

City Council of Peachtree City

Minutes of Meeting

May 4, 2000

7:00 p.m.

The City Council of Peachtree City met in a regular session, Thursday, May 4, 2000, at 7:00 p.m. in the City Hall Council Chambers. Mayor Robert L. Lenox led those attending in the pledge of allegiance. Other Council members present were: Carol Fritz, Annie McMenamin, Dan Tennant and Bob Brooks.

ANNOUNCEMENTS, AWARDS, SPECIAL RECOGNITION

Mayor Lenox read a proclamation for Older Americans' Month.

MINUTES

McMenamin made a motion to approve the minutes of April 20, 2000, as presented. Fritz seconded the motion. Motion carried unanimously.

03-00-01 Appointment - City Attorney/Solicitor

The City Manager read a recommendation to reappoint the firm as Webb, Stuckey and Lindsey as the City Attorney/Solicitor. Robert Brown, a resident of the Planterra Subdivision, addressed Council to object to the appointment. McMenamin stated she would abstain from the discussion or vote regarding this matter because her daughter was an attorney with the firm of Webb, Stuckey and Lindsey.

Mayor Lenox referred to the recent publicity regarding the City Attorney as politically motivated strident allegations based on personal animosity. Lenox felt that Peachtree City had one of the most open, honest and efficiently run governments that existed. Mayor Lenox felt Jim Webb and his firm had done an excellent job for the City and he felt they deserved to be reappointed. However, he said he would make a motion to compromise because he felt that public opinion did matter even when it was mistaken or cynically and shamelessly manipulated.

Lenox made a motion to appoint Rick Lindsey, personally, as the City Attorney with the following four provisions:

1. Lindsey would be free to use the resources of the firm of which he is a partner, Webb Stuckey and Lindsey, as he deems appropriate in fulfilling his obligation as City Attorney;
2. The rates by all services rendered by and through him would be as set forth in the proposal dated January 5, 2000 from his firm;
3. The appointment shall deemed effective January 1, 2000;
4. The appointment shall run through December 31, 2001.

Fritz seconded the motion and expressed her opinion on the matter. She felt the recent publicity was politically motivated and she felt that by not reappointing the firm Council was basically stating they were guilty without a trial. She said the allegations had never been proved and that Webb should be considered innocent until such proof could be made. She also clarified that the City Attorney would not represent the City in future lawsuits because the City purchased insurance through GMA for that purpose.

Lenox asked Lindsey if the motion was acceptable to him. Lindsey said that it was.

Tennant said he did not have a personal interest in replacing the City Attorney. He felt there were potential conflicts and he objected to the fact that Webb, Stuckey and Lindsey was the high bidder. He felt the City could make a better choice.

Brooks supported staff's recommendation and felt that the overall costs were reasonable compared to fees that would be charged from firms that were not local. He also addressed the recent allegation of a violation of the ethics ordinance. He explained the facts as he saw them and stated that he felt not violation had occurred. He felt the lawsuit between Webb and the local newspaper was beyond the Council's realm, but he felt many of the attacks on Webb were politically motivated. He read a portion of an e-mail dated December 7, 1999, that was sent unanimously to several public officials. He said the document was an open record and was included in court records. He said the document mentioned a fellow councilmember, Dan Tennant, and that he felt it clearly showed an intentional and political motivation regarding the recent publicity surrounding Mr. Webb.

Tennant asked if Lindsey would receive payment or the firm. Lenox said the checks would be made payable to Rick Lindsey personally.

— Lenox called for a vote on the motion. Motion carried with McMenamin abstaining and Tennant opposing.

04-00-15 Consider Amendment to City Council Meeting Rules and Procedures Ordinance

Rick Lindsey, City Attorney, reviewed the proposed changes to the City Council Meeting Rules and Procedures that were made as instructed by Council at the last meeting. Fritz expressed concern over using the word "shall" instead of the word "may" when giving citizens an opportunity to address Council. She felt that it took control from the chair. Lenox said Council could always change the ordinance if there were problems in the future. Tennant made a motion to adopt the ordinance amendment as presented. Brooks seconded the motion. Motion carried with Fritz opposing. Fritz instructed staff to place the ordinance back on the November 2, 2000, agenda for review and discussion.

Lenox made a motion to rearrange the agenda to consider the settlement of the Black lawsuit prior to considering the rezoning request for the Black Property. Fritz seconded the motion. Motion carried unanimously.

05-00-04 Lawsuit Settlement - Black Property

Rick Lindsey, City Attorney, asked if any member of Council had a problem with discussing the lawsuit settlement in public since those discussions usually took place in executive session. Tennant asked if there were legal obligations to hold the discussion in executive session. Lindsey said there were none.

— Lenox said any member of Council could make a motion to go into executive session if they became uncomfortable with the discussion. Lindsey explained that the Black Lawsuit comprised of three separate lawsuits relating to property belonging to the Black

family. Two of the lawsuits concerned property that was rezoned by the City from General Industrial to Residential zoning against the property owner's wishes. The third lawsuit concerned the City's buffer ordinance. Mr. Black wished to settle all three lawsuits but requested Peachtree City to release any future claims against him regarding the suits. Lindsey said he reviewed the settlement agreements and felt comfortable with them. Brooks made a motion to accept the settlement agreement. Fritz seconded the motion. Motion carried unanimously.

Lenox said the next three agenda items would be conducted as public hearings and he read the rules for conducting such.

04-00-13 Public Hearing - Zoning - Black Property, GA 74 South

Lenox asked first to hear from the applicant and those supporting the rezoning. The applicant, Marvin Isenberg, addressed Council to request the rezoning of 15.81-acres from R-12 Residential to GC General Commercial for the development of a Kroger shopping center. He said the proposed shopping center would have four curb cuts on Highway 74, and that the developer would pave the extension of Holly Grove Road. He also said they would install a traffic signal at the intersection of Holly Grove Road and Highway 74.

- Robert Brown spoke in favor of the rezoning. He opposed allowing four curb cuts on Highway 74, but he understood that approval of the rezoning application would not approve the conceptual plan. He would address that issue with the Planning Commission at the proper time.

Jim Williams, Director of Developmental Services, spoke in favor of the rezoning. He said the Planning Commission recommended approval with five conditions. One of the conditions was the settlement of the lawsuit.

Hearing no one else speak in favor of the rezoning, Lenox asked if anyone wished to speak in opposition to the rezoning. Hearing no opposition, Lenox asked if there were any questions. There were several questions and comments regarding the following: buffer requirements, watershed protection, right-of-way requirements for the widening of Highway 74, concern about another Kroger in Peachtree City, the potential for increased traffic and speed along Holly Grove Road, and development's impact on the school system.

Williams said Holly Grove Road was designed to be a minor collector road but that staff was concerned about excessive speed. He said the City Engineer would be monitoring the situation and would be considering traffic calming devices for the area.

Lenox closed public discussion and opened the floor for council to debate the issue and to render a decision.

- McMenamin supported the rezoning and felt it was a good use for the property. She suggested that a roundabout be considered as an option for a traffic calming device for the area if the needed.

Tennant said it was ironic, but he felt the development would help alleviate some of the traffic problems —at the Highway 74/54 intersection. He questioned the development of another Kroger in Peachtree City instead of a competitor.

Lenox advised the citizens in attendance that the County would be receiving a rezoning request concerning 100-acres located adjacent to Redwine Road for the specific purpose of building a massive shopping center. He said the location was outside Peachtree City's boundaries and Council would have no control over it. He felt the proposed rezoning before Council that night was appropriate in size and location for the neighborhood; however, he did not feel the development that was being contemplated just outside the city limits was appropriate.

McMenamin made a motion to approve the rezoning of 15.81-acres from R-12 Residential to GC General Commercial with the following conditions:

1. All lawsuits involving the property shall be dismissed prior to the rezoning becoming effective.
2. Holly Grove Road shall be connected from GA 74 to Robinson Road prior to the occupancy of the first business in the center.
3. A 50-foot landscaped buffer, which has been approved by the Planning Commission, shall be installed between the center and all residential lots prior to the occupancy of the first business.
4. Right-turn lanes shall be provided for all access drives. Left-turn lanes shall be provided for Holly Grove Road and the service drive on the north side of the site. All required medians and islands shall be landscaped. A traffic signal shall be installed at the Holly Grove Road intersection. All improvements are subject to the approval of the City Engineer and must be installed prior to the occupancy of the first business.
5. Approval of the zoning shall in no way imply approval of any specific site plan.

Lenox asked Mr. Isenberg if the conditions were acceptable. He said that they were. Brooks seconded the motion. Motion carried unanimously.

NEW AGENDA ITEMS

05-00-01 Public Hearing - Rezoning - Gibson Tract, 10.78 acre tract, Robinson Road

The applicant, Bill Gibson, addressed Council to request the rezoning of a 10.77-acre tract located on the east side of Robinson Road between Redwine Road and Holly Grove Church Road from R22 Residential to LUR Limited Use Residential for the development of 30 lots using the R-15 density. He proposed a cluster type development that would leave a large buffer and greenbelt surrounding the entire tract by putting the focus of the development in the center of the parcel. He said he originally asked for 31 lots, but the Planning Commission recommended 30 lots. If approved, he said approximately 4-acres of the 10.78 acre tract would be left undisturbed. He did not feel the development would have much impact on the school system because the market for cluster type housing was generally popular with individuals who did not have small children.

—Jim Williams, Director of Developmental Services, spoke in favor of the rezoning. He said the Planning Commission also supported the rezoning and recommended approval with conditions. Williams explained the conditions and said that Mr. Gibson agreed to all of them. He said all citizens who attended the Planning Commission's Public Hearing spoke in favor of the rezoning.

Hearing no one else speak in favor of the rezoning, Lenox asked if anyone wished to speak in opposition to the rezoning. Hearing no opposition, Lenox asked if there were any questions. There were several questions and comments, a summary of which are as follows: discussion about the increased density from 20 homes to 30 homes; the potential of increased traffic, concern for the impact on the school system, and, it was expressed that the City should not take a developer's economic gain into consideration when making rezoning decisions.

Lenox called the public comment portion of the hearing to a close and opened the floor for Council to debate the issue and to render a decision.

Brooks supported the rezoning. He said he had been concerned about the development of that parcel for a long time and he supported the proposed plan. He felt a cluster-type development would have less impact on the school system than a conventional type development. He also noted that all of the comments from the Planning Commission were positive.

Tennant suggested a compromise in density and asked if the developer could build more expensive homes to make the project work financially with less density. Gibson did not feel that was feasible.

McMenamin agreed with Brooks' comments. She felt comfortable with the proposed zoning and the 'empty-nester' concept. McMenamin made a motion to approve the rezoning as requested with the following conditions:

1. The number of lots shall be no more than 30;
2. There shall be a greenbelt or undisturbed buffer at least 60 feet wide around the entire perimeter;
3. The internal streets shall meet all city street standards;
4. The City Engineer shall approve the location of the entrance street on Robinson Road to assure adequate sight distance and other necessary safety considerations;
5. The developer shall be responsible for contributing a pro rata share of the cost of redeveloping Holly Grove Church Road into a private driveway; and
6. The developer shall be responsible for paying the Braelinn impact fee in addition to the above additional project costs.

Gibson said he agreed to the conditions.

Brooks seconded the motion. Motion carried with Tennant opposing.

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

05-00-02 Public Hearing - Variance - Mueller, 707 Avalon Way

Michael J. Mueller addressed Council to request a variance to allow an encroachment of 3.9 feet into the setback area to allow the construction of a porch on his home.

Bruce Moore, the previous owner of the home, spoke in favor of the variance. He said he had always intended to construct a porch on the home and had even reduced the size of his driveway to allow room to do so in the future. He said he relied on the builder telling him that there was enough room, but he did not actually measure the distance himself. Moore said he told Mr. Mueller of the plans to construct the porch when Mr. Mueller was considering the purchase of the home, so he felt somewhat responsible for Moore's situation.

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

Hearing no one else speak in favor of the variance, Lenox asked if anyone would like to speak in opposition to the variance. Hearing no opposition, Lenox asked if there were any questions. Paul Fischer addressed Council and made the comment that he felt builders often built too close to setbacks areas. Lenox called the public input portion of the hearing to a close and opened the floor for Council to debate the issue and to render a decision.

Brooks made a motion to approve the variance to allow a maximum encroachment of 3.9 feet into the setback area. McMenamin seconded the motion. Motion carried unanimously.

05-00-03 Consider Bids for New Police Station

The City Engineer, Troy Besseche, said the City received six bids for the construction of the new police station. He recommended the bid be awarded to the low bidder, Leslie Contracting, Inc. in the amount of \$1,749,000, which was \$154,300 under budget. The bid provided a contract completion date of 180 days. The bid also included an alternate project in the amount of \$9,000 to provide an additional 387 feet of sanitary sewer and one additional manhole to serve sites south of the police station. This additional sewer project was requested and would be funded by Pathway Communities. Besseche said staff had experienced challenges in providing sewer access to the police station site and felt that a joint project would make sense. If Pathway Communities did not provide payment, the project would be deleted from the contract by a change order.

McMenamin made a motion to award the bid to Leslie Contracting, Inc. in the amount of \$1,758,000, which included \$1,749,000 for the construction of the police station and \$9,000 for the alternate sewerage project. The alternate sewerage project would be deleted from the contract by a change order if Pathway Communities did not provide the \$9,000 funding for the project. Fritz seconded the motion. Motion carried unanimously.

05-00-05 Consider Construction Contract - Highway 54 Traffic Signals

The City Engineer, Troy Besseche, explained there was a need to replace the traffic signal pole at the intersection of Highway 54 and Willowbend Road in Northlake Drive and a need to install a new traffic

signal at the intersection of Highway 54 and Flat Creek Road. Besseche also said several traffic poles —needed to be painted. He said PIP funds in the amount of \$111,124.60 were available

for the projects and recommended the contract be awarded to Atcheson Electrical Contractors, the only company who submitted a bid. The details of the bid are as follows:

Willowbend Northlake Drive	\$ 43,013
Flat Creek Road	\$ 54,636
Painting of Poles	\$ 23,000
Total:	\$120,649

Brooks made a motion to award the construction contract for the Highway 54 Intersections Project to Atcheson Electrical Contractors, Inc. for \$120,649 with \$9,524 coming from the PIP contingency fund as recommended by staff. Fritz seconded the motion. Motion carried unanimously.

05-00-06 Consider Disclosure Requirements for City Appointed Contractors

Rick Lindsey addressed Council stating he had sent Council a memo concerning the City Attorney's position as it related to the City's Code of Ethics and asked for Council's direction to prepare a proposal for review. He said he did not mind disclosing financial information, but asked for guidance as to exactly what needed to be disclosed.

- Lenox asked if Council should require an appointed official or contractor to be subject to the same financial disclosure requirements that are required of elected officials.

Brooks said some City's have attorneys that are designated as city officials. He instructed the City Clerk to research the issue to determine how the issue is handled in other cities and to place the item on a future agenda for discussion prior to December of this year. He did not feel there was reason to demand more financial disclosure from the City Attorney than what the state had determined elected officials must disclose.

McMenamin also requested that Lindsey provide the City Clerk with a copy of the Code of Ethics that Attorneys are required to follow so that the document could be kept on file at City Hall.

05-00-07 Appointments to the Library Commission

Brooks made a motion to appoint Mr. Stanley Applegate to the Library Commission to serve a term expiring May 31, 2003, and to appoint Dr. Mary Ann Browning serve as an alternate to fill any vacancy that may occur. McMenamin seconded the motion. Motion carried unanimously.

COUNCIL/STAFF TOPICS

There were no council/staff topics.

— Mayor Lenox made a motion to adjourn the meeting. Fritz seconded the motion. Motion carried unanimously. The meeting adjourned at 9:30 p.m.

Attest: