

MINUTES OF MEETING
CITY COUNCIL OF PEACHTREE CITY
March 7, 1991

The City Council of Peachtree City met in regular session on Thursday Night March 7, 1991, at 7 P.M. in the City Hall Council Chambers.

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

Those present were Mayor Frederick Brown Jr. and Council Members Edward Bradford, Annie McMenamin, Robert Brooks and Rich. Parlontieri.

Addition of Agenda Items

Mr. David Good, Chairman of the Peachtree City Airport Authority, asked that an item be added to the agenda to provide him the opportunity of addressing the Council, on behalf of the Airport Authority, on the problem with deer at Falcon Field Airport.

Motion was made by Bradford and seconded by Brooks that item be added to the agenda. Motion carried unanimously. Item No. 3-91-9

Announcements, Awards, Special Recognitions

Mayor Brown announced that Saturday, March 9th, Peachtree City would celebrate it's 32nd birthday.

Mayor Brown also announced that at the April 4th City Council meeting a public hearing would be held regarding the proposed Five Year Public Improvement Program. He urged the public's attendance and participation in that meeting. The Mayor stated that copies of the proposed plan would be available at the next meeting for those who would like to have a copy prior to the April 4th meeting or they could be obtained from the receptionist.

There were no department reports or minutes.

New Agenda Items

3-91-1 Public Hearing - Variance - Frank Bryan

Mayor Brown called to order the public hearing scheduled for consideration of a variance to the zoning ordinance requested by Mr. Frank Bryan of 52 Dover Square and called on Mr. Bryan to present his request.

Mr. Bryan, before addressing Council, presented an amended plan to Mayor Brown for the sunroom he would like to add to his home. He explained that when he purchased his home he asked, prior to the purchase, if he would be able to add a sunroom to the rear of the home. He was advised that he could. Mr. Bryan discovered, however, when he applied for a building permit that there was a 20 foot rear yard setback requirement for his lot and the structure would intrude into that setback which was not permitted by city code. Mr. Bryan explained that the proposed addition would be the approximate size of an existing patio. Mr. Bryan's amended plan asked for

a seven foot variance from the rear setback line.

City Planner, Jim Williams, presented the City's position in the matter. He stated that the amended plan submitted this evening could have a significant bearing on the situation. Mr. Williams stated, however, that staff research had indicated the request to be contrary to at least three of the four criteria set out in the zoning ordinance as those which, if met, would justify granting a variance. Mr. Williams felt a principle concern was the potential adverse effect the granting of a variance would have on the property immediately adjacent to the subject property. He explained that if Mr. Bryan's building was extended it would be quite close to the side of the adjoining property.

Mr. Williams stated that, based on it's failure to meet the criteria set out in the ordinance and the potentially adverse affect on the adjoining property, staff recommended the variance be denied.

Mr. Bob Dixon, Builder of the subject home, addressed Council. He explained that this subdivision was built as a planned unit type development and when it was laid out he and the then building official agreed that there should be at least twenty foot separation between buildings but it wasn't his understanding that there was a twenty foot rear yard setback on each lot. It was with this understanding that he felt Mr. Bryan could place the addition on the structure. He stated that a ten foot extension on the Bryan home would still maintain twenty feet between properties.

Mr. Bill Grasso, Contractor planning to construct the sunroom, spoke in favor of the variance. He felt there had been confusion regarding the setbacks. He explained that the addition would be built just exactly as the house and it would not be apparent that it was a room addition.

The son of the owner of the residence at 50 Dover Trail, the property immediately adjacent to the property under discussion, spoke against the variance. He felt that the addition would adversely affect the property value and would make it difficult for them to sell should they want to. He stated that they did not want the addition and he felt there were at least three other houses for sale in the area that would accomodate a room addition without it becoming a detriment to the adjoining property owner.

Mayor Brown stated that he visited the site to determine whether or not, if this variance were granted, others would soon follow. He did not think that would be the case after looking over the adjoining properties. The Mayor stated that he attempted to visit also with the adjacent neighbor but was unable to get anyone to the door.

The Mayor stated that it was his understanding that Mr. Bryan did not plan to add anything beyond the existing patio and Mr. Bryan agreed with that statement. Mayor Brown explained that the elevation of the adjacent property was considerable higher than that of the Bryans property and he did not feel the sunroom would bother the neighbor because they would not be looking at it but, because of the higher elevation, would see more of the roof than the porch. The Mayor felt he could support a variance.

McMenamin agreed with the Mayor's statement as she too had visited the

site. She stated that she also believed Mr. Dixon's statement and that there had been an understanding between him and the building official as to the distance between buildings.

Brooks stated that he too visited the site and although other neighbors did not seem to have an objection to the addition, he was concerned that the adjacent neighbor was opposed. He asked the adjoining property owner if there was anyway he could see his way clear to support the variance. The son indicated that there was no way he or his mother could support the variance.

After further discussion a motion was made by Mayor Brown that the variance be granted. Motion was seconded by McMenamin. Motion carried with Mayor Brown, McMenamin and Parlontieri voting aye; Brooks and Bradford voting nay.

3-91-2 Public Hearing - M.A. Industries Variance

Mr. Charles McInvale, representing M.A. Industries, requested a variance to the rear setback line at 305 Dividend Drive. He asked that the variance to the 50 foot setback be granted to allow the business to extend an existing building to the property line. He explained that the extra room was needed in their plastics operation to house equipment and inventory.

Mr. Jim Williams, Director of Developmental Services, stated that the present building was assumed to be on the setback line which was 50 feet from the rear property line. The request was for a 46 foot variance to the 50 feet setback requirement. Mr. Williams explained that M.A. Industries owns the property on each side of the proposed addition and that the railroad property was to the rear. He explained that the building would be expanding to a "hill" and he did not feel it would adversely affect the adjoining properties. Williams stated that the Fire Chief had indicated that he did not see this as a fire safety hazard and Williams stated that staff recommended the variance be approved.

Mayor Brown called for public comments or Council comments and hearing none called for action.

Motion was made by Parlontieri that the variance be approved. Motion was seconded by Brooks. Motion carried unanimously.

3-91-3 Amendment to Alcoholic Beverage License - Ranchero

City Manager, Jim Basinger, presented an application from the Ranchero Mexican Restaurant asking that the license representative be changed Francisco J. de la Paz. Basinger explained that Mr. de la Paz was a resident of Peachtree City, his application was in order and he was present, along with his attorney, Mr. Karp, to answer any questions of Council.

Mayor Brown asked if the applicant understood the city ordinances and Mr. Karp explained that the restaurant now had a training program and that the applicant fully understood his responsibilities.

Motion was made by Brooks that the application be approved. Motion was seconded by McMenamin. Motion carried unanimously.

3-91-4 Amendment to Alcoholic Beverage License - Kwickie

City Manager Basinger reported that the Kwickie Store at Crosstown Road and Highway 54 had engaged a new manager, Mr. Gene Maness, and request that he be named as license representative on the alcoholic beverage license. Basinger reported that the application was in order and Mr. Maness was present for any questions of Council.

Mayor Brown asked Mr. Maness if he understood the requirements of the alcoholic beverage ordinance and Mr. Maness stated that he did.

Motion was made by Parlontieri that the change in the license be accepted as requested. Motion was seconded by Bradford. Motion carried unanimously.

3-91-5 Amendment to Alcoholic Beverage Ordinance

Mayor Brown explained that he had received a request signed by about fifteen residents in the Gateway Point, Waterwood Bend, Lakeside and Harbor Loop area requesting that Section 3-6(b) of the alcoholic beverage ordinance be amended to include single/multi family housing in the distance restriction. The request stated that the amendment would allow residential citizens the same rights and consideration as those in public housing buildings as was presently covered in the referenced section of the ordinance. The Mayor asked if anyone wished to address Council on the issue.

Mr. Jim Graw of 154 Lakeside Drive spoke to the issue. He explained that the residents submitting the request, contrary to popular belief, did not oppose the location of a Ruby Tuesday Restaurant in Peachtree City but did oppose the proposed location on Peachtree Parkway. He explained that the current alcoholic beverage ordinance would permit the approval of a license for a business that could locate within 75 feet of the property line of a residential neighborhood. A prepared statement he read explained that the current alcoholic beverage ordinance prohibits a license within 200 yards of a public housing building and the petitioners were asking that the ordinance be changed to place the same restriction for all public buildings as well as residential property lines.

Mayor Brown questioned Mr. Graw about his intentions and asked if this wasn't in fact an attempt to prevent the Ruby Tuesday Restaurant from locating on the proposed property more than any concern about alcoholic beverages and Mr. Graw stated, that in all honesty, it was.

Several other residents addressed the issue. Mr. John Setlock compared this situation to the former application for a dinner theater at the intersection of Highway 54 and Carriage Lane and asked what the difference was inasmuch as the previous application was denied. Mayor Brown explained that the property under discussion was zoned appropriately as General Commercial, the other property was residential.

Attorney Peter Degnan, of the law firm of Alston and Bird, representing

Peachtree City Development Corporation and Equitable and also speaking for Ruby Tuesday's, addressed the Council. He stated that this property had been zoned commercial for a number of years and the current owner had relied on that for some time in marketing the property. Ruby Tuesday's had also relied on the current laws in making and developing their plans. He stated that there had also been conversations with the City in developing plans for the sale of alcohol at the restaurant. He pointed out that Ruby Tuesday's was not seeking to change anything but were looking for property that already satisfied the zoning and alcohol requirements. He asked that his clients be treated fairly and to allow their development to be processed under existing laws. He stated that any changes would be taking away from them rights they had when they contracted for the property. He asked that nothing be changed at this time.

Mr. Bill Anthony, resident of Gateway Point, pointed out that when he moved to Peachtree City a number of years ago he bought believing in the village concept the City was being developed under. He didn't feel that developing along the highway carried out that concept.

Ms. Pat Welch, resident of Gateway Point, stated that she was concerned about her property values should the commercial development occur.

A resident of Greensway Subdivision, spoke in favor of the Restaurant. He pointed out that his property was not far from this location but he felt it would be good for the City to have another restaurant.

Several other residents spoke against the location of the restaurant. One point made was that there were churches across from the proposed location. Mention was made about the problem of noise and odors of food which would impact the adjoining property owners. Residents also felt that traffic would be a serious problem should the restaurant be built at Highway 54 and Peachtree Parkway.

Mr. Graw again addressed the Council. He stated that the residents had not intended to bring up the zoning at this meeting but since the attorney for PCDC had raised the question he would like to speak to it also. He read from minutes of the May 16, 1977 Planning Commission meeting where the Planning Commission took action supporting office type development on this particular property. Mayor Brown stated that the zoning action of September 12, 1977 which zoned the property General Commercial negated that action.

A number of other citizens spoke to Council on the issue. Most supported the location of a Ruby Tuesday Restaurant in the City but were concerned about the proposed location. One resident stated that he helped collect signatures on the petition and he found that it was only the location people were concerned about.

City Attorney, Mitch Powell, stated that it was clear that the City Council could establish prohibited distances from residential properties. He pointed out, however, that it was important for everyone to understand that, in relation to this property, the Courts had consistently held that should a developer, owner, or optionee spend substantial time, money and effort in developing a property relying on existing regulations, certain vested rights were his and they could not be taken away by anyone. He

cautioned Council that if changes were made that would take away any of those rights it more than likely would not stop this particular development if substantial time, money and effort had already been spent by the developers of the property.

Council asked how a change as requested in the alcoholic beverage ordinance would affect existing licenses considering the fact that there are residential developments near Peachtree Crossings, Aberdeen Shopping Center etc. Staff felt that a number of the licenses would be effected.

Mayor Brown pointed out that there were a number of choices available to the Council. He felt they could do nothing - take no action and leave the ordinance as written. They could amend it as requested or amend the ordinance to coincide with state law or possibly, Council had another suggestion. His recommendation was that the ordinance be amended by adopting the same wording as state law.

Mayor Brown explained that if Council tracked state law it would not be what the residents have asked for and would delete any reference to public housing. The Mayor read his recommended change which stated that no license for the sale of alcoholic beverage be issued on premises located within one hundred yards of a church building or an alcoholic treatment center building or within two hundred yards of any school building. The proposed ordinance defined school buildings.

The Mayor explained that his proposed amendment was the same wording that was in the state law and he felt that would be the appropriate action for Council to take at this time.

Motion was made by Mayor Brown that the proposed amendment be adopted. Motion was seconded by McMenamin. Motion carried with Brooks voting nay.

3-91-6 1990 Audit Report

Motion was made by Bradford that the 1990 Audit Report be accepted as presented by the CPA Firm of Price and Geeslin. Motion was seconded by Brooks. Motion carried unanimously.

3-91-7 Bids for Glenloch Pool and Fence Renovations

City Manager Basinger reported that the following bids were received for the Glenloch Swimming Pool and Fence Renovation project.

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| 1. Dans Construction & Repair
Peachtree City, Ga. | \$66,812 |
| 2. Multitech USA
Roswell, Ga. | \$67,250 |
| 3. Boscoe's Pools, Inc.
Sharpsburg, Ga. | \$67,316 (pool only) |

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| 4. Lowery & Associates, Inc.
Peachtree City, Ga. | \$39,909
(Pool Deck removal and
replacement only. Fence
and Canopy submitted on wrong
specifications) |
| 5. Danny White Fence
Stockbridge, Ga. | \$9,290.87 (Fence and Canopy) |
| 6. Fences by John
Peachtree City, Ga. | \$12,078.61 (Fence and
Canopy Only) |

Basinger reported that there was \$68,000. in the budget for the work. He stated that this was a hard decision based on the fact that Dan's Construction Company, the low bidder, was a local firm that had done work for the City before. Staff, however, did recommend awarding the bid to the second low bidder, Multitech USA, because of their experience in commercial pool construction. Basinger stated that references were checked on Multitech and they had a good reputation. Also, references were checked regarding the residential pool construction for Dan's as much as possible. Basinger stated that the recommendation was based solely on the fact that Multitech had experience in building commercial pools.

Mrs. Dan Buswell, representing Dan's Construction Company, stated that the person who would be doing the pool work was capable of building the Glenloch Pool and asked that they be awarded the bid. She stated that the gunite work would be subcontracted out to someone who had the experience.

Parlontieri stated that he felt the bid should be awarded to Dan's Construction Company in that they were the low bidder and they were a local firm. He felt that a performance bond could be required in the event they did have a problem.

Motion was made by Parlontieri that the bid for the Glenloch Pool and Fence Renovation be awarded to Dan's Construction Company. Motion was seconded by McMenamin. Colin Halterman, Director of Public Services, pointed out the complexity of the project, particularly as it related to the pool which was a gunite pool. He explained that the project required the installation of swimming lanes and he was concerned that Dan's Construction Company did not appear to have experience in this field. Halterman also pointed to the short timeframe required for the completion of the job with the specifications requiring it be completed by May 15th. City Manager Basinger again stated that the reason staff made their recommendation as stated was due to concern about the lack of experience by Dan's in the construction of commercial pools.

A representative of Fences by John stated that should Multitech USA be awarded the work he would be performing the fence work for the project and that he too was a local firm.

Mayor Brown stated that he respected the staff's position in the matter but he felt he could support the motion. Bradford stated that he felt that Dan's would do whatever it took to get the job done and that he would support the motion.

Motion to award the bid to Dan's Construction Company carried unanimously.

3-91-8 Surplus Items

City Manager Basinger called attention a list of items that staff asked be declared surplus so that they could be sold at city auction scheduled for March 16th. He reported that the City had several vehicles that had already been declared surplus that would also be offered at the auction.

Motion was made by Bradford that the items listed by staff be declared surplus. Motion seconded by McMenamin. Motion carried unanimously. (List attached to minutes)

3-91-9 Airport Authority Report on Deer at Airport

David Good, Chairman of the Airport Authority, addressed Council regarding the problem with deer on the runway at Falcon Field. He read a Resolution adopted by the Airport Authority on March 5, 1991 resolving that the Authority recognized and acknowledged that there had been proliferation of deer in the vicinity of the Peachtree City Falcon Field Airport and that the presence of such deer constituted an immediate hazard and danger to persons and property. The Resolution authorized the Chairman to take any and all action necessary to remove the deer from the airport area, specifically including lethal collection of the deer by representatives of the United States Department of Agriculture and/or the Georgia Department of Natural Resources, use of noisemaking devices, erection of fencing, and such other techniques and methods as are recommended by the experts consulted by the authority.

Mr. Good explained that the Authority was attempting to obtain funding from the FAA for fencing but this would take time. He explained that the experts had recommended lethal removal of a number of the deer and then try using the noise making devices to discourage the deer from the airport runway.

Mr. Good asked Council to waive the City ordinance prohibiting the discharge of firearms in the City and the ordinance prohibiting the hunting of animals for this temporary measure of controlling the deer population. He stated that the deer removal would be done by state or federally licensed personnel at the expense of the Airport Authority.

Mayor Brown stated that there were no variance or waiver provisions for the two ordinances he mentioned, however, he felt Federal and State laws would take precedent over city regulations and he didn't think the City could prohibit the action requested.

Council questioned Mr. Good on how many deer he felt would be removed and when the action would occur. Good didn't know the number to be removed but he felt the action would take place within the next few days.

He was also questioned about security during the action and Mr. Good stated that the professionals would be responsible for providing whatever was needed to ensure safety. It might mean closing the airport for a period of time but he wasn't sure at this time what would be required.

There were other questions asked including whether this action would only be conducted on airport property and Mr. Good stated that they would limit

the action to airport property.

City Attorney Powell agreed with the Mayor that generally State and Federal Law took precedence over city regulations.

No action was taken by the Council on the subject.

Mayor Brown Statement

Mayor Brown at this point asked to make a statement. He announced that he would not be seeking reelection at the end of his term in December. The Mayor stated that he and his wife had agreed some time ago that this would be his last term. He stated that, while he was grateful for his wife's recovery from serious illness, her illness did enter into his decision at this time. Mayor Brown stated that he had no future plans for political office. He thanked everyone who had supported him in the past and pledged to continue his responsibilities as Mayor the same as in the past through his term of office. He stated that the reason he was making the announcement at this time was to continue with his policy of keeping the public advised of his decisions. He also wanted to allow time for those who would be interested in seeking the office of Mayor to have time to make their plans.

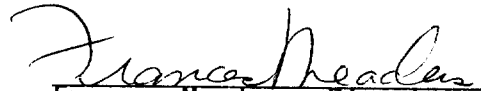
Gathering Place Report

Mr. Albert Bridegam, President of the Pioneers Club, gave Council a brief report on the status of the Senior Citizen participation in the newly provided "Gathering Place". He reported that 175 persons had signed up to take a safe driving course. He reported also that the Pioneer group had grown to 280 members. He thanked Council for all their support.

There being no further business to come before the Council, Mayor Brown made a motion that the meeting be recessed to be reconvened in executive session to discuss pending lawsuits of Black, Justice/Simon, Strickland and Kelly. Motion was seconded by Parlontieri. Motion carried unanimously.

Executive Session

No action was taken in executive session and motion was made by Mayor Brown that the meeting be adjourned. Motion was seconded by Parlontieri. Motion carried unanimously.


 Frances Meaders, Director
 Administrative Services


 Mayor