City Council of Peachtree City
Minutes of Meeting
December 20, 2001
7 p.m.

The City Council of Peachtree City met Thursday, December 20, 2001, in the City Hall Council Chambers. Mayor Lenox called the meeting to order at 7:00 p.m. Other Councilmembers present were: Carol Fritz, Annie McMenamin, Steve Rapson, and Dan Tennant.

Announcements, Awards, Special Recognition
Lenox recognized Financial Services Director Paul Salvatore and presented him with the Certificate of Achievement for Excellence in Financial Reporting, recognition the City has received for the past 14 years.

Approval of Minutes
McMenamin moved to approve the December 6 meeting minutes as written. Fritz seconded. The motion carried unanimously.

Consent Agenda
1. Resolution to Adopt Contract for Lease/Purchase of Equipment
2. Funding for Run-off Election

McMenamin moved to approve the consent agenda as presented. Fritz seconded. The motion carried unanimously.

Rapson asked Fire Chief Stony Lohr for an update on the status on the ladder truck, which was included in the contract for the lease/purchase of equipment. Lohr said the delivery date was the first or second of February. Rapson asked if the authorized amount had changed. Salvatore said it had not changed.

Old Agenda Items

12-01-02 Public Hearing – Easement Request – St. Andrew's Square
Lenox said that staff and the applicant had requested the public hearing be continued until the January 3 meeting. Lenox moved to continue the public hearing. McMenamin seconded.

Rapson said his preference was for a land swap, rather than a sale, and asked for that to go on the record. Fritz said she was also against a sale.

The motion carried unanimously.

10-01-10 Budget Reduction Update
Salvatore said this was the first of the combined monthly updates on the contingency plan established in response to anticipated revenue shortfalls. The four major consumer-based revenue sources identified in the contingency plan that might be affected by a shortfall included the Local Option Sales Tax (LOST), hotel/motel tax, alcoholic beverage tax, and mixed drink tax.

The LOST was holding out well to this point and had less than a 1% shortfall, Salvatore said. The actual sales collected in the first two months of the fiscal year were from sales in August and September, he explained. Over the next two or three months, the LOST collections should peak to reflect holiday spending. Salvatore added that LOST also peaked in the late summer months due to back-to-school spending. He said the City was short only $5,800 in LOST funds.

Salvatore continued that the hardest hit source was the hotel/motel tax at this point. The City had expected to receive about $177,00 and only received about $110,000, close to a 38% shortfall. The alcoholic beverage tax was up 12% and didn't appear to be hurt by the economy or the events of September 11.

The four revenue sources were down 5% overall. Salvatore said other revenue categories were down 3% to 5% except interest earnings, which were down 62% to 63%. Salvatore attributed that to the federal rate cuts since the budget was approved, which caused a shortfall of around $18,000 in interest revenue. A windfall in the insurance premium tax due to the 2000 census numbers offset the shortfalls. The change in the distribution formula gave the City an additional $279,000 in insurance premium taxes. Overall, revenues were up 7.18%. However, Salvatore said staff's recommendation at this time was not to release any of the impounded funds. Salvatore added that it would be prudent to hold off and see what happened with the sales tax in the next few months. He said there was no immediate need for any of the impounded funds.

McMenamin agreed with Salvatore and said if there was a need for the impounded funds, a judgment could be made at that time.

Rapson said he was concerned about the hotel/motel tax and the funding for the Tennis Center expansion. The increase in the tax from 3% to 5% was supposed to pay the debt service. He said the expected revenues were down by $66,000, which could lead to a short fall of $350,000, and that wouldn't cover the debt service for the Tennis Center expansion. Rapson recommended Council look at the lodging ordinance and raise the hotel/motel tax from 5% to 7%. When the revenues increased, Council could drop the hotel/motel tax back to 5%. He asked Salvatore to verify that if the tax was raised to 7% this year there could still be a $150,000 shortfall. Salvatore agreed and said that was assuming a tax increase would be implemented by February 1. The debt service for the tennis center expansion was $262,000.

Lenox asked when the collection on the 5% rate began. Salvatore said July 1. Rapson pointed out that the City had collected the $65,000 they were in the hole. He continued that Council's commitment was to raise the hotel/motel tax to fund the facility. The facility had been fast-tracked and was under construction. Typically, when a revenue source was designated to build something, it wasn't built when the revenue didn't come in. Rapson said there needed to be a three-pronged attack – raise the hotel/motel tax to 7%, ask the Development Authority how much of the $155,000 supplement they would forego, and ask the Development Authority to review the plans and see what they could do to help with the deficit. Lenox said he was supportive of raising the hotel/motel tax, but cautioned that the tax should be lowered when the economy got back to normal. Rapson agreed. He continued that he didn't want to use the insurance premium windfall to offset the expenses for a $2.5 million facility the taxpayers didn't ask for. McMenamin added that Council expected the tennis center to generate tax revenue by filling the hotels and motels.

She said Council wasn't funneling money into the tennis center without expecting any return. Rapson said there was a consensus among Council on how the tennis center expansion would be funded and that his concern was strictly from a funding standpoint. Salvatore said there would also be a break on the debt service payments this year. This year it would cost $187,000 and in future years the cost would be $247,000 each year. Rapson continued that the City would make up the difference when the revenues for the Development Authority and Airport Authority were down. He said he wants Council to be proactive rather than reactive. Tennant asked Rapson if the hotel/motel increase should be done as soon as possible. Rapson answered yes and said that Council would see as soon as the economy reversed in the bi-monthly budget updates. Rapson asked Salvatore to include what was budgeted and what was received on the budget updates so it would be clear to Council.

04-01-08 Update to Short Term Work Program/Capital Improvements Element

City Planner David Rast told Council this was the annual update to the Short Term Work Program/Capital Improvements Element required by the Atlanta Regional Commission (ARC) and Department of Community Affairs (DCA). The program allowed the City to maintain its status as a qualified local government. Rast said this year's update was not much different from previous years. The 2001 Short Term Work Program Report of Accomplishments listed all of the items identified in the past few years that staff wanted to accomplish. The initiation years on some projects went back several years and several projects were added in 2000-2001. The projects with asterisks were items that would bring the Short Term Work Program and the Comprehensive Plan into compliance with ARC's Regional Development Plan/Comprehensive Plan coordination process. Rast said staff had looked at the goals and objectives in the Comprehensive Plan and determined how they complied with the ARC's Regional Development Plan. Rast said the City was fortunate that most of the policies had already been implemented; however, a few were identified as needing work. Rast said staff would work on those the next few years. The status of the projects was detailed and several were listed as ongoing and some were listed as complete. There was one amendment to the document. Rast pointed out that 129 items were implemented under the Quality Improvement Program rather than the 118 listed. Under Update and Revise the Land Use Plan, the update to the Comprehensive Plan in 2007 was listed as an ongoing project. Rast said the Planning Commission was still reviewing the different villages and should be ready for public hearings in January and should send their recommendations to Council in late January or early February. The entire Comprehensive Plan had to be updated in 2007 and would include all of the policies for the Regional Development Plan and all of the City's new goals and objectives.

Rast said the Short Term Work Program provided an update on the projects hoped to be achieved in the next five years beginning in 2002-2003. Estimated costs were included, but some were to be determined since the work would be done at the staff level rather than by hiring consultants. Some of the projects had no estimated cost assigned to them. A couple of the projects were to be funded through the Capital Improvement Budget, but that status could change as the projects got closer and were determined to be either grant projects or projects that should be paid for out of the General Fund.

Rast called the Capital Improvement Element of the update essentially a "wish list" of projects for the next five years. It included Public Improvement Program (PIP) projects adopted as part of this year's budget as well as projects identified in the next several fiscal years. Several projects were included in the Livable Centers Initiative (LCI) program and were identified as such to let the ARC know they were part of the LCI. The funding for those projects was local and from ARC LCI grants programs or other grant sources. Council would review the projects with staff input to see what should be included in upcoming PIP budgets. Rast said they tried to put realistic projects with realistic dollar amounts.

The final document was a Report of Annexations. Rast said there were four annexations approved since 1999, not all of which were properly reported to the ARC. The report should bring the ARC up to date on the annexations that occurred during the last two years. Rast said the Planning Commission had reviewed the information and endorsed the projects. Rast added it was staff's recommendation that Council approve the update for transmittal to the ARC.

Lenox and McMenamin both commented that it was interesting to see all the work that had been done. McMenamin suggested that candidates who qualify to run for Council be given a copy of the document so they could see what's going on and not "re-invent the wheel." She added that newly elected officials were also given a copy so they could see the work that was being done.

Tennant moved to approve the transmittal resolution and authorize the Mayor to forward the Short Term Work Program and planning amendments to the DCA and the ARC. Fritz seconded. The motion was approved unanimously.

08-01-06a Public Hearing – Acquisition of Real Property Under a Multi-Year Contract
Salvatore explained that before the Bricks & Mortar contract could be adopted, which involved the sale and lease/purchase of real property, a public hearing must be held. The sources of the funds would be the City Hall building and the Leach Fire Station. Salvatore said essentially the City was selling the buildings to the Georgia Municipal Association (GMA) and making lease/purchase payments to First Union Bank over a 15-year period. At the end, the City would pay $1 each to get the properties back. The proceeds of the sale would fund various real estate projects in the PIP over the next three years. The projects included the Tennis Center expansion for $2.5 million, $200,000 for improvement at the Amphitheater, improvements to Neely Station at $427,175, construction of a smoke/burn training facility for $394,200, and the facility build-out plan for City Hall at $148,157. In 2003, the projects included some utilities re-location work for $100,000, resurfacing the Kedron large pool for $50,000, improvements in the Rockspray area (spillway and bridge and restore dock), and improvements to Weber Station driveway and storage. Projects in 2004 included construction of a three-bay facility for Public Works for $100,000, restoration of Gazebo at Shakerag Knoll for $50,000, construction of a satellite auto facility for $228,750, and additional facility build-out work in the Public Works building for $234,532. The total was $4,550,814.

Fritz asked if the $50,000 for the Gazebo included bathrooms. Basinger said he didn't think it did. Tennant asked if there was any plumbing in the Gazebo and the consensus was there wasn't. Salvatore said there was some flexibility in using the funds for the program. The funds must be used for capital facilities for governmental entities. He said projects could be swapped completely out, but those replacement projects must come back for approval before Council during the budgetary process. Lenox pointed out that the replacement project must also be a real estate project.

Rapson asked about the draws on the funds and if only the money needed for current projects would be drawn out at this time. Salvatore said the proceeds would be deposited into an account the City could start drawing on the funds. Lenox asked if the account was at fixed rate funding. Salvatore said it was 4.415% and was locked in at First Union. Basinger added that given the economic situation each project would be looked at by staff and Council to see if it could be delayed. The money would remain in the bank and drawing interest. Lenox asked if there was more comment and closed the public hearing.

08-01-06b Adopt Authorizing Resolution for GMA Lease/Purchase Contract
Salvatore said First Union was selected after a competitive bidding process. The City Attorney had reviewed the contract and staff recommended Council take action to adopt the authorizing resolution. The closing was set for December 27.

Tennant pointed out that the rate was originally 4.44% and that Salvatore negotiated the lower rate after a federal rate cut had been announced. Council gave Salvatore "kudos" for getting the lower rate of 4.415%.

McMenamin moved to approve the authorizing resolution. Fritz seconded. The motion carried unanimously.

New Agenda Items
12-01-07 Public Hearing – Variance Request – 1303 Layor Court
Lenox read the rules for public hearings and set a time limit of 15 minutes for each side. David and Judith Bishton, the property owners, requested a variance for their fence, which was higher than the four-foot maximum height allowed by the City's fence ordinance.

David Bishton gave Council photos of the fence and told Council he and his wife were requesting a variance for the fence. Bishton said they asked the builder to add the entranceway to the house and had contracted a fence builder to dress up the house and give it an "estate" look. The Bishtons closed on the house on June 19 and moved in on July 10. He said they asked the builder for an entranceway similar to one located near the corner of Robinson and Spear Roads, and it had been built before they moved into the house. They contacted Glick Iron Works to build their fence and noted the company had built the fence at the North Hills entrance as well as others in the City. Bishton continued that he spoke to Glick about the permits and offered to get any permits needed. The fence builder told Bishton he would get the permits, as well as information on other regulations in the City. The fence was built and the Bishtons were happy with it. He said they had received many compliments from people walking in the neighborhood. Bishton stated it was a surprise when a code official came by and told his wife there had been no permit for the fence and that it was too high. He said they were also told there was a different set of rules for estate lots. The fence itself was four feet high, but the ornaments on the top take the fence about three inches above what was allowed by code. Bishton explained there were 17 panels on the left hand side of the fence and two of those panels were an additional three inches above the required height to give the fence a "tiered-down" appearance. It was built in good faith and they believed the contractors had gotten the necessary permits and they had spent about $22,000 on the fence and gate.

Tennant asked Bishton about the gate. Bishton said it was consistent with the gate found on the corner of Robinson and Spear Roads. They told Glick they wanted to copy the entranceway and their gate was consistent with the other one. Tennant asked Bishton if the gate opened outward or inward and if cars protruded into the street while waiting for the gate to open. Bishton said the gate opened inward. Fritz said she had visited the site and there was no way a vehicle could sit in the driveway and not protrude into the street. Bishton said it was an electrical gate and was opened as they approached the house. Bishton said the gate was opened when he left for work in the morning, remained open during the day, and closed after the dinner hour at night unless someone was expected.

Rast told Council it was an interesting situation. The type of fence installed appeared to be appropriate for the zoning in the area. The problem was the fence and entry gate were installed without a permit and the height and location were caught after the fact. Rast continued that not only did the City not approve the fence and gate, but also they were in violation of the covenants of the Royal Highlands subdivision. According to the covenants, the plans for fences and walls must be submitted to and approved by the developer. Jim Royal, the subdivision developer, said he not seen the plans for the fence and gate, nor for the pool and pool house. Rast said staff didn't feel it would be a burden on the homeowner to lower the fence to the four-foot maximum, and the cost should fall to the contractor who installed the fence. A number of such projects came through each year and allowing one person to come in after the fact, regardless of the height, would lead to more variances in the future. Staff's recommendation was to deny the variance and that the owner be required to lower the fence to the four-foot maximum.

Tennant asked Rast if staff would have the same argument if the fence were ¼ inch too high. Rast said no and added that the slope of the property also played a part in such decisions. Fritz asked Rast if staff recommended moving the gate back to 20 feet. Rast reported that he had discussed the situation with the City Engineer and pointed out the property owner was required to move the gate in a similar situation in Smokerise because of sight distance. The property was located on the crest of a hill on a street that was to become a main residential street. Layor Court was a cul-de-sac and the City Engineer didn't feel there was enough traffic to warrant moving the gate. In the City Engineer's opinion, sight distance and traffic would not be a problem in this situation. Lenox pointed out it also didn't violate a specific ordinance. Rapson said it would also depend on the definition of gate. To him, the gate appeared to be part of the fence. Rast said there were other entries into homes in the City where the gate was higher than four feet. He said that was a common sense thing and if it was appropriate to the area. Rapson said he was concerned that other homeowners would want to do the same thing. He said the covenants and ordinances were in place to prevent that and making an exception was exactly was they were doing. Rapson said Mr. Bishton saw something somewhere else that required a variance and wanted to do the same thing. Rapson asked Rast what would happen if another homeowner wanted to do the same thing. Rast said it would be difficult to tell them they could not do it.

Tennant asked Bishton if he had gotten any complaints about the fence and gate. Bishton said no and added that they would not have built it as it was if the builder had gotten the proper permits. Rapson said he would have a hard time approving the variance. It was a tough situation and the Bishtons acted in good faith, but the builder did not. Fritz said the she was not willing to give a variance that would invalidate the subdivision covenants. McMenamin agreed and stated the covenants were there for a purpose and she felt a variance was premature and the Bistons needed to go back to their developer before even approaching Council. Rapson said he would also like to hear from the neighbors and because their opinion would be critical to his determination. The only special circumstance was it was on a cul-de-sac and there were plenty of those in the City.

Tennant pointed out there had been no gross variation of standards and no malice. He said it would be a financial hardship to lower the fence and that the aesthetics of the fence enhanced the property. He said he didn't feel like being a "grinch" and was in favor of granting the variance.

Lenox stated that the heart and soul of Peachtree City was its body of ordinances that protected the streetscape. If the Bishtons didn't do their duty as property owners, the next person would demand the same thing, and the fence could be on the property line and would be wooden stakes. He said the ordinance had to be defended and that the Bishtons needed to settle the problem with the developer.

McMenamin moved to deny the variance. Fritz seconded. The motion carried 4-1 with Tennant voting against the motion.

12-01-08 Discussion on GEM (NEV) Vehicles on Cartpaths

Basinger referred to a letter from Global Electric Motorcars, the manufacturer of a low-speed neighborhood electric vehicle known as the GEM. The company had asked for the City to allow the vehicles to operate on certain streets in the City and on the cartpaths. The equipment included front-wheel drive, four-wheel hydraulic brakes, safety glass windshield, windshield wipers, anchored three-point seatbelts, low-maintenance batteries, no exhaust emissions, two-mode travel speed with a 15 and 25-mph switch, headlights, taillights, turn signals, and rack-and-pinion steering. The Police Department conducted field tests on the cart paths and the City Attorney provided a legal opinion.

Police Chief Jim Murray reported that the GEMs were not golf carts, but cars, that fell under the state laws for cars. They required a driver's license, liability insurance, and tags. They were allowed by federal law to operate on streets posted at 35 mph or less. The question was whether they would be allowed on the cart paths. The issues were that, if they were not allowed, it would restrict their movement in the City since there were many streets they couldn't go on, and if they would be safe on the cartpath. Testing had been done in the past and two- and four-passenger vehicles were tested on the paths and the tunnels. Murray said the department had been bombarded with telephone calls about the vehicles from citizens who wanted to purchase one before the New Year and take advantage of a $5,000 tax credit that was offered. The City Attorney researched the Federal Highway law to see where the GEM stood. The City Attorney found that the GEM was a motor vehicle that required a tag, automobile insurance, and could only be driven by a licensed driver.

Murray continued that the Department found the GEM was well adapted to the low-speed operation on the cart path. He said it was probably safer than golf carts, which were probably the most dangerous because they were not developed for safety, noting the lack of seatbelts and steel rods with a metal wheel that sat in front of people with babies on their laps. Murray felt the low-speed electric vehicles would eventually replace the golf carts. The City had always been on the cutting edge with propane gas cars and multi-use golf carts. Murray said he had recently been told the City now had more golf carts than any other community in the United States. Not letting them on the cart paths defeated the whole purpose of what the City had, Murray said. The GEMs were safe and recent court decisions might eventually require driver's licenses for the use of golf carts on streets. Murray said he would never recommend anything he didn't feel was safe. The GEMs had to be insured, so those involved in accidents were covered. The GEMs were tagged by the state so the City didn't have to get into decals. When they were sold, the tag transfer would be the same as for an automobile.

McMenamin asked about the speed of the GEM cars and the ease of switching the speed. Murray said he recommended only the low speed setting on cart path. These were vehicles that would be used on the roads and had to go 25 mph when to operate safely on the road. Murray said the manufacturer had agreed to put a decal on the GEMs with the ordinance information to buyers and said the fine should be steep enough to deter people from operating them on high speed on the cart path. Murray added that the cartpaths weren't designed for vehicles that operated 25 mph, and going that speed on the cart path would damage the vehicle. The tags would help people identify them on the cart path. It wouldn't be difficult to determine if the driver was in the high-speed mode if there was an accident, he said. Also, there could be problems with insurance companies if people were involved in accidents on the cart paths while in the high-speed mode. GEM operators must also abide by the state driving laws.

Tennant commented that there seemed to be an accountability with the GEMs that didnn't exist with golf carts. Murray agreed and said it was also detailed accountability. McMenamin asked about the cities and states currently using the GEMs. Murray said they were used on roads and recreational paths.

Rapson said he still had some concerns. He asked what happened if someone reported the tag of a GEM that was seen going too fast. Murray said if a tag was reported, like any car, they would find the person. Rapson asked what happened. Murray said the citizen who reported it would be able to come in and testify in court. McMenamin said her concern was that people in the City considered golf carts recreational vehicles and used them as recreational vehicles on the cart paths and the paths were always being improved and updated. She said she was amazed Murray promoted allowing a 16-year old driving a mini-car on the paths. Murray said he would rather have a 16-year old with a license in a low-speed motor vehicle on the cart path driving home from school than in a 4,000-pound car going down the parkway. He said the fines set by Council should be substantial enough so if a driver was caught in the high-speed mode it would hurt enough so they wouldn't do it again. McMenamin expressed concern about the GEMs being on the recreational paths with walkers, runners, people on bikes, and people with strollers. She pointed out it was a multi-use path. Murray said the mini-cars were allowed on the streets anyway and would be on the paths anyway because they couldn't use Peachtree Parkway, Braelinn Road, Crosstown Road, or the North Parkway. He said the priorities could be set now and fine-tuned later. He added that people would eventually move to the low-speed cars and driver's licenses would be needed for golf carts.

Fritz asked about the federal highway laws. According to what she read, the GEM cars couldn't be driven on roads with a speed limit higher than 35 mph. She added there weren't a lot of roads in the City they could be driven on. Murray said the speed limit on Peachtree Parkway North was 35, but the police had determined the mini-cars would not be safe on the Parkway from Highway 74 to Highway 54, and cart paths paralleled that part of the road. Lenox commented that most of the City's major collector roads had a 40 mph speed limit and most of the subdivisions didn't connect to another subdivision. Tennant said he could get from Braelinn to Kedron without getting on a collector road and had gone from Braelinn Golf Course to Pinegate without getting on a collector road. The route could be circuitous, but it could be done.

Rapson said he wasn't comfortable approving the ordinance. He had received many e-mails about the matter. The Running Club was opposed. He agreed that it was better to have turn signals and seatbelts and he had no problem if it could be regulated to no more than 15 mph. He said with the highest speed setting people could go on the cart paths, see the police, and hit the switch and be in compliance. Murray pointed out that most golf carts ran between 15 and 20 mph, most at 18 mph. The four-seaters could go 24 to 25 mph downhill. Murray said the police couldn't control golf carts that were modified and speeding on the golf course. Tennant asked if Council should penalize the masses for the actions of a few. Tennant said he had driven a GEM at both speeds and that they were about the size of, and looked like, a golf cart. He also pointed out the advantages of having the vehicles insured. Fritz said she also had driven one of the vehicles. The position of the switch bothered her since the operator didn't even have to move their hand. Enforcement was her concern. She said thousands of people had driver's licenses, but that didn't make them intelligent. The courts were full of violators and speeders.

Lenox commented there was nothing mechanically good about a golf cart and the only hang-up everyone had about the GEM was that it only took a flick of switch to put it into high gear. He pointed out that everyone had to co-exist on the cart path. The GEM looked like the safest vehicle that could be gotten, but it just went too fast. Fritz said she also had concerns about the brakes and turning radius of the 4-passenger GEM. She said it seemed to take a long time to stop. Murray said they had had no problem with the brakes and found them better than golf cart brakes. Murray said they did find that the GEM had a wider turning radius, and that the steering was also different.

Rapson asked Mike Clevenger, the director of field operations for the GEM manufacturer, if he could address any of Council's concerns. Clevenger said they had looked at several possibilities and there was a way to put a cut-off switch so the vehicle wouldn't go over 15 mph, but that caused a problem with the federal regulations since the classification the vehicle fell under required vehicles to go 25 mph. If a vehicle went 26 mph, it must have an airbag. Clevenger said a lot of it would come down to the responsibility of the driver, and the GEM offered a better approach than anything used on the cart paths now. Clevenger explained the vehicle was designed for short trips around town of less than 10 miles. He added that was where most air pollution caused by automobiles came from, not the longer trips at higher speeds.

Rapson asked if Council needed more citizen input. McMenamin said yes and told Clevenger she thought the GEM was a good vehicle. She said she would like for him to address the groups that had concerns about the GEM and wanted more feedback from the path users. Clevenger said he didn't want the City to take a stance that prohibited the use of the vehicles already on the paths. He said the GEM offered more restraint and better conditions than what was currently in use on the paths.

Fritz asked how long there would be a tax credit. Clevenger said he couldn't answer that question. Tennant said the $5,000 tax credit was a big deal to people. He understood there was also a 10% federal credit. He also understood the tax credit was definite for this year, but might not be available next year. Clevenger said the federal tax credit was in effect until 2005, but the state tax credit ended December 31.

McMenamin said she would like to table the matter and get more information. Clevenger said there were significant tax credits out there now. The Police Department had tested the vehicle. Clevenger said he had warning stickers to go in the vehicle about the speeds. Tennant commented that 99% of the time golf carts were operated in a safe manner and added that it wasn't fair to penalize the majority of people who would use the vehicles safely for the potential misuse of a few. There was a sense of urgency regarding the tax credit. Rapson said he wasn't prepared to approve the changes to the ordinance because of a sense of urgency regarding the tax credit. He said he felt he didn't have enough citizen input to make a decision that would have long-term ramifications. Rapson said he agreed with the points on safety, but he wanted to hear about other issues and concerns from citizens. His concern was that the vehicle could be operated at 25 mph at the touch of a button and that speed was unsafe on the cart path system.

Lenox commented that in his opinion there was no difference between the GEM vehicles and golf carts when operated as designed except they were safer and more controlled. He said he couldn't find any reason not to allow the vehicles on the cart paths. He agreed with Tennant that he hated to penalize the majority for the actions of a few.

Tennant asked Rapson if he would support a $500 fine for the first offense of using the street mode on the cart paths and $1,000 for the second offense. Rapson said he wanted to hear from the citizens.

Wayne Carter told Council he had tried several golf carts and didn't like that his young children were bouncing around on the seats. As a stay-at-home dad, he said he would use the GEM vehicle as a primary mode of transportation. He liked the safety features of the vehicle.

Paul Rogers said he had already bought a GEM vehicle. He commented that it was physically uncomfortable to put the GEM in "street" mode on the cart path and that golf carts didn't handle as well as the GEM either. He also liked the fact the vehicles had seatbelts and were safer.

Ken Brackett commented the GEM vehicle was a safer alternative on the cart paths. He continued that the tax credit was received when the vehicle was registered, not purchased. He said he spoke to the Department of Natural Resources and the state Department of Taxation. Proposed legislation for next year would reduce the tax credit from $5,000 to $2,500.

Dick Allis, a member of the Peachtree City Running Club and Fayette Biking for Life, said Council was opening up a Pandora's box if they allowed a vehicle that could go 25 mph at the flip of a switch on the cart paths. His concerns were for the bikers and runners that used the paths. He said enforcement on the paths wasn't optimal and he seldom saw police. He said he liked the vehicle and he would use it but on the road.

Bill Pursewell commented that most people wouldn't be irresponsible with a $10,000 piece of equipment. He said he paid $1,000 for his golf cart and he knew it wasn't safe. He planned to test drive a GEM this weekend and said he would decide for himself if it was safer for him and his family than a golf cart.

Vernon Vincent said the GEM had an independent suspension and offered a better ride on the cart paths as well as safety. Insurance was the biggest item Council should look at. He said he would rather be in accident with a GEM than a golf cart and know there was insurance protection.

Al Gainley said he was also a GEM owner. He explained that the "turf" mode limited the speed of the vehicle to 15 mph and the "street" mode limited the speed to 25 mph. He said that was an important distinction. A digital read-out also indicated the speed, while there was no way to know the speed of a golf cart.

Michael Weiss said he was probably the first person in Peachtree City to be pulled over in a GEM vehicle. Golf carts had been the only option available to this point. Weiss said operating a GEM vehicle was a completely different mindset from operating a golf cart. He asked Council to trust the integrity of the majority of citizens to abide by the laws set forth.

Gary Rower told Council that he didn't own a golf cart or a GEM vehicle. He spent his time on the paths in tennis shoes or on his bicycle. He noted he had also been in near collisions with golf carts and had taken home kids after golf cart accidents. He said he supported the vehicles and they were a vast improvement over golf carts.

Cathy Gainley pointed out that each GEM vehicles also had its own key and that if someone stole a GEM they were stealing a car, not a golf cart.

Chief Murray recalled that one of the issues the police dealt with when neighborhood electric vehicles were introduced was the availability of keys for stolen golf carts. He stated that the number one crime committed in Peachtree City this year would be stolen golf carts. The police would love to have vehicles with separate keys like ignition keys to cars. There would be in excess of 60 stolen golf carts in the City this year and most would be found wrecked. A lot of time was spent investigating stolen golf carts, stolen golf cart accidents, and damage to people's vehicles.

Allis commented that the GEM would be a great vehicle as a golf cart and he would go along with it the maximum speed could be limited to 15 mph. His solution was to make it a non-road vehicle.

Lenox asked Murray if mountain bikes were used to patrol the golf cart paths. Murray said the paths were patrolled and the department made more cases this year than last year on underage golf cart drivers. If a 14-year old was caught driving a GEM, the teen would be charged for illegally operating the vehicle and the parents would be charged to allowing it. That would also affect insurance and a potential violation could cost $400 or $500 a year on insurance.

Tennant moved that Section 78-91 of the City Code of Ordinances be amended to make provisions for the use of low speed motor vehicles and for other purposes as presented in the draft before

Council. Fritz seconded and commented that she also came in feeling it wouldn't work, but had changed her mind.

Rapson said he had also changed his mind. He listed 16 different items that the citizens had mentioned. One item was the vehicle was limited to 25 mph. He added he felt it was a different mindset when in the vehicle since seatbelts were buckled, there were turn signals, and it was safer. He was assured the state tax credit for the vehicle would be gone next year. He felt there would be an enforcement issue that needed to be dealt with. He felt the problem would be on the streets more than the cart paths.

McMenamin said her other concern would be the fine. Lindsey said he would bring that back and that the fine could be up to $1,000. He said he would talk to the judge about the fines and bring it back to Council on January 17. Rapson asked Lindsey if the judge had any discretion on the fine regarding first offenses in the ordinance as currently written. Lindsey said the minimum fine for an underage person was $250 for the first offense and $500 for the second offense. The rest were under the discretion of the Court.

Lenox called for the vote. The motion carried unanimously.

12-01-09 Consider Public Safety Retirement Plan
Lenox commented that Council had been working on this item for some time and Lenox and Fritz had been on the committee. Unfortunately getting the information together had been difficult and there hadn't been time for Council to act on it. A new committee needed to be appointed. He complimented the public safety service personnel, the chiefs, and Captain Ron Mundy who had worked hard on the project. It was an important goal to enable the City's public service personnel to retire at 55. He said that made sense and the question was how to make it affordable for everyone involved so it could be achieved.

Fritz echoed Lenox's sentiments. It was absolutely compelling that it happened and it was a matter of how it got done. She wanted to make sure the effort continued next year. She said she asked Rapson to step in since a lot of it was financial. Rapson said he would like to do that and it was the right thing to do and if the City could afford it.

Mundy commented that the effort had been underway for 10 years. It was first introduced in 1997 and pushed back. In June 2001, an appropriate program was presented to Council, and Fritz and Lenox to agreed to oversee further action. The committee was waiting for the final actuarial studies. He asked incoming Council to pledge to continue working on the issue.

<u>Council/Staff Topics</u>
McMenamin thanked Betsy Tyler and Jane Miller for their efforts in the evening's reception for Lenox. She also complimented Miller for her efforts when Basinger was on vacation. She thanked Lenox for his years of service. Fritz told Lenox she enjoyed the last four years. She appreciated everything she had learned.

Lenox moved to go into executive session for legal issues after a short break. McMenamin seconded. The motion carried unanimously.

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

There being no further business to discuss, Lenox moved to adjourn the meeting. McMenamin seconded. The motion carried unanimously. The meeting adjourned at 10:15 p.m.

Pamela Dufresne
Pamela Dufresne, Recording Secretary

Robert L. Lenox
Robert L. Lenox, Mayor

Jane Miller
Jane Miller, City Clerk

KILPATRICK
STOCKTON LLP
Attorneys at Law

Pb:
Original in vault.
Copy attached to
12-20-01 minutes in
minute book

Thanks!

January 18, 2002

9
m

Mr. Richard P. Lindsey
Webb, Lindsey, Collins, Jones
& Wade, LLC
400 Westpark Court
Suite 200
Peachtree City, Georgia 30269

Re: Lease Schedule 1 Supplementing Master Lease and Option Agreement Between Peachtree City and Georgia Municipal Association, Inc.

Dear Rick:

Enclosed is a copy of the Authorizing Resolution which needs to be placed in the City's Minute Book. We are preparing a complete transcript of the transaction and will forward a copy to you upon completion.

Thank you for your assistance and please call me if you have any questions regarding the enclosed.

Sincerely,

Deborah J. Van Duynhoven
Paralegal

Enclosures

cc: Kenneth B. Pollock

1277670v1

AUTHORIZING RESOLUTION

WHEREAS, the Council of Peachtree City has determined that a true and very real need exists for the acquisition of the Facilities described in the Master Lease and Option Agreement, as supplemented by Lease Schedule 1 (collectively the "Lease"), to be entered into between Peachtree City as lessee ("Lessee"), and Georgia Municipal Association, Inc., as lessor ("Lessor"), the form of which has been presented to this meeting; and

WHEREAS, pursuant to the terms of an Escrow Agreement (the "Escrow Agreement"), to be entered into among Lessor, Lessee, and First Union National Bank, as escrow agent (the "Escrow Agent"), the form of which has been presented to this meeting, (1) Lessor will deposit into the Project Fund held under the Escrow Agreement moneys to pay the costs of acquiring, constructing, and installing the Facilities to be leased under the Lease, (2) Lessor will deposit into the Capitalized Interest Fund held under the Escrow Agreement moneys to pay the interest components of Rental Payments under the Lease, and (3) Lessor will deposit into the Delivery Costs Fund held under the Escrow Agreement moneys to pay the costs of executing and delivering the Lease and related documents; and

WHEREAS, in order to raise moneys to fund the deposits with the Escrow Agent described above, Lessor will sell and assign to First Union National Bank (the "Purchaser") certain rights in the Lease and the Escrow Agreement, pursuant to the terms of an Absolute Assignment Agreement (the "Assignment"), to be entered into between Lessor and the Purchaser, the form of which has been presented to this meeting; and

WHEREAS, in order to secure the obligations of Lessee assigned to the Purchaser pursuant to the Assignment, Lessor will (1) grant to the Purchaser a first lien on and first security title to certain real property constituting the Facilities, pursuant to the terms of a Deed to Secure Debt (the "Security Deed"), to be entered into from Lessor to the Purchaser, and (2) assign to the Purchaser its right, title, and interest in and to certain contracts relating to the Facilities, pursuant to the terms of an Assignment of Contract Documents (the "Contracts Assignment"), to be entered into from Lessor to the Purchaser, the forms of which have been presented to this meeting; and

WHEREAS, after careful study and investigation, Lessee desires to enter into the Lease and the Escrow Agreement (collectively the "Contracts");

NOW, THEREFORE, BE IT RESOLVED by the Council of Peachtree City as follows:

1. The forms, terms, and conditions and the execution, delivery, and performance of the Contracts, forms of which have been filed with Lessee, are hereby approved and authorized. The Contracts shall be in substantially the forms presented to this meeting with such changes, corrections, deletions, insertions, variations, additions, or omissions as may be approved by the Mayor of Lessee (the "Chief Officer") or the Mayor Pro Tem of Lessee (the "Deputy Officer"), whose approval thereof shall be conclusively evidenced by the execution of each such Contract.

2. The Chief Officer or the Deputy Officer of Lessee is hereby authorized and directed to execute on behalf of Lessee the Contracts, and the City Clerk of Lessee (the "Attesting Officer") is hereby authorized and directed to affix thereto and attest the seal of Lessee, upon proper execution and delivery of the other parties thereto, provided, that in no event shall any such attestation or affixation of the seal of Lessee be required as a prerequisite to the effectiveness thereof, and the Chief Officer or the Deputy Officer and the Attesting Officer of Lessee are authorized and directed to deliver the Contracts on behalf of Lessee to the other parties thereto, and to execute and deliver all such other contracts, agreements, schedules, supplements, instruments, documents, affidavits, or certificates and to do and perform all such things and acts as each shall deem necessary or appropriate in furtherance of the performance of the Contracts, the investment of amounts held under the Escrow Agreement, and the carrying out of the transactions authorized by this Resolution or contemplated by the instruments and documents referred to in this Resolution.

3. The Mayor and Council of Lessee hereby designate the lease obligation contemplated by Lease Schedule 1 attached to the Lease as a "qualified tax-exempt obligation" for purposes of Section 265(b)(3) of the Internal Revenue Code of 1986, as amended (the "Code"), and covenants that such lease obligation does not constitute a "private activity bond," as defined in Section 141 of the Code, and that not more than $10,000,000 in aggregate principal amount of obligations the interest on which is excludable from gross income for federal income tax purposes (excluding, however, private activity bonds, as defined in Section 141 of the Code, other than qualified 501(c)(3) bonds, as defined in Section 145 of the Code), including such lease obligation, have been or shall be issued by Lessee, including all subordinate entities of Lessee and all entities which issue obligations on behalf of Lessee, during the calendar year 2001.

4. The form and substance of the Assignment, the Security Deed, and the Contracts Assignment, the forms of which have been presented to this meeting, are hereby approved, and Lessee requires that such contracts be entered into by the parties thereto in substantially the forms presented to this meeting with such changes, corrections, insertions, deletions, variations, additions, or omissions as may be approved in writing by the Chief Officer or the Deputy Officer of Lessee, whose approval thereof shall be conclusively evidenced by the execution of the Lease.

5. This Resolution, the Contracts, the Assignment, the Security Deed, and the Contracts Assignment, as approved by this Resolution, which are hereby incorporated in this Resolution by this reference thereto, shall be placed on file at the office of Lessee and made available for public inspection by any interested party immediately following the passage and approval of this Resolution.

PASSED, ADOPTED, SIGNED, APPROVED, AND EFFECTIVE this 20th day of December 2001.

ATTESTING OFFICER'S CERTIFICATE

I, **JANE S. MILLER**, the duly appointed, qualified, and acting City Clerk of Peachtree City **DO HEREBY CERTIFY** that the foregoing pages of typewritten matter constitute a true and correct copy of a resolution adopted on December 20, 2001, by the Council of Peachtree City (the "Governing Body") in a meeting duly called and assembled in accordance with applicable laws and with the procedures of the Governing Body, by a vote of 5 Yea and 0 Nay, which meeting was open to the public and at which a quorum was present and acting throughout, and that the original of the foregoing resolution appears of public record in the Minute Book of the Governing Body, which is in my custody and control.

GIVEN under my hand and the seal of Peachtree City this 20th day of December 2001.

Jane S. Miller
City Clerk, Peachtree City

(SEAL)