

**City Council of Peachtree City**  
**Meeting Minutes**  
**January 16, 2014**  
**7:00 p.m.**

The Mayor and Council of Peachtree City met on Thursday, January 16, 2014, at City Hall. Mayor Vanessa Fleisch called the meeting to order at 7:00 p.m. Other Council Members attending: Terry Ernst, Eric Imker, Mike King, and Kim Learnard.

**Announcements, Awards, Special Recognition**

Beverly Fochtman, Iggy Gomes, and Betty Keane of Home Instead Senior Care, the sponsors for the Be a Santa a Senior (BASTAS) program, recognized the Police Department and the Auxiliary Police for their efforts in collecting, wrapping, and delivering 152 of 740 Santa sacks at Christmas, the largest single delivery by any of the participating organizations. Mayor Fleisch recognized the members of the McIntosh Girls Volleyball Team, state AAAAA champions. Police Lt. John Jenkins was recognized as the Supervisor of the Quarter for the 4<sup>th</sup> quarter of 2013 and as the Supervisor of the Year. Belinda Washington-Wilder of Recreation was recognized as the 2013 Employee of the Year.

**Minutes**

**December 19, 2014, Regular Meeting Minutes**

**January 2, 2014, Regular Meeting Minutes**

Fleisch noted Council Member Ernst would not be voting on the December 19, 2014, meeting minutes since he had not taken office yet.

Learnard moved to approve the December 19, 2014, regular meeting minutes as written. Imker seconded. Motion carried 4-0-1 (Ernst).

Learnard moved to approve the January 2, 2014, regular meeting minutes as written. Imker seconded. Motion carried unanimously.

**Monthly Reports**

Imker noted that, on page 13 of the Monthly Reports in the packet, the Local Option Sales Tax (LOST) collections were at 23% for the first quarter of the fiscal year rather than at 25%. He asked if this was seasonal or a trend. Financial Services Director Paul Salvatore verified that the LOST figures were down from the first two months of FY 2013 (October and November), but he would prefer to see three full months of actuals before any budget adjustments were made. Imker noted that 1% was approximately \$60,000, and they needed to keep an eye on it. Salvatore said he would be watching closely as LOST was the second largest revenue source.

Imker referred to an updated chart on the dais, noting there had been a discrepancy regarding the pension fund. The chart in the packet showed a decrease in the pension fund to \$24 million, while the revised chart showed the fund had gone up to \$26 million, asking what happened. Salvatore apologized for the error, saying it was strictly a staff clerical error.

Imker noted there had been a donation of \$2,000 to the Police Department from Kiewit Infrastructure South. Police Chief H.C. "Skip" Clark said Kiewit had a holiday fundraiser each year for a selected charity, and this year they had chosen the Police Department.

Under Litigation Expenses, Imker noted the report went back to October, the beginning of the fiscal year, pointing out that the Mrosek lawsuit had been on each bill submitted by City Attorney Ted Meeker. He asked if the Mrosek project was the Bradford Estates/Creekside

Crossing/Southside Church (BCS) Pond and if it was an active case. Meeker reminded Imker the line item he was questioning was an active lawsuit. Imker said he had asked for an accounting since he had been on Council, the City had spent up to \$51,000 in legal services to take care of the case. He asked if anything was coming to a close. Meeker said no and indicated this would be a discussion to have in executive session.

Imker referred to the Top 5 Accident Locations in the Police Department report, noting there had been 93 accidents at the intersection of SR 54/SR 74 during the last calendar year, which was double the next location for accidents. These were state roads, and the City had to use its resources for everything needed after the accidents occurred. He asked if there was anything the state could do to help with those resources. City Manager Jim Pennington said the state had been notified continuously about the problem, and the state responded that this site was one of many with similar or worse problems. It was why the City was number one on the list for the new traffic response system. The contracts for the new system were underway, and it should be in place and operating in April, but it was simply a stop-gap measure and might not fix the problem. The intersection was a bottleneck and would continue to be a bottleneck.

Imker told the Council Members that, every three to four months, he would have a list of items to go over that he felt were important information for the citizens.

#### **Consent Agenda**

1. Consider Authorization of Legal Organ – Fayette County News/Today in Peachtree City
2. Consider Annual Indemnification Resolution
3. Consider Appointments to Airport Authority (PCAA)  
Bryan LeBrecque and Tom Fulton (alternate)
4. Consider Appointments to Convention & Visitors Bureau (CVB) Byron Perrman, Sherri Smith Brown, Rick Barnes, Wende Blumberg (hotel/motel alternate)
5. Consider Appointments to Water & Sewerage Authority (WASA)  
Cliff Stern, William Holland, John Dufresne (alternate)
6. Consider Appointments to Recreation & Special Events Advisory Board  
Joe Kuebler and Briana MacDowell (alternate)
7. Consider Bid for Pursuit Accessories – TransComm Services, \$112,420
8. Consider Retirement/Surplus of K-9 Enko
9. Consider Alcohol License – NEW – Marco's Pizza, 147 Highway 74
10. Consider Official Intent Resolution
11. Consider Acceptance of Georgia Emergency Management Agency (GEMA) Grant for CERT Program
12. Consider Change in Rate Structure for City Attorney – Increase from \$110 to \$150/hour
13. Consider Bid for Grinding Services – Tag Grinding, \$4.25 per cubic yard hauled off

Fleisch noted there were additional staff memos on the dais for Consent Agenda items 3, 4, 5, 6, 12, and 13.

Imker moved to approve Consent Agenda items 1 – 13. Ernst seconded. Motion carried unanimously.

At the request of an audience member, Fleisch read the names of the appointees to the commissions and authorities.

#### **New Agenda Items**

##### **01-14-01 Public Hearing – Consider Variance to Rear Building Setback, 120 Lexington Pass**

Planning & Zoning Administrator David Rast gave Council a brief overview of the property at 120 Lexington Pass and the request to build a freestanding garage. The home was built in 1996 in the Heritage subdivision, which was zoned R-22. The established rear building setback was 30 feet. The

five-sided, one-third-acre lot had two rear yards, and the backyard had a downward slope. The home's garage had bays for two cars and a golf cart. The applicants wanted to build a freestanding garage that would encroach 15 feet into the 30-foot rear setback. The freestanding garage would be 21 feet, six inches long by 21 feet, six inches wide, and would have two bays. The garage would be finished to match the home.

Anthony Szekalski, applicant, told Council he was the original homeowner. His family had lived there for 18 years, and the City encouraged homeowners to reinvest in their property. The freestanding garage would increase the property's value. His family wanted to preserve an oak tree he had planted with his daughters when they first moved into the house, which was part of the reason for the orientation of the garage on the property. He also wanted to eliminate unsightly cars in the driveway as well as have a place for a utility trailer that was currently being stored elsewhere. The homeowners association (HOA) supported the variance request. The garage would add to the tax base because the property would be taxed at a higher rate. Jobs would be created to build the garage, and all the materials would be purchased in the City. The topography of the lot was challenging, and there was limited space for a freestanding building.

Rast said staff found there were special circumstances for this situation, including the shape of the lot, which adjoined six properties. There really was no other area to put the garage. The request was consistent with other variances in the subdivision and other areas of the City. The applicant was trying to save as much natural vegetation as possible, and Szekalski had gotten approval from the HOA and the adjoining property owners that would be most impacted. Staff's conditions included the following:

1. *The variance shall be limited to an encroachment of no more than fifteen (15) feet into the rear building setback as shown on the site plan provided by the Applicant. There shall be no additional encroachments permitted without first securing additional variances.*
2. *Following completion of construction and prior to issuance of the Certificate of Occupancy, the Applicant shall provide a Foundation Survey to the Building Official identifying the location of the new construction. The purpose of this survey is to ensure the new construction does not encroach any further into the building setback than permitted by this variance.*
3. *To the greatest extent practicable, existing vegetation shall be preserved along the side and rear property lines abutting Lots 38 and 61. This vegetation shall be supplemented with no less than six to eight (6 – 8) evergreen shrubs (minimum six feet in height), planted in staggered rows as determined by the City Landscape Architect to augment existing vegetation separating the garage from the adjoining properties.*

Fleisch opened the public hearing. No one spoke for or against the variance. The public hearing closed.

Imker said he had no concerns with the variance request.

King asked Szekalski if the neighbor closest to the where the garage would be located would be inconvenienced at all. Szekalski said his neighbor was also considering a freestanding garage for his golf cart, which was currently parked in the woods behind his neighbor's house.

Ernst said he had visited the property and met with the homeowner. He had no problems with the variance request, adding the freestanding garage would look nice.

Learnard asked how many bays were on the current garage. Szekalski said there was a double bay, a single bay, and a golf cart bay. The new garage would add two more doors. Learnard did not

recall any similar variances, asking Rast what could be built without going into the setback. Rast said the garage could be 15 feet shorter. Szekalski said there was a four-foot indentation to preserve the tree, adding he could put the golf cart garage on the other side, but he would have to cut the tree down.

Learnard said variance requests were her least favorite part of being on Council. She always wanted residents to get the best possible use of their property, but every decision Council made set precedent. A variance was an exception to the law and should be used in extreme circumstances when there were no other options.

Fleisch agreed, adding the Szakalskis had a beautiful yard, but she was concerned about setting a precedent about going 15 feet into the setback in that area.

Imker moved to approve the variance request for 102 Lexington Pass, with the three conditions presented by staff. King seconded. Motion carried 3-2 (Fleisch, Learnard).

**01-14-02      Public Hearing – Consider Variance to Fence Ordinance, 101 Sumner Place Court**

Rast said the applicant was requesting a fence in excess of four feet in height as well as a solid wood fence within a residential front yard. The fence had been installed without a permit at the Amendola-Fernandez home in Sumner Place at Smokerise, which was zoned R-43. Staff discovered the fence had been installed and had been trying to work with the applicant to resolve the issue. The home had frontage on two public streets, Sumner Place Court and Sumner Road. The building setback was 50 feet. The applicants installed a five-foot aluminum picket fence in the front yard facing Sumner Place Court and a five-foot solid wood fence in the front yard adjacent to Sumner Road. Section 18-65(e) and (f) of the Code of Ordinances addressed the height of fences, requiring that fences installed within the setback area adjoining a street should not be in excess of four feet within a residential yard, and fences installed in a residential front yard should not be made of any material that restricted the view through the fence by more than 50% of the total barrier as viewed from the street.

Alexandra Fernandez, the applicant, addressed Council, saying they had gone to Home Depot and Allied Fence, as well as the home's builder, about putting up the fence. All the sources had the wrong information. She said they were told to keep the fence 15 feet inside the property line in order to avoid utilities. They had added another eight feet, for a total of 23 feet. Fernandez said they spent \$9,681 for the fence and \$2,300 for 41 gallons of stain to cover 530 feet of wood privacy fence. She said they used the subdivision covenants for the guidelines, adding the actual City sales representative for Allied Fence was out on medical leave. They had also driven around the City and taken photos of various fences.

Fernandez continued there were several reasons they chose the taller privacy fence, including the security and safety of their children. The proximity to Sumner Road and SR 54 was an issue. The speed limit on Sumner Road was 30 miles per hour, but the majority of cars sped through much faster. Privacy and quality of life were also issues. There was noise from traffic on SR 54. Their commercial neighbors were another issue. Numerous vehicles came and went from the medical building, and the thrift store used their backyard as a storage area. The backyards of all the commercial areas were in need of attention. There was also concern about the stop sign and intersection at Sumner Road and Sumner Place Court. She noted that City Engineer Dave Borkowski had checked the visibility at the intersection because of the fence, and he had found no issue with the sight visibility. The fence also helped keep the deer in their front yard and out of the fenced-in area. Due to the topography, lowering the fence to four feet would not make a visual difference to drivers on Sumner Road and the house would continue to block the view from Sumner Road to Sumner Place Court.

Fernandez said they had looked at every way to fix the fence before applying for the variance. The company that installed it had refused to take any responsibility. It would cost more than \$5,000 to bring the fence into compliance. Since the wood fence had been stained, Home Depot could not re-use the fencing. The requirement for the 50% visibility meant the slats could not be wider than four inches apart. The slats were five and one-half inches wide, which was wide enough for the kids to go through. Fernandez apologized for the inconvenience they had caused, and she pointed out every corner lot was not in the same situation. She compared their situation to Centennial and Cedarcroft having the wood fence and concrete walls along the railroad tracks to help with the noise.

Rast said it was an interesting situation, and the applicants had worked with the Building Department, Allied Fence, and Home Depot to resolve the issue without any luck. Staff's position, however, was the variance should not be approved. In most cases, the intent of the fence ordinance was to have the streets as natural looking as possible. Sumner Road was not a designated scenic road, but when it was designed, the intent had been to preserve the existing vegetation along the edge of the road so it would have the appearance of a scenic road. The height was not the only issue; the solid wood barrier along the side of the road was.

The public hearing opened.

Joann Bennett said she had been the realtor for the applicants. They had discussed the fence with the builder, but the applicants had decided to wait to build the fence. Bennett said she was surprised to find that a local company had not followed the protocol and had not obtained a permit to build the fence. The applicants were new to the area, and they had depended on the local company to do things correctly. She did not know if anything could be done to keep this from happening again. From a real estate point of view, the fence had enhanced the value of the applicants' property, and it did not impede the view at the stop sign. The stain on the fence had been chosen to blend in with the trees.

No one else spoke. The public hearing closed.

King asked how much business the fence company had done with the City. Rast said he had not pulled the numbers, but it was substantial, and the company had applied for permits in the past.

Ernst asked if the fence at a home at the intersection of Parkgate/Blue Smoke Trail had needed a variance. Rast said the fence appeared to be newer and to have replaced a fence that had been there for years. There were fences that had not followed the ordinance in place. The fence at Parkgate/Blue Smoke Trail was one that staff had been looking at. Staff was trying to determine when the fence had been erected, as well as what ordinance had been in place at the time.

Fleisch was concerned about the look of the commercial properties behind the residential property, pointing out the commercial properties had recently been annexed. She asked what could be done to alleviate the conditions. Rast said he had pulled the conditions, and there were two separate issues. One was the Code Enforcement issue, and staff would have them address that the next day.

Rast continued there were several conditions for annexation, and one was for the developer of the medical building to work with staff on the landscape plan approved by the County to make

sure it adhered to City requirements, with an additional condition to supplement planting along the detention area and to screen the parking. That had not happened yet, and Rast said he would call the developer and landscape architect the next day. He had met with the original landscape architect. Fleisch clarified the conditions had not included a time frame for all of that to occur. Rast confirmed this.

Learnard said this was an unfortunate situation, and the issue was with the fence builder, not the City. She also had gone by the property, and she found the fence to be blocky and obtrusive, and not in keeping with the surrounding area. If Council approved this variance, then they might as well throw the fence ordinance out the window.

Ernst agreed, saying the action needed to be from the homeowner against the fence company.

Imker said the City had granted variances in the past for special circumstances, but in this case, the City needed to preserve the intent of the fence ordinance.

Fernandez said she had been reading the ordinances, and there was nothing in the code about houses that faced commercial properties. She said theirs was a special case, and there was an exception to every rule. There were four different problems.

King said he would like to help, but he had to agree that the fault was with the fence company not doing the right thing, and it was ultimately the homeowner's responsibility to ensure a permit was issued. He would like to bring the fence company in to discuss it, but there was no legal way for Council to do so.

Fleisch agreed, adding the commercial properties had been there for years and were not unknown to the applicants when they purchased the home.

Learnard moved to deny the variance request to the fence ordinance at 101 Sumner Place Court. Imker seconded. Motion carried unanimously.

**01-14-03 Consider Agreement with CVB Executive Director**

This agenda item concerned amendments to the employment agreement with Convention and Visitors Bureau (CVB) Executive Director Nancy Price following recommendations made by the CVB Board. The agreement addressed terms of employment, salary, and fringe benefits as well as the cost alignment between the CVB and the City. The CVB paid 80.9160% of the total compensation package and 100% of any additional payments they might provide to Price.

Learnard moved to approve the amended agreement with CVB Executive Director Nancy Price. Ernst seconded. Motion carried unanimously.

**01-14-04 ~~Discuss/Consider Traffic Signal Application at SR 54 West/Line Creek~~**

This item was removed from the agenda.

**01-14-05 Discuss/Consider Traffic Engineering Study for SR 54 Corridor**

Pennington said staff had been discussing the issues at SR 74/SR 54 and the SR 54 corridor. The biggest problem the City had was making long-term determinations for the corridor. Staff had expressed its concerns to the Georgia Department of Transportation (GDOT), and GDOT had indicated that the City would have to fund a traffic study to move forward, and they might be able to help. Staff recommended proceeding with the traffic study, which would be all-encompassing. There were two alternatives for Council to consider – either to go out for a

Request for Proposal (RFP) or to use the City's current consultant to begin the study as soon as possible. Pennington said, in his opinion, the study needed to move forward.

Learnard asked how Council would know the limits of the study, asking if there was list of what would be included. Borkowski said staff had a good outline of what needed to be studied and where, and it would include the entire corridor from City Hall to MacDuff Parkway, looking at every intersection and side street, including the future extension of MacDuff Parkway to SR 74. Learnard asked if the study would include what was in place and what needed to be done. Borkowski said it would look at the existing conditions and what could be done in the future to make it better, as well as what could be done 10 years from now.

Ernst asked if it would include what could happen between the City and Thomas Crossroads. Borkowski said background traffic growth would also be considered. Pennington said traffic came in from Coweta County and from Fayetteville. The City needed to know what happened at the traffic signals as the traffic picked up. He added staff needed to know what was happening, and whether MacDuff was sized properly and what would happen with the road in 10 years.

Ernst said he did not want to spend the money, but it appeared to be a necessary evil, adding the state could possibly help reimburse the City in the future. Pennington said there were a number of other sources for funding in the future, including the Atlanta Regional Commission (ARC), which controlled GDOT funding. Staff wanted to have something on the books and to be ready to go if the opportunity arose.

Fleisch said there was a suggestion to look at Planterra Way south with the possibility of a right turn, asking if that would be part of the study as well. Borkowski confirmed that it would be included.

King said the corridor had been a mess since the City had been in existence. There was a population center to the west and an employment center to the east. There would always be traffic. If there was any criticism on how the City was developed by its founders, it would be having the City located in the middle of a population and employment area. The study might help. It was a bottleneck, but conditions were nowhere near what was happening in Alpharetta or anything on the northside of Atlanta.

Borkowski said the study would be money well-spent from an engineering perspective because the City was being proactive. Staff would have something to take to the ARC and GDOT for grant funding. King said it was the state's road. Borkowski said it was not on GDOT's planning horizon at all.

Fleisch said the other part of the discussion with GDOT was that they rated the intersection of SR 54/SR 74 a "C," but the City rated it an "F."

Imker said \$70,000 for the study was outrageous. The City did not need to count traffic, but to look at the things that could be changed. The completion of MacDuff Parkway would change the entire dynamic since 25% of the traffic was there because MacDuff was not available to them. The traffic light synchronization was coming up in the spring. The study should be delayed.

Pennington said that was exactly why the study should be done now. The west side was moving forward, and the developers would be coming to Council soon asking for some changes in the

zoning. Something would happen eventually at Line Creek, and the question was how all that would fit together.

Imker said the developer should do a traffic study for MacDuff Parkway if one was done. He could not see the condemnation of 40 houses between SR 54 and the new development to add to MacDuff Parkway. Based on his own study, the developer could decrease the number of lots, which would reduce the number of people. Things would change with the synchronization, and it seemed premature to have a study done now.

Borkowski said one of the advantages to doing the study right away was the City could share travel demand forecast information with the developer, who would be required to do a study on MacDuff Parkway to know the impact of the development. Imker said there needed to be a list of alternatives to improve traffic, not traffic counts.

Fleisch asked if the study included more than traffic counts. Borkowski said the counts were an integral part of the study, but there had not been a comprehensive study of the corridor. It would also evaluate alternatives and look at out-of-the-box things.

Learnard said she liked data, and they had to start somewhere. The City could wait or it could start a study now with a snapshot of what the City had, enumerate the projections, and get started.

Imker said that the dynamics would be different in six months, and he did not see any solutions other than staying off the road during morning and afternoon rush hours.

Ernst asked how long the study would take. Borkowski said, if it started right away, staff should get the preliminary recommendations in three months. They could give that data to DOT.

Imker said the traffic patterns would change after the signal synchronization began, and GDOT would tell the City to do the study over. The study should be delayed. He reiterated \$70,000 was outrageous, and it should include solutions.

Learnard said there was a lot to think about, adding none of this was static and conditions would keep changing. She said the study was what needed to be done now to get the City to ground zero and moving in a positive direction. Imker said he would rather spend the money on possible solutions than traffic counts.

Pennington said the study was not a traffic count, but an all-inclusive transportation study. The City had lots of traffic counts, but it needed everything all together. Imker said he would need to see the statement of work. Learnard said that was a point well taken. Imker said he wanted to see what they would get for the money. He needed more than nebulous statements.

Imker moved to table the agenda item for further information. There was no second. The motion failed.

Ernst moved to approve agenda item 01-14-05, the traffic study, using the current proposal from the City's traffic consultant. Learnard seconded. Motion carried 3-2(Imker, King).

**01-14-06 Consider Funding of Mayor and Council Salaries**

Ernst moved to approve agenda item 01-14-06. King seconded.

Ernst said Council had been paid the same wage for many years. The ordinance was amended to increase the salaries in 2007, but the salary increases had never been budgeted. The economy had made a significant turn. City employees had received a pay raise in October. It was time to restore the increase to Council.

King said the minutes included good reasons to increase the salaries, but then the recession hit. A study was planned for City staff and compensation. Council and staff were looking at saving money in other areas. This was just one of the things that needed to happen. They did not need the money; it would be more of a reimbursement for service. If he was not worth it, the voters could fire him in two years.

Imker said that, in reading the memo, the salary for Mayor and Council had been in place for 22 years. The 2007 ordinance amendment became effective in 2010 when a new Council took office. However, due to the economic conditions, the Council properly made the decision to not take the salary increase. Council had foregone \$132,000 in salary since that time while the employees had been compensated with pay in lieu of raise and a 2% cost of living. He would not have considered this prior to the December 19 Council meeting when the City had gotten the best financial news it had received in four years.

Motion carried unanimously.

**01-14-07 Consider Appointment of Council Representative to Serve on the CVB Board**

Fleisch noted that there were a number of boards in the City, and a member of the City Council sat on the Convention & Visitors Bureau board.

Ernst nominated King to serve as Council representative to the CVB board. Learnard seconded. Motion carried unanimously.

**Council/Staff Topics**

**Hot Topics Update**

Pennington said the City still had not gotten any word from the County regarding when the dredging would start on Lake Peachtree. Staff would meet with the County on January 22, and they hoped to have more information then.

Pennington continued that the City had been notified that the County had started lowering Lake Peachtree to allow for maintenance on docks. The lowering was going slower than anticipated due to the excessive rain.

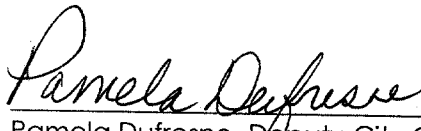
Pennington recalled that Imker had asked why there had been no swim team information included on the Recreation Department's monthly report for November. The problem at the time was the information had not been entered into the books. He said the rosters for the teams had been due on January 15, and to this point, \$7,097 had been collected in program fees.

Learnard noted that the Library closed at 6:00 p.m. on January 16 and would reopen on Tuesday, January 21.

Learnard moved to adjourn into executive session for pending/threatened litigation at 8:56 p.m. Ernst seconded. Motion carried unanimously.

Learnard moved to reconvene in regular session at 9:05 p.m. King seconded. Motion carried unanimously.

There being no further business, Learnard moved to adjourn the meeting. King seconded. Motion carried unanimously. The meeting adjourned at 9:06 p.m.

  
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Pamela Dufresne, Deputy City Clerk

  
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Vanessa Fleisch, Mayor