

City Council of Peachtree City
Minutes of Special Called Meeting
December 14, 2006
6:00 p.m.

The City Council of Peachtree City held a Special Called Meeting on Thursday, December 14, 2006, in the City Hall Council Chambers. Mayor Logsdon called the meeting to order at 6:00 p.m. Other Council Members present were: Steve Boone, Stuart Kourajian, Cyndi Plunkett, and Judi Rutherford.

The purpose of the meeting was to consider the acceptance of the dedication of the TDK right-of-way from the Peachtree City Airport Authority (PCAA) and to hold an executive session.

City Attorney Ted Meeker addressed Council regarding the consideration of the acceptance of a quitclaim deed dedication of the right-of-way necessary for the TDK Boulevard extension. Meeker noted there were additional documents on the dais, including copies of the quitclaim deed from the PCAA to the City and the limited warranty deed from PCH Investments, LLC, to PCAA, which actually conveyed the right-of-way to the PCAA on November 1. The last document was the survey plat that incorporated the road.

Logsdon asked Meeker to explain why Council was holding the special called meeting. Kourajian told Logsdon that he felt Council was being bullied into making a decision in the 11th hour. He continued that he also felt bullied with the GRTA decision on the Developments of Regional Impact (DRIs). Council needed to take a step back and decide what was best for the City.

Kourajian moved to deny the acceptance of the dedication of TDK right-of-way from the Airport Authority; that the enhanced runway safety area of Falcon Field remain as it was following the purchase from Sequoia Golf, that Council request an extension until January 18, 2007, from Pathway to accept the right-of-way, that Council not support the TDK extension in its present form, and that Council encourage the Fayette County Board of Commissioners to withdraw their support and funding. Those conditions were to stay in effect until such time as a more comprehensive traffic plan was established that would address traffic congestion in and around Peachtree City, alternate primary traffic routes to I-85 North were provided, financial assistance to the required City intersection improvements was provided, and the impact to Falcon Field was assessed. Plunkett seconded.

Meeker answered Logsdon's earlier question. He said that the limited warranty deed between PCH Investments and the PCAA had a reversion clause. With the typical reversion clause, the title to the property would revert back to the original owner, the person who conveyed the property, if certain events did not happen. There were two events under which the property could revert back to PCH Investments. The latter was the building of the road within three years, which staff had been aware of at least two weeks prior to the closing. The other event was that the City had to accept the dedication of the right-of-way by December 15, 2006.

Rutherford asked when the reversion clause had been added. Meeker said it had been added sometime between when the draft was forwarded to the City for review, when the City said there was no problem with the three-year requirement for road construction, and the closing date among the other parties. The City was not a party to any of the closings. Kourajian asked when that occurred. Meeker said it was approximately two weeks prior to the closing on November 1.

Plunkett asked Meeker when the City became aware of the December 15 deadline. Meeker said it was on Tuesday, December 12, around 10 a.m. Rutherford noted that the City became aware of the deadline during the PCAA Selection Committee interviews. City Manager Bernard McMullen said that was correct. Meeker said McMullen called him, then Meeker called Doug Warner, the PCAA attorney.

Plunkett asked if there had been any communication from Pathway Communities regarding the approaching deadline. Meeker said he not heard anything from Pathway. After speaking to Warner, they looked into it further. Meeker continued that he had spoken to Warner a few weeks ago and told him the acceptance should be on the January 18, 2007, Council agenda. Kourajian verified that was after the closing. Meeker said yes. He continued that Warner told him he had immediately contacted Pathway to request an extension of the deadline following their conversation on Tuesday. Rutherford said she understood Pathway had been willing to grant an extension providing the City paid the legal fees. Meeker said he understood the initial response was Pathway did not think there would be a problem extending the deadline. Subsequently, they requested the PCAA cover the legal costs associated with drafting the extension.

Meeker continued that he spoke with Warner and his associate Matt Ramsey on Tuesday afternoon, who said it would be better for Meeker to speak with the PCH Investments' attorney. Meeker said he had spoken with PCH Investments a couple of times over the last few days, and they were not willing to extend the deadline.

Rutherford said she understood that they wanted the City to pay the legal fees for the extension, not that they were not willing to grant an extension. Logsdon said he was not willing to pay the fees. He also spoke to Doug Mitchell of Pathway/PCH. The gist of that conversation was that Pathway preferred the property revert back to them rather than grant an extension. Logsdon said he preferred to have the right-of-way under City control, so the City could dictate what happened, rather than have it in the developer's control.

Plunkett asked if the clock started ticking on the three-year road development if Council accepted the right-of-way at this meeting. Meeker said that clock started at the closing on November 1. Plunkett asked if the closing started the ball rolling for funding from the Department of Transportation and the County Commission. Meeker said the closing was a step in the process, but was not the end step. Plunkett said if the right-of-way was in Pathway's hand, nothing would happen because they did not have the resources to build the road. Meeker said the City could not build the road until the right-of-way was obtained.

Logsdon said that the developer could build the bridge and the road, but he felt the City was better off if it was in its hands. He had spoken with Fayette County Commission Chairman Greg

Dunn and Commissioner-elect Jack Smith that day, and he was told the Commissioners did not intend to build the road if the City did not want it.

Kourajian asked if the bridge would land on City, County, or Pathway property. The developer would need approval to build the bridge from the City or County if the developer did not own the property the bridge would land on. Meeker said that, based on the plat on the dais, the road would have to go through some Fayette County property. McMullen said, to the best of his knowledge, Fayette County owned property around the dam and where the bridge would land. The plat on the dais did not show the property all the way to the dam. Rutherford said she recalled that the County owned the land to the creek.

Boone asked about the FAA grant used to purchase the land. He asked if the City would have to pay for the land twice if the right-of-way reverted back to Pathway. Meeker said that, according to Warner, it was not a situation where the City would have to pay twice for the property. There was some property trading involved. Pathway was given money for the roadbed that was at issue, but they also agreed to donate the roadbed of the former TDK plan to the PCAA. He had not seen all of the closing documents, but the bottom line was that the PCAA used certain FAA money to acquire the two holes of the golf course and some of the surrounding property. Sequoia Golf used that money to purchase some of the land needed to re-locate the golf holes.

Rutherford noted that there were at least two opportunities before the City had to make a final decision on the road. Meeker said there would be at least two more occasions where issues would be brought back to Council. Rutherford clarified that the City would have control over the property if Council accepted the right-of-way at the meeting. Meeker said the City would have to ask Pathway for the property again if the right-of-way reverted back to their ownership. Boone said that would be where the City could be held hostage again. He would rather see the property in the City's control, with or without TDK Boulevard.

Kourajian said Council would be making an emotional decision if the right-of-way was accepted at this meeting. He said the City could go to the PCAA to get the money for the legal costs. Boone asked why Council would want to spend City money. Rutherford said it would be PCAA money. Logsdon said the PCAA felt it was not obligated to pay the fees since Council was responsible for the acceptance. Kourajian said if Council had been told about the deadline, the City would not be in this position.

Logsdon said he wanted the City to have control of the right-of-way. Boone agreed. If the right-of-way was in the City's control, it would be a win-win for everyone, and the City could mandate in the future whether there was a decision to extend TDK or not. Plunkett said Council was allowing someone else to dictate to them now. She read all the documents, but had only had 12 hours to digest the information.

Rutherford clarified that Pathway was not willing to extend the deadline. Meeker said that, by his interpretation, the acceptance had to be by midnight. Until now, the answer had been no on extending the deadline, and he saw no reason for Pathway to change its mind before midnight.

Kourajian asked how Meeker knew Pathway was not willing to discuss an extension. He asked Meeker when he last spoke to them. Meeker said he spoke to the Pathway attorney at 4 p.m. that day. Kourajian stood by his motion. Logsdon said Council might be pushed into making a decision, but felt there had been time to make a rational decision. Any time the City had control, it was better. Kourajian did not disagree with the fact that control was best, but said there must be a reason Pathway did not want to extend the deadline. He questioned why. Rutherford asked why Pathway had slid the reversion clause in the agreement between the time the City had looked at the draft and the time the agreement was signed. Plunkett said there might be a perfectly legitimate answer, but Council could not get that answer due to the arbitrary time constraints.

Rutherford asked how Council could be sure Pathway would be willing to give the right-of-way back. Meeker said he was told the right-of-way would be donated to the City when the City was ready to take it. Rutherford questioned how the City could be sure that would happen. Boone said the City could be held hostage again if Pathway and Tom Reece got together and put in a road. He had a problem with not having control of the property. Plunkett said she was not ready to accept the right-of-way.

Rutherford asked if Council chose to accept the right-of-way, but chose not to build the road, then could the City just plant flowers in the right-of-way. Meeker said yes, but the right-of-way with the flowers would revert back to Pathway if the road was not completed in three years. Rutherford reiterated that Council still had to approve at least two more steps, including engineering funds. Plunkett said if Council did nothing in the next year, there was no way the road would be completed within three years.

Logsdon said Pathway's concern for the road was their landlocked property. Rutherford clarified there was a triangle-shaped parcel owned by Pathway that needed access. She asked where it was located in relation to the right-of-way. Meeker showed where the parcel and the right-of-way in question were located on the plat.

Logsdon opened the floor for public comment. Meeker reminded Council there was a motion on the table. In order to take public comment, he said Council Member Kourajian should withdraw his motion, and Council Member Plunkett should withdraw her second. They could listen to the public comment, then renew the motion. Kourajian asked if another Council Member would make a motion in his stead if he removed his motion. Council agreed to let Kourajian renew his motion. Kourajian withdrew his motion. Plunkett withdrew her second.

Residents who addressed Council included Steve Brown, Richard Spain, Gale Sanders, Doug Sturbaum, Laura Johnson, Darcy Pitts, Dixie Jennings, Phil Jones, Jim Savage, and Juan Matute. Their comments included the following:

- The original premise for building the road was traffic relief.
- Traffic numbers and models were always deflated when developers' engineers did the studies.

- The Coweta County Developments of Regional Impact (DRI) would significantly affect traffic.
- There was a significant amount of undeveloped land in eastern Coweta County, even when taking the three DRIs into consideration.
- The TDK extension was a key route in Coweta County's transportation plan.
- Falcon Field's runway zone was protected without accepting the right-of-way.
- The TDK extension was a key route in the development of that area of Coweta County.
- There were questions as to when the reversion clause was added and why Council had not been informed.
- The developer's control of the 11th hour decision put the control in their court.
- The TDK extension only benefited Coweta County.
- There were concerns that there had been no public hearings or input for such an emotional issue.
- There were questions as to how the City got into this situation.
- Big box development should be stopped to alleviate traffic.
- Pathway normally threw in contract changes at the last minute.
- Accepting the right-of-way was not a negative; control of it was positive.
- Change was inevitable, but it should be managed.

Rutherford said the City had appealed GRTA's Notice of Decision. Logsdon said he had spoken with GRTA that day, and the dialogue had been good. They were going to review the Notice of Decision.

Logsdon noted that the City held a workshop a few months ago on the TDK extension and had invited all the elected officials in Fayette and Coweta Counties. No one attended from Coweta County. Fifteen people spoke – seven in favor of the extension and eight against. The Chamber of Commerce spoke in favor of TDK. Rutherford added there had been public input on multiple occasions. Rutherford said that, even if Council accepted the right-of-way, the process was not over. Kourajian recalled that County Commissioner Dunn said the County had enough money to build a two-lane bridge, but not a four-lane bridge as GRTA put in the Notice of Decision. Rutherford said she would not support a four-lane bridge. Logsdon said no one would. TDK was designed as a relief corridor, not anything further. Rutherford noted that the TDK extension would provide another cross-county route, which was needed. The TDK extension was not a bad thing. She said they had to look at all the information.

Logsdon said that Fayette County and Coweta County would double in population over the next several years. Georgia 54 would not be able to handle that traffic. There had to be other east-west corridors into Coweta County, maybe at Crabapple or Dogwood. Georgia 54 would get slammed with the growth. Logsdon said he told the state that the GA 54/GA 74 was stressed and could not handle another four-lane road dumping traffic onto it. There needed to be more four-lane roads leading to I-85 in Coweta County. He said the City had to be a regional player; it could not be isolated.

Boone said that in DRI the plan was to four-lane old 85 on the south side. There should be pressure on the Fayette County Commissioners to work with Coweta County and the legislators to examine and look at four-laning corridors in Coweta County to alleviate the problems on GA 54. All the future development was going to jam GA 54 up again.

Plunkett said that Coweta County could do whatever it wanted, and the City and Fayette County did not have a say in that. Those people would want to come this way. TDK could be one of the solutions, but it was not just residents, but also commercial development. Commercial development would not go in without access to Fayette County. Her concern was building TDK without trying to direct the growth in the surrounding area so it was more reasonable and manageable. Boone noted that the City's original population was projected to be 80,000 with a clover-leaf at GA 54/GA 74. Instead, the City had 36,000 after 50 years. Reece and the other developers had aggressive plans that would happen over time, possibly past 2016.

Rutherford said the only thing that would bring the City to the table in Coweta County was to build the TDK extension. If the City was not at the table, it would not have a voice. Boone added that GRTA's plan was for a four-lane road and four-lane bridge. The City had to have a seat at the table. Rutherford said it was appropriate to look at the choices the City had at this meeting; it would not be the last opportunity to make or break the road. It was the first of many challenges.

Kourajian explained how the situation for the special called meeting had come about. Council had been aware that the agreement between the PCAA and Pathway required the road to be built within three years, but there had been nothing in the draft Council and staff had seen about the deadline to accept the right-of-way. Everyone had tried to work it out and had spent until 5 p.m. on December 13, the deadline for the special called meeting notice, trying to do so. Rutherford added that, so far, all of the contracts had been signed outside the realm of the City, which was why Council looked ridiculous and was unhappy.

Kourajian reinstated his earlier motion to deny the acceptance of dedication of TDK right-of-way from the Airport Authority; that the enhanced runway safety area of Falcon Field remain as it was following the purchase from Sequoia Golf, that Council request an extension until January 18, 2007, from Pathway to accept the right-of-way, that Council not support the TDK extension in its present form, and that Council encourage the Fayette County Board of Commissioners to withdraw their support and funding. Those conditions were to stay in effect until such time as a more comprehensive traffic plan was established that would address traffic congestion in and around Peachtree City, alternate primary traffic routes to I-85 North were provided, financial assistance to the required City intersection improvements was provided, and the impact to Falcon Field was assessed. Plunkett seconded.

Rutherford questioned the following wording in the motion – "Council not support the TDK extension in its present form." She said the present form was two lanes and asked Kourajian if he supported four lanes. Kourajian said that he had supported TDK for three years, as a traffic relief. Rutherford asked if he approved the current two-lane plan. Boone noted that the City was not getting an extension on the right-of-way acceptance. Kourajian continued that he did not

support any plan until the conditions in the motion were met. Boone referred to the portion of the motion requesting the extension of the deadline. Boone noted that, as of 4:00 p.m., the City would not get an extension. Kourajian said if Pathway wanted to hold a gun to the City's head later in order to get the right-of-way, it was their prerogative. He was not prepared to make a decision on an 11th hour conundrum that said he had to decide now. If the Mayor and City Manager had not been in that meeting, it would have reverted back anyway. Logsdon said the clause was caught in time to make an informed decision in a controlled environment. Kourajian said he did not believe in coincidence or that it just happened to come up. Rutherford said she was more concerned that the PCAA had not told Council about the addition of the reversion clause. She asked Kourajian what he expected to learn by January 18. Kourajian said he did not know, but he did not feel he had to make a quick decision.

The motion was defeated 2 (Kourajian, Plunkett) to 3 (Logsdon, Boone, Rutherford).

Plunkett moved to adjourn the meeting. Kourajian seconded. The motion failed 2 (Kourajian, Plunkett) to 3 (Logsdon, Boone, Rutherford).

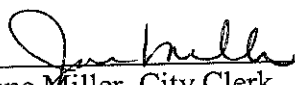
Rutherford said it was not an easy decision. It should be made with more information. She moved to accept the right-of-way for TDK. Boone seconded. Kourajian asked Rutherford to include a friendly amendment to add the additions from his motion. Rutherford amended her motion to include that accepting the right-of-way did not mean Council supported building the road. Boone seconded the amendment. The motion carried 3 (Logsdon, Boone, Rutherford) to 2 (Kourajian, Plunkett).

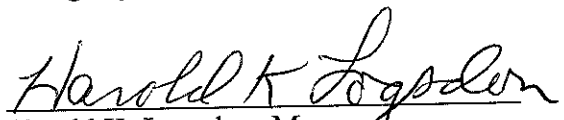
Plunkett said Rutherford's point was well taken. Now that the right-of-way was accepted, there should be public input and more information in order to make the best decision possible. The other Council Members agreed.

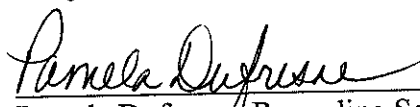
Kourajian moved to convene in executive session for threatened or pending litigation and a personnel matter. Rutherford seconded.

Rutherford moved to reconvene in regular session. Kourajian seconded. The motion carried unanimously.

With no other business to discuss, Kourajian moved to adjourn the meeting. Boone seconded the motion. The motion carried unanimously. The meeting adjourned at 8:01 p.m.


Jane Miller, City Clerk


Harold K. Logsdon, Mayor


Pamela Dufresne, Recording Secretary