

**City Council of Peachtree City**  
**Minutes of Meeting**  
**October 15, 2009**  
**7:00 p.m.**

Mayor Logsdon called the meeting to order at 7:03 p.m. Council Members present: Steve Boone, Cyndi Plunkett, and Doug Sturbaum.

**Announcements, Awards and Special Recognition**

Mayor Logsdon read a proclamation honoring Fayette County's retired educators. Scott Dawkins, a member of the first Teen Community Emergency Response Team (CERT) class, was recognized for using the skills he learned to save his father's life. Purchasing Agent Angela Egan was recognized as the Supervisor of the Quarter.

**Public Comment**

Keep Peachtree City Beautiful (KPTCB) Director Al Yougel updated Council on the organization's recycling efforts at the Great Georgia Airshow. The volunteers collected 98 bags of recyclables (eight truckloads), which took four people one and one-half hours to sort. Yougel noted that 1,800 pounds was kept out of the landfill.

**Agenda Changes**

There were none.

**Minutes**

Boone moved to approve the October 1, 2009, regular meeting minutes. Sturbaum seconded. The motion carried unanimously.

**Consent Agenda**

1. Consider Alcohol License – NEW – Athena's Pizzeria and Greek Cuisine
2. Consider Authorization for Rivers Alive Cleanup Boat Usage
3. Consider Vehicle Lease with Keep Peachtree City Beautiful
4. Consider Bid for City Hall Underpinning
5. Consider Request to Surplus Goods

Plunkett moved to continue Consent Agenda 4 to the next meeting (November 5) to wait for additional information from the contractor. Sturbaum seconded. The motion carried unanimously.

Boone moved to approved Consent Agenda items 1, 2, 3, and 5. Plunkett seconded. The motion carried unanimously.

**Old Agenda Items**

There were no Old Agenda Items.

**New Agenda Items**

**10-09-05 Public Hearing – Consider Variance to Rear Setback, 142 Long Leaf**

Builder John Cox represented property owner Angel Begara. The variance request was to allow one of the additions to the home to encroach 6.2 feet into the 30-foot rear setback. Cox said he made an assumption concerning the rear setback and discovered the structure encroached when the foundation survey was submitted. When he found out he would need a variance, he checked

the ordinance, which stated the minimum rear setback for General Residential (GR) zoning was 20 feet. Cox discussed the issue with the City Planner, who informed him that the subdivision plat set the rear setback at 30 feet. The variance was needed because of the zoning that was in place at the time the house was built and to get the "Stop Work Order" removed. He asked Building Official Tom Carty why he was in violation, and Carty told him a foundation survey was required. Cox noted that the City's GR zoning ordinance set the rear setback for a detached house at 20 feet, so he needed a variance for a zoning ordinance that the building complied with.

Cox cited Sec. 1-10 of the City's Code of Ordinances, which read, "It shall be unlawful for any person in the city to change or amend by additions or deletions any part or portion of this Code, or to insert or delete pages, or portions of pages, or to alter or tamper with such Code in any manner whatsoever which will cause the law of the city to be misrepresented thereby, unless so authorized by ordinance or resolution or other official act of the city council. Any person violating this section shall be punished as provided in section 1-11." Cox said his variance request violated the City ordinance. He continued that state code required buildings to comply with the zoning ordinance, not the subdivision plat. Also, if subdivision requirements were more restrictive than the zoning code, they were no longer valid after 20 years.

Interim Community Development Director/City Planner David Rast noted that the Center Green subdivision had been zoned in 1985, along with several others in Braelinn Village. He noted that GR-4 meant four lots per acre were allowed. Rast had read the minutes of the Planning Commission and Council meetings from that time, and there had been a lot of opposition from residents concerning the cluster subdivisions between McIntosh Trail and Braelinn Village Shopping Center since they were the first cluster subdivisions in that area of the City. The Planning Commission had recommended that the rear setbacks be set at 30 feet for those rezonings. Rast said 37 subdivisions were rezoned at that time as GR-4, GR-6, or GR-10, and 30 were rezoned with setbacks that exceeded the minimum set in the zoning ordinance.

Rast added that GR zoning was similar to Limited Use Commercial (LUC), Limited Use Industrial (LUI), and Limited Use Residential (LUR) in that the established setbacks could be greater than what was identified as the minimum setback in the base zoning districts. The setbacks were identified on the cover sheet for each phase of Center Green and on each plat.

Rast continued that the recent amendments to the GR zoning did not change the setbacks, but allowed variances for homes that backed up to City greenspace. One home in Center Green had been granted a variance, and that home backed up to the City's dog park. This particular lot backed up to another dwelling unit. He pointed out that the plat for that phase of the subdivision was approved on May 15, 1985, and the setbacks were identified on the plat.

Rast referred to the building permit issued on September 16, 2008, noting that the permit had listed the setbacks for the property at 20 feet for the front, 10 feet for the side, and 30 feet for the rear. There was also a note on the permit that read, "No construction permitted above the slab level prior to foundation survey approval." Since the mid-1990s, the City had required a foundation survey in order to find any encroachments into setbacks. He continued that the Building Department records showed that the footing inspections for the additions were approved on September 19, 2008, and the slab inspection were done on November 25, 2008.

The next request for an inspection came July 20, 2009, and the permit clerk noticed that the foundation survey had not been submitted. A great deal of construction had been done when the encroachment was discovered, and the stop work order was issued. Staff met with Cox and explained how and when the setbacks were established. Since the foundation survey was not submitted for eight months after the foundation was inspected, the construction that had been done above the slab level was in violation of the building permit. Rast said staff did not recommend approval of the variance request. If the procedures had been followed, the issue would have been discovered earlier.

The public hearing opened.

Steve Brown said the City had done its part by the book. If Council granted the variance request, then it should be prepared to grant a variance for everyone with the same situation. It would render the zoning almost totally void, and the ordinance would become indefensible.

The public hearing closed.

Cox reiterated that, according to GR zoning, the rear setback was 20 feet. He asked if the ordinance would be changed to 30 feet. City Attorney Ted Meeker said the 30 feet was part of the plat approval for the subdivision. Cox said that, per OCGA Section 55-5-60(b), covenants restricting land to certain uses should not run more than 20 years in municipalities that had adopted zoning laws. He asked if the City Planner was adding the cover sheet for Center Green to the ordinance, so he would not be in violation of the ordinance.

Meeker said no, the plat was a separate thing. It always had been, and always would be. Zoning requirements were minimum standards. Through the rezoning process, those standards could be increased. The plat and all the public records of the rezoning said a 30-foot rear setback was required. It was also specified on the building permit. If the project had been in full compliance, they would not be debating the issue.

Cox said that state law allowed the City to set up multiple zoning classifications. The classification for the subdivision was not LUR, which was specific to an area. Per the City ordinance, the rear setback for GR was 20 feet. When he realized he had done something wrong, he had researched for the variance.

Logsdon clarified that GR-4 was 20 feet, but this subdivision was established with a 30-foot rear setback. Meeker said the 30-foot setback was a condition of the zoning. Logsdon continued that the property owners wanted to do the right thing and improve their property. He asked why 20 feet was fine for GR-4 in other subdivisions, and whether it would be prudent in this subdivision. Meeker said that the rear setbacks were not 20 feet everywhere else, and the 30-foot rear setback was a condition the subdivision rezoning. Logsdon clarified that the increased setback was part of the zoning. Meeker said it was. Plunkett added that 30 of the 37 subdivisions still had 30-foot rear setbacks.

Logsdon recalled that a variance had been granted for a rear setback at 20 feet. City Manager Bernard McMullen confirmed this, but noted the amended criteria specified the property had to back up to a City greenbelt.

Plunkett asked how those neighborhoods had been left out of the recent changes to the ordinance, especially in light of redevelopment. Rast said they had not looked at all the parcels zoned GR, but made changes to the variance criteria. Only those properties that backed up to open space or a greenbelt were included. He continued that some of the lots were less than one-tenth of an acre, and homes would be on top of each other. Reducing the setbacks overall could cause other issues, and with redevelopment, homes could be built that did not fit in with the character of the neighborhoods, which had happened in Atlanta.

Plunkett asked Rast to go through the process again to see what the applicant and the City had missed. Rast said the site plan submitted for the building permit showed a 25-foot separation between the house and the property line, and the City had missed that at the time. However, the building permit included the correct setback measurements. Rast said there were things the City had missed. Plunkett said the City should be helping people through the process; she did not want to say "gotcha!"

Sturbaum said the applicant also needed to work with the City. The problem could have been avoided. Boone said the documentation of the process was cut and dried. The survey should have come back to the City.

Logsdon said the ordinance said one thing and the plat another. The plat rule trumped everything; he hated that staff had not caught the measurements in the beginning.

McMullen reiterated that the setbacks had been annotated on the building permit in two places, as well as the need for the survey. He explained that, during a slab and footing inspection, they were looking for proper compaction, vapor barriers were in place, and other items. Staff relied on the builders to measure properly, and the survey helped to ensure that, which was not done until after the vertical construction.

Logsdon agreed, and he supported staff. He continued that the 30-foot setbacks might have been a good idea at the time, and he asked whether they should be reviewed. Rast said that GR was a base zoning with minimum setbacks and requirements. Because of its density, Center Green was identified as GR-4, and the rear setback was established at 30 feet when the subdivision was rezoned. Meeker said he did not know if the setback size was arbitrary, adding there was a reason why the developer agreed to the larger rear setback. Council was considering a variance to the established setback for the subdivision.

Cox asked why he was in violation. Logsdon told Cox he was in violation of what was platted. Cox said the setbacks were part of a "good ole boy" decision made way back when. Meeker said that, until the setbacks were revised through the proper zoning process, it was the law for that property.

Sturbaum moved to deny the variance request for the rear setback at 142 Long Leaf. Boone seconded. The motion carried 3-1 (Logsdon).

Cox asked for the officer of the law to issue a citation to Meeker and Rast for illegally adding to the City's Code of Ordinances. Police Major Mike Dupree referred Cox to the Fayette County Magistrate Court for a pre-issuance hearing.

Sturbaum moved to set a time limit of 60 days for the removal of the addition that encroached into the rear setback. Boone seconded. The motion carried unanimously.

**10-09-06 Consider GATEway Grant Program for SR 74S Landscaping Phase II**

Rast noted the City had applied for funding for the first phase of SR 74 South and had received \$50,000, which was the maximum. There was no local match for the grant. After developing the first phase, staff felt it was important to develop a master landscape plan for the entire corridor. There was interest from some of the businesses located in the Industrial Park to assist with the funding. The landscape plan would be submitted to the Department of Transportation (DOT) for a special encroachment permit, and the plan was to submit an application during each award cycle in an effort to implement the overall plan for the corridor. The application for the next round was due October 30, and a resolution of support from Council was part of the grant application.

Boone moved to authorize the City Manager to submit the GATEway grant application to the DOT for funding consideration. Plunkett seconded. The motion carried unanimously.

**10-09-07 Consider Equipment Lease Agreement**

This item was removed from the agenda.

**10-09-08 Consider RFP for Banking Services**

Assistant Financial Services Director Janet Camburn asked Council approve a one-year contract for comprehensive banking services with SunTrust Bank, with two one-year automatic renewals. She also asked Council to authorize the Mayor or City Manager to sign the agreement after it was reviewed by the City Attorney. Camburn continued that nine banking institutions attended the pre-proposal meetings, and eight banks with branches in the City submitted proposals. A five-member committee evaluated the proposals on the following criteria – qualifications/experience, bank soundness/financial stability, response completeness of proposal, relationship support, references, and cost/interest proposal. She noted that representatives from SunTrust were available to answer any questions. Meeker added he had reviewed and approved the agreement.

Plunkett moved to approve a one-year agreement for banking services with SunTrust Bank with two rollovers. Boone seconded. The motion carried unanimously.

**10-09-09 Consider Award of Construction Contract for CSX RR/SR 54 Multi-use Path Connections**

Plunkett moved to approve the award of the construction to Lewallen Construction Company for the construction of the SR 54 West/CSX multi-use path connections as presented in the Council packet. Boone seconded. The motion carried unanimously.

Rast said that Purchasing Agent Angela Egan would send a letter the next day to Lewallen Construction, and that would be forwarded to Council. The agreement included a 60-day completion. Plunkett asked when construction would start. McMullen said as soon as the City received the Notice to Proceed from DOT.

**10-09-10 Consider Request to Extend Sewer from City Limits to 1992 SR 54 in Unincorporated Fayette County**

Rast explained that the City had received the request from Governor's Square, who made the request after talking with Fayette County, Fayette County Health Department, and the Water and Sewerage Authority (WASA). He continued that the retail building had been having problems with its septic system for some time and had been working with Robert Kurbes of the Fayette County Health Department. Restaurant permits for the commercial area had been denied because of the condition of the system. There was not room for a second system on the property. The applicant would like to extend a 10-inch sewer line along the SR 54 right-of-way from the manhole located between Starbuck's and Stein Mart. Rast said it was unclear to staff whether the line would extend beyond the retail building. Staff met with the Fayette County Administrator and Planning Department, and they recalled the applicant had brought the issue to the Fayette County Water Committee, who had not taken a position.

Plunkett moved to deny the request to extend sewer to Governor's Square. Sturbaum seconded. The motion carried unanimously.

**10-09-11 Consider Bid for SR 54 East Landscape Enhancements Phase 4**

Rast pointed out that this was the final phase of the project, which would extend from Peachtree Parkway east to the City limits. The funding had been awarded several years ago, but a halt was placed on the project after the state halted funding for landscaping on state highways due to the drought. The restrictions were lifted a few months ago, and the City received the notice to proceed, a copy of which was on the dais, on October 14. Thirteen companies attended the pre-bid meeting, and four companies had submitted bids. Piedmont Landscape Contractors had installed Phase 3 of the project and had submitted the lowest bid, \$198,209. The City had a good working relationship with the company. Rast noted that the bid came in under the initial request for funding. DOT's 80% share would \$158,567.20, and City's 20% share would be \$39,640.80.

Plunkett moved to award the bid of the installation of the SR 54 East landscape enhancements to Piedmont Landscape Contractors in the amount of \$198,209. Boone seconded. The motion carried unanimously.

**Council/Staff Topics**

McMullen announced that the Fire Department had received a revised Insurance Services Office (ISO) rating of 3, which would be effective February 2010. Homeowners should contact their insurance companies as they could be eligible for a lower rate.

McMullen reported that the materials for the Flat Creek bridge ramps were on site, and the ramps should be completed within 60 days. The first few piles had been placed.

Plunkett said that there were ongoing conversations with Fresh Market for the former Kroger space at Peachtree Crossing, and mentioned residents sending e-mails supporting their coming to Peachtree City. Public Information Officer/City Clerk Betsy Tyler was compiling the information that the company needed.

Plunkett moved to convene in executive session for threatened or pending litigation and personnel at 8:20 p.m. Boone seconded. The motion carried unanimously.

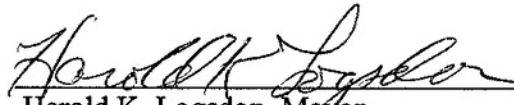
Sturbaum moved to reconvene in regular session at 8:57 p.m. Boone seconded. The motion carried unanimously.

Logsdon moved to renew the City Manager's contract for one year. Boone seconded. The motion carried unanimously.

Sturbaum moved to adjourn the meeting. Plunkett seconded. The motion carried unanimously. The meeting adjourned at 9:00 p.m.

---

Pamela Dufresne, Deputy City Clerk

  
Harold K. Logsdon, Mayor