

**MINUTES OF MEETING
CITY COUNCIL OF PEACHTREE CITY
October 1, 1992
7:00 PM**

The City Council of Peachtree City met in regular session on Thursday Night October 1, 1992 at 7:00 PM in the City Hall Council Chambers.

Mayor Robert L. Lenox led those in attendance in the pledge of allegiance. Present were Mayor Robert L. Lenox, Councilmen Edward Bradford, Annie McMenamin, Robert Brooks and Caroline Price.

There were no items added to the agenda.

Mayor Lenox made a motion that item 92-10-2, Appointment of Youth Member to the Commission on Children and Youth, be heard first. Brooks seconded the motion. Motion carried unanimously.

Announcements, Awards, Special Recognitions

Mayor Lenox proclaimed the week of October 4-11 as "Children's Week" in Peachtree City. Present to accept the proclamation was Karen Davis, Chairman of the Commission on Children and Youth, and many children of Peachtree City.

Mayor Lenox announced that the Fayette County Chamber of Commerce was sponsoring a youth concert at the Amphitheater on October 3rd, featuring the band "Drivin & Cryin". Mayor Lenox reported that the price of tickets had been reduced to two for twenty-five dollars or one for fifteen dollars and urged the teens of Peachtree City to attend, as some of the proceeds would be used to offset the cost of the prom.

Mayor Lenox announced that anyone wishing to speak to the issues should go to one of the microphones provided and state his/her name and address for the record.

Department Reports

Mayor Lenox announced that Department Reports would be available after the next scheduled Council meeting.

Minutes

McMenamin made a correction to the minutes of September 17, 1992 regarding appointments to the Commission on Children and Youth. McMenamin corrected a statement she made during the meeting that there were seven applicants. McMenamin stated that there were six applicants, as one was disqualified due to the residency requirement. McMenamin made a motion to approve the minutes as

amended. Bradford seconded the motion. Motion carried unanimously.

92-10-2 Appointment of Youth Member to
Commission on Children and Youth

Mayor Lenox stated there had been three applicants for the youth position on the Commission on Children & Youth and that the committee had recommended Cindi Cochran to be appointed. Mayor Lenox asked Ms. Cochran to stand and be recognized and stated that she would be the representative of the youth's views on the Commission. McMenamin made a motion that Cindi Cochran be appointed as youth member to the Commission on Children and Youth. Price seconded the motion. Motion carried unanimously.

92-10-1 Public Hearing - Variance
Kwickie Store Highway 54

Mayor Lenox stated that a public hearing would be held to consider a request for a variance by Mr. Edward Wyatt, potential buyer for the Kwickie Convenience Store on Highway 54 West. Mayor Lenox stated the rules for the public hearing and explained that each side would have fifteen minutes to present their side, with City Manager Jim Basinger keeping the time, after which Council would become hearers and debate the issue according to Roberts Rules of Order. Lenox informed the public that copies of the procedures were available on the agenda table. Mayor Lenox asked to hear first from those in favor of the variances and asked Mr. Ed Wyatt to come forward.

Mr. Edward Wyatt, 362 Lees Mill Road Fayetteville, stated that, along with his brother Bill Wyatt, he was co-owner of George Green Oil Company. Mr. Wyatt stated that Green Oil was requesting an 18 foot variance from the 20 foot driveway setback requirement and a 24 foot variance from the 40 foot building setback, which was needed due to the widening of State Highway 54. Mr. Wyatt stated that Green Oil wished to purchase the Kwickie Convenience Store from the present owner Emmett Barnes and a variance was needed to put the gas pumps and canopy back in as they were before the Kwickie was forced to remove them due to a gasoline spill several years ago. Mr. Wyatt explained that their other concern was that the property was contaminated and that it had been reported to the Georgia EPD over two years ago. Mr. Wyatt stated that nothing had been done in the last two years to clean up the property and that he felt their company could expedite the process. He said that a voluntary trust fund insurance policy had been purchased through the State which would cover cleanup up to one million dollars. Wyatt stated that Green Oil would be getting assurances from the EPD that the waste would be cleaned up before the purchase took place and that, in fact, he had been assured that it would be moved up on the priority list and was already being worked on. Mr Wyatt stated that if Green Oil purchased the property they would upgrade

the exterior and interior and remove the vending machines from outside the store. Mr. Wyatt went on to explain that his purchase of the property was contingent upon the variances being granted.

Mayor Lenox asked for anyone else wishing to speak for the variance. Mr. Jim Williams, Director of Developmental Services, came forward and stated that when the convenience store was built in 1976 it was a legal structure, but that due to the widening of Highway 54 a variance would be required to bring the gas pumps into compliance with zoning. Williams stated that there was no record of a permit ever being issued for a canopy and that it should have required a variance when the structure was built. Williams said that the canopy had always been there until the pumps and tanks were removed due to a spill, that the canopy did not adversely affect the community, and that Green Oil was proposing to improve the appearance of the property and modernize it. Williams reported that the cleanup of the environmental problem would have to be done whether the variances were granted or not, and that if the variance for the canopy was not approved, selling the convenience store would be much more difficult. Williams stated that staff recommended approval of both variances as requested.

Lenox asked for anyone wishing to speak against the variance and hearing none called the public hearing closed and called for Council debate.

McMenamin asked Mr. Wyatt who had paid into the State Insurance Trust Fund for the cleanup. Mr. Wyatt stated that Chevron had paid into the plan, that it was a voluntary program and after verifying that payments had been made and the deductible was met, the plan would take over the cost of the cleanup. McMenamin questioned the letter written to Council by Mr. Wyatt, in which he stated that the purchase of the property would be contingent upon cleanup being done, but that the staff position paper had stated that the current owner was undergoing an order to clean up whatever fuel pollution had been left in the ground, and that the applicant for the variance would have no responsibility for the cleanup. McMenamin stated that she was hesitant to grant a variance with a contingency that the cleanup of environmental waste be done. Mr. Wyatt stated that anyone involved with underground storage tanks could be held responsible for the cleanup including the insurance trust fund, the petroleum supplier, the property owner, the tenant or the potential purchaser. Mr. Wyatt stated that his company did not feel any responsibility for the cleanup and again stated that Green Oil's contract with Kwikie would run out on November 5th and that he would obtain written assurances from EPD that the waste would be cleaned up.

Price asked Mr. Wyatt if there was anything in the process of the cleanup that would prohibit State approval to place new tanks in the ground. Mr. Wyatt stated that there was nothing to prohibit

new tanks being put in. He stated that two steps needed to happen, dirt removal and ground water cleanup if necessary. Mr. Wyatt explained that the EPD could do a ground water cleanup, but at this time it was not known if it would be necessary. If ground water cleanup should be necessary, wells would be drilled, and pipe laid so that water would be skimmed off the top. Wyatt explained that this could take up to two years, but that he felt it was a minimal situation or it would have been addressed within the last two years since the spill occurred.

McMenamin asked Mr. Wyatt if he would be willing to separate the variances, one for the tanks and the driveway and a separate variance for the canopy. Mr. Wyatt stated that it would not benefit Green Oil to have one variance granted without the other and that it would not be cost efficient to have gas pumps without a canopy. McMenamin stated that she would not want to grant the variance for the canopy if the gas tanks would not be put back in. Mr. Wyatt assured the Council that if Green Oil purchased the property, gas tanks would be put back in and again stated that the contract would be up on November 5, 1992. McMenamin stated that a granted variance would permit a canopy and if the purchase with Green Oil fell through another buyer would have a variance allowing a canopy with no intention of putting in gas tanks. Mr. Wyatt assured McMenamin that if the variance was granted, the property would be bought by Green Oil.

Mayor Lenox asked Mr. Wyatt, if in his opinion, the property would be difficult to sell if the cleanup was not done. Mr. Wyatt stated that the property would be very difficult to sell unless cleanup was done, and that his purchase would expedite the process. Lenox asked at what point in time the EPD would issue a clean bill of health. Wyatt stated that it could take several years and that they would probably not issue a clean bill of health, but determine that there is no further need for remediation. Wyatt stated that EPD would not give a guarantee. Wyatt stated that they might issue a letter stating that proper levels had been reached, but that the wells would need to be tested periodically. Mayor Lenox asked for clarification that the EPD would be paying for the cleanup. Wyatt stated that they would pay up to one million dollars after the ten thousand dollar deductible was met.

Price stated that the property was no longer a gas station and that she was hesitant to grant a variance for the canopy when there were no gas tanks in the ground. Ms. Price stated that there was validity in Mr. Wyatt's statement that his company had experience interacting with the EPD and that she could support cleanup of the property. Price felt that Mr. Wyatt was putting contingencies on the sale of the property and felt it was being premature discussing variances. She stated she would be uncomfortable granting the variances and having the sale fall through.

City Attorney Jim Webb stated there was a provision in the Zoning

Ordinance allowing a conditional variance to be approved. Brooks stated that he felt comfortable with the variance request, that the gas station had been there for sixteen years along with the canopy, that the problem was not due to the land owner but the fact that the road was widened and feels the request is legitimate. Brooks stated that, if the Council had a problem with an open end variance, a condition to the variance for the specific sale to Mr. Wyatt by November 15, 1992 could be granted. Brooks stated that he felt the residents would benefit from the sale to Green Oil, that a gas and convenience store was a good long term use of the property and that no business would be able to use the property until a cleanup occurred. Brooks stated that he would support the variance without a condition but would be willing to attach the condition if that would make Council more comfortable.

Mayor Lenox stated that he had studied the qualifications for granting a variance and felt that all conditions required for a variance to be granted were present and asked attorney Webb whether it would be legal to grant a variance exclusive to Mr. Wyatt. Webb stated that conditions could be attached but recommended not doing so for a long term, and suggested attaching conditions that could be achieved in a short time. Mayor Lenox stated that he would like it to state that the variances be granted providing that Green Oil purchase the property by January 1, 1993.

Bradford stated that he found the store convenient and did not see that the variances would cause the citizens any harm, that the widening of Highway 54 had affected the store and that he would support the variances with conditions. Price asked if sixty days would be sufficient. McMenamin asked if the November 6 date for closing was cut and dry or if Mr. Wyatt was willing to extend the date. Mr. Wyatt stated that he had no problem with extending it but that the seller might have. He stated that the more time Council could allow the better it would be for Green Oil.

Brooks made a motion to grant the variances as requested with the condition the sale is closed by January 1, 1993 between the applicants for the variances and the current property owners. Bradford seconded the motion. Attorney Webb asked that Mr. Wyatt come to the microphone and state that he voluntarily accepted the decision of the Council for the record. Mr. Wyatt came to the microphone and stated that he did accept the decision of Council. Motion carried unanimously.

92-10-3 Change in License Representative
Ruby Tuesday Restaurant

Mayor Lenox stated that a request had been made for a change in license representative for Ruby Tuesday Restaurant to Mr. Dan Baker and that Mr. Baker was present to answer any questions Council might have. McMenamin stated that all paperwork appeared to be in order and made a motion to approve the change in license

representative for Ruby Tuesday. Bradford seconded the motion. Motion carried unanimously.

92-10-4 Sign Ordinance Amendments
Outdoor Commercial Signs

Mayor Lenox stated that a special committee had been formed to study out-of-store marketing signs and make recommendations to Council for amendments to the Sign Ordinance. Mayor Lenox thanked the committee for all the work that was done.

Jim Williams, Director of Developmental Services, stated that the committee had been working for about five months on marketing signs that were on site and could not be seen off property. Williams stated that all the members felt that the City should not regulate a sign that could not be seen until on the property. Large structures that could be seen off property would still be handled as always. Williams defined an out-of-store marketing device as any facility which was intended to display and sell products or services outside of a primary building on a site zoned for commercial uses. Williams gave examples of out-of-store marketing devices as fuel pumps, menu boards, bank ATM units, newspaper racks, drink machines, ice boxes, and phone booths. Williams stated that an out-of-store marketing device was unregulated at the present time and under the amended ordinance would be entitled to display one advertising sign per device, provided that the sign was no larger than two square feet in area and no more than five feet above the ground and was not internally lighted. Informational signs were also addressed and the amended ordinance allows that they can be no larger than two square feet in area, no more than five feet above the ground and not internally lighted.

Williams stated that temporary outside displays had been discussed by the committee also and that the committee felt products should be able to be displayed outside of a store building provided the product displays and any related sales activities were confined to an area no more than six feet from the wall of the store building and that the displays did not encroach into any zoning setback area. No signage connected with out-of-store displays can be legible off-site unless permitted by the Sign Ordinance. Williams stated that businesses wishing to display products beyond six feet from the wall of the store building on property zoned for commercial uses, would need to obtain a temporary use permit from the Zoning Administrator. The temporary use permit would be permitted for ten consecutive days and no more often than every ninety days. Williams stated that temporary use permits had been issued in the past for sales, etc. and felt that the ordinance would stipulate what could be done.

Williams stated that permanent outside displays were not dealt with in the ordinance, such as golf carts and cars, but would be looked at on an individual basis and be granted special exceptions on a

case by case basis. Williams felt that these type situations should be rezoned to a Limited Use Commercial category. Williams reported that the committee did not feel it necessary to set up a special zoning class for this type of business, since it would not occur very often.

Williams stated that the committee had done an outstanding job and that Staff would recommend that Council approve the committee's recommendation.

Price asked if on the out-of-store marketing devices, the two square feet, would preclude the drink machines that are usually seen. Williams stated that he hoped it would, that Pepsi had met with the committee, and could comply with the standards, although they would rather not. Williams stated that the reluctance would be that the drink distributors would have to purchase new signage and panels. Price asked Williams if the Zoning Ordinance would need to be changed for the permanently displayed outdoor products. Williams stated that the committee suggested that property be rezoned to LUC on a case by case basis since there would not be a large number of instances.

McMenamin asked Williams if he would introduce the members of the committee present. Williams introduced Mike Hyde, representing Pit Stop, and Linda Russell, representing Westpark Walk. McMenamin stated that the Sign Ordinance had always created negative comments and that she was pleased with the recommendations of the committee and hoped in the future citizens could come together with input for items that needed attention.

Brooks stated his thanks to the committee, that the Sign Ordinance had always been a source of conflict due to the large amount of gray area in the ordinance. Brooks stated that the citizens of Peachtree City want to keep the sign free atmosphere and that the quality of the visual environment would not be affected since the amendments dealt with out-of-store on site marketing signs and that they would not be seen from the major thoroughfares. Brooks made a motion to pass the ordinance as recommended by City Staff. McMenamin seconded the motion. Bradford stated that he was not happy when it was suggested that the sign ordinance be amended, but that after reading the committees recommendations, he felt it filled gaps and covered gray area. Bradford commended the committee and gave his support. Motion carried unanimously.

Williams asked if the committee members present would like to make any comments and both Mr. Hyde and Ms. Russell came forward and thanked the Council for allowing the committee to make recommendations for needed changes.

Lenox stated that he believed small business in Peachtree City sometimes felt that the City made it difficult to operate and that the ordinance would help to alleviate some problems incurred.

There being no further business to come before Council Mayor Lenox made a motion that the meeting be recessed to be reconvened in executive session to discuss the Black lawsuit. Bradford seconded the motion. Motion carried unanimously.

Executive Session

There was no action taken in executive session and Bradford made a motion that the meeting be adjourned at 9:00 PM. Lenox seconded the motion. Motion carried unanimously.

Angie Stevens
Angie Stevens, Asst. City Clerk

Robert L. Lenox Attest
Mayor