

City Council of Peachtree City
Minutes of Meeting
January 18, 2001
6:00 p.m.

The City Council of Peachtree City met in a regular session, Thursday, January 18, 2001, at 6:00 p.m. in the City Hall Council Chambers. Mayor Robert L. Lenox led those attending in the pledge of allegiance. Other Council members present were: Carol Fritz, Bob Brooks, and Dan Tennant. (Annie McMenamin arrived during the announcements due to a family illness.)

ANNOUNCEMENTS, AWARDS, SPECIAL RECOGNITION

Employee of the Month - Robert Eidson

Supervisor of the Quarter – Jim Miller

Marcie Blind – 15-year Service pin

Proclamation - Girls Lazer White Soccer Team – winner of the GA State Open Cup

Recognized All Children's Playground Gold Sponsors

Presentation of Annual Builder Awards

CAFR Recognition – City received Certificate of Achievement for Excellence in Financial Reporting

MINUTES

McMenamin made a motion to approve the January 4, 2000, minutes as submitted. Brooks seconded the motion. Motion carried unanimously.

CONSENT AGENDA – approved 5-0

1. Resolution to Transmit Short Term Work Program/Capital Improvement Element to ARC for review
2. Resolution to Establish Election Qualification Fees
3. Consider SR-74 / Kedron Drive North Intersection Improvements & Signalization
4. Award Bid - Hydraulic Boom Excavator
5. Award Contract - Livable Centers Initiative Grant

— Lenox made a motion to approve the consent agenda. Fritz seconded the motion. Motion carried unanimously.

OLD AGENDA ITEMS

12-00-06 Consider Policy – E-Mail/Internet – approved 5-0

Jim Basinger, City Manager, reviewed proposed revisions to a City policy, City Administrative Regulation 3-8, which contains Internet and email policies for city officials and employees. The revision addressed quorum issues and eliminated conflicts that existed between acceptable and unacceptable uses of Internet services. The policy was drafted to ensure proper use of the Internet and Email services by city employees and to keep use of these services limited to that which is necessary to accomplish one's job duties.

Fritz made a motion to approve the revisions as presented. Brooks seconded the motion. Motion passed unanimously.

NEW AGENDA ITEMS

— 01-01-07 Consider Sewer Service for Braelinn Baptist Church – approved 5-0

Jeff Killingsworth, representative for the Braelinn Baptist Church, addressed Council to request access to the Peachtree City sewer system. The church is being built on Highway 74 North. The main portion of the property is located within the city limits of Tyrone and a portion of the property is located in Peachtree City.

Mayor Lenox explained that Council approval was required to allowing sewerage service to extend outside the city limits of Peachtree City.

Fritz asked what facilities would be built on the property. Killingsworth replied that the church was still in the concept phase of their development plans, but that they would first build a sanctuary / multipurpose building with plans to expand that facility in the future.

McMenamin asked what the current zoning was for the property. Killingsworth said that he believed the current zoning was AR (Agricultural.)

— Lenox reviewed staff's proposed conditions for approval and asked Mr. Killingsworth if he agreed to such:

1. The sewer service could not be extended beyond the church property to

— serve other properties.

2. The church could not subdivide its property for sale or lease to a non-church entity, and then provide sewer access for that non-church entity.
3. The church should define for the city what church uses it intends to provide on the property, and sewer service should be limited to those uses.

Killingsworth said the church would agree to those conditions.

Fritz asked Larry Turner, Water and Sewerage Authority (WASA) General Manager, if WASA had received the necessary permits to expand the Rockaway Wastewater Treatment Plant. Turner said WASA had not received the final permit, but that the Environmental Protection Division (EPD) did grant approval for them to proceed with the final design on the expansion. Turner said that once WASA received the final EPD permit, they would be able to commit to provide the church with the capacity needed for sewerage service.

— Brooks was in favor of granting the request for three reasons: part of the property was located in Peachtree City; the watershed would be protected; and a significant number of Peachtree City residents would attend the church. Brooks made a motion to grant the request with the three conditions recommended by staff and agreed to by Killingsworth. Fritz seconded the motion. Motion carried unanimously.

01-01-08 Discuss Helmet Safety Education Program – no action taken

Tennant expressed his concern about the safety of children riding Scooters that have become a very popular past-time in Peachtree City. Police Chief Murray addressed Council to review a Safety Program to address those concerns. He said that there were more head injuries in children than any other type of injury.

— He said that while the law does not require helmets to be worn while riding scooters, he felt it could be encouraged through a productive safety program. He added that leg and arm protection would also be encouraged. Murray said a Scooter Safety pamphlet would be distributed in schools and made available to parents. He also recommended that the Recreation Department plan events to close some of their parking lots to allow a safe area for parents to bring their children to practice riding not only their scooters, but also bikes and roller blades. He said Police and EMS officers would also take part in these activities to provide information on safety equipment that is needed for protection. Murray said the Police Department had adopted this project as a Quality Improvement Project so they could explore other ways to expand the safety program.

Council was supportive of the program. Tennant said he was delighted with what Chief Murray had put together to address the problem. No action was taken on this item.

01-01-08 Discussion of City Clerk Position - tabled 3-2

McMenamin asked Council to reconsider the decision made at the last meeting concerning the appointment of the City Clerk. She said that while it should in no way reflect poorly on Marty Jones, the attorney who represented City Attorney Rick Lindsey in his absence, she felt Council had not been given accurate legal advice regarding whether the issue could be tabled for two weeks. She explained that the Charter called for the appointment of the City Clerk at the first organizational meeting when the City was first chartered, and thereafter to be appointed at the regular meeting in January. She said in the past the Council held a workshop meeting and a regular meeting each month. She said the procedure has been changed and the Council now conducts two regular meetings each month. She said Lindsey has since told her that he would have allowed the two-week extension.

Additionally, Council had been told that if the City Clerk was reappointed, they would not be able to rescind the appointment without cause and therefore could complicate any proposed revisions to the Charter. Nancy Faulkner had addressed Council and said that if reappointed, she would support Council's future decisions about the position. McMenamin said the City had always accepted the word of a developer or an attorney in a public meeting, and to do otherwise of the City Clerk would be contradicting the way things had been done in the past. She also said Lindsey has since told her he would have taken Ms. Faulkner's word that she would support Council's future decisions and would have allowed her to be reappointed.

McMenamin also stressed that she felt great concern when a title is taken away from a woman, who is trained and certified, and that title is given to a man, but the woman is told she may continue doing her job. She said it flew in the face of everything she had been striving to do for young women.

McMenamin asked Council to reconsider their decision and to return the title of City Clerk to Nancy Faulkner with the responsibility of supervision for her position to fall under the City Manager, Jim Basinger. She said it was no reflection on Mr. Basinger and hoped that things were working well.

— She also said that Council was reviewing the Charter at the request of Councilmember Fritz because of her concerns about the structure and form of government as it related to the Mayor and Council's role with the City Manager. McMenamin said the position of City Clerk was to be one of the many other things they would review in the Charter.

Tennant said he understood McMenamin's sensitivity, but that in no way did gender factor into his decision.

McMenamin said she was not implying that was indeed the case, but she was concerned with the appearance of it. She said appearance had a lot to do with what women go through everyday, but she pointed out that was not the only reason she felt Council should reconsider. She felt Council should have been able to table the issue or accept Ms. Faulkner's word to support future changes. But, she said it was certainly important to her because it does happen to women often and it was unacceptable, especially when there was a caveat that Council would be reviewing the Charter and could possibly change the structure of the City Clerk's job requirements.

— Lenox resented the implication. He felt the decision that was made was appropriate. He did not think it needed to be revisited, especially when they were about to go into discussions about the Charter. Lenox made a motion to table the item until such time the Charter discussions were concluded. Tennant seconded the motion. Motion carried with McMenamin and Fritz opposing.

COUNCIL/STAFF TOPICS

Basinger requested volunteers to serve on the selection committee for vacancies on the Development Authority. Lenox and Tennant volunteered.

Lenox made a motion to adjourn into Executive Session to discuss a real estate matter. Tennant seconded the motion. Motion carried unanimously.

Recess – 15 minutes

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01-01-08 Workshop Discussion – City Charter - no action taken.

Lenox said they would stop discussions at 8:30 p.m. because there was an Executive Session item to be discussed. He said they would schedule another workshop to continue discussions if needed.

Lindsey said the City Charter was written over 40 years ago. In his review of the charter, Lindsey said he found several comical items, such as the regulation of a Flying Jenny (WWII airplane) and the discrimination of herders of sheep, lama, goats and cattle. He also pointed out there was a provision in the Charter that allowed the City to impose a \$3.00 street tax on residents between the ages of 18 – 50 years old. Lindsey said most of the changes in the charter were housekeeping items, but there were some items that Council needed to discuss and provide direction. He said on such items concerned the form of government of the City.

The following discussion took place concerning various sections of the Charter:

Section 4. Governing body; composition, quorum meetings.

Tennant asked Lindsey to clarify the following sentence in this section: “Less than a quorum may meet and compel the attendance of absentees as provided by ordinance.” Lindsey said it was meant to address the possibility of stonewalling.

Lindsey was instructed to write an ordinance regarding attendance requirements and procedures.

Tennant asked to have the word “councilman” changed to “councilmember” throughout the document.

Section 5. Eligibility Qualification of Mayor and Councilmen

Lenox questioned the six-month residency requirement. Lindsey said it was a common requirement. Tennant asked if the law allowed Council to impose an age requirement above the age of 18. Lindsey said Council could impose any age they wished. Lindsey was not instructed to make any changes to this section.

Section 6. Duties and Authority of Mayor

Lindsey said the position of City Manager was not created in the charter, but was created with an ordinance. He suggested the position be placed in the

— Charter. He also said that this was a section that Council needed to discuss and provide direction.

Lenox did not feel it should be changed. He said the ordinance allowed the Mayor to designate powers and responsibility to the City Manager. He described the Mayor's position as the Chief Executive Officer of the City who could delegate his responsibilities to the City Manager, which he described as the Chief Operating Officer of the City. He felt there was a joint responsibility between them. He said the City had been operating in that manner for some time.

Brooks said he obtained information from the Georgia Municipal Association (GMA) that described the various forms of governments. He felt the City had actually been operating as a Council/Manager form of government for some time. He felt it made sense to clarify that in the Charter.

Fritz thought the Charter was written as a Strong Mayor form of government and that if the Council intended to continue operating as a Council/Manager form of government, the Charter should be amended and sent through the legislature.

— Brooks said he also thought the Charter was written as a Strong Mayor form of government.

Tennant read the definition for a Council/Manager form of government and asked if everyone agreed that was how the City was currently operating.

Fritz agreed, but noted that was not how it was described in the Charter.

Brooks described the various forms of government. (Council/Manager, Strong Mayor, Weak Mayor) He did not feel that the City operated as a Strong Mayor form of government. And, he added that he was comfortable operating as a Council/Manager form of government.

— Lenox disagreed with Fritz and Brooks. He said a Strong Mayor form of government was described completely different than what the City Charter described. He gave the City of Atlanta as an example of a municipality with a Strong Mayor form of government. He felt that the responsibilities given to the Mayor in the Charter were described in a manner that indicated he was carrying out the will of Council and that Council served as both the executive and legislative functions of the City.

— Brooks felt Lenox was describing a Weak Mayor form of government, but stated the City was actually operating as a Council/Manager form of

government.

Fritz said she wanted the Charter to be amended to reflect a Council/ Manager form of government. She also asked that the title of Chief Administrative Officer be changed to City Manager throughout the document.

Lindsey was instructed to draft up an amendment that would designate a Council/Manager form of government using sample ordinances from GMA and ICMA. He was also instructed to contact the GMA regarding the procedures to forward the amendments to the General Assembly.

Section 9. Date of municipal general election; election of Mayor and council, post designation; assuming office; term and oath

Lindsey recommended that the oath of office should be amended. Council agreed.

Discussion also took place concerning the intent of term limitations for the Mayor and Council. Lenox said it concerned him because it was not clear as to whether or not he could run for a Council seat after serving two terms as Mayor. Brooks said when Council adopted term limitations, it was very clear that after serving two terms as a Councilmember or Mayor, the individual could serve in the alternate position. However, he said it was not intended to allow Councilmembers to serve as a Councilmember with an alternate post after serving two terms. Lindsey was instructed to clarify the section as Brooks described.

Section 10. Filling vacancies on Council

Lindsey was instructed to provide procedures for the selection process to fill vacancies on Council.

Section 11. Declaration of vacancy in office of mayor and Councilman.

Council discussed this section and did not recommend any changes.

Section 12. Compensation of Mayor and Council as fixed; expenses of office allowable

Discussion took place concerning whether or not expenses should be capped, and ultimately Council did not recommend a change. However, Lindsey was instructed to modify the section to reflect the actual pay schedule.

Section 13. Organization of Council; mayor pro tem; provision mayor pro tem

Lindsey was instructed to remove the following sentence from this section: "In case neither the Mayor nor Mayor Pro tem can attend to or discharge the duties of mayor, whatever the cause, the City Council shall elect a provisional Mayor Protem to act until a Mayor or Mayor Pro tem can act, from its membership, who shall take the same oath and be clothed with all of the rights, power and authority of Mayor until a Mayor or Mayor Pro tem can act.

Section 14. Appointment of officer by council; removal; salaries as fixed

Council discussed the appointment of various positions. Lindsey was instructed to change this section so that appointments do not have to be made once a year. He was also instructed to add the City Attorney and City Auditor to the section.

Lenox felt the City Manager should determine the employee structure and appointments of employees. He felt the employee structure varied among cities. He did not feel the City Clerk's position should be politicized.

Brooks agreed and gave examples of other cities that have appointed the Manager as the City Clerk. Fayette County and the City of Fayetteville were two examples, but recently the County changed its structure. He felt it was easier for the County to change the employee structure because there was a vacant position. He said it was difficult for the City to change the structure because there were people and various personalities currently in those positions. He felt that having the City Clerk report to the Finance Director was an illogical system that was put in place to accommodate personalities. He felt the City Clerk may need to report to the City Manager, but agreed that it may be somewhat problematic for the City Manager.

Tennant said he was trying to be very objective. He agreed with the Mayor's remarks that the position should not be politicized, but he felt placing the City Clerk's position under the City Manager, with the understanding the removal could only be accompanied by the consent of Council, might de-politicize the situation because it would eliminate the potential for misinterpretation of duties.

Lenox said Council had never had a public discussion about the reporting structure, job duties or personality of any other employee. He said no part of the City's personnel process had ever been subjected to this type of political

— discussion. He said he had spent more time talking about this relatively simple problem in the last three months than he had spent in his entire nine years talking about every other position within the city. He said Council should not have to do that and that he felt there was a very simple solution, and that was to appoint the City Manager as the City Clerk. He said the City Manager manages all of the employees of the City and was the person he held responsible for making sure that laws are followed and that the City complies with open records and meetings. He said it should be up to the City Manager to control the resources and the people to make sure the job gets done.

Fritz said she had attended a class on the Clerk's Role with City Council. She said after all the research she had done and her understanding of the duties and functions of the Clerk, she strongly felt that the City Clerk should be appointed by Council and terminated by Council, but that she could report to the City Manager. She said the Clerk does not need to report to Council on a daily basis, but that it was her duty to ensure that the legislative process occurs as it is supposed to occur. She said the Clerk was not there to undermine the manager, but in fact, she should be considered a golden asset to the manger.

— Brooks agreed with Fritz to some extent. But, he felt it could be looked at from a different prospective. If the City Manager were responsible for evaluating the Clerk's job performance, he would have a certain amount of control. He said one of the things that had not been mentioned was that were state statutes that required Council to appoint a City Clerk. He said they could literally stick the Clerk out there on her own, but that one of the most important things he has been told by other clerks is that the City Clerk should be viewed as a team player and part of the staff. So, he felt the Clerk should be working with the administration.

Lenox said he felt the statutory requirements imposed by the State went back to a different era that the ideal situation would be to appoint the City Manager as the City Clerk because it would be simple, neat, clean, solved management structure problem, and still leave the Council in the position to receive the expertise that a trained City Clerk can offer.

Fritz said she absolutely disagreed.

— Tennant said for clarification purposes he felt that they all agreed that the City Clerk position should in fact report to the City Manager. He said the only assessment the needed to make was how to protect the public's interest. He said by doing so, he did not feel it would undermine the day-to-day activates of the City Manager.

Fritz said that was what the whole issue was about.

Lenox said it did not have to undermine the City Manager, but there was the potential that it could. He felt the Council should create a structure where good performance is not reliant upon the personalities of the people who hold the particular jobs or the personalities of the people on Council. He said by appointing the Chief Administrative Officer as the City Clerk, they would totally eliminate any possibility of personalities from having anything to do with it.

Fritz said that if the City Manager was appointed as the City Clerk there could be the potential for a total disaster. She said that she was not saying Mr. Basinger.... (interrupted by Lenox)

Lenox asked why there would be a potential for total disaster?

Fritz said she would talk to Lenox about it later. Lenox asked why? Fritz said because she knew some things she was not supposed to know. She said if there was a situation where the City Manager was also the City Clerk...(interrupted by Basinger)

Basinger said he felt he had a right to know what some of those things were that Fritz said she was not supposed to know.

Fritz said she often had a problem with Basinger taking her comments personally. She clarified that her comments were not directed at him or his personality. She said she was talking about the structure of the positions of the City Manager and the City Clerk with the personalities removed.

Basinger felt there was an insinuation that the things she knew were about him. She said there was no insinuation. Brooks asked Fritz why she couldn't make her comments public if she was just talking about structure? He felt she had surprised about 25 people.

Fritz explained her position by reading the following statement, which she asked to be included in the minutes verbatim:

It was at my recommendation that this governing body take a look at our City Charter and ordinances pertaining to that Charter. The current charter as written, has served this City well, and allowed the flexibility needed for this City to grow. Many things have changed since the time this City Charter was legislated. The most obvious change is the population size. With that growing population come growing demands from our constituents, which I feel our current charter does not address.

When I was elected and went to Newly Elected Officials' school, a course that is required by law in this state, I was given a handbook titled "Handbook for Georgia Mayors and

— Council members.” In this book, it discusses many things, including government structure. I asked the Mayor and Mr. Basinger what form of government we were, and I was told we were a Council/Manager form of government. So I looked up our City in this book, and it says we are recognized as a “general management” form of government, of which I have not found much information. Then I read the Charter again. It is my view that we are a variation of the Strong Mayor form of government. I believe it is very important to clearly establish what form of government we are, so that we are best able to determine staffing requirements, and establish an effective management structure within City Hall. In turn, we will be able to serve the citizens of Peachtree City, as well as give them a sense that City Council and City Government works for them.

The responses and opinions I have received from speaking to many people about this issue during my endeavor to research this issue, have been very interesting. I have spoken with attorneys, citizens, and other elected officials inside and out of Peachtree City to validate, or invalidate my concerns. I also attended a Clerk’s class, which validated my understanding of the role of the City Clerk.

— Eighteen months ago, the City Clerk presented Council information about the role of a City Clerk in government, and asked us to clarify her job duties. The information provided to us explained how the legislative and administrative components of local government are separated. Each component has distinct areas of responsibility and accountability. For instance, the Mayor and Council are directly accountable to their constituents to protect their health, safety and welfare. Council has the legislative duty to translate the needs and expectations of their constituents into city ordinances and policies, and to specify the types and levels of city services that should be provided. The City Manager is accountable to the City Council and is responsible for providing those city services and carrying out Council’s legislative policy and direction. In essence, policies and services of our government are formulated and promulgated (make known to the public, disseminate, proclaim) by legislature while the implementation of such are carried out by the administration. It is important that the responsibilities of these separate components of government be kept separate and distinct and neither should interfere with the prerogative (right or privilege) of the other. Given this setting, it is necessary to structure our government so that the City Clerk serves as a link between the separate legislative and administrative components of government. The Clerk should record and promulgate the Mayor and Council’s directions and should administer and protect the processes for bringing forth legislative direction and action. It is prudent and wise to structure our government so that the City Clerk is impartial and unbiased to provide guidance and ensure the integrity of our legislative process. This cannot be achieved if the City Clerk is directed and controlled by the administration, because administration is not impartial nor unbiased. The administration has goals and objectives to influence and question legislative policy and direction. Therefore, if the Clerk is controlled by the administration, communication between the City Clerk and the Council could become stifled and the integrity of legislative process could be jeopardized.

— It is my opinion, after the research I have done, that we should operate as the Council/Manager form of government. This is the form of government I was told we were when I was elected. Should this body, because of time restraints be unable to submit a change to legislature, or, along with our citizens instead choose to remain a Strong Mayor form of government, the organizational charts of all these forms of government to be

discussed, show the City Clerk position as an appointed position along side of the City Attorney and Auditor positions. It is the norm for the City Clerk to work closely with the City Attorney and City Manager, and City Council when called for. While we should operate in a business like manner, the one thing we are NOT, and will never be, is a private corporation. Government becomes dysfunctional when they attempt to operate as such. We are a public service.

Our Federal, State, and local governments are all established with checks and balances. I was told some people find the term "checks and balances" offensive. That absolutely amazed me, and as I have given that serious thought, it struck me as very odd. As an elected official, I welcome having checks and balances in place to protect the Citizens of this country, as well as the protection it provides for elected officials at all levels of government. One of those forms of checks and balances is the placement of a City Clerk within the structuring of City Hall Offices. The function of this clerk is to protect the legislative process, which in essence, is the integrity of Council. The Clerk ensures that the legislative process, policies and procedures are followed, along with ethics. The Clerk is a neutral party to the process. The Clerk is NOT a spy or informant, but an unbiased representative. However the Clerk can be rendered ineffective if the Clerk is directly hired and fired by the City Manager. Which is why, in my opinion, it is necessary that this appointment be made by Council, terminated by Council, with the Clerk reporting directly to the City Manager, and to Council when directed by Council or the City Manager

Should the Manager and Clerk be one and the same person, checks and balances are nullified. However, this is common in small towns where either the budget or the population cannot support the position being separate. Checks and balances are in place to ensure public trust, protect the integrity of government, in this case, Council, and at the end of the day, ensure a smooth running government, which has the full confidence of the citizens.

Brooks said he did not see any reason why she could not have made those comments public. He said he agreed with her other than the point of whom the City Clerk should work with. He said their government was only as honest, good and efficient as the people who were in place to run it. He said if the City Manger wanted to play games, he would be able to do so regardless of whom the City Clerk reported to. He added that the City Manger would still have a certain level of control by evaluating the City Clerk's job performance. He said the City needed honest people with integrity working for them.

Fritz felt the Council did have such people working for them.

Taking into consideration that the State mandates the appointment of a City Clerk, Brooks suggested that, in order to protect the integrity and dignity of the people involved, the City Clerk should work for the City Manger as opposed to appointing the City Manger as the City Clerk. He also suggested that a written policy be established to provide guidelines for the City Manager's directives and evaluation of the City Clerk and to establish guidelines that would prevent

the City Manager from being undermined. He said the position of City Clerk should be de-politicized. He also suggested a provision be added to the Charter that would protect the City Manager by restricting Council's interference with administration.

Lenox felt Fritz's comments described the system used in Russia. He said every significant operation in Russia had an appointed political officer whose job was to be completely separate from the management structure and report back to the legislative body to ensure them that everything was being done properly and politically. They were not concerned with whether or not the management was achieving their goals, but that they were operating politically. He said that was the last thing he wanted for the City, but he did not have a problem with a compromise.

Tennant felt that Fritz's comments indicated that the City in fact has a Strong Mayor form of government, but they had all agreed that they were operating as a Council/Manager form of government. He said the Mayor did not have any more power than what was in the Charter.

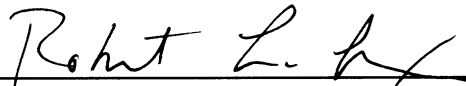
Brooks said Fritz had eluded that there was something bad that she could not talk in public, but he pointed out there was nothing there.

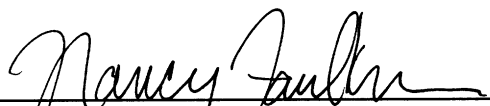
Brooks asked Lindsey if he understood how they wanted the Charter to be changed. Lindsey said that he did and suggested that since they were past the time that Lenox had allocated for the discussion, he would draft the revisions and get it back to them. He said the remaining sections were routine and he felt he could make the changes housekeeping changes that were needed.

Lenox made a motion to adjourn into Executive Session to discuss a real estate matter. Tennant seconded the motion. Motion carried unanimously.

EXECUTIVE SESSION

In accordance with the Open Meetings law **50-14-3 (4)**, the minutes of this discussion and action taken will be made public once the subject matter has been concluded.

Attest. 
Robert L. Lenox, Mayor


Nancy Faulkner, City Clerk