

CITY OF PEACHTREE CORNERS
SPECIAL CALLED MEETING
July 05, 2012 @ 7:30pm

The Mayor and Council of the City of Peachtree Corners held a Special Called Meeting on Thursday, July 05, 2012 at 7:30pm. This Special Called Meeting was held at the Robert Fowler, YMCA located at 5600 West Jones Bridge Road, in Peachtree Corners, GA 30092. The following were in attendance:

Mayor	Mike Mason
Council Member	Phil Sadd - Post 1
Council Member	James Lowe - Post 2
Council Member	Alex Wright - Post 3
Council Member	Jeanne Aulbach - Post 4
Council Member	Lorri Christopher - Post 5
Council Member	Weare Gratwick - Post 6
Acting City Attorney	Bill Riley
Consultant	John Kachmar
Acting City Clerk	Joan Jones

PLEDGE OF ALLEGIANCE: Mayor Mason led the Pledge of Allegiance.

OPENING COMMENTS: Mayor Mason thanked everyone for attending and gave a brief review of the agenda reports and stating these are a couple of the reasons we became a city to make certain decisions, such as where billboards may go, the solid waste.

MINUTES: Acting City Clerk Jones addressed council explaining Attorney Bergthold requested to address council regarding the minutes. Attorney Riley requested of council to consider each set of minutes individually and if they so wish, to consider hearing Mr. Bergthold and amend the minutes if needed to make sure we have everything in the minutes regarding the Sexually Oriented Businesses. Council Member Christopher motioned, seconded by Council Member Sadd to approve the June 28, 2012 Special Called Meeting Minutes. Council Member Gratwick noted a correction to his name at the bottom of page two. The motion to approve the June 28, 2012 Minutes with this correction was unanimously approved.

Council Member Gratwick motioned, seconded by Council Member Christopher to approve the June 30, 2012 Special Called Meeting Minutes. During discussion, Attorney Riley asked for Mr. Bergthold to make a statement to make sure everything is correctly reflected in the minutes. Attorney Bergthold asked the June 30, 2012 minutes reflect the material considered by council includes the voluminous data that was previously presented several days before this meeting and delivered to the mayor and council member and those materials are made part of their official record. Council Member Aulbach amended the motion to include Attorney Bergthold stated recommendation. The amended motion was seconded by Council Member Gratwick. Mayor Mason called the amended motion, and the amendment passed unanimously. Mayor Mason then called the main motion and the main motion carried unanimously. The June 30, 2012 Special Called Meeting Minutes were approved as amended.

Council Member Aulbach motioned, seconded by Council Member Gratwick to approve the July 1, 2012

Special Called Meeting Minutes. Attorney Bergthold asked Mayor and Council to consider having the same amendment placed in the June 30th minutes, be reflected in this set of minutes, that council did consider the materials they received several days prior to their June 30th meeting and this material be made part of the official record. Council Member Christopher motioned to amend the minutes to reflect Attorney Bergthold's statements and to include this in the July 1, 2012 minutes. Council Member Gratwick seconded the amendment. There being no further discussion, the amendment carried unanimously. Mayor Mason called the main motion. The main motion carried unanimously. The July 1, 2012 Special Called Meeting Minutes were approved as amended.

PUBLIC COMMENT: Mr. Ed. Stiles explained he received his information earlier from Mr. Riley and declined his request for public comment.

REPORTS and PRESENTATIONS: Acting City Attorney Riley gave a brief overview of the two **billboard lawsuits** that Gwinnett County is currently engaged in; one of which is in the Federal Courts asking for damages. He explained the plaintiff is asking for permits, which the county cannot issue. He is asking council to consider giving authorization for his team to look into this litigation to ensure the citizens of Peachtree Corners interests are being considered. During discussion, Mr. Riley explained the Mayor would not be able to give authorization as he is part of this whole body that speaks as one in issues such as this; he reviewed the time line and when these suits were filed (Nov. 2011) This is on tonight's agenda for council consideration.

Attorney Riley reported on the **Solid Waste Intergovernmental Agreement** he received from Gwinnett County, explaining the services would continue as they are now being provided and the county agrees to maintain the records which is an important issue as there are various regulations, reports and requirements that must be met. In addition, he informed council there is a 60 day out-clause, however they would like to have this agreement in place until April 1, 2013 which will give the council time to determine how they want to proceed with their process and procedures at a later date. As the IGA was not included in the agenda packet, he will make sure the council receives a copy for their review as this will be placed on a future agenda.

Consultant John Kachmar reported on the status of the individual liaison for land use services; that as a municipality the city falls under the state procurement procedures and can contract for personnel services without going through formal bid procedures. He has had conversations with two companies, CH2M Hill and Pond Co. to provide these services without reimbursements until the city receives funds. He is asking council to authorize these companies to provide a proposal with a time certain (to end 12/1/2012) and their costs. The council would then have time to send out Request for Qualifications (RFQ) on this service at a later time. Attorney Riley explained he has the authority under his consulting contract to proceed, but he just wanted to keep the council updated.

Acting City Clerk Jones announced the dates, times and locations of the upcoming Millage Rate Public Hearings which will be held at the Hilton Atlanta NE, 5993 Peachtree Industrial Blvd. on Tuesday, July 10th at 7am and 6pm.

Second Read of Ordinance 2012-07-40: Continuation of Ordinance and Law: The second read of this Ordinance Providing for the Continuation of Ordinance and Law During the Transition Period Legislatively Established for the City of Peachtree Corners, Georgia and the Adoption of Ordinances by the City of

Peachtree Corners was held. Attorney Riley reviewed the purpose of this ordinance, to make certain all the county ordinances are adopted in case there are small codes that may effect Peachtree Corners. Council Member Aulbach motioned, seconded by Council Member Christopher to approve this ordinance as presented. There being no discussion, Mayor Mason called the motion and the motion carried unanimously. (**Ordinance 2012-07-40**)

Second Read of Ordinance 2012-07-41: Chapter 1-General Provisions: The second read of this Ordinance to Adopt and Approve Chapter 1, General Provisions and Providing for Inclusion and Identification in the Code of Ordinances for the City of Peachtree Corners, Georgia to be Referenced in the Future as Chapter 1: General Provisions, was held. Attorney Riley explained this is outlines how you read the ordinances, it includes definitions, penalties and methodology on the city code. Council Member Christopher motioned, seconded by Council Member Gratwick to approve this Ordinance as presented. There being no discussion, the Mayor called the motion and the motion carried unanimously. (**Ordinance 2012-07-41**)

Second Read of Ordinance 2012-07-42: Chapter 2-Administration: The second read of this Ordinance to Adopt and Approve Chapter 2, Administration Providing for Inclusion and Identification in the Code of Ordinances for the City of Peachtree Corners, Georgia to be Referenced in the Future as Chapter 2: Administration was held. Attorney Riley highlighted this ordinance covers the administration guidelines, the departments, includes an ethics ordinance. Council Member Christopher motioned, seconded by Council Member Gratwick to approve this Ordinance as presented. There being no discussion, the Mayor called the motion and the motion carried unanimously. (**Ordinance 2012-07-42**)

Second Read of Ordinance 2102-07-43: Chapter 6-Alcohol: The second read of this Ordinance to Adopt and Approve Chapter 6, Alcohol Providing for Inclusion and Identification in the Code of Ordinances for the City of Peachtree Corners, Georgia to be Referenced in the Future as Chapter 6: Alcohol was held. Attorney Riley briefed council this ordinance covers the how, who, what, when and where about alcohol (both retail and consumption), who is eligible for licensing and includes the permitting requirements. This mirrors the licensing requirements of Gwinnett County. Council Member Gratwick motioned, seconded by Council Member Aulbach to approve this Ordinance as presented. During discussion, Council Member Christopher asked how the citizens will know about these ordinances; Council Member Sadd asked how we can change these ordinances. Attorney Riley reviewed which ordinances need to be kept consistent with Gwinnett County at this time as they are doing the services. Mayor Mason called the motion to approve Ordinance 2012-07-43 as Chapter 6, the motion carried unanimously. (**Ordinance 2012-07-43**)

Second Read of Ordinance 2012-07-44: Chapter 14-Building Code: The second read of an Ordinance to Adopt and Approve Chapter 14, Building Code Providing for Inclusion and Identification in the Code of Ordinances for the City of Peachtree Corners, Georgia to be Referenced in the Future as Chapter 14: Building Code was held. Attorney Riley explained this is an ordinance that is required under the current Intergovernmental Agreement and is the Gwinnett County Building Code in-toto so services can continue and it is a requirement under the IGA. Council Member Christopher motioned, seconded by Council Member Gratwick to approve this Ordinance as presented. There being no discussion, the Mayor called the motion and the motion carried unanimously. (**Ordinance 2012-07-44**)

Second Read of Ordinance 2012-07-45: Chapter 18-Business Code: The second read of an Ordinance to Adopt and Approve Chapter 18, Business Code Providing for Inclusion and Identification in the Code of

Ordinances for the City of Peachtree Corners, Georgia to be Referenced in the Future as Chapter 18: Business Code was held. Attorney Riley explained this ordinance covers how Business Licenses are issued and regulations of businesses such as alcohol permits, taxi cabs, work permits for pawn shops, etc. Council Member Aulbach motioned, seconded by Council Member Gratwick to approve this Ordinance as presented. There being no discussion, the Mayor called the motion and the motion carried unanimously. **(Ordinance 2012-07-45)**

Second Read of Ordinance 2012-07-46: Chapter 42-Environment: the second read of an Ordinance to Adopt and Approve Chapter 42, Environment Providing for Inclusion and Identification in the Code of Ordinances for the City of Peachtree Corners, Georgia to be Referenced in the Future as Chapter 42: Environment was held. Attorney Riley briefed council that this code is required by the IGA so the county can continue to provide the services, the community development looks at this information when they review applications. Council Member Christopher motioned, seconded by Council Member Aulbach to approve the Ordinance There being no discussion, the Mayor called the motion and the motion carried unanimously. **(Ordinance 2012-07-46)**

Second Read of Ordinance 2012-07-47: Chapter 46-Fire Prevention and Protection: The second read of an Ordinance to Adopt and Approve Chapter 46, Fire Prevention and Protection Providing for Inclusion and Identification in the Code of Ordinances for the City of Peachtree Corners, Georgia to be Referenced in the Future as Chapter 46: Fire Prevention and Protection was held. Attorney Riley informed council this again is part of the IGA, planning and review and permitting process Council Member Gratwick motioned, seconded by Council Member Christopher to approve this Ordinance as presented. There being no discussion, the motion carried unanimously. **(Ordinance 2012-07-47)**

Second Read of Ordinance 2012-07-48: Chapter 50-Floods: The second read of an Ordinance to Adopt and Approve Chapter 50, Floods, Providing for Inclusion and Identification in the Code of Ordinances for the City of Peachtree Corners, Georgia to be Referenced in the Future as Chapter 50: Floods was held. Again Mr. Riley explained this is part of the IGA and permitting and assessment process under Community Development and is required. Council Member Christopher motioned, seconded by Council Member Aulbach to approve this Ordinance as presented. There being no discussion, the motion carried unanimously. **(Ordinance 2012-07-48)**

Second Read of Ordinance 2012-07-49: Chapter 58-Historical Preservation: The second read of an Ordinance to Adopt and Approve Chapter 58, Historical Preservation, Providing for Inclusion and Identification in the Code of Ordinances for the City of Peachtree Corners, Georgia to be Referenced in the Future as Chapter 58: Historical Preservation was held. Attorney Riley conveyed to council this is part of the IGA, this ordinance has a board which will at this time be the Gwinnett County Board, we will adopt this board and historian and when we take this over then there is an opportunity to appoint our own board and historian. Council Member Sadd asked about who sits on this board. Council Member Gratwick motioned, seconded by Council Member Christopher motioned to approve this ordinance as presented. There being no discussion, the motion carried unanimously. **(Ordinance 2012-07-49)**

Second Read of Ordinance 2012-07-50: Chapter 70-Manufactured Homes: The second read of an Ordinance to Adopt and Approve Chapter 70, Manufactured Homes, Providing for Inclusion and Identification in the Code of Ordinances for the City of Peachtree Corners, Georgia to be Referenced in the Future as Chapter 70: Manufactured Homes was held. Attorney Riley explained this is part of the IGA with

Gwinnett County. Council Member Gratwick motioned, seconded by Council Member Christopher to approve this ordinance as presented. There being no discussion, the Mayor called the motion and the motion carried unanimously. **(Ordinance 2012-07-50)**

Second Read of Ordinance 2012-07-51: Chapter 82-Pawn Shops: The second read of an Ordinance to Adopt and Approve Chapter 82, Pawn Shops, Providing for Inclusion and Identification in the Code of Ordinances for the City of Peachtree Corners, Georgia to be Referenced in the Future as Chapter 82: Pawn Shops was held. Attorney Riley informed council this is not part of the IGA, but there are regulations that were previously referenced in our licensing code as these are regulated businesses, there are work permits involved and regular reporting to the police department as to what has been pawned, etc. Council Member Christopher motioned, seconded by Council Member Gratwick to approve this Ordinance as presented. During discussion, Council Member Sadd asked for clarification as to why there is a separate ordinance for pawn shops. Attorney Riley explained this chapter outlines the regulations and for this specific business. There being no discussion, the motion carried unanimously. **(Ordinance 2012-07-51)**

Second Read of Ordinance 2012-07-52: Chapter 86-Planning and Development: The second read of an Ordinance to Adopt and Approve Chapter 86, Planning and Development, Providing for Inclusion and Identification in the Code of Ordinances for the City of Peachtree Corners, Georgia to be Referenced in the Future as Chapter 86: Planning and Development was held. Attorney Riley briefed council this is the core of their planning and development scheme, this is the same as Gwinnett County code and required under the IGA. Council Member Gratwick, seconded by Council Member Aulbach to approve this Ordinance as presented. There being no discussion, the Mayor called the motion and the motion carried unanimously. **(Ordinance 2012-07-52)**

Mr. John Kachmar was able to retrieve information via the county website on the Gwinnett County Historical Restoration and Preservation Board. He informed the council of the current board members.

Second Read of Ordinance 2012-07-53: Chapter 108-Telecommunications: The second read of an Ordinance to Adopt and Approve Chapter 108, Telecommunications, Providing for Inclusion and Identification in the Code of Ordinances for the City of Peachtree Corners, Georgia to be Referenced in the Future as Chapter 108: Telecommunications was held. Attorney Riley explained this is part of the IGA regarding telecommunications. Council Member Christopher motioned, seconded by Council Member Gratwick to approve this ordinance as presented. There being no discussion, the Mayor called the motion and the motion carried unanimously. **(Ordinance 2012-07-53)**

Second Read of Ordinance 2012-07-54: Chapter 114-Utilities: The second read of an Ordinance the Ordinance to Adopt and Approve Chapter 114, Utilities, Providing for Inclusion and Identification in the Code of Ordinances for the City of Peachtree Corners, Georgia to be Referenced in the Future as Chapter 114: Utilities. Attorney Riley explained this is required by the IGA and is basically our Public Works, and will be part of their review process. Council Member Christopher motioned, seconded by Council Member Gratwick to approve this ordinance as presented. There being no discussion, the motion carried unanimously. **(Ordinance 2012-07-54)**

Second Read of Ordinance 2012-07-55: Chapter 118-Vegetation: The second read of an Ordinance to Adopt and Approve Chapter 118, Vegetation, Providing for Inclusion and Identification in the Code of Ordinances for the City of Peachtree Corners, Georgia to be Referenced in the Future as Chapter 118:

Vegetation was held. Attorney Riley informed council this is required under the IGA. Council Member Gratwick motioned, seconded by Council Member Christopher to approve this ordinance as presented. There being no discussion, the motion carried unanimously. (**Ordinance 2012-07-55**)

Second Read of Ordinance 2012-07-56: Regarding Certain Codes and Regulation Manuals: The second read of and Ordinance to Adopt and Approve Backflow Prevention Manual of Gwinnett County and the Pump Station and Force Main Design Manual of Gwinnett County Georgia was held. Attorney Riley explained these two manuals have to part of an ordinance so Gwinnett County can consider these when reviewing permits. Council Member Christopher motioned, seconded by Council Member Gratwick to approve this Ordinance as presented. There being no discussion, the motion carried unanimously. (**Ordinance 2012-07-56**)

Second Read of Ordinance 2012-07-57 Regarding Sexually Oriented Businesses: The second read of an Ordinance to Adopt and Approve and Ordinance Establishing Requirements and Regulations for Sexually Oriented Businesses within the City of Peachtree Corners, GA was held. Attorney Riley turned this presentation over to Attorney Scott Bergthold who gave an overview of items reviewed during their June 30th and July 1st meeting and that all these presentations are based on the over 1500 pages of studies and documentations the council has already received back the middle of June 2012. In addition, you have been provided tonight a hard copy of this presentation and of an Index of Legislative Secondary Effects which indexes the category of documents of secondary effects of sexually oriented businesses and you have received a summary of key secondary effects reports. Attorney Bergthold reiterated the Supreme Court has determined that cities cannot ban adult businesses from the community, but they can strictly regulate the time, the place and manor of their operation. This is reflected in the licensing and zoning of these businesses. He explained there have been over 20 judicial decisions from the Supreme Court of the United States, the Georgia Courts, the US Court of Appeals from the 11th Circuit Court that uphold these regulations and many of which are part of your ordinance. There are also Land use and crime impact studies such, studies from Garden Grove California, Houston, Texas, studies from small and large cities, the secondary effects are very similar across different jurisdictions. He referenced cases such as a Fulton County, GA case (2010) that are based on what problems go on inside the establishments, there are certain regulations in this ordinance, such as the six foot rule and the restriction of alcohol consumption within the businesses that will prevent the negative secondary effect, (referenced page 2 of the handout, #'s 8,9 & 11 which came out of the 11th Circuit Court of Appeals in Atlanta). In addition, Attorney Bergthold reviewed the Renton vs. Playtime Theatres case from 1986, explaining this is significant as it makes clear that cities do not have to conduct new studies, or produce evidence, they can rely on evidence to be reasonably believed to be relevant to the problem that the city is trying to address.

Attorney Bergthold went on to explain data can be found in Land Use Reports; Crime Impact Reports, Judicial Opinions, Expert Reports and Anecdotal Data. This type of data will include the types of secondary effects and there are five key categories, the negative impact on surrounding properties; personal and property crimes which include public safety risks and confrontations; typical sexual crimes such as lewdness, illicit sexual activities and public indecency; there is documented patterns of illicit drug use and trafficking (he referenced Warner Robbins GA and the recent 23 arrests by the DEA); finally the litter, aesthetic impacts such as traffic, noise, blight all are secondary effects. He explained how legislative findings based on the negative secondary effects should be considered when developing an ordinance. The land use as a category of commercial business is associated with numerous adverse secondary effect and one of those is that alcohol consumption tends to impair judgment, and lowers inhibitions thereby

increasing the risk of adverse secondary effects. He referenced the Littleton, Colorado case regarding the model for a process and procedures, specific time frames for hearings, etc as there are first amendment rights tied to this licensing.

Various court cases such as the Flanigan's Enterprises v Fulton County(2010), Daytona, Florida (2007)which are supporting cases as it pertains to banning alcohol and court cases such as Knox County (2009) and Floyd County (2008) regarding the regulations of strip clubs, retail stores, adult book stores, with video booths, etc. Attorney Bergthold reiterated the expert findings that can be used when considering secondary effects, there is a variety of data and Peachtree Corners has a substantial government interest in regulating adult businesses to prevent the identified negative secondary effects. He cited court cases rejecting the industry's experts' secondary effects, i.e. the Peek-A-Boo Lounge in Manatee County (2011). In closing, he reminded council that all the secondary effect evidence they have received, the written handouts, the presentations, the CD that includes documents of data and studies will be made part of minutes and the city will have the relevant documentation.

Council Member Wright asked for the difference between what the county currently has on file. Attorney Bergthold explained, the county ordinance was reviewed and it was updated to included key findings and reference to the most current case law, the terminology was updated, some more strict provisions, but made procedures easier by making it clearer on what the standards and the steps for approval of the businesses. Clarification was made by Attorney Bergthold and Riley, they were not aware of any applications that have been submitted for a business licenses within the city limits.

Mayor Mason called for any further discussion on this ordinance. With no further discussion, Council Member Christopher motioned, seconded by Council Member Gratwick to Adopt and Approve this Ordinance Establishing Licensing Requirements and Regulations for Sexually Oriented Businesses within the City of Peachtree Corners, GA. The motion carried unanimously. **(Ordinance 2012-07-57)**

BILLBOARD LITIGATION: Attorney Riley requested council to consider authorizing him to look into the current Gwinnett County billboard litigation, reviewing the two pending suits that touch the City of Peachtree Corners. Council Member Gratwick motioned, seconded by Council Member Aulbach motioned to authorize the attorney to intervene on behalf of the City of Peachtree Corners regarding the Gwinnett County Billboard litigation. There being no further discussion, the motion carried unanimously. **(ACTION ITEM)**

MAYOR'S COMMENTS: Mayor Mason requested Counselor Riley to provide an appropriate proclamation recognizing the folks that put on such a successful of the Peachtree Corners Festival.

EXECUTIVE SESSION: No Executive Session was held,.

ADJOURNMENT: Council Member Christopher motioned, seconded by Council Member Gratwick to adjourn the meeting. There being no further discussion, the motion carried unanimously and the meeting was adjourned.

Approved,

Mike Mason, Mayor

Attest,

Joan C. Jones, Acting City Clerk