MINUTES OF MEETING
CITY COUNCIL OF PEACHTREE CITY
January 16, 1992

The City Council of Peachtree City met in regular session on Thursday Night, January 16, 1992, at 7 PM in the City Hall Council Chambers.

Mayor Lenox called the meeting to order and led those in attendance in the pledge of allegiance. Council members present were: Mayor Robert L. Lenox and Councilmen Annie McMenamin, Robert Brooks and Rich. Parlontieri. Councilman Edward Bradford was out of town on business.

Addition of Agenda Items

City resident, William Snow, requested that an item be added to discuss the role of the Atlanta Regional Commission as it relates to the functions of the City. Motion was made by Brooks that the item be added and motion was seconded by Parlontieri. Motion carried unanimously. Item was added as 1-92-13.

Announcements, Awards, Special Recognitions

Mayor Lenox announced that Monday, January 20, 1992, the city offices would be closed in observance of the Martin Luther King Jr. Holiday.

The Mayor also announced that the City Council Retreat would be held at the Peachtree Executive Conference Center on Friday, January 24th, beginning at 1 PM, Saturday, January 25th, beginning at 8 AM and Sunday, January 26th, beginning at 8 AM if the Sunday meeting was necessary.

Mayor Lenox explained that, as a general rule, he would allow comments on agenda items from the public, however, he would ask that those wishing to speak raise their hand and be recognized and then proceed to one of the two microphones provided for public speaking.

Mayor Lenox announced the population to be 21, 578 on January 1, 1992.

Mayor Lenox presented the Employee of the Month Award for the month of December to City Hall Secretary/Receptionist Angie Stevens.

Department Reports

Mayor Lenox called attention to the departmental reports and urged the public to review them from time to time. He noted that they were available for review in City Hall.

Minutes

Motion was made by Parlontieri that the minutes of the January 2, 1992 meeting be approved as presented. Motion was seconded by McMenamin. Motion carried unanimously.

Old Agenda Items

Motion was made by Brooks that the previously tabled item regarding the rezoning of the two remaining parcels in the Braelinn Commercial Center on Robinson Road be removed from the table for discussion. Motion was seconded by Parlontieri. Motion carried unanimously.

Mayor Lenox called on Councilman Brooks to open the discussion. Brooks explained that this item was tabled in December to allow the residents of the area time to put together a summary of their concerns and also a list of conditions they wanted placed on the two parcels. He called upon Mr. Jonathan Tovani, spokesman for the Peachtree City Residents Organization to present their requests.

Mr. Tovani expressed appreciation to the members of Council and members of the organization for the research that went into their requests to be presented. He reported that they wanted to speak along the areas of citizen health, safety and welfare and the area of the land use plan.

The concerns his statements centered around were that of:

The safety of the children going to and from the Braelinn Elementary School who are required to pass in front of the commercial area. Traffic generated by the businesses on the corner were of special concern regarding children safety.

Businesses that would be open at night because they would encourage loitering and would not be conducive to a crime free environment.

The potential of a restaurant being located on one of the parcels although the then City Attorney had previously rendered an opinion that a restaurant would be prohibited under the zoning. Mr. Tovani asked if that would be the position of the current City Attorney and Attorney Jim Webb reserved rendering an opinion until he had the opportunity of researching the matter.

Mr. Tovani wanted it clearly known that they objected to a restaurant being located there because of the odors, traffic, nighttime hours and lights disturbing the community as well as being a target for crime.

The residents were also concerned about the possibility of the sale of alcoholic beverages. They knew that the distance requirement would prohibit it being sold at the convenience store but did not know about the other two parcels.

Mr. Tovani commented that the residents concern about the commercialization of that corner was being borne out as the convenience store continues to be constructed. He stated that it was quite large and there was very little buffering. Tovani pointed out that the only other commercial building in Braelinn Village was that of the club house for the Braelinn Golfcourse and it was set far enough back that it really wasn't noticeable. This was not the case of the convenience store.

Mr. Tovani stated his group had information from PCDC that a two story multi-tenant building might be built on one of the parcels and they did not feel the surrounding area was conducive to that type architecture. He felt the land use plan required the architecture be in keeping with the surrounding area and this would certainly not be in his opinion.

Mr. Tovani then proceeded to talk about crime statistics which they researched from the Atlanta library pointing out that burglary in non residential areas would be four times more likely to occur during nighttime hours than they would in residential areas.

Mr. Tovani then referred to sections of the land use plan which he felt applied to the commercial development in Braelinn and pointed out that although this was considered to be a neighborhood activity center, he didn't feel it followed the intent of the land use plan. He pointed to the fact that other commercial centers border Highway 74 and 54 and that this commercial center was unique and he felt it was spot zoning.

After addressing the land use plan Mr. Tovani explained that the citizens had originally thought that the remaining two parcels should be rezoned to office institution (OI), however, after research and further thought on the matter, they have concluded that the Limited Use Commercial (LUC) would be better because the zoning would actually provide the specifics about what could be developed and could accurately address the concerns of the citizens. They could specify things such as no restaurants, businesses that operate during daytime only, one story multi-tenant office building, and businesses that do not sell alcohol.

In response to question from Council, Mr. Tovani explained that PCDC had met with them but unfortunately any type of zoning, other than what is on the land now, posed a threat to them because of the way they are marketing the property. Restrictions on the lots would make them difficult to sell.

Mayor Lenox called for comments and Attorney Douglas Cloud, Attorney with Alston and Bird representing Equitable/PCDC, stated his clients objection to any rezoning of this property. He pointed out that his client had only a few hours notice that this subject was to be considered at this meeting which did not give them time to prepare an adequate statement. He did provide Council with a letter advising that if the Council proceeded to consider the rezoning of the Robinson Neighborhood Center it would consitutue a violation of his client's due process rights for failure of adequate notice. Attorney Cloud stated that his client's position at this time would be that any rezoning of the property would be unconstitutional and illegal and would represent an unconstitutional invasion of Equitable's vested rights in the Commercial Center. He stated that they had spent substantial sums of money relying on the approved subdivision plan and the existing zoning classificaton which included the construction of a road to all parcels and providing utilities to all parcels. He stated that his client vigoriously opposed any consideration of rezoning.

After hearing comments from other residents in support of rezoning the property, Mayor Lenox called on Councilman Brooks for response. Brooks expressed appreciation to the representative from Equitable for his comments and responded that there was no attempt being made to undermine their marketing efforts and he understood that funds had been spent in developing the lots. At the same time, however, he felt the citizens had valid complaints and because of that would support minor modificatons to the property.

Motion was made by Brooks that the City call a public hearing to rezone the two remaining lots in the Robinson Commercial Center from Limited Commerial (LC) to Limited Use Commercial (LUC) with conditions and that the City staff lift appropriate conditions representative of those presented during discussion this evening. Also that copies of the specific proposal be delivered to Equitable and Peachtree City Development Corporation (PCDC) within a minimum of three weeks prior to the public hearing where the item would be considered. Motion died for lack of second.

Mayor Lenox stated that he had talked to all parties involved and he too felt that all parties had legitimate concerns and he thought that everyone involved wanted to arrive at the same result. He felt the residents wanted absolute certainty about what would be placed on the two other parcels to be developed and the owners did not want anything done that would hurt the sale of the property. He asked if those present representing Equitable and PCDC would be willing to consider placing restrictions on the property by deed covenants as opposed to zoning. Mr. Jerry Peterson of PCDC was present along with Attorney Douglas Cloud and they indicated that this was already under consideration and certainly felt that this was a way to resolve the situation.

Mr. Tovani indicated that this resolve was something that the residents would be willing to consider.

Mayor Lenox stated that he would be willing to arrange for all parties to get together and see if a compromise could be worked out that would be satisfactory to all concerned.

Motion was made by Parlontieri that the item be closed. Motion was seconded by McMenamin. Motion carried unanimously.

12-91-5 <u>Highway 54 West Corridor Plan</u>

Mayor Lenox called on the City Director of Developmental Services, Jim Williams, to address this item which was tabled at the last meeting. Mr. Williams reported that the City had received the DOT plans for the widening and development of the Highway 54 West Corridor but the staff had not had time to study the plans. Williams felt more time was needed to study the plans and to decide what position the City wanted to take on median cuts and other suggestions. He asked that the item be tabled to the next meeting when staff could be better prepared to present a recommendation.

Motion was made by Parlontieri that the item be tabled and that it be discussed at retreat. Motion was seconded by Brooks who asked what median cuts were shown on the plan. Williams reported that one cut was shown at the Wynnmeade Subdivision entrance and one at the Hi-Brand property. Motion to table the item to retreat was approved unanimously.

1-92-6 <u>Golfview Office Park</u>

Mayor Lenox explained that the Golfview Office Park (now called Parkview) situation has been worked out and the Planning Commission approved the revised plat at their meeting on Monday Night, January 13th. He didn't feel Council action was necessary unless someone wanted to open it for discussion.

Motion was made by Parlontieri that the item be closed. Motion was seconded by McMenamin. Motion carried with Brooks abstaining.

New Agenda Items

1-92-8 Endorsement of City Comprehensive Plan

City Manager Basinger reported that the proposed Comprehensive Plan is required by the Georgia Planning Act of 1989 and that the plan was a fairly general long range document to ensure the orderly plan for coordinating growth and development for the City. The plan did not replace any existing plan such as the Land Development Ordinance, Zoning Ordinance, Recreation Plan, Landscaping Ordinance etc. but that these would be updated and become an integral part of the comprehensive plan. Basinger reported that a number of public hearings had been held by the Planing Commission on the Comprehensive Plan with a final hearing held the past Monday Night at which time the Planning Commission approved recommending it to the Council for endorsement and forwarding to the State agencies for review.

Basinger explained that staff was not seeking approval of the plan but wanted Council to endorse it so that it could be forwarded on to the Atlanta Regional Commission and the State Department of Community Affairs for their review and recommendations. Any changes they recommend would be included in the plan and resubmitted to Council for approval. Plans were to have the final document ready for the April 2nd Council meeting. Basinger reported that a copy was provided Council last week for their review and that City Planner Mike Concilla, the principal author of the document, and Director of Development, Jim Williams, were present for any questions.

McMenamin complimented Mr. Concilla and Mr. Williams for the plan. She stated that she really enjoyed reading it and , although there were a few areas she would like to see improved, she felt it was a good document.

Brooks stated that he had no problem in submitting the plan but he disagreed with the statistics about minimum standards for recreation. He didn't feel they were representative of the needs of Peachtree City.

McMenamin stated that she would like more information included at some point regarding the senior citizens.

Motion was made by Brooks that Council endorse the City Comprehensive Plan for forwarding on to the ARC and State agencies with the proviso that it will be reviewed and modifications made when it is returned. Motion was seconded by McMenamin. Motion carried unanimously.

1-92-9 Change in Alcoholic Beverage Licensee - Kwickie Food Stores

City Manager Basinger reported that the Kwickie Food Stores had been sold and were now Kwickie/Flash Foods Stores. The new owner had requested that

Mr. William Glynn Bryson, Vice President of Operations be named licensee at both stores located in Peachtree City. Basinger stated that Mr. Bryson had provided a list of the new officers and the application appeared to be in order. He asked Mr. Bryson to approach the microphone to be in position to answer any questions of Council.

McMenamin questioned Mr. Bryson whether he was aware that the rules of Peachtree City regarding the sale of alcohol differed from those of the state. He replied that he was and had made himself familiar with the City ordinance. Mr. Bryson explained the training program his company had in place and reported that at least once a quarter the supervisors are sent through a training session to stay current and refreshed on all regulations.

Motion was made by McMenamin that Mr. Bryson be approved as licensee as requested. Motion was seconded by Brooks. Motion carried unanimously.

1-92-10 Purchase of Police Vehicles

City Manager Basinger called attention to a letter from Police Chief Jim Murray requesting approval to purchase two police vehicles. Basinger explained that, in keeping with city policy, these would be replacing two vehicles that would have at least 100,000 miles on them by the time the new cars are received. Basinger explained that the two cars being replaced would be sold at the next surplus sale. Basinger reported that the cars were being purchased from Southlake Ford on State Contract at a cost of $24,392. He reported that adequate funds were budgeted for the vehicles and that staff recommended they be purchased.

Parlontieri asked how much was in the budget for police vehicles and Basinger replied that $28,000 was budgeted but that there would be additional expense in equipping the new cars.

Motion was made by Parlontieri that the purchase of the two police vehicles be authorized as requested. Motion was seconded by McMenamin. Motion carried unanimously.

1-92-11 Limiting Terms of Office for Elected Officials

Mayor Lenox explained that this item was on the agenda again because a citizen had raised the question of whether or not the Council had the constitutional right to limit terms of office and the City Attorney had been asked for an opinion. The Mayor called on City Attorney, Jim Webb, to render his opinion.

Attorney Webb advised that their research had revealed a Constitutional Amendment passed several years ago which enabled the Council to enact this provision if they desired to do so. He also stated that there was no case that they could find that directly addressed the issue but it was his opinion that the limitation of terms would be legal.

Mayor Lenox asked if anyone wanted to address the issue and Mr. Tim Kaigler addressed Council explaining that he was the citizen who had raised the question. He stated that he appreciated the apparent motivation for taking the action to limit terms which was to provide for new and vital representation on the Council but that he was opposed to the method chosen to ensure that.

Mr. Kaigler felt that mandatory term limitations remove the right of the voters to choose whomever they desire as their elected representative. He also felt that, although it might force from office unqualified inept officials, it would also force from office dedicated and competent officials who still had the energy and desire to serve and the support of the public to do so. Mr. Kaigler stated that he still had questions about the legal authority the Council had to limit his right to vote for any qualified candidate. He suggested that this was a subject of interest to the electorate and that it be offered as a referendum on the next election ballot.

Mayor Lenox called for any other comments and Howard Morgan, former Mayor and Councilman, addressed the Council. He stated that there were pros and cons for both issues, extending terms of office to four years, as was also done at the January 2nd meeting,and placing limitation on terms. He felt this would mean that if someone was performing poorly he could not be voted out for four years and, on the other hand, if someone is doing an excellent job he could only serve for two terms. He felt this might not be in the total best interest of the citizens but he felt Council was doing what they thought best.

McMenamin stated that she voted against the limitation at the last meeting and she still did not support the action. She felt the City had responsible voters, a change had been made for majority vote and she felt the citizens had a right to vote for whomever they choose to vote for. She felt that eight years was a long time for anyone to serve but should the voters want to return an official to office she felt that was their right and they should have the option.

Mr. Jonathan Tovani liked the idea of holding elected officials accountable every two years.

Mayor Lenox stated that he would like to think that if someone was not doing a good job as an elected official the voters would remove him and he agreed that there was a great deal of voter responsibility at the local level, but he still liked the idea of having new blood on the Council which the term limitation would ensure.

Parlontieri stated he appreciated the concerns of both Mr. Kaigler and Councilmember McMenamin, but that he had been an advocate for term limitation for some time. He felt there was an attitude of limiting terms throughtout the Country because of the proliferation of people becoming lifelong bureaucrats from the standpoint of elected officials. He pointed out that a person would only be sidelined for two years and if he really wanted to serve he could run for office again.

Brooks stated that he thought Mr. Kaigler made an excellent point in an ideal situation where voters took the time to check out all the candidates before they voted. In reality, however, what happens is if there is a level of satisfaction the status quo is maintained and the incumbent is re-elected. Another issue Brooks felt had not been discussed is that the Council selects members to Commissions and Authorities and he felt a change in Council many times opened up changes in Commissions and Authorities. He felt change was good and a lot was to be gained from it. He continued to support the limitation of terms.

Mayor Lenox asked if anyone wanted to address the subject of submitting the item to a referendum and there was no response.

Motion was made by Parlontieri that the item be closed. Motion was seconded by Brooks. Motion carried with McMenamin voting nay.

1-92-12 Lake Horton 404 Permit

Mayor Lenox introduced the subject of the Application for a 404 Permit to build Lake Horton. The application had been submitted to the U.S. Army Corp of Engineers by the Fayette County Board of Commissioners. He explained that a letter from Mr. Ike Issacson, citizen of Peachtree City, was sent to the Association of Fayette County Governments requesting that the Association ask for a public hearing regarding Lake Horton. The Mayor explained that the purpose of the Association was to discuss and consider subjects that would affect each entity but that the Association did not make decisions or take actions. The result of the discussion held at the Association meeting regarding the letter was that each entity would discuss this queston on its own and decide whether or not they want to take action. The Mayor then called upon Mr. Isaacson to present his request.

Mr. Issacson's comments are summarized as follows: He did not feel the general public had enough information on the cost of developing Lake Horton and whether or not other options had been considered such as well water. He also pointed out that at least 50% of the water customers of the County are in Peachtree City and most are not aware of what the water bills are going to be once the expenses are incurred in building Lake Horton. He didn't feel Peachtree City had appropriate representation on the County Water Committee who were making decisions on behalf of the citizens.

Mr. Isaacson wanted Council to contact the U.S. Army Corp of Engineers and request an extension of the thirty day comment period and to ask that a public hearing be held in Peachtree City to provide residents with information on the Lake Horton project.

Mr. Phil Jones, President of the Environmental Concerns Organization, also endorsed the need for a public hearing in Peachtree City.

Parlontieri explained that at the meeting of the Fayette County Governments the County representatives indicated that a number of public hearings had been held already and that others are scheduled, although they are not in Fayette County. The Commissioners were going to check to determine whether any are scheduled that would be convenient to the County residents.

Mayor Lenox stated that he had spent a good bit of time learning about the water situation in the County and he had found nothing that would lead him to believe that the County hadn't spent a lot of time and money toward this project and the application for a permit to build Lake Horton. He didn't know whether they had reached a good decision or not but it would seem they had not done a particularly good job of acquainting the public with the facts and their rationale for their decision on Lake Horton. For that reason he would be in favor of calling for a public hearing that would be conveniently located for everyone to attend that was interested or concerned so that all comments could be duly noted by the Corp of Engineers.

Brooks agreed with Mayor Lenox and felt that something as important as water and the ramifications thereof should allow for citizen input. He stated that he too would favor calling for a public hearing to ensure that all are provided information and the public is made aware of what is being proposed.

Motion was made by Brooks that the Peachtree City Council write to the U.S. Army Corp of Engineers requesting a public hearing and requesting that the comment period be extended for thirty days with the public hearing to be held during that thirty day period for the benefit of Peachtree City residents and others in Fayette County that would be interested. Motion was seconded by Parlontieri who commented that there might be interest in holding a countywide hearing for all county residents. Mr. Jonathan Tovani and Ms. Phyllis Aguayo also spoke in support of the hearing. Parlontieri pointed out that the hearings Fayette County held were poorly attended and a citizen commented that they were not well advertised and hopefully if the City does hold a hearing it would be better advertised. The motion passed unanimously.

1-92-13 Atlanta Regional Commission

Mr. William Snow, resident of the City, addressed Council about his concerns and questions about the Atlanta Regional Commission (ARC). He wanted to know what the Atlanta Regional Commission really is; what it does for the City that the City cannot do for itself; what is the cost to the City for their services; could the City drop the membership at any time.

Mayor Lenox explained to Mr. Snow that the Council did not have that information readily available and in order to provide him with a complete response to his questions, he would prefer to place this back on the agenda for the next meeting. At that time these questions could be answered for him. This was agreeable to Mr. Snow. Brooks suggested that the City newsletter, The Update, carry an article on this subject to advise the citizens about the role of the Atlanta Regional Commission.

There being no further business on the agenda a motion was made by Parlontieri that the meeting be recessed to be reconvened in executive session to discuss lawsuits of Black and Justice. Motion seconded by McMenamin. Motion carried unanimously.

Executive Session

No action was taken in executive session and a motion was made by Parlontieri that the meeting be adjourned. Motion was seconded by Brooks. Motion carried unanimously. The meeting adjourned at 8:30 PM.

Frances Meaders

Frances Meaders, City Clerk

Robert L. Lent Attest

Mayor