

CITY COUNCIL OF PEACHTREE CITY

Minutes of Meeting

September 19, 1996

7:00 p. m.

The City Council of Peachtree City met in regular session on Thursday, September 19, 1996, at 7:00 p. m. in the City Hall Council Chambers.

Mayor Pro-Tem, Bob Brooks, led those in attendance in the pledge of allegiance. Present were: Councilmembers Annie McMenamin, Caroline Price, and Jim Pace.

ANNOUNCEMENTS, AWARDS, SPECIAL RECOGNITION

Jim Price presented a check for \$10,000.00 to Peachtree City from the Olympic Torch Committee.

Mayor presented Proclamation to the American Business Women's Association.

Mayor presented Employee of the Month Award to Stony Lohr.

ADDITIONAL AGENDA ITEMS

There were no additional agenda items.

MINUTES

McMenamin made a motion to approve the September 5, 1996 minutes as presented. Price seconded the motion. Motion carried unanimously.

OLD AGENDA ITEMS

There were no old agenda items.

NEW AGENDA ITEMS

09-96-05 Application for Alcohol Beverage License - Rosemarys Cafe

Basinger addressed Council and stated that Mr. Michael P. Mazzola had applied for an Alcohol Beverage License to sell beer and wine at The Rosemary Cafe, Inc. which would be located at 273 Commerce Drive. Mr. Mazzola had requested that he be appointed as the Licensee and his son, Michael P. Mazzola, Jr. be appointed as the License Representative. Further, the application appeared to be complete and in order.

McMenamin made a motion to approve the Alcohol Beverage License for The Rosemary Cafe, Inc. and to appoint Mr. Michael P. Mazzola, Sr. as the Licensee and Mr. Michael P. Mazzola, Jr. as the License Representative. Price seconded the motion. Motion carried unanimously.

**09-96-06 Application for Alcohol License Representative Change -
Aberdeen Woods**

Basinger addressed Council and stated that Mr. Aaron Roy Busby had applied to be the License Representative for the Aberdeen Woods Sales & Service Training Center, Inc. for the lounge in concert with the restaurant and the administrative building service bar at Aberdeen Woods Conference Center. Basinger advised Council that the Licensee, Mr. Herbert T. Creedon would remain the same. Further, the application appeared to be complete and in order.

McMenamin made a motion to approve the application for an License Representative change and appoint Mr. Aaron Roy Busby as the License Representative for the Aberdeen Woods Sales & Service Training Center, Inc. for the lounge in concert with the restaurant and the administrative building service bar. Pace seconded the motion. Motion carried unanimously.

**09-96-07 Application for Alcohol License Representative Change -
Mexico City Gourmet**

Basinger addressed Council and stated that Ms. Cindy Rodriguez, the Licensee of the Mexico City Gourmet Restaurant located at 100 Peachtree Parkway, had applied to be the License Representative to replace Mr. Ricardo Pena who was no longer in their employ. Further, the application appeared to be complete and in order.

McMenamin made a motion to approve the License Representative change and appoint Ms. Cindy Rodriguez as the License Representative for the Mexico City Gourmet Restaurant. Price seconded the motion. Motion carried unanimously.

09-96-08 Public Hearing - Fence Variance - Hobbs - 100 Waterwood Bend

Strobel reviewed the rules for a public hearing which allowed each side an equal opportunity and stated the mayor had established a time limit of 15 minutes per side. During the hearing, members of the City Council would become hearers and no action would be required until the hearing was declared completed. The applicant and those who supported the issue, including city staff as appropriate, would be heard first. Those who opposed the issue, including city staff as appropriate, would be heard second. Prior to closing the public input portion of the meeting, Council and any member of the public

would be given an equal opportunity to ask questions of either side. When Council was assured the input was complete, the public hearing would be ended and Council would then debate the issue in accordance with "Roberts Rules of Order" and render a decision. The public hearing was called to order and Basinger was requested to keep time.

Mr. Richard D. Hobbs of 100 Waterwood Bend addressed Council seeking approval of a variance for a 6 foot wood privacy fence on his property within the 40 foot setback requirement and stated the following:

- He and his family had moved here in the winter of 1995/1996 and had three children; one of whom was 2 1/2 years of age. He had looked at hundreds of homes, but was specifically seeking property with a yard that could be fenced in for the safety of his children as well as privacy for the family.
- A storage facility for a boat and trailer was an issue as well.
- The appearance was important in order to match the decor of the home and also be aesthetically pleasing to the drivers on Peachtree Parkway. Therefore, Hobbs had specifically upgraded the fencing material to include special finials and convex cuts of the fence boards.
- Hobbs stated he called City Hall to inquire about the requirements for installing the fence on his property and was referred to PCDC by a city employee whose name he did not know.
- Deborah Sweat, at PCDC, was consulted and visited the Hobbs property. Predicated upon Sweat agreeing to visit the property to determine if there were any difficulties with Hobbs' many questions, Hobbs' contingent bid on the house was accepted. In addition, Sweat sent Hobbs a letter dated May 9, 1996 (attached hereto and made a part of the official minutes) in which she enclosed the covenants for his neighborhood.
- Hobbs purchased the home on June 1, 1996 and after many weeks was able to hire a fencing contractor out of Stockbridge, Georgia and instructed the contractor to move the fence back between 6 feet to 8 feet from the line Ms. Sweat had drawn on the sketch she enclosed with her letter of May 9. The fence posts had all been set and the fence boards were approximately 50% complete on the side closest to the Parkway.
- The City of Peachtree City issued a Stop Work Order pursuant to a fence building permit being issued and advised Hobbs that "stockade" style fences were less desirable on the property lines which adjoin a major road artery such as Peachtree Parkway in addition to the 40 foot setback requirement.

Hobbs commented that according to the City Code, the City Council should consider the following factors in deciding whether to approve or disapprove the variance request:

- *Whether or not the special circumstances contributing to the request are peculiar to the particular property involved.* 100 Waterwood Bend had a peculiar lot angle which

exposed itself to the Parkway in such a manner as to make a 4 foot fence almost useless

- *Whether or not the situation for which the request was being made posed an unnecessary hardship for the applicant.* The fence was running over \$2,000 currently. All posts had been set in concrete 24" into the ground and the fence had been ordered with a convex cut.
- *Whether or not the request was due to an intentional action of the applicant to violate the requirements of this Ordinance.* Hobbs personally sought assistance from City Hall who directed him to PCDC. Hobbs felt PCDC had erred in the information they provided, but believed the authority to build the fence had been properly granted. Hobbs felt he acted reasonably and had done nothing to intentionally violate the City Ordinance.

Jim Williams, Director of Developmental Services, addressed Council and stated that staff recommended the variance be denied because the appearance of Peachtree Parkway was an important part of the master plan for the city and in the past the appearance was adversely affected by the construction of a number of 6-foot high privacy fences. This was stopped in 1990 with the adoption of the amendment that required a 40-foot setback.

Williams commented further that a variance for Mr. Hobbs would not only allow the appearance of the Parkway to once again be adversely affected, it would be unfair to the many property owners who had complied with the ordinance since 1990, and it would set a precedent that would be used to justify other visual encroachments along the Parkway in the future. Further, because the ordinance applied to all major thoroughfares in the city, not just Peachtree Parkway, the negative implications of a variance in this instance could be far-reaching.

Williams said, in the opinion of the staff, Mr. Hobbs could achieve virtually all his stated objectives and still comply with the ordinance by observing the 40-foot setback.

Pace pointed out that although he sympathized with Mr. Hobbs, there were some differences between homeowner's covenants and city ordinances and that the fence ordinance had been amended in 1990. In addition, Pace said he had looked at the property and felt that adequate landscaping would provide better privacy.

Price stated she felt Hobbs had proven his case as to the need for the fence but had not proven that it should be placed in the location he desired.

McMenamin stated that there had been some confusion between PCDC and city ordinances that had caused confusion for new citizens, but that in this particular instance, she was concerned that this variance request would set a new precedent and affect future variance requests.

Brooks remarked that a significant factor which should be considered is that Peachtree City had come to this point due to significant demand by the citizens because of problems that were faced in the 1980s. The changes that were made to the fence ordinance had worked very well and, in fact, this was the first request for a fence variance in a long, long time. Brooks said further he felt there was not enough uniqueness in this instance and agreed with McMenamin that this would set a precedent which would affect future variance requests.

McMenamin made a motion to deny the variance request for 100 Waterwood Bend. Price seconded the motion. Motion carried unanimously.

09-96-09 Appointments to Planning Commission

Basinger addressed Council and said the Selection Committee, composed of Councilmembers Caroline Price, Bob Brooks and himself, interviewed 15 applicants for the vacancies on the Planning Commission. Basinger said it was recommended that Mr. Julian Campbell be reappointed to serve a term from 10/01/96 through 9/30/99 and that Ms. Geraldine Holt be appointed to serve a term from 10/01/96 through 9/30/99. It was further recommended that Mr. Wes Saunders be appointed to serve as an alternate to fill any vacancy which would occur prior to 4/1/97.

Brooks remarked that there had been a number of talented individuals who were willing to volunteer their time and it made this decision a difficult one to make.

Brooks made a motion that Mr. Julian Campbell be reappointed to serve a term from 10/01/96 through 9/30/99 and that Ms. Geraldine Holt be appointed to serve a term from 10/01/96 through 9/30/99 and that Mr. Wes Saunders be appointed to serve as an alternate to fill any vacancy which would occur prior to 4/1/97. McMenamin seconded the motion. Motion carried unanimously.

09-96-10 Amendment to Soil/Erosion Control Ordinance

Basinger addressed Council and stated that City Council had approved the city's new Erosion Control Ordinance and other changes to the Land Development Ordinance on December 7, 1995 based on the State's model erosion control ordinance, as prepared by the Georgia EPD.

On December 28, 1995, staff submitted the city's newly approved ordinance to the EPD for review, and on August 13, 1996, EPD sent us their reply. In order to totally comply with state law, the city needed to add a step to the permitting process. Property owners who applied for development permits had to obtain a statement from the County Tax Commissioner's office which verified that ad valorem taxes were paid on their property.

While this step was included in the state's model ordinance, staff intentionally left it out of Peachtree City's ordinance because they felt it was an unnecessary requirement. The EPD said the law required that it be made a part of the city's ordinance. Therefore, staff recommended that Council approve the amendment to add a new paragraph 1004.5(d)(5) to Peachtree City's Land Development Ordinance which read "No permit shall be issued unless the applicant provides a statement by the Fayette County Tax Commissioner certifying that all ad valorem taxes levied against the property, and that are due and owing, have been paid."

McMenamin made a motion to approve the proposed amendment by adding a new Section 1004.5(d)(5) to the Land Development Ordinance. Price seconded the motion. Motion carried unanimously.

Brooks made a motion to take a brief recess and reconvene in Executive Session. McMenamin seconded the motion. Motion carried unanimously.

EXECUTIVE SESSION

No action was taken in Executive Session. Brooks made a motion to adjourn. Price seconded the motion. Motion carried unanimously.



Gloria Strobel, Executive Secretary

Attest: 

Mayor