

City Council of Peachtree City
Minutes of Meeting
November 5, 2009
7:00 p.m.

The City Council of Peachtree City met Thursday, November 5, 2009, in the City Hall Council Chambers. Mayor Logsdon called the meeting to order at 7:00 p.m. Council Members present: Steve Boone, Cyndi Plunkett, and Doug Sturbaum.

Announcements, Awards, Special Recognitions

Mayor Logsdon proclaimed November as National Native American Month, and the proclamation was accepted by representatives of the Daniel Newnan Chapter of the Daughters of the American Revolution (DAR). Bishop Kevin Bentley of the Peachtree City Church of Latter Day Saints and his family accepted the proclamation for Family Month. Members of the McIntosh and Starr's Mill High Schools' Key Clubs accepted proclamations for Key Club Week. Virginia Gibbs of the Fayette County Chamber of Commerce accepted the proclamation for Find It in Fayette for the holidays. The Police Department trivia team presented the Peachtree City Youth Council with the winning trophy for Trivia Night. Police Sergeant Matt Myers was promoted to lieutenant.

Public Comment

There were no Public Comments.

Agenda Changes

There were no changes to the agenda.

Minutes

Sturbaum moved to approve the October 15, 2009, regular meeting minutes as written. Boone seconded. The motion carried unanimously.

Monthly Reports

There were no comments on the Monthly Reports.

Consent Agenda

1. **Consider Agreement with Griffin Tech for Use of City Facility for English as a Second Language (ESL) and General Education Diploma (GED) Classes**
2. **Consider Request to Surplus Goods**

Logsdon noted there was an additional document on the dais regarding Item 2 – the memo from staff regarding the requested surplus items. Boone moved to approve the Consent Agenda. Sturbaum seconded. The motion carried unanimously.

Old Agenda Items

10-09-CA4 Consider Bid for City Hall Underpinning

City Engineer Dave Borkowski noted that the bid had been continued at the last meeting to work on some contractual issues. Those issues had been resolved, and staff recommended approval of the bid of \$68,900 to Hayward Baker, Inc. The funds were included in the 2009 Bricks & Mortar loan.

Logsdon pointed out that there was a big difference in the bids, adding that the only other bid received was for \$109,660. Boone asked Borkowski if he was comfortable with the recommended bid and whether the company could do the job. Borkowski said that Hayward Baker, Inc., was a very large firm that worked all over the country. They could do the job.

Sturbaum verified that the funding had been earmarked. Financial Services Director Paul Salvatore said the project was part of the budgeted funds in the Bricks & Mortar loan, and the bid was within budget.

Plunkett pointed out that this work could not be postponed, noting that the City had held off on several capital projects due to the economy. Salvatore said no, it was an essential repair item.

Plunkett moved to award the bid for the underpinning to Hayward Baker, Inc., for the bid amount of \$68,900. Boone seconded. The motion carried unanimously.

New Agenda Items

11-09-01 Public Hearing – Reaffirm Multi-family Moratorium

Public Information Officer/City Clerk Betsy Tyler addressed Council, pointing out that the moratorium regarding rezoning property for multi-family projects had been in place since 1999. Developers had to ask Council to lift the moratorium before staff could look at any any multi-family rezoning requests. It was renewed every year.

The public hearing opened. No one spoke for or against the moratorium. The public hearing closed.

Plunkett moved to re-affirm the multi-family zoning moratorium. Boone seconded. The motion carried unanimously.

11-09-02 Consider De-annexation of 10-foot Strip, Brent West Village

Mark Forsling, attorney for the applicant, addressed Council. He noted that the tract was approximately 360 acres and had been annexed by the City in 2007. He said the John Wieland tract had also been annexed at the same time, and the conditions integrated the properties together. After the annexation, David Worley had filed a lawsuit challenging the annexations. The trial court ruled in favor of the City and granted the City's motion for a summary judgment. Worley had appealed the decision.

Forsling referred Fayette County vs. Steel, a 2004 case with similar facts. The applicant accepted a 10-foot strip to ensure the annexation did not create an unincorporated island. An allegation was made late in the Worley vs. Peachtree City lawsuit that the annexations had created two unincorporated islands. In the Fayette County case, the acceptance of the 10-foot strip of land did not create an unincorporated island. The statute also said that, if the areas left touched the next county, then there was not an unincorporated island. Forsling felt that the City and the developers would prevail in the appeal, but they applied for the de-annexation to ensure it. He added that the Fayette County Board of Commissioners had approved the de-annexation by agreeing to accept the strip of land, which met the standards set in the statute. He asked Council to grant the de-annexation request.

Interim Community Development Director/City Planner David Rast said staff recommended approval of the de-annexation request. City and County staff had reviewed the issue a number of times, and the County Commissioners had approved the request in October. The Planning Commission also recommended approval with three conditions – that the applicant would request A-R Agricultural Resident zoning for the 1.17-acre tract, that all buffers and setbacks identified within the LUR-14 zoning for the Brent West Village tract would be measured from

the newly created boundary line, and that all costs associated with the de-annexation of the parcel would be the sole responsibility of the developer.

The public hearing opened.

David Worley said the de-annexation was an attempt to save the entire 800-acre annexation in the West Village. He asked Council to defer a decision until the new Council took office in January. He continued that the developer's attorney believed the de-annexation would save the annexation, but it should be considered by a full new Council. Worley referred to a PowerPoint map and showed where the 10-foot strip was located. He noted that the 10-foot strip would run from the Coweta County line the corner of the Davis-Crawley tract. Worley said the Superior Court had not dealt with the issue of the Davis-Crawley tract. The central argument of the lawsuit was that the unincorporated islands were illegal. Since the entire annexation violated Georgia law, the annexation was void. He continued that the City could not de-annex something that was annexed properly. Approving the request was an admission that the annexations were not done properly in the first place. If Council approved the request, Worley said he had no choice, but to file another lawsuit. The lawsuit against the annexation was currently before the Georgia Supreme Court, and a decision was expected by March. Approving the de-annexation request would not solve the problem. He asked Council to either vote down the request or allow the new Council to deal with it in March after the appeal decision was announced.

Cris Lemay said he was neither for nor against the de-annexation request. He noted that there were dozens in favor of the original annexations the night they were approved. They unified the West Village and would provide for the continuation of MacDuff Parkway, which was a safety issue for the residents of the West Village, and would provide a second access to the area. The annexation was a good thing to do, and people were in favor of it.

There were no other comments. The public hearing closed.

Sturbaum moved to convene in executive session for threatened or pending litigation at 7:41 p.m. Plunkett seconded. The motion carried unanimously.

Sturbaum moved to reconvene in regular session at 7:47 p.m. Boone seconded. The motion carried unanimously.

Sturbaum moved to continue the requested de-annexation of the 10-foot strip in the West Village until a decision was rendered by the Court of Appeals. Boone seconded. The motion carried unanimously.

11-09-03 Public Hearing – Consider Reaffirmation of Annexation, Brent West Village

11-09-04 Public Hearing – Consider Reaffirmation of Zoning (LUR-14), Brent West Village

11-09-05 Public Hearing – Consider Reaffirmation of Annexation, John Wieland

11-09-06 Public Hearing – Consider Reaffirmation of Zoning (LUR-15), John Wieland

Boone moved to continue agenda items 11-09-03, 11-09-04, 11-09-05, and 11-09-06 at the applicant's request until further notice. Sturbaum seconded. The motion carried unanimously.

11-09-07 Consider Bid for Street Resurfacing

Interim Public Services Director Scott Hicks addressed Council, recommending Council award the bid for street resurfacing to C.W. Matthews at \$481,335.69. It was the lowest of the five bids on the job. Special Purpose Local Option Sales Tax (SPLOST) funds would be used.

Plunkett moved to approve the street resurfacing contract for \$481,335.69 to C.W. Matthews, Inc. Boone seconded. The motion carried unanimously.

11-09-08 Consider Request to Explore Possibility of Increasing Maximum Height of Fences within Front Yard Building Setback

Rast referred to a letter from David Cree to Mayor Logsdon, dated October 12, in which Cree asked Council to consider increasing front yard fences from four feet to six feet in height and allowing the fences to sit on the property line. Cree cited safety concerns as the reason for his request. Rast said no research had been done yet, but asked Council for feedback and direction.

Boone said there might be areas in the City that warranted the taller fences, and he would like staff to research it and bring back a recommendation.

Cree told Council there had been an enormous change in the City since 1974 when he first moved to it. Public safety and security was the number one priority at the recent candidate forums. His home was on a three-acre lot, and two of the homes in his neighborhood had been broken into, four doors in either direction from his home. There had also been three tire-slashing incidents in his neighborhood within the last week. His request was about personal security and safety.

Jimmy Preau, president of the Smokerise Homeowners Association, said one of the families whose homes were broken into did not plan to put a fence around their home or in front of the home. Many in the neighborhood were opposed to having six-foot fences and gates across their property lines. He did not believe the ordinance needed to be changed. Plunkett asked Preau if he had any objection to staff looking at the ordinance. Preau said his background was in security, and he questioned the value of adding the fences.

Plunkett suggested setting a time limit for staff to research the issue. Logsdon said he did not see the need to increase the fence height or spend staff time on it. Any amendment to the ordinance needed to be done right. Sturbaum agreed.

Boone moved to get feedback from staff on the ordinance (increase in fence heights). Plunkett seconded. She noted that there had been variance requests for higher fences, and the ordinance had been in effect since the early 1980s. It might need revision. Rast verified that there had been three or four variance requests, but throughout the City. The motion failed 2 (Boone, Plunkett) – 2 (Sturbaum, Logsdon).

11-09-09 Consider Request from T-Mobile to Lease City Property to Construct Telecommunications Towers and Associated Infrastructure

Rast said that T-Mobile representatives had contacted the City regarding locating several towers on City property in areas identified with inadequate coverage. The City's telecommunications ordinance limited the locations to properties zoned LI Limited Industrial, GI General Industrial, AR Agricultural Reserve, and OS Open Space. T-Mobile determined that at least four towers

were needed to provide coverage for its current customers, and possibly more. If the towers were constructed, then additional carriers would be able to co-locate to expand their coverage as well. Based on the areas with inadequate coverage identified by T-Mobile and the zoning requirements, Log House/Braelinn Park, Lake Kedron Marina, Blue Smoke Park, and Shakerag Knoll were identified as potential sites. Each site had recreation facilities on a portion of the land. Rast stressed that there were no specific locations yet. Staff had discussed the request with the Recreation Commission, which took no position and endorsed further study. Rast said the next step was to work with T-Mobile to identify specific locations. It was a costly step for the carrier, and there was a lot of permitting involved. Before they started on that path, staff wanted to see if this was something Council was willing to consider. Rast noted that the City currently leased property at City Hall and the Recycling Center to American Tower for two of their towers. He added that the owner of the towers paid a ground lease to the City on an annual basis, as did each carrier located on the tower. In FY 2009, the base rental and user fees for the tower at the Recycling Center generated in excess of \$56,000 to the City. Rast continued that any plans, specifically in recreation areas, would have to be reviewed by the Recreation Commission, then the Planning Commission. Any leases would come to City Council for approval. Staff needed Council input in order to work with T-Mobile to narrow down the sites. Rast added that T-Mobile representatives were at the meeting to answer questions.

Boone asked why put the towers in residential areas, such as Log House. He was not interested in that at all. Rast said the lack of coverage was in the residential areas. Rast said T-Mobile had identified areas along the City's major routes where towers were needed. With the increase in the use of cell phones and other data technology from homes, residential areas were the areas with dead zones. Each tower would be designed for co-location, which was required by the ordinance.

Logsdon clarified that staff was asking to move forward with studies and recommendations. Rast noted that the next step would be very expensive for T-Mobile, and included surveying property and designing towers, as well as determining sites. Logsdon asked if T-Mobile could pinpoint the areas. Plunkett asked if the City's other towers were at maximum capacity. Rast said T-Mobile had done that already and had identified the dead zones. Plunkett asked if those areas were just T-Mobile dead zones. Rast said, per T-Mobile's request, there were no towers in the dead zones to co-locate equipment. If T-Mobile put towers in the dead zones, then there would be room for other carriers.

Logsdon said the proliferation of the technology created the demand. He did not think T-Mobile wanted a decision at this meeting, and Council did not have enough information to make a decision at this time. He wanted the locations pinpointed, numbers, aesthetics, and what the towers would mean to City revenue-wise. He added that he had recently received a call from another carrier about the same thing. He wanted to move forward with the study, but cautiously. Council agreed more information was needed. Plunkett said she would like the same information from other carriers, as well as information on health concerns. Logsdon said a company built the towers, then leased the space to carriers.

Boone asked if the study would cost the City any money. Rast said the City's cost would be in staff time. The company would provide the technical data.

Residents who spoke included David Gardner, Kathy Cheney, Kevin Cheney, Mary Giles, James Lee, and Juan Matute. There was some terse discussion between the Mayor and the citizens on this issue, followed by an apology from Logsdon on the tone of the discussion. Their concerns included the following:

- Service was not great, but an eyesore was not wanted;
- More information was needed on health concerns;
- The City's code required carriers to use existing towers;
- There was concern about how towers would affect home values;
- Blue Smoke Park was a Lifeflight landing area;
- T-Mobile seemed to want pre-approval from Council;
- The City should tell the company to choose other locations, not residential areas or parks;
- Quality of life was being sold for a buck;
- Citizens worried the issue would be on the back burner, and then would be approved without citizens knowing about it; and
- City should think outside the box and ask all carriers for input to get good coverage, but not ugly towers.

Plunkett said public workshops would be part of the process, so Council could get the needed information and everyone could be heard. Logsdon assured the residents at the meeting that nothing clandestine had been done by this Council, and it would not be done by the next Council either. Plunkett anticipated that communications during the workshop process would be good.

Plunkett asked if an ordinance change would be required for the towers to be built. Rast said an amendment would not be required if the towers were located within the four specific zoning areas – GI, LI, AR, and OS. Any plans submitted would have to go through staff's and Planning Commission's site plan review process, and any leases for City property would have to be approved by City Council. He reiterated that this was the very beginning stage of the process. Plunkett asked that alternate sites other than neighborhood parks be considered. Rast said there were no specific locations as yet, only general areas. Logsdon pointed out that one of the reasons the carrier came to the City was because of the revenue it would generate. Council directed staff to proceed with gathering additional information.

11-09-10 Citizen Request to Address Council Concerning Amending Animal Ordinance to Address Pit Bulls

Daniel Brown addressed Council, noting that he was in favor of a City-wide ban on pit bulls, but understood that could be expensive for the City. He presented Council with the following suggested amendments to the ordinance:

- *No person owning or harboring any pit bull or other dog subject to this provision shall allow such dog upon public streets, public sidewalks, public parks, public golf cart paths or any other public place within the City except when muzzled and held under leash by an able bodied person.*
- *No person shall own more than one pit bull within the City limits.*
- *Any person owning a pit bull shall provide to City officials on an annual basis proof of liability insurance of at least \$100,000 with coverage specific to his/her dog.*

- Any person owning a pit bull shall provide to City officials on an annual basis proof of required vaccinations to include rabies.
- For the purposes of this ordinance, "Pit Bull" means any pit bull terrier of the Staffordshire Bull Terrier, American Staffordshire Terrier, or American Pit Bull Terrier breed of dog or any mixed breed of dog which contains as an element of its breeding the above mentioned breeds.

Logsdon asked City Attorney Ted Meeker if the City could ban particular breeds. Meeker said he had not looked at the issue yet. Brown gave copies of his presentation to Council and Meeker, adding that there had been challenges in other cities to full bans.

Boone asked if there had been any problems with pit bulls in the City. Police Chief H.C. "Skip" Clark said there had been an incident that day, but he did not have all the facts yet. Brown noted that he had been attacked a year ago in a publicized incident.

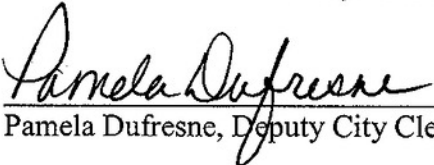
Council directed staff to research the issue and come back to Council in 90 days.

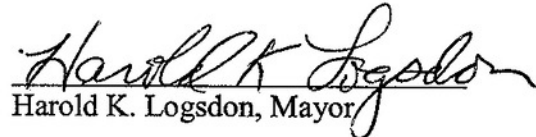
Council/Staff Topics

Sturbaum provided staff with an e-mail regarding damages done by the mowing crews to recreation fields, noting he had several e-mails on the issue.

There were no items for executive session.

There being no further business to discuss, Sturbaum moved to adjourn. Boone seconded. The motion carried unanimously. The meeting adjourned at 8:36 p.m.


Pamela Dufresne, Deputy City Clerk


Harold K. Logsdon, Mayor