

**MINUTES OF MEETING
CITY COUNCIL OF PEACHTREE CITY
MARCH 2, 1995
7:00 P.M.**

The Mayor and Council of Peachtree City met in regular session on Thursday Night March 2, 1995, 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 Lenox, Councilmembers Annie McMenamin, Edward Bradford, Robert Brooks and Caroline Price.

No items were added to the agenda.

Announcements, Awards, Special Recognitions

Mayor Lenox announced that the City Council Retreat would be held on Friday March 10, beginning at 1:00 p.m. and Saturday March 11, at 8:30 a.m. at the Gathering Place.

Department Reports

Mayor Lenox announced that Department Reports would be available at the next scheduled Council Meeting.

Old Agenda Items

2-95-5 Consider Bids - Building Department Pick-up Truck

City Manager Jim Basinger stated that the City had solicited bids from ten vehicle distributors for the purchase of one 1995 Ford Ranger pickup truck for the Public Works Department and that eight distributors had responded to the request as follows:

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| 1. Southlake Ford, Morrow, GA | \$12,642.00 |
| 2. Chuck Clancy Ford, Marietta, GA | 12,072.00 |
| 3. Hub Ford, Tucker, GA | 12,513.00 |
| 4. Family Ford, Dallas, GA | 11,746.00 |
| 5. Carolyn Ford, Fayetteville, GA | 12,199.00 |
| 6. Beaudry Ford, Atlanta, GA | 11,933.00 |
| 7. Danny Belyeu Ford, Newnan, GA | 13,811.70 |
| 8. Gene Evans Ford, Union City, GA | 12,186.00 |

Basinger stated that staff recommended that the bid be awarded to the low bidder, Family Ford in the amount of \$11,746.00 with the addition of \$685.00 for air conditioning for a total cost of \$12,431. Basinger stated that sufficient funds were available in the Building Department Budget.

Bradford asked if the truck would be added to the fleet or if it was a replacement vehicle. Basinger stated that it would be an addition.

McMenamin stated that there was also a bid for a truck for the Public Works Department on the agenda and asked if the City could get a better deal if they purchased two trucks at the same time. Basinger stated that the trucks were not the same kind and therefore not combined into one bid.

Price made a motion to award the bid for a pick-up truck for the Building Department to the low bidder, Family Ford, in the amount of \$11,746 with the addition of \$685.00 for air conditioning for a total cost of \$12,431. Bradford seconded the motion. Motion carried unanimously.

3-95-1 Alcoholic Beverage License-Mama Gina's Pasta & Grill

Mayor Lenox stated that Mama Gina's Pasta & Grill LTD had applied for an alcoholic beverage license to sell malt beverage and wine as a retail consumption dealer with Mr. William Rogers, President, applying to be the licensee and Mr. Thomas Scardino, Vice President, applying to be the license representative. Both Mr. Rogers and Mr. Scardino were present.

McMenamin asked Mr. Rogers if all property issues with Corelli's Cafe, Inc. had been settled and if all litigation was finished. Mr. Rogers stated that he was not sure what the status of the litigation was, but that he was not involved and that it did not concern him. McMenamin stated that all paperwork appeared to be in order and made a motion that an alcoholic beverage license to sell malt beverage and wine as a retail consumption dealer be granted for Mama Gina's Pasta & Grill LTD and that Mr. William Rogers be appointed as the licensee and Mr. Thomas Scardino as the license representative. Price seconded the motion. Motion carried unanimously.

3-95-2 Public Hearing - Variance Asa Candler, Highway 54/Walt Banks Road

Mayor Lenox stated that Mr. Asa Candler had applied for a variance to a condition of zoning at Walt Banks Road and Highway 54 to allow a curb cut on Highway 54. Mayor Lenox asked the representative for the Candlers, Mr. Carl Westmoreland, if he had any opening statements he would like to make.

Mr. Westmoreland came forward and stated that a lawsuit had been filed against the City due to the denial of a rezoning request heard on January 19, 1995. Mr. Westmoreland stated that his client only had thirty days from the date of the hearing to file a lawsuit and that the application for a variance had been filed prior to that time. Mr. Westmoreland stated that the lawsuit would be dependant on his client's ability to obtain a variance allowing an access on Highway 54.

Mayor Lenox gave an update, for the benefit of the public, on the lawsuit that was filed against the City after Council denied a rezoning request for property at Walt Banks Road and Highway 54. Mayor Lenox asked City Attorney Rick Lindsey if, with a lawsuit pending, Council could legally hear a request for a variance on the same property. City Attorney Rick Lindsey stated that the ordinance did not address the issue and that he felt the variance request could be heard and that Council could either table the item until litigation was complete or take action. Bradford asked for clarification on whether Council should conduct the public hearing and Lindsey stated that they should.

Mayor Lenox read the rules for a public hearing and established a time limit of forty five minutes for each side of the issue. Mayor Lenox called the public hearing to order and asked to hear first from the applicant or their representative.

Mr. Carl Westmoreland, attorney for the applicant, came forward and stated that the variance request was for the 15.5 acres of property already zoned LUC-7. Mr. Westmoreland stated that a condition of the zoning was that there could be no access onto Highway 54. Mr. Westmoreland stated that the variance was to gain relief from that condition of the zoning. Mr. Westmoreland reported that a traffic study had been done by Street Smarts which found that an access onto Highway 54 would relieve some of the traffic from Walt Banks Road that residents were concerned about. Mr. Westmoreland went on to say that the zoning already allowed for three curb cuts on Walt Banks Road and that his client was agreeable to bring Walt Banks Road up to commercial collector standards if the variance was approved. Mr. Westmoreland also stated that his client would be willing to withdraw the complaint in exchange for access to Highway 54, that he would recommend to his client to not withdraw the complaint until the time for any appeal had expired. Mr. Westmoreland stated that access onto Highway 54 would be pertinent for restaurants located in the center to meet distance requirements from the church and school to be able to obtain an alcoholic beverage license. Mr. Westmoreland asked that Council grant the variance.

Mayor Lenox asked for anyone else wishing to speak in favor of the variance.

Mr. Jim Williams, Director of Developmental Services, came forward and stated that the improvements to Walt Banks Road, that the applicant was willing to make, were pertinent. Williams stated

that a right-in right-out on Highway 54 would take some traffic off Walt Banks Road. Williams stated that the Planning Commission and staff felt that the City should work with the developer to make a workable shopping center and recommended Council approval of the variance.

Mayor Lenox asked to hear from anyone in opposition to the variance.

Those speaking in opposition to the variance were: Mr. Stuart West, Ms. Susan Moore, Mr. Jerry Greenwell, Ms. Debbie Condon, Mr. Ted Thomas, Mr. Robert Gasko, Mr. Chuck Layman, Mr. Bill Snow, Mr. Ryan Hough, Mr. Norman Moore, Mr. Steve Ellis, Mr. Frank Fessenden, Ms. Fran Plunkett, Mr. Bob Bertlesbeck, Mr. Alvin Baird, Ms. Judy Berry, Mr. Randy Hough, and Ms. Myrna Layman.

Reasons given by those in opposition were: felt Council should keep zoning as it was, curb cuts would create a traffic flow problem on Highway 54, would not benefit residents from Peachtree City, only those persons coming from Fayetteville, would cause more congestion in the area, U-turns would not be safe, that the developer was not in favor of reducing the curb cuts allowed on Walt Banks, that the current zoning was done as a compromise and the developer is still not satisfied, felt the developer would continue asking for other conditions to the zoning to be removed, safety of children at the high school, variance not consistent with the Land Use Plan, did not feel the need for another shopping center, would lead to other shopping areas along Highway 54, opposed to cutting down more trees, would like to see the area as residential, or as a park and without the access to Highway 54 the project would not be financially beneficial which would cause delay in development.

Mr. Westmoreland was asked if the developer would be willing to give up the curb cuts on Walt Banks Road if the cut on Highway 54 was allowed and Mr. Westmoreland stated that the developer, Mr. Candler, would not be willing to give up the curb cuts on Walt Banks Road.

Mr. Westmoreland came forward and stated that the property was already zoned commercial, and that the developer was not asking for a change in size of the development. Mr. Westmoreland stated that the current LUC-7 zoning allowed three curb cuts on Walt Banks Road, and that with an access to Highway 54, it would lessen the impact on Walt Banks which would benefit the residents of Peachtree City. Mr. Westmoreland stated that he agreed that without an access on Highway 54, it would not be a financeable development. Mr. Westmoreland stated that the only issue before Council was an access on Highway 54, not a zoning issue of whether or not a shopping center should be constructed. Mr. Westmoreland stated that it was reasonable to request approval of the variance so that the developer could use the property.

Mr. Norm Moore stated that it was not the responsibility of the City to guarantee a property owner his land would be profitable. Mr. Ted Thomas asked if Council could take away the curb cuts now allowed on Walt Banks Road. City Attorney Jim Webb stated that Council could not take away the curb cuts already allowed in the present zoning.

Mayor Lenox called the public hearing closed and called for Council debate.

Price stated that the issue had been addressed a number of times and that she felt the Land Use Plan should be reviewed prior to any changes in the zoning. Price stated that she felt an access onto Highway 54 would cause other changes in the area and stated that she felt LUC zoning was adaptable, even though the developers did not feel it was workable. Price stated that she could not support a variance until the Land Use Plan had been reviewed.

Brooks stated that he had mixed feelings about an access on Highway 54, that he felt it would help the intersection but could create a nightmare for those turning right on Walt Banks Road. Brooks felt it would not be a safe access and that he could not support the variance.

McMenamin stated that in 1987 the owners of the property had agreed to all conditions of the LUC-7 zoning, and were now trying to fix the LUC zoning with curb cuts. McMenamin stated that she felt the major traffic to the area would come from Peachtree City and could not see a benefit to residents. McMenamin stated that she could not support the variance.

Bradford stated that there appeared to be confusion about the zoning, and that the purpose of the hearing was not to re-zone. Bradford stated that the developer had attempted to re-zone the property, Council had denied the zoning, and now there was a court case pending. Bradford went on to say that if the area was made into a park, the City would have to purchase the property, which they could not afford to do. Bradford stated that the property owner did have a right to develop the land and that under the current zoning three curb cuts on Walt Banks Road were already permissible. Bradford stated that he felt there was a solution to the problem that had not been reached yet, but that he preferred to wait until the Land Use Plan had been reviewed before any changes were made. Bradford stated that he would be in favor of tabling the item.

Brooks stated that he did not feel it fair to the developer or the citizens to table the item. Lenox agreed that a decision should be reached.

Price made a motion to deny the variance to allow a right-in right-out access on Highway 54. McMenamin seconded the motion. Motion carried unanimously.

3-95-3 Consider Bids - Public Works Pick-up Truck

City Manager Jim Basinger stated that on February 15, 1995 a Public Works truck was wrecked beyond repair. Basinger stated that staff had been able to locate a 1995 F-250 at two dealerships and that it was staff's recommendation that the vehicle be purchased from Gene Evans Ford in the amount of \$15,037 with funds to come from the self-insurance fund. Basinger stated that the other insurance company involved, Central Insurance, would pay \$1,575 for the truck and that the insurance proceeds would be put back into the self-insurance fund. Basinger went on to say that any applicable replacement parts from the wrecked truck would be used for stock and the surplus of the remaining truck used as proceeds to offset the self-insurance expenditure.

Price asked when the truck would have been due to be replaced and Basinger stated that it would have been soon, as it was a 1983 truck. Price asked if it would be possible to obtain a prior model year vehicle and Basinger stated that one was not available or an attempt to purchase a prior year vehicle would have been made. Price made a motion to purchase a Ford F-250 from Gene Evans Ford in the amount of \$15,037 with funds to come from self-insurance with proceeds from Central Insurance to go back to the self-insurance fund and the existing truck surplussed for parts. Bradford seconded the motion. Motion carried unanimously.

3-95-4 Consider Traffic Signal Application
Highway 54/Huddleston Road

City Manager Jim Basinger reported that the Department of Transportation had requested that Mayor Lenox sign documents to place a traffic light at Highway 54 and Huddleston Road. Basinger stated that the light was scheduled when the widening of Highway 54 took place, but that there was a possibility that the light could be installed prior to that time. Basinger stated that staff recommended that Council authorize the Mayor to sign the documents with the DOT. Brooks made a motion to authorize the Mayor to sign documents with the DOT for a traffic signal at Highway 54 and Huddleston Road. Price seconded the motion. Motion carried unanimously.

3-95-5 Consider Traffic Signal Application
Highway 54/Wynnmeade Parkway

City Manager Jim Basinger stated that the Department of Transportation had requested that the Mayor sign an application for a traffic signal, to be installed on Highway 54 and Wynnmeade Parkway. Basinger reported that staff had met with residents of the Wynnmeade Subdivision to discuss the possibility of installing the traffic signal at a frontage road which could be constructed to Line Creek, but that the residents did not want a frontage road. Basinger stated that the project would cost approximately \$80,000 and would be accompanied by the addition of a left turn lane. Basinger stated that the project had been included in the 1996 PIP

and that should the project begin prior to October 1, 1995, staff recommended that funds be taken from the Council Reserve Fund, to be paid back on October 1, 1995.

Bradford made a motion to authorize the Mayor to sign documents with the DOT for a traffic signal at Highway 54 and Wynnmeade Parkway, with \$80,000 in funding to come from the Council Reserve Fund if necessary prior to October 1, 1995. Price seconded the motion. Motion carried unanimously.

Mr. John Brown, Tinsley Mill, came forward and addressed the Council concerning the flooding problems at Tinsley Mill during heavy rains. Mr. Brown reported that he had flood damage in excess of \$32,000.00 in that last seven months due to flooding. Mr. Brown asked that Council address six items of concern which were:

1. What the plans were to increase the runoff on the south end of Lake Peachtree when there were excessive and heavy rains.
2. Asked if Council knew how high the water level rose on February 10th and 11th of this year.
3. Asked if Council knew how high the water level rose on the north end of Lake Peachtree on July 5, 1994
4. Asked why the lake level could not be lowered to absorb heavier rain and runoff.
5. Asked if anyone could tell him what the required or proposed level of Lake Peachtree was supposed to be.
6. Asked if Council expected property owners in Peachtree City to live in less than desirable conditions.

Brooks asked that the item be added to the Retreat agenda for discussion. Brooks asked Mr. Brown to leave the list of questions he would like addressed with staff and assured him that his questions would be addressed.

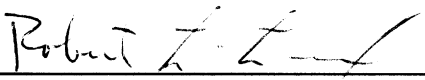
There being no further business to come before the Council, Mayor Lenox made a motion that the meeting be recessed to be reconvened in executive session to discuss a legal matter. McMenamin seconded the motion. Motion carried unanimously.

Executive Session

No action was taken in executive session and Bradford made a motion that the meeting be adjourned at 9:35 p.m. Brooks seconded the motion. Motion carried unanimously.



Angie Stevens, City Clerk



Mayor

Attest: