

City Council of Peachtree City
Minutes of Meeting
November 2, 2000
7:00 p.m.

The City Council of Peachtree City met in a regular session, Thursday, November 2, 2000, at 7:00 p.m. in the City Hall Council Chambers. Mayor Robert Lenox led those attending in the pledge of allegiance. Other Council members present were: Annie McMenamin, Carol Fritz, Bob Brooks and Dan Tennant.

ANNOUNCEMENTS, AWARDS, SPECIAL RECOGNITION

There were no announcements.

MINUTES

McMenamin made a motion to approve the minutes of the October 19, 2000, meeting as presented. Fritz seconded the motion. Motion carried with Tennant abstaining.

CONSENT AGENDA

There were no consent agenda items.

OLD AGENDA ITEMS

08-00-05 Consider Appeal – Wal-Mart - Conceptual Site Plan – approved 3-2 with McMenamin and Tennant opposing

Mayor Lenox explained that this item was a continuation of an appeal that was begun in August by Ram Development and Wal-Mart. He said the appeal concerned a decision rendered by the Planning Commission at its meeting on July 24, 2000. Lenox said the item was not a public hearing, but he would accept citizen comments. He said it was important to note that the City did not have an ordinance to control big box stores like Wal-Mart, Home Depot and Target, and the appeal was not a question of whether or not a Wal-Mart could be built, but a question of when. He explained that the appeal centered around one issue, whether or not the Wal-Mart could be built now and comply with Peachtree City's traffic ordinance. He asked that all comments from the public address the subject of the appeal, and he explained that the next agenda item would give them an opportunity to discuss a proposed ordinance to regulate big boxes. Lenox asked Jim Williams, Director of Developmental Services, to review the issue.

Williams explained that on July 24, 2000, the Planning Commission denied the Wal-Mart Site plan based on recommendations from the City's traffic engineer that the plan did not comply with the traffic impact ordinance. Williams explained that since that time the applicant's traffic engineers and attorney met with the City's traffic engineers and attorney to figure out some way to bring the Wal-Mart project into compliance. Williams noted that the City's traffic ordinance required such a mediation process. He said the City's traffic

— engineer concluded that with a series of projects being constructed on Highway 54 and Highway 74, that it would be possible for the Wal-Mart store, Home Depot store and the John Wieland Project that was recently rezoned on the Katz property, to comply with the traffic impact ordinance. Williams explained that the improvements were as follows:

1. On the southbound S.R. 74 approach to S.R. 54 re-stripe the existing right-turn lane as a through lane and provide an additional right turn lane. The new right turn lane provides storage for 250 feet plus an appropriate taper.
2. Continue the southbound S.R. 74 through lane south of the S.R. 54 intersection to the right turn lane at Clover Reach North. (-600').
3. On the eastbound S.R. 54 approach to S.R. 74, provide a second left turn lane. The resulting dual left turn lanes shall have a minimum storage of 200 feet plus an appropriate taper.
4. At the intersection of S.R. 54 and Huddleston Road, build a westbound by-pass lane. Continue a second through lane on westbound S.R. 54 beginning at Huddleston Road and ending into the right turn lane to Wynnmeade Parkway.
5. Add a right turn lane on eastbound S.R. 54 at its intersection with Huddleston Road. The length of the right turn lane should be 300 feet from the intersection.
6. Install a traffic signal at the S. R. 54 intersection with Planterra Way/Home Depot main driveway and interconnect it with the signals at Huddleston Road and Mac Duff Parkway.
7. At the Home Depot entrance, provide the following geometry:
 - Eastbound S.R. 54: 1 right turn lane (150 feet), 1 through lane, 1 left turn lane (150 feet)
 - Westbound S.R. 54: 1 right turn lane (150 feet), 2 through lanes, 1 left turn lane (150 feet)
 - Home Depot and Planterra Way approaches: 1 shared through/right turn lane and 1 left turn lane
8. Exclusive westbound right turn lanes at all existing site driveways on S.R. 54 from Planterra Way to Mac Duff Parkway.
9. Existing westbound right turn lane at MacDuff Parkway shall be maintained.

It was estimated that the improvements would cost \$800,000. Williams suggested that the following conditions be placed on the development:

1. The developer must agree to make the improvements as described above.
2. The developer must obtain a DOT permit for such improvements.
3. The improvements must be completed before the city will issue a Certificate of Occupancy.
4. None of the undeveloped commercial parcels in the 54 Corridor between Wynnmeade and the Line Creek Church would be developed until the highway improvements were made or until something spectacular could be done to alleviate the traffic situation.
5. The developer must reimburse the City for all expenses incurred in the past three months for the traffic engineer to review the plans.

McMenamin expressed concerns that Highway 54 could not accommodate the current traffic and that once it was widened the proposed improvements would disappear. She asked what recourse the City would have in the future to require Home Depot and Wal-Mart to continue to comply with the traffic ordinance.

Williams said their obligation to comply with the traffic ordinance would end after the installation of the proposed improvements. He said future traffic conditions would be the responsibility of the Department of Transportation (DOT.)

McMenamin said the matter disturbed her. She asked what could be done during the widening of Highway 54 to keep traffic moving. Williams said there was no such thing as a construction project on the highway that was not painful. McMenamin said the highway construction would be painful even if Wal-mart was not constructed.

Lenox said most of the improvements would be incorporated into the widening project. He said the \$800,000 would not be wasted, it would provide a savings for DOT. He said the widening of the highway would be a painful process under any circumstances. He felt the only mitigating factor was the City's ability to complete the extension of Crosstown Road into Coweta County before the Highway 54 widening project began.

Williams said that three nationally recognized firms have emphatically stated that if Home Depot and Wal-Mart were not developed and no improvements were made to the highway the traffic conditions would absolutely be intolerable; however, if they are developed and the improvements are put in the traffic conditions would be immensely better 22-hours a day and at least as good as they are right now or better for the remaining 2-hours a day.

Tennant asked about the proposed traffic signal at Planterra Way. He said many residents of the subdivision did not want a road and traffic signal across from their subdivision to allow through traffic.

Williams said that DOT engineers at all levels felt that any modifications to the intersection design would be dangerous. He said the DOT Commissioner agreed to look at it and see what could be done and that he understood the reason why the city had concerns.

Lenox said the City had delivered a letter from him to the Commissioner advising him of the situation. Lenox said the city's proposal to modify that intersection completely violated DOT design standards and the issue has been taken as far as it could because he did not think the Governor was interested. Lenox said he had met with the DOT Commissioner and spent 10-minutes discussing the issue with him. He also said State Representative Cathy Cox attended the meeting. Lenox expected a response from the Commission within the next two to four weeks.

Lenox asked if anyone from the audience had any questions or comments about the appeal.

— Willis Granger, 39 Dover Trail and previous Planning Commissioner, said that the Planning Commission's single overriding factor for denying the site plan was that the traffic engineer advised them that as long as the railroad bridge was two lanes there was no way the development could meet the traffic ordinance. He said the Planning Commission was presented with the same improvements when the site plan was denied, and he was amazed that there is still a two-lane bridge over the railroad track, and the traffic engineer is now recommending approval. He said there was also a two-lane bridge over Line Creek, and he could not understand how the traffic would move into these lanes in less than half of a mile. He said that in July the traffic engineer was emphatic that the development could not meet the requirements of the traffic ordinance if the bridge continued to only have two lanes.

Lenox said that two nationally recognized firms worked for months to comply with the ordinance, and he would consider himself a fool if he spent money to rely on those firms and then intuitively said they must be wrong. He said they have studied the matter and it was not the same set of improvements that were presented to the Planning Commission.

— Skip Mason, 516 Golfview Drive, said that if it was not question of if but when the development could be constructed, and everyone agreed that every highway widening would be painful, it only made sense that the development would make it more painful. He said it does not take a rocket scientist to figure out that if you have a two-lane bridge, it does not matter how many lanes are before or after it, eventually it would have to come down to one lane in each direction. He said it was intuitive that the development should not proceed until the traffic situation was taken care of. Any additional development would merely exasperate the traffic problems associated with the widening of Highway 54, which was admittedly and agreeably going to be painful.

Jerry Rizillo, property manager at Ridgelake Condominiums, felt that Peachtree City was beautiful and pristine but that it would be torn asunder because it was facing the same problems as the City of Atlanta. He asked if the Police and Fire Departments were consulted about the situation. He expressed concerns about public safety service and response times.

— Steve Brown, 148 Terrane Ridge, said Jim Williams had instructed the Planning Commission to deny the site plan strictly because it did not meet the traffic ordinance. Brown said he immediately felt the matter was "fixed" because there was more than one reason to deny the site plan. He said traffic was not the only problem associated with big box stores. He felt the development should have been introduced under limited use commercial zoning in the first place because none of the other zoning ordinances addressed a single entity development as large as 220,000 square feet. Brown felt it was a shame that the City Attorney, Rick Lindsey, was not present to explain his reasoning.

— Fritz said she was present at the Planning Commission meeting and that was not how she remembered the event. She said Lindsey did not instruct anyone to deny the site plan strictly based on the traffic ordinance.

— Lenox said he appreciated Brown's input on many subjects, but he said Brown was presenting misinformation about this topic. Brown said he got his information from the minutes of the meeting. Lenox understood that, but said there was nothing in the state law or city ordinances that would allow the City to legally deny Home Depot and Wal-Mart the right to build, except for the traffic ordinance, which was untested but he believed was fully defensible.

Frank Hyde, 1123 Hip Pocket Road, was in favor of the Wal-mart store. He felt it would save him time and money because he would not have to drive to Fayetteville or Newnan to purchase his prescription medicine.

Steve Fritz 510 Golfview Drive, asked Mayor Lenox to reiterate the time frame for widening the bridge.

— Lenox said if the federal government had not prohibited the Atlanta region from widening any roads for the last 2 ½ years, Highway 54 would have been just about complete. He said they learned several things at the meeting last week. All of the preliminary engineering on the road has been complete and they are ready to begin acquiring right-of-way. He felt that it would take approximately 12 months to acquire the right-of-way instead of 18 months. He said thereafter, the city could expect a time frame of 18-24 months to build the road. So, Lenox said the construction plans for the Atlanta Region had been approved at every level, including the federal government, but there was an obscure environmental group threatening to file lawsuits to once again stop construction. He said negotiations were going on with that environmental group, but in the meantime the government has asked that the DOT not progress any projects to the next stage for 45 days. So, Lenox anticipated that in two to three weeks there would either be another lawsuit filed or the situation would be resolved. He said that the DOT Commissioner made the statement that there were very few priorities in the State of Georgia that are as high as the widening of Highway 54 west.

Ms. Ogiltree, Saint Simons Cove, said she has worked for Wal-mart in the Highway Department for many years. She said if the federal government was going to pay to widen Highway 54, then there was nothing anyone can do. But, she said if the City would allow Wal-mart to take care of the traffic problem they would do it. She said she has seen them do so time and time again.

— Lenox said the total cost to widen Highway 54 from Highway 74 to Dr. Fisher Road was approximately \$6 million. He said that cost included preliminary engineering, design, right-of-way acquisition and construction. He said those improvements that had been extracted from Home Depot and Wal-Mart were going to cost approximately \$800,000, and were independent of DOT's construction cost.

— Robert Brown, 102 Planterra Way, said he was a member of the traffic study group that reviewed the traffic problems at Home Depot. He said they had first proposed a number of traffic improvements and sometime after that the developers tried to allege the improvements also applied to Wal-mart. He said some of the improvements mentioned

— earlier were proposed for Home Depot. In particular, they proposed the widening of Highway 74 South and adding a through-lane and right-turn lane at the Highway 54/74 intersection. Now, he said Wal-mart was proposing improvements that have already been approved and agreed to be funded by the developer of Home Depot.

Lenox said Home Depot had agreed to provide \$500,000 of improvement, and the additional improvements to accommodate Wal-Mart had driven that figure up to \$800,000. Brown understood that Wal-mart was proposing an additional \$300,000 worth of improvements in addition to what was agreed upon by Home Depot. He said he did not object to a Wal-Mart in Peachtree City, but he objected to the location. He was also concerned about the change in the opinion of the traffic engineer because, as Mr. Granger stated earlier, the traffic engineer emphatically stated there was no way that Wal-Mart could meet the traffic ordinance until more lanes were added across the railroad tracks. He said it would have been nice to have the traffic engineer attend the meeting so he could explain how he changed his opinion. He said the Fire Chief was quoted in the paper stating that response times to access the westside of Peachtree City was higher than the rest of the city. He felt if traffic problems continue to increase, response times would also continue to increase. He also felt that big box stores increased crime in the area. He said the last construction plans he reviewed from the DOT had a median on Highway 54 similar to what was in place on Highway 74. He said all of the traffic engineers said the traffic would be intolerable without the developments, and he felt it was intuitive that it would get worse. He asked if the traffic restrictions at the Planterra intersection were not approved, would the City commit to increase the police presence in the subdivision to decrease the drive through speeders going to the south end of Peachtree City and the industrial area.

Lenox said the primary reason traffic engineers concluded that the improvements could be constructed and allow the development to be in compliance was the idea of the uninterrupted through lane. He also said the plans have changed since Brown last reviewed them. And, he said the City had consistently committed to do whatever was necessary to resolve any cut through traffic problems in Planterra Subdivision. He asked Chief Lohr to address the issue of response times.

Stoney Lohr, Acting Fire Chief, said it does take longer get to the west side of Peachtree City, but the higher response times were a result of the characteristics of the road. He said the narrow shoulders were not suitable for people to drive on, which meant traffic could not get out of the way and emergency vehicles could not drive around them. He also said there was no place to work on the side of the road during accidents. He said the bottom line was that even with an increase in traffic their response times would probably be as good as it is now and possibly better with the improvements made by Home Depot and Wal-Mart.

— McMenamin asked Lohr the average time for emergency vehicles to wait for trains on Paschal Road and what was procedure. He said trains had blocked them periodically, but not often. He anticipated the delay would be 30 seconds to a minute. He said depending on the situation, they could take an alternate route or bring in another vehicle from somewhere else. He noted that vehicles were not always in the station and may be

— responding from somewhere else.

Todd Strickland, resident, said the traffic ordinance was not a high standard and needed to be improved. He felt the standard should be raised from “E” level. He asked if the improvements suggested by Home Depot and Wal-mart would be restricted due to the environmental group’s lawsuit.

Lenox said he specially verified the answer to that question on numerous occasions and the answer was no.

George Cadel, previous member of the Annexation Task Force Committee, said the traffic engineers specially stated that Wal-mart could not comply with the Traffic Impact Ordinance. He asked how the through lane would work over the two-lane at the railroad tracks.

— Rob Rothly, 809 Teal Vista, felt that it was the City’s responsibility to ensure the passage of its citizens through the corridor on a timely basis, regardless of emergency situations. He also said his wife was recently cited by the GA State Patrol for crossing over yellow lines on Highway 54 heading east and turning left onto Highway 74. He asked if the traffic engineers took into account the legal passage of cars through the intersection. He encouraged Council to delay their decision and review the traffic model.

Lenox said the model was not designed to permit illegal movement of cars or speeding. He said one of the improvements would be to turn that lane into a dual left turn lane and lengthen it.

Rothly said another issue was the left turn lane into Planterra Ridge coming from the east. He said because there would be another lane merging, cars would not have much room. He felt the traffic light at that intersection would cause longer delays.

Brooks said Chief Lohr specifically stated that the Fire Department could get through quicker if the improvements were made.

McMenamin asked if engineers from Dames and Moore were present. Lenox said they were not instructed to attend the meeting.

John Dillihunt, 614 Tower Road, asked if the traffic study included the one thousand housing units that were to be developed in the area. He said the road was strained to capacity and that the City should not set their standards low enough to assure success. Lenox said the traffic model included the new housing units.

— Kevin O’Keefe, 111 Nettelcure Court, expressed his concerns that many of the developments already approved were not yet constructed and he questioned their affect on the traffic study.

John Steward, 620 Golfview Drive, sympathized with the residents of Planterra Subdivision

— and noted that it was difficult to enforce speed limits. He said people would cut through their subdivision and they would speed. He felt the quality of life for Planterra Residents should be considered.

Max Wong, 208 Bainberry Bend, shared his concerns about traffic. He noted that the traffic study was not completed during the Christmas season.

Skip Masing, 517 Golfview drive, did not think the traffic conditions would improve until the two-lane bridge was widened.

— Doug Dillard, attorney for the applicant, said the proposed improvements met the requirements of the traffic ordinance, and while he still challenged the validity and constitutionality of the traffic ordinance, the applicant had worked to comply with it. He said he had over 30 years of practicing local government law, and he did not know of other city that had worked as diligently in an attempt to find a solution to a very complex problem. He said three traffic-engineering firms agreed that the proposed improvements would bring the development into compliance with the City's ordinance. He said those improvements were contained a letter from Mr. Lindsey to him, dated October 31st. Dillard asked that the improvements be spread about the minutes (see page 2 as reviewed by Mr. Williams.) He said the applicant agreed to make improvements in accordance with terms set out in Mr. Lindsey's letter. He said they would execute a development agreement if necessary, but he said the improvements were identified and drawn on engineering renderings and he asked that it also be included in the minutes. (See attachment 1) He said he met with Keith Rohling, DOT District Traffic Engineer who provided them with a letter dated November 2nd, which discussed the proposed improvements. (See attachment 2)

Lenox called for Council to debate the issue and render a decision.

Tennant did not support the appeal. He said Council received a memo dated October 25th from Jim Williams stating that the project did not meet the traffic impact ordinance. He said he had not had an opportunity to analyze the changes. He was dubious that after many months, a resolution was found in a period of a few days. He was cynical that the tangled and complicated series of improvements could work together and said he would like to see a graphic presentation. He was concerned about maximum efficiency, and he felt it was simply going to be unacceptable to have the two-lane bridge. He said the project may somehow comply with the traffic ordinance, but in his opinion it did not conform to the health, safety and welfare of the citizens, which was more important to him than Wal-Mart.

— McMenamin did not support the appeal. She was disappointed that Dames and Moore was not present at the meeting to explain their position. She was astounded that they were not invited to the meeting and she felt Council should table the issue to allow them to present a demonstration. She also wanted an opportunity to research the actual conversations that had taken place in the past few months concerning the traffic impact ordinance and the bridge. She specifically remembered her position that she did not want to keep Wal-mart out of Peachtree City, but she wanted to ensure the property infrastructure was in place first. She said Peachtree City has always been built its infrastructure first and development

— second. She said she has always maintained it would be unsafe to improve roads in any directions and continue to have a two-lane bridge. She said she was not an engineer, but she did not think anyone could tell her that when she initiated the discussion on the traffic ordinance that she was not talking about the two-lane bridge. She said the Huddleston family had every right to sell their property to develop it as zoned, as long as it met the City's development criteria. She said safety was the only issue and legal avenue the City had to protect the citizens of Peachtree City. She was still not convinced that safety vehicles could get to that area of the City in a timely manner to protect the safety of the citizens. She said she wanted dialogue and if the experts continue to tell her that she is wrong and that bridge has nothing to do with the traffic impact ordinance then she would be the first one to vote in favor of the appeal. She wanted to review the traffic model.

— Lenox was in favor of the appeal. He said he had been completely steeped in the matter for months on end. He said his position at the beginning was that there no way it could be done. He said the Traffic Impact Ordinance was a legal question in its own right, but the whole question had been rendered academic for him by the events of the last two days. He said he has studied everything that had happened. He said the Traffic Impact Ordinance was the only basis for denying the site plan, but there were now three traffic engineering firms, including one hired and paid for by the City, telling anyone who would listen that the applicant has now complied with the Traffic Impact Ordinance. He said he also had concerns about safety, but the explanation Chief Lohr gave explained that response times might improve with the development. He said the issue was not about Wal-Mart, but about what a city can and cannot legally do, and what kind of judgments it is allowed to make. He said citizens were certainly free to picket or boycott, but the City could not legally be a part of that. He said citizens would have to organize that outside the Council Chambers because he it was not legal for the City to participate. He appreciated McMenamin's request to table the issue, but he could not take that same position because he had much more exposure to it as it developed. He was compelled to vote in favor of the appeal because he did not have a legal basis to do otherwise.

Brooks supported the appeal. He said that in a difficult circumstance, he had to rely on the experts. Three firms and the Fire Chief have told them that things would be better if the road improvements were made. He said it was an emotional issue, but there were ramifications from making ridiculous decisions. He said it was hard, and that it affected him, also. His family and employees travel through that area also, but he could only make his decision based on the facts.

— Fritz was in favor of the appeal. She said she sat in on a couple of meetings with staff and the traffic engineer. She appreciated McMenamin desire to look at it further. She also expressed her disappointment that Dames and Moore was not asked to attend the meeting. But, she said it had been a long process and they looked at every avenue they could to delay the development. She said she did not want a Wal-mart in Peachtree City. She also said she understood that some of the information that was sent out to the public had them riding an initial wave of emotion. She said they had all been there, but the fact of the matter was that there were state and federal laws that had to be complied with. She said they had to rely on the experts that were hired, and that when three national firms say

it will work, she had to rely on the information given her. She said she would be very happy if Wal-mart would wait until the road was widened, but that was not her choice. She said they had a right to develop the land as it was zoned that there was no legal way to prevent them from doing so. She said the best that could be done would be to make the best of a rather unpleasant situation. She said the developer did not have to do all of the things they were asked to do.

McMenamin made a motion to table the issue until the next meeting so that Dames and Moore could be present to actually present the model and assure Council that it would work and to give her an opportunity to look at the discussion of the bridge. Tennant seconded the motion. Motion failed with Lenox, Brooks, and Fritz opposing.

Lenox made a motion to approve the Wal-mart appeal in accordance with the terms and conditions set forth by Mr. Lindsey and accepted by Mr. Dillard. Brooks seconded the motion. Tennant said there would be no turning back after the vote and suggested that Council err on the side of the citizens and take their chances in court. He said he would rather fight that battle than having a baby stillborn because an ambulance couldn't get through. Motion carried with McMenamin and Tennant opposing.

Lenox made a motion to take a ten-minute recess. Brooks seconded the motion. Motion carried unanimously.

10-00-08 Public Hearing - Consider Ordinance – “Big Box” Regulations – approved 5-0

Lenox asked Jim Williams to review changes since the last meeting. Williams said the City Attorney revised the first page and added a provision that dealt with maintenance of vacant properties.

McMenamin asked about the site plan for Kedron Shopping Center that was submitted two years ago. She asked at what point does the site plan change and at what point is a new plan submitted. Williams said it was over a year ago when the first site plan was submitted for Kedron Shopping Center Phase II. He said the conceptual plan was not approved because it was withdrawn because the tenant (Home Depot) moved to another site. McMenamin asked if they would have to submit a new site plan since it would be significantly different, and therefore they should not be exempted from the ordinance. Williams said they submitted a drawing that was reasonably close to the original submittal. He said they did not see a change in the original submittal; they just brought it back with comments that they were working to get additional tenants. McMenamin said she was uncomfortable with the issue, but she would like to listen to further discussion.

Brooks said he did not think a date was needed in the ordinance as it applied to a specific project. He said there was some concern as to whether or not Kedron Village Phase II should be exempt from the ordinance. He said if there was an obvious trail of paperwork then it should not. He said the date made the document messy.

— Lenox was more concerned about the redevelopment of existing shopping centers.

McMenamin asked how long site plans could sit? Williams said that if they sat for a long time then they should go back through the process as a new plan, but in this case the plans that were submitted were returned with comments and they are responding. He said sometimes such a process would go on back and forth for a year or more.

Brooks said for a matter of record those two parcels had already filed site plans. He said the ordinance should be revised to eliminate the reference to specifically exclude those properties, but he noted that they did have active conceptual site plans filed. He said if the plans sat for a period of three to four years then at that point they should probably follow the ordinance.

Lenox said that the developers could always file for rezoning of a Limited Use Commercial development. He felt the Kedron Phase II site was intended for large use.

Williams said he would be unhappy if another Home Depot was built on that site. He was hoping for a village center type development.

— Lenox suggested changing paragraph six so that it says if someone ceases to conduct its retail business on its premises the landlord shall be free to market and lease such premises to another person regardless of any contractual rights the tenant may have with the landlord except a direct competitor.

Brooks asked if it was appropriate to make a motion since the issue was tabled after the public comment had been concluded.

Lenox said they did take a good bit of comment at the last meeting, but he wanted to invite further comments.

Willis Granger said the ordinance covered nothing. He said there were currently five big boxes allowed and there was no other undeveloped property that would permit such developments. He did not think it was likely that existing shopping centers would be redeveloped.

— Lenox said that was not correct. He said he could lease K-mart and there was sufficient land area to double it in size. He said he was concerned about what would happen in the City in 30–50 years when all sorts of things would change and redevelop. He wanted to leave future councils with the ability to control big boxes in the future. Granger said that Council already voted to approve such developments and set a precedent.

— The following citizens spoke about the ordinance and asked questions: Willis Granger, Dave Skelton, Steve Brown, Robert Brown, Brian Pingaery, Phyllis Aguayo. Concerns were expressed about the need to regulate big boxes if there was current property that could be developed.

— Steve Brown presented a letter to the City Clerk from Planning Commission member Rick Schumacher opposing the ordinance if it included the proposed exemptions. Brown said that in general people simply do not want big boxes for many reasons. He said 388 people drove to his house and hand delivered cards opposing such. He also said he had a problem with the current legal firm making legal opinion regarding Pathway Communities when the chief partner in that firm had a financial relationship with them. Lenox asked Brown to define a financial relationship. Brown said they both served on the board of directors of a bank. Lenox said that in the business world that did not create any fiduciary, financial, or ethical relationship. He doubted seriously if Brown had ever been a director of a corporation as he had. Lenox said he asked that question of other attorneys and it does not create any ethical conflict, conflict of interest, or any fiduciary relationship. He said he would appreciate Brown changing his comments to say it created the appearance of impropriety. He said that would be an acceptable statement, but Brown should not say that it created a financial or fiduciary relationship because it did not. Brown said the Ethics Ordinance states there should not be even the appearance of impropriety. Lenox said it was his opinion that it did not. Brown suggested that it would not cost a considerable amount of money to hire an independent GMA attorney to make such legal opinions especially in light of the circumstances that the same city attorney was the one who brought in the exemption at the last minute. Brown said he had heard Fritz say on two occasions that she did not want a Home Depot and then tonight she said she did not want a Wal-mart. He said Council was out of tune with their constituency and they should have adopted a Big Box Ordinance when they addressed the Home Depot issue.

— Fritz said Brown had sent her information about a Big Box Ordinance, and had made the comment that she did not respond, but in fact she had documentation that she did respond and that Brown told her not to take it to staff to review because they would mess it all up. She said she asked Brown to meet with her, but he acted like he did not know what she was talking about. She said she did not know what else to do if she could not talk to staff to see how it could be legally adopted as an ordinance. She said it just sat because Brown would not communicate with her. She asked him not to blame Council for not doing something sooner.

Brown disagreed with everything Fritz said. He said he talked with Dr. Brooks on several occasions and he had discussed this issue with Tennant. He said he also sent information to McMenamin. He said Lenox was the only person that he did not speak with about the issue. McMenamin said he did not tell her not to send it to staff, so she did. Brown said that after the robust debate over Home Depot, Council should have snapped into attention. Fritz asked Brown why he did not start his mail-out effort a year ago. She said there were things other people could have done.

— Brooks said he discussed the issue with Brown on a number of occasions, but it was important to note that he had received mixed feedback from residents. He said there were some residents in favor of similar projects and department stores.

Tennant agreed with Lenox that there was not a conflict of interest for the City Attorney in this matter, but he felt Brown had a legitimate point about the appearance of impropriety.

— He asked what constituted a vested interest. Brown was suspicious of the last minute addition to the preamble excluding the Pathways development. He said Home Depot had moved from that site and they no longer had a client for the property. He said after the City's intentions were announced at a Council meeting, Pathways threw a site plan together. He said City officials had commented that it was identical to the original Home Depot plan. He suggested that Pathway's submitted the original Home Depot site plan with a few erasure marks on it, and now their plans mysteriously mutated into two different projects.

Robert Brown said just because citizens wanted a Parisian's Department Store, that did not mean they were in favor of all big boxes. He felt the only good thing about the proposed ordinance was the requirement for vacant stores to be maintained, but he felt that should be addressed in another ordinance and should apply to all developments, including residential homes. He did not feel the redevelopment of commercial centers was likely, but admitted it was possible. He felt people wanted Wal-mart, but they did not want it next to them and that no one who lived on Highway 54 or had to drive on that corridor was in favor of the development.

— Brian Donovan, Loblolly Circle, asked what was to stop Pathway Communities from letting a Lowes and a K-mart be constructed on their site. He said Lowes had made a public statement that they intended to locate near any Home Depot and they had done so in Newnan and Fayetteville. Lenox said there was only sufficient space on the property for one big box store.

Phyllis Aguayo said she did not agree with Brown that people did not care about the development as long as it was not in their back yard. She said she did not know of anyone who wanted Home Depot or Wal-mart anywhere in Peachtree City. She also pointed out that there was a large discount mall in Newnan that was torn down and rebuilt shortly after its construction to build bigger stores.

Attorney Doug Dillard spoke to Council about specifically eliminating any reference to Home Depot or Wal-mart from the ordinance. He said his client had spent over 1.3 million dollars after the 1994 conceptual site plan was approved and they felt they had a vested interest based on that master plan. He said the first phase of the Kedron Shopping Center had been built and the infrastructure was complete. Dillard said that if Council excludes them from the ordinance, they would seek some sort of official action from Council within a 30-day period stating that these applications were excluded from the ordinance.

Lenox called the public hearing to a close for Council to debate the issue and reach a decision.

— Brooks felt the minutes would reflect Council's intentions about the conceptual site plans. Lenox said he felt Council all agreed that the ordinance would not apply to those tracts. Brooks felt all Council needed to do was to state their intentions. Lenox felt Dillard had a legitimate concern and that staff needed some direction. Brooks said that in as far as there was a conceptual site plan that was submitted, their immediate rights were protected during

— a period of transition, but he also felt the City's rights should be protected if at some point and time those conceptual site plans were not acted upon and something different is proposed at a later date. Lenox agreed that valid conceptual plans had been submitted for both of the parcels in question and as long as that was the situation the ordinance would not apply to them. He said if that situation ceases to exist it would be a different story. He felt that was a clear statement of intent.

Brooks made a motion to approve the proposed ordinance as amended while noting that the properties known as the Huddleston Property and the property in Kedron Village have already filed conceptual site plans with the city.

Tennant was worried about the wording of the motion. Lenox said it just acknowledged that the conceptual site plan had been filed. It did not say they would be approved.

McMenamin seconded the motion. Motion carried unanimously.

— Dillard said it was his understanding that their action would authorize the Mayor to certify to the property owners that because their applications were pending prior to the adoption of the ordinance it would not apply to their property. Brooks said it did not apply to the current conceptual site plans. Lenox said he understood where Dillard was coming from. He said questions would come up in the next two weeks, because the Huddleston family would want to close on their property. He said someone needed to advise them that the sale of their property would not be affected by the ordinance. Brooks made a motion to give the Mayor permission to say that. Tennant seconded the motion. Motion carried unanimously.

Lenox made a motion to take a five-minute recess. Tennant seconded the motion. Motion carried unanimously.

08-00-10 Consider Employee Pay Plan – approved and appointed Lenox and Fritz to serve on Council committee to hear appeals and make recommendations to Council for final action. 5-0

— Jim Basinger, City Manager, said the Pay Plan was tabled at the September 7, 2000, meeting to give employees time to appeal the ranking of their positions. He said the appeal process had been completed and a total of 30 employees appealed the ranking of 19 different positions. Basinger said the consultants conducted the appeal hearing with employees and their Directors/Chiefs on October 3. Of the 19 positions, changes were made to 11, including two title changes and six that were reclassified to a higher grade. Eight positions were determined by the consultants to be properly classified. Basinger said nine employees continued to have concerns about their positions and have asked for further evaluation. Basinger said the Director of Administrative Services, the Director of each employee, and he met with or responded to seven of the nine employees. He said one employee was ill and one was unavailable. The five positions that continued to be appealed were: City Clerk, Firefighter/Paramedic, Lt. EMT, Lt. Paramedic, and Fire Operations Captain. Basinger said he would forward staff recommendations to Council in

— the next few days. He recommended that Mayor Lenox and possibly another member of Council review the recommendations to ensure staff has dealt fairly with the appeals. Basinger said even though final decisions had not been made on the five positions, he suggested that Council consider adopting the Pay Plan. Because of the delay attributed to the appeal process, employees were apprehensive about their increases and feared the Plan may be in jeopardy.

He asked Jane Miller, the City's Pay Plan Project Director, to cover some of the actions and associated costs in resolving some of the employee concerns, particularly in the area of compression and longevity. He said Phillip Robertson of the Mercer Group was also present to answer any technical questions about the plan or procedures used in developing the Plan.

— Miller said that during numerous meetings with employees it became apparent that they had significant concerns about salary compression. She said employees with many years of service and those who had outstanding evaluations got a substantially less increase in pay than employee with less seniority. She recommended a modified slotting method to place employees on the pay scale and giving every employee who received an outstanding evaluation in the last two years a one step increase. She said the additional cost for this modification to implement the plan would be \$98,017. She said the cost was significant but it was beneficial for retention and morale issues.

Lenox said it was a legitimate and significant issue raised by quite a number of employees. He thanked staff for coming up with a way to be fair. He said he had spent much time on this subject and he commended staff for their efforts.

Jim Basinger said it was staff's recommendation that Council adopt the resolution to approve the Pay and Classification Plan and that the compression and longevity schedules be approved with an effective date of October 1, 2000. He said the total cost of implementation was \$560,067, of which \$493,977 was approved in the FY2001 budget. He said staff recommended the remaining \$66,190 be funded from savings resulting from vacancies during the fiscal year.

— Fritz asked if the general issue of compression was resolved. Basinger said it was not perfect and there were a few employees who fell between the cracks. He said it was the best staff could come up with and there were employees who have expressed their dissatisfaction. Lenox said it was a difficult issue to address fairly. He said they talked at great length about it. He said he was personally willing to talk to any employees who still have unresolved issues. Basinger said there were five remaining appeals to consider. Brooks made a motion to accept the pay plan with action to be taken on the five appeal, and to approve the compression and longevity plans, and that additional funding for the plan come from savings due to position vacancies during the year. Fritz seconded the motion. Tennant asked how much the salary increases were due to outstanding evaluations compared to longevity. Basinger did not have an answer. Lenox briefly explained the evaluation process to Tennant. He said fully satisfactory employees received a one-step increase and outstanding employees received a two-step increase.

— Basinger said as a general rule once employees achieved an outstanding evaluation, they generally continued to perform outstanding. He said the morale problems were a result of fully satisfactory employees catching up to outstanding employees on the pay scale.

Ron Mundy addressed Council. He congratulated staff and council for undertaking the study and he felt it was a long time coming. He said the plan had positive elements that brought about good changes for the employees of the city, but he said it was evident that there were problems based on the number of appeals. He said 5 of the 6 remaining appeals were from the Fire Department. He said staff had assured them that in the future consideration would be given because the fire service was different and difficult to fall into the factor system. He said employees were satisfied with some of the elements of the pay study but not completely satisfied or there would not be additional appeals. He hoped that with Mayor Lenox's commitment to be on the committee that they could get through those obstacles. He said future pay studies should have a separate application for public safety employees that would be more relative to the nature of their job.

Fritz asked to be appointed to the committee. Lenox called for a vote. Motion carried unanimously.

— Basinger asked if the appeals would be brought to City Council for action or would the committee make the final decision. Lenox said it would not be fair for the committee to make the final decision. He suggested they review the appeals, meet with the employees and their supervisors and have a frank discussion about it. He said if they are able to arrive at a satisfactory conclusion that would be fine, but it was really council's ultimate decision and any unresolved issues would come back to Council. He said the committee would give them the opportunity to discuss the issue in a non-public venue. He said some of the issues were philosophical and needed to be discussed.

NEW AGENDA ITEMS

11-00-01 Consider Alcohol License – The Dark Horse Pub, 288 N Highway 74 – tabled

At the request of the applicant, Lenox made a motion to table this item until the next meeting. McMenamin seconded the motion. Motion carried unanimously.

11-00-02 Public Hearing – Rezoning – Summit Apartments – approved 5-0

— Lenox called the hearing to order and explained that the City was the applicant for the proposed rezoning in accordance with a development agreement. Jim Williams said that when the development agreement for the Summit apartments was executed they were required to do two things, to meet a density requirement with their site plan and to rezone the property to its appropriate zoning category, GR-15 (15 or less units per acre). Williams said the property was still zoned for commercial use.

Brooks pointed out this was a housekeeping item that related to the settlement of a lawsuit.

Lenox asked if anyone wished to speak in favor of the rezoning. No one came forward. Lenox asked if anyone wished to speak in opposition to the rezoning. No one came forward. Lenox called the hearing to a close for Council to reach a decision.

Brooks made a motion to approve the rezoning to GR-15 as previously agreed in the lawsuit settlement. Fritz seconded the motion. Motion carried unanimously.

11-00-03 Public Hearing – Rezoning – Lexington Commons - tabled

Lenox made a motion to table this issue until the November 16th meeting. McMenamin seconded the motion. Motion carried unanimously.

11-00-04 Discussion of City Council Meeting Rules and Procedures – tabled

Brooks made a motion to table this item until the next meeting. McMenamin seconded the motion. Motion carried unanimously.

11-00-05 Consider Term-Limits for Commission/Authorities - tabled

11-00-06 Consider City Flag - tabled

11-00-07 Discuss Televising City Council Meetings - tabled

Tennant made a motion to table items 11-00-05, 11-00-06, and 11-00-07 until the next meeting. McMenamin seconded the motion. Motion carried unanimously.

COUNCIL/STAFF TOPICS

Basinger announced a workshop between the Town of Tyrone and the City of Peachtree City (City Councils and Planning Commissions) Thursday, November 9, 2000, at 7:00 p.m. in Peachtree City at City Hall. McMenamin asked Tyrone to update Peachtree City on their discussions with Fulton County.

Basinger asked for volunteers to interview committees for vacancies on the Airport Authority, Water and Sewerage Authority, and Recreation Commission.

McMenamin and Lenox volunteered to serve on the interview committee for the Airport Authority.

Brooks and Fritz volunteered to serve on the interview committee for the Water and Sewerage Authority.

McMenamin and Tennant volunteered to serve on the interview committee for the Recreation Commission.

EXECUTIVE SESSION

There were no executive agenda items. Lenox made a motion to adjourn the meeting. McMenamin seconded the motion. Motion carried unanimously. Meeting adjourned at 10:30 p.m.



City Clerk, Nancy Faulkner

Attest: 

Mayor Robert L. Lenox