

City Council of Peachtree City
Minutes of Meeting
November 7, 1996
7:00 p.m.

The City Council of Peachtree City met in a regular session Thursday, November 7, 1996, at 7:00 P. M. in the City Hall Council Chambers.

Mayor Lenox led those attending in the pledge of allegiance. Council members present were: Annie McMenamin, Caroline Price, Bob Brooks, and Jim Pace.

ANNOUNCEMENTS, AWARDS, SPECIAL RECOGNITION

Mayor Lenox presented a plaque to Linda Vaughan for services to the Library Enhancement Committee and for assistance in forming the new Library Commission.

Mayor Lenox presented a 15-year pin to Mike Rogers.

The Kiwanis Club presented a \$2,000.00 check to Chief Murray and Officer Rodney Burnette for the "D.A.R.E" Program.

ADDITIONAL AGENDA ITEMS

Brooks made a motion to add agenda item 11-96-07 to call for a Public Hearing to consider Mike Hyde's continued service on the Planning Commission.

MINUTES

McMenamin made a motion to approve the November 7, 1996 minutes as presented. Pace seconded the motion. The motion carried unanimously.

OLD AGENDA ITEMS

There were no old agenda items.

NEW AGENDA ITEMS

11-96-01 Consider Funding for McIntosh Trail Mental Health/Mental Retardation & Substance Abuse Services

Members of the McIntosh Trail Mental Health/Mental Retardation & Substance Abuse Services requested Council to consider making a financial contribution to their organization.

Members Cathy Johnson, Dean Roach, and Terry Willis addressed Council and explained that State budget cuts were adversely affecting the services their organization could offer. They currently service thirty-six consumers and have twenty-eight people on a waiting list. They explained that it cost approximately 6,400 per year to provide service to just one consumer and they had requested assistance from all of the counties and municipalities they service.

McMenamin and Brooks shared concerns that if Fayette County and Peachtree City both made a donation, Peachtree City citizens' tax dollars would in reality be spent twice. Council agreed that they were sensitive to the organization's need. Mayor Lenox instructed the City Manager to have the funding request placed as an item on the agenda for the next Fayette County Government Association meeting. Lenox also asked for a copy of the organization's budget.

11-96-02 Public Hearing - Proposed Rezoning Palmer/Hyde Property

Lenox reviewed the rules for a public hearing and established a time limit of thirty minutes for each side to be heard.

Lenox asked first to hear from the applicant. George Rosenzweig, legal council for the applicant addressed Council. Rosenzweig said Katherine Palmer and Mike Hyde had requested a Limited Use Residential (LUR) zoning that would allow them to build nineteen homes with a price range of \$215,000 to \$350,000. He said they proposed to access the property along Carriage Lane and there was no proposal to access the property from Stagecoach Road. He said they anticipated that Peachtree City Development Corp would develop the adjoining property, and may want to access their property from Robinson Road.

Rosenzweig pointed out that the existing Estate Residential (ER) zoning would permit a house and a guest house on each lot and that in theory his clients could build twenty houses on their property. Rosenzweig said the proposed rezoning would include adequate buffers to address all the issues that had come up in the past except the land use plan.

Rosenzweig said he felt it would be unconstitutional for Council to deny his clients' request, because he felt Council would be denying his clients equal protection. He said similarly situated properties on the east side of Robinson Road are zoned R-43 and that there was recent precedent for rezoning the land use plan to Limited Use Residential. He said failure to rezone would constitute a violation of his clients' substantive due process rights and that failure to rezone would be arbitrary, capricious, and not reasonably related to the public health, safety, welfare or morals. Rosenzweig felt the only reason Council would deny the rezoning was to appease neighborhood opposition. He felt his clients had

met all the criteria under the zoning ordinance and to deny their request would constitute a taking of their property without paying just compensation. He said the property would be worth \$1,000,000 at the requested zoning but that it had no viable economic use as presently zoned. He said they had listed the property for sale; however, they had received no written offer. Rosenzweig said Mike Hyde had not given up his rights to file a petition in the courts, or to request rezoning of his property because Council had appointed him on the Planning Commission.

Brooks asked why Rosenzweig felt Hyde had a right to have his property rezoned when he bought it with the existing zoning and could probably sell it for a profit. Rosenzweig replied that in America, people have a right to use their property as they see fit unless government had a good reason to regulate it.

Lenox asked what Hyde was asking for each lot as presently zoned. Rosenzweig said they priced each lot at approximately \$90,000. Lenox asked if Hyde had considered the cost of the infrastructure to access the lots. Hyde said that he had and that it would cost approximately \$200,000. Lenox offered Hyde \$700,000 cash within thirty days for the entire acreage as a personal offer and gave Hyde 30 minutes to decide. Lenox stated that it was a bonafide offer in front of many witnesses. Rosenzweig asked that the record reflect the grandstanding. Lenox replied that it was not grandstanding and offered to write the check immediately. Rosenzweig asked that Lenox disqualify himself from the discussion because he now had a financial interest in the matter. Lenox agreed.

Lenox asked if anyone else wished to speak in favor of the rezoning. Hearing none, Lenox asked to hear from those wishing to speak opposing the rezoning. Martha Bryson, Kelly Rains, Ron Rains, Ted Thomas, Larry Manwaring, Jan Best and Director of Developmental Services, Jim Williams all spoke opposing the rezoning. Reasons given were as follows:

There is a need for three acre lots in Peachtree City.

The LUR request is very similar to the previous R-43 request that was denied.

The density is too great for septic tank usage and there is no sewerage service in that area.

It would create an isolated zoning district that is not compatible with the surrounding area.

Hyde does not need a rezoning to profit from his land. He can make a profit developing the land as presently zoned.

Surrounding residents believe it would lower the property values.

The request is not by the Land Use Plan.

Rosenzweig said he felt there was a misunderstanding that the majority could tell the minority how to use their property but that he and his clients would continue to discuss and consider Mayor Lenox's offer to purchase the property.

Mayor Lenox excused himself from the meeting and Mayor Pro tem Brooks called the hearing to a close and opened the floor for Council debate. McMenamin said she would recommend denial based on the integrity of the Land Use Plan. Pace agreed stating he felt they were under no obligation to give Mr. Hyde special rights to profit from his property. Price also stated she could not support the rezoning because she felt that protecting the rights of the surrounding property owners and the Land Use Plan was important.

McMenamin made a motion that they should deny the proposed rezoning of the Palmer/Hyde property on Stagecoach Road. Pace seconded the motion. Motion carried with Mayor Lenox abstaining.

**11-96-03 Public Hearing - Consider Abandonment
of a portion of Crabapple Lane**

Lenox said the public hearing to consider the abandonment of a portion of Crabapple Lane would follow the same rules and time limits of the previous public hearing. Lenox asked first to hear from those in favor of the abandonment.

Basinger addressed Council and said staff recommended Council abandon a section of Crabapple Lane that extends eastward approximately 1500 feet from its current connection on North Peachtree Parkway because at that point Crabapple would be cul-de-saced and a new road would be constructed to connect Crabapple back into the Parkway. He said the new connection to Peachtree Parkway would be approximately one quarter of a mile southward of the existing Crabapple connection on the Parkway. Additionally, the remaining section of Crabapple, which is a dirt road, would be paved to city standards by PCDC at no cost to the City.

Basinger said the plan to abandon this section of Crabapple dates back to 1992. At that time the Council traded approximately .79 acres of Crabapple Lane East and Peachtree Parkway North right-of-ways in exchange for 2 acres of land on the West side of Highway 74 for the Kedron Fire Station site. He said as part of the swap Council also adopted a Road Abandonment policy that would apply to this section of Crabapple, which in essence says that when a new road is constructed to serve an existing area, the city would abandon the old right of way to the adjoining property owners.

Lenox asked to hear from anyone else in favor of the proposed abandonment. Hearing none, Lenox asked to hear from anyone who would like to speak in opposition to the proposed abandonment.

Cathy Thomas addressed Council and said she was not notified the road would be closed and she did not understand why it needed to be closed. Basinger responded that it was not safe for public safety equipment to cross the stream that was across the road. Thomas said she had a business located in her home that could be affected by closing the road. Thomas submitted a petition of 250 signatures in opposition to closing the road. Danny Smith, Jim Care, and Ted Thomas also addressed Council opposing the abandonment. They felt it should be left as it is.

Lenox asked to hear from anyone else opposing the abandonment. Hearing none, Lenox called the hearing to a close. Price made a motion to approve the abandonment of 1,500 feet of the existing Crabapple Lane East to be effective as soon as the alternate street system is implemented, the old road be kept open until the new road is open, and the easement rights of the abandoned roadway are given over to the adjoining property owner, PCDC, in accordance with OCGA 36-37-6(g). Brooks seconded the motion. Motion carried unanimously.

11-96-04 Line Creek Nature Preserve Deed

Basinger addressed Council with a proposal to create a nature preserve on Line Creek similar to the one on Flat Creek. He said the preserve would comprise 68.13 acres and extend more than 8,000 feet from GA 54 south to the proposed Lake McIntosh. He said previously, 18.03 acres had been dedicated to the city as part of the Planterra Ridge subdivision and a deed for the final 50 acres had been received from Peachtree City Holdings with several restrictions contained in the deed to ensure the property permanently remains a nature preserve.

Basinger said upon acceptance of the acreage, staff would prepare a proposed management agreement between the City and the Southern Conservation Trust similar to the agreement for Flat Creek. He said the trust had around \$100,000 to spend on the first phase of development of the preserve. Phase one would include an access drive from GA54, a small parking area, a gazebo, a handicap accessible nature trail around the pond, environmental displays and project signage.

Basinger said staff was very excited about obtaining this property as a Nature Preserve because it was one the most beautiful natural areas in the city. He said he felt the citizens and visitors would receive a lot of enjoyment out of the area, and it would provide a real

— treat to the education of young people in teaching them about wonders and beauty of nature.

Mike Lorber, Southern Conservation Trust, addressed Council. Lorber said they had reached one half of their financial goal to develop the nature preserve and he wanted to acknowledge two contributors. He said the Huskey Corporation donated \$25,000 to build the gazebo and make improvements to the pond and PCDC had donated \$42,000 to the project.

Price said she felt it was important to encourage Cowetta County to maintain a mirrored image on the other side of Line Creek. Price made a motion to accept the deed for 50.1 acres to be added to those lands already in city ownership for a total of 68.13 acres to be designated "The Line Creek Nature Preserve." McMenamin seconded the motion. Motion carried unanimously.

11-96-05 Report on proposed License/Permit/User Fee Increases

— Basinger said staff had completed an analysis of all city fees and user charges. He said the analysis included a comparison of fees and charges with other selected cities and counties. A copy of the comparison was provided to Council and is made a part of these minutes, herein.

He said the analysis resulted in the need to adjust only a few fees. He said recommendations on fees were received from the Recreation Commission and the Solid Waste Advisory Group. All other increases are being recommended by staff based on the analysis.

— Basinger said staff recommended a change to the occupational tax fee from \$10 to \$12 per employee with the maximum to be increased from \$1,000 to \$1,250. He said the court fines had been reviewed and adjusted as deemed appropriate by the Judge as permitted by city ordinance. Basinger said the Solid Waste Management Committee proposed to charge a tipping fee at the recycling center which would be \$1.00 per trash bag, \$3.00 for a small pickup truck and \$5.00 for a large pickup truck. Citizens would still be able to pick up mulch free of charge. Basinger said there were also a number of recommended changes in the recreation area which included raising rates for facility and park rentals and lowering rates for pool passes. Basinger said staff also recommended raising fees for non county users.

Dave Bowers, Phil Jones, and several other citizens who did not give their names, addressed Council and voiced their concerns about charging residents to use the recycling center and non-Peachtree City Residents using City recreation facilities.

After much discussion, Brooks asked that staff conduct a study on how many non-Peachtree City residents use the recreation facilities and library and that the item be placed on the Retreat agenda for discussion. Brooks made a motion to approve the fee changes as recommended by staff with the exception of imposing a fee for the recycling center. Price seconded the motion. The motion carried unanimously.

11-96-06 Concerned Citizens Committee

Lenox said the Committee had asked for a status of the GA Utilities negotiations.

Lenox explained that GA Utilities was a privately owned company and its sole source of revenues, other than tap fees for new users, was its customer base. He explained that the taxpayers of Peachtree City do not subsidize the system in any way and while it was important to remember that not all citizens of Peachtree City are customers of GA Utilities. If a home has a septic tank, the homeowner is a taxpayer but not a customer of GA Utilities.

Lenox said he had the following concerns about the sewer system:

- Major environmental problems could occur which may cost several hundred thousand dollars to clean it up.

- The Federal Government may tighten sewerage discharge standards and expensive new equipment may be needed to meet the standards.

- Parts of the collection and transmission system could wear out and have to be replaced.

- Poor capital improvement systems could be made with high capital costs and it operates inefficiently.

- The company could lose a law suite and must pay a large judgement.

Lenox said while all of these possibilities could occur regardless of who owned the system, the costs associated with these scenarios would be paid by the customers of the sewer system. He felt it was important to decide who would manage the risks and problems associated with the sewer system. He said PCDC had a vested interest in the company with a profit motive but that the City of Peachtree City could manage the company for the benefit of its citizens with no motivation to make a profit. He said it

would be extremely difficult to obtain regulatory power to regulate rates and that it would not remove the risks and liabilities.

Lenox answered the following questions that had been previously asked by the Committee:

1. What happens to the Rossetti law suit and his request for sewer service? Did GA Utilities refusal suggest potential capacity concerns?

Answer: Rossetti will receive sewer service on terms and conditions which will apply uniformly to all property owners on the west side as soon as the appropriate collection/transmission facilities can be designed, planned and built. The lawsuit is over who should pay for the infrastructure to collect the sewerage and transmit to the plant. Once it is at the plant, there is plenty of capacity to treat it.

2. Who determines who gets sewer service?

Answer: Currently the owner, PCDC and GA Utilities. We have seen incidents in the past where service has been available to PCDC's developments on more favorable terms than to other developers. Under the City's control, service would be available to all development within the city and the cost will be the same. There will be no favoritism and it will be a level playing field.

3. Will sewer service be available to any annexed areas?

Answer: Yes. Any system expansion costs associated with an annexation will be paid by the developer/property owner. Neither the taxpayers nor current customers of the sewerage system would pay for the collection and transmission of sewerage from annexed areas. Since the sewerage system is nowhere near being used to its full capacity, any additional usage would result in lower costs to each customer.

4. Has the City studied future development and capacity?

Answer: Currently have 4.9 million gallons of daily capacity and are using 2.8 million gallons. Our consultant engineer, Hartman and Associates, has advised us we have sufficient capacity to service all the industrial and residential land through build out up to a total population of 42,000 people. Carefully estimated all remaining land in Peachtree City as it exists today without annexation. If every piece of vacant land were built to its currently zoned density, we would finish out with a population of approximately 38,500 people. The City does not encourage process industries that use huge quantities of water to come to Peachtree City. We cannot support significant industrial loads.

5. Did the City consider the “effective” rate increase in August, in the final stages of negotiations an action of “good faith”?

Answer: No. We considered it a slap in the face. We assume it was done to put pressure on the Council to acquire the system, or because PCDC decided GA Utilities needed the money.

6. What would it cost to put the system in first class shape and how will we pay for it?

Answer: The Confidentiality Agreement prohibits giving all the details of the plan; however, working with Hartman and Associates we have put together a careful thought out a capital upgrade, capital improvement and capital expansion plan for the next five years. We have determined we can pay for it out of the current system revenues and rates that are no higher than are currently in effect and by the tap fees of the new users that will be coming onto the system. No tax money will ever be used to support the sewer system. It has to be run as a business.

8. What are the pros and cons of the City running the system?

Answer: We cannot eliminate the risks. They are there. But, we should ask ourselves who should operate it for the benefit of everyone.

9. Do we have qualified help in the take over?

Answer: The City and Water and Sewerage Authority hired one of the best qualified engineers in the Southeastern United States valuating the system. Hartman and Associates have one of the largest data bases in the country on sewer valuation, takeovers, and engineering and design. Kilpatrick and Cody, one of the largest and best law firms in the southeast, was hired for legal advice. We have had six different kinds of attorneys: environmental, real estate, title, regulatory, trial, and underwriting attorneys. To date, the City has spent approximately 1.1 million dollars for the following assessing the system and collecting the due diligence review. The budget to assess the system was established before the City ever began the process.

Lenox said, to date, they have conducted a detailed inspection and analysis of the following:

Flat Creek plant

Line Creek plant

Rockaway plant

26 major wastewater pumping stations that move sewerage through the system

110 miles of pipe line

275 acres of sludge disposal site

36,000 feet of force mains

928 out of 3,000 man holes and have documented locations

Computer aided design mapping of the 110-mile collection system to use in the future planning

Completed phase one environmental audits at all three of the treatment plants, which tells you if you need to check further. At the Flat Creek Plant it was determined a phase two analysis was needed, which involved drilling wells to check for ground water pollution.

Inspected and documented every single major fixed asset that GA Utilities had included an assessment of its current condition and remaining useful life.

Conducted title searches of all the real property and documents of all the easements and plats all over the city.

Land appraisals were prepared for all real property involved

Currently undergoing the due diligence accounting audit

Lenox said the final differences that need to be resolved by the negotiating committee did not involve the price. He said once the negotiating committee reached a final agreement, it would be reviewed by the Water and Sewerage Authority and City Council in executive session. He said in order to enter into the negotiations the City was forced to sign a Confidentiality Agreement and it cannot be broken until the City signs a sale and purchase agreement. Lenox said Council intended to ask GA Utilities and PCDC to permit them to hold a public hearing and solicit public input before a final vote is taken, but if they refuse, the only choices the City can make are to walk away from the purchase or make a decision before it is presented to the public.

Brooks said it was difficult for him to realize the City was going to have to buy the sewerage system and allow Ga Utilities to make a profit and that the City did not consider it fifteen years ago.

Jim Ryan presented 40 questions to the Council and asked that they answer the questions at a later date. Ryan also presented his estimate on Ga Utilities capacity.

Phil Jones and Dennis Chase voiced concerns over environmental issues with the sewerage system and asked that Council seriously and thoroughly investigated those concerns.

Residents also voiced concerns about buffering requirements in the City.

11-96-07 Consider Mike Hyde's Continued Service on the Planning Commission

Brooks said over the last six to nine months, the Council, City staff and Planning Commission had been wrestling with the serious concerns that center around the loss of confidence and trust the public had in the government's planning process. He said the City had moved aggressively to improve communications with changes in procedure and staffing. Brooks said unfortunately, the majority of this public distrust centers on the continued presence of Mr. Hyde on the Planning Commission. He said he had received more comments from the public on this one issue than any other in his seven years services on Council. The public's concerns are wide ranging from inflammatory quotes in the newspapers attributable to Mr. Hyde's ethic violations, to possible bias in future decisions concerning density issues on remaining land. He said the Council has tried to be extremely fair in this handling of this matter when considering the ethics violations. He said all individuals who serve on Commissions and Authorities are volunteers and it is important to respect that. He said when considering the ethics violations a couple of months ago, Council looked at just that issue, despite public clamor the issue is larger then the one violation and unfortunately the frustration and credibility problems are continuing to grow.

Brooks made a motion that a public hearing be held at the next Council meeting to determine whether or not Mr. Hyde should be removed from his position on the Planning Commission for cause and that Mr. Hyde be given the opportunity to resign, voluntarily from his position on the Planning Commission out of recognition of the service he has proved to this City in the past. He also moved that Mr. Hyde be suspended from any further activity on the Planning Commission until the public hearing is held and a decision rendered by Council. McMenamin seconded the motion. Motion carried unanimously.

Lenox made a motion to adjourn the meeting to reconvene in Executive Session to discuss a real estate matter. McMenamin seconded the motion. Motion carried unanimously.

Executive Session

Brooks made a motion to sign a quick claim deed between the Peachtree City Baptist Church and Presbyterian Church. McMenamin seconded the motion. Motion carried unanimously.

Price made a motion to authorize the City Attorney to negotiate the settlement of a law suite. Brooks seconded the motion. Motion carried unanimously.

Lenox made a motion to adjourn the meeting. Brooks seconded the motion. Motion carried unanimously and the meeting adjourned at 11:40 p.m.

Nancy Faulkner
Nancy Faulkner, Deputy City Clerk

Robert L. Lenox
Robert L. Lenox, Mayor