MINUTES OF MEETING
CITY COUNCIL OF PEACHTREE CITY
May 3, 1990

The City Council of Peachtree City met in regular session on Thursday Night, May 3, 1990, at 7 PM in the Municipal Building meeting room.

Mayor Brown called the meeting to order and led those in attendance in the pledge of allegiance.

Members present were: David Good, Sandi Bongiorno, Robert Brooks and Rich Parlontieri.

There were no items added to the agenda.

Announcements

Mayor Brown announced that the City Hall offices would be closed on May 9th, 10th, and 11th so that the move could be made to the new City Hall facility. He stated that emergency business would be handled but that for all practical purposes the offices would be closed.

Old Agenda Item

4-90-16 Wometco Cable T.V. Franchise

City Manager Basinger reported that this item was tabled at the last meeting because the negotiations on an agreement with Wometco Cable T.V. had not been completed. He reported , however that a proposed agreement was provided to Council at the previous meeting and he hoped that council had reviewed the agreement.

Basinger explained that the reason the City was pursuing a second cable company for the City was based on the fact that Cooke Cablevision had advised that it would be twelve to fifteen months before service could be provided to new subdivisions in the Robinson Road area. He felt the citizens deserved better service than that and approached Wometco and they are interested in serving Peachtree City. Basinger stated that Wometco is proposing changes to the franchise agreement and he felt that any changes made in the agreement should be offered to Cooke Cablevision also. Basinger suggested that he call attention to significant changes to the proposed franchise agreement so that action could be taken on the changes. Mr. Chris Cofty of Wometco was present and available for any questions from Council.

Basinger then asked Council to go through the agreement page by page so that he could call attention to significant changes. They were as follows:

Page One - Name change to Wometco

Page 10 - Paragraph 11(b) This paragraph in the original agreement required initial service be provided to the entire city within 18 months and was addressed to only one provider. The change required a new cable operator to provide service within 180 days from the date of approval by the FCC.

It would not require an operator to provide service to a subdivision or an area already being serviced by a cable company.

It would require Wometco to provide service to any subdivision listed in the agreement in Appendix A not having service. Those subdivisions were the Preserve, Pleasant Grove, Waterford Green, Oakadale, Kimmeridge, Huntington Place, Bradford Estates, Creekside Crossing, Crosstown Drive and Ebenezer Road.

This paragraph required the cable operator nearest a new subdivison to provide service within 90 days of the recording of the final plat. Basiner explained that a cable operator could go into any subdivision at any time it wanted to but when a new subdivision comes on line it is the cable operator who is closest to the subdivision that is required to provide service. This does not say that more than one operator could not serve the subdivision but does require the one nearest to provide the service.

Basinger stated that another paragraph needed to be added at this time which would be paragraph 11 (c). The paragraph stated that citizens in any given subdivision or area of the city dissatisfied with the present level of cable service, may petition another cable operator to provide cable service. Should the cable operator elect to serve the subdivision or area the city would provide the necessary permits for installation of cable lines within the city right of way. This section shall not prohibit a second cable operator from serving any area or subdivision without a petition from the citizens.

The next signficant change was in Section 12 (a) and the sentence currently read "the CATV system shall be installed and maintained in accordance with the highest accepted standards of the industry" . Wometco wanted it changed to read "the CATV system shall be installed in accordance with generally accepted standards of the industry". The reason being that there was new equipment coming on line almost daily and they didn't want to be put into the position of having to purchase new equipment when what was being used was providing acceptable service to the citizens.

The next change was to Section 12(b)(8) where Wometco had asked to remove reference to "studio facilities" being available for use by public and schools.

The next change was to Section 12(b) (9) whereby Wometo had requested the paragraph which guaranteed at least one free dedicated non commercial public access channel to be available on a nondiscriminatory basis be removed. Basinger felt that this section was covered by Sections 12(b) (8) and also Section 17 of the agreement.

The next change was Section 12(b)(10) stating that cable had to be buried within seven days of installation, weather permitting, but in no case more than ten days. Basinger explained that the current agreement requires cable be buried within four days but this is a problem because of the need to call and get locates on utilities which could take up to three days. He felt that the current operator had basically been operating with seven days although the agreement called for four days.

Basinger pointed out that items 12(b) (10) through (16) were amendments already instituted by the Council which had now been incorporated into the agreement.

The next significant change was Section 20 Compliance with State and Federal Law. City Attorney, Mitch Powell, explained that previously the law required that if any portion of the franchise agreement was broken the entire agreement was automatically terminated. He felt the wording of this agreement was better in that it provided for negotiation if any material breach of agreement arises, therefore, the entire agreement would not be terminated . He felt this agreement was significantly better than the previous agreement in this area.

Basinger stated that the next change was Section 21 Filing Communications with Regulatory Agencies. The change would be to limit documents provided the city to those that would directly or indirectly affect the franchise. The City Attorney explained that being regulated by the federal government the cable operators provide numerous documents to the regulators and he felt it would be a burden on the City to have all those documents provided to them. He approved the wording change to allow the filing of only pertinent documents.

The next change was in Section 22 (c) whereby Wometco proposed changing from 10% to 20% where the Mayor and Council would be required to give prior approval to a change in ownership or control. Also wording was added to read "The Mayor and Council shall have thirty days from receipt of request by Grantee for approval of a transaction which is subject to this paragraph; provided, however, if the Mayor and Council do not act on the request within this time period, the transaction shall be deemed approved".

Good questioned the change from 10% to 20% and Basinger felt it was to allow the operator more flexibility in making small changes in ownership without obtaining Council approval. Good stated that he was not keen on making this change because he felt when these changes are brought before council there was an opportunity provided Council to correct any problems that were occuring.

The next section was Section 22(e) which Wometco proposed be deleted. This section stated "The City shall have the right of first refusal upon the sale of all or any portion of the Grantee. Said right shall be exercised or not within thirty days from the presentation of a written proposal to the City. Basinger stated that Wometco had asked that this be deleted from the franchise agreement.

Good suggested leaving in, at least for discussion, under Section 22, the 10% for prior approval by the Mayor and Council for transferring of ownership and that Section 22(e) remain in also giving the Council the right of first refusal in the sale of the business.

The next change was Section 28 which was "Time Essence of the Agreement" where Wometco wanted the wording changed from "shall be" to "may be" adding flexibility to the action. City Attorney Powell explained that he felt this was better for the city.

The next change was Section 31 requiring the office of the operator to be within the city and that they also be in the Atlanta telephone exchange. Basinger explained that this was more restrictive than the previous agreement.

The next change was to renumber paragraphs because of the deletion of rates which the Council now has no authority to regulate. He explained that this section was deleted on the advice of the City Attorney.

The next change was Section 34-Ordinance. This section provides that any changes made in the franchise agreement would be incorporated into the Ordinance so that the two documents would agree.

The final change was an added paragraph that would incorporate penalty requirements which Council had previously authorized with changes. The proposed penalty section was proposed to read as follows: If franchisee fails in its duty to comply with any material obligation imposed by this agreement, except where compliance is rendered impossible by a natural disaster, franchisee shall pay franchisor up to a sum of $1,000 per day for each day franchisee fails to comply. Non-compliance shall be determined by the Mayor or City Manager. However, said penalty shall not be charged until after written notice of the specific violation is sent to the franchisee and thirty days have passed within which franchisee has failed to cure said violation. However, in those cases where a permit or authorization has been requested by Grantee, the 30 day period to achieve compliance shall commence on the date of receipt of said permit or authorization. Provided further, however, that for violations identical to any prior violation for which a notice to cure has been given pursaunt to this section during the six months preceding the subsequent violation, franchisor must give franchisee only 72 hours to cure that subsequent violation before imposing the penalty established.

Basinger commented that the current penalty schedule was quite restrictive and did not provide a notice procedure or timeframe for correcting a violation. He felt the City could operate on this proposal.

Parlontieri commented that the previous schedule provided fourteen days for achieving compliance and Basinger stated that this was one section that the City and Wometco had not reached agreement on at the last meeting. He felt this would allow the City proper action time and would protect the rights of the cable operator a little better than the previous agreement.

Parlontieri asked if the current provider had seen this agreement and what would happen if they didn't go along with the new agreement. Basinger stated that they had been provided a copy of the agreement .

City Attorney Powell explained that the current agreement contained the provision that the ordinance took precedence over the franchise agreement and when the ordinance is amended to go along with the new franchise agreement the current cable provider would be required to comply with the new ordinance.

Parlontieri expressed concern that quite a bit of control was being given up in this agreement . He felt that if the agreement had been working under the current provider why change it. He was concerned about relaxing standards.

Mayor Brown felt that by giving up some things the City could provide competition in the field which he felt would be providing better service for the citizens.

Mr. John Southard, General Manager of the current operator, Cooke Cablevision, addressed the Council. He indicated that his company did not mind competition but he felt it should be on the same level playing field. He stated that his franchise agreement called for service to be provided to the entire city and he felt any other franchises should call for the same level of service.

City Attorney Powell explained that the franchise being offered to Wometco did not provide them any advantage over Cooke. The franchise allowed them to go into any area of the City they chose to and the reference to the subdivisions in the south area of the City was where they were to agree to go into first. He stated that there was nothing to keep Cooke Cablevision from going into those same subdivisions if they so chose.

Mr. Southard was concerned that this agreement would require his company to go into subdivisions ,because they were the nearest service to the new subdivision, before there were enough subscribers to make the service economically feasible.

Brooks asked if both companies would be agreeable to an amendment stating that both firms were required to go into any new subdivision. Mr. Southard of Cooke indicated that he would be, and Chris Crofty of Wometco after initially not agreeing to this suggestion, eventually stated that he could agree to that in new subdivisions. He at first felt the suggestion was for all subdivisions in the City.

Good felt that it would be well for the franchise to require that , if a subdivision is dissatisfied with the service they are being provided, they be allowed to petition the other provider and that provider then be allowed to take over the subdivision.

After further discussion motion was made by Brooks that the franchise agreement be accepted with 10% rather than 20% in any change in ownership, 14 days instead of 30 days for the written notice of violation and that paragraph 22(e) remain in giving the city first refusal of purchase. Motion was seconded by Bongiorno. Parlontieri stated that he could support the motion but that he still felt the agreement was too liberal. Good offered an amendment to the motion to include in Section 12(a) the wording "highest and best". Amendment was seconded by Brooks. Motion carried unanimously.

Mayor Brown reminded Council that this action also amended the Cable T.V. Ordinance accordingly and all concurred.

5-90-1 <u>Public Hearing - L.P. and Peggy Baker - Variance</u>

Mayor Brown called to order a public hearing scheduled to consider a variance requested by L.P. and Peggy Baker for property located on Highway 74 at the Oak Manor Office Park. Mayor Brown explained that DOT had condemned property in front of Oak Manor Office Park for the purpose of widening State Route 74.

Mrs. Baker explained that when the State took a portion of the right of way in front of her business it created two problems for her. One was that it placed her property in a legal non-conforming zoning status which meant she could not repair the structure should there be a loss of more than 50% which placed them at risk. She also explained that they were not able to refinance the property to take advantage of lower interest rates because it was in a non conforming status. She requested Council to approve a variance of approximately 24 feet so that the property would once again be in zoning conformance.

Motion was made by Good that the variance be approved. Motion seconded by Bongiorno. City Planner Williams stated that the city staff had no objection to the variance being approved. There were no comments from the public and the motion carried unanimously.

5-90-2 <u>Southpark International Identification Sign</u>

City Manager Basinger called attention to a letter from the City Planner and a sign application from PCDC. The letter explained that PCDC was proposing to build a new industrial park identification sign at the northwest corner of Dividend Drive and TDK Boulevard. The sign would be approximately eight feet wide and seventeen feet high including the base. The sign was intended to identify the entrance to South Park International, an upscale industrial area within the overall industrial park. The letter stated that if the sign was approved by Council, it would be classified as a publicly owned information sign in accordance with the Sign Ordinance Section 5-125 (E) (6). The sign would be located on private property with a City easement for maintenance. The letter also stated that the area around the sign would be heavily landscaped.

Basinger stated that it was staff's recommendation that the sign application be approved.

Motion was made by Parlontieri that the recommendation be accepted and the sign be approved as presented. Motion was seconded by Bongiorno. Good questioned who would maintain the sign and Basinger stated that PCDC would maintain it. Good felt that technically, if it declared a public identification sign and the city has an easement for it, it is the city's responsibility to maintain the sign. He suggested that some type of contractual arrangement be made with PCDC regarding the maintenance. City Attorney felt the contract should be with the Industrial Development Authority because of the problem of a current council not being able to bind another council. This suggestion was agreeable to the Council and PCDC and motion carried unanimously.

City Manager Basinger suggested that the ordinance be amended to provide for contracting for maintenance and Mayor Brown agreed. He also felt that contracts should be obtained for maintenance on the three other signs already in place.

5-90-3 <u>Fayette County Road Improvement Program</u>

City Manager Basinger reported that several weeks ago the Council was provided a copy of the Fayette County Road Improvement Plan which was prepared for Fayette County by Moreland Altobelli Associates, Inc. He stated that a public hearing was held by Fayette County and that a number of Peachtree City officials attended the hearing. He called upon Caroline Price, Chairman of the Peachtree City Planning Commission, to present highlights of the plan. Basinger stated that although the plan has not yet been approved by the County Commission, the County staff had asked that Council endorse the plan if they felt that was appropriate.

Ms. Price reported that a steering committee was formed in the beginning of this study and that City Planner, Jim Williams, was a member of the committee along with other citizens of the city. She felt that because of that the City had input into the preparation of this final plan. Ms. Price explained the plan as it related to traffic patterns within the County and how the plan will effect Peachtree City.

After hearing from Ms. Price and discussing the plan a motion was made by Parlontieri that the Council endorse the plan. Motion was seconded by Brooks. Motion carried unanimously.

5-90-4 Dividend Drive/TDK Four Way Stop

City Manager Basinger reported on Police Chief Murray's recommendation on traffaic control for Dividend Drive which was a subject continued from a previous meeting. He reported that the Police Chief had set a 30 MPH speed limit, a change from 40 MPH, on Dividend Drive and that a four-way stop sign system was recommended for Dividend Drive at TDK Boulevard.
An ordinancae amending the speed limit was provided for Council's approval.

Following discussion about whether or not the speed limit should be dropped to 30 MPH a motion was made by Mayor Brown that the Chief's recommendations be accepted and ordinance approved. Motion seconded by Bongiorno. Motion carried unanimously.

Mayor Brown commented that this meeting was the last to be held in the building. He gave a rundown on the many activities that had taken place in the old building . He reported that the building was constructed in 1964 and originally housed a bank, a post office, the Bessemer Properties offices (original property managment company) and City Hall. He stated that the Mayor at that time was Joel Cowan and Council members were Mr. R. H. Huddleston (Mr.Bob) who owned most of the land that Bessemer Properties bought to build Peachtree City. His son, Mr. Hugh Huddleston, also served on Council as did Mr. Myron Leach. Mr. Leach was the volunteer fire department chief and later became the first paid Fire Chief for the City. Another individual, Mr. J.A. Pollard was also on the Council. The first church which was interdenominational also met for a time in the building . The Peachtree City Library started in the building in Octobaer of 1974. Up until 1981 the building was owned by the major developer and in 1981 it was deeded to the City as part of an amenity package which included the land behind the building as well as other amenities in the City. The City Council began meeting in the area being used presently since 1985 and this meeting was the last.

The Mayor stated that those who had been with the City during this period of time had fond memories and some sadness in departing from the building. He stated that he was delighted to be able to move into the new facility. The Mayor reported tht demolition of the old building would begin on May 22nd.

Mayor Brown recessed the meeting and announced that Council would reconvene in executive session to discuss the Black, Kelly, Simon/Justice, and Samples lawsuits.

Executive Session

No action was taken in executive session and the meeting was adjourned at 9:05 PM.

Frances Meaders
Frances Meaders, City Clerk

Attest

Mayor