

**City Council of Peachtree City
Meeting Minutes
Thursday, November 7, 2019
6:30 p.m.**

The Mayor and Council of Peachtree City met in regular session on Thursday, November 7, 2019. Mayor Vanessa Fleisch called the meeting to order at 6:30 p.m. Others attending: Terry Ernst, Mike King, Kevin Madden, and Phil Prebor.

Announcements, Awards, Special Recognition

Fleisch congratulated King and Prebor on their re-elections. She remarked this was the best Council she had served with, and she was glad it would continue.

Agenda Changes

Prebor moved to pull out Consent Agenda item #2, Consider Appointments to Planning Commission, for further discussion. Ernst seconded. Motion carried unanimously.

Minutes

King moved to approve the revised October 3, 2019, regular meeting minutes and the October 17, 2019, regular meeting minutes. Madden seconded. Motion carried unanimously.

Consent Agenda

1. **Consider Cancellation of December 5 & 19, 2019, Regular Meetings (with Special Called Meeting on December 12)**
2. **Consider Appointments to Planning Commission – Kenneth Hamner; Rick Mendenhall, alternate**
3. **Consider Stormwater Maintenance Agreement – Cavalier Manor, LLC**
4. **Consider Authorizing Agreement with TSW for Livable Center Initiative Study**
5. **Consider Budget Amendment & Grant Acceptance – Georgia Emergency Management Agency and Homeland Security**
6. **Consider FY 2020 Budget Amendment – Neighborhood Parks Fund**
7. **Consider Sole Source Name Brand Purchase of Bobcat T650 – Bobcat of Atlanta**
8. **Consider Sole Source Name Brand Purchase of Firefighting Protective Gear – Bennett Fire Products Company**
9. **Consider finalization of FY 2020 Fee Schedule**

King moved to approve Consent Agenda items 1, 3-9. Madden seconded. Motion carried unanimously.

2. Consider Appointments to Planning Commission – Kenneth Hamner; Rick Mendenhall, alternate

Prebor stated that he reviewed the resumes and appreciated the volunteers, but he felt they would be better served to find someone with government, planning and zoning, or architecture experience.

King told Prebor that he was on the selection committee and could not recall any applicants with government experience. There was one engineer and one architect. There were at least two instances where applicants declined to accept the alternate position, which King said had always been one of this criteria.

Ernst also served on the selection committee and stated that he had conducted interviews for many years. The appointees were unanimously chosen, and Ernst said they were the right people.

Madden moved to approve Consent Agenda item 2, Appointments to Planning Commission – Kenneth Hamner; Rick Mendenhall, alternate. King seconded. Motion carried unanimously.

New Agenda Item

19-11-01 Public Hearing – Consider Rezoning Request, GC General Commercial & OI Office Institutional to LUC Limited Use Commercial, 8.9 acres on Petrol Point/Tivoli Garden

The Mayor opened the public hearing.

Planning and Development Director Robin Cailloux said the request was for the rezoning of 8.9 acres from General Commercial (GC) and Office Industrial (OI) to Limited Use Commercial (LUC) for 35 single-family homes, a bed and breakfast, and commercial and office with the option of living space above the ground floor of the buildings. The property was at the corner of Petrol Point and Tivoli Garden and was a combination of two parcels. Using a map, Cailloux indicated SR 54, the Glenloch neighborhood, Glenloch Park, apartments, and McIntosh High School.

The Future Land Use map called for commercial use on the GC-zoned property, and office on the OI-zoned property, Cailloux related.

The applicant's Master Plan called for mixed-use commercial lots on the commercially zoned parcel and up to 35 single-family lots and a bed and breakfast on the property now zoned for office use. Cailloux presented photographs provided by the applicant that showed the types of buildings proposed for the commercial area. The office or commercial buildings would have the possibility of having residential space on the second floor. They would be on individual lots and individually sold, with parking in the front. At the end of the street in the commercial area would be a 5,000 square-foot building with a coffee shop or deli on the ground floor, and the property owner's offices on the second floor.

The homes planned for the residential area would be similar to the homes in North Cove. Those at the entrance would be on narrow lots with a central greenspace. Then, there would be larger lots with another central greenspace going down the steep hill.

Cailloux showed photos of what was planned for the bed and breakfast area, saying it was a unique style with individual cottages that could be rented. A central community center would house a communal kitchen. She showed photos of the 400 to 600 square-foot cottages that were planned, noting that none had kitchens and would not be sold as individual homes. The community building would be available to community residents for gatherings.

Cailloux said staff always looked at six criteria when evaluating zoning requests. The first asked if the request conformed with the policy and intent of the Comprehensive Plan, but the Future Land Use Map did not have a category for mixed use development, she noted, adding they hoped to get that rectified in the future. Therefore, the commercial portion did comply, but the residential did not because it was switching the recommended office use to residential.

Staff had identified seven policies in the Comprehensive Plan that were relevant to this application. The first was to discourage strip-style retail development, which this did. The second was to develop and re-develop land based on the village concept. She pointed out that this property was the heart of the original Glenloch Village, which had commercial development at its center. They liked to see concentric rings of lessening density development, so the commercial

should be surrounded by office, then higher density residential, on down to medium and low density residential. In this area, development jumped from office use to low density residential, which Cailloux said they did not like to see, but noted the uses were separated by a City-owned greenbelt, which was 70 feet wide at its most narrow point. Typically, they liked to see some transition between land uses. Substituting some of the commercial for office would provide that transition.

The density of the residential development was 4.25 units per acre, and Cailloux showed where that would fit in on the Future Land Use Map. She referred to the areas that were designated as General Residential (GR), saying there was a potential for higher-density residential there.

Another policy staff believed the plan met was requiring developers to provide the necessary infrastructure, which would be addressed later. Another policy examined if the proposal would reduce the tax burden by shifting the use to non-residential. That, too, was a mixed bag, Cailloux explained, noting that the applicant proposed taking land zoned for offices and making it residential, but he also was taking a piece of property that had long stood undeveloped and adding it to the tax base.

Another policy asked if the proposal offered a mix of homes in regards to size, type, price, and location, and staff felt that policy was satisfied. The proposed development encouraged alternate modes of transportation by proposing at least three connections, adding one since the Planning Commission meeting. They were also proposing a connection to the buildings at Shakerag Hill. The connections would allow public access to the proposed development as well as the surrounding developments.

The second and third criteria asked if the land uses would be compatible with surrounding uses. Commercial was compatible with commercial, but not with residential. Residential was compatible with residential. Rezoning would not affect the usability of the existing uses, such as The Campus and offices.

The fourth criteria asked if the property had reasonable economic use as currently zoned. Staff believed that was a strong argument that the OI-zoned area did not have economic use as currently zoned. She pointed out that it was originally zoned commercial back in the 1970s, then rezoned for office in the 1990s, probably for purposes of selling, but there was no proposal for development. That property had recently changed hands through a liquidator. Reasons for not developing this property probably included the steep topography. There were grades of 8% to 11% in parts of it, and Cailloux pointed out that 8% was the maximum that a large truck would be able to handle. Also, there was no visibility from a major road, which made it hard to sell commercial property.

Cailloux addressed the question the development putting a burden on the infrastructure, saying the applicant had a workshop with the Planning Commission. The Planning Commission had asked staff to look at the traffic that would be generated if the property was developed as currently zoned and compare it to what would be generated by the proposed development. She noted that the property backed up to the Shakerag Hill development of one-story, "condo-ized" office buildings. In making the comparison, staff determined the applicant's property, with significant grading, could accommodate about twice that size development on the OI portion. Staff looked at an auto parts store of a similar size as the existing NAPA Auto Parts as a possible use for the GC zoned land because it would be a destination for users, not a place people would drive by and decide to stop.

Using a formula based on nationwide data for trip generation, staff determined that the auto parts store would generate about 55 trips per day per 1,000 square feet, so an 8,000 square-foot store would generate 440 trips per day. They assumed about half of the office park would be for medical use; medical had a much higher usage than other office space. Cailloux stated that was a common use for Peachtree City, and a lot of commercial space was being used for medical offices because there was a high demand for it. Using the figures from the Institute of Transportation Engineers (ITE), staff calculated 1,260 daily trips from the office park. The two areas combined would total about 1,700 daily trips.

Looking at what was proposed, Cailloux said the ITE figure for the 10 small and one mid-size mixed-use office buildings was 190 trips generated over a 24-hour period. The 2,000 square-foot coffee shop/deli was estimated to generate 224 daily trips, while the 35 homes and six bed and breakfast cottages would generate 374 trips per daily. The total number of trips would be about 790, less than half the number if the property was developed as currently zoned. Based on these figures, Cailloux commented, staff felt this proposed development would not generate more trips than it would if the zoning was left unchanged, and therefore would not create a burden on the existing infrastructure.

There was adequate capacity with the utilities, but the applicant had done some pressure testing and found the water pressure to be very low. This testing was spurred by a comment made during the workshop. They proposed to correct this through a loop system. Right now, she explained, the water lines came down from Stevens Entry, went up Tivoli, and dead-ended to serve the NAPA store. Because of the dead end, it lost water pressure. Creating a loop system would improve pressure for all users, not just this development.

Based on County data, the impact to the school system would be minimal. The development could contribute seven elementary students, four middle school students, and six high school students.

After the October 21 public hearing, the Planning Commission voted 4-0 to approve the rezoning with staff recommendations to be included in the ordinance. Those recommendations included parking requirements and the stipulation that the bed and breakfast cottages could not be sold individually. With those conditions, Cailloux told Council, staff was of the opinion that the request met the majority of the criteria and recommended approval.

Michael Secor said that, on the plans, he did not see an abundance of parking spaces and feared that employees would be parking around the corner at Shakerag Hill. He wanted to know the ratio of parking spaces for commercial businesses.

Fleisch told him they would address that later.

Attorney Rick Lindsey represented the applicant, Feller Holdings, Inc. He noted that the applicant had worked on the concept with Jim Strickland of Historical Concepts, the developer of North Cove. A company out of Beaufort, S.C., designed some of the commercial buildings they would be using, and they were also on the team. Doug Feller owned the LLC making this request, and Lindsey noted that Feller would own it and would not sell it off. He would control who could build there and how many houses they could build at a time. No more than 10 houses would be under construction at one time. They had gotten a lot of interest since the Planning Commission meeting, Lindsey remarked and had full faith that this would be successful and become an asset to Peachtree City. He noted that the City had just passed its 60th anniversary, and these problematic infill properties were ripe for development. Strickland, Lindsey said, was excited about the topography, designing homes on the cart path that he called "Peachtree City/San Francisco"

because of their similarity to the iconic homes along the steep streets there. The streets would be a mix of pavers and bricks. A lot of detail was going into this, Lindsey stated. He noted that the unique residential component combined with the commercial made this development exciting, adding this could be a model for future development in the City.

Roch DeGolian spoke in support of the rezoning, noting that this property had challenges, but Feller had come up with a fantastic method of handling the topography issues. He said he had experience working with Jim Strickland and called this a win/win for everybody.

Charlie Nelson said he owned the building at the corner of Petrol Point and Tivoli Gardens, right across from the entrance to the proposed development. They were happy to see this unused property being looked at for development. He was looking forward to the deli and having improved water pressure.

Speaking in opposition, Fozia Eskew said she had lived in Glenloch for about 20 years and felt this would be a hardship for the community. As of 2016, the average income in their neighborhood was \$88,000. There were quite a few rental properties, which concerned her as a homeowner. The average rent was about \$1,000 a month, which was below Peachtree City's average. The average household size in Glenloch was 8.5 people. She said her point was that the individuals in her community had a higher poverty level than the remaining parts of Peachtree City. Homes that were \$350,000 to over \$1 million did not really provide multiple options for individuals looking for affordable workforce housing. She said the bed and breakfast just sounded like more rental properties to her, and she knew from the ones in her neighborhood that the owners of rental properties did not re-invest in maintaining them. Eskew remarked that she was concerned about the state of construction in Peachtree City, mentioning the prospect of a new Booth Middle School and what would be happening in that area. She did not want this development to make the intersection of Stevens Entry/SR 54 as challenging as the intersection of SR 54/SR 74. She was unclear about the pathways planned to connect the area. She would be glad for improved water pressure, but noted that her water service went out about once a quarter. There were many boil water advisories, and she was unsure how this would impact that issue. Eskew told Council she was concerned about the impact of stormwater, considering the steep terrain. She again noted there was a lot of development in Peachtree City now. Since this area had not been developed since the 1970s, maybe they should let it sit and focus on infrastructure issues. She liked the quiet nature of her community as it was now.

Rick Muller said his concern was the cart path on the east side that would extend directly to the Glenloch Recreation Center through very steep topography. The cart path system periodically flooded in rainy weather, and he was concerned that this development would accelerate the flooding conditions.

Kevin Arthur stated that this development did not look right on paper, did not smell right and was a terrible idea.

Martine Yancey said she had several concerns that she had brought up with Cailloux and with City Council members, but she would not go into them now. Prebor encouraged her to go ahead and bring them up, so she went on to explain that she ran a local Facebook group, and members had reached out to her with information about what she termed "shadiness" with Feller and Feller Holdings. They investigated and found information that "the gentleman had served some time for tax evasion." Feller interrupted her to say they had the wrong person. Yancey apologized, but said they looked at the signatures on the documentation.

City Attorney Ted Meeker said he did not feel that was relevant, and Yancey said that was why she was not going to mention it, but was asked by Prebor to do so.

Yancey was concerned about the amount of impervious space and lack of greenery, and she also mentioned the steepness of the cart path in the area. With the amount of impervious area and the lack of greenspace, that steepness could cause a problem with runoff. She said she trusted that Cailloux had taken that into account. Another concern was adding homes to a commercial area. That was taking tax money away from what could be commercial.

Sarah Ruiz stated she was an owner of a building at Shakerag Hill. Her business, Sweet Tea Yoga, was in a beautiful setting where they could enjoy the wildlife and greenery. This development would greatly impact that, she remarked. In addition, there were drainage issues at the site. She said they had had to re-support the building, and runoff was a problem. Parking was tight in their parking lot, and she worried about the impact of path connections through that lot, saying the possibility of accidents would be high. Construction noise would be an issue. She said she was concerned that changing the zoning would set a precedent of allowing other commercial property owners to seek rezonings that would be detrimental.

Fleisch closed the public hearing.

King asked if the homes would have garages at street level or if they would have golf cart garages on the side. Lindsey replied that some would have lower level garages with stairs or an elevator leading to the main floor, while others would have street level parking.

Lindsey responded to several issues brought up by citizens, saying the bed and breakfast cottages would not be used for long-term rentals because they had no kitchens. A citizen asked if they could be rented by the hour, and he replied that they could not; they would be rented by the day. The runoff issue would actually be improved because they would build a detention pond, and the Stormwater Ordinance required them to keep all water on their property and slow it down before it eventually went downhill. There would be an extensive landscaping plan, and once the buildings and infrastructure was complete, they would be installing greenery and mature trees to get it to looking like North Cove as quickly as possible. The homeowners' association would handle all upkeep of the outside areas. They were not looking to share parking with Shakerag, and that area of the development would be the residential component. The commercial component would be near Petrol Point.

In response to a question from Fleisch, Lindsey said the homes would be from 1,600 to 3,300 square feet.

Ernst clarified that Lindsey was talking about the homes that would be sold, adding he believed the bed and breakfast would be a place where people who were visiting friends or family in the area could stay. Lindsey said that was correct, and noted that after the breakfast service was over in the community building, it would be open to Laurel Brooke residents, as well as others in the City, for small gatherings, such as for church groups or civic clubs. The bed and breakfast would be open for rental to the community and would not be rented for a few months at a time or by the hour. Ernst noted that it would generate tax income for the City.

Madden asked Cailloux about the width of the buffer between the development and Robinson Woods Estates. She replied that the City-owned greenspace was 70 feet at its narrowest. There would be homes at the back of this development, then their back yards, the minimum of a 70-foot greenspace, then the back property lines of the homes in Robinson Woods.

Madden asked City Manager Jon Rorie if all new path construction had to adhere to Americans with Disabilities Act (ADA) standards. Rorie told him there were exemptions to that, especially if the paths ran parallel to roads. He acknowledged there were some steep areas, but reminded the group that these were trails and paths through greenbelts; they were not roadways or sidewalks. There were limitations to what could be done in a greenbelt, Rorie said, and King noted that some were in wetlands.

Prebor noted that Lindsey had addressed the comments about runoff and stated that Ruiz's problems with runoff from this property should be alleviated. Cailloux pointed out that runoff from higher property on Shakerag spilled over onto this property because Shakerag was built before the Stormwater Ordinance was in place. This property owner would have to retain that water as well as the water generated on his property. Prebor wanted to make sure this would remain owner-occupied property, and Lindsey stated that it would. Prebor noted that this would fill a need of so many City residents who were empty nesters and were looking for low-maintenance residences.

Cailloux addressed the concerns about parking. Typically, there was one space per 300 square feet, but the proposal was one space per 275 square feet, so it exceeded what was typical. They also were providing parking for the deli at the restaurant level of one space per 100 square feet.

Going back to the impact on traffic, Prebor pointed out that the ITE figures did not account for the fact that many residents and users would be taking the cart paths, rather than roads, to get to destinations in this development.

Later in the meeting, Rorie noted, they would be discussing changes and updates to the zoning process, focusing on ex parte communications. Zoning decisions were based on certain criteria, not likes and dislikes from social media. The statement read at the beginning of every public hearing said that both those in favor and in opposition were required to produce evidence supporting their positions. He said he was very aware that opinions and emotions frequently flowed into those decisions, but, at the end of the day, Council Members were hearers in a quasi-judicial process. They should not be having ex parte conversations. It was inappropriate if they were being contacted with information in regards to zoning decisions outside of the public hearing domain. It created problems and was why there was the Zoning Procedures Act and also the 14th Amendment, which called for due process, as well as the Administrative Procedures Act that talked about not making arbitrary and capricious decisions.

Rorie went on to note that in the agenda packet was a Constitutional Argument, also known as Constitutional Objection Letter, that detailed objections based on the 14th Amendment and lack of due process, taking without adequate compensation, and arbitrary and capricious decision making processes. Their footing needed to be strengthened in the future, and they needed to have these conversations, Rorie went on, saying he wanted to talk about rental homes. People with property, he stated, had property rights. They could rent it, sell it, demolish it, build it, or do whatever. The City's police powers allowed them to establish zoning, he remarked, referring to a zoning map of this area that, Rorie went on, contained a lot of rental property. It was appropriately zoned for rental property. If rental property was constructed in that area, it would fit the zoning, Rorie commented.

Rorie added that cutting trees had been mentioned, but the City had 3,700 acres of greenspace right now. They should not just remove all the trees, but the Comprehensive Plan addressed those issues with all developments.

Prebor asked Meeker if the City was allowed to mandate that all units in a development be owner-occupied, and Meeker said they could not. Cailloux asked if the case was different if the

developer volunteered to do so, and Meeker said it would be fine if the developer volunteered that as a condition, but the government could not impose it. Prebor asked Lindsey if they were volunteering that. Lindsey said he did not know what someone who bought a property there 10 years from now would want to do, but Feller owned this and would develop it, then sell to individual owners. At this price point, Lindsey remarked, he could not imagine they would be rented.

King said he would hate to know that if he had to move from the house he owned, he would be denied the opportunity to rent it. He pointed out that this property was so far off the beaten path that no one wanted to develop it as it was currently zoned. King said he understood it looked serene and beautiful, but since he had been on Council, they had methodically changed some zoning because the zoning applied 30 or more years ago no longer fit.

King moved to approve New Agenda item 11-19-01, Rezoning Request, GC General Commercial & OI Office Institutional to LUC Limited Use Commercial, 8.9 acres on Petrol Point/Tivoli Garden. Prebor seconded. Motion carried unanimously.

19-11-02 Consider Bid for Gym Floor Replacement – Gym Service & Installation Co., Inc.

Recreation and Special Events Director Quinn Bledsoe recalled that, during the budgeting process, they discussed the need to replace the gym floor at the Kedron Fieldhouse. A capital improvement plan (CIP) project was approved in the amount of \$225,000. Staff researched what type of surface they wanted to use and decided upon a hybrid-type product called ElastiPlus, which they had seen at several places, including Georgia Tech. They were encouraged by what they had seen and what they had heard. A licensed, certified installer was required for this project, and there were three in this region. When they put the bid out, it went to those three. The work was scheduled to begin as soon as possible. They put the bid out once before and got one response back on time; another got lost in the mail, so they re-bid it and got two responses. The low bid was \$150,881, less than the budgeted amount, which gave them a buffer. Bledsoe noted that would be useful because they did not know what they would find when they took up the old floor. She recommended Council accept the bid from Gym Service & Installation Co., Inc. (GSI).

Fleisch asked where GSI was based, and Bledsoe said they were just over the line in Alabama. Fleisch pointed out that the original flooring put down with the 1990 bond money was an outdoor product used in indoors. She also mentioned there were still residential toilets in place that were installed for public use, so there had been a lot of skimping over the years that they were having to rectify.

Prebor mentioned the hardness of the existing floor and asked if this would be softer and easier on the knees. Bledsoe said it was softer. They saw it on a walking track at Georgia Tech, and it had some compression, but it would not affect the bouncing of a ball. The surface was designed for gymnasiums, she said, and people would love it.

Madden asked about the lifespan of this product. Bledsoe said she had called the manufacturer that day to ask about that. The product was applied in layers, and, on average, the top surface, depending on use, might have to be repoured in 10 or 15 years in the high traffic areas.

For comparison, Rorie noted, all the tennis courts had to be resurfaced every five years.

Madden moved to approve New Agenda item 11-19-02, awarding the bid for gym floor replacement to Gym Service & Installation Co., Inc. Prebor seconded. Motion carried unanimously.

Council/Staff Topics

Zoning Process: Changes and Updates

Cailloux told Council there had been a shift in Georgia pertaining to the zoning process. In *The City of Cumming v. Flowers*, the Georgia Supreme Court ruled that variance hearings were essentially quasi-judicial decisions, not legislative decisions. This overturned a standard practice that had been in place since at least 1995. There was a lot packed into this decision, but Cailloux said she wanted to focus on what it meant to the City and to members of Council in particular.

In Peachtree City, the Mayor and Council wore two hats: a policy hat and a judicial hat. Most of their work involved wearing the policy hat: making broad policies that applied to all citizens, not particular groups or persons. These policies became ordinances that the City Manager and staff executed. Occasionally, they removed the policy hat and put on the judicial hat. This was not unique, but was a little different in the City. This happened when someone made a request or appeal, and they had to see if that request met the City's standards. One of those instances had taken place at this meeting. Rezoning was a judicial decision, as were granting variances or special use permits. Policy decisions included adopting an entire zoning ordinance or a text amendment; the 2008 change to the General Industrial (GI) zoning district affected all GI properties, not just one, so it was a policy decision. A rezoning, which affected just one property, was a judicial decision.

This legal ruling changed how they should make local decisions, Cailloux stated, but it did not change the content or outcome of the local land use decision. It only affected the process of how they reached those decisions. Peachtree City had already implemented many of the practices, so this ruling strengthened the practices already in place. A rezoning required a public hearing, which was much like a court hearing. Council sat as the judge and heard both sides of the cases. Both sides were required to present evidence and facts to support their cases. Council then had to weigh that evidence and facts against the standards outlined in the ordinance. That was why, Cailloux commented, she brought out the six questions each time there was a rezoning or variance request. Council was supposed to base its decision on those standards. Decisions should be influenced only by the facts and evidence and the standards in the ordinance. What should not influence those decisions were the number of people who showed up at a public hearing. However, she cautioned, that did not mean Council should disregard the evidence and facts those people provided, but the sheer number of people on either side should not factor into Council's decision. Pre-hearing meetings, the ex parte communications Rorie mentioned earlier, should not be a factor.

Fleisch asked what they should do if a citizen called them and asked them to come out and look at their property before a variance hearing. Cailloux told her they should not be making those site visits. Prebor said site visits often were the easiest way to gather information about a particular situation.

Cailloux said Council needed to avoid these casual contacts and instead encourage the person to come to the public hearing and present evidence about the impact of the rezoning. If someone said something would bother him from his backyard, he needed to present evidence of that. Hopefully, staff was doing an adequate job of providing that information as well.

Rorie noted that he was frequently asked to meet in a two by two format with developers who were contemplating a project, and he always refused because it was inappropriate. Citizens would catch Council Members at the coffee shop or wherever and tell them that a certain issue was a bad idea, and Rorie said they would have to listen to that, but, if it came down to a public hearing, the citizens must attend in order for their evidence to be considered. Rorie also cautioned members of Council about using social media to discuss these matters because it was difficult to

determine if they were speaking in a personal or official capacity. They had a public hearing process because of due process. He knew they often would want to see the properties in person, but Cailloux warned that they should not do it with anyone, such as property owners or developers. Prebor confirmed that a visit was fine, and Rorie said they could do it, but the decisions had to be based on evidence presented at the public hearing.

Meeker told Prebor he had no problem with riding out to the property for a look around. Talking with people was a problem. If someone saw them out there, the other side could say there had been improper communications, and the Council Member should recuse themselves from the vote because they had pre-judged it. It was the same as if there were evidence that a judge had a bias or a previous relationship or had gathered evidence on his or her own, then the lawyers would be asking for that person to recuse themselves, citing a conflict of interest. What they were recommending, Meeker told Council, was to their benefit to enable them to stay involved in the process.

King noted that he did not need to talk to anyone in order to make a decision, but it gave him a better feel for the property to be able to walk or drive around on it. He had lived in Peachtree City for 32 years and had visited many areas and talked to many people. It did not make him biased, and he said he would do what he had to do.

They could visit a site, but should not participate in any ex parte communication, Madden confirmed, and Meeker said that was fine. Fleisch noted this included meeting with homeowners associations.

They could not control what emails they received, Meeker noted, but those emails could be forwarded to Cailloux and made a part of the official record. Fleisch said they could be forwarded to the whole body.

Cailloux noted that was a good point: ex parte meant that other people were not there to hear the information. To make sure that information was shared, they should forward that email.

Ernst said he agreed that there was no substitute for actually seeing the site, but he understood they should not meet with someone.

No one was asking that they not visit the sites, Rorie remarked, but if they got an invitation to attend a party at a brewery to discuss a development, that was not allowed. They should not go out and talk with the community about a development.

King said he almost had to talk to the neighbors to get a feel for what they were thinking. That might not influence his vote, but he needed to get a feel for what they were thinking.

Those same neighbors could come to the microphone during the public hearing, Meeker pointed out. Visiting those neighbors when there was an application pending would be problematic.

Peachtree City was 60 years old, Rorie remarked, and many things that happened in the past should be left in the past. Times changed, and they had to be cognizant of that, whether it was administrative procedures or legal processes. He could not set up meetings between developers and Council Members, regardless of how many phone calls or emails he received.

What would be the process if they wanted to visit private property, Prebor wondered. They would have to get permission from the owner, he went on, but should they tell the applicant they wanted

to walk the property, but could not talk to them about it. Meeker said that was exactly what should happen.

Rorie pointed out that Prebor just got a legal opinion.

By calling this a quasi-judicial decision, Cailloux said, if they were ever taken to court over the outcome of a variance or rezoning request, the way that challenge would be reviewed was now different. When it was considered a legislative decision, they could have a whole new hearing, add new evidence, call new testimonies, and make the case again. But now, because it was a judicial review, they would review only the case file. That was why evidence in the public hearing was so important. Council could not consider any evidence that had not been presented at the public hearing. There was a presumption in favor of the local decision, so there was a very high bar to overturn it. As long as they continued to limit ex parte communications and based decisions on the facts and evidence presented in the public hearing, as well as the set of standards, they were on solid legal ground, Cailloux contended.

Rorie pointed out that the very cases they had brought up, they had been in the courtroom talking about.

King acknowledged this, but said this whole process was a means to an end of hiring more lawyers to issue more opinions with no decisions being made.

Prebor mentioned the "multi-family moratorium," and Cailloux corrected him, noting that it was a moratorium on multi-family rezonings. There was property in the City zoned right now for multi-family, she said. Prebor asked if lifting the moratorium had ever been denied.

Cailloux said it had. In 2006, Council did not lift the moratorium for the very property that was under review at this meeting.

Rorie went on to say that every time they lifted the non-existent multi-family moratorium, members of the community panicked at the thought of apartments. He asked Cailloux to display the zoning map again. Rorie explained that they had a moratorium on rezoning property to accommodate multi-family. It was a rezoning issue, which was a quasi-judicial process. He asked Cailloux what GR meant on the zoning map, and she replied that it was General Residential. Rorie asked if it was permitted by right or condition to do multi-family in GR, and Cailloux said it was by right. He asked how many units there could be per acre in GR, and Cailloux said it was 25. Rorie went on, right now, he could level that GR land and build 25 apartment units per acre, and it would never come before Council. Cailloux said that was correct. There was no multi-family moratorium, he concluded. There was property all over the City where multi-family could be constructed right now. The property he was looking at was GR-14, which meant 14 units per acre. GR-6 meant six units per acre. Rorie said Council would be dealing with this issue at the November 21 meeting.

Fleisch asked Cailloux if those GR zonings had been in place since the 1970s, and Cailloux said that was correct, adding that a lot of communities were zoned GR and were not developed at 25 units per acre, but that right still went with the property.

Secor said his take-home was that ex parte communication meant he should not approach any member of Council about any concerns outside of this space.

Rorie said that was not true. Council members could not talk with anyone about how they would vote and what they thought. That should occur in a public hearing. Meeker noted that this only pertained to rezonings and variances.

Eskew noted that at the Planning Commission meeting, some residents indicated they had had Council Members visit their homes to discuss the Laurel Brooke project. They had the social capital to have a member of Council at their home, she noted. No one came to her home to talk about it. This conversation led her to have concerns about the process for that property.

Madden inquired if the multiple emails they often received in regards to a rezoning could be considered ex parte communications. Meeker said they were not, but that was why he suggested they be printed out and made part of the record. Receiving something was not a problem; it was when a Council Member engaged in a conversation that they went down a challenging route. Madden said if he acknowledged the email by saying something like "Thank you for your comments. Please be advised that we will consider all the facts when making a decision on this request." Meeker suggested adding a sentence saying the email would be made part of the official record, and he suggested copying Cailloux on the response.

Prebor asked if Meeker could come up with a standardized response that covered all the bases. Meeker told him an appropriate response would be to acknowledge receiving it and telling the sender that the email would be made part of the public record.

Rorie stated this showed why it was so important to be able to narrow down the evidence and make a quasi-judicial decision. They must consider evidence, not emotion or opinion, in making rezoning and variance decisions.

Stormwater Bond Refinancing Opportunity

Finance Director Paul Salvatore said staff was seeking authorization to move forward with refinancing the Series 2013 Stormwater Bonds and other similar ones when they saw that market conditions were favorable to see a savings in interest payments. In order to be feasible, that meant a minimum of 3% in present value (PV) savings.

All the City's debts were regularly monitored for savings opportunities, Salvatore noted, and they had been notified by their financial advisor that they might have the opportunity to get a lower interest rate on the Stormwater Bond that was issued in July 2013 for a total amount of about \$9,395,000. He explained that \$2,590,000 of that amount was to re-finance 2007 bonds, while \$6,805,000 went to new stormwater projects. All of that had been spent at this point. Of that original \$9,395,000, they had paid down \$2,120,000, leaving a principal balance of \$7,275,000. Analysis showed that \$5,545,000 was the amount that it was feasible to re-finance.

Prebor asked why that could not do the whole amount, and Salvatore explained that the bonds had different maturities. Rorie said they were laddered. Salvatore said some of the bonds were not callable. They looked at each block that were sold in the total issuance to decide if it was feasible to re-finance them. If they were not callable, it did not matter; they were not callable.

The remaining debt service went to 2033, which was 13 years from now. The total of remaining principal and interest payments was \$9,048,000. If re-financed, that would come down to \$8,795,028, for a savings of a little more than \$250,000 in debt service payments until the end of the term. Divided by the 13 years remaining, it was about \$19,000 a year in savings. If you calculated the present value of that money, it worked out to about 3.9%, and Salvatore reminded Council that the goal was at least 3% savings. If the savings went below that, he remarked, the underwriters and the lawyers would make out better than what the City would save.

Fleisch asked if they could re-finance through the Georgia Environmental Finance Authority (GEFA), and Salvatore said he checked, and they could not. The Mayor asked why they did not use GEFA originally, and Salvatore said he did not know if GEFA had been available for it.

The savings included closing costs, Salvatore added.

The caveat was that the savings fluctuated, depending on what the market was doing. Just moving 15 basis points up or down would change the savings by \$70,000. A drop had brought the PV savings down to about \$150,000. A change that day, Salvatore reported, put it out of the 3% range. They wanted to be authorized to act on it when they saw the market conditions moved back over the 3% savings, like it was a few weeks ago, they could lock in the lower rate. He said Rorie had remarked that the market did not cooperate with their schedule of Council meetings every two weeks.

Madden confirmed that this would lock in the savings at more than 3%. Salvatore said all the paperwork would still have to be approved by Council, but they could lock in the rate.

In essence, Prebor summarized, Salvatore was recommending that they pull the trigger when the savings went higher than 3%. Salvatore noted that 3% was the industry standard.

When this was done, Fleisch asked if they could comparison shop their bond counsel and their fees and make sure the airport was exempted from this for their pavement. She said she had been told that there should be an exemption for stormwater in Stormwater Bonds for an airport.

Rorie said he had handled that years ago. Fleisch said they fixed it here, but the bonds should reflect it as well. That could be correct, Rorie conceded.

Prebor asked him to expand on that.

Rorie related that airport runways were typically resurfaced and paved by the Georgia Department of Transportation (GDOT). There was no stormwater fee for SR 54 and SR 74. GDOT was exempted from that, and so were the runways. When calculating a bond rate or a stormwater rate to facilitate paying for bonds, the runways at the airport should be excluded. That was not how it was set up, and Fleisch said they were getting a bill for thousands of dollars a month. Rorie said they cleaned that up internally, but if they did something with the bonds, they would have to ensure that the stormwater rate reflected that the runways were exempted.

Peachtree City's budget process went on all year, Rorie commented. The year-end fiscal analysis was coming up in December. The budget was adopted, and they closed out the books on September 30, then went through the auditing process. In December, unaudited numbers would be available for the year-end fiscal analysis, and audited numbers would be available in March. If they re-financed a bond rate with a 3% present value savings, that generated \$20,000 a year they did not have to pay. That \$20,000 would be reflected on the revenue side as opposed to the expense side. The task of the Finance Department was to do that. Everything they did in this City required money, so they had to be aware of where they were spending.

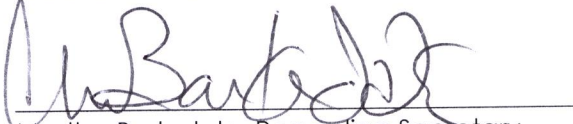
Rorie referred back to the bid process for the Kedron Gym floor. Because one bid arrived late, they only had one bid, so they decided to re-bid it. It was all about trying to get the most bang for the buck. Sometimes they were successful, other times not. The Kedron floor had an awarded price of \$150,000 with a budgeted price of \$220,000, but Bledsoe said it depended on what happened with they removed the old floor.

They wanted Council to authorize staff to move ahead with re-financing if the savings would amount to 3% or more. It would come back to Council as a bond package if this happened.

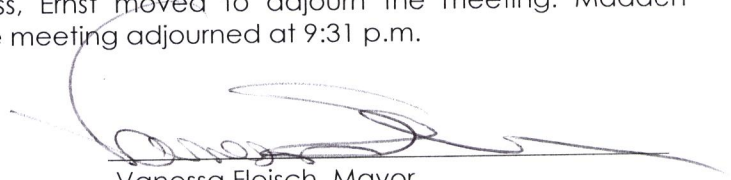
King moved to convene in executive session to discuss pending or threatened litigation, and the acquisition or sale of real estate at 8:12 p.m. Ernst seconded. Motion carried unanimously.

King moved to reconvene in regular session at 9:30 a.m. Ernst seconded. Motion carried unanimously.

There being no further business to discuss, Ernst moved to adjourn the meeting. Madden seconded. Motion carried unanimously. The meeting adjourned at 9:31 p.m.



Martha Barksdale, Recording Secretary



Vanessa Fleisch, Mayor