

MINUTES OF MEETING
CITY COUNCIL OF PEACHTREE CITY
December 6, 1990

The City Council of Peachtree City met in regular session on Thursday Night, December 6, 1990, in the City Hall Council Chambers.

Mayor Brown called the meeting to order and led those in attendance in the pledge of allegiance. Those present were: Mayor Frederick Brown, Jr. and Council members David Good, Annie McMenamin, Robert Brooks and Rich. Parlontieri.

Addition of Agenda Items

Mr. Lamar Mathis, resident of 101 Creekstone Bend, asked that item be added to allow fences to be discussed. Motion was made by Parlontieri and seconded by McMenamin that item be added. Motion carried unanimously. Item No. 12-90- 6.

Announcements, Awards, Special Recognitions

Mayor Brown announced that the City would provide mulching for Christmas trees on January 5th from 8 AM to 1 PM at City property located at the intersection of Highway 74 South and Rockaway Road. He asked that all decorations be removed from the tree before dropping it off for mulching.

Mayor Brown presented the Employee of the Month Award for November to Police Officer Bill Weston.

Mayor Brown explained that department reports would not be presented this month inasmuch as the second meeting for the month had been cancelled. He announced that they would be available in City Hall after the middle of the month. He announced the population to be 19,406 on the first of December.

Minutes of Meeting

Motion was made by Parlontieri that the minutes of meeting held October 18, 1990 be approved as published. Motion was seconded by Good. Motion carried unanimously.

Old Agenda Items

11-90-6 Public Hearing - Rezoning of Fincher Property - Hwy. 74 North

Mayor Brown called to order the public hearing for consideration of the rezoning of property located on Highway 74 North known as the Village Paint Store property and owned by Fincher Brothers, Inc. The rezoning petition requested that the property be rezoned from Limited Commercial to General Commercial.

Attorney Doug Warner of the law firm of McGinn, Webb and Warner, represented the property owners. He stated that this was a case involving an approximate six acre tract located at the intersection of Highway 74 North and Wisdom Road. He explained that a rezoning petition was brought

before the Council approximately one year ago and at that hearing the petition was denied based on the fact that the applicants were not agreeable to a condition of zoning recommended by the Planning Commission that a 60 foot right of way be provided for a future frontage road on the property. Mr. Warner reported that the application was presented again to the Planning Commission approximately one month ago and they voted to recommend the rezoning from Limited Commercial to General Commercial.

Mr. Warner stated that he had no problem with conditional zoning provided the conditions were reasonable. His clients position in this case, however, was that requiring a 60 foot road be donated to the City and to require that it be curbed and guttered and paved, was unreasonable. Although he did not have actual figures, he felt the cost for the property alone for the road would be close to \$125,000 which, in his opinion, was an unreasonable condition of zoning.

He felt the curb and gutter would cost another \$100,000 at least and it was his opinion that this went beyond being a reasonable condition of zoning. Warner felt that if the public was going to use the road the public should pay for it, not the individual property owner. He stated that their position was, in raising their constitutional rights, that the current zoning constituted a deprivation of the property owners rights and, therefore, constituted the taking of property in violation of the Georgia and the United States Constitutions.

Warner stated that their position was that this property was perfect for General Commercial and there was no reason it should not be General Commercial and they asked that the zoning be approved without the unreasonable condition of the donation of property.

Mayor Brown called on the Director of Developmental Services, Jim Williams, to present the position of the City in this matter. Mr. Williams explained that when this came before Council about a year ago, the Planning Staff was asked to look at the concept of the frontage road along Highway 74 to answer the questions that were posed at that meeting. He displayed a map of the frontage road concept that had been developed since that time and which had been discussed widely in the community, at the Planning Commission and with the Department of Transportation. He explained that a number of elements of the frontage road system had already been implemented or committed to be implemented. He felt that before discussing the zoning the frontage road concept should be discussed and Council asked that he do so.

Mr. Williams directed his comments to a frontage road plan on display. He explained that the frontage road was planned to extend from Highway 54 North to a point on Highway 74 North to direct traffic away from the Highway. He stated that the property in question was at the corner of Wisdom Road and Highway 74. Williams explained that a portion of the road was already committed and a portion was in place. He explained that the Wilcox Property developed as an animal clinic had dedicated land for the road and were developing the road as the property developed. Another area having committed to the road was the property being developed by Frenchy Builders as Cluster Housing. He stated that Equitable was committed to the road through their property and that he was designing the road through the

Oak Manor property and felt confident this too would work out. Williams felt this was a project that was possible and was one that DOT favored. Williams felt that if the service roads were not to be used then a step down in zoning from General Commercial to Limited Commercial, which would generate less traffic, would be appropriate.

Williams stated that it would make sense for a developer to do some improvements in developing a six acre tract so that the development would not have a long term adverse effect on the community.

Williams stated that several alternatives were possible in this situation. They were:

1. Leave the zoning as it is, Limited Commercial (LC) which is a legitimate, useful, and viable zoning for the property.
2. Rezone to General Commercial as requested and take chances with the intersection long term.
3. Rezone to General Commercial with conditions that would provide the protections needed.

Williams stated that he would like to see more planning on the part of the applicant and the City would be happy to work with him in any way it could. If the only option was to take action at this time the staff recommendation would be to leave the property zoned Limited Commercial. Williams reported that the Planning Commission had recommended the rezoning to General Commercial but that they had also adopted certain policies to guide development along Highway 74 and Highway 54. These policies request that the City look at limited access on Highway 74, limit drive cuts on the Highways and do the things that were necessary to protect the traffic movement on the highway. He felt that actions taken now that would have an adverse affect on these policies would be counterproductive.

Brooks asked Williams what rights the City had in requiring things such as the road during the site plan review process. Williams explained that site plan review was one of give and take in design rather than one where things could be required. He stated that every effort was made during that process to do good design planning but that he did not think it was a time that a road could be required.

Mayor Brown called for comments from the public and Mr. John Setlock questioned why the city did not purchase the road right of way. Mayor Brown explained that it was not the policy of the city to purchase right of ways.

Attorney Warner stated that his clients paid valuable money for their property and the City was asking for a donation of valuable land in order to obtain General Commercial Zoning. He felt the land should be zoned General Commercial as it was. He pointed out other property around this property already zoned General Commercial and felt that there was no reason not to approve the request. He felt that development could be addressed at site plan time.

There were no comments from the public opposing the rezoning and Mayor

Brown called for comments from the Council.

Parlontieri questioned the conditions placed on the Wilcox Property (animal clinic) when it was zoned and Williams stated that they agreed to provide right of way for the frontage road for the portion that would pass through their property and they had provided it.

Parlontieri asked what property was already zoned General Commercial in that area and Williams explained that the Hill's property next to the subject property was GC and that a small portion of the property owned by the Finchers adjacent to the subject property was zoned GC.

Mayor Brown commented that the DOT had been asked for a median cut in the area along Highway 74 near Natures Nursery to accomodate this frontage road and they were considering that request at this time. He felt the City was in favor of continuing with the frontage road.

After further discussion a motion was made by Mayor Brown that the rezoning be denied. Motion failed for lack of second.

Motion was made by Parlontieri that the rezoning to General Commercial be approved with stipulation that land would be donated for a frontage road with curb and gutter. He felt the precedent had been set with the Wilcox property. Motion died for lack of second.

Mayor Brown explained that the reason he made a motion to deny the rezoning had nothing to do with the road dedication. He stated that the property was zoned limited commercial when the Finchers purchased it several years ago and he felt it should remain limited commercial.

Parlontieri felt it was inconsistent to have the property zoned two different zonings categories.

Good stated that he supported the concept of rezoning the parcel to General Commercial. He stated that he believed the fact that a portion of the land was already zoned GC and the fact that it was at the intersection and the use was already commercial in character was a weighty argument for the rezoning. He felt there had to be a solution to the impact on the City in the increased traffic associated with the upgrade to General Commercial. He felt it had been appropriate in zoning cases in the past to require the developer to be responsible for increases in traffic associated with development whether it be signalization, roads, etc. He felt the developer in this case had the responsibility of providing for the road at some point if that was the solution to the traffic problem.

Good stated that the difficulty in this judgment was that this was an upgrade from LC for a portion of the property and a portion of the property was already GC. He didn't think it would be fair to require the property owner to provide the road through both those sections but he could support a motion to approve the zoning to General Commercial with the condition that the land be made available for the road through the Limited Commercial portion. He thought the City would be responsible for acquiring, through whatever mechanism that would be appropriate, that portion through the existing General Commercial property for the road.

Motion was made by Good that the request to rezone the property from Limited Commercial (LC) to General Commercial (GC) be approved with the condition that the land be made available for the road through the LC property. Motion was seconded by Parlontieri.

Brooks commented that he felt the reason there was some reluctance on the part of the Council to make a decision in this matter was that they supported in principal the change to General Commercial because of the other zoning classifications of GC in the area. He stated, however, that the property was purchased as Limited Commercial and he felt there was a gain to the property owners in the change to General Commrcial. He didn't think it was unreasonable for the City to require in the use of the property the zoning was being changed on, some good will come from the land owner. At the same time, on the property already zoned GC he felt the City had some responsibility.

Mayor Brown stated that in zoning the property GC he did not hear anything in the conditions about giving up curb cuts on Highway 74. He felt this corner property would be a prime location for a service station or some other similiar type business which he didn't feel appropriate for that location. He would vote against the motion.

Good asked that his motion be clarified. He stated that he was making the assumption that the access to the property would be off the frontage road and/or Wisdom Road because the entire purpose of the frontage road would be to limit the cuts on Highway 74. He asked that his motion be amended to include that clarification. Parlontieri, who seconded the motion, agreed to the amendment.

Parlontieri commented that there were already two curb cuts on Highway 74 from this property and Good stated that these would be removed when the frontage road was built.

A member of the audience stated that it seemed that Council was acting as if the frontage road was already in place but he didn't understand the motion to require such a road. Good explained that his motion required that the land be made available for an access road as part of the upgrade of the LC zoning to GC.

Attorney Warner stated that anytime you purchase property zoned a certain way and obtain a different zoning for it, the owner should not be penalized for that. He stated that the property owner under the law was entitled to the highest and best use of his property subject only to government regulations. He felt this was placing the government regulations first and the property owners rights second. He stated that his clients were willing to work with the City with site planning but that he didn't think the City knew where it wanted this road and they did not know at this time how they wanted to develop the property. Warner did not feel it was proper to require this type donation for rezoning property that should already be zoned General Commercial. He stated that the property had access to Wisdom Road and any site plan would plan to direct traffic onto Wisdom Road, not Highway 74.

Mayor Brown called for action on the motion and the motion as amended carried with Mayor Brown voting nay.

Mayor Brown closed the public hearing.

New Agenda Items

12-90-1 Report of Election Superintendent

Elections Superintendent, Frances Meaders, gave the following report on the Municipal General Election held December 4, 1990 to elect a Council member for Posts One and Two:

There were 8155 registered Voters eligible to vote in the Municipal Election

647 Ballots Were Cast as follows:

Post No. One:

Annie W. McMenamin - - - -478 Votes

Post No. Two:

Edward D. Bradford - - - - 319 Votes

J. Willard King - - - - - 303 Votes

51 Absentee Votes were cast (included in total count)

The report indicated that Annie W. McMenamin and Edward D. Bradford were the successful candidates.

Motion was made by Parlontieri that the report of the Elections Superintendent be accepted as presented. Motion was seconded by Mayor Brown. Motion carried unanimously.

Mayor Brown recognized Mr. Edward Bradford who was present in the audience and congratulated him on his successful campaign.

12-90-2 Amendment to Alcoholic Beverage License - Flat Creek Club and Braelinn Golf Club

City Manager Basinger reported that Flat Creek Club and the Braelinn Golf Club had requested that the License Representative on their Alcoholic Beverage License be changed from Wendell Coffee to Shirley Lea Schreyer. Basinger reported that the appropriate paperwork had been submitted by Ms. Schreyer and that staff recommended the change be approved. Motion was made by Parlontieri that the alcoholic beverage license be amended as requested. Motion was seconded by McMenamin. Motion carried unanimously.

12-90-3 Amendment to Retirement Plan

City Manager Basinger called attention to a copy of proposed amendments to the City Retirement Plan. He explained that these changes were necessitated by changes in State and Federal regulations and that several changes were housekeeping type items made by GMA who sponsor the plan. Motion was made by Brooks that the amendments to the Retirement

Ordinance be accepted as presented. Motion seconded by Parlontieri. Motion carried unanimously.

12-90-4 Christmas Eve Morning Holiday

Mayor Brown explained that the City policy provides a one-half day holiday for Christmas Eve. He recommended that since Christmas fell on Tuesday this year the employees be given a full day holiday on Monday, Christmas Eve. Hearing no objection to the recommendation, Mayor Brown made a motion that City Employees be given an additional one-half day on Monday Morning, December 24, 1990, and that all city offices be closed Monday as well as Christmas Day, Tuesday. Motion was seconded by Parlontieri. Motion carried unanimously.

12-90-5 Bids for Brush Chipper

City Manager Basinger reported that five bids were received in response to request for proposals for a Diesel Brush Chipper for the Public Works Department. They were:

Mobark Georgia, Inc. Cordele, Georgia	\$13,290
Piedmont Tool and Equipment, Inc. Atlanta, Georgia	14,100
Turf Care Product Austell, Georgia	14,350
R.Z. Zimmerman, Inc. Marietta, Georgia	15,042
Vermeer Southeast Sales & Service Marietta, Georgia	15,799

He reported that staff recommended purchasing the equipment from Vermeer Southeast Sales and Service at \$15,799. He reported that the low bidder, Mobark Georgia, Inc. did not demonstrate their equipment as specified and that Turf Care and Vermeer were the only two bidders that demonstrated diesel chippers as specified. Staff was of the opinion that the brush chipper that performed best during the demo was the Vermeer 1250 Diesel. Basinger reported also that the City already owns a small Vermeer Chipper which has performed well over the years. He stated that the bid was \$799. over the budgeted figure but that funds could be found in Public Works Salary line to cover the difference because of vacancies in the department. He recommended that \$799. be transferred from salaries to the capital line to cover this purchase.

Motion was made by Parlontieri that the recommendation of staff be accepted and bid be awarded to Vermeer Southeast Sales and Service, Inc. at \$15,799 and that funds be transferred as requested. Motion was seconded by Brooks. Basinger reported that the chipper would be set up on city property at Highway 74 and Rockaway Road for a chipping and mulching operation where citizens could bring limbs and trees up to 12" in diameter and the mulch will be used by the City for it's landscaping. He stated tht the plan is

to have this in operation two or three times a week and on Saturday. Motion carried unanimously.

12-90-6 Fence Ordinance Discussion

Mr. Lamar Mathis of 101 Creekstone Bend addressed Council regarding problems with fencing around a pool being constructed on his property. He explained that after receiving a permit for the pool and fence he found that the fence was required to be 50 feet from the property line although a building could be constructed 30 feet from the property line. Mr. Mathis stated that it was his opinion that the change to this additional setback was not known by those building pools and fences even though it was approved in January of 1990. He felt as a result of that there were many illegal fences in the City.

Mr. Mathis explained that on November 5, 1990 an inspection was made by the City at the pool and it was approved. Mr. Mathis stated that after he realized there was a problem with the location of the fence he met with the Mayor, City Manager, and City Planner to try to resolve the problem. He stated that the City Planner informed him that he would have to move the pool five feet to make room for the fence. Mr. Mathis explained that after discussing the situation with the City he has found that he could build a cabana at the end of the pool, thirty feet from the property line, but could not build a six foot fence there. He didn't think that made sense and asked for help from Council. Mathis stated that at the present time the fence posts were located thirty three feet from the property line and he needed an additional six feet to complete his project. He realized the variance process was available but it took time and he also felt the City Planner would not recommend it be approved.

Mayor Brown stated that the only way the City Council could approve an additional six feet for him at this time would be to change the ordinance.

Parlontieri stated that he had a fundamental problem with the City issuing a permit and making an inspection and not realizing the problem with the fence. He also pointed to other fences in the general area built right on the property line. He hesitated to change the ordinance as a reaction to a particular situation, however, he felt the City had an obligation to work with Mr. Mathis to correct this situation so that he could complete his pool.

Brooks stated that that he too felt the City needed to work toward correcting this situation but that he didn't want to do something in haste that might cause other problems.

Brooks questioned whether or not the appropriate people are notified when there is a change to an ordinance i.e. the changes made in January to the setback requirements for fences. City Planner Williams reported that the building department attempts to pass this information on to builders and citizens as the occasion arises and the key to all of it was that the building inspector keep up with these changes. He felt this was happening now but that there would always be a certain number of people or contractors, with the ever changing environment, that would fail to get the word. Brooks asked that staff take a look at this process and try to develop a method of getting this information out to those who require it.

Mayor Brown stated that he could support an amendment to the fence ordinance making the setback requirement the same on a major collection as it is on a minor collector and that would be 40 feet. This would reduce the requirement for Mr. Mathis of the 50 foot setback to 40 feet.

Motion was made by Mayor Brown that Section 5-174 (1) (a) of the City Code be revised to read "no fence in excess of four feet in height shall be installed within forty (40) feet of the right of way of an arterial street or a major collector street". Motion was seconded by Parlontieri. Motion carried unanimously.

Mr. Mathis expressed appreciation to Council for the action which would now permit his project to be completed.

Mayor Brown stated that this item was the last item of business but that he wanted to make a statement.

Mayor Brown stated that this would be the last City Council meeting for Councilman David Good who had decided to not seek reelection. The Mayor reported that Mr. Good had served for ten years as Councilman and had served on the Planning Commission prior to being elected to Council. The Mayor stated that Mr. Good had served the City well, faithfully, honestly and with a great deal of integrity. He felt that many things that had occurred in the city probably would not have happened except for the foresight and planning of Mr. Good such as the settlement between the City and the County Government in the construction of Lake Kedron. The Mayor wanted Mr. Good to know how much he appreciated him and that he would miss him immensely.

Parlontieri reiterated the Mayor's statement mentioning that Good had also been working hard to obtain a hospital in the County. Parlontieri thanked Mr. Good for his long years of service and asked that those in attendance join him in a standing ovation of appreciation.

Motion was made by Mayor Brown that the Council recess and reconvene in executive session to discuss pending lawsuits and personnel matters. Motion was seconded by Parlontieri. Motion carried unanimously.

Executive Session

Appointments to the Recreation Commission

Motion was made by Good that the recommendation of the selection committee be approved to fill positions on the Recreation Commission with Marcie Cole to be reappointed for a three year term, Tim Kaigler be appointed to a new three year term, Conrad Boterweg be appointed as alternate should a vacancy occur within the next six month period and that Mr. Boterweg temporarily replace member Barbara Schwartz pending her return from active duty in Saudia Arabia. Motion was seconded by Parlontieri. Motion carried unanimously.

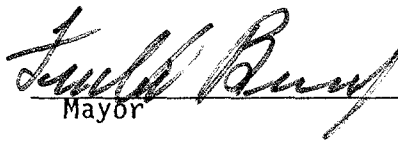
Appointment to Airport Authority

Motion was made by Mayor Brown that action on appointments to the Airport

Authority be tabled. Motion seconded by Parlontieri. Motion carried with Good not voting.

Motion was made by Mayor Brown that the meeting be adjourned. Motion seconded by Parlontieri. Motion carried unanimously. Meeting was adjourned at 10:30 PM.


Frances Meaders, Director
Administrative Services

 Attest
Mayor

STATE OF GEORGIA
COUNTY OF FAYETTE
CITY OF PEACHTREE CITY

The General Election for the City of Peachtree City, Georgia to elect a Council Member for Posts One and Two was held on December 4, 1990 pursuant to the Charter of Peachtree City as amended, and in accordance with the provisions of the Georgia Municipal Election Code.

647 ballots were cast by the electors of said election.

<u>Post No. One</u>	<u>Number of Votes</u>
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Annie W. McMenamim	478
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<u>Post No. Two</u>

Edward D. Bradford	319
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J. Willard King	303
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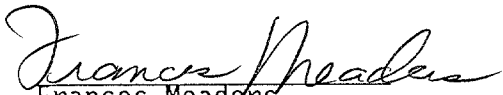
51 Absentee Ballots were cast (included in total votes cast)

Write In Names:

Sallie Satterthwaite	David Allison	Tal Amberson
Jerry Crozier	Howard Morgan	Penny Stalder
Minnie Mouse	John Setlock	Caroline Price
Chuck Behnke	Dan Lakly	Daniel Vernon Hayes
Jim Savage	Phyllis Aguayo	Steve Kiser

On December 4th, 1990 there were 8155 registered voters.

Report submitted this the 6th day of December, 1990.


Frances Meaders
Elections Superintendent