

**CITY OF PEACHTREE CORNERS**

**SPECIAL CALLED MEETING**

**July 24, 2012 @ 7:30pm**

The Mayor and Council of the City of Peachtree Corners held a Special Called Meeting on Tuesday, July 24, 2012 at 7:30pm. This Special Called Meeting was held at the Robert Fowler YMCA, located at 5600 West Jones Bridge Road, 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 - <b>Absent</b>
Council Member	Jeanne Aulbach - Post 4
Council Member	Lorri Christopher - Post 5
Council Member	Weare Gratwick - Post 6
Acting City Attorney	Lenny Felgin, Scott Hastey, Bill Riley – <b>Delayed</b>
Consultants	John Kachmar and John McDonough
Acting City Clerk	Joan Jones

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

**OPENING COMMENTS:** Mayor Mason reviewed information regarding the formation of Peachtree Corners Planning Commission and Board of Zoning Appeals. He asked if anyone is interested to please apply for these important posts, the applications will be on the city website.

**MINUTES:** Council Member Gratwick motioned, seconded by Council Member Christopher to approve the July 16, 2012 and the July 17, 2012 Special Called Meeting Minutes. There being no discussion, the motion carried unanimously.

**PUBLIC COMMENT:** Clerk Jones reminded everyone of the three minute public comment period. Mayor Mason called for Public Comments. Mr. Kirah Shah addressed council about his concerns and problems he has incurred trying to get a business licenses for the past few weeks. He has been in touch with Donna Geisenger for assistance. Mayor Mason explained the issues with permitting and licenses will hopefully be addressed tonight.

**REPORTS and PRESENTATIONS:** In order to proceed with the meeting in a timely manner, Clerk Jones asked for council consideration on the order of the agenda items as Councilor Riley is delayed. All items will be considered. There was council consensus to change the order of the agenda items. Mr. Kachmar was then asked to introduce Pond & Company Representative Michelle Alexander.

**AGREEMENT WITH POND & COMPANY:** Consultant Kachmar gave a brief bio of Ms. Alexander, (who was in attendance) and explained both he and Mr. McDonough have worked with Ms. Alexander and Pond & Company. Mr. Kachmar reported Pond & Company is reviewing the contract and once review is complete, the contract should be ready for signature tomorrow or the day after.

Mayor Mason welcomed Ms. Alexander and explained to everyone in attendance how the process will begin in order to clear the backlog of pending permits and licenses. Mr. Kachmar explained the term of the agreement; it goes through 12/31/2012, with an automatic renewal for 6 months until June 2013 unless council provides written notice by November 30<sup>th</sup>. In addition, he reminded council that Ms. Alexander is the liaison between the city and the county; this is an hourly-rate contract and reviewed other aspects of the

contract, i.e., accuracy of work, billing hours, services provided, reporting, insurance liability, etc. He recommended to council to pass this contract as an Action Item pending final approval by attorney and with acceptance from Pond & Company. Council Member Christopher noted the scribner's error on page 5 and asked this be corrected. Mayor Mason asked for council consideration on this agreement. Council Member Christopher motioned, seconded by Council Member Sadd to approve this agreement and authorize the Mayor to execute his signature subject to attorney approval and acceptance by Pond & Company. During discussion, Mr. Kachmar explained what happens at the end of the 5 month period (depends on what the council wants to do), i.e., they could put out a RFP for purchase of services, he reviewed the IGA allows for a 60 day withdrawal, the RFP would be for a permanent outsource and would need to be in place before the IGA is terminated and this liaison is terminated. The termination language was reviewed. If there is a necessity for a change, it will be brought back to council before signatures. There being no further discussion, the motion carried unanimously. **(ACTION ITEM)**

**AMENDMENT TO THE GWINNETT COUNTY IGA:** Attorney Felgin reviewed the amendment made to the Gwinnett County Intergovernmental Agreement regarding business occupational tax and explained the previous IGA was for zoning related services. This amendment allows for Gwinnett County to continue the licensing and permitting services for alcohol permits, business occupation, etc. and the payment for this IGA would be the fees they collect for the cost of permits/licenses. The termination of this agreement would be July 1, 2013; however the city may terminate these services with proper notice (60 days) to the county. In addition the city will start collecting business occupational tax services effective January 1, 2013 so we can start collecting these taxes. Attorney Felgin explained the indebtedness regarding the Hotel/Motel Tax for the Civic Center, Arena provision was left in place, they have agreed to meet with the city to review how this bond repayment was structured and the IGA can be amended further once this is clarified. Council Member Sadd motioned, seconded by Council Member Christopher to approve the amendment to the IGA with Gwinnett County as presented. During discussion, clarification was made this is the amended IGA the council received earlier for review, the wording of Business License (Regulatory License) and Business Occupational Tax (taxes) Certificates taking over January 1<sup>st</sup> and what will need be done prior to July 1, 2013 and clarification of the bond language. There being no further discussion, the motion carried unanimously. **(ORDINANCE 2012-07-58)**

**TAX ANTICIPATION NOTE UPDATE:** Mr. McDonough reviewed the Request for Proposal for the Tax Anticipation Note of \$500,000 which must be paid back by 12/31/2012. These monies would be utilized by the city until the tax revenues are received; the proposal responses are due back by August 7<sup>th</sup> and the funds are to be made available August 17<sup>th</sup>. This will come back to council for final approval at an upcoming council meeting. Council Member Lowe motioned, seconded by Council Member Sadd to approve this Action Item to issue a RFP for a Tax Anticipation Note for \$500,000. There being no further discussion, the motion carried unanimously. **(ACTION ITEM)**

Mayor Mason called for a Five Minute Recess in order to confer with Attorney Riley who has arrived.

Mayor Mason called the Special Called Meeting back to order.

**REPORTS and PRESENTATION:** Prior to the Public Hearing and council consideration of the zoning ordinance and the sign ordinance, Attorney Riley explained there will be an overview of both ordinances, explained the city is essentially adopting the Gwinnett County Zoning Ordinance and the Gwinnett County Sign Ordinance with minor differences. Further, Attorney Bergthold will address how the zoning ordinance has been adapted to our Sexually Oriented Businesses; Attorney Felgin will address other zoning clarifications and the sign ordinance adaption that addresses the billboard litigation. Mr. Riley explained he will review the appendices that will be included in the zoning ordinance that council will be asked to consider.

Attorney Scott Bergthold gave a brief overview to council and reminded them of the extensive presentation of the negative secondary effect on adult businesses of reviewed at hearings held at their June 30<sup>th</sup>, July 1<sup>st</sup> and July 5<sup>th</sup> Council Meeting on voluminous amount of material (over 1500 pages) the council had received in early June. The legislative findings included in the zoning ordinance relative to the Sexually Oriented Businesses mirror those that are also in the licensing ordinance the city council previously adopted on July 5<sup>th</sup>. In addition, all those materials, the CD ROM, the printed materials, handouts, which you have a duplicate copy tonight, will be included as part of the minutes of this meeting as they build on predict that has been established. The council can regulate the time, the place and the manner of operation, the tonight council will consider the zoning piece which pertains to the place. Attorney Bergthold reviewed the case law of *Renton v. Playtime Theatres*, calls first amendment that a city refrain from denying a reasonable opportunity to open this type business. He reviewed what Gwinnett County has in their zoning as C-2, C-3 General Commercial Business zoning subject to a 1000 foot setback which is retained in this zoning ordinance. Once the jurisdictional boundaries of Peachtree Corners was reviewed, there was no C-2; C-3 zoning areas; the trend over the years and what is in place currently, is to allow these types of businesses within Industrial and Manufacturing zones. This ordinance under consideration tonight allows Sexually Oriented Businesses to be permitted uses within M-1 and M-2 zoning subject to the 1000 foot setback from all sensitive land uses. There has been a review and an analysis for areas that include what the courts consider such as land mass, population ratio and majority test (a supply and demand). This ordinance adopts all the definitions that are in the Sexually Oriented Business Licenses Ordinance as adopted July 5<sup>th</sup> and makes these types of uses permitted as of right in M-1 and M-2 subject to the 1000 foot setback that exist in the licenses ordinance and this zoning ordinance.

Attorney Bergthold asked council, as a clerical matter when adopting the Zoning Ordinance to include the language that directs the clerk to add to the Zoning Ordinance the specific Sexually Oriented Business Licensing Ordinance Number as adopted as a housekeeping matter. In closing Attorney Bergthold left council the handouts that go over the negative secondary effects of crimes and property values, noting this same council was presented the negative secondary effect over the last few weeks and asked council to consider all the handouts while keeping in mind when they adopt this ordinance, they are adopting language that will help control the negative secondary effects that has been discussed and reviewed the last couple of months.

Attorney Felgin reviewed changes to the zoning ordinance such as family definition, the striking of Article 4 as it is referenced in State Law, the series of changes in Zoning Districts (Article 13) i.e., the language as it relates to religious uses, cannot be discriminate, changes to the wording *church, temple, synagogue language was changed to read "facility for use in the conduct of religious services and ceremonies"* There was additional changes to the Overlay District as it pertains to the limitation of canopy/awning signage, this was deleted in the City of Peachtree Corners ordinance, the city can develop their standards later (Section 13.70 Mixed Overlay District). The city's ordinance adopts the Gwinnett County Comprehensive Plan by reference however there is language we can adopt our own Comprehensive plan at a later date without having to change our entire zoning ordinance.

The third set of changes include in the following appendices: (Attorney Felgin presented Mayor and Council with copies)  
Appendix A-Official Zoning Map of Gwinnett County dated July 2009 and as amended with the date of the adoption of this Zoning Ordinance.

Appendix B-Adopting of All Zoning Files of Gwinnett County (files take precedents over map whenever there is a conflict)

Appendix C-Gwinnett County Comprehensive Plan-Adopted by Reference until the City of Peachtree Corners adopts their own.

Appendix D-City of Peachtree Corner Overlay District Map as approved on March 27, 2007

Attorney Riley explained to council this concludes the Zoning and Sign Ordinance presentation prior to Public Hearing.

**ZONING ORDINANCE:** A reading of Ordinance to Adopt and Approve the Zoning Ordinance and for Other Purposes, Providing for Inclusion and Identification in the Code of Ordinances for the City of Peachtree Corners, Georgia was held. City Clerk Jones reminded council of the time permit for public hearing previously adopted by council. Mayor Mason opened the Public Hearing regarding the City of Peachtree Corners Zoning Ordinance and called for any public comment. There being no public comment, the Mayor closed the Public Hearing. Attorney Riley explained pages 1-160 documents represents all the changes Mr. Felgin and Mr. Bergthold, but does not include the Appendices A, B, C, D nor the wording regarding religious facilities and the addition of the SOB Ordinance number to be properly reflected in the zoning ordinance.

Council Member Aulbach motioned, seconded by Council Member Christopher to approve Ordinance 2012-07-61 as amended in pages 1-160 as presented tonight to include the approval of the addition of Appendix A, Appendix B, Appendix C and Appendix D as presented tonight along with clarification on the wording on page 46 *facility for use in the conduct of religious services and ceremonies* and to allow the clerk to enter the correct ordinance number as it relates to the Sexually Oriented Business Licenses Ordinance within the Zoning Ordinance. **(ORDINANCE 2012-07-61)**

**SIGN ORDINANCE:** A reading of an Ordinance to Adopt and Approve the Sign Ordinance and for Other Purposes, Providing for Inclusion and Identification in the Code of Ordinances for the City of Peachtree Corners, Georgia was held. Attorney Felgin explained these changes are recommended by Laura Henderson and he proceeded to review the changes to the sign ordinance to include the following: definitions, i.e., removal of accessory ground sign, added definition of changeable copy signs, added definition and clarification of a Standard Informational Sign, portal sign are more general and less content specific, took out any reference to the zoning ordinances within definitions; removed definition of off premise sign, Section 8 moved so all procedural matters will be together, Section 109 reflects prohibited signage changes, weekend directional signs removed from prohibition, allowance of sign area for subdivisions. Mr. Felgin reviewed LED signs which now will be nonconforming signs, the council will need to consider if they want to regulate this in the future. He reviewed Section 15A chart and noted the signage for 0-3 acres recommended 12 sq. feet for ground signs, 3 sq. feet for wall signs. He reviewed the Variance Procedure, as sign ordinance should have its own time line and provisions. As clerical error please include the word "sign" under the definition of *Oversized* in Section 2 so it will read "Oversized Sign".

Mayor Mason opened the Public Hearing regarding the Sign Ordinance and called for any public comment.

Robert Fordum addressed council asking if there is a provision for an Administrative Variance for both the sign ordinance and the previous zoning ordinance. Mayor Mason explained the city attorney will be speak with him after the meeting as council only received comments during this time. There being no further public comment, Mayor Mason closed the Public Hearing regarding the sign ordinance.

Council Member Gratwick motioned, seconded by Council Member Christopher to approve the Gwinnett County Sign Ordinance with the amendments that were presented tonight in pages 1-22 with the inclusion of Section 15A table adding to the graph "for 0-3 acres as 12 sq. feet for ground signs, 3 sq. feet for wall

signs" and to correct a clerical error adding the word "sign" under the definition of Oversized in Section 2 so it will read "Oversized Sign". There being no further discussion the motion carried unanimously. **(ORDINANCE 2012-07-62)**

**ZONING MORATORIUM:** Prior to consideration of the Resolution to Remove Moratoriums Currently in Place for the City of Peachtree Corners, Georgia and for Other Purposes, Attorney Riley asked for a five minute recess in order to have the zoning and sign ordinance amended to reflect the changes made tonight and be signed into law before this resolution is presented and considered.

Mayor Mason called for a five minute recess.

Mayor Mason called the Special Called Meeting back to order. Clerk Jones reported to council changes to both the Zoning Ordinance and Sign Ordinance have been made and signatures have been executed.

Attorney Felgin reviewed the history of the moratoriums currently in place and how this resolution will terminate the moratorium on all permits and licensing. Attorney Riley explained that it was just this afternoon that we received the IGA from Gwinnett County consenting to the needs the city addressed, this was the reason we did not if we can release the licensing provisions, and we did not know when they were going to pass their IGA. Gwinnett County confirmed they will be considering the IGA at a Public Hearing held tonight, the county attorney was to call him if there was an issue. As has not heard from County, he would recommend passing this resolution.

Council Member Lowe motioned, seconded by Council Member Christopher to approve the resolution lifting and removing the Moratoriums currently in place regarding Licensing and Permitting for the City of Peachtree Corners. There being no further discussion, the motion carried unanimously. **(RESOLUTION 2012-07-14)**

**MAYOR'S COMMENTS:** Mayor Mason appreciated everyone staying throughout this meeting and asked for their consideration regarding the opportunity for community involvement with the Planning Commission and Board of Zoning Appeals.

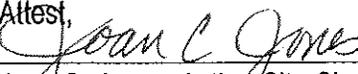
**EXECUTIVE SESSION:** Attorney Riley requested an Executive Session to discuss one litigation matter. Council Member Christopher motioned, seconded by Council Member Sadd to go into Executive Session for one litigation matter. There being no discussion, the motion carried. Attorney Riley explained for the benefit of the audience there will be action for council to consider after this Executive Session.

Council Member Sadd motioned, seconded by Council Member Lowe to come out of Executive Session and resume the special called meeting.

Council Member Christopher motioned, seconded by Council Member Gratwick to authorize the city attorney to intervene and take such action as necessary for pending billboard litigation. There being no further discussion, the motion carried unanimously.

**ADJOURNMENT:** There being no further business, Council Member Sadd 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  
APPROVED 07-24-2012 Special Called Meeting

Attest,  
  
Joan C. Jones, Acting City Clerk