City Council of Peachtree City
Minutes of Special Called Meeting
January 10, 2002
7 p.m.

The City Council of Peachtree City met Thursday, January 10, 2002, for a Special Called Meeting in the City Hall Council Chambers. Mayor Brown called the meeting to order at 7:00 p.m. Other Council Members present were: Annie McMenamin, Steve Rapson, Dan Tennant, and Murray Weed.

New Agenda Items

01-02-04 Consider Moratorium on Development Activity

Mayor Brown informed the public attending the meeting that the purpose was to discuss the moratorium originally slated for the January 3 meeting. Due to the inclement weather on January 3 and to ensure that everyone had a chance to voice his or her opinion, the public hearing was moved to January 10.

Brown said Council felt the moratorium was necessary to refine the City's land use and zoning ordinances and to correct 20 years of "add-on" amendments. The content needed to be properly segregated by category to make the ordinances easier to use for both the City and the developers.

Brown's second point was that they wanted to ensure that federal and state mandates on stormwater management were followed. Brown said he wasn't willing to allow residential, commercial, and industrial taxpayers to bear the burden of having to pay millions of dollars retrofitting projects in the future.

Brown stated a thorough study of the changes in the City's Land Use Plan recommended by the Planning Commission was absolutely needed.

Brown said they needed to look at ways to require developers to insure that newly planted trees that were approved in landscape site plans by the Planning Commission remained and thrived on the site. They needed to protect the City's tree canopy and preserve the charm and environmental qualities that Peachtree City citizens appreciated.

Brown continued that Council would address the addition of overlay zones in certain areas of the City to add requirements beyond normal zoning regulations. Brown said that would work in conjunction with the Livable Centers Initiative Plan in the State Route 54 West corridor and the State Route 74 North corridor. Brown had spoken with several developers with a stake in the areas and said they agreed that the overlay zoning and LCI improvements would enhance development opportunities in the overlay areas.

Development Services Director Jim Williams addressed Council and said the proposed moratorium ordinance was very simple and was intended only for 90 days. He explained that the intent was not to stop everything, but to get the City's ordinances updated so the City could deal effectively with the plans submitted. Brown said the moratorium would be controlled by the Planning Commission approval process, and that no concept plat for a new subdivision would be approved during the moratorium; however, any plat that had been approved by the Planning Commission would go through, as it would have done previously. Williams said that meant that for any final plat that was recorded, the lots in that subdivision could be built upon and sold. Any subdivision that had gone through concept approval, but not yet built, would also not be affected. The only thing included would be a subdivision plat that had not been before the Planning Commission yet. The maximum impact would be for 90 days.

Williams said no applications for a proposed new zoning would be accepted. Applications in the mill would be processed as usual, but new ones would not be accepted for 90 days. No applications for proposed annexation would be accepted. Because annexations were something the City had the ability to say yes or no to, there wasn't too much debate or any constitutional issues involved. To his knowledge, there were none in the mill.

Williams said that no conceptual site plans or proposed new site development projects would be approved by the Planning Commission. Williams explained that meant that site plans initially approved by the Planning Commission would go through the normal process. One that had not been initially approved would be delayed as part of the moratorium process.

Williams continued that no landscape plan for a proposed site development would be approved. There would be a complete overhaul of the landscape and tree preservation ordinance. If someone had a building near completion and the landscape plan had not been before the Planning Commission, a temporary certificate of occupancy could be issued so no one was held up. The landscaping process could also be bonded until after the moratorium, or some landscaping could be done, or the developer could get a temporary certificate and commit to the landscape process after the moratorium.

The ordinance allowed for an appeals process for anyone caught in the crunch of the moratorium and who was not really covered by the moratorium ordinance. Williams said it would not be a lengthy process and could be handled at the next scheduled Council meeting after the appeal was filed.

McMenamin asked if developers who had not been before the Planning Commission still had the ability to go the planning department for review during the moratorium. Williams answered absolutely and that staff would review plans during the moratorium and schedule workshops with the Planning Commission so they could look things over and talk with the developer.

Bob Meyer told Council his firm bought the property north of Wynnmeade recently with an approved concept plan. While in negotiations, their engineer had come up with a better plan with lower density. Meyer said they had no problem with the original concept plan, but the revised plan reduced the number of lots. He asked if there were consideration in the moratorium for revised plans and said there were enough changes to the original plan that a revised plan would be needed. Brown answered that it sounded like an excellent case for appeal. McMenamin added that if the appeal were filed now, Council would hear it at the first meeting in February. She said there had to be enough time to advertise the appeal.

Dan Fields, vice-president of John Wieland Homes, asked for clarification regarding the Lexington Park development. The original concept plan was approved in 1999 and a lot of effort had been put into it. Fields said it was the tract behind the commercial portion of the Walt Banks property. He asked if his company would be affected by the moratorium. He said they entered into the contract in November 2000 and had been working on engineering aspects of the development. Brown said Fields should consult with staff. He added the property had some limited use prospects and staff needed to make sure things were not "out of the box" for limited use. Williams stated that Lexington Place was a very specific situation and the concept was adopted as part of the zoning. The portion subdivided into lots needed to be presented in concept plat form to the Planning Commission for approval before construction could begin so the moratorium definitely affected it. Rapson commented that as long as the revised plan didn't deviate from an original approved plan or had no special circumstance it should be eligible for the appeals process. He suggested Fields talk to staff and get into the appeals process.

Fields continued that his company's contract with the owner expired on January 31. The residential portion had been substantially completed. The property owner said the current builder decided not to complete the project and the owner came to Wieland Homes. In the event his company could not get an extension on the contract, he requested Council grant an exemption. He stated that his company was not changing the plan, but continuing what had been started. Rapson commented that it was hard to grant an exemption for a moratorium that didn't yet exist.

Bob Brown spoke in favor of the moratorium. The main issue was clarification of the properties to be affected and he read Section 1503 of the proposed moratorium ordinance. Brown said that, by his interpretation, Meyer wasn't affected because his concept plat had already been approved. All Meyer was doing was asking for a revision and the Planning Commission could either approve or deny it. The appeal process applied to properties unjustly affected by the moratorium. Brown said that went to the question of whether or not the moratorium affected Meyer's property. If it didn't, then he wouldn't have to file an appeal and could go ahead with his project.

Fred Wellman spoke against the moratorium. While it sounded like a great idea, Wellman said people needed to dig deeper. The country was in an economic downturn. The moratorium meant that for the next 90 days the Fayette County Development Authority would have to tell interested businesses that there was a moratorium and nothing would happen. A moratorium meant the government was willing to stop business. Wellman continued that it was a political statement and asked Council to not send a message that said the Peachtree City government wasn't friendly to business.

Chuck Lehman also spoke against the moratorium. He asked how much would a moratorium cost. He commented that when development stopped, there was a recession. Based on the vote for the bond issue, people didn't want a property tax increase. Ninety days would cost businesses money. Lehman said there wasn't that much property left in the City and that the City's problems would come from zonings and rezonings in the County.

Margie Swart said the City needed time to develop its ordinances. She said the moratorium was a bold step.

Mike Hofrichter, chairman of the Fayette County Chamber of Commerce Board of Directors, looked at what the moratorium would do to the County. He said that if Council wanted to study, refine, and update the laws, then they should do that. Those reasons didn't justify a moratorium. He continued that a moratorium did not promote a favorable business climate and that was the Chamber's primary objective. He added that 800 businesses and thousands of employees were asking the Council not to put up a "closed for business" sign. It was bad for business, bad for Peachtree City, and bad for Fayette County.

Andrea Jones of Dillard and Galloway told Council that her firm represented RAM Development and Pathway Communities. She continued that she believed the moratorium was unconstitutional and there was no emergency that required the moratorium which did great harm. She pointed out that Pathway Communities had $2.5 million in real estate contracts due within the next three months and the language of the moratorium said it could be extended past the 90 days. Neither RAM nor Pathways were opposed to improving the quality of life. Jones asked Council to step back from the moratorium and look at other ways to address the issue.

Wayne Roberts spoke on behalf of the Wynnmeade Homeowners Association. The board had not met with Meyer yet regarding his development plans, but was concerned that he appeared ready to break ground when all of the zoning conditions had not yet been met. Roberts said he had been in construction since 1979 and had worked on many big projects. He knew what 90 days could mean to a contract. He continued that the majority of the development directly affected Wynnmeade and 100% of the storm water runoff came into their community. They needed time to see how things would affect them, and the development affected their daily lives and their community.

Scott Bradshaw told Council that a developer that had begun to plan a project beyond the concept stage needed to know the rules and regulations. He said they could go ahead and work with staff during the moratorium but they might be working on a project that wouldn't fit the new ordinances. As for temporary certificates of occupancy, a certificate of occupancy meant a tenant could move into the a structure whether it was temporary or not. If a tenant moved in and six months later there was a dispute over the landscaping, what happened to the tenant, Bradshaw asked. The greatest single determinant in making sure trees lived was water and Bradshaw asked whose responsibility that would be – the owner, the tenant, or the developer. Bradshaw, co-chair of the Chamber of Commerce's legislative action committee, agreed with Hofrichter and pointed out that it would be hurtful to business if the City Hall closed down for six months to catch up.

Brown stated Council had heard a lot of comments and there had been a lot of miscommunication. As for not being friendly to businesses, Brown said the City was trying to get a dilapidated, confused set of ordinances straightened out and that would help business. He continued that there had been 20 years of doing things in a hodge-podge manner and there were a lot of issues to consider. Four committees would be running simultaneously and trying to juggle and handle the development process at the same time would kill the system. Easily half of the committee members were developers and they had a say in what happened, Brown said. If a moratorium wasn't put in place, the City was in danger of losing its character. Brown pointed out that some development opportunities would be missed without the overlay zoning.

Rapson said it seemed the process was reasonable. He said Council was talking about looking at the ordinances and making sure they were in agreement. People moved here because of the quality of life and Council was trying to make sure the ordinances ensuring the quality of life stayed in place. Rapson said there were some severe strains on the infrastructure that needed to be looked at. He said the work would be turned around as quickly as it could. Rapson addressed a citizen question about infrastructure and said his point was to revise the ordinances and get everything on the same page.

McMenamin stated that she had been adamantly opposed to a moratorium at first. As she read through the ordinance, however, she became more comfortable that businesses weren't being shut down or closed. People at work would stay at work, she said. McMenamin pointed out that she did have concerns about landscape and erosion control, and she thought the landscape plan should be part of the Certificate of Occupancy. She took exception to the remark that the ordinances were hodge-podge. McMenamin also felt the headlines in the papers had done the City a great injustice and put the word out statewide – Don't do business in Peachtree City. It took seven years to bring the National Weather Service here, McMenamin recalled, and added that big things don't stop in 90 days. The City would continue to do business, but bigger and better. McMenamin said one of the good things for her was that Jim Williams supported the moratorium and said it was good for the City.

Weed said he would not vote for the document currently in people's hands. He proposed four changes if Council decided to proceed. As a member of the Chamber of Commerce and a businessman, Weed said he wouldn't do anything to harm the community or business. Weed then went over his proposed changes to the moratorium ordinance. Weed said the current version indicated it might be necessary to extend the moratorium beyond 90 days. He suggested deleting that sentence in the first paragraph of Section 1501. Purpose and adding "This moratorium shall not permanently suspend or prohibit affected applications and is designed to be limited in scope and duration. Only those areas of land development which may be impacted by the needed review of the City's Comprehensive Plan, zoning ordinances, land development ordinances, and related ordinances shall be affected."

Under Section 1502. Findings., Weed suggested adding "(e) Federal laws regarding stormwater management are soon to be implemented and will pose substantial challenges to the City which must be addressed immediately." Weed added the sentence to explain why it was being done at this time by stating changes in federal law would soon be implemented.

Under Section 1503. Moratorium., Weed suggested deleting the last sentence of (b). He said the basic law on moratoriums was simple. If a developer had submitted a proper application to the proper authority, the developer's rights were vested.

Tennant said he came into the meeting to look objectively at the proposed moratorium. He was interested in what everyone had to say and had come to the conclusion that it might not be the right time for a moratorium. The economy was weak and in recession. The moratorium risked sending a negative business signal to prospective businesses. He said they should be able to straighten out the ordinances without a moratorium and that they were not mutually exclusive. He continued that he understood the idea behind the moratorium but was not in favor of it. Council needed to carefully consider it before voting.

Bill McDonald told Council he had been in business in Peachtree City for 15 years. He recalled that the City wanted businesses, but wanted to hide them. He noted that he had battled the sign ordinance as well as other restrictions over the years. After being here and seeing how business was done, McDonald said it was actually a benefit and he had never seen anything done in a hurry or without thought and planning. He asked Council to step back and think, as well as talk among themselves, about the moratorium for 90 days. He added he had never seen anything done haphazardly in the City.

David Rossetti noted he was part of a family of builders. He said he had lived in five planned communities over the years and that Peachtree City's ordinances put the City light years ahead of the others. The process might be cumbersome, but it was not broken. He said he was more concerned about changes in the Land Use Plan than in the moratorium. He said what they were doing was changing the allowable use on private property and that had a much greater impact than a moratorium, including loss of potential income. He asked what was the process, and who was doing it, for revising the Land Use Plan. He said that's where the citizens needed to be involved. He said one of the planned communities he had lived in had a similar problem. Their solution was a seven-year cycle for rezoning and land use plan approvals. During the seventh year, there was a 180-day window where anyone could present their case for a rezoning or to change the land use plan and it would be voted on. Rossetti said it worked well. It was a clear time frame that gave everybody time to prepare. The time period was also important since demographics and the economy changed and often the use given to a piece of property wasn't viable after a five- or six-year period. He said he didn't see a moratorium bringing anything of value to the City. He said the ordinances might be a little messy because things were added here and there, but there were reasons for that.

Jones asked Weed for clarification and responded to an earlier comment by Brown that it would be good for the city for Pathway's $2.5 million in contracts to not go through during the moratorium. She said Brown didn't know where the properties were located and they might not be in an area affected by the moratorium, but the contracts were gone because of a blanket moratorium. She said that was prima-facie unconstitutional. She said she was surprised by that approach to private property owners' rights. Jones asked Weed about his comment that the moratorium should be limited to certain areas and how he proposed to carve out where he proposed to put the moratorium. Weed said the limitation was currently tied to only the areas of land development, which would be impacted by the needed review of the comprehensive plan, zoning ordinances, and land development ordinances. Jones asked which areas that would be and Weed said that was essentially the entire City. Jones continued that it didn't matter whether their property was affected, but they would pay the price because of a blanket moratorium. She said if Council was bound and determined to do a moratorium they should do one that doesn't damage people who don't need to be damaged.

Wellman told Council he had no idea the City was so screwed up. He said he understood the concerns of the Wynnmeade Homeowners Association. The City couldn't control the headlines or the message a moratorium would send to the world. Moratorium was a nasty word to the business world, he said. Businesses would always wonder if the Council would do it again and no one was going to hear about it when it was lifted. Wellman continued that Jim Williams was a master at the business of taking care of the City. Wellman said he liked the changes proposed by Weed and that they would make the moratorium more defensible so the City wouldn't be sued.

Hofrichter, an attorney, questioned Weed about his recommended changes to the moratorium to comply with a recent Supreme Court decision. The recommended changes put certain language in the moratorium, which Hofrichter said might, or might not, protect the City based on the language. Stating it was limited in scope without identifying the limit of the scope, or without identifying the emergency situation, didn't do what needed to be done. The issue was that nothing had been said to identify a current problem that justified or met the emergency situation standard that necessitating a moratorium. Hofrichter continued that if the problem was with the way the laws were written, fix them. The need to fix the problems with the law didn't necessitate a moratorium.

Eric Snell asked Rapson what the moratorium would do budget-wise, especially with the existing shortfall as well as the current recession. His belief was that very few growing businesses would start new things during the recession. Snell said he thought it would have limited impact since this time of year was a slow building period. He also said a recession would also probably be the best time to do a moratorium. Rapson replied that he didn't think the financial impact to the City would be great.

Lehman commented that one person seemed to be for the moratorium while the others were lukewarm or against it. He said the message he was getting was that the moratorium was a "done deal." Bradshaw questioned if the moratorium were redundant given the moratorium on apartments. Rapson said yes and added that the apartment moratorium didn't make this one weaker or stronger; it was just redundant.

Joe Wesley, an industrial developer in Douglas County, said he was fighting to sell property and the phone was not ringing. He pointed out that builders liked to start projects in March so they could be completed by cold weather. What Council was doing was akin to changing the rules in the middle of the game. He asked Council to go about making and implementing the ordinance changes, but not to enact a moratorium. McMenamin said that often developers resented the fact they didn't know what the end product would be because the City had a better idea. She said they were trying to get things right so changes in plans didn't need to be made. Wesley said he hadn't met many government officials who didn't have a better idea. He suggested Council set things up so the changes made were enacted 90 days later and any plans submitted during that time would be affected.

Brown said the City was changing the rules. He added the City had evolved and had done a good job. He continued that the moratorium wasn't projecting a negative image, but trying to make things better. Developers were included and were among the first people asked to serve on the moratorium committees. Bradshaw asked Brown if the committees had already been set up. Brown answered that if the process were to be conducted in the 90 days, it had to be set up as soon as possible so they could hit the ground running. He said it was prudent planning. McMenamin added that the committees would continue whether the moratorium was approved or not.

Rapson said if image and perception were the problems, the cat was out of the bag and the message was sent whether a moratorium was in place or not. He said he would be hard pressed to go beyond the 90-day window and he would have to be compelled to extend the moratorium beyond 90 days.

Tennant said many issues had come up and he didn't think the City had a black eye by just bringing the issues forward.

Weed said he had litigated and drafted moratoriums as an attorney. He continued that he had never seen a government collapse under a moratorium. Ordinances were living, breathing things that changed. He said his job was to make Peachtree City the best and to protect what previous Councils had given to him. Time was of the essence. Weed moved to adopt the moratorium for 90 days with the changes he suggested with one additional change to Section 1502 (e) – Federal laws regarding stormwater management are soon to be implemented and will pose substantial challenges to the City which must be addressed immediately. These concerns cannot be addressed and the required mandates cannot be effectively met without a review of and changes to the decades-old Zoning Ordinance, Comprehensive Plan and Land Development Ordinance. Brown seconded. The motion carried 4—1 with Tennant voting against it.

Brown said there were two items of litigation for executive session. McMenamin moved to go into executive session after a short break. Rapson seconded. The motion carried unanimously.

McMenamin moved to adjourn the executive session. Rapson seconded. The motion carried unanimously.

There being no further business to discuss, McMenamin moved to adjourn the meeting. Rapson seconded. The motion carried unanimously. The meeting adjourned at 9:50 p.m.

Pamela Dufresne

Pamela Dufresne, Recording Secretary

Stephen D. Brown, Mayor

Betsy Tyler, Deputy City Clerk