

**City of Peachtree City
Minutes of Regular Meeting
December 18, 2003
7:00 p.m.**

The City Council of Peachtree City met Thursday, December 18, 2003, 7:00 p.m., in the City Hall Council Chambers. Council Members attending were: Mayor Steve Brown, Annie McMenamin, Steve Rapson, Dan Tennant, and Murray Weed.

Announcements, Awards, Special Recognition

Mayor Brown presented outgoing Council Member Tennant with an award in recognition of his service on Council. State Senator Mitch Seabaugh presented outgoing Council Member McMenamin with an award in recognition of her 13½ years of service on Council. Jean Studdard from U.S. Representative Mac Collins' office read a letter of appreciation from Collins to McMenamin. Brown read a proclamation on City resident John Gardner's retirement from the Environmental Protection Agency. Gary Meier was recognized as the Employee of the Month for November.

Minutes

Tennant moved to approve the November 30, 2003, special called meeting minutes as submitted. Weed seconded. The motion carried unanimously.

Consent Agenda

- 1. Consider Resolution to Adopt Solid Waste Management Plan STWP Update**
- 2. Adoption of the Transmittal Resolution for the STWP/CIE Update**
- 3. Alcohol License – Change in Licensee – Longhorn Steakhouse**
- 4. Consider Street Resurfacing Agreement with Fayette County**
- 5. Consider Intergovernmental Agreement between City and Fayette County for Recreation Funds**

Tennant moved to approve the items in the Consent Agenda as submitted. McMenamin seconded.

Brown named the streets that would be repaved during the summer with LARP funding – Bridlepath Lane, Crossing East, Peachtree Parkway from McIntosh Trail to Crosstown Drive, Peachtree Parkway from Crosstown Drive to McIntosh Trail, and Senoia Road. The City would fund the following streets – Huddleston Road, Fountainhead, Columns Lane, Mantel Court, and Garrett Ridge.

Rapson noted that the contract between the City and Fayette County included an "on or before deadline" date of July 1. Rapson said that was the beginning of the County's fiscal year, but the City's fiscal year ran through September 30. He asked if that deadline would give the City enough time to execute the contract or if the contract should be extended through the end of the City's fiscal year. Leisure Services Director Randy Gaddo said that was enough time for the funds to be obligated. City Attorney Ted Meeker said that was fine.

The motion carried unanimously.

Old Agenda Items

11-03-01 Alcohol License – NEW – Rajkripa, LLC dba Kedron Wines & Liquor

Brown noted there was an additional interoffice memo on the dais entitled “Alcohol License – NEW – Rajkripa, LLC dba Kedron Wines & Liquor, December 18, 2003 Regular Meeting Agenda.” Attorney Gerald Benda represented the applicants, Mehul Patel and Narendra Patel. McMenamin moved to appoint Mehul Patel as licensee and Narendra Patel as License Representative for the alcohol license for Rajkripa, LLC, dba Kedron Wines & Liquor. Weed seconded. The motion carried unanimously.

New Agenda Items

12-03-02 Consider Alcohol License – NEW – Gumba’s

The applicant was not present at the meeting. Tennant moved to table the alcohol license for Gumba’s until the next meeting. Rapson seconded. The motion carried unanimously.

**11-03-08 Consider Lifting Multi-family Moratorium Relative to the
Stephens Tract**

Brown noted there was an additional document on the dais – Position Paper Regarding the Development of Residential Property in Industrial Zoning Districts Near the Approach Corridors to the Airport.

Bob Adams, applicant, told Council he was asking that the moratorium be lifted for the Stephens tract so staff could consider a plan for attached homes for seniors. He said the plan would be fee simple and not multi-family. The plan would be similar to Village on the Green, another subdivision in the City built by Adams.

Weed asked City Planner David Rast if the application was being considered under Section 1404 Appeals. Rast said yes, as an appeal to the moratorium. Weed said that, under that section, an appeal could not be piecemealed, and either the applicant was awarded complete removal of the moratorium for their property or not. Rast said that was correct and that the lifting of the moratorium applied to the entire tract.

Ralph Hall addressed Council and said he was tired of contractors asking to build senior housing so they could build more houses on smaller lots to increase their profit. Brown clarified that Adams was just asking to lift the moratorium so staff could look at his plan.

Phyllis Aguayo told Council it was not appropriate for Council to sell or trade zoning. She noted the property contained many acres of wetlands and floodplain. She asked how many homes could be built and if Council would rezone the property to a higher density than currently allowed. She said doing so would change the land use plan and the build out population. Aguayo recalled that she worked on the land use plan for the area in the 1980s and the concern for the wetlands and floodplain was the reason the area was land-used for single-family residential. Aguayo continued that she read in newspapers that a realignment of Rockaway Road was planned, but the City did not trade or sell zoning in

return for things. Either the plan was appropriate and good for the City or it was not. She said she was opposed to anything that increased density in that area.

Brown said everyone had raised good issues, but pointed out that Rockaway Road at present was a substantial traffic safety hazard. He continued that the City of Senoia wanted a traffic light at the intersection and wanted to mitigate the accidents in the area. Brown said that the realignment of Rockaway Road by the developer would be a significant windfall for the City since the road was such a safety hazard. The property owner was under no obligation to realign Rockaway Road. Peachtree City, the City of Senoia, and the Department of Transportation all recognized the intersection had many accidents, and preventive measures needed to be taken. Brown said the land was currently zoned industrial and the land use was medium-density single-family housing. Zoning the property for single-family residential would not get the road realigned. Brown said the road would not be realigned with industrial zoning since the property would have to be split into two parcels, which made the property useless for industrial property. A developer had to do something to recoup the costs of putting a road built to state standards. Brown said he liked Adams' plan because it was for senior housing, which caused no significant increase in morning or evening commuter traffic; did not add children to the schools; did not increase crime; and did not flood the City's recreation programs. He said he could see a rationale for allowing the development, noting that the City could not afford to condemn the property to achieve the road realignment.

Weed moved to deny the request. McMenamin seconded.

Weed continued that he was talking about the legal foundation for a moratorium. He said there was no such thing as lifting part of a moratorium.

Weed said Adams had appealed for the moratorium to be lifted for the entire tract. Either Council meant what it said or it did not. He said if Council wanted to lift the entire moratorium that was one thing. Weed said lifting the moratorium could not be done piecemeal. Weed said he was fully supportive of senior housing and his vote was not a comment on small lots or seniors. His concern was simply the validity of the moratorium and whether Council supported the moratorium or not.

Brown said he agreed with Weed, but he would like to see a way to build into the process the opportunity to look at plans without an application so there would be feedback on whether a plan was viable or not. Weed said the problem was vested rights and allowing people to submit a plan and spend money to create a plan built a case for vested rights. Brown pointed out that the language in the multi-family moratorium in Section 1402 talked about multi-family housing creating a burden on the Police Department, overburdening area schools, exhausting available resources, and traffic congestion. Brown said that would not be the case with this development. Brown said he hoped to find a way to look at the plans.

Tennant said he had concerns about the precedent Council might set by lifting the moratorium for this plan, but chose not to lift the moratorium three months from now. Tennant agreed with Weed's observations.

Brown noted that Council had already set precedent when the moratorium was lifted for the Wieland development on the Katz property. Tennant reiterated his concerns.

Adams asked if the concern was because he was asking to lift the moratorium on the entire parcel. Weed reiterated that just a piece of a moratorium could not be lifted. Weed asked Adams if he acquired the property before or after the moratorium was in place. Adams said after. Weed asked Adams if the property currently had value. Adams said he had an option to purchase the tract and that there was no value to him at the current price point. Adams also noted that multi-family included attached homes, even though they were fee simple. Adams noted that his company had eliminated over 850 apartments in the City and replaced them with over 350 single-family homes over the last 10 years. He continued that there was only a handful of youth in those subdivisions. Adams said he was just asking the City to consider his plan and let him make an application to staff. Currently, he could not even do that. Brown asked Meeker if there was any way staff could look at the plan. Meeker said they could not under the terms of the current moratorium.

McMenamin told Adams she had great respect for him and the integrity he brought to building in the City. Her dilemma, at her last meeting, was not whether she should lift the moratorium. She said she would have no problem with lifting the moratorium for discussion, but she did not believe the fit was right. She said she would not approve putting so many senior citizen homes by the airport. The airport was supposed to be in an area where it could bring in corporate aviation that would support the economic development in the City. She also expressed concern about the location on Highway 74. McMenamin said getting Rockaway Road realigned did not have a dog in the fight. The project had to stand on its own integrity. Adams said that since he could not make application to staff he did not have anything to show Council demonstrating what he meant to do.

Tennant asked Adams if he intended to ask the City to rezone the property to a higher density if the moratorium were lifted and he could submit a plan. Adams said he would, but for now was asking for the opportunity to present the plan to the City.

Brown noted the City was pursuing a road safety grant from the Department of Transportation for the realignment of Rockaway Road because it was a safety issue. He said that grant would offset some of the costs of realigning the road. Brown said he would work with any developer who wanted to build a non-destructive development in the area to offset some of the costs of realigning the road. Brown said safety concerns were a primary reason for exceptions. He asked Adams if he could present the road plan without connecting it to multi-family housing. Adams said he could not because it was not financially feasible.

Rapson said he had the same concerns he had when Council considered a rezoning for the tract earlier in the year. The Airport Authority had major concerns based on their long-range plans. He said he had issues with the land use designation for that reason and would have a hard time approving the lifting of the moratorium. Rapson said industrial zoning was more suitable for the area because of its proximity to the airport. He said he would not consider a rezoning or reclassification to get a road. Rapson said citizens cared about their quality of life.

Weed amended his motion and included the findings that the applicant had the option to purchase the property and acquired the option after the moratorium went into effect; that after considerable discussion, Council reviewed the facts including the current land use and zoning information as allowed under Section 1404(b); and after hearing the applicant Council determined the applicant was not severely prejudiced and therefore Council found it was not appropriate to lift the moratorium. Tennant seconded. The motion carried unanimously.

11-03-09 Public Hearing – Section 1504, Zoning Ordinance

Rast addressed Council and said this amendment was a housekeeping issue. Rast referred to Chapter 2 and the section on public hearings and time limits. Section 1504 referred back to the section, and staff wanted to clarify that reference.

McMenamin noted this was clearly a housekeeping item and moved to approve the amendment to Section 1504. Tennant seconded. The motion carried unanimously.

12-03-03 Public Hearing – Zoning Notification Requirement

Rast addressed Council and said the issue had come up during the land use plan update and rezonings a few months ago. He explained an extensive amount of research went into finding out the names and addresses of property owners. The requirement to send the notices by certified mail was very expensive and time consuming during the land use plan rezonings. Staff also found that a number of the certified letters were returned to the City or never picked up. Staff proposed the ordinance section be changed to delete the certified mail requirement for adjoining property owners and that notification be made by first class mail. Rast noted that the City's ordinance exceeded the state requirement currently and would still exceed the state requirement if Council approved the suggested amendment.

Brown noted that one of the key things to prompt the change included a proposed zoning change for the Planterra Ridge Golf Course that included 450 homes in Planterra Ridge subdivision and all the industrial property. Brown said the notification would have been a massive and expensive undertaking.

McMenamin said Council had always tried to keep the citizens apprised of events in the City. She felt it was a mistake to no longer mail the Update newsletter to residents since they had learned to recognize the newsletter. Residents did not always watch television,

read newspapers, or read their mail. She agreed it was a waste of money to send the notifications via certified mail and felt the sign was the best method of advertising.

McMenamin moved to approve the amendment to Section 1304. Weed seconded. The motion carried unanimously.

**12-03-04 Public Hearing – Policy/Ordinance regarding Gas Stations
on Outparcels**

Rast reminded Council that this agenda item came from the Retreat. He noted that many larger retail chains were including gas stations in their parking lots. The stations did not meet the design standards of the shopping centers and seemed to just have been “plopped” in the center of the parking lot so customers had no choice, but to drive through them as they entered and left the center. Rast said staff looked at the City’s ordinance and at other communities that had adopted regulations for the gas stations. Currently, gas stations were allowed as a conditional use in limited commercial and general commercial zoning; however, the attached regulations were not stringent. He said they tried to come up with guidelines for staff and the Planning Commission to follow as the plans went through the review process. He said the amendment was to the existing limited use commercial zoning district and its conditional uses and included 14 criteria that a plan for a gas station would need to meet. Rast said the amendment did not restrict stations, but addressed specific criteria. McMenamin asked if anyone had submitted a plan yet. Rast said there had not been a formal submittal, but staff had met with representatives from Kroger who planned to install stations at Braelinn and Kedron shopping centers.

Aguayo asked why the City was not restricting the stations since gas stations were already allowed in certain zoning districts. She asked if the City wanted to set criteria to allow stores to build gas station additions or if the City wanted to preclude this type of development. Brown said a Suwanee council member sent him photos of such a gas station in that city. He said the amendment was the City’s attempt to be proactive and would set a standard for the state. Brown continued that the shopping center owners could still cordon off part of the parking lot as an outparcel for a conditional use for the property. Brown said they were trying to ensure the structures matched the shopping centers, were aesthetically pleasing, and did not interfere with the flow of traffic.

Rapson agreed with Aguayo and said the stations were almost exploiting the existing loopholes in the ordinances. As long as the plans conformed to the rules that were in place, the structures were allowed. Rapson said Council was creating an outparcel requirement for that specific zoning area that had to be met. He said he was concerned also about tire sales and emissions stations. He felt they might want to broaden the criteria so they would also fall under the same strict guidelines. Rast agreed with Rapson and said it was a good idea to close the loophole.

Rast summarized that they were trying to treat the gas stations as stand-alone outparcels that would have to have a minimum lot size, meet setback and buffer guidelines, the

architecture had to match the colors of the shopping center, specific lighting requirements, no outdoor displays, and other criteria. Rast added that several of the criteria were included in the 54 West guidelines so there would be consistent standards in place. Brown said the ordinance would be one of the best in the state and the City was one of the first to take the "bull by the horns."

Rapson asked Meeker if Council should incorporate any of the items he discussed in the ordinance. Meeker said it depended on whether Council wanted to go through another public hearing process. Tennant said they should capture everything they wanted in the ordinance now and modify the ordinance later if needed.

Weed moved to approve the amendment to Section 1005.3 Conditional Uses with the modification to the introductory paragraph to Section 1005.3(b) to read as "automobile service stations, grocery stores, convenience stores with gasoline sales, other business establishments that sell pump gas or tire and battery sales and service operations, and emission testing facilities on the following conditions". Rapson seconded. The motion carried unanimously.

12-03-05 Consideration of Variance Request – 330 North Peachtree Parkway

Brown noted that Council had received a request from the applicant asking that the variance be continued until the January 15 meeting. Meeker said the variance might need to be re-advertised. Meeker said he would check on the advertising requirements. McMenamin moved to table the variance request for 330 North Peachtree Parkway until January 15. Weed seconded. The motion carried unanimously.

12-03-06 Consider Amendment to Zoning Ordinance – Failure of Applicant to Appear

Rast noted that several months ago a variance request was placed on the agenda, the legal ads ran, the signs went up, and the applicant failed to attend the meeting and had not notified anyone he would not be attending. There was some concern over whether Council could go ahead and hear the case. Rast continued that the variance request was more administrative and Council heard the case and made a decision. Rast explained that staff wanted to add language regarding what happened if an applicant failed to appear for a public hearing. The amendment would allow Council to take action on the request or continue the request with any associated costs to be the applicant's responsibility. Rast said staff recommended approval.

Bob Brown suggested that if an applicant did not appear at a hearing Council disapprove the request, and then the applicant could not reapply for six months.

Weed moved to approve that the amendment to Section 1304(1)(c) as it appeared in the packet. Tennant seconded. The motion carried unanimously.

12-03-07 Consider Change to Employee Dental Insurance Carrier

Deputy City Clerk Betsy Tyler addressed Council. She noted that the cost of insurance was going up again and Ameritas, the City's current plan, had increased their rate for dental insurance upon renewal by 31%. Staff asked the City's insurance broker to see if there was a more reasonable rate available. The best rate submitted was from Companion. She continued that staff recommended Companion be selected as the provider for employees and that Council accept the plan that cost \$23.78 per month for employees only and \$70.49 for employee/family. She noted that the costs were more than the cost of the current plan, but less than the increase charged by Ameritas. Tyler said there were some changes in the coverage. The plan did not provide orthodontic coverage for adults, but had a lifetime deductible of \$100 versus a \$50 a year deductible per covered patient. The annual maximum coverage for any covered patient would increase from \$1,000 to \$1,500. The second element of the recommendation for Council to consider was that incremental costs between this year's cost and next year's cost be passed on to employees as had been done with the medical insurance. She noted that the City paid the employee cost and the employee paid the family cost. The additional cost to the employee would be \$2.46 per month or about \$1.25 per paycheck for an employee to maintain insurance for themselves or \$5.37 for a family. There would then be no impact on the budget.

Brown said it was extraordinary for the plan to offer a \$100 lifetime deductible and \$1,500 annual maximum. Brown asked if there was any data on how many firms retained the plan after the first year. Dave Knight of J. Smith Lanier and Company, the City's insurance agent, said the policy was fairly new and he hoped there would not be a big increase in rates at renewal. Only one company had offered the concept for about 10 years and people liked it. He hoped there would not be a big increase at renewal, but Knight said the City could go back to the marketplace. Knight added he had not heard anything negative about the company or plan, and they had received some references.

Brown asked how long Companion's plan had been offered. David Adams, Companion's representative, said the plan had been available for three years. The price increases in the plan had been within the industry trend of 10-12%. He noted that this was a new idea that was catching on. He said Companion was an A-plus carrier and was financially strong. He added that some of the references they had checked were from municipalities.

Tennant moved to approve the employee dental coverage for Companion Insurance Company at a rate of \$23.78 for employee coverage and \$70.49 for employee/family coverage with the understanding that employees would be responsible for any amount over \$21.32 per month. Weed seconded. The motion carried unanimously.

12-03-08 Consider Appointment of Municipal Court Judge

Brown said he had asked staff questions regarding the selection criteria that staff could not adequately address, and Brown moved to continue the agenda item until January 5. Rapson seconded. Rapson asked what effect moving the appointment date would have on the court system. Meeker said the current judge would continue to serve until another

one was appointed. McMenamin asked Brown what the problem was with the Request for Proposal (RFP).

Weed asked for clearance from the City Attorney before the discussion began. He said he and Eric Maxwell, the recommended appointee, were members of the same Rotary Club and were friends. Meeker said that was not a conflict. McMenamin and Tennant also acknowledged friendships or campaign contributions.

Brown said he had asked what the specific criteria were used in the selection for the RFP process. McMenamin said the staff discussion in the position paper was very clear on why they recommended Judge Maxwell. She said she knew all of the applicants, as did Tennant. McMenamin continued that Council went through the process a few years ago and that Maxwell came with a very high rating. As Maxwell became the Judge Pro Hac, McMenamin said she was told he would make a very good judge once he had some experience. McMenamin said she did not understand the delay and that she felt very comfortable with the position paper. Brown said he had nothing against Maxwell, but some of the rates were hourly, others were monthly, and some were per court session. Brown said he wanted an “apples to apples” comparison and wanted the matter to go back to staff for more thorough answers.

Weed asked if someone had a copy of the RFP. McMullen said there was a copy in the office, but not at the meeting. Rapson suggested staff normalize the rates so Council could have an “apples to apples” comparison in order to make an intelligent decision. He said Council would have to make assumptions based on the information they had been given, rather than deal with facts.

McMenamin said Council wanted to select the best judge, not necessarily the person with the lowest rate, and she would hate to see any problems in the Court as a result since the Court had a good reputation established under Mitch Powell. Weed said he did not want anyone to say they had not made a fair comparison. Tyler said the RFP had not specified a format for the salary requirement. She said the second page of the position paper was an attempt to normalize the bids by estimating the annual cost for each proposal.

Brown questioned why the municipal judge would be needed after hours. Meeker said Maxwell was used when a judge was needed after hours at the jail, when detainees had to be bonded within 72 hours of arrests. Police Chief James Murray said Judge Powell lived in Coweta County and had not always been available after hours. The judge was needed rarely after hours and that was not a major amount of money. He said Maxwell, as judge pro hac, was usually called after hours if a judge was needed.

Rapson estimated that around 400 hours was required of the judge during a year and said that, based on the bids as submitted, Sharon Pierce’s bid was lowest and Maxwell’s was second lowest. Murray pointed out the hours could also vary depending on how a judge ran the court.

Rapson asked McMullen about the staff recommendation and said he assumed that the staff recommendation for Maxwell was based on the qualifiers – experience, resume, and salary. McMullen told Council there was very little difference in salary, but Maxwell had experience with the City court because he has served as judge pro hac.

Rapson removed his second to the motion to continue. The motion failed.

Tennant moved to appoint Eric K. Maxwell as the municipal judge at the rate of \$95 per hour for normal business hours and \$125 per hour for after hours. Weed seconded. Weed added that he would like to see the RFPs included as part of the packets in the future. The motion carried 4-1 (Brown).

12-03-09 Consider Holiday Pay for Temporary Employees

Brown noted there was an additional document on the dais regarding this agenda item – an interoffice memo entitled “Additional Personnel Requests – Tennis Center and Amphitheater Employees.” Leisure Services Director Randy Gaddo noted that this information had come in after the meeting packets had been put together. He said the Amphitheater and Tennis Center employees had been hired as City employees and had fallen under his division. He continued that normally temporary employees did not receive holiday pay, but pointed out this was an unusual circumstance and an unprecedented event. Gaddo said it was the fair thing to do to grant those employees holiday pay. Gaddo asked for three days holiday pay for seven employees. Part-time and contract employees were not included the request. The cost would be \$2,579.46; however, that should be covered by the funds already budgeted for salaries.

Gaddo continued there were other issues and asked Council to waive policy and pay one temporary part-time employee holiday pay for four hours in order to open the Tennis Center on January 1. Based on historical numbers, Gaddo said about 100 people used the Tennis Center on January 1. The center had historically been open from 10 a.m.-6 p.m. on New Year’s Day. The budgetary impact would be \$32.

Gaddo also asked for an additional three days of personal time for the seven full-time staff members to mitigate discrepancies that occurred during the transition. He noted that the employees had earned hours and made plans for the holidays, but lost the hours during the transition. He said there would be no additional cost because the money was already budgeted. The employees would be paid vacation hours rather than on-the-job hours.

Rapson said when Council took the action to make the Amphitheater and Tennis Center employees temporary City employees they had not wanted to penalize them. Rapson said the requests were adequately addressed by staff and were reasonable. He moved to approve the item in the meeting packet in reference to holiday pay for the seven full-time employees, the policy waiver for the one part-time employee on January 1, and the additional three days of paid time-off for the seven full-time employees at the facilities. Weed seconded. The motion carried unanimously.

12-03-10 Update on Hotel/Motel Tax

McMullen told Council that the City was collecting hotel/motel tax at a rate of 6% based on a legal opinion on December 28, 2001. A subsequent opinion raised an issue about the distribution of the money, which had been distributed directly to the Airport Authority and Development Authority. Because of the questions raised, McMullen said the distribution of the tax had been put on hold. According to state code, the money must be expended in each fiscal year the taxes are collected and McMullen said the City had until September 30, 2004, to properly expend the taxes. He continued that staff was working various avenues to deal with the issue, such as the Peachtree City Tourism Association. McMullen continued there was also a question with the Airport Authority distribution and how it would affect grant funding. The question was whether the funds could be distributed directly or if they had to contract with another organization that was already certified as a 501(c)(6).

Council/Staff Topics

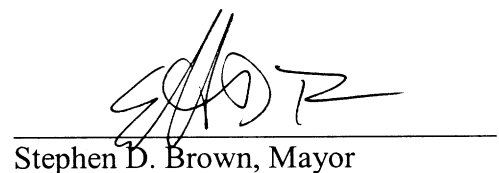
McMullen thanked McMenamin and Tennant for their support on behalf of staff. McMenamin said she had always received tremendous support from staff. She continued that Council did very little and staff made Council look good. Tennant echoed McMenamin's comments and thanked staff for their efforts.

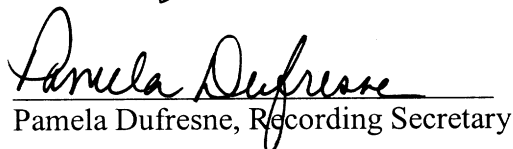
Brown noted that this meeting was the last for Add Seymour of the Atlanta Journal-Constitution, who would now cover Clayton County.

Rapson said he wanted the Planning Department to look at the land use plan designation for the Stephens tract.

There being no further business to discuss, McMenamin moved to adjourn the meeting. Tennant seconded. The motion carried unanimously. The meeting adjourned at 9:00 p.m.


Betsy Tyler, Deputy City Clerk


Stephen D. Brown, Mayor


Pamela Dufresne, Recording Secretary