

City Council of Peachtree City
Meeting Minutes
October 6, 2016
7:00 p.m.

The Peachtree City Mayor and Council met in regular session on Thursday, October 6, 2016, at City Hall. Mayor Vanessa Fleisch called the meeting to order at 7:00 p.m. Others attending: Terry Ernst, Mike King, Kim Learnard, and Phil Prebor.

Announcements, Awards, Special Recognition

Katie Castrillo and her son, Joseph, were recognized by the Peachtree City Police Department with the Saved by the Belt Award. Castrillo and Joseph walked away with minor injuries following head-on collision after another driver crossed over into her lane in January. Her vehicle barrel-rolled over the roadway and curbing before coming to rest in an upright position. Both were properly restrained. Corporal Justin Mobley and Sgt. James McDowell presented the Castrillos with gift bags and PCPD challenge coins. Shayne Robinson with Peachtree City BMX presented the Recreation Department and the Convention and Visitors Bureau (CVB) with awards from USA BMX for their work on the recent Gold Cup Regional BMX Championship Race held September 23 – 25. Over 1,500 people visited the Shakerag complex each day of the event. Tim Smith, Recreation Department, and Jennifer Johnson, CVB, accepted the awards.

Agenda Changes

Ernst moved to pull item 6 off the Consent Agenda for discussion. Learnard seconded. Motion carried unanimously.

Minutes

September 15, 2016, Regular Meeting Minutes

King moved to approve the September 15, 2016, regular meeting minutes as written. Ernst seconded. Motion carried unanimously.

Consent Agenda

- 1. Consider Appointment(s) to Planning Commission – Lisa Ann Curtis, JT Rabun; Stacy Holcomb (alternate)**
- 2. Consider Official Intent Resolution – Lease/Purchase/PTCGFC**
- 3. Consider Acceptance of GEMA/Homeland Security Grant (CERT)**
- 4. Consider Agreement with West Point Fire Department (Training)**
- 5. Consider Acceptance of GMA Safety Grant**
- 6. Consider Intergovernmental Agreement with Fayette County for Paving Portions of Redwine Road**
- 7. Consider Extension of Agreement with SAFEbuilt Georgia, Inc., for Building Department Services and Supplemental Planning Services and to Amend the FY 2017 Budget Resolution**

King moved to approved Consent Agenda items 1 – 5 and 7. Learnard seconded. Motion carried unanimously.

6. Consider Intergovernmental Agreement with Fayette County for Paving Portions of Redwine Road

City Manager Jon Rorie said the intergovernmental agreement with Fayette County had been approved as to form by the City Attorney, but it had to be ratified by both local governments. The ratification by the Board of Commissioners was scheduled for the October 27 meeting. He asked Council to consider approving the agreement pending any changes from the County.

Learnard moved to approve the intergovernmental agreement with Fayette County for paving portions of Redwine Road subject to approval by the County Commissioners. Ernst seconded. Motion carried unanimously.

New Agenda Items

10-16-01 Public Hearing – Consider Amending Conditions of Zoning, 1.68-acre Tract, Wilshire Village Retail Subdivision

Planning and Development Director Mike Warrix addressed Council, saying the request was to amend the zoning conditions. The applicant, Premier Kings, Inc., proposed a freestanding fast food restaurant with a drive-thru window. He continued that the property had originally been zoned General Industrial (GI) and had been rezoned to General Commercial (GC) with conditions in 2007. The site was undeveloped. The original developer had met with the Wilshire Estates subdivision residents during that time to discuss the residents' concerns over the proposed commercial development.

Per the ordinance to rezone the overall commercial development, the following was agreed to by the developer, residents, and City Council:

***Section 1006C.1(d)** – No more than one freestanding restaurant with a drive-thru window for pick-up of food or drink orders; provided that this restriction shall not prohibit a freestanding restaurant from maintaining designated parking areas for patrons to pick up food orders to go. This provision shall also not preclude individual tenants from maintaining drive-thru windows for pick-up of food or drink orders, so long as such tenants are in a building with at least two other individual tenants. In addition to one freestanding restaurant as described herein, this restriction shall not preclude a freestanding coffee shop with a drive-thru window from being located within the overall development. As used herein, the term "coffee shop" shall mean a small restaurant in which coffee and light snacks and other drinks are served.*

Warrix continued that the Planning Commission had recommended denial of the request at its September 12, 2016, meeting. Warrix clarified that the request was to modify the original condition of the zoning, and any changes would apply to the entire district (the entire commercial tract was 21.2 acres). Zaxby's took the one freestanding restaurant with a drive-through in the retail center first, and there were currently no more freestanding restaurants with drive-thrus allowed in that GC zoning district.

Den Webb with Smith, Gambrell & Russell, LLP, spoke on behalf of the applicant and the property owner. He introduced Carol Tennyson and Kendra Zhalia from Premier Kings; Dan O'Neill from Rockaway Peachtree City, LLC; and Shanelle Robinson and Mark Woolrich with Wolverton & Associates, the project engineers. Webb added he had previously submitted campaign disclosures and legal and constitutional objections. He had also submitted copies to Council prior to his presentation.

Webb continued that Wilshire Village had seven tracts that were all zoned GC and designated as Commercial in the Comprehensive Plan. The property had been rezoned in 2007 and had been subject to a number of conditions. One of the conditions was to limit the development to one freestanding restaurant with a drive-thru window. The condition did not restrict other drive-thrus on the property. A freestanding Starbucks could still be built, or there could be a drive-thru window in one of the multi-tenant buildings. The conditions also allowed restaurants similar to Sonic, where people drove up to the curb, placed an order, then drove away. There could also be "to go" spots for other restaurants.

The property owner (Columbia Properties) had made the agreement with the residents. The owner had actively marketed the property for nine to 10 years. Only two pads had been developed, the Auto Zone and Zaxby's. The owner had reached out to every conceivable type of commercial user in the last 10 years, and very few had been interested. Most of those businesses that were interested had been fast food restaurants.

Premier Kings had been named the franchiser of the year for Burger King and owned over 100 stores in Georgia, Alabama, and Tennessee. The development met all the requirements of GC zoning. They wanted to construct a 3,400 square-foot freestanding restaurant with a drive-thru on the east side.

The application had been before the Planning Commission twice, and the Planning Commission asked the applicant to meet with the Wilshire Estates residents. Premier met with the neighbors on August 30 (Webb noted he did not attend the Planning Commission meetings or the meeting with the residents), and Webb said it was reported to him that they all were fine with a Burger King, but not the drive-thru window. Traffic had been the main concern because of the drive-thru window. A comparison was done between a restaurant with a drive-thru and a restaurant without one in the traffic engineer's report. Webb noted that the drive-thru restaurant would only add one more car during the morning peak hours and six more cars during the afternoon peak. The impacts were basically the same between the two restaurants.

The other issue was the condition for only one restaurant with a drive-thru in 2007, Webb said. He understood that point of view, but it ignored the changes that had taken place in the area in the last 10 years. In 2007, SR 74 had been a two-lane road, and there was no intersection of Holly Grove and Rockaway Road. Since then, the road had been widened and Georgia Power had taken down trees and put up power lines, which impacted the property and the users who were interested in it. Those changes were not part of the contemplation 10 years ago, and it had impacted the property and the users interested in it. Webb noted the applicant and the owner were at the meeting in good faith. This was not a situation where the property owner got what they wanted, then immediately tried to change it. He reiterated that the property owner had spent 10 years marketing the property and had concluded it could not be done. No commercial property along this type of corridor should look the way it did after 10 years. He asked to reserve his remaining time for questions.

Fleisch opened the public hearing. No one spoke in favor of removing the zoning conditions.

Nat Bowe, president of the Wilshire Estates Homeowners Association (HOA), spoke on behalf of the 248 homes and over 700 citizens in his subdivision. He said Wilshire Estates was overwhelmingly opposed to changing the conditions. Their opposition was not due to the application itself. They opposed to making changes to the existing agreement. He continued that development had been slow across the country for four – five of those 10 years. A bowling alley had tried to go into the shopping area, but it was another violation of the ordinance. The original rezoning was a model of how local government should work. If the change was allowed, it would not just be one more drive-thru, but every other parcel to have a freestanding restaurant with drive-thru. If the community were demanding a change to the conditions, that would be a reason to change it. Another reason would be if the overriding interests of the City would be better served by changing the zoning. He said that, at the meeting with the residents, Premier Kings said they wanted to be in the City regardless of the site, and they had considered other sites. Denying the change in the conditions would not have a significant impact.

Donna Soper spoke on behalf of LeeAnn Ryan, executive director of Somerby of Peachtree City, noting that Ryan was unable to attend the meeting due to the arrival of Hurricane Matthew evacuees from a Somerby facility in South Carolina. Somerby's biggest concern was the increase in traffic. There were already issues because of Zaxby's. Golf carts currently had to go through Somerby's parking lot to get to the access road to the businesses, and traffic directors had to be in the parking lot to tell people to slow down. The parking lot was the cut-through between the end of the cart path on Rockaway Road and the access road to Zaxby's. They were concerned there would be an accident involving the carts and Somerby residents walking in the area.

Alex Dale noted his wife had been involved in a major accident at the Holly Grove/SR 74/Rockaway Road intersection, largely due to the traffic coming out of Chick-fil-a. It was hard for him to believe there would not be more of an increase in traffic, especially with the new soccer complex that would open soon and other development in the area. The area was already congested, and they could see what has happening in the center of the City due to the build-up.

Mark Jarrad said the August 30 discussion had been good, and the residents were fine with any establishment that did not have a drive-thru. The reasons some of them bought in Wilshire Estates was because of the conditions on the zoning. They were concerned that "transient" people would come through their village on their way home, adding 60% of those vehicles did not have Fayette County tags. He asked what could be done to improve the process so they did not have to come back next year with this same request, noting that Burger King had an option on the property to see if the conditions of zoning would change.

Laurie Farmer said she had been HOA president when the zoning conditions had been negotiated. The hallmark of this community was City planning, which was the reason many residents chose to live in the City. The conditions had been very well thought through. The residents wanted the community to grow and wanted to support businesses, and the conditions of zoning were designed around that premise. She asked Council to consider planning, citizen involvement, and opening Pandora's Box as they made their decision.

The public hearing closed.

King said the entire neighborhood had been involved in putting restrictions on what they thought was best for the City, specifically the south side. He would not change anything.

Learnard clarified that the "district" would include all seven parcels. Warrix confirmed that it would, but it would not go beyond that.

Ernst said he read the notes from the 2007 meeting regarding the zoning conditions, noting the developer had asked for two fast food restaurants and the neighborhood had not wanted any. The ordinance allowed a small coffee shop with a drive-thru. Ernst asked if that would be a Starbucks, Dunkin' Donuts, or something else, asking what the definition was. Warrix said the ordinance was not that specific. Ernst continued that he did not want to be back next year with another request for a drive-thru, pointing out that Burger King served coffee, and Starbucks and Dunkin Donuts served sandwiches. He did not want SR 74 South to become a fast food thoroughfare. He was not ready to support the request, and Premier Kings had said there were other places in the City they had considered. It was a very poorly written definition.

Prebor said the owner and the residents had come up with the restriction to prevent fast food restaurants. He asked O'Neill what his understanding was, also asking if he would ever be able to sell it. O'Neill said they had also developed the Wilshire Pavilion shopping center across SR 74, and his company had been active in that area for 18 – 19 years. They focused on neighborhood centers with grocery anchors and local tenants. The development looked different when they were coming up with conditions. Sonic, Walgreens, Delta Credit Union, Ace Hardware, and Discovery Daycare had wanted to be part of the development. Somerby closed on its property just before the recession hit. At that time, there was only one available parcel, then the recession hit.

Learnard said she liked Burger King, and she thought the proposal was compatible with the development as it stood currently. Her concern was that amending the condition would apply to all seven parcels, and the conditions were agreed to in good faith by the parties at that time.

Fleisch agreed, pointing out the economy was getting better, and commercial real estate would be selling. The development had a nice stretch of property, and she was positive other businesses, maybe even some of the ones from 2007, would again be interested. She could not see lifting the current restrictions.

Learnard moved to deny the request to amend the conditions of zoning for the 1.68-acre tract in the Wilshire Village retail subdivision. Ernst seconded. Motion carried unanimously.

10-16-02 Public Hearing – Consider Variance to Rear Setback, 208 Greensway

Property owner/applicant Matt Darcy addressed Council, saying he planned to build a 16-foot by 20-foot utility garage on the property. However, the property was triangularly shaped and to make it line up with the driveway and house, a corner of the building would sit on the property line. He asked Council for a variance to the 30-foot rear setback.

The rear property line abutted the Flat Creek Golf Club, which was adjacent to the right-of-way of Peachtree Parkway North. Darcy pointed out that there was a 54-foot tree buffer to the grass on Peachtree Parkway, and the distance from the Parkway to where the garage would be built was 79.8 feet. No trees would be removed, and substantial grading would not be needed.

Fleisch opened the public hearing. No one spoke for or against the variance request. The public hearing closed.

Prebor said he had visited the property, saying there was not another choice for the location and it would not affect any other properties. Darcy's application had included letters of support from his neighbors who either could see or would be affected by the garage. There were trees along the back of his lot and between his home and Peachtree Parkway.

Learnard asked Darcy to clarify the encroachment. Darcy said he was allowed by code to put in two smaller sheds, but they wanted to build something that would look nice and be close to the look of the house. One corner of the garage would be on the property line as opposed to the setback line.

Warrix said that Darcy's rear neighbor was ClubCorp (Flat Creek Golf Club). There was a 10-foot side setback and 30-foot rear setback. Darcy said there was only 30 feet from the back of his house to the property line.

Learnard said Council looked at variance requests when homeowners were out of options and a variance was the last resort. There were restrictions on granting variances for that reason. She said she would vote to deny the variance request.

Prebor said it would be at the corner of the house. Learnard said the building was for storage, not for parking cars. Darcy said he could not park in his current garage because of the lawn mower and other equipment. He wanted the building for storage for that equipment, so he could park in the existing garage.

King said he had no problem with the request or the location of the building. The cart path from #8 to #9 at Flat Creek crossed the street near the property, and the property really could not be seen.

Ernst said they looked at each request individually, and he did not take the decision lightly. He did not see how the garage would affect anyone. He had letters from his neighbors, and ClubCorp would not complain.

Fleisch asked how many feet the building would encroach into the setback. Warrix said it would be adjacent to or on the property line. Darcy said the building would not go over the property line, would be in line with the driveway, and the materials would be similar to the house. Fleisch said her concern was how visible the garage would be from the Parkway. Darcy said there were hardwoods, and it could be seen during the winter, but there were also a lot of pines that would help.

King moved to approve New Agenda item 10-16-02, the variance to rear Setback at 208 Greensway. Prebor seconded. Motion carried 4 – 1 (Learnard).

**10-16-03 Public Hearing – Consider Variance, Encroachment into Floodplain,
1000 Commerce Dr.**

City Engineer Dave Borkowski said there were actually three variance requests to the City's floodplain management/flood damage prevention ordinance. The applicant, Chuck Ogletree of Parkside Development Group, planned to build a 4,900 square-foot expansion to the existing building. The expansion would be used by a medical practice that wanted to locate in the City. The expansion would encroach into the floodplain of a pond located behind the 1000 Commerce Drive building. The pond was owned by the City.

The first variance was to Sec. 1007.4.3(3) of the Land Development Ordinance:

1007.4.3. General standards.

(3) No development shall be allowed within any area located at or below the base flood elevation except for new multi-use paths and perpendicular road/path crossings. New paths or road crossings must also meet requirements of subsections 1007.4.3(1) and 1007.4.3(2) above.

Borkowski continued that no development was allowed in the floodplain; however, there was no real alternative location for the building expansion on the site, which was fully developed. There was not a reasonable alternative for the location of the expansion. The building would be elevated at least three feet above the floodplain, and there would be no real threat to Public Safety.

The site was developed before the floodplain had been analyzed through the area, Borkowski said. The applicant had checked on the Federal Emergency Management Agency (FEMA) map, but had not been aware that the City also had floodplain requirements. There would not be any increase in the flood heights per the engineering study that was required by the ordinance. Staff recommended approval of the first request.

If there was development within the floodplain, any encroachments had to meet ordinance requirements for flood storage capacity (volume), Borkowski pointed out. The applicant had asked for variances to the sections below:

1007.4.3. General standards.

(1)(b) Reducing the base flood or future-conditions flood storage capacity;

AND

(2) Any development within the area of future-conditions flood hazard allowed under subsection 1007.4.3(1) shall also meet the following conditions:

(a) Compensation for storage capacity shall occur between the average ground water table elevation and the base flood elevation for the base flood, and between the average ground water table elevation and the future-condition flood elevation for the future-conditions flood, and lie either within the boundaries of ownership of the property being developed and shall be within the immediate vicinity of the location of the encroachment. Acceptable means of providing required compensation include lowering of natural ground elevations within the floodplain, or lowering of adjoining land areas to create additional floodplain storage. In no case shall any required compensation be provided via bottom storage or by excavating below the elevation of the natural (pre-development) stream channel unless such excavation results from the widening or relocation of the stream channel;

Borkowski explained that whatever was filled in the floodplain had to be cut somewhere else on site. Staff did not recommend approval of the second and third variances after evaluating the request based on the variance requirements. There was room on the site to cut out the compensating volume. It would only be nine to 10 dump truck loads of dirt. There was a 25-foot undisturbed buffer to the pond, and those trees would be saved. If the needed volume was cut out behind the building, some pine trees might be lost.

Ogletree said the site had been purchased in January 2015, and an engineering survey had been done based on the FEMA maps as part of their due diligence. Per the survey, there was no floodplain on the property. The property had been vacant when it was purchased. The original plan had been to renovate the building and put the addition on the side. They had gone through the Planning Commission with their plans, and it was approved. The issue with the floodplain had come up when the civil plans had been submitted to staff. He pointed out a hydrology report showed there would be no rise in the elevation of the basin. The compensatory cut area could be on the back of the tract; however, six trees and a heavy stand of vegetation would have to be removed to get five dump truck loads. Based upon the no-rise report, Ogletree said there was no reason to do that; however, they could do it if required. The medical vacancy rate in the City was very low right now, and he asked Council to approve the requests.

Fleisch opened the public hearing. No one spoke for or against the variance requests. Fleisch closed the public hearing.

Learnard asked what Ogletree would have to do to comply with the ordinances. Ogletree showed the area on the aerial photos, noting where the cut area would be. He said 1,500 square feet of the 4,900 square-foot addition would be in the floodplain, which meant approximately 2,200 cubic feet of the floodplain would have to be replaced. The hydraulic analysis had shown there would be no increase in the rise at all.

Learnard asked if the City could be sued by the Environment Protection Division (EPD) if the variances were granted. City Attorney Ted Meeker said EPD could not sue the City for giving variances for its own ordinances.

Prebor asked if the elevations for the City were the same as they were for FEMA. Borkowski said FEMA maps did not exist in this area because FEMA only studied areas with greater than one square mile in drainage basin. The City was required by the state to study streams with up to 100-acre basins, so the City was required to go into more detail.

Fleisch asked if it was recorded anywhere that the City's ordinances and maps existed and that any plans had to meet those requirements. Borkowski said it was on the website, adding that surveyors were required to check FEMA maps, but they were not required to find out if the City had additional requirements. Staff usually caught these issues when reviewing plans.

Rorie said this had been identified through the plans review process. There was no notation on where to get the information, which had created a moving target for applicants and created a catch-22. The concerns included how to get the City's requirements out there so developers would know before getting surveys and studies done, and whether this particular situation was an unusual circumstance that would allow Council to approve the variances.

Ernst asked if the hydrology report met the City's needs. Borkowski said it did, and staff, along with the City's consultant, had approved the study. The developer had to show there would be no rise in order to get the first variance. He said the engineers had used a two-dimensional model that accounted for conveyance, but not volume, which was the reason for the request for variances to the other two sections of the ordinance.

Prebor clarified that the intent was there would be a place for the run-off to be stored if a building encroached into the floodplain. Rorie said yes. Ogletree said the no-rise report said the volume would not be increased.

Fleisch asked how many other properties were similar to this one. She continued that properties were starting to sell, and surveyors needed to be aware of this issue. Borkowski said the local surveyors that did business with the City knew about the ordinances. The annual mailer from the Stormwater Utility addressed the fact there were two maps. There were more than 900 parcels that touched floodplain, including residential and commercial.

Prebor said this was common sense, asking why they should take down trees when the building would not affect the volume. Fleisch added that would make it one of the few buildings in that area without a tree buffer.

Learnard moved to approve the applicant's request for a variance to Sec. 1007.4.3(3), Sec. 1007.4.3(1)(b), and Sec. 1007.4.3(2)(a) of the Land Development Ordinance. King seconded. Motion carried unanimously.

Council/Staff Topics

Rorie reported that the extension of MacDuff Parkway was ahead of schedule based on what was originally presented to Council by the developer. The original intent had been to be finished with the Senoia Road work by November 11, and the road should be open by October 14. The work on the MacDuff extension was up to the cusp of the bridge. MacDuff would come across the bridge over the railroad tracks and tie in to North Kedron Drive. The portion off North Kedron Drive was completed. Drought conditions had been favorable to the construction. The bridge clearing and grading were going at the same time as the MacDuff extension and Senoia Road work.

Rorie continued that he was constantly asked about the permit for the bridge from CSX, noting there was no paper permit, but there was a permitting process. Per the developer, all the plans had been submitted and the requirements had been met. All the developer needed was for CSX to say it was done. The railroad had accepted payment and had a flagman working in the CSX right-of-way during construction. The road and bridge were scheduled for completion by July 2017. Rorie said the City was doing everything it could to work with the developer, adding this was a huge project.

Multiple road paving projects were underway. The estimated cost was \$1,556,885. Seven streets were scheduled, and the full depth reclamation (FDR) and paving costs were \$1,429,753, while striping would cost \$114,818 and the speed tables (replacements) in Planterra Ridge would be \$12,870. The streets included Commerce Drive, Westpark Drive, Rolling Green, Rubicon Road, Holly Grove Church Road, Hilltop Drive (east), and Planterra Way. Rorie noted that staff had specifically asked Council during the budget process not to appropriate any cash reserves for paving for FY 2017.

Rorie reported that, with new pavement on portions of Commerce Drive and Westpark Drive, staff wanted to put a coating of HA5 (a high-density mineral bond surface treatment that extended asphalt serviceability) on the remaining area of Commerce Drive that had not needed paving. Westpark had undergone both FDR and paving. The HA5 coating would make the entire roadway look good. They were trying to make a good road last longer.

A change order to the paving contract would be needed for the coating, Rorie said. The HA5 cost would either be \$22,000 or \$31,000. The difference in price was whether it was done on one day (a Sunday) or three days. The road would be closed during the one-day process. It would cost more for the three days, but there would be access to the businesses during the process. He asked that Council not appropriate the funds now, but to let the process take place. They would get a complete report (fiscal analysis) on December 6. Staff would work with the businesses during the process. All the projects should be completed in four weeks.

Public Works Superintendent Scott Hicks reported that St. Simon's Cove had used HA5 on their streets if Council wanted to see how it looked. Hicks explained that when the HA5 dried it was 1/8-inch thick, while seal coating was similar to putting stain on a piece of wood. Test areas of HA5 in Utah had lasted 15 years.

Rorie added curb repairs were also being done throughout the City, and the noses were being cut at some intersections so people did not drive over them.

Rorie continued that the cart path to the Overlook had originally been planned to go through the buffer, but after staking it and walking it, the plan only looked good on paper. A decision was made to change the route, and the Planning Commissioner assigned to the project had

been consulted. The path would also have a connection to Chick-fil-A. The section of Planterra Way where the path would cross was part of the paving and FDR project. The path area would be striped, and there was a difference between pedestrian striping and multi-use path striping. Staff was looking at a color complement to striping. It was an opportunity to designate the crossings in the City. Areas throughout the City needed restriping. In addition, there was a path near Cardiff Park that had curbing that prevented disabled path users to use the path, so it was changed to meet Americans with Disabilities Act (ADA) requirements.

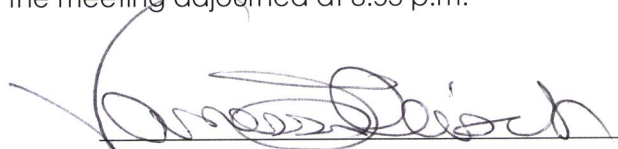
Executive Session

Learnard moved to enter executive session to discuss the sale or acquisition of real estate and personnel at 8:44 p.m. Ernst seconded. Motion carried unanimously.

Learnard moved to reconvene in regular session at 8:52 p.m. King seconded. Motion carried unanimously.

There being no further business to discuss, King moved to adjourn the meeting. Learnard seconded. Motion carried unanimously and the meeting adjourned at 8:53 p.m.


Pamela Dufresne, Deputy City Clerk


Vanessa Fleisch, Mayor