.

Weed asked the size of the largest delivery truck. Kris Sand of Walgreen's said smaller trucks made Walgreen deliveries, but they had no control over the various vendors. They could restrict the vendors, but could not control them. If accessible, an 18-wheeler could make deliveries. She said Walgreen's could limit the times of deliveries by those vehicles.

Weed said there was nothing in the applicant's paperwork regarding noise mitigation. Galloway noted there was a subsequent study on noise and he could make that available. Weed said if Galloway felt it was important, then the study should have been made available to Council.

Rutherford asked Meeker if Council was bound to make a zoning change when an applicant presented an application. Meeker said no. Rutherford asked if Council was bound to approve the request if all six of the criteria were met. Meeker said the church could continue to operate. Meeker said the provision required Council to weigh the factors and all of the factors might not be relevant to the application under consideration. Council was to look at the factors, determine which applied, then determine if the factors balanced toward rezoning.

Rutherford asked Galloway how the church situation differed from PCDC's situation when the shopping center was built. Galloway said whether there was an offer on the property or not, the property was appropriate for commercial development. Rutherford said it was also appropriate as it sat. Galloway said he did not disagree the property was appropriate for OI use under the village center concept. What was proposed was consistent with the village center concept because it was step down and mixed use.

Weed asked Galloway how LUC and OI would be step down. Galloway said the corner would be LUC and OI to the west abutting The Highlands. The church wanted it to be that way because they realized their responsibility to not impact the neighboring properties. Thomas said the entire parcel had to be zoned LUC, with the OI component next to the residential area, due to the lot size requirements as they understood them. Thomas said that had also been staff's direction to them. Galloway said, under the current application, the lot would be rezoned to LUC with the condition of an OI use next to The Highlands. Weed said the zoning would not be a step down because it would all be LUC.

Rapson said staff appeared to disagree with the directions the applicant said they had been given. Rast said they had talked about limiting the second building to OI, but did not tell them that the use had to be OI because of the lot size. It was a conditional use based on rezoning the entire tract as LUC. Galloway said if there was a way to provide for OI zoning on that part of the tract, then he would advise the church and Walgreen's to consider that option. He said it was a better zoning policy for the tract. Weed asked if traffic information had been included for the OI building. Galloway said he did not know the answer.

Galloway said the decibel level of the parking lot would be the same as normal traffic in a standard parking lot, and would give it to Council subject to returning a copy to him. The traffic generated from Walgreen's would be undetectable based on the current traffic. Weed said the traffic consideration was just for Walgreen's and did not include the other building.

Brown read the additional document into the record – a fax copy from Diebold, Inc., to Spero Shizas of Walgreen's dated October 30, 1994. Galloway verified there was not a specific study for this site. The study was a general study for Walgreen's.

Kourajian asked the applicant to further discuss the marketing of the property as OI. Thomas said the church desired to relocate. They had checked with Christian City, but there was no interest in purchasing the building. They had not been marketing the property prior to the offer from Walgreen's. The property might be zoned OI, but could not be marketed as OI because of the land use requirements. Rapson asked Meeker if that was a true statement. Meeker said it was not, in his opinion. Meeker explained that the property had the land use designation, but zoning controlled the use, and the property could be used for compatible OI uses. If an OI permitted use application were turned in, the City could not turn it down.

Galloway said he generally agreed with Meeker, but continued that the CS designation was a bit strange. The uses were a problem. Council should not look at a planning instrument as a zoning instrument. The Lawton report said that under OI there was no office use because of the economic value of the property.

Rutherford noted that $3.1 million was a premium price for the property. Thomas verified that the property appraisal was $3.1 million. He said the assessed value was $3.1 million and the offer was $3.5 million. Rapson said he was not sold on the report's findings and cited OI properties on Georgian Park. Galloway said, barring the value of the church property, that Georgian Park properties were generating values of $300,000 per acre, which was higher than Eastbrook Bend. Rapson said he disagreed about the value of the property if marketed as OI.

Weed asked when CS became a land use designation. Rast said the May 1985 future land use map identified the church property as CS. Brown noted that they were referencing the paper entitled "Glenloch Study Area North Parkway Neighborhood, GI." Rast said he could find no documents earlier than 1985. Galloway said he did not contest the date of the land use designation.

Galloway referred to Rapson's earlier question regarding property values. He said Georgian Park had two lots that sold in December 2004. The prices were $532 per square foot and $465 per square foot. The value of those properties was $200,000-$250,000. Rapson said he would not argue, but noted the church location was one of the prime intersections in the City. Galloway said that was the point.

Rapson asked if Walgreen's had any studies on the impact for competing small businesses. He noted that the GA 54/Peachtree Parkway intersection had been the top accident spot in the City last month and year-to-date. A rezoning would establish precedent. Of the 20 churches in the City, only two were OI. If it was all right to rezone this one, then there were another 13 churches on GA 54, GA 74, Peachtree Parkway, and Robinson Road, sitting at prime intersections. He said that was a major concern. Galloway said he did not dispute that, but those churches were not located at village centers. Eckerd's could either deal with Walgreen's or provide better service. He said they were not obligated to think about the effect of Walgreen's on Eckerd. Weed agreed, but added that the plan addressed adjacent uses and the Kroger and Eckerd were adjacent. Kourajian said he was concerned about the small businesses in the shopping center, not Eckerd or Kroger. Rapson said Walgreen's was a mini-Wal-Mart.

Rutherford addressed the comment that the City "did not need a Walgreen's." She said it was not Council's job to decide if a Walgreen's was needed. The church was unable to grow in its space. It was not the job of Council to rezone the property because the church had outgrown the space. It was a policy issue, not an issue of the church or whether Walgreen's and Eckerd's could compete. She referred to Section 1304 and whether or not a rezoning would adversely affect the use of an adjacent property. She said a rezoning would affect the response time for the fire station because traffic would increase on the corner. Some people might just stop by, but the store would be a destination for others. Traffic would increase on the corner. She continued that Council was looking at the zoning and whether the proposed rezoning fit in with the plan.

Brown said the City had high standards and just because Walgreen's was a franchise store did not mean it could not meet those standards. It meant stores could be built to the standards of the community.

Brown asked where Glenloch's village center was located. Rast said all four quadrants of the intersection composed the village center. He pointed out the areas on the map. Brown said ground zero was where the pavement of 54 crossed the pavement of Peachtree Parkway. Brown noted that the most intensive uses should be at the core of the village center when referring to step down zoning. Rast said it depended on the development. There was no set pattern of uses, but all included a mixed use. At Kedron, the most intense use was not at the four quadrants. Brown said that in typical step down zoning the most intense use was at the core. Rast said the village center was an assemblage of property with a mix of uses. The intent of the step down was for usage to be less intense when moving away from the village center. The Land Use Plan talked about the village centers being in certain areas with a mix of uses. It did not specify which uses were where. The plan talked about adjacent uses to the village center and that started the step down. Rast said Braelinn was a perfect example. Brown asked Rast if he agreed that Walgreen's was freestanding and not a strip shopping center. Rast agreed.

Brown asked if there was a document called the village master plan or if the master plan was created by zonings in the 1970s that evolved into a format. Rast said the information came from a zoning and rezoning file for the Peachtree Crossing shopping center. The properties in the shopping center area were rezoned at the same time to create the village center. The first phase of the church already existed. The City had not acquired the property for the fire station at that time. The property for the fire station was donated by Garden Cities, which did have a deed restriction so the City could not sell the land later. In 1981, the City initiated a rezoning on the fire station property and the church property. Brown asked if there was a document called a master plan created by planners for the City or was the master plan created from the zonings in the 1970s that evolved into a format. Rast said he had a master plan document from Garden Cities dated 1977, which had a master plan for the shopping center.

Rapson said he understood there were issues from the past, but even the attorney had agreed that the site had been OI since 1981. Rutherford clarified that the Mayor's point was there was no document entitled "Master Plan." Weed said there was a clear description of village center, and what was on the map was the prototypical village center. (Weed was referring to maps displayed in Chambers.) Rast showed the areas on the maps. Rapson said all those documents evolved into the village master plan. The members agreed. Brown asked how the City today compared to the map. Rast said they were very close, and there had been very few changes. They had gone back and changed the Land Use Plan in conjunction with development, but they had not rezoned areas and then changed the Land Use Plan. Rapson said the development in the area today was consistent with the general development plan developed in 1977. The general development plan became the Village Master Plan. Rast agreed. Brown said City Circle would be the most significant change.

Galloway pointed out that the church had been built in 1975, which predated the Land Use Plan. Brown noted that the land use designation for all the churches changed to CS in 1995. Rast said the recommendation of the Land Use Plan task force was that all churches be rezoned to Open Space and that the land use designation change to CS. Weed said this was irrelevant. Galloway had already conceded the land use designation change. The decision was Council's to make. Weed said, according to what he had read, what was on the ground in the area was consistent with what occurred from 1985, maybe 1977, to today.

Rast read the following portion from Chapter 5, Present Land Use, under Community Services from the 1985 Land Use Plan:

Community services include the municipal building which house City government offices, the police department and the public library, fire stations, schools, churches, cemeteries and Public Works such as water treatment, pollution control and storage facilities. These areas are scattered throughout the City's developed areas, but concentrate along the State Route 54 axis. These facilities generally are located near the existing village centers of Aberdeen and Glenloch and arterial thoroughfares. These locations are easily accessible by City residents. There are an estimated 226 acres in Peachtree City *currently developed as community service facilities. This accounts for 5.3% of all developed land and 1.5% of the total area of the City.*

Rast said between 1985 and 1995 several churches were built. The intent of the Land Use Plan update was to put all churches within one land use designation, and that was the language in the 1995 Land Use Plan. Brown asked if there was any language in the Land Use Plan or the Comprehensive Plan that dictated the exact size of a village center. He also asked if there was any language that defined expansion or concentration of the village center. Rast said there was, to his knowledge, not a specific acreage set aside for the village center. He recalled that the villages were designed for roughly 10,000 residents and the village centers were designed for that. He had not found any formulas or acreages. Brown asked Rast what he meant by "expansion of the village center." Rast clarified that the Land Use Map of 1985 designated the northeast and southwest quadrants of the village center as commercial. The church property was designated as CS. By using the word "expansion," Rast said he meant known elements were changing by taking the CS element and changing it to commercial. Brown asked why that was a reason for denial based on the Land Use Plan and Comprehensive Plan. Rast said it went back to the definitions of a village center and mixed-use component, and what should be included in that component. It was taking the office component out of the village center. Brown said expansion should be away from the core, not in the core. Rast noted the village center on the map. He also noted the parcels that were commercial. By rezoning the church property to commercial, the commercial portion of the village center expanded. Brown told Rast that was his personal theory. Rast said it was his position as the city planner and it was an expansion of uses set in 1985. Brown said he could not find what Rast was talking about in the document. Rapson noted it was Rast's professional opinion as the City Planner.

Brown said the Land Use Plan called for "flexible" application of the village center concept. He asked Rast to define "flexible" and whether that would allow room to put varied uses in the center. Rast said that within the general commercial area of village center there were outparcels, combinations of properties, and retail centers that could be mixed within that zoning district. The OI allowed churches, offices buildings, medical offices, and professional office space. The land use designation and zoning provided that mix of uses in the village center.

Brown said Rast had cited "duplication of other available uses" as a reason for denial. He asked if they could regulate duplication. Rast said his evaluation based on the facts was there was an existing drug store across the street. Putting a similar use directly across the street was contrary to the village use concept. Weed said they knew that would be contrary based on Section 1304(d)(2) and in the future Land Use Plan. He continued that, since the origin of the document, there would not be duplicative services. If there were duplicative services, the village center would miss out on other important services. Weed said that legally Council could consider the fact that there was a drug store across the street. Weed said they could legally regulate the distance between duplicate uses.

Brown asked Rast why he did not discuss traffic in his position paper. Rast said he felt there were other aspects to be considered, but the zoning and land use were most important. He evaluated the traffic, but the zoning and land use were more paramount than the traffic, lighting, and architecture. Those issues presented a strong enough case.

Brown noted that Rast said the rezoning would set precedent. He pointed out that the proposed LUC would be located next to General Commercial (GC) zoning. Rast said staff evaluated the GA 54 East corridor. The office buildings at Eastbrook Bend were dated and zoned OI with exposure to GA 54, and there was a potential to signalize GA 54/Stevens Entry intersection. The applicant's reasoning would also apply to Eastbrook Bend if a rezoning request was submitted, as well as Prime Point, Robinson Road, and Carriage Lane.

Brown noted that Rast's staff document said the land use designation had changed from commercial to CS. He read from a staff document dated February 10, 2005, "subsequently the land use designation of the church was changed from COM Commercial to CS Community Service." Rast said the document presented to Council was dated April 28, 2005. Brown said he was reading from the document presented to the Planning Commission. Weed said that was irrelevant. Council did not have to consider what the Planning Commission did or the staff report. Council was charged with reading the zoning ordinance, listening to the facts as presented, and making a decision.

Rapson said a lot of hurtful things had been said. He had spoken to both sides. Basically an offer had been made and evaluated. He found the church motives to be pure, and felt the church was driven to a calling to its ministry. The church members had been professional, respectful, and godly. While he respected their position, Rapson said he could not support the rezoning. Rapson continued that Galloway said none of the criteria in Section 1304 mentioned quality of life. He disagreed and said all of the criteria were about quality of life, but the central issue was the rezoning. It would have a negative impact on the planned community concept and would degrade the character of the City. The redevelopment was the first of many to come. Rapson continued that he thought there was still an opportunity to expand on the church's existing land, and he was willing to look at leasing the City land to them. Too many Lutherans per acre was a good problem for the City to have. It was worth evaluating whether the City could help or not.

Brown showed a drawing of a Walgreen's in Roswell and said the LUC would require a better building than Walgreen's usually built. It was possible to get a nice Walgreen's.

Rapson moved to accept staff's recommendation of denial as well as the Planning Commission's recommendation of denial for this rezoning. Weed seconded and said he would add reasons to the record. Meeker asked if both the rezoning and change in the land use had been addressed. Rapson and Weed confirmed that they were addressing both agenda items.

Weed addressed the six criteria to consider for rezoning. He said one of the criteria was whether the rezoning followed the intent of the Land Use Plan and said it had been clearly established since at least 1985 that the property was deemed to be CS. The land use was also consistent with the information on the village center concept, and the current zoning was consistent. As currently zoned, the property was prototypical of good village center step-down.

Weed addressed whether the proposal conformed to the Land Use Plan. Weed said it was irrelevant whether there was a drug store across the street. The Land Use Plan said duplication of services should be considered. The use being proposed would negatively impact the fire station, the traffic flow, the zoning behind the parcel, and would create a health and welfare issue by increasing the traffic. Weed continued that the applicants had presented no evidence of noise mitigation and had not even covered the second proposed building in their traffic estimates.

Weed addressed criterion #3, which was whether the zoning proposal would adversely affect the use of nearby property. He reiterated the reasons listed above. The proposal to alleviate traffic, a right in/right out curb cut on GA 54, would be a death trap. It would be a dramatic change to the traffic pattern in place.

Weed said the property had a reasonable economic use as zoned (criterion #4). Weed continued that OI was, in effect, a type of commercial use, and the church could use the property as zoned without Council's permission. He noted that the City had 75% of the major industry in the County.

Weed continued that a commercial use would not have a negative impact on schools (criterion #5), but could have an impact on school children waiting for the bus on Peachtree Parkway. The applicant did not present any evidence. They submitted only what Walgreen's told them to submit, which did not address the proposal in question.

Weed noted there was no noise mitigation plan (criterion #6), which was reason enough to turn the request down. The applicant and Walgreen conceded there could be 18-wheel trucks coming in and out of the 24/7 operation, which was not fair to the residential neighborhoods.

Weed said all this had been framed as either a religion or anti-religion issue. It was not, and Council could not make a decision based on emotion. The evidence was not there to do what the property owner wanted to do. Weed told the church members that they did wonderful things for the community. Rapson asked Weed if he was agreeable to working with the church on finding a solution for remaining on the existing site. Weed said he could not hint bigger than he had already that he was willing to do so.

Brown said even if the church expanded the parking lot their expansion needs would not be met. Limited use commercial zoning gave the ability to do a lot of things to help control the impact of the development. The main reason the opposition stated as a reason for denial never showed up on the front burner in the staff paper. He was shocked staff did not share the same paramount concerns as the opposition, which was a quandary for him.

The motion carried 4-1 (Brown).

05-05-06 Consider Funding for Remodeling Project at Neely Station
Fire Marshal John Dailey approached Council. Rapson moved to approve the recommendation. Rutherford seconded. The motion carried unanimously.

Weed said the important points were the project would cost $30,000, and there would still be more than $200,000 left in PIP contingency.

05-05-07 Briefing on Proposed Intergovernmental Agreement between WASA and City of Senoia
Larry Turner, WASA general manager, addressed Council. Members of WASA in attendance were Steve Bradley, Tim Meredith, Mike Harman, and Jeff Prellberg. Turner added that WASA Chairman John Gronner was unable to attend the meeting.

Turner apologized to Council for their finding out about the talks with the City of Senoia in the newspaper. The negotiations were ongoing. Senoia had met with their planning commission and wanted to make the issue public. A draft document was in the works. Turner gave a PowerPoint presentation (a copy of the PowerPoint is included in the official meeting file).

Turner said the flow discharged into Line Creek. Planterra Golf Course reused the discharge from May to October. Turner went through the expansion at Line Creek and projected use by residential and commercial. Based on the projected estimate at build out, Turner said there should be a flow contingency of 0.76 mgd (million gallons per day). The additional available flow after Photocircuits closed down would be 0.18 mgd, for a total of 0.94 mgd. Senoia was interested in purchasing 0.5 mgd, which left the City with a contingency flow of 0.44 mgd, twice the amount estimated in the initial planning stages.

Turner addressed the financial implications. With the closing of Photocircuits building 810, the system was losing 6.56%, or $450,033, of its revenues, which meant WASA would run at a deficit. The options included a future rate increase or replacing the revenue stream. Turner pointed out that WASA's budget and revenue matched. Turner said Photocircuits would maintain Building 350. Without a rate increase, WASA would have to go to its reserves.

Turner continued that there had been several comments about density and growth. He went over some quotes from the Metropolitan North Georgia Water Planning District regarding critical areas and septic tanks. The district recognized that septic tanks were a water quality issue, and were not an option in developing and dense areas. Residents within one mile of existing sewer would be required to hook into the sewer. Turner said that the septic tanks used today would not be permitted in the future and everyone would have mini-treatment plants, according to health Department officials.

Turner showed a slide from the Metropolitan North Georgia Water Planning District's 2030 plan. He pointed to the demand center 19, which included parts of Coweta County and all of Fayette County. The area had three treatment plants, two in the City and one in Fayetteville with a total capacity of 10 mgd. The demand center would need 24 mgd in 2030, according to the plan. Twenty-one would come from Fayette County and three from Coweta County. Turner said the agreement would be in line with the Metropolitan North Georgia Water Planning District's plan.

Turner continued that Senoia currently had a 0.49 mgd treatment facility. Senoia's choices were to expand the facility, build a new facility, or contract with WASA. Either way would not change the density. He said Senoia had a 10-year growth plan and it would take approximately one and one-half years until the first flow.

The contract provisions were that WASA would provide 0.5 mgd of capacity in the Rockaway treatment facility, and that Senoia would pay $3 million for the hook-up to the system over five years at five percent interest. Senoia's cost would be $3.50 per 1,000 gallons, which was different from the City's rate. Turner explained that approximately $1 million of WASA's budget was to maintain collection systems and pump stations. Senoia was going to pump the sewage directly to the treatment facility. The actual cost of treatment was $3.50. Senoia would be restricted on peak flows and wastewater characteristics. Senoia had to comply with the City's sewer use ordinance and design standards. Senoia would have to provide odor control and limit sulfides due to proximity to the park. It would be a win/win for WASA and Senoia.

Kourajian asked how Senoia's use would compare to Photocircuits. Turner said there would be more flow when Senoia reached full capacity. Rapson asked Turner if he was asking for Council's permission. Turner said he was just presenting the facts. Turner said WASA had seen a draft agreement. He was scheduled to meet with Senoia next week.

Rutherford moved to take no action regarding this matter and that Council's lack of action was not considered an approval or disapproval of the potential agreement between WASA and the City of Senoia, and to continue the discussion at a joint workshop. She recommended that two Council Members meet with WASA representatives. Rapson seconded.

Turner said WASA preferred that there be a workshop rather than a committee. He said he would take Council's wishes to the board, and then get back to the City Manager. Rutherford said her point was that Council had the information and Council's lack of action was not approval or disapproval. She said they needed to start talking.

Rapson asked what the residential equivalent was of 500,000 mgd. Turner said the design standard was 300 gallons per lot. Rapson said it was about 1,667 residences. Kourajian asked if entering into an agreement with Senoia would lower rates for the City. Turner said the City's rates would not decrease, but it would offset an increase. Rapson said he would need statistical information on WASA's revenue stream and expenditures for the last three years when the workshop was held. He added that it was critical for WASA's board to take a position on the contract and come to Council to ask permission. Turner said he understood.

Weed asked if providing sewer capacity to Senoia would allow Senoia to increase its population or expand its city limits. Turner said he had not discussed annexation with Senoia. It was strictly a sewer issue for WASA. Rapson clarified that the Authority felt it was their right to sell any excess capacity and they were putting the offer from Senoia on the table. Weed said this could quickly become a development of regional impact and that issue had to be considered.

Brown asked if the agreement would be for 50 years. Turner said it would. Rapson implored WASA to reconsider their position. Brown asked if the plan called for an increase in capacity during the 50 years. Turner said WASA's policy was to review rates every two years. Brown asked if WASA's plan called for an increase in capacity in the next 50 years. Turner said the Metropolitan North Georgia Water District called for an increase in capacity in the demand center area. Rutherford pointed out that Senoia could ask for more capacity, but there was no guarantee they would get it. Turner agreed and said the contract would only guarantee Senoia the 500,000 gallons. Rapson asked if other treatment facilities abutted other counties. Turner said both the Rockaway and Line Creek facilities were on Line Creek.

The motion carried unanimously.

05-05-08 Consider Ordinance on Formation of Peachtree City Governmental Finance Corporation

Brown noted there was an additional document on the dais entitled "Articles of Incorporation of Peachtree City Governmental Finance Corporation."

Financial Services Director Paul Salvatore told Council the corporation formation had to do with the lease/purchase of equipment. If approved, the agreement for the lease/purchase would be considered at the next Council meeting. He continued that the City could not hold title to equipment during the lease period. Currently, those titles were held by the Georgia Municipal Association (GMA), which charged fees for doing so. Salvatore said the corporation would be a Georgia non-profit that existed solely to hold title to those vehicles. He said Council should move to adopt the ordinance. Council could hold the necessary corporation meetings prior to regular Council meetings. Once done, the City would not have to pay GMA, or any other agency, a fee. All Points Capital would pay all the legal fees for setting up the corporation.

Rutherford asked about the liability of the board of directors. Salvatore said that there was an indemnity clause in the articles of incorporation. The position of the attorney, Earle Taylor, was that the lessor and lessee would be sued if there was a lawsuit. Taylor said they rarely went after the board of directors. Rapson asked if anyone who sued the board of directors could be successful. Salvatore said Taylor doubted there would be any liability.

Weed asked if there would be an insurance fund and who would pay for it. Salvatore said that, by approving the ordinance, Council would not automatically become the directors. The directors would be approved at the corporation's first meeting.

Rapson move to approve the ordinance and have the City Attorney research liability. Weed said without insurance funding he would not participate on the board of directors. Rutherford seconded.

Kourajian asked if there were any negatives to forming the corporation. Meeker said it was becoming more common and that a number of municipalities had done the same thing. Now was the time to do this since the agreements were up for renewal. Meeker said he was not aware of any negatives other than the possible liability issue.

The motion carried unanimously.

<u>Council/Staff Topics</u>

Update on Vehicle Accidents

Weed said he appreciated the information on the accidents. He noted that accidents had doubled, but most were things like backing into the fire station and there were no outside victims. Rutherford said the increase was not as bad as she thought. McMullen said he was concerned about City employees backing vehicles into other objects.

Update on TDK Blvd.

Brown reported that he had spoken to a Coweta County commissioner and to Pathway Communities. The movements were positive and they were playing phone tag. Developmental Services Director Clyde Stricklin said staff had reviewed the modified bridge plans and sent the plans to GDOT for approval. Brown asked if the bridge would accommodate golf carts. Stricklin said the bridge would be wide enough. He said staff had also met with property owners about right-of-way. Rapson pointed out that the City was doing nothing to interfere with the progress of the road.

Rutherford asked the status of the light at GA 74/Georgian Park. Stricklin reported that the traffic study was complete, coupled with the study for Wisdom Road. Weed noted there had been more accidents than usual at the intersection during the last few weeks.

Rapson asked about a building under construction on Commerce Drive that appeared to be made out of solid sheet metal. Rast gave an update on the project. The metal and insulation were going up before the brick and efis. Rapson said it was odd the way it was being done, but it would look fine when completed.

Brown asked about getting the dais documents into the meeting packets so everything would be together. Weed asked if there was a way to cut down on the dais documents. System Administrator Matt Robinson said this was still in its infancy, and staff was still working out the kinks. A CAR was being worked on to address some of the issues.

Kourajian asked if there was an update on the Little League issue. Leisure Services Randy Gaddo said he sent a letter to the association president about the issues she had raised. It came to a lack of communication between the association and staff. Staff was developing a web page system to report suggestions and make complaints. Everything would be documented. He added that they would be doing this for all the athletic associations. Brown said the City needed to provide training sessions since there was such a high turnover of parent volunteers in the organizations. Gaddo agreed that was part of the communication gap. Gaddo said he suggested the association send a letter to the newspaper. Rutherford said either that, or a press release should be prepared. She noted the City spent a lot of time and money on the fields. Gaddo said he sent a letter to the association presidents.

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. Brown seconded. The motion carried unanimously.

There being no further business to discuss, Kourajian moved to adjourn the meeting. Rapson seconded. The motion carried unanimously. The meeting adjourned at 2:00 a.m.

Betsy Tyler, Deputy City Clerk

Stephen D. Brown, Mayor

Pamela Dufresne, Recording Secretary