

**MINUTES OF MEETING
City Council of Peachtree City
November 18, 1993
7:00 p.m.**

The Mayor and Council of Peachtree City met in regular session on Thursday Night, November 18, 1993 at 7:00 p.m. in the City Hall Council Chambers.

Mayor Lenox led those in attendance in the pledge of allegiance. Present were Mayor Robert Lenox, Councilmembers Annie McMenamin, Edward Bradford and Caroline Price. Councilman Brooks was absent.

No items were added to the agenda.

Announcements, Awards, Special Recognitions

Mayor Lenox presented a proclamation of recognition to the Peachtree City Rotary Club and the Commission on Children and Youth for their efforts in providing Drug Prevention "I Care" cards to school children in Fayette County. Present to receive the proclamation were Frances Meaders and Paul Hagan, from the Rotary Club and Betty Blackburn of the Commission on Children and Youth.

Mayor Lenox proclaimed November 20, 1993 as "Flat Creek Nature Area Day" in Peachtree City in honor of the opening of the Nature Preserve Boardwalk through the wetlands. Present to receive the proclamation were Councilmembers Caroline Price and Ed Bradford, representing the Southern Conservation Trust, Inc.

Department Reports

Mayor Lenox announced that Department Reports were available for review at City Hall.

Minutes

McMenamin made a motion to approve the minutes of the October 21, 1993 and November 4, 1993 City Council meetings as presented. Bradford seconded the motion. Motion carried unanimously.

New Agenda Items

11-93-3 Public Hearing - PCDC Rezoning
Planterra Recreation Land

Mayor Lenox stated that the rezoning request for 4.25 acres in Planterra Ridge would be conducted as a public hearing. Mayor Lenox read the rules for a public hearing for the benefit of the public and allowed twenty minutes for each side of the issue to present their views. Mayor Lenox asked to hear first from the applicant.

Mr. Jerry Peterson, Peachtree City Development Corporation and agent for the Equitable, came forward and stated that The Equitable was requesting to rezone 4.25 acres of OS Open Space to R-12 Residential in Planterra Ridge Subdivision. Mr. Peterson stated that during the initial zoning 13 acres had been designated Open Space for recreation ball fields, but that due to a recent agreement with the City for land for ball fields on Highway 74 South, the acres were not needed in Planterra. Peterson stated that the request was to rezone 4.25 acres from OS to R-12 Residential allowing nine additional lots. Peterson went on to say that the remaining OS acres would be a private recreation park for the subdivision.

Mayor Lenox asked if there was anyone else wishing to speak in favor of the variance and Mr. Jim Williams, City Director of Developmental Services, came forward and stated that the Planning Commission had conducted a public hearing on the rezoning request and unanimously approved the rezoning and that Staff concurred.

Mayor Lenox asked to hear from anyone present wishing to speak against the rezoning and hearing none asked if anyone had any questions. McMenemy asked Mr. Peterson if any lots had been sold around the recreation area and Mr. Peterson stated that no lots had been sold in that portion of the subdivision, but were scheduled for construction in 1994. Bradford asked if the buyers of the nine additional lots would be notified about the flight pattern of the airport such as all other lots in the area were required to. Peterson responded yes and that all the same procedures would be followed. Mayor Lenox called the public hearing closed and called for Council debate.

Mayor Lenox, for the benefit of the public, stated that in accordance with the Development Impact Fee Ordinance all developers were required to donate recreation land to the City and that Planterra would require 13 acres of recreation land. Mayor Lenox stated that the recently completed Master Recreation Plan had concluded that more land was needed on Highway 74 South for ball fields and therefore not as much land was needed for recreation in Planterra Ridge. Mayor Lenox stated his support of the rezoning. Price concurred with Mayor Lenox and made a motion to approve the rezoning of 4.25 acres from OS Open Space to R-12 Residential. McMenemy seconded the motion. Motion carried unanimously.

11-93-4 Public Hearing - Variance for Stoneacre

Mayor Lenox stated that the request for a variance in the Stoneacre Subdivision would be conducted as a public hearing and stated that each side would have twenty minutes to make their presentation. Mayor Lenox asked to hear first from the applicant.

Mr. Richard Sims, Builder, came forward and stated that the request for a variance was for Lot 11 in the Stoneacre Subdivision. Mr. Sims stated that when the house was constructed the garage had been set too close to the front setback. Mr. Sims stated that the road

in front of the house bowed and that it had been an honest mistake when the house was constructed too close to the setback. Mr. Sims stated that if the variance was not approved the garage would need eighteen inches taken off which would cause a hardship on his buyer who had a chronic back problem. Mr. Sims stated that the topography of the lot did not allow them to build the home back any further from the front setback. Mr. Sims went on to say that he understood that Council would be concerned about setting a precedent for other builders by granting the variance and suggested that some type fee structure be set up penalizing the builder in the same type of situation. Mr. Sims stated that he had called Fayette County, Coweta County, Fayetteville and Henry County and found that all those counties had an automatic error margin built into the setback requirement. Mr. Sims suggested that Peachtree City should look into implementing the same type of procedure.

Mr. John Poticney, purchaser of the home on Lot 11, came forward and stated that he had chosen Mr. Sims to build his retirement home because of his fine reputation and that the mistake made had been an honest mistake. Mr. Poticney stated that it would be a hardship on him to take eighteen inches off the garage due to his back problem and asked that Council grant the variance.

Mayor Lenox asked if there was anyone wishing to speak in opposition to the variance and Mr. Jim Williams, Director of Developmental Services came forward. Mr. Williams stated that Mr. Sims was a good builder, but that if the foundations survey had been done soon enough the problem would have been easier to take care of. Mr. Williams stated that there had been precedents set in the past where Council had been very firm and denied similar requests. Mr. Williams gave an example of a home in Hampton Green where the garage had to be cut off due to a builder error. Williams stated that it was staffs recommendation that the variance not be approved.

Mayor Lenox asked if there were any questions and Price asked Mr. Sims if he could comment on why the foundation survey had been delayed. Mr. Sims stated that it was required that a foundation survey be done before the framing inspection and that they always had them done then. Mr. Sims stated that on this home there was a delay in finding a surveyor due to busy schedules and that he had turned in a request two weeks before the survey was completed. Sims stated that he felt it should be required that a foundation survey be done before framing could begin. Price asked Mr. Sims if the garage could be changed from a side entry to a front entry and Mr. Sims stated that it could not be a consideration because the dimensions of the garage would still be the same. Hearing no more questions Mayor Lenox called the public hearing closed and called for Council debate.

McMenamin stated that when going over the conditions and requirements needed for a variance she only found one they could not meet. McMenamin stated that when she went to the property she observed that if a wall was put from west to east the home was

within the limits of the setback but would need to be bowed. McMenamin stated that the road curves to accommodate the cul-de-sac and stated that she felt there were special conditions and circumstances about the property that could justify a variance. Price stated that she also felt it could be considered a special circumstance. Price stated that the dimensions of the home requesting a similar type variance in the Interlochen Subdivision did not change when a portion of the home had to be removed due to encroachment but that if part of the garage in Stoneacre needed to be removed the dimensions of the home would change. Price went on to say that the city building department was professional and usually found violations early. Price stated that she would not be in favor of fines for builders, that the builders needed to comply with city codes. Price suggested that staff look into changing the time frame for the foundation survey to prevent similar violations and stated that she would be willing to support the variance with the stipulation that earlier foundation surveys be considered.

Bradford stated that fines would need to be substantial to prevent builders from violating city code. Bradford went on to say that he was reluctant to move the time frame for the foundation survey up and suggested meeting with builders to gain their input. Bradford stated that he felt it would cause a practical difficulty not granting the variance and that he would support the variance. Lenox stated that under the ordinance there was no middle ground making it difficult if rules were too stringent.

Lenox stated that he felt even if the time frame for the foundation survey was moved up there would still be instances of violations. Lenox stated that he did not feel anyone had been harmed by an innocent mistake and asked Williams if the city had ever considered granting a leeway on setbacks. Williams stated that leeways had not been considered but situations such as Mr. Sims could be handled administratively. Lenox stated that he felt that he would like the variances to continue to come before Council but asked staff to put variances on the retreat agenda for discussion.

Price concurred and McMenamin asked that Price withdraw the requirement for foundation surveys and made a motion that the variance for 1.8 feet to the front setback be approved for Lot 11 in Stoneacre. Price agreed to withdraw the requirement for foundation surveys and Lenox seconded the motion. Motion carried unanimously.

11-93-5 Public Hearing - Variance for Photocircuits

Mayor Lenox stated that the variance request by Photocircuits would be conducted as a public hearing, allowed each side fifteen minutes to present their side and asked to hear first from the applicant.

Mr. Tom Knolls, representative for Photocircuits, came forward and stated that Photocircuits was in the process of expanding their facility and had discovered that the parking lot was encroaching into the front setback fifteen feet. Mr. Knolls stated that they

were asking for a variance so they did not have to remove any of the parking from Photocircuits. Mayor Lenox asked if there was anyone else wishing to speak on behalf of the variance and Mr. Jim Williams, Director of Developmental Services, came forward and stated that staff recommended approval of the variance. Mr. Williams stated that the building had been in existence for fifteen years with the encroachment and that there had been no adverse affects from the encroachment. Mayor Lenox called for anyone wishing to speak against the variance and hearing none called the public hearing closed and called for Council debate.

Price stated that the encroachment had existed for fifteen years and did not see any reason to deny the variance. McMenemy agreed with Price and stated that it was nice to see established businesses in Peachtree City expand and grow and congratulated Photocircuits on their expansion. McMenemy made a motion to approve the fifteen foot variance to the front parking setback for Photocircuits. Bradford seconded the motion. Motion carried unanimously.

11-93-6 Public Hearing - Cable T.V. Standards

Mayor Lenox stated that a discussion of the Cable T.V. Standards would be conducted as a public hearing to allow Council to gain input from citizens. Mayor Lenox stated that Peachtree City had recently become a regulatory agency and that a public hearing was required prior to establishing the standards. Mayor Lenox stated that City Manager Jim Basinger would give an overview of the standards the City was proposing and that he would then ask for input from the citizens and input from the Cable T.V. Companies present. Mayor Lenox went on to say that the input would help Council with the franchise agreement that was being worked on.

City Manager Jim Basinger stated that as a cable T.V. regulating agency the City was required to adopt Cable T.V. standards within 120 days from the date it was approved by the FCC as a regulatory agency. Basinger stated that The Act also required that public input be obtained for the standards. Basinger stated that while working on the standards staff realized that a number of the concerns voiced previously by the residents were items that would have to be addressed during pending franchise negotiations. Basinger stated that the cable standards as prepared by Staff and the City Attorney included:

1. Construction Schedules - regulating the amount of time that the cable company has to make cable available to residents and commercial customers.
2. Consumer Protection - including rates, notification of changes in rates, services or channel positions, bills, late fees, billing disputes, refund checks and credits.
3. Customer Service - concerning telephone availability for customers, answering of telephones, busy signals, records of

— telephone standards compliance, service center and bill payment locations, business office and registered agent, filing communications with regulatory agencies, preferential or discriminatory practices prohibited and information to be provided annually by cable operator.

4. Installations/Operational Standards - regarding standards which must be met at least ninety-five percent of the time measured on a quarterly basis such as installations, buried cable, grounded cable, appointments for service calls and installation activities, response to routine service calls and outages of service.

5. Quarterly Report - concerning complaints and suggestions for improvement.

6. Penalties - concerning enforcement of standards by the City, notices and appeals.

City Manager Basinger stated that many of the customer concerns would be addressed in the upcoming cable franchise agreement with PeachState Cable.

— Mayor Lenox asked for input from the public. Mr. Rafael Quinones, 337 Wood Ridge, came forward and stated that he was representing the Hispanic citizens of Peachtree City. Approximately 40 Hispanic citizens were present. Mr. Quinones stated that the issue was one of choice, that the Hispanic community was not offered a Hispanic channel by PeachState Cable. Mr. Quinones stated that Wometco offered a Hispanic Channel and that PeachState offered a pay Japanese Channel for those who wanted one. Mr. Quinones stated that PeachState was the only cable company in the Metro Atlanta area that did not offer a Hispanic channel. Mrs. Quinones stated that a letter with many signatures was sent to PeachState about the desire for a Hispanic Channel which never received a response.

Several more residents came forward and some of the comments were as follows: negligent on making customers aware of movie channel packages available, about negligent late charges on bills and questions about the cable channels that were recently taken off.

Mayor Lenox asked to hear from representatives from the Cable T.V. Companies. Mr. John Southard, PeachState Cable, came forward and stated that PeachState had concerns with some of the standards and asked to meet with staff later to review them. Mr. Southard used the example of the homeowner that did not want a newly sodded yard disturbed. Mr. Southard stated that PeachState did not have the capacity to add a Spanish language channel without dropping another channel at this time. He stated that they were at maximum capacity with thirty-five (35) channels.

— Mayor Lenox stated that the cable today was an improvement over earlier years but that it needed to be customized for the citizens needs. Basinger suggested conducting a survey in the early spring to find out what channels citizens wanted while the franchise was

being negotiated. Price suggested having a survey in the UPDATE in early 1994 to gain citizen input.

Mayor Lenox thanked all the citizens present for their input and assured them that during franchise negotiations that their suggestions would be considered.

11-93-7 Amphitheater Agreement

City Manager Jim Basinger stated that while the Amphitheater was owned by the City, it was felt that management of the facility by the Development Authority would allow for the development of more well rounded programs. He called attention to a proposed agreement between the City and the Development Authority whereby if approved the Development Authority would manage the Amphitheater. Basinger stated that it was hoped that the facility would be self-sustaining but that the City proposed to give 1% of the Hotel/Motel Tax to the Development Authority for the operation of the Amphitheater and Tennis Center (see item 11-93-8). Basinger stated that the Authority would present an annual budget to the City for approval and that staff recommended approval of the Agreement with the Development Authority for the operation of the Amphitheater.

McMenamin made a motion to approve the Agreement between the City and the Development Authority for the operation of the Frederick Brown Jr. Amphitheater. Price seconded the motion. Motion carried unanimously.

11-93-8 Tennis Center Agreement

City Manager Basinger stated that Peachtree City Development Corporation would be constructing the Planterra Ridge Tennis Center and it was felt that the operation of the tennis center should be conducted under the management of the Development Authority also. A proposed Agreement was before Council for consideration. Basinger stated that the facility would be deeded to the City and that the City would have title to the land. Basinger stated that the Development Authority would have more flexibility in operating the facility and that the City would give 1% of the Hotel/Motel Tax for the operation of both the amphitheater and tennis center. Mr. Tom Farr, Chairman of the Development Authority, was present and acknowledged that he was aware that the one percent hotel/motel tax would be for operation of both the amphitheater and tennis center. McMenamin commended the Development Authority on their efforts on behalf of the tennis center and made a motion that the agreement between the City and the Development Authority for operation of the Planterra Ridge Tennis Center be approved. Mayor Lenox seconded the motion. Motion carried unanimously.

11-93-9 Consider Inter-Governmental Jail Fund Agreement with Fayette County

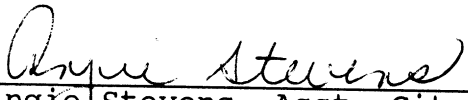
City Manager Jim Basinger stated that Council had before them minutes of the April 6, 1989 City Council meeting and a copy of a

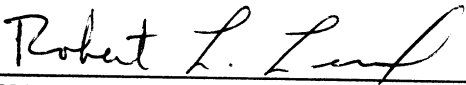
— resolution the then Council adopted supporting Senate Bill 26. The Bill authorized the imposition of an additional 10 percent penalty by State and local courts against those persons found guilty of violating traffic and criminal law with the additional funds to be placed in a "County Jail Fund". Basinger stated that the funds would be used for construction, operation and staffing of county jails. Basinger stated that at the time no action was taken by the County to consummate the contract to impose or collect the fines, but that recently a letter was received from the Chairman of the Fayette County Board of Commissioners asking the Council consider supporting the jail fund. Basinger stated that the county jail provides a service to Peachtree City and that staff recommended approval of the agreement. Bradford asked what the maximum fine was that the City could charge and Basinger stated that the 10 percent was over and above the amount of the fine. Price made a motion to authorize the municipal court to collect an additional 10% fine and enter into the agreement with Fayette County effective as of December 1, 1993. McMenamin seconded the motion. Motion carried unanimously.

There being no further business to come before Council Mayor Lenox made a motion that the meeting be recessed to be reconvened in executive session to discuss a legal matter. McMenamin seconded the motion. Motion carried unanimously.

— **Executive Session**

No action was taken in executive session and Bradford made a motion that the meeting be adjourned at 9:45 p.m. McMenamin seconded the motion. Motion carried unanimously.


Angie Stevens, Asst. City Clerk


Mayor

Attest: