

City Council of Peachtree City
Minutes of Meeting
January 16, 1997
7:00 p.m.

The City Council of Peachtree City met in a regular session Thursday, January 16, 1997, at 7:00 p.m. in the City Hall Council Chambers.

Mayor Lenox led those attending in the pledge of allegiance. Council members present were: Annie McMenamin, Bob Brooks, and Jim Pace. Caroline Price was absent due to an illness in her family.

ADDITION OF AGENDA ITEMS

Mayor Lenox made a motion to add agenda item 1-97-10 to consider appointing an Engineering Consultant. Brooks seconded the motion. Motion carried unanimously.

ANNOUNCEMENTS, AWARDS, SPECIAL RECOGNITION

Mayor Lenox recognized the Employee of the Month, Joyce Russell.

Mayor Lenox recognized the Supervisor of the Year, Bobby Thompson.

Mayor Lenox presented awards to the following:

Gary Alford & Associates - 1996 Builder of the Year

Matt Elliott of Hays/Johnson Communities - Superintendent of the Year

Bob Adams Homes - Job Site Safety Award & second place Builder of the Year

R.W. Smith Company - Best Commercial Site Award

Gary Alford & Associates - Environmental Award

Chris Parrott Homes, Renaissance Homes, and Bob Adams -
tied for second place Builder of the Year

APPROVAL OF MINUTES

McMenamin made a motion to approve the minutes of January 6, 1997 as presented. Pace seconded the motion. Motion carried unanimously.

OLD AGENDA ITEMS

1-97-07 Consider Ethics Violation Complaint

Due to the nature of this agenda item, the following comments made by the Mayor are transcribed verbatim:

Lenox: *We have one old agenda item this evening which is item 1-97-07 continued from our regular meeting of January 2, which was to consider an ethics violation complaint as registered by Mr. Feenaghty. Is Mr. Feenaghty here this evening?*

McMenamin: *Yes*

Lenox: *Mr. Feenaghty, would you care to address Council this evening?*

Feenaghty: *Yes.*

Lenox: *Are you prepared to answer Council's questions?*

Feenaghty: *Mr. Mayor, you asked me do I have anything to present to you.*

Lenox: *No. Before you present anything further are you also prepared to answer our questions?*

Feenaghty: *Let me make my presentation first.*

Lenox: *No sir, are you prepared to answer our questions? If you are not prepared to answer questions, we are not prepared to listen to any presentation.*

Feenaghty: *Mr. ... Mr. ... Excuse me, Sir.*

Lenox: *Are you prepared to answer questions?*

Feenaghty: *Let me say ... Yes.*

Lenox: *Fine. Then let us ask you a few questions first.*

Feenaghty: *Sorry, Sir.*

Lenox: *No, I am sorry, Sir. If you are not prepared to answer questions please sit.*

Feenaghty: *Ok. Let me mention something to you today that I have done.*

Lenox: *No.*

Feenaghty: *Because of these potential ethical violations I have applied to the magistrate court for warrants to be issued to you and City Council. At your last meeting you wanted me to at your recommendation and the recommendation of the City Attorney, you wanted me to go to Superior Court. I complied with your wishes.*

Lenox: *Have they been issued?*

Feenaghty: *Ah..,*

Lenox: *Have they been issued?*

Feenaghty: *Judge..,*

Lenox: *Have they been issued?*

Feenaghty: *Judge Joe Tinsley has taken all the information and is deciding what appropriate action is necessary. One, either to issue warrants or, two, to have a pre-issuance hearing is what he is doing and he will decide that next week. The Committee to Restore Ethical Government maintains its original position that our complaint is valid. We still recommend that you suspend the GA Utilities purchase while this matter is pending in the courts because, as you know, you requested a judicial hearing. You wanted me to go to superior court but instead I went to magistrate court and thanks to you or because this is now a judicial matter any additional comments on my part would be inappropriate at this time. So let me thank you and say good night Mr. Mayor.*

Lenox: *Thank you Mr. Feenaghty. We appreciate your speaking to us this evening.*

Lenox: *Well, actually we were quite prepared for this eventuality. We came here this evening expecting to get nothing meaningful from Mr. Feenaghty and/or his attorney, should he have one. Mr. Feenaghty has published a list of allegations which at best would be described as whimsical and frivolous, but are in truth, ludicrous and, in some instances, outrightly libelous. His chosen weapons are innuendo and insinuation, published without regard for the truth and without any attempt to learn the truth. He then, of course, refuses to explain or discuss these slurs with the people he is trying to vilify. We attribute his refusal to the fact that he cannot defend his insinuations because there is no truth to them and he has no desire to come before us and be forced to admit that he has no evidence to support these allegations. We will attempt tonight to respond briefly to the insinuations contained in Mr. Feenaghty's diatribe. All of these points will be investigated further. After commenting briefly on each point we will set forth our plan of action from this point forward.*

First of all, the only point referenced by Mr. Feenaghty tonight was the GA Utilities confidential negotiations. We will make several comments which are probably reiterations of previous comments, but they warrant repeating. Jim Webb, our City Attorney, and the law firm of Kilpatrick & Cody, who have on their staff one of the state's leading experts on our "Sunshine Laws" in Georgia have both assured us that in their legal opinions we are correct in our position. They have done this not once, not twice, but approximately five times. The Atlanta Constitution's legal department has reviewed the facts and declined to pursue any action. This implied to us that their attorneys also felt we are correct. Law enforcement officials have already told us that as long as we rely in good faith on our legal counsel's opinion, we are not subject to any civil or criminal liability and have committed no ethical violation, even if our attorney's opinion of the law is wrong. In this situation we are in a very grey area. We have invited Mr. Feenaghty, obviously, and the news media on previous occasions, that if they think we are in violation to test it in court. We would welcome the opportunity to prove our point. Mr. Cal Beverley, editor and publisher of the Fayette Citizen

has railed against us on the same issue. In all the time these GA Utilities negotiations have been going on, which is now over a year, Mr. Beverley has not once asked to interview me or discuss this situation with me. It appears that he too relishes the role of uniformed observer and that he too wished to remain uninformed of the true facts. We question whether that is responsible journalism. That's basically our position on the Georgia Utilities issue as we have stated it before.

We will now briefly address each of the items in Mr. Feenaghty's diatribe:

*The first of which is **"Other provisions of the Code of Ethics have been violated by the incestuous relationship in which the Mayor is the tenant of the principals of Georgia Utilities."***

That's part one. I am a tenant in the Brookside Office Building which is owned by something called that Brookside Joint Venture LLC. I do not know who owns this entity but I've always assumed Mr. Mitchell and Mr. Black have an ownership interest in it. I have been a tenant there almost five years. My relationship has always been an arms length relationship, I pay market rent like everyone else and pay it every month. My records will be available to the District Attorney and are, as I have stated before, available at anytime to any citizen or the media representative who will give me the courtesy of asking me me politely to see them.

*The second part of that allegation implied that **"family members of Council (employed by the City Attorney) are related to principles of Georgia Utilities."** I will refer to Annie McMenamin on that question.*

McMenamin: *Thank you very much your honor. In June of 1990 at the encouragement of friends and people that I respected in this community, I applied for a vacated seat on the City Council. There were 17 applicants from which I was selected for the appointment. There were two people in the City who would have probably preferred that I not seek the seat. One was my husband and the other was my boss of six years, Bob Truitt. They knew my commitment and*

dedication to this office would certainly have to impact my juggling of priorities. Both had allowed and encouraged me to build a certain level of involvement in the community along with which came a sense of pride in my civic responsibilities and an enjoyment of credibility throughout the county.

I have served on boards, chaired political campaigns, been elected president of the American Heart Association, and most recently served as the first woman president of the Kiwanis Club of Peachtree City. My sense of ethics and responsibility to my ethics on the council was established more than 50 years ago. I will not compromise those ethics for my family, for perceived family, and certainly not for a piece of real estate.

Since my appointment, I have been reelected to serve a 2-year term, a 3-year term and the 4-year term I am now serving. I was unopposed in all three of these elections.

In June of 1991, my daughter married Richard Scott Browne after an on-and-off-again friendship of nine years. Scott, as he was known, was the son of Leslie Mitchell who had married Doug Mitchell, an owner of Georgia Utilities. In July of 1992, Scott was diagnosed with bone cancer and died in July of 1994 at the age of 27. He and my daughter had one child, my wonderful granddaughter Sydnee.

Now in late December of 1996, Mr. Feenaghty has stated in his ethical complaint that there was an incestuous relationship between family members of council and a principal of Georgia Utilities, and that this relationship might be construed by reasonable persons as influencing the performance of my governmental duties.

To the best of my knowledge, there is only one family relationship of any type between council and principals of Georgia Utilities, and it is the relationship I previously described. Even this remote resemblance of family relationship with Mr. Mitchell legally ended in September of 1996, when he and his wife divorced. Mr. Mitchell is now my granddaughter's ex-step grandfather. This very remote relationship has never affected my votes on Council in any respect.

I don't mind saying that I am absolutely infuriated at the allegations that this remote relationship is of an incestuous nature. There has never been, and will never be, any incestuous relationship between my family members and any other person, much less the Mitchells.

To the best of my memory, Georgia Utilities or any issue involving PCDC has never been discussed by my daughter and me until your accusation of this "incestuous" relationship brought it to the attention of our family. I have voted as my conscience has dictated and for the best of the community as a whole during my six years on a council. I guess my question to Mr. Feenaghty, is what facts did you rely on in concluding that there was any incestuous relationship between any member of council or our families and any principal of Georgia Utilities?

And as a side, your honor, I have asked the Fayette Citizen today to discontinue serving the paper at my home. The Citizen continues to slant stories, by printing statements that they know are untrue, and by deleting comments that contradict their articles. These articles become editorials rather than statements of facts. I must ask the Citizen what message they are sending to good citizens who might be considering running for public office?

Lenox: *The next allegation stipulates that **"Peachtree City code section 2-9.3 has been violated by the Mayor and Council in that they have given reasonable basis for the impression that Georgia Utilities and its principals can influence or unduly enjoy special treatment and favoritism by the Mayor and Council in the performance of officials acts or actions."** Our Mayor Protem, Dr. Bob Brooks will address that one.*

Brooks: *I believe that we would all agree that relationships whether personal business or government business, have highs and lows. In regard to the Ethics Complaint, the timing of the charge of favoritism to PCDC is somewhat ironic. I think since two years ago when Equitable, excuse me, when PCDC purchased the remaining land from Equitable, I would characterize that the relationship between Peachtree City government and PCDC has probably become a bit more contentious than it was previously. The reason for that is,*

because they are a major developer, they are continually in negotiations with City staff members over some of the development that will take place and who is going to pay for certain things that would contribute to the development.

A perfect example of that is the Kroger shopping center on the north side of town. You will find in many communities, when a center like that goes in, that often times the infrastructure has not been put in place ahead of time and that often times that will be done after the fact with tax payers' dollars. This is a situation where a significant portion of the expense for putting in the traffic light on 74 and the road work was paid for by PCDC before that development was allowed to go on. And that is a perfect example of where, in this City, we have negotiations that go on where we are requiring them to spend money as opposed to other communities that sometimes don't. Because there has been a fair amount of that over the last couple years and because the money is coming more from Mitchell and Black as opposed to from Equitable, the relationship has become a little more strained. Not that it is not still a positive one and the City still benefits, but it is more strained as opposed to four years ago when that was not a factor.

Another prime example of the same thing is some of the development on the west side, when PCDC had wanted to try to annex a significant amount of property and the first time that came across we turned it down and we've also made very clear to any land owner over on that side that is interested in having land annexed that there cannot be an at grade railroad crossing. There needs to be a bridge over the railroad tracks. Well, that is expensive and it is not going to be paid for by the citizens of Peachtree City. It will have to be paid for by the developers. What I am using, with this and the others, is those are examples that the City has maintained lately that cost PCDC or any other developer money, and that there are situations that easily could be finessed if we were interested in trying to help take care of any developer, but that is not what we are doing.

Also, a matter of record is that the City opposed PCDC's plans to build a subdivision that was more dense than the County allowed outside of the borders of Peachtree City a few months back, and sent

a representative to the County Commission to argue against rezoning the property for PCDC. Most recently in Peachtree City itself they made an annexation request associated with rezoning and Estate Residential property to bring it in at R-43 and once again the City turned that down from a standpoint of rezoning and said in no way, shape, or form would we entertain an annexation with an increased density. Surrounding landowners would have preferred the City to annex the property if it maintained an ER relationship and that is what we eventually did. But those are four examples - the west side land requiring money to be spent on signalization. Opposing the last two things that PCDC took before governmental agencies and that is fairly typical, I think, of the relationship over the last couple of years. So, I would describe, very much so, any charge of favoritism at this point in time as very ironic and somewhat hard to believe.

Lenox: *Thank you Bob. The next item is a personal favorite. "Existing business relationships between the Mayor and Georgia Utilities tend to impair the independence of the Mayor or his independent judgement or action in the performance of his official duties. These relationships are unethical, in violation of Peachtree City Code Section 2-9.8".*

I have no business relationships whatsoever with Georgia Utilities. Mr. Feenaghty states as a fact that I have existing business relationships with Georgia Utilities and I do not. Even my house is on a septic tank. On this issue and others, Mr. Feenaghty is an outright liar. It is my belief, that even though I am a public official and you can say almost anything about me you want and I do very little about it, that this outright, reckless lie constitutes libel. My attorneys are reviewing this now and it is my sincere hope that I am able to make Mr. Feenaghty learn how expensive lying and stupidity can be.

The next item, he stipulates that I "acquired an interest in a contract or transaction which was the subject of an official act or action of the City of Peachtree City, to-wit: property owned by W. Michael Hyde and Katherine Palmer Hyde, which was the subject of a rezoning application." Several of you were here that night. I

did not acquire an interest in Mr. Hyde's property - despite my efforts to do so. The activity in question took place in a public meeting and while subsequent negotiations were underway the City Attorney was familiar with everything that happened. While the possible deal existed I refrained from all discussion and actions relative to Mr. Hyde and his land. That transaction is now dead, unfortunately for the City, and I will no longer, I assure you, abstain from discussions and decisions relative to Mr. Hyde.

The next item stipulates that "Mayor Lenox violated the Peachtree City Code in that he used City facilities, services and personnel, in the form of the services of City Attorney Jim Webb, for personal gain in negotiating and drafting (on city property) a private contract with W. Michael Hyde and Katherine Palmer Hyde for the purchase of their property" It goes back to the same evening.

I can assure that Mr. Webb's interest in helping to facilitate the transaction, which he instigated on his own as I was sitting up here, was as the City Attorney. If you will recall that evening, in the public meeting Mr. Hyde agreed to resign from the Planning Commission, or in effect, to sell me his resignation, a truly unsavory idea, and to drop the lawsuit against the City. Mr. Webb did everything he could to help facilitate the possible transaction as both of these actions would be very beneficial to the City. That was his interest in seeing them through.

The last item stipulates that "a presently unknown member of the City Council disclosed to the media, in the form of a facsimile transmission, a confidential request by Mike Hyde for an opinion regarding conflicts of interest on hearings and other proceedings relating to hearings on the issue of buffers in the City of Peachtree City."

This one is unbelievably laughable. Mr. Hyde's request was not regarded as confidential, was not marked confidential, and was communicated to the City Staff, the City Council, the Planning Commission, the City Attorney's staff and the newspapers. Mr. Feenaghty accuses an unknown council member of sending this document, a public document, to the media. We really don't know

how to defend ourselves. We were actually embarrassed for Mr. Feenaghty on this one. I think our opinion was that Mr. Hyde's smoking fax machine may have been in business on this one also, but of course we don't know that.

That, Ladies and Gentleman, covers Mr. Feenaghty's laundry list of insinuation and innuendo. We would like to set forth what we intend to do from here, the point of action we intend to follow, but before we do so, and I guess Mr. Feenaghty left, did he not? Well, he's got nerve. We would like to ask if there is anyone here who cares to ask us any questions about any of these items, would like to have us comment further on them or would care to make any comments about this situation in general? Yes, in the back, Jim.

Jim Price: *Thank you for the time, your honor. My name is Jim Price. I have lived in Peachtree City for twelve years now, I think. Somewhere around in there. I will check with my wife, she is over there nodding her head, yes. I have been involved, as some of you know, in some of the activities around here. I've been on the Planning Commission before, and have served some time involved in the development of this community. I love Peachtree City. I will always be in Peachtree City. I am always concerned, as many other citizens in Peachtree City are, in the development of this community and in the positive growth. I am very appreciative of the efforts of the Council and the other folks who are involved in making this "the place" to live in the United States. And it has a reputation that equates to that. When I came in here tonight, I have to be the first one to tell you that I have not been to a Council meeting in quite some time. I came in understanding that some of this was going on. It's the first time I have had the opportunity to hear that gentleman speak. I have two points to make. One is to ask you to do what I had to do several years ago when I came back from Vietnam a couple of times. I had to bite my tongue and remember that it's America and its the greatest country in the world and one of the reasons is because we allow that stupidity to go on. So, sometimes we just need to remind each other of that. I also came to talk about what I felt about this issue. That your honor, to be very candid, there is not a word I can add to what you all just said. I will simply tell you as a citizen and a taxpayer of this community, this is one person who is 100% behind*

the City Council and the City and each and every one of you in this effort and the sooner this goes away and we get back to the issue of developing and growing this great community, I think the happier all of us will be. Thank you.

Lenox: *I would like to set forth how we intend to proceed from here. First of all we have asked our District Attorney, Mr. McBroom, to conduct a full investigation. We did not do so because we felt threatened by arrest warrants. It had nothing to do with it. We asked him to investigate not just the insinuations and innuendo but also the entire situation. As he lacks investigatory man power, it is our understanding that he intends to refer the matter to the GBI. We have already been in touch with them to pledge our cooperation and to ask for an expeditious handling of the matter. We intend to ask the GBI to also investigate quite a number of things in connection with the complaint such as why did Mr. Feenaghty file the complaint and what investigation did he do prior to filing? What part did Mike Hyde play in the complaint, since he hand delivered it personally to City Hall and it was faxed to the media from his business offices. Thirdly, since Mr. Feenaghty is Mr. Hyde's accountant, was there come coercion or inducement from Mr. Feenaghty to file the complaint. Fourth, who are the illusive members of the Committee to Restore Ethical Government? Five, what relationship exists, if any, between Mr. Cal Beverly, publisher of the Fayette Citizen, Mr. Frank Cawood, the majority stock holder of The Citizens and Mr. Hyde and Mr. Feenaghty? Six, do any of the charges leveled by Mr. Feenaghty constitute criminal defamation as well as leave him open to a civil libel suit? That's the GBI/District Attorney segment. However, under our City Ordinance, the City Attorney is charged with investigating any ethics violation complaint. Mr. Feenaghty has made such a complaint. Therefore even though the District Attorney and the GBI may choose to investigate all or any part of the complaints, Mr. Webb still bears the primary responsibility and will be conducting his own investigation. He will question Mr. Feenaghty under oath about these charges, about the points enumerated above, and about anything and everything else he deems relevant to the charges. We assume Mr. Feenaghty will submit to Mr. Webb's questions voluntarily as he raised the questions in the first place. If not, we*

will ask Mr. Webb to subpoena Mr. Feenaghty, thereby compelling him to answer all questions under oath relative to these allegations. We don't know how else to get to the bottom of this and that's the course of action we intend to follow as quickly as we can. I think there is a truth to be found here, but it is not the truth as Mr. Feenaghty presented it. Those are lies. Thank you all very much. Mr. Webb is there anything you would care to add.

Webb: *No your Honor. I very much look forward to talking with Mr. Feenaghty.*

NEW AGENDA ITEMS

01-97-08 Consider Ordinance Amendment - Commercial Real Estate Signs

Jim Williams, Director of Developmental Services, addressed council concerning the sign ordinance. He said there seemed to be a flaw in the ordinance that dealt with the size of real estate signs that would be permitted in residential areas. The ordinance stipulated that real estate signs were limited to six square feet in single-family residential areas, but in all other zoning districts they may be as large as 32 square feet. He said many residential areas have been developed in the city in zoning districts other than single-family residential such as limited use residential and general use residential and it would be possible that those areas could post a real estate sign up to 32 square feet in size.

Williams recommended correcting this flaw in the ordinance by taking out the words "single family zoning district" and simply refer to "residential zoning district."

Williams also recommended that a 60 day time limit be set to discontinue all signs made non-conforming by the amendment.

Mr. Jim Fulton, owner of Caldwell Banker Fulton Realty, addressed Council in support of proposed amendment. He said a standard real estate sign is four feet in size.

McMenamin made a motion approve the amendment as presented by staff. Lenox seconded the motion. Motion carried unanimously.

01-97-09 Alcoholic Beverage License Change - Village Store Glenloch

Lenox said Mr. Thomas Alan Brimer asked to be appointed as the License Representative for the Village Store located 2000A Shakerag Hill because the previous License Representative was no longer employed with the store.

McMenamin asked Mr. Brimer if his store would be participating with "Cops in Shops" and if they would be cooperating with local law enforcement in conforming to alcoholic beverage laws. Mr. Brimer replied that they would. McMenamin made a motion to appoint Mr. Thomas Alan Brimer as the License Representative for the Village Store Glenloch. Pace seconded the motion. Motion carried unanimously.

1-97-09 Consider Appointment of Consulting Engineer

Basinger said this appointment should have been made in January with the other annual appointments. Staff recommended that United Consulting Group be appointed as the City's Consulting Engineer of record. Basinger said United Consulting Group would provide services such as material and construction testing for quality control, geophysical engineering and environmental services.

McMenamin asked how often staff goes out for bid to appoint city positions. Basinger replied every three years.

McMenamin made a motion to appoint United Consulting Group as the City's Consulting Engineer of Record. Brooks seconded the motion. Motion carried unanimously.

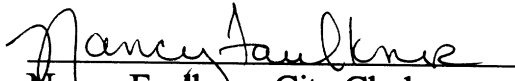
PUBLIC COMMENT

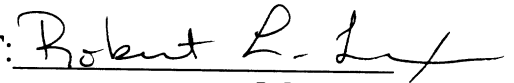
Mildred Harris addressed Council and asked them to consider following the actions of Newnan and Tyrone to call for a building moratorium for six months or less. She suggested using that time to review ordinances. Lenox said Council would consider her request at the annual Retreat at the end of the month.

Lenox made a motion to adjourn the meeting and reconvene in Executive Session to discuss a personnel matter. Pace seconded the motion. Motion carried unanimously.

EXECUTIVE SESSION

No action was taken in Executive Session. The meeting adjourned at approximately 8:45 p.m.


Nancy Faulkner, City Clerk

ATTEST: 
Mayor