

City Council of Peachtree City
Minutes of Meeting
November 2, 2006
7:00 p.m.

The City Council of Peachtree City met Thursday, November 2, 2006, in the City Hall Council Chambers. Mayor Logsdon called the meeting to order at 7:00 p.m. Other Council Members present were: Steve Boone, Stuart Kourajian, Cyndi Plunkett, and Judi Rutherford.

Announcements, Awards, Special Recognitions

There were no announcements, awards, or special recognitions scheduled.

Public Comment

Robert Brown addressed Council regarding its inaction on the TDK extension. He said he was disappointed since the road clearly favored developers in Coweta County. Failure to act was a vote on Council's part to favor the developers.

Minutes

Rutherford moved to approve the October 19, 2006, regular meeting minutes as written. Boone seconded. The motion carried unanimously.

Monthly Reports

Plunkett asked about the money in the sports association account; she believed it was approximately \$63,000. She recalled that the plan had been to use the money for improvements to fields, such as fences and lights. She said it might be time to look at that since there should not be such a significant amount in the account. City Manager Bernard McMullen said he would get an answer.

Kourajian noted that, overall, revenues were at 100.63%, but there were huge discrepancies in a few areas. Investment income was at 181%. Grants were only at 19%. The "Charges for services" line item was at 80%, which was \$240,000 off projections. He asked what fell into "Other revenues," which had only \$15,000 year-to-date, a \$72,000 shortfall. Assistant Finance Officer Janet Camburn said, although she did not have the exact details, the corresponding expenditures for the grants had probably not been made. Grant revenues were not brought in as a line item until the corresponding expenditure was made. Kourajian asked if the grant money was gone for good. Camburn said no. She continued that some of the money was Local Assistance Road Program (LARP) funds, which had not been booked yet. Camburn asked Council to keep in mind that the numbers were just the September 30 cash basis, and they still had to do the accruals and deferrals for the final reports. She said she would have to look at the detailed line item on "Charges for services," then get the information to Council. "Fines & Forfeitures" was basically the court fines. "Other revenues" varied from year to year, and she needed to do a comparison with last year. Some things might still come in before finalizing the report through September 30.

Kourajian asked why the "Investment income" was so high. Camburn said it was a combination of two things that accounted for the 181% revenue in "Investment income." Part of it was due to an arrangement they had with the banks where the City earned a significant amount on compensating balances that had not been earned before and had not been budgeted. Interest rates

were also up. Logsdon asked when the final report would be ready. Camburn said they were working on that. The final report was usually ready in March. The auditors would be here in January to do the field work. Kourajian asked when the City should receive the last \$30,000 in general property taxes. Camburn said the cash collections for October and November were not included in this report.

Plunkett noted that there were no hours for litter removal and that the number of hours for landscaping and mowing were down in the Public Services report. McMullen said that had to be an error in the report.

Kourajian noted that drug arrests were significantly down. Police Chief James Murray explained that they had stopped putting people in jail for not having a license. When traffic arrests were down, the drug arrests were down, since the majority of arrests were made during traffic stops.

Consent Agenda

- 1. Alcohol License – Change in Licensee – Outback**
- 2. Alcohol License – Change in Licensee and License Representative – China Café
Waikiki**
- 3. Alcohol License – Change in License Representative – Wal-Mart**

Plunkett moved to approve the Consent Agenda. Rutherford seconded. The motion carried unanimously.

Old Agenda Items

10-06-03 Consider Variance – 348 Summer Place

Applicant Leslie Rowell, the property owner, addressed Council and said that the argument presented in the staff memo for the meeting was not the same argument presented against his variance request at the last meeting. It appeared that a structure up to 30 inches in height was now allowable under the code. The documentation supported the new claim that, while the flooring of the structure, which was less than 30 inches in height, did not violate the ordinance, the roof and its support structure did.

Rowell referred to two letters attached to the staff memo, one from the former developmental services director (August 4, 1995) and one written by the building official to area builders and developers dated August 10, 1995. The August 4, 1995, letter stated, "My interpretation with respect to a porch, stoop or deck is that if it is 30 inches or more in height and requires a handrail in accordance with the code, it is a structure and cannot encroach. Also, it must be shown on any required foundation survey." Rowell said the letter clearly acknowledged that there had been similar interpretations that the Building Department had to clarify in the past, specifically with structures that encroached into the setback. Rowell said a letter written to select developers a decade ago should not qualify as an amendment to the code. The code remained as vague now as it was then when it was acknowledged by the developmental services director. The letter clearly stated that, "Recently, questions have arisen concerning the interpretation of what type of porches, stoops or decks, if any, can legally encroach into the setback area." The questions arose because he had done exactly what they had done; they built porches that cantilevered into the setback. If the letter amended the code, then the department should adhere to the letter.

Rowell continued that the letter also stated, "it must be shown on any required foundation survey." He pulled some foundation surveys from 2001 for structures that had rear decks that exceeded 30 inches in height and required a hand rail. He said none of the surveys reflected the deck structures. His argument was that selective enforcement was the rule of the day. The letters were the foundation of the enforcement, and he objected to the code being amended that way.

Rowell said the latest argument said the floor structure was fine since it was not 30 inches high, but the roof was not. He had been allowed an administrative variance because the house had encroached six inches into the front building setback when it was constructed 15 years ago. A variance was issued for the foundation, but not for the eave of the house, which was clearly more than 30 inches in height.

Rowell said nothing added up. There was vagueness in the code. The code was as vague today as it was in the past. He wanted what was fair and right. He had spent a considerable amount of money to make his claim that what he was doing was within the code. He was seeking the variance to avoid the next action he would take to do what was right and fair. He asked Council to resolve the issue by granting the variance to avoid any other continuing argument on this issue.

City Attorney Ted Meeker said he had tried to understand all the arguments that were raised, but the argument that two wrongs made a right did not work. He continued that one argument was that others had built it; therefore he should be able to. Rowell had not elaborated on whether any of the structures he had shown to Council were in the setback. Staff had checked the others in the neighborhood and found none encroached in the setback.

Meeker continued that if the question was whether a variance was needed, the answer was yes. He said Rowell was trying to build a structure, and a structure could not encroach into the setback. However, variances were not granted because people wanted to do something. There had to be a need, and Rowell had not proffered any need. He continued that Rowell had not demonstrated any evidence on why he was entitled to a variance under the City's zoning ordinance. In terms of interpreting the codes, Meeker said it was obvious that Rowell had studied them. He continued that the City employed one building official who was charged with interpreting the codes for the City, and he was going to abide by the building official's interpretation.

Rutherford read from the City Planner's memo to Council dated October 26, 2006, with the subject, "Variance request, Lot 75, Foreston Place." She read, "After further review and research, there is only one issue pertaining to this variance request that must be resolved. As shown on the Foundation Survey, the footings for the porch addition do not encroach into the front building setback. The porch framing and associated decking extend approximately three (3) feet into the front building setback." She noted that five feet of the eight-foot porch was fine, but not the three feet that encroached into the setback. Meeker said that, according to the building official, was correct.

Rutherford read further, "The porch framing and associated decking are not considered a structure and can encroach into the setback without a variance. However, the porch roof and

associated framing extend approximately three (3) feet or more into the front building setback as well. Because the roof and associated framing is more than thirty (30) inches in height from finish grade to the top of the roof, it is considered a structure and cannot extend into the front building setback without a variance. Should the Applicant desire to keep the roof as designed, a variance would be required to permit this encroachment." She said theoretically the deck could extend 50 feet into the setback if there were no handrails. Meeker said that was correct. Rutherford said it became a structure because it had handrails and a roof. Meeker said yes.

Plunkett asked Rowell if he planned to put handrails on it. Rowell said no, because handrails were not required under the safety portion of the code. He added that the building code limited the distance that a structure could be cantilevered. Plunkett clarified that the only thing that had to be removed, under the current plan, was a portion of the roof. Meeker said that was correct.

Boone asked how much of the roof was legal. Rowell said it depended on whether it was measured with the foundation or the eave of his home, which was cantilevered over foundation. Rutherford recalled that, at the October 19 meeting, they had discussed that lining the porch up with the garage would be legal. City Planner David Rast clarified that the garage of the home encroached into the setback six inches and was given the administrative variance. He continued that the code allowed eaves to penetrate 12 inches into the setback. Rast noted that other homes in the area had lined the porches up with the garages. He added that the decks in Wilshire Estates were in the back of those homes and were not in the setback.

Plunkett asked if Rowell would be able to put a gazebo-type roof over the porch. Rast said that could not be done and noted that a previous Council had required a homeowner in Wilshire Estates to remove a gazebo that was in the setback.

Rowell said he was not familiar with anything limiting the distance of an eave as related to the setback. Rast referred to attachment A-4 of the staff memo, which referenced Section 704.2 Exterior Walls of the building code, and read, "704.2 Projections. Cornices, eave overhangs, exterior balconies and similar projections extending beyond the floor area shall conform to the requirements of this section...Projections shall not extend beyond the distance determined by the following two methods, whichever results in the lesser projection: (2) More than 12 inches (305 mm) into areas where openings are prohibited." When looking at foundation surveys, Rast continued that was the criteria used to determine if awnings or roof overhangs were in the setback area. The foundation was where the concrete met the ground, and anything above that could not encroach into the rear setback.

Kourajian asked Rowell which argument he wanted Council to consider, the cantilever or the memo. Rowell said the staff memo supported his argument that, then as now, the code was vague on the issue. The developmental services director attempted to clarify the code by writing the letter, but the code was not changed. Kourajian asked Rowell to tell him what part of the code was vague so that he might be swayed to support him. Rowell said it was the argument that the flooring structure did not encroach, but the roofing structure did encroach. The foundation of his home did not encroach, and the eave did not. Those two did not jive with one another. He questioned why the administrative variance only covered the foundation, but not the eave. History had shown it was always measured to the foundation, and a three-foot cantilever was allowed. That was the area of the code Rowell admittedly tried to exploit. The grayness was

supported by the letter. A letter alone did not amend the code. The discrepancy remained, and what he had done remained in the code. Kourajian said it was Rowell's interpretation of the code. He continued that he believed the letter was written to clarify the code, not to establish it.

Rutherford asked Rowell if he had gotten a building permit when he started construction. Rowell said no. Rutherford told Rowell he had created his own problem by not seeking a building permit. She asked Building Official Tom Carty if an employee would have explained what could or could not be done if Rowell had sought a permit. Carty said yes.

Rutherford said there were two choices. Council could deny the variance, and Rowell could bring the structure into compliance, or Rowell could take the matter to court. She agreed with Kourajian that the letter went out to clarify the code to ensure builders were doing the right thing. The fact was that Rowell did not seek permission. Rowell said he stopped construction as soon as he found out a building permit was needed. Rutherford said the question was whether or not to grant a variance, and she did not believe the request met the three requirements for a variance.

Rutherford moved to deny the variance request for 348 Summer Place. Kourajian seconded. The motion carried unanimously.

Rutherford clarified that Rowell would be able to keep the roof if the roof aligned with the existing eave, or he could keep the deck if the roof were removed. Carty said that was correct.

New Agenda Items

11-06-01 Public Hearing – Consider Request from Pathway Communities to Lift the Multi-family Housing Moratorium for a Parcel on Newgate Road

Gene Weatherup addressed Council regarding his plan for low-density senior townhomes. He reminded Council that he requested the moratorium be lifted for a similar project on Petrol Point approximately six months earlier, and the request was turned down. He met with the Development Authority of Peachtree City, who also told him that the plan was not a good fit with Petrol Point and guided him to Newgate Road.

Weatherup continued that he wanted to build a six-building, 21-unit complex. Newgate Road was located off Georgian Park, right behind the Holiday Inn. The parcel was approximately the same size as the Georgian Park Condominiums property, which was on the other side of Georgian Park. He explained the difference between a townhome and a condominium. He said a townhome owner owned the property underneath the home and the yard. The difference between a free-standing home and townhome was that townhomes did not have a side yard between them. A condominium association owned the property in a condominium development, while the homeowner owned the portion of the building the homeowner occupied. There was less density with a townhome development as opposed to condominiums or apartments. Weatherup said it would be very high-end product with elevators, 10-foot ceilings, and two-car garages. They would be designed for people who did not want to, or could not, negotiate stairs.

Weatherup continued that Georgian Park had 52 units on 5.5 acres. His project would have 21 units on 5.6 acres, which was approximately one-quarter of an acre per unit. The density was not very high. The development would not be a good investment for rental property owners since rent for a \$375,000 townhome, plus taxes and insurance, would be \$4,000 per month. There

would also be restrictions on the number of units, usually three, that could be rented at any one time. The townhomes would be high-end homes, not rental properties. There would be low density, high taxes (approximately \$7 million valuation on the property), and probably very few school children. The development would be very secluded, an enclave in the woods.

Lynda Wojcik addressed Council and said she had been against the project on Petrol Point. She had also been against it at Newgate Road at the beginning of the meeting. She asked Weatherup if he planned clear-cut the property, then plant trees. Weatherup said the site had been pre-graded years ago. There would be no clear-cutting, but he would have to cut a few trees. Wojcik said the proposed density was very reasonable and would fit in with the existing area.

Rutherford asked what the current zoning was on the property. Rast said it was GC General Commercial.

Steve Fraas, chairman of the Development Authority of Peachtree City, said that Weatherup had given a very impressive presentation to his board. The project seemed to fit a need in the City and was a great opportunity for the City, if there were no objection from the people around it.

Plunkett had a point of order. She pointed out that the purpose of the hearing was not for approval of the dwellings, but to lift the moratorium so staff and the Planning Commission would be able to look over the plans and to allow the plans to go through the process. Rast added that the lifting of the moratorium applied only to this project and the 5.6 acres.

Kourajian asked Rast how much time the project would take and what were the City's costs. Rast said that was hard to say since the onus was on the applicant. They would essentially be going through the rezoning process. Rutherford added that the necessary rezoning was part of the staff's job.

Plunkett moved to approve the request to lift the multi-family housing rezoning moratorium to allow discussion for the Newgate Road project only. Kourajian seconded. The motion carried unanimously.

**11-06-02 Public Hearing – Consider Annexation and Rezoning of Property on
GA 74 South**

Logsdon noted there were three documents on the dais pertaining to the agenda item – a letter from Fire Chief Stony Lohr, a letter from Police Chief James Murray, and a letter from Larry Turner of WASA. Mike Amos of Group VI addressed Council. He requested Council approve the annexation and rezoning of the 13 acres on GA 74 South from Redwine Road to the current City limits, just south of the Fayette County Animal Shelter. The annexation process had started in July. The Planning Commission approved the plan on October 23 with a 4-0 vote; one of the members was absent. Amos said the plan was very good, and Rast and staff had written a good ordinance that protected not only this property, but the remaining 59 acres along the corridor that formed the natural boundary of the City.

No one spoke in favor of the annexation.

Lynda Wojcik spoke in opposition to the annexation and rezoning. She said Group VI clear-cut the area, which sent a bad signal that developers could do what they wanted, and then come to the City.

Charles Norman asked what the plans were for the other 59 acres in the area. Amos said Group VI had no plans, but that land was part of the natural boundary. He continued that it would take three to four years to complete the plan for this parcel. Group VI had constructed buildings all over the City. This project would be good Class A office space with a high level of landscaping. Rutherford added that they were only looking at the 13 acres involved in this project and could not speak for the other 59 acres.

Rast said staff and the Planning Commission had been working on the annexation and rezoning request for some time. He gave an overview of the property and its location. Rast noted that three tracts had been combined to form the 13-acre parcel, which included a portion of Peeples Lake, wetlands, and a transmission line easement. He had aerial photos from 2004 and early 2006 that showed a significant portion of the property had been cleared prior to Group VI's purchase. Rast noted that during the Step 1 process he had said the property had been clear cut, but that was not the case. Amos said his company had a permit for the trees that had been cut down. The clear area was centipede grass and had been the front lawn of house that had been on the property. Rutherford said the permits had been from the County and might not have been issued in the City. Amos added that when construction began, Group VI did not own the small piece of property that was needed to be able to request annexation.

Plunkett asked what the difference was between the City and County ordinances. As far as the buffers, Rast said the tract fell under the County's transportation corridor overlay, which had more stringent guidelines than other areas of the County. He believed there was a 50-foot landscape strip from the right-of-way required before there could be anything on the property. The County did allow septic fields in that area, but the overlay identified what could go in it. Rutherford asked if the County allowed builders to remove vegetation, then replace it, or if they had to leave what was there. Rast said there was nothing in the County's ordinance to preclude them from removing the vegetation and replacing it. The City had a tree save and landscape buffer that applied to arterials, collectors, and minor collectors throughout the City. In this case, GA 74 was designated as a major arterial. The buffer ordinance required a 60-foot tree save and landscape buffer that could be reduced to 40 feet of natural vegetation.

Amos noted that the Department of Transportation (DOT) required a certain area for the deceleration lane. Kourajian asked if the land for the road widening would be taken from both sides of the road. Rast noted that Melissa Harris of Group VI had met with DOT about it. DOT did not want to encroach further into the property of the Peeples house, so all of the road widening was taking place on the south side of GA 74 in that area. Rast continued that DOT required the deceleration lane for the project be built to their standards. Some clearing was involved with that. There were also some issues with the integrity of a large drainage pipe under the road, and Group VI had to replace that.

Rast noted there were some significant wetlands around the site near the lake. The City's tree save and landscape buffer would be applied so more of the existing vegetation would be preserved, particularly in this area. Boone asked if the vegetation planted would conform to the

City's standards. Rast said it would. When the tree save and landscape buffer was reduced, it had to be replanted and augmented. He continued that he had not gone over the landscape plan with Group VI yet, but they had discussed what was expected in the area and meeting the minimum requirements of the ordinance. Rutherford asked what the buffer was in that area of the site. Rast said it was 50 feet, which met the County's requirements. The portion of the development with the building under construction had been approved by the County, and Group VI had moved forward with construction and the infrastructure as initially approved. The majority of the infrastructure was already in place. One of the conditions that would be imposed on the undeveloped portions, if the annexation and rezoning were approved, was that there would be a cohesive landscape plan for the entire frontage with berming, extensive landscaping, and carpaths. He said the cart path was in the buffer because of the wetlands. It would have had to go over the dam, and permits would have been needed to go through the wetlands. Rutherford expressed concern about golf cart lights and noted the buffer needed to be thick enough so the lights did not create a problem for the traffic on GA 74. Rast said the path would be closer to the parking area, and the berms between it and the right-of-way would be three to five feet tall with landscaping and shrubs.

Rast continued that staff had stressed to Group VI that this development was at the entrance to the City, if it should be annexed. The entrance in that area was nondescript. The Comprehensive Plan Advisory Board wanted to enhance the gateways to the City. This project allowed the opportunity to do that in this area with the building architecture and the landscaping, berming, and signage.

Plunkett said she did not understand why they would not be required to have a 60-foot buffer. Amos noted that they were not asking for approval of a landscape plan. They would come back with that. The other buildings on the drawings were just for master planning purposes at this time. He continued that the reason the buffer could not be 60 feet was because the curb cuts were in place, and there was a 100-foot power easement where the building could not go. Aesthetics were also a consideration. Amos said that, after discussions with staff, a decision was made to go with a 40-foot buffer. Rast said that, according to the buffer ordinance, the developer had the option to decrease the buffer on an arterial from 60 feet to no less than 40 feet. There would be a minimum 40-foot buffer on GA 74, and a 30-foot buffer on Redwine Road. There were not many large trees in the buffer, and the City would be able to require that trees be planted to enhance the buffer. Plunkett said it would be better to have a 60-foot buffer if it were an option. She would rather start at 60 feet, then work down. Amos said they were not opposed to a 60-foot buffer, but they would like the leeway to work that out with staff. They had saved some canopy trees in the upper area. Group VI wanted this development to look like the rest of the City, and they were on board with landscaping to the City's standards or above.

Amos said there were a number of reasons that Group VI wanted annexation for the development. One reason was they would be able to tap into the sanitary sewer system and remove the septic tank that had been installed. He said it was a better public function to have sewer rather than an isolated septic system. He continued that the sewer system would be put in to City and DOT standards. They hoped to dedicate the area where the sewer pipes ran to the City at the appropriate time for WASA to own and maintain. Kourajian noted Group VI could have asked for sewer access without annexation due to the proximity of the system.

Rast said all of the buildings in the development were professional office and medical space. There would be no retail, which had been a County concern. He showed the City and County Land Use maps. The development fit in with both Land Use Plans for the area.

Rutherford asked about the County's design guidelines, and whether the building under construction would fit in with the City. Rast noted that Group VI had to abide by some fairly stringent design guidelines because it was in the County's overlay zone. The guidelines for the overlay zone were as stringent as the City's. He said the City's proposed ordinance for the rezoning was written with some general design guidelines for consistent architecture. Amos pointed out that the County was more stringent in some respects than the City. The County required a residential shingled roof, while the City accepted a flat roof.

Rast said the ordinance before Council was worked on with the applicant and the Planning Commission. The Planning Commission unanimously asked that the ordinance in the agenda package be the one adopted if the property were annexed. The Planning Commission's concerns were addressed by Group VI and incorporated into the site plan.

Kourajian asked about lighting for the development since there was a lot of residential property in the area. Rast said the design guidelines addressed lighting, as well as the proposed ordinance. The type of lights, as well as the location, was addressed. He said it would be similar to the lighting in Wilshire Pavilion.

Kourajian asked if the ordinance addressed hours of operation. Rast said it did not. Amos said he had no problem with the hour restrictions imposed on the Delta Credit Union development. The project would have only businesses, doctors, and dentists. No 24-hour operations were planned. Logsdon asked if there could be an urgent medical facility. Amos said there were no plans at this time. He added that they had already discussed the foot-candles for the lighting with their contractors. Melissa Harris said there would have to be an exemption to the hours in case of medical emergencies. Rast read from the Delta Credit Union rezoning ordinance, "business hours of operation for all tenants within both buildings open to the general public, unless a specific business operated by appointment, shall be limited to 6 a.m. to 9 p.m." Rast said that should still allow a medical office to operate in case of emergency.

Logsdon asked Rast if the County had lifted its objection to the annexation and rezoning. Rast said it had.

Plunkett noted that sewer was not a problem. Rutherford said there was a letter from WASA on the dais, which requested one pump station rather than multiple pump stations. Amos said WASA wanted one lift station for the entire site, not one for each of the three lots. Rast said WASA asked for a specific location in order to capture other parcels in the future.

Rutherford said there was also information from the Fire and Police Departments on the dais regarding how they would be impacted if the area were annexed. She noted that there had been 77 emergency calls to medical offices in the City between January 1, 2006, and October 30, 2006. One of the impacts would be an increase in those types of calls due to the increase in physicians. It also increased the Police Department's zone in that area by three-tenths of a mile. It would also be an area where police officers would be required to get out of their vehicles to

check. They had to consider the increase in public safety requirements. She questioned if the need for services was worth the \$40,000 in tax revenue that would be generated by annexing the tract. She said that did not pay for one firefighter or one police officer. Plunkett asked if there would be a security guard on the premises. Amos said there would not. The tax revenue was based on the construction cost of the buildings. It did not account for any increase in the value or the property's assessment in future years. The total tax impact for the first year was estimated at \$260,000, most of which went to the Board of Education.

Amos said the master plan included four buildings. They had been asked several times if the building had a Peachtree City address, which was important to some tenants. The development would provide medical services in an area where there were none at the time. Rutherford said it would be a medical building whether it was in the City or in the County.

Kourajian said there were several benefits to the annexation, including having a natural boundary on Redwine Road. He liked that the tract would be developed to the City's standards, but the additional cost for services and the taxes was still a question. He could see the benefit for Group VI and the tenants. He asked what the real benefit was for City residents.

Logsdon asked how many buildings would be allowed on the parcel if it remained in the County. Amos said they would be able to put more than four buildings on the parcel in the County, but they would be smaller buildings. Harris said the goal was to do what was best for the environment, and sewer was better than septic. Rutherford noted that they could be on sewer without requesting an annexation since the project was within 500 feet of sewer.

Kourajian moved to grant the request to annex the 13-acre tract from unincorporated Fayette County into Peachtree City, to rezone the property from County OI Office Institutional to the City OI Office Institutional, and to incorporate into the ordinance the same hour structure set for the Delta Credit Union. Boone seconded.

Rutherford said she would vote against the annexation and rezoning. She did not want to set a precedent to start what was wanted outside of the City's ordinances, then seek annexation. They should have sought permission first. Rutherford said people along all the City's borders could request the same thing. Boone disagreed. Kourajian said that, with aerial photography, he realized the area had not been clear-cut as Council had first believed. Every case in the future could be addressed on an individual basis. Approving the request would not set precedent. It was a good addition. Rutherford said it would cost the City more in services than the City gained. Kourajian said it would be easy access for residents on that end of the City. Boone agreed with Kourajian. He said it would be a win-win and would be a good gateway on the southside. Kourajian said it would make the land the City owned in the area more valuable.

The motion carried 4-1 (Rutherford).

11-06-03 Consider Street Resurfacing Agreement with Fayette County

Rutherford asked who paved Peachtree Parkway. Plunkett said she did not want to do business with whoever paved the parkway.

Public Services Director Tom Corbett said it was the typical agreement with the County. The Local Assistance Road Project (LARP) streets had been approved earlier. There were nine LARP streets paved this year with an approximate cost of \$144,000. Rutherford asked if the City had to use the County for those roads. McMullen said no.

Corbett said the contract was strictly based on numbers. The City resurfaced some streets with SPLOST funding this year. Approximately 5.88 linear miles were paved. APAC had done the work for an average cost of \$58,502 per linear mile average. The County paved 7.9 linear miles, and the cost was approximately \$50,852 per linear mile. Funding was available. Rutherford asked which streets the private company had done. Corbett said they had paved the streets on the spring SPLOST list, in the Marks Style area.

Kourajian asked if it was urgent the contract be approved at this meeting. McMullen said it was not. Kourajian asked how many linear miles were to be paved. Corbett said there were nine streets, approximately 2.9 linear miles. Rutherford asked what the cost was to clean up what had not been done correctly. Corbett said it was not a good job. Plunkett said the County was cheaper, which was good, and asked if the County could be required to perform the work at an acceptable standard. If not, she preferred to pay more for a better job the first time. Rutherford suggested going out for bid and to see if the County could do better quality work.

Rutherford moved to deny hiring the County to do the paving and to put it out to bid. Plunkett seconded.

Logsdon asked if the issue had been discussed with the County. Corbett said it had. He had been on the phone with someone every day through the summer. He was told that was the best they could do. They had a machine that had not functioned properly and had not been prepared to do the work. Logsdon said he understood it was an old machine, but they had dumped asphalt on the grass that the City had to pick up. Kourajian asked if there had been the same issues with the private company. Corbett said no. Logsdon was willing to listen to the County if there was a reasonable answer. McMullen said there had also been problems with paving jobs in the past. There had also been an issue with the number of hours they were working compared to the number of hours the City had to wait for them to show up. He said he planned to meet with Lee Hearn, the County's Public Works Director, and Corbett had just completed putting the numbers together on the man hours put in by the City. He clarified that the estimate of \$50,000 per mile was an estimate. They knew the tonnage used, but not how much they paid for the asphalt. Plunkett asked if denying the agreement now would prohibit negotiating with the County in the future if things changed. McMullen said that when LARP funds, which were state funds, were used the County was required to do the work to state standards. The state had an inspector who inspected the work. The work passed the inspection. McMullen said the City had no control over that. Boone asked if the City would inspect the work done by a private company. McMullen said yes.

The consensus from Council was to put the work out to bid. The County could put in a bid.

The motion was approved unanimously.

Kourajian asked when the roads would go out to bid. McMullen said they would bid the LARP roads with the SPLOST list. He did not have an exact date yet. Kourajian noted that this would not slow the work down. McMullen said the work would be done in the summer of 2007.

**11-06-04 Presentation of Proposed Commercial Development on Southside of GA 54
West by Capital City Development and Flexxon**

Logsdon noted there were additional documents on the dais – two drawings of the proposed McIntosh Village South, information on the estimated annual revenues for the proposed shopping center, and a graph showing the estimated revenues/expenses per acre.

Doug McMurrain of Capital City Development addressed Council. Harold Wenal of Flexxon Development also attended. McMurrain noted that the City owned a parcel between his property and Wenal's property. Logsdon said they would take the information into consideration, but would not make any decision at the meeting. There would be a lot of open debate if the project moved forward. McMurrain reminded Council that he met with them in January to discuss development on the southside of GA 54. He developed the Wal-Mart property, and most of the other property in the West Village. He said that, when the overlay district was formed, the vision was that the development on the southside would mirror the northside. Council told him at the earlier meeting that they would prefer one developer. McMurrain said his company had been successful in purchasing some of the tracts, but not others. Flexxon had been a worthy competitor and had closed on the Days Inn and the property to the west. McMurrain had closed on the Joel Cowan property, and he had three other parcels under agreement that would close in 2007.

McMurrain said the plan before Council was not a site plan approval and pointed out that no agreements were in place for any of the boxes. They were merely a representation of a potential type of development. Most of the boxes they were in discussion with would require a special use permit due to the size. McMurrain had approximately 15 acres, and Wenal had approximately 10 acres. The City owned 6.6 acres between the two projects. He continued that they would like to discuss a possible land swap, or the possibility of purchasing, the City's frontage property in the area. The most recent comparable would be what McMurrain paid for the Cowan tract, which was a formula Cowan devised. The cost was \$15 per square foot for the frontage up to a depth of 250 feet, \$10 per square foot for the next 150 feet, then \$6 per square foot for the remaining depth. Using the same calculation, McMurrain and Wenal would offer \$2.453 million for purchase or trade for the City's 6.6 acres. He said that was a strong commercial offer from a retail developer. The City's tract would help on the site work as the parcels related to each other. It would finish the West Village. Wenal also offered the portion of his property that included one-third of the lake in the Line Creek Nature Area, which they would donate or swap to the Southern Conservation Trust. McMurrain continued that the City's share of the tax estimates, both sales and property, from the proposed development were valued at \$797,000. McMurrain clarified that he was not asking for site plan approval. If and when that time came, there would be numerous meetings on the actual site plan.

Plunkett asked how big Wal-Mart was. McMurrain said it was 220,000 square feet. Plunkett asked how big the warehouse superstores usually were. She understood they averaged between 135,000 to 155,000 square feet. McMurrain said it depended. Sam's were smaller, while Costco tended to be slightly larger. A Kohl's would be 89,000 square feet. Logsdon asked Wenal what

the other potential stores were. Wenal said he was in negotiations with a furniture store, as well as boutique stores, specialty restaurants, spas, and specialty soft goods.

Logsdon said Council had to discuss the real estate issue. Rutherford asked if the City had to put the frontage property out to bid if the decision was made to sell it. Meeker said yes. He added that a land swap had to be for land of equal or greater value. McMurrain asked if the City could swap six acres of land for 60 acres. Meeker said it was not an acre to acre swap, but real property to real property value. Logsdon said it had to be property the City wanted and needed. Plunkett asked McMurrain if they could accomplish the big box development without the City's property. McMurrain said they could. Logsdon said McMurrain could build several smaller boxes and would only have to go through the Planning Commission. McMurrain said that was true. The trigger was 32,000 square feet, and all those interested were over the trigger point. The lead tenant was Kohl's. He said he would like to see Kohl's in this development since it was soft goods. There were enough hard goods (non-clothing) on the other side of the highway. The other two major anchors interested were a home improvement store and a wholesale club.

Kourajian said his concern was the lake and the nature area behind the proposed development. While he was sure the developers would maintain clearly marked access to the nature area, the City was not in the business of selling or trading property. He liked the idea of one developer, or development team, in the area. He noted that what went in there was a big concern. There were neighborhoods nearby. There were other big boxes in the neighborhood already, and it was a traffic generator that would draw people from a wider area. The closest warehouse club on the east side of the City was in Morrow. He was open to discussion about a land swap or selling property, but he was not committing himself or Council.

McMurrain pointed out that there was a competing project in the next county that was just a few miles down the road that would generate traffic on the City's streets and bring zero tax dollars to the City. Rutherford noted the Lexington Circle had been a grand plan, but what was on the ground was not in the plans. There had been four separate developers. It had been a disaster with developers that had no reason to work together. The Development Authority had taken that on. She preferred a cohesive plan and was pleased they were working together.

Crandall Bray, Wenal's representative, said the Planning Commission seemed to think they could provide continuity for this project with one development theme. Unfortunately for Flexxon, time was of the essence. They were getting ready to apply for the permits to take down the Days Inn. He said Wenal had to start construction soon. Wenal's plans were ready to go one way or the other. He could not wait six months.

11-06-05 Request from Dr. Lois Speaker to Present Council with Data on Phillips Services Corporation

Speaker, a retired chemist, noted that she was discussing the chemical release from the plant that occurred from Memorial Day through the end of June. (A copy of Speaker's PowerPoint presentation is included in the official meeting packet.) She said the symptoms had been all over the place, and it was true that almost no medical doctors were qualified to detect this type of poisoning. When the release happened, the agencies on the ground did not look for ethoprop, but mercaptan. She said mercaptan was chemically similar to hydrogen sulfide, and very smelly. The ethoprop was worse. Ethoprop contained phosphates that directly attacked the nervous

system and could kill insects and humans. It had high toxicity and a very long half-life, which was one of its advantages as a pest killer. The ethoprop was also the probably source of the mercaptan and the illness because as ethoprop broke down, it formed merceptan.

Speaker continued that Capt. Pete Nelms of the Fayette County Department of Fire and Emergency Services had tracked the release to its source, and he had found PSC employee that had not been working with the material under the proper conditions. That person was in bad shape. She said she had been trying to get specific information from Phillips Services Corporation (PSC) for a while. She found out the specific things she should be looking for and had filed requests for the information with PSC and various government agencies. She said that PSC could also be throwing heavy metals into the environment. It looked like more and more of a problem.

Most of the reports had focused on the odor, but the odor was not what hurt people. To date, PSC had not been able to account for 1,100 gallons of the material that had been treated. Speaker said the results of the samples taken after the release were meaningless. The samples were taken after the material was pumped back into the same tanker it came in, sent to a rail car in Alabama that was full of an assortment of oily organic compounds, and had sat in the sun for 50 days. She noted that PSC reported to Fulton County that they had received three shipments from the Alabama company. They reported that 42 shipments were received to the Environmental Protection Division (EPD). Of the 42, PSC reported they sent four back and treated 38. Speaker said that led to the doubt of what was really happening.

Speaker said that the members of the community task force that had formed since the release had varied expertise, including a retired geneticist. Speaker worked with chemical agents for the Army. They would appreciate any support.

Logsdon asked Speaker if she had seen the letter the City sent to the EPD and the Environmental Protection Agency (EPA) dated October 24 (a copy was on the dais). She said she had read about it. Logsdon gave her a copy.

Kourajian asked Speaker if she had a copy of the health report she had received. Speaker did, and copies were made for Council and the official meeting file.

Plunkett said she understood some pets had died. She asked if any of them had been autopsied. Speaker said she did not believe so. She noted a beekeeper who lived in the area had lost all of his hives this summer, and he had never lost any before.

Logsdon thanked Speaker for the information. Kourajian asked if the EPD, the EPA, or any other agency, had been back out to the site. Speaker said she did not know if they had been back on site, but she had a report from the EPA's onsite coordinator for the July 6 visit. She said they monitored for mercaptan. She did not know what else had gone on, but that was why she filed the "Freedom of Information" requests. Kourajian said he understood that PSC had not filed some kind of report for 16 years. Speaker said PSC had not filed its annual report to Fulton County for 16 years. This particular company had only been in the plant for nine years.

Rutherford said it was interesting that PSC was doing all of that, but no one seemed to know about it. It was also odd that no one did anything when the required reports were not filed. Speaker said PSC had a hazardous waste holding permit, but did not have a hazardous waste handling permit. They had large holding tanks, but did not have a hazardous waste receiving permit.

Kourajian asked what was being done at this point. Speaker said she could say without a doubt that they were very sloppy to lose 1,100 gallons of the foulest stuff on earth. They were not communicating about a process that should be transparent. Decontamination meant disarming. Boone added the EPA had requirements for compliance for government agencies. He questioned what the requirements were for private agencies. Speaker said a retired nuclear arms inspector lived in the City who had made some calls, which was how she got the report from the on-site coordinator. Speaker said PSC received a \$100,000 fine that was paid with a check dated the same day. She had been told that usually did not happen with major corporations unless a lot was being hidden. Rutherford said none of the regulatory agencies had been held accountable. Logsdon said it had exposed that the watchdog agencies had not been doing their jobs.

Council/Staff Topics

Peachtree City Tourism Association Executive Director Lauren Yawn reported on the mixed martial arts event held October 21 at the Amphitheater. She said Capt. Terry Ernst told her that Cory Nestlehutt, the promoter, had done an excellent job. The police visibility and security plan worked well. The auxiliary police were very good with traffic. There were more cars than usual for an Amphitheater event. The patrons were very polite. Fire Marshal John Dailey also reported there had been no trouble on his end. The EMTs answered one call at the cast house. There was less litter than normal. The music did seem louder, but a cd was used. No one called that night with complaints, but she had gotten letters and phone calls prior to the event. Rutherford asked how many tickets were sold. Yawn said 1,665 tickets were sold through Ticketmaster. The event started with a zero ticket base. Because people were not used to the facility, there was some smoking in the wrong areas, but only a few people tried to bring in alcohol.

Kourajian said he attended the event, and it had been very enjoyable. There should be some changes to some of the music if there was another event. Some of the content was not appropriate for the City. The people were pleasant and having a good time. Yawn added that there had been an abnormal amount of interest in season ticket sales, as well as sponsorships. Rutherford said it was good to have an event that would fill seats the local population was not filling.

Rutherford asked for a report on the Clover Reach pool by the December 7 meeting. She asked what was happening with the on/off ramps to the golf cart bridge near Gardner-Denver. City Engineer Dave Borkowski reported that the final construction plans came within the last week, and he needed to review them. Once the plans were approved, they could apply for the wetlands permit, which should take approximately 45 days, and put the project out for bid. He continued that the engineering consultants had recommended the physical construction take place in the spring due to the wet season.

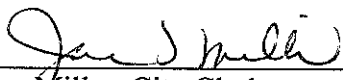
Kourajian reported that he and Rutherford met with Tom Reece, the developer of the McIntosh Village DRI in Coweta County. He asked if the City had received a copy of the traffic study. Rast said he had spoken to GRTA, and GRTA had received the study. It was to be put on a cd, then sent to the City.

Rutherford moved to convene in executive session for threatened or pending litigation and real estate. Boone seconded. The motion carried unanimously.

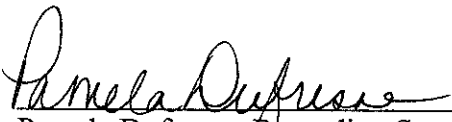
Rutherford moved to reconvene in regular session. Boone seconded. The motion carried unanimously.

Rutherford moved to deny the ante litem notice for the Cahill lawsuit. Boone seconded. The motion carried unanimously.

There being no further business to discuss, Plunkett moved to adjourn. Kourajian seconded the motion. The motion carried unanimously. The meeting adjourned at 10:59 p.m.


Jane Miller, City Clerk


Harold K. Logsdon, Mayor


Pamela Dufresne, Recording Secretary