

City Council of Peachtree City
Minutes of Meeting
April 5, 2007
7:00 p.m.

The City Council of Peachtree City met Thursday, April 5, 2007, in the City Hall Council Chambers. Mayor Logsdon called the meeting to order at 7:00 p.m. Other Council Members present: Steve Boone, Stuart Kourajian, and Judi Rutherford. Cyndi Plunkett was out of town.

Announcements, Awards, Special Recognitions

Mayor Logsdon read a proclamation for Confederate Memorial Day.

Public Comment

There was no public comment.

Minutes

Rutherford moved to approve the March 15, 2007, regular meeting minutes and the 2007 Retreat minutes as written. Kourajian seconded. The motion carried 4-0.

Monthly Reports

Logsdon noted there was an additional document on the dais – the February 2007 Police Department monthly report. Rutherford noted that the Great American Cleanup was on April 7, and the Tour de Georgia was on April 16. Logsdon pointed out that the Top 5 accident locations were SR 54/SR 74, SR 54/Peachtree Parkway, SR 54/Planterra Way, SR 74/Peachtree Parkway, and SR 74/Rockaway Road.

Consent Agenda

- 1. Consider Approval of STWP/CIE**
- 2. Consider Acceptance of CEDAP Grant**
- 3. Consider Budget Amendments**

Rutherford moved to approve the Consent Agenda. Boone seconded. The motion carried 4-0.

Old Agenda Items

11-06-SCM Consider Ravin Homes – Cedarcroft Impact Fee Appeal

Deron Hicks, attorney for Michael Rossetti and Ravin Homes, Inc., addressed Council. He said Ravin Homes was asking for a credit against the impact fees due for the Cedarcroft subdivision. He noted that Ravin Homes had been in business and part of the community for 33 years.

Hicks continued that Ravin Homes purchased the property in 1992 and had run into many problems when the development process started. The City wanted a road that ran north from SR 54 on the west side of the City. It was considered an important part of the development of the area. The subdivision's development was held up until Ravin Homes agreed to build a substantial portion of the road. The payment of impact fees was delayed until the final phase was platted and approved; they were very close to that. The amount of impact fees due was \$309,000, of which \$32,000 had been paid. Ravin Homes was asking Council to consider giving a credit for the road, the land it encompassed, and the value of the construction against the impact fees.

Hicks said two questions were asked at the prior meeting on the issue. One was the question of why Ravin should receive credit for the road when the other developers had not received credit for their

portion of MacDuff Parkway. The second question was how a credit could be given for a service area that did not have a road impact fee. Hicks continued that Ravin Homes had an easement agreement with another property owner that would have provided access to SR 54. Ravin Homes did not need MacDuff Parkway or any other external roadway as an access, but the City had required the road. Every other developer relied on MacDuff Parkway for access to their projects. Ravin Homes contributed to the road because the City needed it. The road was the linchpin in the development of the area. Hicks said that distinguished Ravin Homes from the other developers along MacDuff Parkway.

Hicks continued that, if impact fees had been required for a road, then MacDuff Parkway would have been that road. It was the arterial road for the Westside of the City. Other service areas in the City had road projects that were very similar. It would be fair to consider that an appropriate credit when applying the impact fee ordinance. Georgia's development fee act described two different types of capital improvement projects. One was a project improvement, which was an improvement that served one particular project. The law identified system improvements, which were addressed by impact fees. System improvements served a broader area than one project. MacDuff Parkway served a far broader area than just Cedarcroft subdivision and was irrelevant to the subdivision except that the City required it.

Hicks said that Ravin Homes paid over \$159,000 in hard costs for its portion of MacDuff Parkway. The road occupied 5.6 acres of land including road, right-of-way, and setbacks, which was worth \$37,000 an acre, or approximately \$197,000. Ravin Homes had approximately \$357,000 invested in MacDuff Parkway with the land and hard costs. The impact fees were \$309,000. He asked Council to recognize this had been a substantial and unique contribution by Ravin Homes and to consider a credit against the impact fees due.

City Attorney Ted Meeker said the adage that it never hurt to ask did not work factually and legally in this scenario. He noted the reference that MacDuff Parkway was a requirement by the City. The issue had been raised on several occasions, according to what he had read in the minutes. The issue had resulted in an agreement to construct the road, which meant there had been an offer and acceptance by both parties, including Rossetti. The agreement was embodied in the consent order that was entered into between the parties to the litigation that was pending at the time and was reflected in the development agreement and the modification to the development agreement. Meeker continued that Rossetti ultimately agreed to do what he did. The City's impact fee ordinance mirrored the state's Impact Fee Act, which required that, in order for a credit to be given, it had to be for a system improvement of the category for which the development impact fee was being collected. There was a reference to prior impact fee programs that included road impact fees, and none of those were currently in place. If Ravin Homes had built a park, and the City was collecting an impact fee for recreation, then value of the park could be given as an impact fee credit since a park was a recreational use. In this case, there was no road impact fee; therefore, giving an impact fee credit for a road would undermine the City's entire impact fee program. Staff's position was that the appeal be denied.

Rutherford clarified that the impact fees collected for the service area included recreation system improvements, the library expansion, the Police Department building expansion, the Recreation Administration building, Leach Fire Station reconstruction, and the SR 74 bridge. She questioned

whether a credit could be given if Ravin Homes had donated money for the Police Department expansion. Meeker said that was correct.

Rutherford moved to deny the appeal of the impact fee credit. Boone seconded.

Kourajian asked whether Rossetti would be able to file another appeal if the impact fees were changed and collected for road improvements. Meeker said it would depend on the service area and whether the impact fee was for something City-wide or just the service area.

Logsdon told Rossetti he understood what he was asking for, as well as the fact that arms might have been twisted and deals made in the past. He was leaning toward agreeing with the City Attorney that the appeal did not stack up. The decision needed to be the best for the City.

Rutherford said it was Council's job to get the best deal for the City. The Council at that time worked hard to get the road built outside of the impact fees, which was in the best interests of the residents. An agreement was made; the impact fees for that area did not include roads. Council would be remiss to give credit to Ravin Homes for something that could not be credited.

The motion carried 4-0.

02-07-03 Consider Citizen Request to Form Education Commission

Meeker reported that, based on his research, there was no authority for the City to enter the education field. He had looked closely at the information that had been provided. The commission reference in the information was more of a statewide commission than a local commission.

Rutherford asked how Council should address the request. Meeker said there needed to be some action by Council since the agenda stated "Consider Citizen Request to Form Education Commission."

Boone moved to deny the request to form an Education Commission for the City. Rutherford amended the motion to add "based on legal opinion." Boone accepted the amendment and restated the motion to deny the request to form an Education Commission based on legal opinion. Kourajian seconded.

Rutherford asked if the Fayette County Board of Education (BOE) could form such a commission. Meeker said he was not well-versed in that area of law and would leave it to the BOE's staff and legal counsel to determine.

The motion carried 4-0.

New Agenda Items

04-07-01 Public Hearing – Consider Variance Request for 213 Huddleston Road for Construction of a Cell Tower

Applicant Tim Powers addressed Council. Powers told Council he had a good site, and he had a potential customer. There was already a tower on the site, which was located in the industrial park. The site was used as a tow yard.

No one spoke either for or against the variance request.

City Planner David Rast noted that this parcel was further north than another parcel Powers owned on Dividend Drive that he had previously requested a variance for. The Huddleston Road parcel was in the approach zone for Falcon Field, but the existing tower on the site did not encroach into the conical zone, which had been the issue with the site on Dividend Drive. The site was used as a storage yard for a towing company. The current tower, an Air Touch tower, was built in 1986, prior to the City's telecommunications ordinance and was grandfathered.

Rast continued that the parcel was 235 feet deep from the right-of-way on Huddleston Road to the railroad easement. According to the ordinance, a tower had to be a minimum of 200 feet from the road right-of-way, which could happen, and a minimum of 50 feet from any non-residential property line, which was not possible. Another tower could not be constructed on the property without a variance based on the ordinance. Based on the way the ordinance was written and the setbacks established, staff was not in support of granting the variance, however, the surrounding property should also be considered to determine if the variance merited consideration.

Rast noted that the railroad easement to the rear of the property was 100 feet wide. The property on the other side of the rail line belonged to the City and included the burn building and Leach Station. All the properties to the east of the rail line were zoned Limited Industrial (LI), and all the properties to the west were General Industrial (GI). The staff recommendation based solely on the established setbacks in the telecommunications ordinance was that the variance not be approved.

Rutherford said towers would have to be placed on large parcels with the required setbacks, with the towers basically located in the middle of a parcel. She asked what the residential setbacks were. She also asked if it was time to take another look at the telecommunications ordinance since the City was looking at the Comprehensive Plan. She would rather see the cell towers in the industrial park than in the middle of a neighborhood. There would not be a problem putting a tower in this area.

Rast said towers were only permitted in Agricultural Reserve (AR), OS (Open Space), LI, and GI areas. He continued that, when the ordinance was written, they had tried to establish a grid where towers could be located to serve the whole City. If the property had abutted a residential lot, then the setback would be 200 feet. The lot would have to be very large. The intent of the ordinance had been to co-locate providers and towers and keep a string of towers from running down the road. Rast said the tower facility (the compound at the base of a tower with the mechanical units) should also be considered, and was usually no more than 20 feet by 20 feet. He referred to Powers' drawing of the lease area, which was 100 feet by 100 feet. The lease area could go all the way to the property line. It was just the tower facility that had to be set back from the property line. Rast said the tower element had not been addressed in the Comprehensive Plan, but they also preferred towers be located in the Industrial Park. Rutherford said that the restrictions for the airport had restricted the ability to put the towers in much of the industrial park, and the City needed to look at that. She did not want to see the towers in OS zoning, which was where things were headed.

Boone asked if there would be any impact on CSX Railroad if the variance was granted. Rast said he did not know, but noted that there were other towers in close proximity to the rail along that

corridor. Rast noted that as far as the location went, he would rather see the towers in the Industrial Park. He said he could look at other tracts in the area to see how the 200-foot setback would apply.

Rutherford said that granting variances was not a favorite thing to do, especially if Council could not grant a variance for specific distances. Rast said that until there was an actual application and he knew what the compound would look like, it would be difficult to grant a variance for specific distances. He said they could keep the front setback at 200 feet, with the encroachment into the 50-foot rear setback.

Kourajian asked what the building setbacks were for the zoning. Rast said 50 feet from the rear setback line and at least 50 feet from the right-of-way. Kourajian asked why the setback for a tower was 200 feet. Rutherford suggested it was because the City did not want the towers lined up on the road. Rast said that was probably the intent; he had not researched it. Rutherford asked if they could grant a variance on the setback from the road instead of the rear lot line. Rast said he would rather see the 200 feet maintained. Kourajian asked if the front setback had to do with a safety issue. Meeker said he could not answer for what happened in 1996, but, at that time, there was a concern about towers falling. Tower technology had changed, and they were now designed to collapse down, not fall.

Kourajian asked if there was a height on the proposed tower. Rast said that was another issue staff had considered. He believed the current tower was 195 feet. He said the proposed tower could not be any higher.

Kourajian said there were questions on the height of the tower and the footprint, but he was inclined to move forward with the variance request. The City needed more cell towers, but he wanted to do it the right way and only wanted to do it one time. He asked if Council could get more information on the specifics. Rast agreed that would be helpful so the height of the tower could be confirmed, as well as size of the tower facility. Council would also be able to grant a specific variance. Rast said Powers wanted to know if this was something he should pursue on this site.

Rutherford told Powers that was where the tower belonged and asked him how Council could help him put it there. Powers said the tower would be a multi-use lattice tower that could hold up to 10 carriers. Rutherford agreed, but said Council could not grant the variance without more specific information. Kourajian suggested Powers get the specifications and come back. He said he would probably be successful. Powers said he needed to be able to negotiate in good faith. He wanted a yes or no answer. The site was viable. He had three possible customers if a tower could be built. Logsdon told Powers that Council supported his request, but needed exact information. Powers said he would have to come back to the City for landscaping and permitting. He had to be able to tell a carrier that the site was viable. He needed either a yes or no so he could negotiate. To get specific information, he would have to pay for a tower design. A lattice tower was a better design and was safer.

Meeker said Council could not grant a blanket variance. Technically, Council would have no say in where the tower was located on the parcel. Council had given Powers an idea of what they needed. Rast told Powers they needed a drawing for the proposed tower like the drawing the City had for the current tower. He would work with the provider to put a tower on a site plan to show the amount of

encroachment. Rast said he understood that Council would grant the variance, but needed a specific distance. Powers said he wanted 20 feet. If it could not be done with that, then that was it.

There was some confusion in the actual amount of the variance being requested due to the overlapping front and rear setbacks. A variance of 20 feet to the 50-foot setback would technically only leave five feet for the tower, which would not be adequate.

Rutherford asked if this could be done. Meeker said he was concerned that the math did not add up, which was one reason they needed a drawing. Rast agreed. The distance was not measured from the property line to the tower structure, but to the compound. Powers said his drawing showed a 100-foot by 100-foot square in the corner. He understood they wanted an engineered drawing. He said he would complete an engineered drawing before any tower construction. Before he started dropping more money into a project that would take more than a year, he needed a yes or no.

Rutherford said this was a circular argument. Council wanted to grant the variance, but legally they could not until they knew exactly what was needed. Kourajian said Powers would have to pay his \$250 again if the math did not work out for a 20-foot by 20-foot compound.

Powers said there were people very interested in the site. He could buy a tower and put it up. Rutherford asked Powers why Council should limit him to five feet for a multi-use tower. Powers said he could not negotiate with anyone unless he could tell them they would get a variance.

Kourajian asked Meeker if Powers would have to come back if Council granted a variance for a specific footprint and Powers found that that the tower could not be built at that footprint. Meeker said that was correct. Logsdon said Powers said he would make it work with a 20-foot encroachment. Kourajian understood that Rutherford wanted to make the variance right the first time, but Powers said he did not need that. Rast noted that the setbacks applied to the perimeter fence, not the tower itself. The setbacks overlapped.

City Manager Bernard McMullen suggested that, since there was already a structure on site, a variance be granted equal to the existing facility's footprint from the front and rear. Rutherford said that made sense. Logsdon said he liked McMullen's suggestion. Rutherford asked Meeker if Council could do as McMullen suggested. Meeker said that could be ascertained.

Rutherford moved to grant the variance to be no more or less than the tower footprint already on the site. Boone seconded. Kourajian asked if that included height. Rutherford said no, that Powers had not asked for a variance for the height. Rutherford restated her motion. McMullen said the variance was for the equivalent of what he currently had. Kourajian asked Powers if that was ok with him. Powers said that was what he wanted. The motion carried 4-0.

Rutherford reiterated that the Comprehensive Plan should look at the tower ordinance.

04-07-02 Discuss Rockaway Road Realignment

Rast gave a synopsis of the history of the realignment project (A copy of the PowerPoint presentation is included in the official meeting file.) He noted City Engineer Dave Borkowski had done a lot of research into the project and the DOT agreements through the years. Rast said that he had researched earlier thoroughfare plans and Comprehensive Plans. He added that DOT planned

to let the contract in the late fall for the construction of Phase 2 of the SR 74 widening. The realignment was part of Phase 2. The City was working with DOT on acquiring right-of-way.

Rast continued that many residents had asked whether Rockaway Road could be realigned to Redwine Road rather than Holly Grove Road. He said that, in theory, that was fine, but in reality it would severely affect the SR 74 widening. They would have to re-do the concept, get another environmental analysis, and everything involved in getting the new road approved.

Kourajian asked what it would entail to move the realignment. Rast said that the realignment to Redwine Road would go across City property, involve the destruction of Meade Field, and would involve acquiring property outside the City limits. There would have to be environmental permitting for two streams and taking the road about 2,600 feet from where Rockaway Road was now. It would be a major undertaking to change the alignment. From the staff perspective, the City had worked with DOT and the developers in the area to identify where the road should come out. The Holly Grove Road connection had been the plan for many years.

Kourajian said the concern was about cut-through traffic on Holly Grove Road. He suggested the City should look at traffic-calming measures to discourage people from using Holly Grove as a cut-through.

Rutherford clarified that Holly Grove was a village connector. Rast said it was. There was a 25-foot greenbelt through Wilshire Estates that was not as dense as other greenbelts. The greenbelt area closer to Rubicon and Foreston Place probably looked like the buffer in Wilshire 15 years ago. The noise issue should improve as the greenbelt grew. Staff had spoken with the homeowners association while working on the Stephens tract rezoning and planned to look at the areas of concern. The safety concerns were there with or without the realignment of Rockaway Road. Rutherford said they also needed to look at what the road was designed to do. Kourajian said they should be careful in what they did. Rutherford said they might also want to encourage developers to enhance the greenspace.

04-07-03 Consider Bids for Portable Lift for Auto Shop

Public Services Director Tom Corbett said this would be the primary truck lift system for the satellite auto shop. Eight bids were received, including one no bid. The low bid did not meet the specifications. The second lowest bidder, CJ Equipment Company of Duluth, met all of the specifications. Corbett said the lifts would hold the fire equipment the City currently used, as well as anything planned for the future fleet. He said they had gone over the specifications with the Fire Department.

Rutherford asked why there was such a range in the bids. Corbett said he did not know because the highest bid had the exact same equipment as the second lowest bidder.

Kourajian asked why six units were needed. Corbett noted that six units gave maximum flexibility in lifting the pumper truck, for example, where more lift capacity was needed in one part of the vehicle. Six units provided the 96,000-pound lift capacity the Fire Department required. Kourajian asked how many lifts the department had now and said his concern was that the department had what it needed. Corbett said there were none. The other bay had a stationary lift. This would be a portable system.

Rutherford asked where the money was coming from. McMullen said the lift system was budgeted.

Rutherford moved to approve the purchase of six portable electronic truck lifts for the satellite auto facility from CJ Equipment Company of Duluth for a price not to exceed \$43,500. Boone seconded. The motion carried 4-0.

04-07-04 Consider Agreement with Medalist Sports for Tour de Georgia

Meeker noted that there had been a number of concerns with the original agreement. All the concerns had been addressed, and the revisions were now included in the agreement.

Boone moved to accept the Tour de Georgia City participation agreement as of April 5, 2007, and authorize the Mayor to sign it. Kourajian seconded.

Rutherford asked if the sponsor money would cover the City's cost for the event. McMullen said the sponsor money had been collected, and there was also money in the Tourism Association budget.

The motion carried 4-0.

04-07-05 Consider Request to Allow Segways on City Paths

Logsdon noted there additional documents on the dais – an e-mail from Police Chief James Murray dated April 2 with the subject, "Segways on Cart Paths;" and two printouts from the Segway website. Logsdon noted that no one was at the meeting to represent Segway.

Rutherford noted that Chief Murray's report was not favorable and moved to deny the request to allow Segways on the City paths. Kourajian seconded. The motion carried 4-0.

Council/Staff Topics

Tour de Georgia Update

PCTA Executive Director Lauren Yawn briefed Council regarding the plans for the Tour de Georgia. She said the Local Organizing Committee (LOC) had members that were subcommittee chairs. The subcommittee chairs made up the formal LOC. The Course and Technical Committee had everything ready to go. People had been riding their bikes and driving the route since it had been released. They were working closely with the Police Department and the Fayette County Sheriff's Department. The race would start at 1 p.m. at City Hall Plaza on April 16. The festivities at the Plaza would begin at 10 a.m. There would be food vendors, inflatables, and more. Medalist Sports would also have a lot of booths. Signage was up. Local sponsors would get stars designating their sponsorship to put in front of their businesses. They had been reaching over 60,000 households on a public relations basis since March 1. She thanked the media for their support. There had also been more than 1,000 unique visitors to the website.

Yawn continued that welcome stations would be located near the front desks in all the hotel properties. Volunteers would man the stations and give out marketing materials and maps. The riders would receive several gifts from the County, and the attendees would be given a packet of information on the County. There were over 30 sponsors for the event, and they had been very involved. People were still calling. One hundred fifty people had volunteered to help.

Yawn continued that Cal Cheatham would sing the National Anthem, and Savannah Solomon, a cancer survivor, would shoot the starting pistol. Jittery Joe's had constructed the golf cart mascot, Torti Georgia. The mascot name was selected from entries submitted by local elementary school students. Jarred Hall was the winner. There had been a great turn-out at the media event held the prior week at the Tennis Center. The volunteer orientation was slated on April 11. Educational handbooks would be distributed in the schools. The sponsor appreciation event was scheduled for April 13 at City Hall Plaza. A press conference would be held on April 14 at the Wyndham. The team would be presented on April 14 at the concert at The Fred. On April 15, the City would host a dinner for the athletes. Yawn said a great team had worked on the event. Tourism had already increased in the City and more visitors had been to the Welcome Center than ever.

Great American Cleanup

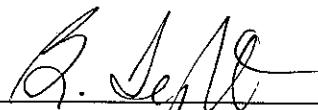
Corbett updated Council and noted that as of this date there were over 20 groups and over 100 people involved in the April 7 event. Communities could select a weekend in March, April, or May. He showed a map of the cleanup areas (the map is included in the official meeting file). The City selected the upcoming weekend due to the Tour de Georgia. Public Works was responsible for bag retrieval. Some people were unable to participate because of the Easter holiday weekend, so they would be doing their projects at a later date. The City only needed the bag count. Keep America Beautiful would publish the nationwide results (tonnage) of the cleanup in July. Betsy Tyler was to lead the group at City Hall. Corbett said the City would report the results. Kourajian volunteered for an area on Robinson Road.

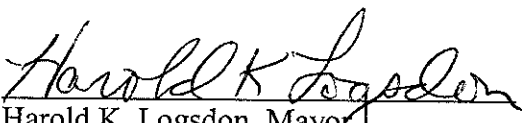
Rutherford asked if the computer recycling was in place at the Recycling Center. Corbett said they were getting ready to put the trailer in. They were also getting ready to announce information on cardboard and tin can recycling. Rutherford suggested that the City ask for volunteers on Saturdays to help at the Recycling Center to ensure the glass was properly separated and that those volunteers receive stormwater credit.

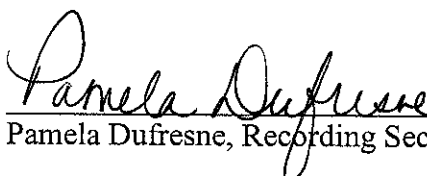
Rutherford moved to convene in executive session for threatened or pending litigation and personnel. Kourajian seconded. The motion carried unanimously.

Kourajian moved to reconvene in regular session. Boone seconded. The motion carried unanimously.

There being no further business to discuss, Kourajian moved to adjourn. Rutherford seconded the motion. The motion carried unanimously. The meeting adjourned at 9:12 p.m.


Betsy Tyler, Deputy City Clerk


Harold K. Logsdon, Mayor


Pamela Dufresne, Recording Secretary