

CITY COUNCIL OF PEACHTREE CITY

Minutes of Meeting

April 18, 1996

7:00 p. m.

The Mayor and City Council of Peachtree City met in regular session on Thursday, April 18, 1996, at 7:00 p. m. in the City Hall Council Chambers.

Mayor Lenox led those in attendance in the pledge of allegiance. Present were: Mayor Robert L. Lenox, Councilmembers Caroline Price, Robert Brooks, and Jim Pace. Annie McMenamin was absent.

Announcements, Awards, Special Recognition

Mayor Lenox presented "Employee of the Month" Award to Chris Campbell, Paramedic.

Mayor Lenox presented "Supervisor of the Quarter" Award to Bobby Thompson.

Mayor presented Walk America Proclamation to Mr. Ricky Rodriguez, Chairman of the Fayette County March of Dimes.

Minutes

Price made a motion to approve the minutes of the March 21, 1996, meeting as presented. Brooks seconded the motion. Motion passed unanimously.

Brooks made a motion to approve the minutes of the April 4, 1996, meeting as presented. Pace seconded the motion. Motion passed unanimously.

Old Agenda Items

None.

New Agenda Items

04-96-10 Consider Resolution - Negotiation Process
to Acquire GA Utilities

Mayor Lenox read a prepared statement about the negotiation process to acquire GA Utilities. A copy of the statement is attached and made a part of these minutes. Mayor Lenox read a proposed resolution to negotiate acquiring GA Utilities. A copy of the resolution is attached and made a part of these minutes. Lenox asked if there were any questions from the public. No one came forward to ask any questions. Price

made a motion to approve the resolution as presented. Brooks seconded the motion. Motion carried unanimously.

04-96-11 Signature Authorization for Checks

Lenox said on January 4, Council authorized a combination of the following two positions to sign checks: Mayor, Mayor Pro-tem, City Manager, Director of Financial Services, and Director of Administrative Services. Lenox said staff requested that the Director of Developmental Services be added as an additional signatory. Pace made a motion to grant this request. Price seconded the motion. Motion carried unanimously.

04-96-12 Consider Ordinance
Fayette County Board of Health

Lenox said the Fayette County Board of Health had requested that the Environmental Health Department be allowed to have violations of the Board of Health Rules and Regulations prosecuted in Peachtree City Municipal Court. He said they were interested in enforcing rules and regulations pertaining to Food Service, Personal Care Homes, and Tourist Accommodations. He said staff prepared an ordinance for Council consideration to honor this request. Price made a motion to adopt the ordinance as presented. Brooks seconded the motion. Motion carried unanimously.

04-96-13 Consider Contract
Local Assistance Road Program (LARP)

Lenox said staff recommended Council approve a contract with the GA Department of Transportation to resurface a total of 1.250 miles of streets in Peachtree City. The contract amount was \$23,427.72 and would only cover the cost of materials. Brooks made a motion to approve the contract. Pace seconded the motion. Motion carried unanimously.

04-96-14 Amend Ordinance - Retirement Plan
Dispatchers Transferred to Fayette County

Lenox said the Retirement Plan needed to be amended to accommodate the Dispatchers that were involuntarily transferred to Fayette County. He said it was the City's intent that those employees not lose any time they had earned in the retirement plan and that there was already a provision in the current plan that if an employee was involuntarily laid-off they would be fully vested at five (5) years. The proposed amendment would allow employees that do not have five years in the plan to carry the years they had

— earned with them to the County. Price made a motion to approve the amendment to the Retirement Plan. Pace seconded the motion. Motion carried unanimously.

04-96-15 Consider Request from PCDC
 to Lift Annexation Moratorium

Lenox said Council had recently discussed the possibility of lifting the moratorium on annexation and PCDC had submitted a request to Council that they take action to lift the moratorium.

Price said it was policy that natural boundaries should be used for the City limits and that should be a determining factor. She said she was concerned about the east and west side of Camp Creek.

— Brooks said a number of years ago he had made the motion to impose the moratorium on annexation and he felt there had been a number of changes over the past few years that would have impact on his decision to lift the moratorium. Brooks said impact fees were now in place that would off set the cost of growth and that the areas around the City limits would be developed whether they were in the city limits or not. He said certain areas certainly would impact Peachtree City and if they were not annexed into the City, those developments would not be required to pay impact fees. He said he supported lifting the moratorium on annexation to allow each issue to be decided on its own merit.

Brooks made a motion to lift the moratorium on annexation. Price seconded the motion.

Pace said he agreed with Price, that the City's eastern boundary needed special attention and that certain areas should be considered for annexation to give the City control of the kind of development that would take place.

Lenox agreed that the moratorium needed to be lifted to allow each issue to be decided on its own merit.

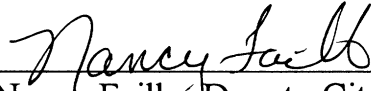
— Phylis Aguayo addressed Council and said she hoped that Council would not allow the projected population to be increased because of annexation but to use annexation as a way to spread out the density.

Lenox called for a motion on the table. Motion carried unanimously.

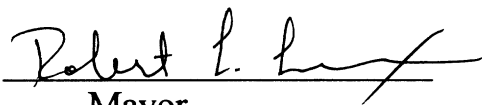
Lenox made a motion to adjourn the meeting for a brief recess to reconvene in executive session to discuss a legal matter. Price seconded the motion. Motion carried unanimously.

EXECUTIVE SESSION

There was no action taken in executive session. The meeting adjourned at 9:00 p.m.



Nancy Faillo, Deputy City Clerk

Attest: 

Mayor

Tonight, the Council would like to publicly share with our citizens the "course of Action" we will be taking in the months ahead:

First, we will complete the valuation of the system. This should be done by mid July.

Second, we will attempt to negotiate a fair price for the system with the owners of Georgia Utilities.

Third, during negotiations we will be attempting to develop a binding arbitration procedure that could be used in lieu of a court trial. We anticipate using this method should we be unsuccessful in negotiating a price for the system.

Fourth, and a step both the City and Georgia Utilities' owners do not prefer, is for the City to initiate condemnation proceedings.

At this point, I would like to further comment on condemnation of the system. Condemnation is, in fact, a "two edged sword" While the City could win big, it could also lose big. Should we condemn the system, a jury trial likely would be held in Fayette County Superior Court with a jury comprised of Fayette County residents, many of whom do not reside in Peachtree City. The City's attorneys and expert valuation witnesses and those of Georgia Utilities would each attempt to convince the jury that their valuation price was closest to the fair market value of the system. Should the jury agree with the City's expert witnesses, significant dollar saving could be realized. Conversely,

— should the jury agree with Georgia Utilities' expert witnesses, significant dollars, probably in the millions, could be lost. The jury verdict, whatever the amount, would probably be binding, and we would be required to pay the price set by the jury. Conceivably, if the verdict was too high, the City would have to raise sewerage rates in order to pay the purchase price of the system. However, please be assured that we would not initiate condemnation proceedings thinking we were going to lose. We would have in hand a fair market valuation of the system that our attorneys and appraisers feel is accurate.

— Because of the 'two-edged sword' of condemnation, the Council obviously prefers to acquire the system through the negotiation process. Georgia Utilities' owners have advise us that this process is also their preference. To this end , they have indicated that they would probably be willing to open their books and facilities for inspection by us. Obviously, this voluntary disclosure of financial data and other information, along with physical inspections of facilities and equipment in a mutually cooperative effort, would greatly enhance the credibility and comfort level of our valuation, and potentially save both the City and Georgia Utilities time and a considerable amount of money.

— As I mentioned earlier, should negotiations fail, we also will be attempting to develop a type of binding arbitration procedure to be used in lieu of condemnation. Whichever route the Council takes, whether negotiations, binding arbitration or condemnation, everyone will not be pleased; we will have our critics. And that's OK; that means the democratic process is alive and well here in Peachtree City.

Of course, one question many of our citizens have asked is "Why are we acquiring Georgia Utilities anyway?"

Georgia Utilities is a privately owned utility with a monopoly on sewerage treatment service here in Peachtree City. The company has been free to raise customer sewerage rates when desired and is not accountable to the City for such increases. For all practical purposes, from a rate standpoint, it is an unregulated private utility company functioning as a public utility. Also, the company has been free to selectively provide sewerage service to businesses, industries and developers as well as to set its own access and tap fees. Today, Peachtree City is the only municipality in Georgia with a privately owned sewerage system, and we have some of the highest sewerage rates in the state. Our objectives in acquiring the system are to ensure that sewerage service is available on a fair and equal basis to all who desire it, and also to be able to hold ^{control} fees and rates to a reasonable amount through a group of volunteer citizens serving on the Water and Sewerage Authority.

Citizens have asked me questions about the rate status once the system is acquired. While it would certainly be great if we were able to lower fees and rates, based on preliminary reports from our appraisers, that probably will not happen. We have been advised that this is not a state-of-the-art system, and significant improvements and upgrades will have to be made. Thus, good business sense tells us a more realistic goal upon acquiring the system is to hold fees and rates at their current levels.

RESOLUTION

WHEREAS, the City of Peachtree City and the Peachtree City Water and Sewerage Authority have been proceeding toward the possible acquisition of the Georgia Utilities Company, the privately-held sewer company in the City, either by way of negotiation or condemnation; and

WHEREAS, in order to consummate the acquisition of Georgia Utilities, the City must determine the fair market value of the sewer system, and the determination of said value is an expensive and time-consuming process; and

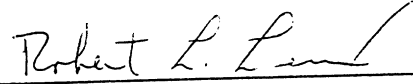
WHEREAS, it is in the best interest of the City, the Authority and the citizens of the City to conduct an analysis of the fair market value of Georgia Utilities in the most complete and cost-effective manner possible; and Georgia Utilities, understanding and acknowledging this desire, has agreed to cooperate with the City and the Authority to help them accomplish this end result; and

WHEREAS, Georgia Utilities has agreed to enter into a Negotiating Agreement under which it will provide the City with certain proprietary information which will assist the City in determining its opinion of the fair market value of Georgia Utilities; and

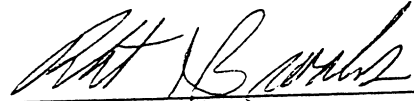
WHEREAS, there are many aspects of the Negotiating Agreement which still must be resolved by the parties; however, the general intent of the Agreement is for Georgia Utilities to cooperate with the City in providing certain information to the City, and, within 60 days of its receipt of said information, the City will either negotiate the purchase of Georgia Utilities, elect not to purchase Georgia Utilities, or proceed to acquire Georgia Utilities through some type of trial-alternative procedure, the exact details of which are to be negotiated by the parties during said 60-day time period; however the trial-alternative procedure would be similar to an arbitration proceeding which would be binding on all parties, thus saving the City, the Authority and Georgia Utilities the expense of a formal condemnation proceeding.

NOW, THEREFORE, be it resolved by the Mayor and Council of the City of Peachtree City that the Mayor or his designated representatives are authorized to proceed to negotiate the terms of the Negotiating Agreement regarding the City's attempt to evaluate and negotiate the purchase of Georgia Utilities and further authorize the Mayor or his designated representatives to negotiate the terms of a trial-alternative procedure which will be binding on all parties and the object of which is to result in the acquisition of Georgia Utilities with the understanding that the precise terms

of both the Negotiation and the Trial-Alternative Agreements are to be reviewed and approved by the majority of the Mayor and Council prior to their final execution.

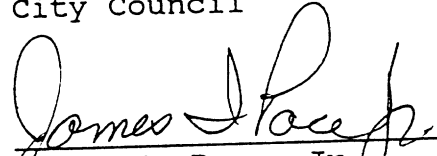


Robert L. Lenox
Mayor

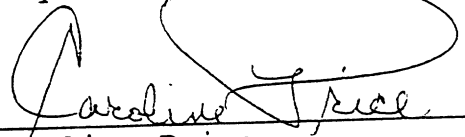


Robert S. Brooks
City Council

Annie McMenamin
City Council



James I. Pace, Jr.
City Council



Caroline Price
City Council

The next item on the agenda, the acquisition of Georgia Utilities, is one of the most important issues before the City Council, not only at this time, but in recent years. Due to the importance of accurate Council comments to our citizens on the status of negotiations, I would like to read a prepared statement on this item.

As many of you know, the City and the Water and Sewerage Authority have been attempting negotiations on the acquisition of Georgia Utilities for the last several years. A significant delay in the process was encountered when, in the middle of negotiations, the former owners, Equitable, unexpectedly sold Georgia Utilities to two local businessmen. After a seven month delay, the new owners resumed negotiations with the City last summer. The Council and the Authority have reached a point in negotiations where they are intent on proceeding toward acquiring the system through either a negotiated sale, binding arbitration or, as a last resort, through condemnation .

Presently, the Council is expending significant dollars to determine the value of the sewerage system. Valuation experts are in the process of evaluating the condition of the treatment plants, the collection system, equipment, etc., and identifying all necessary future capital improvement expenditures. It is essential that we have in hand a professionally prepared valuation of the system for two reasons. First, so we have a basis for negotiating a purchase price, and secondly, so if we do end up in court, we will be able to convince the jury that our experts' evaluation of the value of the system is accurate and represents the most convincing evidence of the fair market value of the system.