

City Council of Peachtree City
Minutes of Meeting
February 21, 2008
7:00 p.m.

The City Council of Peachtree City met Thursday, February 21, 2008, in the City Hall Council Chambers. Mayor Logsdon called the meeting to order at 7:00 p.m. Other Council Members present: Steve Boone, Don Haddix, Cyndi Plunkett, and Doug Sturbaum.

Announcements, Awards, Special Recognitions

Mayor Logsdon recognized Al Yougel for his efforts to establish a Peachtree City affiliate of Keep America Beautiful.

Public Comment

Chadwick Barr addressed Council regarding the SR 54 West development and crime. The Police Department cared more about policing the internet than the City. He said Council's decisions had a profound effect on the residents, and they had blatantly voted against the wishes of the people.

Kathy Taylor discussed her property at 122 Crofts Corner. Her neighbor was extending his driveway, which was located between the properties. There was approximately 25 feet between the two properties, and a driveway could be located on the property line. Her concern was that the view of the area, which was located on a golf course, would become a view of houses, carports, and trucks.

Camille Hampton, 100 Meadow Court, addressed Council regarding stormwater drainage and the debris, sand, and trash that ended up in her yard after a recent hard rain. She purchased her home new three years ago, and the builder was no longer in business. She had written to the City and asked for assistance. She was concerned that the issue would get out of hand. Her property sat lower than the surrounding homes, and everything ran into her yard.

Agenda Changes

Logsdon had received a request to move Agenda Item #02-08-14 Consider Request for Funding from Fayette Senior Services to the top of New Agenda Items. There were no objections.

Minutes

Logsdon noted an additional document on the dais – a change to the January 8, 2008, workshop minutes. Plunkett moved to approve the January 8, 2008, workshop minutes as corrected and the February 6, 2008, workshop minutes as written. Sturbaum seconded. The motion carried unanimously.

Consent Agenda

- 1. Consider Request for Funding from Promise Place**
- 2. Consider Lease Amendment – Tourism Association (Agenda Item 01-08-15)**
- 3. Consider Lease – Southern Conservation Trust**
- 4. Consider RFP for Solicitor Pro Hac**

Plunkett asked why the funding for Promise Place was on the Consent Agenda instead of under New Agenda Items. City Manager Bernard McMullen answered that it was a routine request for

the same amount that came in every year. Council had seen the request as part of the budget process.

Haddix moved to approve Consent Agenda Items 1 – 4. Boone seconded. The motion carried unanimously.

New Agenda Items

02-08-14 Consider Request for Funding from Fayette Senior Services

Acting Administrative Services Director/City Clerk Betsy Tyler explained that staff had pulled this item off the Consent Agenda because Fayette Senior Services had asked for increased funding. Staff recommended that Council approve \$7,500 for this year since it was in the budget. Staff would bring the policy back to Council at the March 6 meeting since there were additional requests for consideration, and staff needed direction from Council on those. Tyler introduced Debbie Britt, the new executive director for Fayette Senior Services.

Boone moved to approve funding for Fayette Senior Services in the amount of \$7,500 and to have the Mayor sign the agreement. Haddix seconded.

Plunkett asked whether Britt was going to ask for additional funding at this meeting. Tyler said that Britt was at the meeting to answer questions. Staff was not recommending additional funding at this time. Logsdon recommended Council approve the \$7,500 and discuss the request for additional funds later.

The motion carried unanimously.

**02-08-09 Public Hearing – Consider Amendment to Article X, Section 1007, LI
Limited Industrial District**

City Planner David Rast addressed Council and noted that some uses were permitted in both LI Limited Industrial and GI General Industrial districts. The proposed amendment identified specific uses that would be permitted solely in LI zoning. In some situations, uses that should be located in the LI district were located in GI zoning. Staff wanted to have two separate ordinances that identified the specific uses that would be permitted in each district.

Rast continued that staff had looked at 14 different jurisdictions in metro Atlanta and compared the uses allowed in the various industrial districts to determine which were appropriate in the City. The LI zoning district should be limited to low intensity uses, such as showrooms, office/warehouses, and contractor offices. The intense manufacturing uses should be restricted to GI zoning. If a use was not on the list, then the applicant needed to ask Council for a variance. Some retail uses of 10,000 square feet or less were also permitted in LI zoning, but there was no size limit on the building size for non-retail uses. The Planning Commission had looked at the proposed ordinance at a several workshops and recommended adoption.

Rast said that, if Council approved the proposed ordinance, there would be two stand-alone ordinances, with no crossover of uses between the LI and GI districts. Staff and the Planning Commission also planned to look at the existing uses in the industrial park. Most of the retail and service businesses were on parcels zoned GI. As part of the Comprehensive Plan and Land Use Map update, they would come back to Council with rezoning requests for some parcels.

No one spoke for or against the proposed amendment. The public hearing closed.

City Attorney Ted Meeker clarified that an applicant would not be able to request a use variance under Georgia law. Uses were uses, and any change would require a text amendment to the zoning ordinance. There was not a variance provision for uses in the ordinance.

Rast pointed out that the commercial uses in industrially-zoned areas were primarily located at Kelly Drive/Dividend Drive and at Crosstown/SR 74. The areas were zoned LI and GI, but the use was retail. There were a few other similar sites. Logsdon asked if the City would have to get the landowners' permission for the rezonings. Rast said the City would have to contact the owners and explain what was being done. He had discussed it with some owners, and most were in favor of the change since it would clean up some leasing issues.

Plunkett asked if zoning could be changed without concurrence from a landowner. Meeker said it could be done, but the City would have a fight on its hands regarding whether the zoning was constitutional. Plunkett asked if the retail uses on Dividend Drive were nonconforming. Rast said not all of them were, but there was a hair salon and a church in the Kelly Drive development. A church use was appropriate in the industrial park, but it should be on a stand-alone tract. One or two other retail businesses were in GI zoning and shared a wall with a GI use. There were some logistical issues with those situations. Plunkett clarified that the retail uses that were currently in GI and LI zoning could continue to operate. Meeker said the use could continue even if it were sold for the same use. There would be an issue under the nonconforming use clause if the building were expanded.

Sturbaum moved to approve the amendment to Article X, Section 1007, LI Limited Industrial District. Boone seconded. The motion carried unanimously.

**02-08-10 Public Hearing – Consider Amendment to Article X, Section 1008, GI
General Industrial District**

Rast noted that the proposed amendment was clarification of the uses in GI zoning. An LI use could occur in GI zoning if the lot was large enough, but staff would try to steer the more intense uses to GI zoning. At the Planning Commission's meeting, the Planterra residents asked for language that allowed discretion on orienting buildings so the air turbines and canopy units faced away from a residential area. This amendment would clean up the uses and provide a distinction between GI and LI zoning.

Richard Granger asked whether the golf course owner could sell the property for any use on the list if the golf course went out of business. Rast said the reason that a golf course was included in the uses was because the golf course was located in a GI zoning district. Staff wanted to change the golf course zoning designation to OS Open Space, which was what the other golf courses were zoned. The City tried to do that a few years ago during an update, but all the adjacent property owners to the property to be rezoned had to be notified by certified letter, which would have cost the City thousands of dollars in mailings. The notification requirement in the ordinance had changed to first-class mail, so one additional change that would come to Council would be to remove golf courses from the list of permitted uses in GI zoning. The other two golf courses in the City had OS zoning.

The public hearing closed.

Plunkett asked what types of buildings fell under public buildings, facilities, and utilities. Rast read the list, which included the Fayette County Water Department, the Water and Sewerage Authority, electric substation, or a senior center. Meeker said the wording meant government buildings. It would not apply to utilities because public utilities were not necessarily government utilities. Meeker suggested changing the wording to government buildings and adding "cable" after "electrical, telephone, or other government utilities." Rast said there would be more amendments to both the LI and GI ordinances in the future. Council could add or delete uses the next time also. Plunkett suggested that "public" be replaced with "government" and the wording, "electrical, cable, telephone, or other public utility," be included. Logsdon noted that public inferred government. The wording could change to "public/government buildings."

Plunkett moved to approve the amendments to Article X, Section 1008, GI General Industrial District with the two changes discussed. Boone seconded. The motion carried unanimously.

02-08-11 Consider Ordinance Amendment – Unrestricted Kennels in Residential Zoning Areas

Rast noted that, under the accessory uses section of the zoning ordinance, private kennels were allowed in specific residential districts, which included R-12, R-15, R-22, R-43, and ER. It was found that residents in residential zoning districts not included on the list had more than three or four dogs or cats on the premises. Currently, the neighbors had to file a nuisance complaint and go to court as opposed to having Code Enforcement take care of the issue when the animals were a problem. The proposed amendment would be applicable to all residential zoning and would limit the number of animals that could be kept in residential areas. Residents in ER Estate Residential and AR Agricultural Reserve areas were allowed to keep horses as long as the area met the setback requirements. The Planning Commission recommended approval.

Al Yougel said he was in favor of the amendment to the ordinance, but he needed to see a map since he did not know how the ordinance related to him as a homeowner. Rast showed the areas on the zoning map located in Council Chambers.

The public hearing closed.

Boone said it sounded like a lot of residents had kennels. He asked how the ordinance would apply to someone whose dog had four puppies. He added that, to him, a kennel meant the raising and boarding of animals for sale.

Plunkett asked if the City was trying to prohibit people from having more than three dogs or cats. Rast said yes. Plunkett asked why the term private kennel was used. Rast read the following definition of kennel from the Code of Ordinances – *Any location where more than three dogs, cats or other animals are kept for commercial or noncommercial purposes. This definition does not include litters of animals of not more than four months of age.* Rast pointed out that the private kennel owners also had to get rid of puppies and kittens within four months.

Boone asked if people who currently had four dogs and one cat would be grandfathered. Rast said that, unless the animals were a nuisance and the neighbors were complaining, Code

Enforcement would not go out knocking on doors. Staff did know of a few situations where the amended ordinance would be enforced because it was a nuisance issue.

Plunkett asked how the City would determine if someone had a private kennel. Meeker said it would be the same as with any other use that was permitted at one time, but would no longer be permitted. It would be challenging to prove, but the City needed to have something on the books to try to enforce. There would not be selective enforcement, but the City would have to go on the information it had. Private kennels were permitted in certain districts. Neighbors could always file a nuisance complaint. Sometimes two dogs could constitute a nuisance depending on their behavior and animal control. The ordinance provided a regulatory mechanism.

Haddix asked which rule had more authority, an ordinance or a homeowner association restriction. Meeker said they were two different restrictions and enforcement mechanisms. The homeowner association covenants could always be more restrictive.

Sturbaum asked if the amendment should include some language regarding the nuisance ordinance and enforcement. Meeker said it was better to keep them separate since a nuisance complaint was very fact specific.

Boone moved to adopt the amendment to the ordinance regarding unrestricted kennels in residential zoning areas. Haddix seconded. The motion carried unanimously.

**02-08-12 Public Hearing – Consider Ordinance Amendment – Variance Procedures
(Zoning Ordinance)**

Rast noted that the proposed amendment had been discussed at Planning Commission and Council workshops. The proposal came from the 2007 Council Retreat. The amendment tightened up the criteria used to evaluate variances. Rast continued that, currently, there was an administrative variance and a standard variance. Staff was requesting a change in the criteria used to review the applications. Administrative variances would be reviewed by the Zoning Administrator, the City Manager, and a City Council representative. Variances would be reviewed by City Staff and Council.

Rast continued that, if approved, the amendment would add a special exception variance that would apply in situations that did not affect the City as a whole. The criteria included encroachments into existing setbacks that did not exceed 25% of the required setback if the property abutted a City-owned greenspace or open space and there was no other location on the property for the expansion to occur. Another criterion would be a decrease in not more than 25% in the number of parking spaces required by City ordinance. The amendment would allow a developer to request a variance to provide less parking on the property. The third situation would apply to fence installations where there would be topography or security issues. The property owner could apply for a variance to increase the height of the fence. The application process for a special exception variance was the same. The application would be reviewed by staff and the Planning Commission, and then it would go to Council. Approval of the variance would still be solely a Council decision. The Planning Commission recommended Council adopt the amendment.

No one spoke for or against the proposed amendment.

Haddix moved to adopt the amendment to Article XII Appeals of the Zoning Ordinance, amending and establishing procedures for submitting, reviewing, and granting requests for variances and appeals, and for other purposes. Plunkett seconded. The motion carried unanimously.

02-08-13 Public Hearing – Consider Ordinance Amendment – Height Restrictions in GC Zoning

Rast noted that the proposed amendment had been reviewed exhaustively in workshops with Council and the Planning Commission. The issue had come up during the site plan review for two of the three new hotels. All had exceeded 35 feet in height. Two of the hotels would be located in GC General Commercial zoning. The other was located in a LUC Limited Use Commercial district and was allowed to proceed. The proposed amendment would set a maximum building height with design and aesthetic stipulations that would be reviewed by the Planning Commission if a building exceeded a certain height. Currently, there was a maximum height of 35 feet in all zoning districts but LUC. The LUC ordinance allowed a developer to go up to 10 stories, which would also be brought forward as an amendment. The City did not have any buildings that exceeded 60 feet in height, but had some that were close. If a building exceeded 35 feet, but was less than 60 feet, the property should first be rezoned to LUC. Staff and the Planning Commission would look at the aesthetics to determine if the building would look out of place with the surrounding area. The language in the proposed amendment would limit the maximum building height at 35 feet from finished grade to the top of the ridge line or the tallest portion of the roof, but the maximum height allowed would be 60 feet. Staff had met with the Fire Marshal and Building Official to look at language regarding the building type and sprinklers. The Fire Marshal and Building Official would like to incorporate their stipulations in the conditions for approval of the rezoning. The Planning Commission recommended approval.

Rajesh Patel with the Hilton Garden Inn asked where his project stood. The plans had been submitted, and clarification was needed. Rast said that, when the plans were submitted for the Hilton and the Fairfield Inn projects, they had not realized there was an issue with the height restriction until the Planning Commission workshop was held. The conceptual site plans were approved with the condition that the height restriction be changed to allow the building. If not, the applicants would have to go through the rezoning process. The City had received the rezoning application from the Fairfield Inn. Rast continued that he met with the Hilton Garden Inn's engineer that day about the rezoning process for that site. They were continuing the review of the final site plan, but would need to rezone the tract to accommodate the building height. Patel asked Rast if he still recommended a rezoning to LUC and how changes to that ordinance would affect his project. Rast said the LUC zoning was more site specific. They would like to cap the building height at 60 feet, and a developer that wanted something taller than 35 feet would have the Fire Marshal and Building Official look at the plans and the Planning Commission look at the aesthetics.

Juan Matute told Council he was pleased to see the ordinances tightened.

The public hearing closed.

Logsdon clarified that the proposed amendment set the building height at 35 feet. If anyone wanted a taller building, they would have to ask for a rezoning and come before Council to get it.

Boone moved to approve the amendment to height restrictions in General Commercial zoning. Haddix seconded. The motion carried unanimously.

02-08-15 Consider Ordinance Amendment – General Design Guidelines

Rast noted this ordinance was also a result of dealing with the hotels and the height issues. The Planning Commission had been concerned about the aesthetics of the building and adding architectural elements that would reduce the visual scale of the building. They worked closely with the Hilton Garden and Fairfield Inns to come up with some fairly unique buildings. Approximately 18 months ago, the general design guidelines ordinance had been presented to Council. Until then, the City had relied on the primary developer for the architectural review for buildings on the property they owned. The developer turned the process over to the City, and it was very evident there was nothing to send to applicants regarding how projects should look. Staff came up with a fairly extensive ordinance that dealt with everything from building materials to entrances, but it did not have anything in it dealing with building massing and architectural style. The amendment regarding the guidelines was developed during the review of the hotel projects. They did not want to have a prototypical Hilton Garden or Fairfield Inn. In general terms, buildings had a top, middle, and a base. The guidelines identified certain items the City would like to see on a building and incorporated in the architectural design. The Planning Commission recommended approval of the ordinance amendment.

Plunkett moved to approve the general design guidelines as outlined in the agenda packet. Haddix seconded. The motion carried unanimously.

02-08-16 Consider Ordinance Amendment – Variance Procedures (Land Development Ordinance)

Rast said that the approval of Agenda Item 02-08-12 had updated the appeals and variance procedures in the zoning ordinance. The proposed amendment would add similar wording in the land development ordinance, except the criteria for the special exception variance. The proposed amendment also identified the appeal procedure and further defined the criteria for a variance.

Boone moved to approve the amendment to Article XIII, Appeals and variances, of the land development ordinance amending and establishing procedures for submitting, reviewing, and granting requests for variances and appeals, and for other purposes. Haddix seconded. The motion carried unanimously.

02-08-17 Consider Fee Change – Ambulance Services

Plunkett moved to approve the fee changes for the ambulance services. Boone seconded.

Assistant Operations Officer (EMS)/Captain Dave Williamson said the last time the fees were modified was 2001. Presently, the City used itemized billing due to Medicare requirements. Now, Medicare required everyone to go to flat fee billing, which would simplify the process. It would also reduce the administrative workload from the paramedics up. Two new categories were included – treat and release and helicopter assistance. The changes included the following:

- Treat & Release – \$125, used for patients that refuse transport to a hospital after receiving a procedure(s) that included administration of a pharmaceutical drug, currently no charge;

- Basic Life Support (BLS) – \$425, as defined by Medicare, non-life threatening trauma or long bone fracture and transport, current charge \$300;
- Advance Life Support (ALS) Level I – \$425, as defined by Medicare, life-threatening trauma or severe difficulty breathing and transport, current charge \$300;
- Advanced Life Support (ALS) Level II – \$650, as defined by Medicare, serious cardiac or cardiac arrest and transport, current charge \$300;
- Helicopter Assistance – \$200, procedures, equipment, and supplies used for patient treatment prior to helicopter transport, currently no charge; and
- Mileage – \$10 per patient loaded mile, assessed from scene to receiving hospital, current charge \$5 per patient loaded mile.

Williamson said there would be an increase of approximately 16% in the fees. The expected increase in revenue was \$43,000 per year, and \$25,593 for the remainder of this fiscal year.

Sturbaum asked if the County was also raising its fees. Williamson said that the County raised fees in July 2007. Sturbaum why there were two levels of advanced life support. Williamson said the difference was the severity of the call. The Department ran an average of 18 ALS Level II calls annually. An additional person was needed in the back of the ambulance for those calls, so a person was pulled off the fire truck. More specialized equipment and additional drugs were also used. Fayette County was looking at increasing the ALS Level II calls again. The City had had the lowest fees for a number of years.

Plunkett asked if the patient was responsible for the mileage cost remaining after Medicare paid its \$6.42 per mile. Williamson said that patients were responsible for 20% of what Medicare paid; the remaining cost was a write-off.

The motion carried unanimously.

02-08-18 Discussion/Consideration on Repair of Police Department Building

Plunkett moved to continue the agenda item to the March 6 meeting due to additional information that Council was not privy to yet. Boone seconded.

McMullen said there were meetings scheduled the next week, and he was not sure when they would have all the information.

The motion carried unanimously.

02-08-19 Consider DOT Request for Donation of Right-of-Way for SR 74

City Engineer Dave Borkowski asked Council to authorize the Mayor to sign paperwork to donate additional rights-of-way and easements for the second phase of the road widening, specifically on two parcels of property. The documents for this request would fix some errors on the original documents approved by Council on October 18. At the Baseball/Soccer Complex, DOT was asking for an easement for a total of 0.6 acres located between the right-of-way and the existing Fayette County waterline easement. This area was missed in October. The other area needing revision was the right-of-way adjacent to Flat Creek and Wilshire Pavilion. Originally, the request showed that all the land belonged to the City. The title research revealed that

CENTEX Homes owned some of the property. The right-of-way request was reduced from 2.3 acres to 0.5 acres. The original offer was reduced by \$11,850, from \$16,500 to \$4,650. The DOT also asked for a temporary easement to build a sediment pond to keep mud out of Flat Creek during the road construction. Staff supported the donation of the easements due to the insubstantial worth of the property because of the easement for water systems; it would also expedite the process. The let date for the road contract had moved from May to June due to other right-of-way issues.

Haddix moved to grant the easements to the DOT for the widening of SR 74. Boone seconded. The motion carried unanimously.

02-08-20 Consider Authorization to Submit Community Choices Application for ARC Implementation Assistance for Huddleston Road

Rast informed Council that the City did not receive funding for the Livable Centers Initiative program for the Huddleston Road corridor, so staff looked at the Community Choices program option for the area. The program offered quality growth implementation assistance. As part of the program, the Atlanta Regional Commission (ARC) would designate some of its staff to work with local officials to review the area and to come up with a redevelopment plan and ordinances to enhance development. There was no money involved. If approved for the program, ARC would assist staff in looking at sanitary sewer, alternative transportation, and zoning issues.

Sturbaum referred to subpoint #6 in the application (tax allocation districts) and asked if the recent Georgia Supreme Court decision would affect it. Rast said the court decision would affect any project that had not issued bonds as part of the tax allocation district. It would apply to this.

Haddix said the application had also been presented to the Development Authority of Peachtree City (DAPC). He had also recommended pursuing reuse water since the taps for sewer and reuse were available in the area.

Boone moved to endorse the request for quality growth implementation assistance on the Huddleston Road corridor. Haddix seconded. The motion carried unanimously.

Council/Staff Topics

Plunkett asked McMullen to contact Dominion Partners about the six acres on Rockaway Road across from the project. The City had first right of refusal on the property. The City should set up a meeting and find out what had to be done to secure the property, so the City could look at it.

Boone asked how the Huddleston Pond repairs were going. Borkowski said the rain was causing delays. The contractor had cut through the dam and poured the pad for the outlet structure. They had planned to lay the pipe through the dam that day, but the rain delayed it. There were setbacks due to the weather.

Plunkett moved to convene in executive session for threatened or pending litigation and a personnel matter at 8:45 p.m. Sturbaum seconded. The motion carried unanimously.

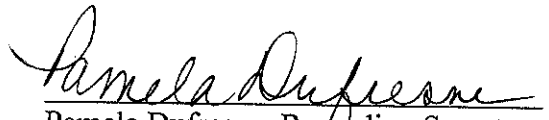
Sturbaum moved to reconvene in regular session at 9:00 p.m. Haddix seconded. The motion carried unanimously.

Boone moved to approve the settlement of subrogation claim regarding Ricky Howard in the amount of \$7,000. Sturbaum seconded. The motion carried unanimously.

There being no further business to discuss, Sturbaum moved to adjourn. Plunkett seconded the motion. The motion carried unanimously. The meeting adjourned at 9:01 p.m.


Betsy Tyler, Acting City Clerk


Harold K. Logsdon, Mayor


Pamela Dufresne, Recording Secretary