

City Council of Peachtree City
Minutes
May 3, 2001
7:00 p.m.

The City Council of Peachtree City met in a regular session on Thursday, May 3, 2001, at 7:00 p.m. in the City Hall Council Chambers. Mayor Robert L. Lenox led those attending in the pledge of allegiance. Other Councilmembers present were: Carol Fritz, Dan Tennant, and Steve Rapson.

Announcements, Awards, Special Recognition

Mayor Lenox recognized the Art Contest Winners for Georgia Cities Week. Mayor Lenox presented a proclamation to the Kiwanis Club for "Skip a Meal for the World's Children" Week.

Approval of Minutes

Fritz made a motion to table the minutes of the April 19, 2001, Council Meeting to allow Council an opportunity to review them. Tennant seconded the motion. Motion carried unanimously.

Consent Agenda

1. Alcohol License Representative Change – Holiday Inn Hotel & Suites
2. Alcohol License Representative Change – Wyndham Peachtree
Conference Center
3. Award Bid – 2001 Street Resurfacing Program
4. Appointments to Library Commission
5. Consider Additional Book funds for Library
6. Consider Ordinance Amendment Relative to Beavers

Rapson stated for the record that one of the applicants for the vacancy on the Library Commission was his mother-in-law.

Lenox read the list of consent agenda items aloud for the benefit of the audience. Rapson made a motion to approve the consent agenda as proposed. Fritz seconded the motion. Motion carried unanimously.

Tennant thanked Rapson for his suggestion to provide the book funds to the Library because he thought it would be a very valuable asset.

Old Agenda Items:

04-01-02 Discuss Private Streets

Lenox said this item had been rescheduled because Council felt there were some residents who wished to make additional comments.

Tennant thanked Council for placing this item back on the agenda and stated that the reason he had requested that the item be continued to the May 3rd Council meeting was due to his miscommunication regarding the date, and felt that was only fair to the interested parties.

Director of Developmental Services Jim Williams addressed Council and stated that at the April 19th Council meeting, Council had given the following instructions:

1. *Establish contact with some of the subdivisions that had private streets to find out what kind of technical assistance the City could render in handling the private street situation.* Williams said that the Public Works Department was responsible for this task, that they had made contact with several of the subdivisions, and had begun the process. Williams said Public Works would continue to contact all the subdivisions.
2. *If the City planned to make some of the private streets public, evaluate whether an ordinance should be passed to prohibit future private streets.* Williams said staff recommended that, if the City did pass an ordinance to that effect, it be directed against private streets in single-family residential areas and not disrupt the use of private streets in the commercial/industrial areas or in the multi-family areas because it did not make sense to have public streets in condominium projects for example. Williams stated further that an ordinance had been prepared and included in the Council package to reflect this if Council desired to approve the ordinance.
3. *Council directed that the Tax Assessors Office be contacted about taking private streets into consideration when appraising property.* Williams advised that the Public Information Officer had contacted the Tax Assessors Office and they had advised there was no difference in the way they looked at a house on a private street vs. a public street and that there were some facts and figures to back their statement up. However, if a private street was allowed to deteriorate, and obviously affect the appearance of the neighborhood, that it would have an effect on the assessments.

In response to Lenox' inquiry regarding the number of residential subdivisions and the costs involved, Williams stated there was a total of 34 subdivisions of which 12 or 14 were single-family, residential subdivisions, and that Public Works had calculated that it would cost approximately \$100,000, plus \$150,000 to bring those streets up to public standards, plus an ongoing cost of about a half million dollars every ten years to maintain the streets to public standards.

Ms. Sue Neilson, a resident of Masters Square, addressed Council and stated that she had read the minutes of the last meeting and understood the restrictions, that these were not City streets, and that there were no requirements to make them City streets. Neilson stated for the record that the six subdivisions she represented were willing to assume the costs to bring the streets up to City standards, and assume the costs of the lights, water and landscaping. She said their main concern was the paving of the roadway, that in some instances this represented a considerable amount of money. She said some of the residents had been able to set aside some reserves, but it appeared that the reserves would not be adequate by the time the streets were paved. Neilson said their assessments were not modified because they lived on private streets, that they paid the same tax rates, and that the residents felt they were paying comparable taxes, but were not receiving comparable services. She said the residents would appreciate it if they could get some type of tax consideration.

Resident Phyllis Aguayo addressed Council and asked how this would affect any future subdivision that wanted to come into town, such as a gated community, and would an ordinance prohibiting private streets preclude there being a gated community in the future. Lenox said that unless an exception was made in planning such a community would be prohibited.

Tennant stated that these residents were between a rock and hard place because on the one hand there was a *buyer beware syndrome*, but on the other hand he thought the public felt *duped* as had happened in this particular case, and thought government could and probably should lend a helping hand to the extent that was reasonable. Tennant said he personally felt the compromise discussed this evening – specifically if the subdivisions assumed the cost of bringing the streets up to code and assumed the cost of the lights, water, landscaping maintenance, etc., that the City would not be setting a dangerous precedent because there would be no more private streets.

The President of the Fairways Association, addressed Council and stated that he thought the intent was to bring the construction of the road - the thickness and correct construction up to Code but not the curbs or setbacks.

Lenox said this was a very major and significant problem because if the City accepted the roads as public streets it would literally create hundreds of non-conforming lots under the City's ordinances and the only way to legally correct the situation was to survey each lot and go through a formal variance procedure. He said otherwise there would be a situation in the future where residents would be unable to obtain a permit to do anything to their property, and they would have trouble conveying the property as the survey took place. Lenox said anything the City did short of doing it correctly would create a potential horror for some of the property owners. He said further that, from a street standpoint, he was empathetic and thought a way could be worked out so that it would be fair to everyone, but that he was concerned about the legal point.

Tennant said he thought the sole concern at that point was simply the paving the streets, and Fritz replied that it was not that simple because, once the streets were paved and brought up to City standards, all the other things automatically came into play.

The Fairways Association President addressed Council again and suggested the creation of a semi-private street category.

Lenox said there was a finite number of streets to deal with, and he thought part of the problem regarding private streets was that in reality no one took responsibility for the streets. There was no street expert in the community who knew when and what and how to do the things that needed to be done to keep streets in good condition. He said the City *was* an expert at maintaining streets, and suggested that the City do the same thing for private streets as they did for all the public streets (e.g., score them and review them every year, do the things that prolonged the life of the streets and minimized the costs, and planned ahead for the resurfacing). Assuming this could be brought into the equation, the City could meet with each subdivision and develop an agreement with the Homeowner Associations that said the City would maintain the streets for the residents for a price. He said the price did not necessarily have to be the full load, but could be tailored to each subdivision. He said, in reality, the City could determine how much City taxes went for road maintenance and try to work out something that was fair. He said, even though that would be a lot of work, it would be a better solution because it would not create problems in the future regarding titles or variances, and it would not disturb the private association covenants.

Rapson agreed with Lenox and said he did not think another ordinance was needed specifically for these types of streets, but as far as tax and equity was concerned, the street was just a small piece of that equation, and did not want to give the perception that the residents would receive a huge credit because they probably would not receive a credit. He said he felt the City was the expert in the field and that there were some economies of scale associated with the fact that the City did all the streets versus the residents doing just one street, and that would play into the equation. He said the problem would be that the streets would have to be up to standards and that there would have to be some testing to find out what really needed to be done.

Lenox said one of the reasons the streets would have to be brought up to City standards would be if the City were going to take them over, and that Council was not agreeing to take over the streets. He said the Homeowner Associations owned those streets, and the standard the streets were built to and the standard they were maintained to was up to the Home Owner Associations (within some constraints), but that the City could simply contract to maintain the streets at a fair price that recognized all the factors, then the streets would not have to be brought up to code, and it would not create a lot of problems.

Rapson said he thought that City staff would have to work with the associations to develop an agreement.

The Fairways Association President addressed Council again and asked if the home owners agreed to bring the streets up to City standards, wouldn't their taxes then be applied toward the maintenance of the streets the same as in other communities who paid taxes to maintain their streets. He said if the homeowners agreed to cover the cost to bring them up to City standards, there should not be any additional maintenance costs required for their streets because their

taxes should cover that. He said he had no problem forming a committee to negotiate whether they wanted to pay to bring them up to standards or if they wanted to set the money aside to pay the City for the maintenance of the streets. He said he thought they would rather bring the streets up to standard and then have the City maintain them without additional burden to the homeowners.

Lenox said there were 22 subdivisions and that some of them would need a lot of work and some would be as good as new, and that he did not know how to reconcile the problem.

City Manager Jim Basinger addressed Council and stated that he thought a standardized contract should be developed to ensure that all the private subdivisions were treated fairly and equally, obtain approval for the contract, meet with the homeowners and tailor a contract based on the individual needs of each subdivision based on that model contract.

Rapson agreed, but thought the ordinance should be adopted in case someone wanted to build a gated community that made sense for Peachtree City because they would then have to request a variance in this regard, and we felt the ordinance would not preclude this.

Lenox suggested that City staff work on this, look at a few subdivisions to determine the scope of the problem, and then take a look at the ordinance.

Rapson referred to Attachment B, 2 of 2, Definition Number 11: *Private street. Private street means any parcel of land set aside to provide access to development and which will not be dedicated or deeded to the city. These streets shall be constructed to standards adopted by the City of Peachtree City.* Rapson said he liked this because Peachtree City's standards might become more strict as time went on. Rapson then referred to Attachment B, 1 of 2, that represented the proposed ordinance, he thought the definition in the ordinance would replace Definition Number 11 of the Land Development Ordinance. Therefore, that Peachtree City standard would be incorporated into the language.

City Attorney Rick Lindsey addressed Council and stated that the new proposed ordinance did not have a standard, but that if Council wanted to adopt language that private streets were to be constructed according to the standards of Peachtree City, that

the last sentence of the present definition to the ordinance. Rapson said if Council was talking private streets, did they want to give homeowners that type of flexibility.

Lenox asked why a construction standard would be added to something they would not permit to be built. Williams said the definition should have been included in the definition, but was left out in error.

Rapson made a motion to approve the proposed ordinance with the addition of Definition Number 11. Lindsey confirmed that the definition read: *These streets shall be constructed to standards adopted by the City of Peachtree City*, which was the present language. Tennant seconded the motion. Motion carried unanimously.

04-01-05 Public Hearing – Service Fee Increases

Salvatore addressed Council and stated that this was the second of two public hearings to discuss revisions to Peachtree City's fee structures, and that some of the fees – particularly Occupational Tax and Alcohol License fees -- had not been revised since 1993. Salvatore pointed out that, in the Financial Policies that would be proposed at the May 17th Council meeting, a policy would be included to revise and update the fees on at least a three-year basis.

Salvatore provided a power point presentation (included in meeting packet) and brief overview of the process that was conducted, including information received from other cities and counties on similar fees, in comparison to Peachtree City's fee structures. Based on that examination changes to the current fee structure were proposed. Some proposals had also been made for new fees and charges. The Atlanta Regional Commission (ARC) had also assisted staff in gathering data.

Regarding Occupational Taxes, Salvatore explained that most of the cities surveyed used the gross receipts method to collect fees, and that Peachtree City was one of the few cities that calculated the fees based on the number of employees and that the City of Norcross was the only city that was comparable to Peachtree City – they charged a fee of \$15 per employee with no maximum. Salvatore said Peachtree City's current fee was \$12 per employee (\$75 minimum and \$1250 maximum), and that the City proposed to raise the fee to \$15 per employee (\$100 minimum and \$1575 maximum). He said staff felt that if the City had either changed to the gross receipts method (like most other cities were doing) or eliminated the maximum, it would have created an excessive burden on most of the businesses in the community. Instead, staff proposed to change the maximum gradually over a four-year period of \$500 each year. Salvatore clarified for Tennant that, if a person had a one-person, home-based business, they would just pay the \$100 minimum.

Regarding Alcohol License fees, Salvatore explained that staff had found that several fees currently being charged were in line (change in License and Distilled Spirits, Beer and Wine Retail); however, some of the other fees were low, so staff proposed implementing a five-year schedule to increase these fees. Salvatore said further that staff found there were several new fees that should be added, including a \$100 additional fee for Sunday Sales, which other cities charged, but Peachtree City did not charge.

Another new fee proposed would be a \$100 delinquent renewal fee. Salvatore said Peachtree City's current procedure was such that if a business was delinquent, they would have to reapply and go through the entire application process to obtain a new license. To avoid the administrative burden this imposed, staff proposed charging a \$100 delinquent fee to reinstate the license. In addition, staff proposed adding a \$2500 Alcohol Lounge fee to relieve the burden of certain lounges to be subject to the fee increase, they would just be held to the \$2500 if they were not part of a restaurant/bar.

Regarding Building Department fees, Salvatore advised that the fee for elevator inspections had been deleted and pointed out that the chart included comparable data from other cities and counties.

Regarding Leisure Service fees, Salvatore reminded Council that some of the fees had been discussed at the 2001 Annual City Council Retreat. Salvatore pointed out that meeting room fees would be changed to \$25 (small meeting rooms) and \$40 (large meeting rooms). In addition, the pool pass fees for out-of-county residents had been increased.

Tennant said he had spoken with a number of people about the Recreation fee schedule and that it was a very touchy subject for Peachtree City's citizens. He said the more he thought about it, and in light of the fact that the City was substantially increasing the out-of-town fees and creating a new category of commercial use fees, he felt that resident fees should not be increased.

Salvatore said the survey staff had conducted had been long overdue (7 or 8 years) and that, during that time, the City fell behind what other cities and counties were charging for their facilities, and that the City's costs had risen over that period of time. He said the reason they were proposing the increases was to help defray the costs of operating the Recreational facilities proportionately.

Lenox confirmed that if a Peachtree City resident paid \$40/Hour for the Pebblepocket Pool, they were actually paying to use that pool exclusively. Gaddo said that was the case, noting that they would not be charging more for use by the general public, only for private usage that took the public facility out of public use.

Fritz asked Gaddo if staff had looked at Fayette County and if their rates were higher than Peachtree City's as well, and Gaddo said it varied, but that Peachtree City was at or below what most communities were charging.

Rapson said he thought the fees represented a fair price, but he did not think a lot of the residents understood the pool passes and how they worked. He said if residents used the pools a lot, they were better off buying a year-round membership, but if they did not, they would pay \$2 per visit.

Rapson said he liked the fact that he could reserve a tennis court for \$40, but a corporation would have to pay a \$100 fee. He said this would discourage the corporations from tying up the City's facilities.

Tennant said the other side of the coin was that the corporations were subsidizing average citizens, which was okay because they had deeper pockets. Tennant said further that he hated to see the City charge for unlighted tennis courts and other items that had not previously had fees. Gaddo reiterated that the fees were only charged when the facilities were reserved for use. Tennant said he understood that, but felt the average 14-year-old

could not afford to reserve a court, and would lose the ability to play because adults had done so. Gaddo said the adults would have to pay for that right, and Fritz felt the children's parents could reserve courts. Tennant said he liked the idea of first-come, first serve for the tennis courts. Tennant reiterated that he still thought that the out-of-county increases and the creation of the commercial category would more than offset any necessary increases to Peachtree City residents.

Lenox asked what the mix of users was for the facilities. Gaddo said that, too, varied by facility. He said the Kedron meeting rooms were primarily reserved for resident birthday parties, while other meeting rooms and parks were seeing a great deal of commercial use that had begun to encroach on the resident usage because the costs were so inexpensive. Rapson asked if it would be a fair statement to say that Homeowner Associations that met regularly every month reserved the meeting rooms for months at a time, and Gaddo responded that the policies placed some limits on how far in advance rooms could be reserved for regular meetings. Rapson noted that most of the facilities were used by residents and were not self-supporting. Gaddo indicated that 99% of other cities charged fees for such usage. Rapson said he was less concerned about what other cities charged than the fact that the rates had not changed since the early 1990s, and the new rates were not even representative of adjustments for inflation. Gaddo and Salvatore said that was a fair assessment. Rapson felt the proposed rates were fair, and Gaddo said the department did not receive complaints about the rates charged.

Tennant said he received a lot of complaints on the cost of Recreation fees from families with children, but Fritz and Lenox said they did not receive such complaints. Rapson agreed, saying that parents generally were not even aware they could reserve some of the facilities.

Tennant asked how much additional revenue would be generated by increasing the residential rates, and did not feel the increase would be worth the negative sentiment in the community. Salvatore said the revenues would be difficult to estimate because some of the out-of-county and commercial fees would also reduce those types of usage, which was another goal of those fees. The resident fee increases would support less crowded facilities. Salvatore said Recreation was the largest departmental expense in the city, greater even than Fire or Police, and the city needed to be responsible in charging fees to ensure that the users were paying their fair share.

Rapson said it was like Local Option Sales Tax, where the people who used the most helped to pay for it. Fritz said she had looked at the budget and found a considerable difference in what the city collected in recreation fees versus what was paid out for recreation. She felt all the taxpayers were making up that difference. Tennant said that a fee was a tax, but Fritz felt it was a tax directly on the people using the service. Tennant said that, when people moved here, they assumed part of the responsibility for paying for the services that were here.

Resident Phyllis Aguayo, addressed Council, saying that charging fees when a facility was converted from public to private use did not impact the general user in cost, while the whole

community was paying for the general user. Tennant said he did not disagree, but pointed out that fees were already in place to offset that cost. Fritz felt those fees were antiquated. Rapson asked if Council would be voting on the item that evening, and Basinger said they could if they so desired. Tennant asked if the fees could be separated for the vote, and Lenox felt it would be fairer to separate them. Basinger recommended that the fees become effective on July 1, 2001.

Salvatore advised Council that the City was lacking in the commercial fee area, and that the Atlanta Lawn Tennis Association (ALTA) had expressed an interest in the use of the Glenloch Tennis Courts. He said Gaddo had put together a fee schedule that he felt was reasonable to accommodate ALTA.

Regarding Court Fines and Citations, Salvatore said that those fees were set by the Judge, who was currently satisfied with the City's basic fine structure, although he did agree to double the fine for speeding in school zones. Salvatore pointed out that Peachtree City was at or near the highest fine for charges involving alcohol and drugs, reckless driving, and no insurance. Salvatore explained that staff had also proposed a new fee of \$2 per citation that represented a Technology Fee to help defray the cost of the City's computer systems (a common fee charged by other cities).

Salvatore reiterated that the proposed implementation date for the new fees would be July 1, 2001, and that new Alcoholic Beverage Licenses would be charged the new fees beginning on July 1st. Lenox questioned whether or not Alcohol Beverage Licenses were prorated and Basinger said he would check on this and advise Council.

Lenox made a motion to increase the Occupational Taxes as recommended, effective July 1, 2001. Fritz seconded the motion. Motion carried unanimously.

Lenox made a motion to increase the Alcoholic Beverage Taxes as recommended, effective July 1, 2001. Fritz seconded the motion. Motion carried unanimously.

Lenox made a motion to increase the Building Department Permit Fees as recommended effective July 1, 2001. Fritz seconded the motion. Motion carried unanimously.

Lenox made a motion to increase the Recreation Fees and create the new Recreation Fees and Charges Structure as recommended, effective July 1, 2001. Rapson seconded the motion. Motion carried 3-1 with Tennant opposing.

Lenox made a motion to add a \$2 per citation for a Technology Fee to maintain the City's computer system as recommended effective July 1, 2001. Tennant seconded the motion. Motion carried unanimously.

NEW AGENDA ITEMS:

05-01-01 Acceptance of FY-2000 Audit

Salvatore explained that the Auditor, Ed Wetherington, was not present and that Wetherington had planned to give a brief presentation on the audit, particularly regarding the issue of Reserves. Salvatore said that the Financial Policies would be presented at the May 17th Council meeting, and that a policy to address the Reserve issue would be proposed at that time. Salvatore said staff recommended that Council accept the Audit Report.

Rapson asked how close the actual cash reserves were to the model Salvatore presented at the 2001 City Council Retreat, and Salvatore said he thought they were up from what was projected. However, Salvatore commented that Council voted to put that money back in the budget in several forms – one of which was a decrease in the millage rate (there was no increase in the millage rate for pay raises recently approved), and that staff was anticipating the excess cash reserves in September 30, 2000, to be approximately half that amount by September 30, 2001.

Rapson said he had reviewed all the financial information and made a motion to accept the audit as presented. Fritz seconded the motion. Motion carried unanimously.

05-01-02 Alcohol Licensee and License Representative Change – Ginza

Lenox announced that the applicant was unable to be present due to unforeseen circumstances, and made a motion to table the item to the May 17th Council meeting because the new owners were from out-of-state. Fritz seconded the motion. Motion carried unanimously.

05-01-03 Public Hearing – Proposed Rezoning – SW Corner of GA 74 and Crabapple Lane

Lenox read the rules for a Public Hearing and set a time limit of 25 minutes per side.

Jerry Peterson, Pathway Communities, addressed Council and stated that the applicant had requested that the 6.7-acre tract located at the southwest corner of Highway 74 and Crabapple Lane be rezoned from R-43 to OI (Office Institutional). He described the property as being a triangular shaped and explained that the long side of the triangle was situated on Highway 74. Peterson said the property had been zoned in the mid-80s along with most of Kedron Village and that it was the edge of the zoning, that the property to the west had not been zoned at that time and was still in the reserved category today. He said that the R-43 zoning was not an appropriate use for this piece of land anymore because of the current uses in the area.

Peterson described the property in more detail, explaining that the topography on the top end of the property adjacent to Crabapple (the broad end of the triangle) was fairly level; that the south end (at the narrow end of the triangle) was a drainage area that came from the west, crossed the property and went under the highway; and that there was some fairly steep ground (about 20% slopes). He said the trees covered the entire site and the south end along the drainage and steep slopes had the best trees on the site. He said further that the site was very open to Highway 74 especially due to the triangular shape (more specifically along northbound Highway 74), the long end of the triangle where the ground sloped up away from the road so that the interior site was clearly visible.

Peterson brought Council's attention to the drawing of the site and explained that he thought the area where Highway 74, Peachtree Parkway, and Crabapple Lane (to the west) was the frontage of the site (directly across from the Fire Station). He said Georgia Power owned the property on the other two sides where the new substations were under construction, and that the water tank was in back. He said these three things took up the exact frontage of the property on the north side of Crabapple. Additionally, he considered the back door of the property to be across Highway 74 where the Kedron Kroger Center was located. The northeast corner consisted of the new Kedron Office Park and the new World Airways Building. Peterson described the second phase of the Kedron Center that was currently an open field, Georgian Park, the hotel, the retail center, and the Georgian Park Condominiums, and that on the west side of the highway was the school church complex that consisted of an eight-acre campus, which was a short distance from the tip of the property being proposed for rezoning on Highway 74. He said below that the zoning was GR-4 and GR-12 where the apartments were under construction. Immediately west of the property was land that was still in the AR reserved zoning category. Peterson said in addition to the uses around the area, the Peachtree City city limits were at the north end of the drawing. He said he felt this corner was the first sense of arrival when a person was entering Peachtree City and that there were public uses on three sides. He said Pathway Communities had discussed landscaping all four corners with the same types of trees and shrubbery, maybe some low brick walls or something to help reinforce the feeling that a person had arrived. He said he felt it would be inappropriate to have a house sitting on the fourth corner when trying to make the statement of an arrival point.

Peterson said Council's information packet contained the layout of R-43, one-acre lots and that with the shape of the property, the buffers and setbacks, there were three lots on the 6.7 acres – two of which backed up to Highway 74 and one backed up to the corner and that one-acre lots were about the only way to lay this property out. Peterson said he had developed a potential layout for an OI office on the site and that due to the shape of the property there were about 3.5 acres of the 6.7 acres that would be usable for a building location and thought that an office on that corner would be much more appropriate and would look better than a house backing up to the corner. He said he thought it would also be a nice gateway to Crabapple Lane because as a person came from Highway 74 and the shopping area, they would enter Crabapple and that the Fire Station and the office building would serve as a transition for the other uses going on down Crabapple Lane. Peterson said he hoped Council

would vote yes for the proposed rezoning to help clean up some relationships that did not exist when the property was originally zoned.

Lenox noted that, in the packet submitted with the office zoning, Pathway Communities would bore the highway and put sewer on that side of the road, but that he did not see anything relative to that on the Residential R-43, and he assumed those lots would be on septic tanks. Peterson confirmed that the one-acre lots would have to be on septic tanks.

Tennant asked Peterson to elaborate on what he meant by the property being better for OI and that it could feature some kind of walls at each of the four corners to provide extra continuity. Peterson said the idea was to help reinforce the sense of an entry upon arrival and to take some common units of the four corners – whether it was trees, shrubbery, or perhaps a low brick or stone wall. He said you could do something like that if all four corners had similar uses and that he was worried that the back of a house would not make that work.

Hearing no one else to speak in favor of the proposed rezoning, Developmental Services Director Jim Williams addressed Council and stated that at the Public Hearing held by the Planning Commission there were other people that spoke in favor of the rezoning who were interested in possibly extending the commercial zoning a little further down Crabapple Lane. He said his main concern was whether it would stop there because the people who lived next door clearly had that in mind because they had already contacted some developers to promote that idea. Williams said the Land Use Plan in the mid-80s reflected the character of the property and that a lot of things had changed in that area, but that nothing had changed in the Land Use Plan for the area. Additionally, when the Land Use Plan was last updated in 1995 or 1996, it was once again projected to be residential on that corner. He said this was not a new idea, but it was also not something that staff had thought about over the last 10 or 15 years. Williams said it was a fairly straight forward issue, that the Land Use Plan said residential in that area – that it did not say commercial anywhere along there – the commercial was all on the other side of the street. He said the closest thing the City had to commercial in the area was the Fire Station, that Fire Stations typically went in residential areas, and that the City recently rezoned the property adjacent to the Fire Station and the towers the same category that this property was already located in. Williams said he thought there was plenty of precedent for retaining the residential zoning there, but he agreed with the comments about a home being located there, stating that if it were improperly developed, a backyard could be a problem. Williams said there was a 100-foot greenbelt between the road and the backs of the houses, and that hopefully the City would be able to keep the property from being developed that way. Williams said the Planning Commission and staff recommended denial of the project because they felt there was not a compelling public interest in changing the Land Use Plan in that area.

Tennant said he thought Peterson had made a good presentation and that it did make sense that that particular piece of property would be more suitable to an office building than it would be for three lots.

Mr. Greg Francis, a resident on Crabapple Lane, addressed Council and stated that he was opposed to the rezoning because it was against the Land Use Plan. He said when he pictured Peachtree City, he thought about the greenbelt, the cart paths, homes and woods, and did not picture office buildings on all four corners. He said he was more afraid of the domino effect – that he knew the McElreaths and the Henry families were seeing dollar signs, and that the Henry family already had their property for sale with a commercial developer. He said if the OI zoning were approved, he thought other rezoning requests for OI would be forthcoming. Francis said he had heard rumors that, if the Pathway rezoning request was approved, land developer Jimmy Halligan would want to change his recently approved rezoning request to OI because he would much rather develop office buildings on the north side of Crabapple Lane where the residential project was going to go in. He said his fear was that there would be commercial buildings, then 5 houses with 15 kids, and that there was already a major traffic problem on Crabapple Lane and this would only make things worse.

Resident Phyllis Aguayo addressed Council and stated that the Planning Commission had seemed very concerned even though they thought Peterson's presentation was very compelling, but that it was really not what was wanted. She said there was a gateway there, but felt that a commercial or office feeling was not representative of Peachtree City. Aguayo said the office building that was currently located there was interesting, but that one of the Planning Commission members had made a statement that she had heard from many people, which was that it was so nice to come home to that *Welcome to Peachtree City* sign and now all of a sudden the backdrop to *Welcome to Peachtree City* was an office building. She said people felt that was an unfortunate statement about Peachtree City and not a statement they would like to make on all four corners. She said Peachtree City should be represented by greenspace, buffers, and houses – not office buildings and commercial areas. Aguayo added that she felt it had been a mistake to have the commercial and offices at the entrance and thought it would mitigate it somewhat to have something soft and residential on one side. She said by putting OI there, the City would be pushing out long-term residents by changing the nature of the neighborhood.

Ms. Paula Taylor, who lived on Leisure Trail and Crabapple Lane, addressed Council and stated that the area should be left because of the trees.

Ms. Bonnie Beerbower, 144 Crabapple Lane, addressed Council and stated that her property was three pieces of property down from the corner section, next to the Henry and McElreath's properties. She said the Land Use Plan zoned the property as R-43, and that her property, the Henry, McElreath, and Cole properties were AR reserved. She said there was a concern that if Pathway Communities' proposed rezoning request was approved for OI, Jimmy Halligan would come back before Council to request OI as well. She said she knew the Henry family had their property for sale and hoped to sell commercial, that they wanted to move and they wanted as much money for their property as they could get. She said she chose Peachtree City because it was a planned residential community and that she would appreciate it if Council did not approve the proposed rezoning request.

Hearing no one else speak in favor of the rezoning, Lenox called the public hearing to a close so that Council could debate the issue and reach a decision.

Rapson commented that Peterson had made a compelling argument, but that he thought Peterson's definition and his definition of a gateway to the community were different. Rapson clarified the fact that they were talking about building three homes versus building a 35,000-foot office building that might generate 140 cars and that Council had already heard a lot about traffic being a problem in that area. Also, if the zoning were changed, the greenbelt would be shrunk from 100 feet to 60 feet. He said he would be opposed to that and it seemed as though the request could be viewed as a spot rezoning type request. Rapson said the proposed zoning did not comply with the Land Use Plan and the Planning Commission recommended denial, and, from his point of view, a message should be sent to all developers that said if they did not follow the Land Use Plan and could not get past the Planning Commission, then it would not be approved by City Council. Therefore, Rapson said he would be opposed to changing the nature or the character of the gateway.

Fritz said she also agreed that Peterson had presented a compelling presentation, and she saw the logic of what he had said, but that Council had recently considered an issue on Highway 74 where some property was rezoned, and that a domino effect was being experienced there. She said further that she was concerned that the same thing would happen with this property and Council would be put in the same position and for that reason she would have to oppose the rezoning request.

Tennant said Council had also heard some compelling arguments from Peachtree City residents, and that he thought Council owed it to them not to change the rules. He said despite the fact that one could be easily swayed to rezone this piece of property, he thought less damage would be done if Council denied the rezoning request and adhered to the Land Use Plan; therefore, he would be in favor of denying the request.

Lenox said he thought if three houses were built there, Council would regret it. On the other hand, he also had difficulty rezoning the property to OI because he was adamant about the fact that the area had always been planned as residential, and needed to remain residential. He said he was also concerned about the domino effect.

Tennant made a motion to deny the rezoning request for Crabapple Lane West. Rapson seconded the motion. Motion carried unanimously.

Lenox made a motion to adjourn for a five-minute recess. Tennant seconded the motion. Motion carried unanimously.

05-01-04 Consider Ordinance Amendment – Golf Cart and E-bike Rules

City Attorney Rick Lindsey addressed Council and stated that this item was a continuation of the ordinance that Council adopted at the April 19th Council meeting. He said there were two issues Council had asked staff to research. One issue was to consider adopting an ordinance

that would restrict vehicles off what was referred to as *soft paths*. The other issue was whether registration of the E-bikes would be required.

Lindsey said the City could require registration of the E-bikes and could also require registration of traditional bikes. Lindsey explained that he had not taken the liberty of drafting a proposed ordinance because he wanted more direction. He said if the City required registration of the E-bikes, Council would be faced with the same issue as they were eight or nine years ago with the golf carts. He said that information was considered a public record and could be obtained by the Tax Commissioner and he did not know if residents would have to pay an Ad Valorem Tax on their bicycles. Secondly, if Council did desire registration for the E-bikes, would Council want to use the VIN number on the E-bikes or license plates, etc., because there was not a solid place on the bikes that a numbered decal could be affixed to as on the golf carts.

Regarding the soft path issue, Lindsey said he had drafted a proposed ordinance, and he did not include skates, skateboards, etc., in the list because he did not think they could be driven on the dirt paths anyway. Lindsey apologized that the proposed ordinance he had drafted stated "Planterra Nature Trail" and should have read the "Line Creek Nature Trail." He explained that the ordinance would basically limit all vehicles with the exception of wheel chairs and those types of vehicles from the soft paths. He said these soft paths would have to be marked with a sign that said "No Vehicles" or something to that effect.

Tennant said he had been disappointed that Lindsey had left out motorcycles and that would be the only addition to the ordinance he would like to see.

Lenox said he thought the ordinance was fine for the purpose it was intended, but asked if Council wanted to pursue the registration issue. Rapson said he thought the VIN numbers on the bikes could be used and that perhaps a form could be developed for the owners of the bikes to sign that stated that they could not drive the bikes on soft paths and in this way, the VIN number could be captured.

Lindsey clarified that this would only be for the E-bikes, not traditional bikes. Fritz said this would be for security purposes so that people would know what the ordinances were.

Lindsey suggested that Ms. Barbara Evans who attended the April 19th Council meeting be required to give out the City's package of information at her store where the bikes were sold as well as to provide the information on her web site rather than have the owners of the bikes obtain the information from City Hall. Lindsey said he did not see this as a problem, but that if it did present a problem it could be incorporated into the ordinance. He said the problem then would be how the rules could be enforced. He said what he really wanted to do was get the information to the residents and thought the best way to accomplish this was to have the seller of the E-bikes provide a copy of the City's rules for cart paths. Resident Francis Meaders stated that the reason golf carts were originally registered was for behavior identification and thought the City might have the same problem with E-bikes.

Lindsey said he did not know if registering the E-bikes would require a metal tag or a decal, but that he did not have enough information to decide what to do about registration of E-bikes.

Lenox commented that the City went a long time without registering golf carts, and did not really have a problem, but when it got to the point where there were enough golf carts there had been some abuse. Lenox said if Council adopted the ordinance, the soft paths would be protected, the sellers would be required to hand out a pamphlet that the City could provide for the time being, and a year from now if there was a problem, they could look at it again. Fritz agreed with Lenox that this issue should be left alone until it became a problem.

Tennant made a motion to add Section 70-40, Article III Nature Trails as amended. Rapson seconded the motion. Motion carried unanimously.

05-01-05 Expenditure of City Funds

Lenox introduced agenda item 05-01-05, and stated that Councilmember Tennant had requested that this item be placed on the agenda and offered the floor to Tennant. Tennant said what he had to say was probably going to make some people angry, and that it was not his intention to hurt anyone's feelings or to make anyone angry. He said he had been very, very troubled and emotionally bothered by the particular subject he was going to bring up tonight. Tennant apologized in advance if he did offend anyone, but there were some things that needed to be said as it related to the Council Contingency Fund.

Tennant read the following prepared statement:

The Peachtree City Council Contingency Fund is part of the City's budget - to be used at Council's discretion on unbudgeted and unforeseen expenses. It has always been my belief and understanding that this public money could only be spent with a public majority vote of Council. Unfortunately, and remarkably, I have evidently been mistaken in my assumption, according to a recent interpretation of the law by City Attorney Rick Lindsey. So, we have a problem to fix and a loophole to close all because Mayor Lenox, in my opinion, abused his privileges and betrayed the public's trust by unilaterally authorizing expenditures from the Council Contingency fund without the express approval of Council. Allow me to briefly explain how this subject has been brought to the surface.

As most citizens know our former City Clerk, Nancy Faulkner, entered into a severance package agreement with the City that was astonishingly generous and totally unprecedented. Ms. Faulkner's severance package included three components - six month's salary (which amounted to \$22,179), six months of health insurance valued at \$887 and \$7500 in tuition costs for paralegal training. The total cost of this deal was in excess of \$30,000. The \$7500 expense was paid with Council Contingency funds, despite my vehement objections I provided in writing to the Mayor, and despite a lack of any express consent by Councilmembers Fritz or McMenamin. And, by the way, Council was composed only of three Councilmembers at the time of the Mayor's authorization of the expenditure of the

money ... of the \$7500 ... since Dr. Brooks had resigned, but Councilmember Rapson had not yet been appointed. In any case, when I made some inquiries about the legitimacy of these expenditures with our City Attorney Rick Lindsey, I was provided with the following legal interpretation, among others, of the Mayor's actions by Mr. Lindsey and it went like this.

"The Mayor had the authority to expend funds from the Council Contingency Fund without Council approval and specifically had the authority to expend \$7500 from the Council Contingency Fund for the Paralegal training for Ms. Faulkner." I was very surprised to read that legal opinion until I thought more about the source of the opinion. It is essential to understand that the author, City Attorney Lindsey, was appointed as such at the suggestion and urging of Mayor Lenox when troubling issues arose with partner, Jim Webb, early last year. From May 4, 2000, when we appointed Rick Lindsey to be our City Attorney, through March 31, 2001, we have paid Mr. Lindsey over \$206,000. This very substantial amount of taxpayer money has been paid in a span than less than 11 months. We are a big customer to Mr. Lindsey by anyone's standards. While I certainly respect Rick Lindsey's legal expertise, abilities and credentials, and have no personal animosity toward him whatever, he is only human, and in my opinion is not in a position to render a completely objective legal opinion on these matters. In light of that, I highly recommend that Council seek at least two additional legal opinions regarding these financial matters from independent and objective legal observers. I'm not a lawyer, nor do I claim to be a legal scholar, but I am not stupid. Council Contingency Funds belong to the people and should be spent only after a majority vote of Council in a public meeting. That is clearly the intent of the fund. Until such time that we create a Mayor's Contingency Fund, the unilateral expenditure of funds from this account by Mayor Lenox is in my opinion, the ultimate exhibition of arrogance and disregard of good judgment, and it only fosters the continued erosion of the public's confidence in their elected representatives. The Mayor is fond of stating that each citizen's City tax bill is roughly the equivalent to one's cable tv bill. Well, for about 25 families your annual City taxes went to pay for paralegal school for a former City Clerk. All because Bob Lenox decided to spend their money at his own discretion. This is wrong, immoral, unfair and it has to stop now. From a much broader perspective we must rectify the unprecise wording of our ordinances governing City expenditures; specifically, Section 34-118, of the Peachtree City Code. I understand that, fortunately, this subject has been placed on our next meeting's agenda by Councilmember McMenamin. In the meantime, it is imperative that we make it crystal clear that funds expended from the Council Contingency Fund be authorized only by a majority of Council in a public meeting. It's a sad day in Peachtree City's history for me as an elected representative to feel compelled to sponsor legislation to clarify what, by any reasonable standards should be considered obvious. But in order to prevent what I believe is the further abuse of the expenditures of the public's money, I'm prepared to make a motion. I move that we add Section 34-118.1 to the Peachtree City Code of Ordinances as prepared by Mr. Lindsey, - subject to the following changes, and specifically where it reads, "Except as provided herein, the City Council shall (and I would like to see put in there) by a majority vote in a public meeting. And the other change I would like to see put in is in the third line where it says "funds due to be in the best interest of Peachtree City," I would like to strike

that and put "perceived to be a legitimate emergency." The rest of it, I think, is well written and I can live with it, so I'd like to make that motion.

Rapson asked Tennant if he said - where it says "best interest of Peachtree City" - make it what? Tennant replied, no, instead of where it says "the best interest of Peachtree City," scratch that and put "is deemed to be a legitimate emergency."

Rapson said he would second that, but he would like to modify it even further.

He said the very first sentence read fine, but he would like to scratch where it started with "in any situation" all the way down to the end of the sentence up until it started to say "under no circumstances." For the benefit of the audience, Rapson read the current Ordinance and explained how he intended to change it. The ordinance stated: "In any situation where the expenditure of monies in the Council Contingency Fund is to be in the best interest of Peachtree City" ... which Tennant has just changed ... "by the Mayor and the prior approval of the City Council, such expenditures from the Council Contingency Fund cannot be obtained because a meeting of the City Council cannot be held before such expenditure must be made, the Mayor or the City Manager may expend such money from the Council Contingency Fund, discussion of such an expenditure shall occur as a regular agenda item at the next City Council meeting." Rapson said he would like to change it to make it a whole lot simpler, but also to give some more authority to the Mayor and the City Manager in regards to certain emergencies. Rapson said he would like the ordinance to read: "In situations present an immediate public health, safety and welfare emergency, the Mayor or City Manager is authorized to expend monies from the City Council Contingency Fund. Discussion of approval of such emergency shall occur at the next regularly scheduled City Council meeting as a regular agenda item."

Tennant commented that all Rapson did was clarify what an emergency was, and Rapson said he was basically giving them the authority to fix the problem. Tennant said he absolutely believed the Mayor and City Manager needed to have the authority to fix an emergency problem, and that there was no question about that. Rapson clarified that Tennant was okay with that suggestion. Tennant reiterated that he was absolutely okay with that and would amend his motion to reflect Rapson's change.

Rapson added that the only other change that he had was in the very last sentence. He said they had talked about expending the money and he thought Tennant was trying to isolate it to the Council Contingency Fund. Tennant said yes. Rapson said he would just question whether Council should broaden it to say "Under no circumstances does the Mayor or the City Manager have the authority to expend money from the Council Contingency Fund on any project if the City Council has voted on a previous occasion not to so spend the money." Rapson said, he basically wanted to say that "under no circumstances does the Mayor or City Manager have the authority to expend money .. period .. on any project if the City Council had already voted on a previous occasion not to do so."

Tennant asked if Rapson wanted to scratch "from the Council Contingency Fund."

Rapson said right, that maybe he would broaden it to say they couldn't spend it from anywhere because Council had already taken action that said not to. Tennant replied that he would modify his motion to reflect that change also.

Rapson said he thought that would leave some flexibility with the City Manager as well as the Mayor to fix those health and safety type issues that they were charged with. He said he did not want to tie their hands so much that they could not do anything.

Fritz asked if it needed to be two separate ordinances, and Lindsey confirmed they were talking about Section 34-118. Tennant said he thought it was on the next meeting's agenda.

Rapson said in the beginning of the discussion, Council had talked specifically about Council Contingency and then towards the end they had broadened it back up again.

Tennant said Section 34-118 needed a lot of work, and he thought Council understood that very clearly, and it was his understanding that Councilmember McMenamin had already requested that Council place this item on the May 17th Council agenda.

Lindsey asked Rapson to go back to his comment about striking the phrase "from the Council Contingency Fund." Lindsey said he understood Rapson's intent, but that he thought Section 34-118 should be addressed at the May 17th Council meeting. Lindsey said that this was an ordinance that was concerned only with the Council Contingency Fund – not with other expenditures. He said he did not have a problem so much with what Rapson suggested, but he thought it made it clearer and cleaner and that possibly it would not conflict with whatever Council decided about Section 34-118 at the next meeting. Lindsey clarified that Rapson was only talking about one issue, and if he wanted to place the same constraint on all expenditures, to do that in Section 34-118.

Rapson said he thought there needed to be a lot more latitude when it came to capital expenditures.

Lindsey asked Tennant to clarify his first changes, and Tennant he wanted to change the ordinance as follows: "Except as provided herein, the City Council shall, *by a majority vote in a public meeting*, approve all expenditures, etc." He said his main objective was to correct the problem tonight. Fritz said that answered her questions.

Lenox asked if Council were in the discussion period now, and Tennant replied that the Mayor was the presiding officer, that he had made a motion, and it had been seconded.

Lenox stated that, inasmuch as he was somewhat offended, the actions about which Tennant was concerned all took place in the beginning of March, and now it was two months later, and Lenox asked why Tennant waited all this time to raise the issue.

Tennant said it had weighed heavily on his mind for quite some time, but he hadn't wanted to do anything rash or stupid. Lenox asked Tennant if he had talked with him about the issue since the agreement was executed on March the 5th, and Tennant replied he thought he had.

Lenox replied that Tennant had not talked to him about it, nor had Tennant tried to talk to him. Tennant replied that that was yet another lie.

Lenox reminded Tennant that he had emailed him and that he had not spoken with him about this issue since March 5th. Tennant replied that the Mayor had made his decision to execute the agreement and asked what exactly did the Mayor expect him to do? Lenox said it might have been worth discussing before Tennant asked for a legal opinion or interpretation of his action. Lenox stated that Tennant had asked Mr. Basinger to obtain a legal opinion on the issue, and that Tennant had asked Basinger to keep it confidential from him. Lenox asked why Tennant had done that. Tennant said because he chose to ask Basinger to keep it confidential, and Lenox asked Tennant why again. Tennant replied that he chose to. Lenox said that was evident, but he would like to know why Tennant wanted it to be kept confidential from him and the other Councilmembers. Tennant said he had that prerogative, and it was his privilege.

Lenox asked Tennant if he had provided the legal opinion to any newspaper, and Tennant said not that he knew of. Lenox said he thought it was strange that there was a story about this in the previous day's paper. Tennant asked that he be allowed to clarify that his answer was no, he did not, but he was finished with the inquisition, and that he was not the guy that broke the rules.

Lenox said he now had the floor, and asked Tennant not to speak, saying he had listened politely while Tennant spoke. He said Tennant's premise was that Lenox alone decided that the settlement agreement was acceptable, and that he had grossly exceeded his authority by spending this money. Tennant replied that was correct. Lenox said the facts did not support that premise, and that everyone was aware that the City Clerk position, and Ms. Faulkner, were a contentious and divisive subject for Council, the staff and the city for several months. Lenox continued and stated that actually, at the first February meeting, Council had heard Ms. Faulkner's pay plan appeal and Council had denied it three to two. Lenox stated it was still divisive, and still a problem for everyone. He said about a week after that meeting, Mr. Lindsey and Ms. Faulkner had lunch, at Faulkner's request he thought, but he was not sure about that. Lenox explained further that Faulkner at that lunch, had presented the idea that she would consider voluntarily leaving the City's employ if a mutually satisfactory separation agreement could be reached, and that she, in fact, felt that the whole situation had deteriorated to the point that this was the only way to end the contention and acrimony, and was actually best for her and the City. He said at the February 15th meeting, Mr. Lindsey commented in passing to Council that this possibility existed, and Lenox had asked if Council wished him to pursue it to see if they could come up with something acceptable, and everyone said, including Dr. Brooks, who was still on Council at that time said, "Yes, good idea, let's see what we come up with." Lenox said his schedule at that point, and Tennant was welcome to review his book, was such that he was traveling on business every day from February the 15th through February the 26th, except for Tuesday, February the 20th. He said further that he had one day in the office, and that he instructed Mr. Lindsey to see what he could negotiate with Ms. Faulkner. Lenox said when he returned on February 27th, Mr. Lindsey presented him with an agreement that was acceptable to and, in fact, had been signed

by Ms. Faulkner. Lenox said if he had wished to act on his own, which he thought he could have done and despite Tennant's diatribe to the contrary, he would have signed the agreement right then. Lenox said further that contrary to Tennant's opinion that he had somehow run amok, he had used the spending authority, which he believed Peachtree City's ordinances had given him, exactly twice in his nine and a half years as Mayor. He said the first time was several years ago when he authorized emergency repairs to a washed-out bridge in Smokerise because the residents couldn't get out of their subdivision without the repairs. The second was a \$7500 expenditure last year for the design charette regarding Highway 54 and Walt Banks Road. He said he would have placed the agreement with Ms. Faulkner on the agenda for the March 1st Council meeting, but that meeting had been cancelled, and he did not feel that the matter could wait. Therefore, on February 28th, a Wednesday, Lenox sent the following memo and a copy of the agreement to Tennant and to the other two Councilmembers at that time.

Lenox read the following interoffice memorandum:

"To: Councilmembers. From: Mayor Lenox. Date: February 28th, 2001. Subject: Agreement between Nancy Faulkner and the city. The attached agreement, drafted by the City Attorney between Nancy Faulkner and the city, is forwarded for your information and consideration. I personally feel it is a fair settlement. Please note that Nancy has signed the agreement and her final day of employment will be March 9th, 2001. Please contact me if you have concerns about the agreement. Depending on feedback from you, my tentative plan is to sign the agreement on Monday, March 5th, 2001, with no further action on this matter required by Council."

Lenox said, in addition to the memo, he asked Mr. Lindsey to call each Councilmember and answer any questions or clarify anything that might be unclear to anyone. Lindsey did so, and Lenox received one call relative to this agreement from Tennant. Lenox said Tennant thought the agreement was "too generous, would make it look like the City was trying to hide something, and would reflect badly on him." Lenox said he thanked Tennant for his input. Lenox continued and stated that on Monday, March the 5th, five days after sending the memo, he had heard nothing from Councilmembers McMenamin or Fritz, and that, on the perfectly valid assumption that three members of the Council found the agreement acceptable and one did not, at 5:00 p.m. on March 5th, he executed the agreement on behalf of the City. Lenox said in retrospect, everything that happened until then was perfectly appropriate and that he did not enter into that agreement on his own. He said the normal procedure would have been to put the item on the agenda at the next public meeting and ratify Council's decision, but that no one, including Tennant, asked that the item be put on the March 15th agenda and, in fact, by March 15th it was probably academic because the ink wasn't dry on that agreement before the City had requests for it from the newspaper, and that by March 15th the agreement had literally been printed in the newspaper. Lenox said that was all he could say about it, that Tennant could beat this dead horse, and spend more of the City's time, money and resources on what Lenox could only perceive as a personal vendetta. Lenox asked why Council should get more opinions as to whether he had violated the rules when, in fact, the Council had approved the agreement before he executed it.

Tennant said he also had a copy of the memorandum that Lenox referred to dated February 28th where he said, in fact, *"Please contact me if you have concerns about the agreement. Depending on feedback from you my tentative plan is to sign the agreement . . ."* Tennant said his contention was that Lenox did not hear from Councilmembers Fritz nor McMenamin, so he could certainly have not assumed that they were in compliance with Lenox' behavior.

Lenox reiterated that he had said in his memo, *"If you have concerns about the agreement, contact me."* He said he specifically asked Mr. Lindsey to call each of the Councilmembers, knew for a fact that Lindsey had done so, and had answered any questions or inquiries that Council may have had. Lenox said if Tennant had an issue, he suggested that he talk to Councilmembers Fritz and McMenamin. Tennant replied that he had, and both of them said that they did not give Mayor Lenox any input on this matter at all. Lenox replied that they had given him input.

Tennant said silence was not input, and that the bottom line was Lenox had spent people's money because he was sick of ten plus years of dealing with Nancy Faulkner, and that he had that in writing. Tennant said additionally that if Lenox wanted to get into the writing game, he could go toe to toe with him on that.

Lenox said he did not spend the money on his own, and Tennant said Lenox had spent \$7500 of the taxpayers' money without the consent of Council, that it was wrong, and Lenox may have thought he had the implied consent, but that he most certainly had not.

Lenox said he had the implied consent of Council, that he took great pains to make sure Council was fully aware of the situation and had given Council five days to comment. Lenox noted he hadn't sent the memo out and said "if you don't get back to me by noon today I'm signing up." Tennant said he had one day to respond and Lenox said he gave five days. Tennant said he had one day to analyze it because he was out of town also. Tennant said he read the email and said "whoa, what was this?"

Lenox said that was not his problem, that Tennant should pay attention to his mail, and that he thought the March 1st meeting had been cancelled because Tennant couldn't be there. Tennant said no, that the meeting had been rescheduled.

Tennant asked Lenox if he could explain the comment relative to Faulkner, *"I assure you that a majority of Council agreed with the decision. I would not otherwise have taken the action I did."* Lenox had also said he thought Tennant's concerns were pretty valid and that he did not blow them off. Lenox replied that was an email that he sent to Tennant. Lenox asked what the problem was and Tennant said the problem, quite obvious from those remarks, was that Lenox was the one who had the problem with Nancy for ten years, that Lenox had unilaterally signed off on the deal, and that Lenox could not assume the implied consent of Council. Lenox said he most assuredly could. Tennant said instead of Lenox getting his feelings hurt, why didn't he just acknowledge the fact that this was probably not

the way he should have done this, and that maybe Council needed to tighten up the laws such that this kind of situation did not happen again. Tennant asked what in the world was wrong with that, and why did Lenox take this so personally.

Lenox said he completely agreed with the ordinance, but that he completely disagreed with the fact that Tennant thought he did this on his own when he quite simply did not. Lenox said obviously they completely disagreed, and Tennant agreed that they did disagree, and that the appearance of impropriety was obvious to him. Lenox said there was no appearance of impropriety. Lenox said he took great pains to make sure that everyone on Council was fully informed.

Lenox told Fritz he hated to put her on the spot, and asked why hadn't she responded. Fritz said she had been really torn with that whole thing. Lenox said he was also. Fritz said she felt that Council should have put it publicly on the agenda at one point or another, and voted on it publicly. However, she had fairly recently come to the realization that it would be much healthier for Faulkner's situation if she were to go. Fritz said she had talked about it with Ms. Faulkner as well, and that Ms. Faulkner had been aware of her feeling. Fritz said she told Ms. Faulkner she needed to make the decision about what she wanted to do and Fritz would support that decision. Fritz said she would have liked to have seen Ms. Faulkner stay but what needed to be done was what was best for Nancy. Fritz said she did not respond to Mayor Lenox because she felt like that's what needed to happen, and didn't (at the moment) have any suggestions for a better way to do it. She said she thought Council should have placed it on a Council agenda, but she figured, someone would say something and things would work out. Fritz said that up until Tennant brought the subject up, she had no idea whether McMenamin had talked to Lenox. She said she knew McMenamin had talked to Lindsey, but she had no idea what McMenamin had said to him, if anything, or to Tennant or what Tennant had said. She said she really just didn't know, had never asked, and just felt like it was done, that Nancy was going to move on and the City could get reorganized and move on.

Lenox added that he was also aware that Rick had followed his instructions and had had a conversation with each Councilperson well before Monday. He said that was his verification, in fact, that Council had received the memo, Council had read the agreement, Council had had it fully explained, and that Council knew what the memo said. He said further that he had been perfectly legitimate in his assumption that if Council had some objection, they would have called him.

Tennant said Lindsey had not contacted him. Lindsey reminded Tennant that he had called on his cell phone while Tennant was at a tradeshow. Tennant agreed, but said he thought Lindsey meant they had consulted in Peachtree City.

Rapson interjected that since he seemed to be the only objective Councilmember at the moment, and since he had heard some of both sides, that he had also heard things behind the scenes, it seemed to him that Council needed to lift this out of the emotional realm and stick with the facts for a moment. He said for whatever reason, he thought obviously this was

— handled poorly, and thought there was enough blame to go around for everyone. He said Council had an ordinance that tightened up the issue and got Tennant where he needed to get and still gave the City Manager and the Mayor the type of flexibility they needed to handle emergencies, and at the same time tightened up what type of expenditures took place and when they were supposed to take place. He said Council could debate this, and it probably would be debated for months to come, but he thought on behalf of the citizens of Peachtree City, Council needed to move on and do the right thing and change the ordinance, get it amended, get it tightened up, and that Council would discuss it again at the next meeting when McMenemy returned, get a vote, and put this to rest. Lenox said that worked for him, that he would vote for it, adding that clarity would be very beneficial.

Tennant reiterated that he did not want to hurt peoples' feelings or offend anyone, but this was something that happened that shouldn't have happened, and as an elected person in this City, it would be derelict for him to just say nothing. Tennant added that he had spoken only for himself, and no one else.

Rapson said the bottom line was that Councilmembers were elected officials, and that they were all there to do what was in the best interest of the citizens of Peachtree City. Fritz agreed.

— Rapson said he would second the motion Tennant made previously with Lindsey's changes. Lenox asked if Council was sure that the ordinance was fully drafted the way Council wanted it, that there were a lot of changes, and he wanted to be sure it was right.

After a lengthy discussion regarding the exact wording for the proposed ordinance amendment, Lindsey read the motion as follows:

"Except as provided herein, the City Council shall, by majority vote at a public meeting, approve all expenditures from the Council Contingency Fund prior to the commitment of any money in such fund or other use thereof. In any situation where the expenditure of money from the Council Contingency Fund is deemed to be a legitimate health, safety, or welfare emergency by the Mayor or the City Manager, the Mayor or the City Manager may expend such money from the Council Contingency Fund. Discussion of such expenditures shall occur as a regular agenda item at the next City Council meeting. Under no circumstances does the Mayor or City Manager have the authority to expend money from the Council Contingency Fund on any project if the City Council has voted at a previous occasion not to so spend the money."

Rapson second the motion again. Motion carried unanimously.

— Basinger addressed Council and stated that he had talked with Councilmember McMenemy that day, and that he thought her main concern was the Council Contingency issue, and that it might be necessary to place this item on the May 17th Council agenda, but that if it was placed on the May 17th agenda, staff would require input from Council on any additional changes.

Tennant said he thought Lindsey was quite clear on the issue of Section 34-118, as they had discussed in Lindsey's office and that Lindsey had agreed that particular section needed some major work. Lindsey confirmed that it was Section 34-118.

Rapson advised he had also spoken to Lindsey in this regard. Fritz said she would wait to see what Lindsey drafted.

Mr. Clark Felker addressed Council and stated that he had attended the meeting specifically to hear the discussion on Expenditure of *City* Funds, that he did not know the discussion was about Expenditure of *Council Contingency* Funds and felt he was there on the wrong night, but that he had a question about expenditure of *City* funds as it related to purchases of services and goods. He asked if expenditures for services and goods that were ongoing or monthly were put out for bid, and if they were not put out for bid, why not.

Basinger said the City's services should be put out for bid and that there were certain levels of prices – some were based on a phone call, or for higher amounts there may be a written bid or sealed bids – but that services were based (as a general rule) on the amount of expenditure.

Felker said that over a period of the past two or three years, he had met several times with the Purchasing Agent regarding purchases and had asked for copies of billings and had gotten no response. He said, in fact, that the Purchasing Agent told him she did not have time to do that, that the garage could do that, so he finally just gave up.

Felker clarified for Rapson that his product was automotive supplies, and that he had done business in the County for 10 years, had lived here for 25 years, and had done quite a bit of business with the City during that time. He said he did not mind losing business if it was due to prices or service, but did not like being put off without a reason as to why. He said when he showed the City they were paying too much, he was told it would be checked into. Lenox asked how many dollars per year he was talking about, and he replied approximately \$5,000 - \$6,000 per month. Basinger asked Felker to call City Hall on Friday to schedule an appointment with the Financial Services Director and the Purchasing Agent. Felker agreed to do so.

05-01-06 Discuss Relocation of Wynnmeade Traffic Signal

Lenox said this item had been placed on the agenda because it was an ongoing item that Council would have to decide, but that the developer had called to advise he was not prepared to present anything this evening. Lenox made a motion to table the item to the May 17th Council agenda. Tennant seconded the motion. Motion carried unanimously.

Williams addressed Council and stated there was a situation in the area of Wynnmeade where there was a certain amount of traffic going in and out, and that the Georgia Department of Transportation (GA DOT) had advised staff that it was alright on the basis of that being a driveway to service that area on a temporary basis. Williams said the developer of the

commercial area asked the GA DOT to allow the City to issue Certificates of Occupancy for all the Summit Apartments. The GA DOT said they would do that, but that the intersection would have to be made right in/right out. Williams advised that staff's position was that the intersection should be left the way it was until a signal was installed unless Council advised otherwise.

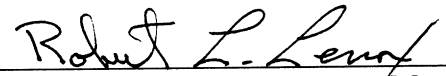
Council/Staff Topics

There were no Council/Staff topics.

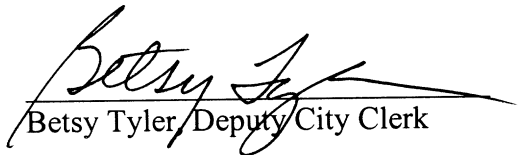
Executive Session

There were no executive session items.

Fritz made a motion to adjourn. Lenox seconded the motion. Motion carried unanimously.



Attest: Robert L. Lenox, Mayor



Betsy Tyler, Deputy City Clerk