

City Council of Peachtree City
Minutes of Meeting
December 1, 2005
6:00 p.m.

The City Council of Peachtree City met Thursday, December 1, 2005, in the City Hall Council Chambers. Mayor Brown called the meeting to order at 6:05 p.m. Other Council Members present were: Stuart Kourajian, Judi Rutherford, and Murray Weed. Steve Rapson was unable attend the meeting.

Announcements, Awards, Special Recognitions

Mayor Brown recognized the graduates from the Police Department's first Citizen Emergency Response Team (CERT) class.

Minutes

Kourajian moved to approve the November 3, 2005, regular meeting minutes as written. Weed seconded. The motion carried 3-0-1 (Rutherford).

Kourajian moved to approve the November 3, 2005, executive session minutes as written. Weed seconded. The motion carried 3-0-1 (Rutherford).

Reports

Brown noted that the Hometown Holiday Celebration and tree lighting were on December 3. The run-off election was on December 6. City offices, including the library, would be closed on December 23 and December 26. The Top 5 accident locations for the month were GA 54/GA 74, GA 54/Planterra Way, GA 54/Peachtree Parkway, GA 54/MacDuff Parkway, and GA 54/Huddleston Road.

Consent Agenda

- 1. Consider Appointment to WASA – Jeffrey Prellberg**
- 2. Consider Appointment to Airport Authority – Douglas Fisher**
- 3. Alcohol Licenses – Change in License Representative – Eckerd #2026, Eckerd #3458, Eckerd #6743**
- 4. Consider Budget Amendments – FY 2005**
- 5. Consider Budget Amendments – FY 2006**
- 6. Consider Adoption of National Incident Management System (NIMS)**
- 7. Consider Approval of Flood Map Modernization Memorandum of**

Agreement

Weed asked City Attorney Ted Meeker if he had reviewed the flood map modernization memorandum of agreement (Consent Agenda #7). Meeker said that he had reviewed document. Brown noted that Jeffrey Prellberg was to be considered for appointment to the Water and Sewerage Authority (WASA), and Douglas Fisher was to be considered for appointment to the Airport Authority.

Weed moved to adopt the Consent Agenda. Rutherford seconded. The motion carried unanimously.

Old Agenda Items**10-05-02 Consider Amendment to Article XI, Section 1108, Landscape Plan Requirements**

City Planner David Rast addressed Council. Rast said Council had noted several concerns about the proposed amendment regarding replacement requirements. The changes in the ordinance defined what could be done in the tree save and landscape buffers, especially the "Acts of God" clause. The "Acts of God" clause concerned events, such as ice storms or tornadoes, that were out of the owner's powers and whether the City would require replacing vegetation in those buffers. New language had been added regarding enforcement of "Acts of God." The new language defined "Acts of God" as an ice storm, hurricane, wind, age, disease, insect infestation, etc., and did not require, but did encourage, the property owner to replace vegetation in the tree save and landscape buffers lost due to an act of God. Rast said staff recommended adoption of the amendment.

Rutherford said she had a problem with the wording, "age, disease, and insect infestation, etc." being "Acts of God." She said the wording gave the property owner carte blanche to use those words. The business owner should be responsible for ensuring the health of the vegetation. Rast said he agreed and added that the owners were responsible, for the most part. He continued that since the drought, the pine beetle infestation had been rampant. The property owner could control the infestation. Rutherford questioned whether a property owner should get permission to cut the trees down to control the infestation in the rest of the area. Rast said they should and many had done so. Rutherford said the proposed changes said the property owners did not have to do that.

Kourajian agreed with Rutherford and asked Meeker if *force majeure* covered such instances. Meeker said it did not. Meeker explained that he and Rast had discussed unavoidable situations, and that was what they had tried to include. He said he could see the distinction Rutherford and Kourajian were making between a true "Act of God" and a disease infestation. Kourajian said he would rather not extend *force majeure* to events not covered under the law. Weed noted that *et cetera* could be anything. He would not support a definition that broad unless there was some board assigned to make a determination whether the *et cetera* was an act of God. Meeker suggested leaving in the wording, "ice storm, hurricane, wind, or other weather-related event." Kourajian said the legal definition of *force majeure* should be left.

Brown cited an example from a buffer area on Kelly Drive. The property owner had been allowed to thin the trees the area. Several of the remaining trees were now leaning over, which happened when pine stands were thinned. The other trees had blocked the elements. The fallen trees would be considered an "Act of God" according to the proposed amendment, but the thinning process prior to the event had caused the remaining trees to fall.

Weed said he wanted to hone in on the definition of an "Act of God." He was willing to make the definition more vague if there was a special exception system. He suggested creating a body to rule on exceptions. No legal definition was perfect, and the entire

world could not be defined. There had to a body to apply common sense and discretion to determine what "Act of God" meant.

Rutherford said the ordinance should be as specific and definitive as possible so the board would know what the City wanted. She realized there could not be a definition that included everything. She said that "ice storm, hurricane, wind," was fine, but the other words had to come out.

Brown said he had started a lot of the work on restoring the buffers and maintaining the trees if owners were allowed to use forestry management processes. He continued he was almost to the point of not allowing thinning of the tree buffer, if for some unforeseen reason some of the trees would be blown down.

Weed said the City had competent people. He pointed out that Rast was a certified arborist. Rast would save a tree if it were possible. There were legitimate reasons why thinning was an option. Ordinarily, a *force majeure* clause included fire, snow, flood, lightning strikes, war, labor strikes, and riots. He said the list in the *force majeure* clause was not comprehensive enough. The ordinance could not define everything; therefore, there was a need for some criteria or a panel to make the decision. If not, then the list should include everything. He did not want to live with the vagueness without some common sense approach to it.

Rutherford moved to table the item and that Rast prepare both a list and an alternative with a board that would to determine if vegetation needed to be replaced. Weed seconded.

Kourajian said he did not see the need to come back with a comprehensive list. He would not support a comprehensive list. Kourajian said he was fine with the panel idea, but doing both was just a waste of time. Rutherford said there was a definition for *force majeure*, which was all that Rast had to bring back. Kourajian said *force majeure* was probably defensible. Kourajian asked Rutherford to amend her motion to include just the panel, not the definition. Rutherford accepted the amendment. Weed seconded the amendment with the caveat that the panel's discretion had to have applicable criteria. Rast suggested that the City's Tree Board could serve as the panel. Weed said that was an appropriate mechanism. The motion carried unanimously

New Agenda Items

12-05-01 Consider Change in Dental Insurance

Administrative Services Director/City Clerk Jane Miller addressed Council regarding the proposed change in employee dental insurance. Miller said the City had been with Companion Dental for two years, and the renewal rate had increased 17%. The City's insurance consultant shopped the market and came back with five rates. GE Financial came back with a 12-month rate and a 24-month rate. The other companies responding included MetLife, Humana, and Mutual of Omaha.

Miller said the best value was the 24-month rate from GE Financial. It was more expensive per month than the 12-month rate, but the 24-month rate locked in the

premium for two years. GE Financial also had agreed to honor the employees that had met the \$100 lifetime deductible under Companion, which Miller said would be a great benefit to the City's employees. Miller said the 24-month rate was \$26.50 for employees and \$78.49 for families. The City currently paid \$21.32 toward dental insurance for employees and their families. Miller said staff recommended that that amount remain and the employees pay the difference. If Council approved the recommendation as outlined, there would be no impact to the budget for the change in dental insurance.

Rutherford moved to approve the change in the dental insurance as recommended. Kourajian seconded. The motion carried unanimously

12-05-02 Public Hearing – Consider Amendments to Article XI, Section 1109(j), Impervious Surface

Rast said the ordinance amendments addressed the design of parking lots and the maximum amount of parking. The recommendation from Council was that, in developments that exceeded the required number of parking spaces, no more than 60% of the total number of additional spaces should be impervious. Rast said that essentially required pervious pavement in the remaining spaces, up to and not exceeding 125% of the minimum number of spaces. Rast said the recommendation was to reduce the amount from 60% to 30%. The number of minimum or maximum spaces would not change, but the amount of pervious pavement on sites would increase. More and more developments were willing to try pervious pavement, including the new parking area at the library, which had been very successful. Rast said staff recommended approval. The Planning Commission also recommended approval of the amendments as written.

No one spoke either in favor, or against, the proposed amendments.

Weed asked Rast if he had spoken to the development community about the impact of the proposed changes. Rast said he had spoken with developers that had ongoing projects. Their plans would be impacted by any changes. He said cost would be a factor, but the benefits outweighed the cost. As seen on the site plans with the stormwater requirements, it would not just be paving the entire site, digging out a small ravine, and letting the water go there. There would be a lot of benefits to the site design by having pervious pavement because the stormwater would be filtered as it worked its way to the detention ponds. Rast said that the pervious pavement had helped with the overall impact of the site on some of the reviews done by City Engineer Dave Borkowski. Rast said it would be more costly. Brown said the flipside was the cost to the taxpayers if the changes were not made. Many problems came to light during this year's heavy rains. Brown said anything that could handle the stormwater and reduced the impact was good and would benefit the City financially.

Weed asked how this would be handled during the site plan review process. Rast said that, in most recent cases as the City began using the state stormwater manual, the developer sat down with him and Borkowski, which had been beneficial. The City's stormwater ordinance approved a few years ago required that a developer submit a conceptual stormwater plan along with the conceptual site plan, but the requirement had not been followed. The conceptual site plans had been approved, but they had squeezed

out the vegetation that would have an impact on the site plan. During the preliminary meetings, staff suggested areas where the developers could use pervious paving and other types of bio-retention ponds as part of their site plans. Rast said the new ideas were more costly, but developers were required to comply because of the state stormwater requirements. Rast said the new requirements would change the appearance of some of the sites, but would be beneficial in the long run.

Weed asked Rast how he came up with the percentages. Rast said they had looked at several sites, minimum parking requirements for the sites, and what had been approved for the sites. They figured out how many extra spaces were at the site and tried to come up with a reasonable percentage that would provide for pervious paving. The smaller sites would be impacted the most.

Brown moved to approve the amendments to Article XI, Section 1109(j), Impervious Surface. Kourajian seconded. The motion carried unanimously

12-05-03 Public Hearing – Consider Amendments to Article IX, Section 909, Offstreet Parking

Rast said the changes to this ordinance went hand-in-hand with the previous agenda item. He said they had been looking at the City's parking ordinances for some time and had looked at other cities' ordinances. Rast said they also looked at uses, as well as specific criteria for uses. The entire ordinance had been redrafted.

Rast continued that the size of the spaces had been defined, including increasing the size of spaces located next to islands. There had been no basis for the number of parking spaces allowed. Table 909.3 was a schedule of minimum off-street parking requirements, which included uses not listed in the current ordinance. Most of the increases were in the eating establishment category. Rast said they looked at transportation manuals to come up with numbers for the various types of eating establishments, such as drive-through/dine-in and regular restaurants. The table also included numbers for retail establishments. The Planning Commission recommended adoption of the ordinance as suggested.

No one spoke in favor of, or in opposition to, the proposed amendments.

Kourajian asked if the changes would allow residents to park vehicles in their yards. He noted that two places per residential dwelling unit were allowed. Rast said no.

Rutherford moved to approve Article IX, Section 909, Offstreet Parking as outlined. Kourajian seconded. The motion carried unanimously

12-05-04 Certify Election Results

Miller reported that the City's general election had been held on November 8 for mayor, Post 3, and Post 4, along with a special election on the senior homestead exemption referendum. There were 20,810 registered voters, and 7,466 ballots were cast. The top two candidates in the mayoral race were Steve Brown, 1,620 votes, and Harold Logsdon, 3,120 votes. For Post 3, Steven Boone received 3,548 votes and Steve Rapson received

3,334 votes. For Post 4, the top two were Daniel Gibbs with 2,497 votes and Cyndi Plunkett with 3,973 votes. In the referendum, there were 5,942 yes votes and 1,368 no votes.

Brown added that County election officials had claimed the referendum had passed by the largest margin ever in Fayette County

Rutherford moved to certify the election results for the general election. Kourajian seconded. The motion carried unanimously

12-05-05 Consider Library Change Order #10

Brown noted there was an additional document on the dais – an AIA document G701-2001 Leisure Services Director Randy Gaddo told Council this was the final change order for the library He said that Change Order #10 was for \$31,761 and included both unforeseen site conditions as well as owner-requested changes. The contingency balance was currently \$65,067 Approval of the change order would leave the contingency balance at \$33,305

Gaddo continued that two-thirds of the cost, \$20,648, was for removing unsuitable soils that would not compact for the road behind the library The unsuitable soil was loamy and sandy The rest of the items were fairly small. The Fire Marshal asked for some of the items. There was also a \$2,000 credit for landscape material and gravel that were not installed. The expansion joint in the old library was fixed, which required a lot of manpower and intensive labor Gaddo said the joint was now nice and smooth, and looked good.

Brown thanked City Manager Bernard McMullen for bringing his expertise to the project. McMullen's skills helped keep the project on time and on budget.

Kourajian asked for more detail on a few of the items, such as \$1,800 for exit signs. Gaddo explained that the cost included the circuitry and installation. Rutherford asked how they missed the item. Gaddo said it was a small item. Brown added that it was also a preference of the Fire Marshal, not a requirement. Kourajian said he understood the metal around the fireplace got really hot when in use. Gaddo said that was correct and that a wraparound screen had been ordered, but the funds would come from the construction budget. McMullen said the wraparound was a change to the contract and would be bought directly Gaddo said it was already on order

Rutherford moved to approve Library Change Order #10 Kourajian seconded. The motion carried unanimously

Council/Staff Topics

Brown announced that the City's Christmas event would be held on Saturday, December 3 A lot of volunteers had worked very hard. Luminaries would light the cart path on the two miles along Lake Peachtree to City Hall. The tree lighting would be held on Drake Field. It would be the biggest Christmas celebration in the City's history

Kourajian asked for an update on the Three Dollar Café. McMullen reported that Building Official Tom Carty had spoken with the owner. Construction was to begin at the end of the week.

Weed asked for an update on the Georgian Park/GA 74 traffic signal. Borkowski reported that he had e-mailed DOT to ensure that they had the site plan and that it had been sent to Atlanta for review and approval. The plan was in Atlanta, but there was no word yet. Weed asked for a time estimate on installation. McMullen said they met with the Target project manager and the DOT representative. Target was slated to open in June, and the light was to be installed prior to the Target opening. He said that realistically the light would be installed in April or May. Brown asked if the tree buffer was in place for the St. Simon's subdivision. McMullen said it was.

Rutherford asked that any public hearings be scheduled as the first items on the agenda since people attended for public hearings.

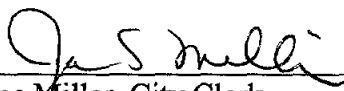
Rutherford moved to convene in executive session for pending litigation. Weed seconded. The motion carried unanimously.

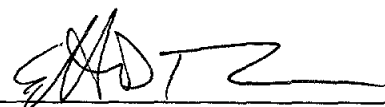
Rutherford moved to not appeal the Georgia Regional Transportation Authority (GRTA) decision on the Development of Regional Impact (DRI). Weed seconded. The motion carried unanimously.

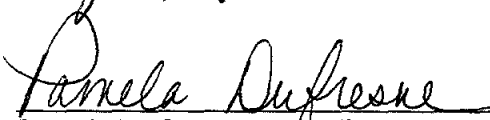
Rutherford moved to sign the protective order for the Group VI lawsuit. Kourajian seconded. The motion carried unanimously.

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

There being no further business to discuss, Rutherford moved to adjourn. Weed seconded the motion. Motion carried unanimously. The meeting adjourned at 7.25 p.m.


Jane Miller, City Clerk


Stephen D. Brown, Mayor


Pamela Dufresne, Recording Secretary