**City Council of Peachtree City**
**Minutes of Meeting**
**October 19, 2006**
**7:00 p.m.**

The City Council of Peachtree City met Thursday, October 19, 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**

Mayor Logsdon recognized Larissa Romanow, a student at J.C. Booth Middle School, who wrote the poem featured on the state's "River of Words" poster. Logsdon recognized Cinnamon Mack of Developmental Services as the Employee of the Month.

**Public Comment**

Angela Newton, Logan Austin, Beth Austin, William Drury, and Rick Morris commented on the Fayette County Board of Education's redistricting. They asked the Council to send a formal statement to the Board of Education opposing the new plan.

**Minutes**

Rutherford moved to approve the October 3, 2006, workshop minutes and the October 5, 2006, regular meeting minutes as written. Boone seconded. The motion carried unanimously.

**New Agenda Items**

**10-06-03 Public Hearing – Consider Variance – 348 Summer Place**

Leslie Rowell, the property owner and applicant, told Council he was seeking the variance to resolve a dispute with the Building Department. The two issues that were the foundation of the variance request were setback requirements, which were 40 feet in his neighborhood, and the cantilevering of the structure. He said the Building Department told him the setback was measured from the foundation, and he set the foundation posts at 40 feet. Rowell continued that his neighbor suggested he cantilever the structure to get a larger, more useable, front porch. He said he cantilevered the structure according to what the Building Code allowed; it was an open front porch. The Permit Department took exception to his technique. The foundation survey was approved and met the setback requirements. The Building Department issued a Stop Work Order, which said the cantilever violated the building code. Rowell showed Council photos of the structure as it existed until the Stop Work Order. He said the structure was in a framed-out condition and was cantilevered.

Kourajian asked Rowell to explain what he meant by cantilevered, so everyone would understand. Rowell said it meant it came out over the foundation. He was seeking to do the same as others in his neighborhood, and he showed photos of other homes in his neighborhood that had cantilevered porches and decks. The intent of the setback ordinance was to allow a traditional yard space without lots that were consumed by structures. The ordinance had been enforced to the foundation and had allowed the maximum three-foot cantilever allowed by the Building Code. He said he met those two standards of the code. Rowell said the porch would be open and would not be enclosed with a front wall. He gave Council letters from his neighbors in support of the project. He said if the requirements were gray in Councils' minds, then that gave additional consideration that the structure was not encroaching on the street. He said his property line was 13 feet from the road because of the easements. His home was 53 feet from the road and 40 feet from the property line. He gave Council letters from neighbors that approved of the structure.

Rowell continued that his plan met the general intent of the law to not encroach the building into the setback area. He was consistent with the precedent set by other homes in the neighborhood, which had used the same technique. There was no discernible difference between the deck in the back of the house and the rear setback and the front porch and the front setback. Plunkett asked Rowell if his position was that he could use the entire setback with a cantilevered structure. Rowell said the Building Code only allowed a cantilever with a maximum of three feet.

Rutherford asked Rowell if he had applied for a building permit prior to starting the construction. Rowell said he had not gotten a permit when he first began construction because he was not aware he needed one. As soon as he was aware of the need, he stopped construction. At that time, it was realized that an administrative variance was needed due to the six-inch encroachment into the setback by the garage. Rowell said he adhered to the Cease and Desist Order until he received the proper administrative variance, and ultimately, the permit.

Rowell said he understood Council's concern regarding setting precedents when granting variances. He believed he had a right to do what he was doing. He said he was doing the same thing others had done, but he was not being treated equally. His sense of fairness led him to seek a resolution they could all live with, a variance to avoid the legal avenue.

Larry Forttorusco spoke in favor of the variance. He said Rowell took good care of his home, and he asked Council to grant the variance.

City Planner David Rast said the situation had been ongoing for close to a year. As the applicant indicated, construction began without a permit. On November 28, 2005, a Stop Work Order was issued. To correct that, Rowell came in for a permit and brought a site plan. At that time, the Building Official noticed that a portion of the house encroached into the setback. Rowell applied for an administrative variance and met with the Mayor and City Manager to review the request. When the administrative variance was granted, Rast said one condition was that there be no further encroachments into the setback without seeking a variance Council. It also required a foundation survey to be submitted to the Building Department once the foundation for the new addition was poured and prior to any further construction. He said there were a couple of other understandings and conditions as well. Rast continued that a building permit was issued on December 20, 2005. The foundation survey was approved on January 14, 2006, with the following wording included with the approval – "with the understanding that the portion of the deck frame that extends beyond the concrete piers and presently encroaches into the forty (40) foot front setback must be removed."

Rast continued that there had been little, if any, work done since that time. On May 9, 2006, Code Enforcement notified the applicant that the building permit expired on June 9. No action was taken. On June 14, 2006, the applicant was notified that his building permit had expired, and the property was placed under a Rehabilitation Order to Correct. A citation was issued on July 31 after a follow-up inspection revealed that nothing had been done to correct the situation.

A trial date was set for September 13. The applicant filed the variance application on September 12. The court date was continued until the variance issue was resolved.

Rast said a three-foot cantilever was allowed as long as the cantilever was within the building setback. He said he had not seen the photos shown to Council, but staff had not received any evidence regarding any other homes and building permits. He knew Code Enforcement had been in the area often looking at new construction to ensure it complied with the ordinances. Staff's position was there was no compelling reason to grant the variance. The issue was in Court because of the rehabilitative order.

Rutherford asked what the building permit was issued for. Rast said it was for the new porch. The drawing showed that the framing had encroached into the building setback. Rast said he and Building Official Tom Carty met with the applicant and made some suggestions on ways to correct the situation, such as aligning the porch with the garage. The garage side of the home did encroach six inches into the setback. The intent was to move the portion of the framing back so it did not extend into the setback. The footings did not encroach into the setback. Rutherford clarified that it would have been fine to construct the porch level with the garage. Rast said that was right. He showed the area on the diagram submitted with the variance application. Rowell said the three-foot cantilever would have to be cut off.

Kourajian asked how wide the porch would be if the cantilever were cut off. Logsdon asked Rowell how wide the floor of the porch was. Rowell said the floor came out eight feet, three feet beyond the garage. Rutherford said he would have a five-foot porch if he cut off the cantilever and made the porch even with the garage. Rowell said that was correct.

Kourajian asked what the City's ordinances said about cantilevered structures. Rast said the information was in the building code, which was referenced in the City's ordinances.

Building Official Tom Carty explained the cantilever was the structure. He said the building code allowed any floor to have a cantilever, but the cantilevered construction could not encroach into the setback. Carty said the cantilever could be built three feet over piers, but could not encroach into the setback. Kourajian asked if a cantilever could be more than three feet. Carty said an engineered cantilever could probably go to four feet, but could not go into the setback.

Rowell disagreed with Carty. He said there was nothing in the code. City Attorney Ted Meeker said that, according to the zoning ordinance, nothing could encroach into the setback, which was why there were setbacks on the front, rear, and side. Rowell said the zoning ordinance had always been applied, and therefore established as precedent, to the foundation of the structure. Meeker said it went beyond that. Rutherford said they were not discussing the law and how it was applied, but to look at a variance request. Carty said the code addressed the roof line, which could cantilever over the foundation by 12 inches, which made it a legal encroachment according to the Building Code. Plunkett clarified that the roof of the porch could encroach into the setback, but not the floor. Carty said that was correct. Rowell said that was not in the code.

Logsdon asked Meeker what he understood. Meeker said his understanding was the same as Rast's and Carty's as to what could be done in the setback. Meeker said it was not a question of the methodology of construction, but rather the setback requirements themselves. Rowell said it was not an issue of understanding, but of the code as it was written. The Council asked Rast where they could find the referenced section of the code. Rast said the Building Code was referenced in the ordinances.

The public hearing closed.

Kourajian said it would be hard to make an informed decision without knowing what the code said. He respected both sides of the issue. Rast said Carty would go get the Building Code. Plunkett agreed and moved to table the agenda item for 10 minutes, or until Carty returned with the Building Code. Boone seconded. The motion carried unanimously.

**10-06-04 Alcohol License – NEW – Mt. Fuji Japanese Steakhouse**
Huang Lin, the applicant for Licensee and License Representative, addressed Council. He said the sushi bar/hibachi grill would be located in the Target center.

Rutherford moved to approve the alcohol license for Mt. Fuji Japanese Steakhouse with Mr. Huang Lin as the Licensee and License Representative. Kourajian seconded. The motion carried unanimously.

**10-06-05 Consider Proposal from Train Strong, LLC, for Use of Park Facilities**
Leisure Services Director Randy Gaddo asked Council to approve the proposal from Train Strong for use of a City park for a commercial exercise program and authorize the Mayor to sign the agreement. The proposed program was outside of the approved normal fee structure. He continued Train Strong offered a high-energy exercise program for all ability levels that resembled a boot camp-style physical training with a lot of calisthenics and ground exercises. There were programs running in Vinings, Georgia Tech, Decatur, Marietta, and Alpharetta. The latter three were in conjunction with the city recreation departments. The program in the City would be the suburban model. Train Strong was a fundraising partner with the LiveStrong Foundation, Lance Armstrong's organization, and was the only business of its kind the Foundation worked with.

Gaddo continued that Train Strong requested to use Riley Field Monday through Friday from 5:45-7:15 a.m. as an introductory program. The company anticipated that two more sessions would be added, one later in the morning and one possibly in the afternoon. The program could extend to other parks with approval from Leisure Services. The agreement was for $10,000 per year per time slot. If approved, the remainder of 2006 would be prorated to $2,000. There was an addendum to the base agreement, which was for the organization to hold one LiveStrong 5K run event per year at a date to be agreed upon later. Train Strong would pay the City $25,000 for the event. If the event was successful, then the City would drop the agreed upon fee to $5,000 per session. If the event was not successful, then the fee would remain at $10,000. The City Attorney had reviewed the agreement, and the company had the required insurance capability. Gaddo said the program would have low to zero impact on the park, and there would not be anything different required for maintenance. He continued that the only concern might be noise, since there were issues with football. Gaddo said he had discussed the issue with Tim Miller, the CEO and co-founder for Train Strong, emphasized that no bullhorns or noisemakers would be allowed. Gaddo said Miller had agreed to move to another park if one complaint was received. The organization wanted to use Riley because of the track.

Kourajian asked Gaddo if there was a standard rate the City charged for use of the parks. Gaddo said there was a standard rate for facility rentals, but not for this type of activity. Kourajian said he would like to know the fee. Miller told Council the program ran 10 months of the year. Kourajian said that was approximately $36 per hour. Gaddo said he did not have the fee schedule with him, but $36 per hour was very close.

Boone asked if the 5K had been scheduled. Gaddo said it had not. Miller added that the 5K any money over the $25,000 to the City would go to LiveStrong. He said that the City could handle the money and registration for the event, if the City preferred that.

Rutherford said that the use of Riley Field sent up flags due to the problems with the football program. Other than that, she had no problem with the program. Miller said there would be no problem moving to another park; they were very mobile. She asked Meeker if he had seen the agreement. Meeker said he drafted it.

Rutherford moved to approve the proposal from Train Strong, LLC, for use of park facilities and give the Mayor permission to sign the agreement. Plunkett seconded.

Kourajian said he liked the concept, but not extending it to other parks. He asked how it would be kept at a field set up for the activity. Gaddo said his department would have control and would know the schedule. Boone said the program was a great idea.

The motion carried unanimously.

**10-06-06 Discuss Planned Improvements to Crosstown/Ebenezer Road**

City Engineer Dave Borkowski gave an overview of the planned road improvements along the TDK/Crosstown/Ebenezer Road corridor. All of the projects in either the County's Transportation Improvement Plan (TIP) or the City's SPLOST/PIP program had been identified. Rutherford asked how far out the projects were. Borkowski said it was everything until 2025.

Borkowski went over the map, which was included in the agenda packet. The projects included right-turn lanes at all four corners at GA 74/TDK, the TDK Boulevard extension, the widening of GA 74 (six lanes north of Crosstown, four lanes south of Crosstown), intersection improvements at GA 74/ Crosstown, intersection improvements at Crosstown/Peachtree Parkway, intersection improvements at Peachtree Parkway/Robinson Road/Ebenezer Road, and the proposed widening of Crosstown from two to four lanes. There was also a proposed frontage road on GA 74, which was basically the completion of the interparcel access through to the Police Department. Logsdon asked why there was such a short access road in that area. City Manager Bernard McMullen said it would allow those businesses to get to a median cut. The access road had been part of the City's plan for a number of years.

Rutherford asked when Crosstown would be widened. Borkowski said that was a long-range plan and had not been identified for any specific year. Funding had not even been identified yet. McMullen said the TIP went to 2011 and that project was not in it. Unless something happened, it would not be accomplished any earlier than 2011.

Rutherford said that there was a speeding problem at the Crosstown/Robinson Road/Ebenezer Road intersection. She went that way during school time. She said staff should work with the Police Department and the Board of Education to do something. People were moving through at a good clip. She wanted to look at the problem now, before more traffic was added to it. More and more traffic would head out that way. It was a quick way to get to GA 54. It was not a sleepy little road anymore. Signs were needed, they should look at the speed limits, and enforcement should be stepped up in some areas. The problem would only get worse.

Plunkett asked if crossing guards had enforcement powers. Police Lt. John Jenkins answered that they did not have enforcement powers.

**10-06-07 Consider Approval of Health Savings Account**

Administrative Services Director/City Clerk Jane Miller started to address Council. Kourajian asked if it this cost the City anything and if it was good for the employees. Miller said it did not cost anything and was good for employees.

Kourajian moved to approve the proposal to offer the employees access to the health savings account program by ICMA and authorize the Mayor to sign the necessary enrollment forms. Boone seconded.

Rutherford asked that staff be well-informed. Miller said staff would be well-educated since there were some quirks.

The motion carried unanimously.

**10-06-08 Consider Reallocation of PIP Funds for Parking Lots**

Gaddo explained that the reallocation was for an upgrade to parking lots at three sports fields. The 2006 PIP included $206,000 to pave the parking lots at Meade Memorial Fields. The money had rolled into FY 2007. The project cost and complexity to pave the parking lots at Meade had increased to an unacceptable level due to stormwater management requirements, increase in the cost of asphalt, as well as conformance to the City's parking standards. Conformance to the City's parking standards would significantly reduce the number of spaces available, and the cost would have been more than $500,000. Staff determined that improving the existing gravel surface and adding anchored concrete wheel stops would better serve the sports associations' needs, which was an organized parking lot with coherent traffic flow and a maximum number of parking spaces. The use of gravel would also eliminate stormwater quality issues. The estimated cost to improve both the upper and lower parking lots at Meade was approximately $80,000.

Gaddo continued that parking lot improvements were also needed at the Braelinn Recreation Center and at the Glenloch Recreation Area. The lots were not on the schedule. If it made sense at Meade, then it made sense at the other fields since they had the same problems. The combined cost of the improvements to the two fields was estimated at $80,000. Plunkett clarified that Gaddo was asking to do three parking lots for $40,000 less than what was budgeted for the one area. Gaddo said yes.

Rutherford moved to approve the request to reallocate the PIP funds to upgrade and improve the parking lots at Meade, Braelinn, and Glenloch. Boone seconded. The motion carried unanimously.

**10-06-09 Consider Resolution Calling for Permanent Closure of Phillips Services Corporation**

Miller noted the issue with Phillips Services Corporation (PSC) and residents in the County and South Fulton. She said a number of the residents had gotten together to research the issue and to complain to the appropriate agencies. They were also working to permanently close PSC. The residents felt attempts to mediate the situation would not be satisfactory. The group contacted municipal and county jurisdictions asking them to adopt a resolution calling for closure of the plant. Miller said a number of entities had already adopted the resolution, including Fayetteville, Tyrone, Fayette County, and Fulton County.

Rutherford asked if there were research to back the call to close PSC. Miller said staff did not have any research. Rutherford said, although she was not happy about the situation with PSC, she did not want to approve the resolution calling for a company to be closed when she had not seen any data.

Logsdon said the company had not produced the information people were looking for yet. The Environmental Protection Division (EPD) had not gone in to investigate yet either. Logsdon noted that about half of Congressman Lynn Westmoreland's town meeting held prior to the Council meeting had been on this issue. Rutherford said she had no problem if was truly a health and safety issue, but she had no data to support it.

Kourajian said they were being asked to put a company out of business without knowing all the facts. The Center for Disease Control was not involved. The EPD and the Environmental Protection Agency were just now getting involved. While the stories from the people involved were heartbreaking, it was not right to call for closure based on supposition and hearsay.

Plunkett said the resolution should be for the appropriate government entities to speed up their process and do their jobs. Rutherford agreed. Logsdon said once those facts were available the government would close the plant anyway. Boone said that would be the total resolution. The government would close the business down.

Plunkett moved to table the resolution 10609 pending additional scientific evidence to support closing of the plant. Kourajian seconded. The motion carried unanimously.

Plunkett moved to draft a resolution directed to the appropriate government agencies requesting they speed up the process and do a quick and thorough analysis of what was going on at the plant. Rutherford asked Plunkett if she wanted a resolution or a letter. Meeker said either would be fine. Miller noted that a resolution would take another two weeks in order for Council to approve it, while a letter could be written immediately if Council authorized the Mayor to sign it. Plunkett amended her motion to a letter and to authorize the Mayor to sign it. Kourajian seconded. The motion carried unanimously.

**10-06-03 Public Hearing – Consider Variance – 348 Summer Place**

Logsdon re-opened Agenda Item #10-06-03. Meeker said he had the provisions of the zoning ordinance that dealt with setbacks. There was also a letter that Carty sent to various builders in 1995 that elaborated on Carty's interpretation of the Building Code regarding roofs coming out farther than the actual structure. Meeker said they had not been able to locate that provision. He recommended tabling the action for two weeks. He said he wanted time to find the provision and figure out what Carty's interpretation was based on.

Rutherford moved to table the variance for two weeks in order to get the information and to ensure the applicant got a copy of it. Boone seconded.

Kourajian asked Rowell if he would be able to attend on November 2. Rowell said his court hearing was in 30 days and was pending on Council's decision, so tabling the decision until the next meeting should be fine. He asked that he get copies of any information. Kourajian asked Meeker when the information should be available. Meeker said it should be a few days. He would share what he had with Rowell. He added that staff should not have a problem continuing the court hearing if necessary. Kourajian asked who would notify Rowell when the information was ready. McMullen said staff would contact Rowell.

The motion carried unanimously.

**10-06-10 Consider Resolution Opposing ACCG Petition to the Georgia Public Service Commission regarding Georgia Power Company Franchise Fees**

Logsdon noted the information was on the dais. McMullen asked Council to approve the resolution. The issue was that cities were allowed franchise fees, not counties. Georgia Power distributed the expense of the franchise fees to all customers. The fee paid to the cities was a percentage of the overall power used in the cities. The rationale was that it cost Georgia Power more per kilowatt hour to provide service to the less densely populated areas than to customers in cities where the population was more dense. The Association of County Commissioners of Georgia (ACCG) was asking the three percent now charged to Georgia Power for franchise fees be added to the bills of municipal customers only.

Rutherford noted that the purpose of the franchise fees was for the use of the cities' rights-of-way. The power line did not end at the City border. McMullen said the request affected municipal customers statewide. Rutherford said City residents would pay more for power than residents in the unincorporated County. McMullen said they would.

Rutherford moved to approve the attached resolution on the dais regarding Georgia Power. Kourajian seconded. The motion carried unanimously.

**Council/Staff Topics**

**Fire Department Volunteer Stipend Test Summary**

Fire Chief Stony Lohr told Council the test program was considered a great success. The intent was to encourage higher volunteer participation on calls, as well as more participation in training. During the first six months of the year (October 1, 2005-March 31, 2006), there were 301 fire calls and 122 volunteer responses, for a volunteer per call average of 0.4. Under the stipend program (April-September 2006), there were 344 fire calls with 957 volunteer responses for an average of 2.78 volunteers per call. He pointed out that the number was an average. Sometimes no one came, while there was a great response at other times. The responses increased over two bodies per call, which was good. Council had provided $34,000 for the test, and $13,253.86 was spent. The cost to hire two career firefighters to do the same thing was over $100,000. Lohr said he initially thought attendance would spike the first month or two, then it would decrease. The median expense was $2,209 per month. The first month attendance was a little above median. The next four months attendance consistently increased, then dropped to its lowest point in September at $1,500. Lohr said he did not have enough data to explain the drop, but that was not the way he had expected it to go. Overall, the program was a success and had done what they wanted it to do. They planned to continue program through at least the fiscal year, then look at it again.

Rutherford suggested tracking the data for training hours also. She said, following a conversation with a shift supervisor, that more volunteers were staying at the station for longer periods of time, rather than just for the call. Lohr continued that the younger volunteers were looking for training and experience so they could get a job. They gave the Department good support by staying at the station. The older volunteers came to calls, but had other jobs to get back to.

Plunkett noted there were times when there were no people, or fewer people. She asked if there were specific times people would not come to fire calls. Lohr said the volunteers would not come in early in the morning before they went to work, or if they had multiple commitments. Plunkett suggested looking at extra incentives for those times to ensure the volunteers came.

Rutherford said she was pleased there was a good return on the investment, but there was still a need for more career firefighters. A solid year would give good data on the program.

Plunkett moved to convene in executive session for threatened or pending litigation and a personnel issue. Kourajian seconded. The motion carried unanimously.

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

There being no further business to discuss, Rutherford moved to adjourn. Kourajian seconded the motion. The motion carried unanimously. The meeting adjourned at 9:06 p.m.

Jane Miller

Jane Miller, City Clerk

Harold K Logsdon

Harold K. Logsdon, Mayor

Pamela Dufresne

Pamela Dufresne, Recording Secretary