

GREENWOOD CITY COUNCIL

July 21, 2003 - 5:35 p.m.

PUBLIC HEARING

PRESENT

Council Members: Mayor Nicholson, Niki Hutto; Linda Edwards, Betty Boles, Herbert Vaughn, Johnny Williams, and Barbara Turnburke; City Manager; Assistant City Manager; City Clerk; and Wallace McBride of the Index Journal.

CALL TO ORDER

The meeting in the Council Chambers was called to order by Mayor Nicholson at 5:35p.m., and he welcomed everyone to the meeting.

City Attorney, John McCravy, gave the invocation.

STATEMENT AND
QUORUM

The Mayor gave the following statement: "In accordance with the Freedom of Information Act, Chapter 4, Title 30, Code of Laws of South Carolina, 1976, an agenda has been posted on the front door of City Hall and notification of this meeting has been given to the news media."

Mayor Nicholson asked the City Clerk, Steffanie Dorn, if a quorum was present. She said, "Yes Mr. Mayor, we have a quorum present."

RECOGNIZE

Mr. David Peel of the
Greenwood Village
Neighborhood
Association.

Under Personal Appearances, Mayor Nicholson read the first item and recognized Mr. Peel.

DAVID PEEL

"Good evening, members of the City Council and everyone that is present here tonight. My name is David Peel, and I live at 221 Jennings Avenue. I want to begin with a brief statement to say that we appreciate the opportunity to express our concerns with you.

I also want to clarify that I am speaking on behalf of our

neighborhood association, and that we would be naive to think that everything that I say tonight would be excepted by everyone in neighborhood. However, I do represent the majority of the neighborhood. If I say something incorrectly, a slip of the tongue, or if I say something that is not accurate, I will discuss that with you, and I will stand corrected if you show evidence otherwise. Also, in many occasions tonight, I will refer to a particular failed storm drain pipe, for example only. Now, I do this to avoid a hypothetical situation.

Now, my presentation is divided into five parts and they are: Our purpose, why we're here tonight; some background on the past and current issues with this storm drain system; Our investigation, what we have learned in the past two months; and our demands, exactly what we expect from the City. I also have some challenges, and we challenge you tonight to do something; something different, I hope; something that will perhaps will get your attention.

Why are we here tonight? We're here tonight out of dire concern for our property. We're here for the dire concern for the safety of our children, our grandchildren, our neighbors, casual walkers, sightseers, our pets, and our neighborhood. We're here because we fear our property value will erode if the City does not take immediate action to maintain our storm drain system. We are here because we fear our property will meet the same ill fate that we witnessed at 218 Jennings Avenue. We're here because this issue is important to us. We also believe that it is every citizen, every taxpayer, should be equally concerned for they are at risk too. The possibility of increased tax burden, depreciated property values, and basic safety of city residents are real.

I can summarize in a few words why we're here tonight. The City has not accepted responsibility for maintaining the storm drain system, the City has not taken the appropriate action to be in a position to maintain the City's storm drain system, and a storm drain system has failed to such a degree that City residents have been forced out of their homes. This is a travesty. We're here to hold you accountable for your lack of leadership. After tonight we, hope that you will reconsider your position.

We hope all of you will visit the site and witness the damage caused by the failed storm drain system. We hope that you will consider the cost of pending legal action, and the real possibility of more legal action, the cost to private citizens that they pay to protect their property, and do your duty. We hope that you will stop hiding behind your legal mumbo jumbo. Stop using your position as a political sounding board. Stop finding excuses that prevent you from doing the right thing. After all, we pay and deserve this basic service.

Here's some background. The storm drain system is not

documented to a level that we can issue building permits with any level of competence. We cannot maintain the storm drain system because we don't know where all the pipes are located. We know these things, and we have not taken the necessary steps to correct the problems. We have made several repairs to storm drain systems in our neighborhood. We have made several repairs to the storm drain system that is located on private property, and we still have not updated those prints. We have also refused to repair the storm drain system located on some property. We allow a huge gaping hole to exist as a result of refusing to repair the storm drain system. We have sit by and watched a home as it was destroyed as a result of the storm drain system failure.

Knowing that we do not know where all the storm drains are located, we have still issued building permits. Many homes in our neighborhood have additions to them. We have put all these homes at risk.

We've learned quite a few things in the past few months. At this time I want to talk about some facts. These are just facts and, please indulge me, I may repeat some things that I have covered in the background. The storm drain system is not 100% documented, the storm drain system is in need of repair, and the storm drain system has failed on several occasions. Facts: The City has repaired storm drain systems on private property. The City has repaired some joint storm drain systems on private property that had additions to their original home. City Manager Brown told residents that he would repair the storm drain pipe, but didn't. City Manager Brown admits that he made the statement that he would make the repair, but didn't.

Facts: The Mayor said the City will not fix the storm drain pipe located at 218 Jennings Avenue because it has an addition to it. He states the addition makes the repair different from other repairs. Ron Powell also states the addition is the difference.

Fact: the City did issue a building permit to make the addition to the home at 218 Jennings Avenue. Fact: Residents have been forced out of their home as a result of failed storm drain systems, and residents have incurred thousands of dollars in expense as a result of failed storm drain systems. Fact: The current failed storm drain system exposes us to unnecessary risk; a real safety problem for our neighborhood. A gas line is exposed to the elements far more than a typical installation. I have some papers of pictures for those of you that have not seen this site. Does anyone need a copy?"

MAYOR NICHOLSON

"I've seen the sight already."

DAVID PEEL

"Has the rest of the City Council seen the sight?"

MAYOR NICHOLSON

"I think just about everyone has been by."

DAVID PEEL

"Has anyone not been by? Can I ask that question?"

Fact: A current failed storm drain pipe, I'm sorry, that was an opinion, I'm sorry. A CPW technician that I talked to a few days ago told me he would never make an installation like that. Now, that pipe was fixed today, so the picture that you're seeing tonight showing the exposed gas line, not to any kind of code, not to any kind of level of workmanship that a typical technician would install that gas line.

I ask that we condemn that property. That's a fact. Ron Powell said that he had to talk to the City Attorney and the City Manager before he can take any action. Later, Ron called me and said he can't talk about it. This is not a fact. This is commentary. It makes one wonder if the legal action is a basis for not condemning the property. The pending legal action does nothing to protect our citizens from the danger presented by the gaping hole. I called the City Attorney for clarifications. He would not return my call. No one will explain why, and now one will explain why pending legal action will influence the basis for condemning the property. Fact: City Manager Brown thinks there's no proof of ownership of the pipe located at 218 Jennings Avenue. However, City Manager Brown states he 'feels in his heart' that the City did not install the pipe. The City has raised at least two different reasons why they will not fix that pipe. One: The City denies ownership of that pipe. Two: The City says the addition of the house is the difference. The City Attorney... I read this in the paper and I'm going to accept this as fact... the City Attorney stated the house addition caused the pipe to fail. The City Engineer stated that tree roots caused the pipe to fail. Someone's wrong.

Just a few facts about how I've been treated by City officials. City Manager Brown told me what I was thinking. He didn't bother to ask me what I was thinking. He didn't bother to ask me my opinion. He didn't bother to ask me what I knew about this case. He told me what I was thinking. I conclude that he's clairvoyant. City Manager Brown told me I knew nothing about accountability. 'This offended me,' I told him. The City Manager, Brown, talked to me in a very condescending manner. I told him this offended me. He never apologized to me. In that conversation, I apologized to him. Shame on you. Shame on you.

Facts about how the City Council has handled this situation. These are facts. Council decided 'no legal liability' without visiting the site. I'm glad to hear that you've visited the site since that night. At least one member believed that two prints were presented to the City for the building permit at 218 Jennings Avenue. Not true! Please use facts. At least one member visited the sight at my request. I appreciate that. That member had a lot to say about this issue, too, but I'm not going to share that here. She expressed real concern. That member has not contacted anyone after that night. We are very confused about that.

Fact: The Mayor did not respond to my e-mail. I had to contact the Mayor's office to get a response. The City Manager, Brown, sent me an e-mail and asked me to call him at his home on Sunday night. I did. The Mayor will not explain the basis for 'no legal liability' statement because of pending legal action. There's no gag order on this case. We can talk about it.

Explain that the basis of 'no legal liability', a statement that was made, I believe on March 17 or sometime in March, at a City Council meeting, will not jeopardize the legal action. This is no high profile murder case. It's a case about responsibility and accountability. Sharing information now will not influence the outcome. Please, this is our City, this is our tax money, and we deserve to know the basis of 'no legal liability'. This is not a decision that you guys should make in a vacuum.

Fact: City Attorney said that the City offered to fix the pipe at 218 Jennings Avenue, and the Poore's declined. It was in the paper. City Manager said the City never agreed to fix the pipe. The City Attorney said he stands by his statement. The City Attorney said he believes the City will fix the pipe, if the Poore's would drop the legal action. Now, 'we will fix the pipe if we drop the legal action'? Perhaps it's too late for that. Fact: Someone misunderstood, someone miscommunicated, or worse, someone lied. Now, as a result of that, additional legal action has been taken against the City. That's more that we have to deal with.

Fact: Requesting your credibility. We don't trust you. We're very concerned that you lack the ability to represent the citizens in your district at the level we deserve. Being trustworthy is far too important to ignore.

Fact: We believe the City will act in a similar manner, if we discover a failed storm pipe beneath our house. We have additions to homes, too, and we know the storm drain system is not documented very well. We know that we cannot determine ownership of every pipe beneath the ground. We are afraid.

Fact: We are pursuing a class action law suit against the City. Our demands are simple: document the storm drain system, repair it, maintain it, and disclose the findings of that. Good or bad, we deserve to know. Do your duty.

Lastly, this I believe is a defining moment for the City. At least three City officials have talked to me about doing the right thing. Talk is cheap. You do the math.

I challenge you to do something that sends a clear message to the citizens that you are capable of more than just talking about it. Let your actions define what kind of leader you are. Also, I challenge you to save your reputation. Avoid the pending legal action. Avoid the expensive judgements. The Mayor said the taxpayers will not be a burden to any judgements because the

cost will be the responsibility of the City insurance company. Don't use that as a safety net, please. I caution you, I doubt very seriously that the insurance company will pay in cases of neglect, incompetence, or failure to act as a reasonable person would under similar circumstances. Insurance companies typically have conditions and stipulations that protect their interests, too.

I challenge you to search deep down in your soul to find the courage to do the right thing. That's right, do it! Stop talking about it and, if you can't find the courage, I challenge you to step aside. We will have far more respect for you if you say now that you're over your head than if you say it later. Now some will say that we disagree about the right thing in this situation. They're right. We do disagree. Unfortunately we have no forum to debate what is right. In the 'right here, right now', the City will decide who is right and what is right. However, a jury will decide in the end, and I hope that you are prepared to accept the consequences of that judgement, and do you really want to put that decision in the hands of the jury? By the way, if the jury decides that you did not do the right thing, what will you say to us then? 'Sorry! 'Oops!' 'With the information I had then...' The question is can we avoid this; the lawsuits, the defamation of character? We know what the answer is. Absolutely we can. With the right leadership, we can. Thank you."

MAYOR NICHOLSON

"Thank you, Mr. Peel."

RECOGNIZE

Mr. Phil Lucas of
Lakelands Marines.

The Mayor read the second item under personal appearances, and recognized Mr. Lucas.

Phil Lucas

"As Council knows, I appeared here in June to request permission to utilize the property that's owned by the Highway Department and controlled by the City to build a veteran's memorial. Just to refresh everybody's memory, this was in your handout from last time. We just simply come before the Council tonight to ask that we get a decision so that we can move ahead with our project. One thing that struck me when we talk about this, is some figures that I have recently received. Our WWII veterans are leaving us at the rate of 30,000 a month. Our time of this project is approximately 10 months. We hope to have it dedicated by May 2004. In the next 10 months, over 300,000 WWII veterans will no longer be with us. Time is of the essence in a lot of ways to us, but that is a striking figure when you put it into human terms. We would simply like Council to take action tonight so that we can

know our course of action to precede with this. We are the partitioners of this project, and it will be a project for all of Greenwood. We think it's an asset to the City. We think it makes a statement about the City of Greenwood. We're hopeful that you will consider your City carefully, and we would like to have a decision tonight. Thank you."

MAYOR NICHOLSON

"Thank you, Mr. Lucas."

Ordinance Amending
City of Greenwood
Code of Ordinances,
Chapter 7, Elections,
Section 7-6 (a), Ward
Lines for Single-
Member Districts
Established and
Section 7-7 (a), (b),
Legal Descriptions for
Each Ward.

Under Public Hearings, Mayor Nicholson said, "First on our agenda tonight, we have two public hearings. The format that we employ in the public hearing is, if there are individuals who would like to speak, we ask that you come to the podium, state your name and address for the record, and try to limit your comments to not more than three or four minutes."

The Mayor then read the title of the first item and recognized Mr. David Alexander from the Office of Research and Statistics.

DAVID ALEXANDER

"Thank you. I'm just going to say a few words about how this ordinance came to be. It's actually facilitated by the census every ten years. City Council then recognizes whether it has a population discrepancy in its current representation. What we've done is taken the 1990 plan, or the 1992 plan, that was last enacted and what you currently run under, and try to identify the population distribution, as well as, the racial demographics for that plan. That being said, we realize that Greenwood City has a 25% population deviation. That well exceeds what is considered a reasonable deviation of 10% by the Federal and State Boards. So they then instructed us to look at possibly deriving at new boundary schemes for the ward lines in Greenwood City, so that we could make the districts more equitable, as well as, respect some criteria.

Now, it's not that easy as just moving lines. Representation involves more than that. You have to adhere to the 'one person, one vote', which means the districts needs to be mathematically equal as possible. You have to adhere to the 1965 Voting Rights Act to insure that minorities have the opportunity to select candidates of choice. We have to insure that the districts are contiguous, respect communities of interest when possible, maintain constituent consistency, and solicit public input. Now, all this criteria breakdown in the first two. We have to make sure the districts are as equal as possible, and we have to respect the 1965 Voting Rights Act. So what we've done is, work with Council to derive a plan that we believe respect 'one person, one vote'. We moved the deviation from 25% down to roughly 5%.

That's well under 10%, and no district exceeds 3% of the target. So all the districts are mathematically and relatively equal.

We also looked at the minority concentrations in the districts that have historically selected candidates of choice to insure that we respected the 1965 Voting Rights Act. Now, its fair to say that when you look at the figures, you have a 25% deviation from 1990. You have only two districts that have more population than they needed, so they needed to give up, and all the other districts had to gain population. Only one minority district had a surplus population, and that minority district was adjacent to a predominately White district, as well as, adjacent to a minority district that had a shortage.

We had to somehow distribute the minority populations in a manner that respected the 'one person one vote', respected any Federal court rulings that have occurred in the last 10 years, as well as, to insure that we respected and adhere to the 1965 Voting Rights Act. That being said, you can see that there's a map up there (pointing at screen), and we try to minimize the geography so that districts maintain their traditional cores as best as possible. That's always a traditional policy of our office, when we engage in this manner. I will entertain any questions, or if you want me to elaborate an issue, I will briefly elaborate."

MAYOR NICHOLSON

"Okay. Is there anyone from Council that have any questions for Mr. Alexander about the ward lines? Okay, thank you."

DAVID ALEXANDER

"Thank you."

MAYOR NICHOLSON

"Is there anyone else that would like to speak in reference to this ordinance change?"

BETH REMBERT

"Mr. Mayor, could you point out from where two and three intersect?"

MAYOR NICHOLSON

"Mr. Brown, could you just clarify the difference between two and three there?"

STEVEN BROWN

"Seaboard, East Cambridge, and East Cambridge Extension are the dividing lines. The old plan had an area around Jiles and Chipley that was a part of three. It's a very distinct line, and you can see how it falls on Cambridge Avenue against Seaboard and Cambridge intersections. It follows the railroad tracks all the way back behind Mineral Avenue."

MAYOR NICHOLSON

"Okay. Do you see that Ms. Rembert?"

BETH REMBERT

"Yeah, that's fine. Thank you."

MAYOR NICHOLSON

"Are there any other questions? Is there anyone else to speak? Okay. Seeing and hearing none, we will close the public hearing

and move to the second public hearing.”

Request BY
Gwendolyn Panter to
Rezone Property
Located at 133
Hackett Avenue from
R-5 (Multi-Family
Residential) to C-1
(Neighborhood
Commercial) G-Pin
Number 6856-221-
125.

The Mayor read the title of the second item and asked “Is there anyone here to speak in favor of this rezoning request? Anyone opposing? Alright, seeing and hearing none, we will close the second public hearing and move into the business part of our meeting.”

There being no further business, the public hearing was adjourned at 6:07 p.m.

Floyd Nicholson, Mayor

Attest:

City Clerk and Treasurer