

**HOOVER CITY COUNCIL
MINUTES OF MEETING**

DATE: Monday, May 21, 2018
TIME: 6:00 P.M.
PLACE: Hoover Municipal Center
PRESENT: Mayor Frank V. Brocato
Mr. Gene Smith, Council President
Mr. John Greene, Council President Pro-Tempore
Mr. John Lyda, Council Member
Dr. Casey Middlebrooks, Council Member
Mr. Derrick Murphy, Council Member
Mr. Curt Posey, Council Member
Mr. Mike Shaw, Council Member

ALSO PRESENT: Mr. Phillip D. Corley, Jr., City Attorney
Ms. April Danielson, Wallace, Jordan, Ratliff & Brandt, LLC
Mr. Rod Evans, Wallace, Jordan, Ratliff & Brandt, LLC
Chief Clay Bentley, Fire Chief
Ms. Theresa Davis, Library
Chief Nick Derzis, Police Chief
Ms. Susan Fuqua, Director, Municipal Court
Mr. Mike Lewis, Director, Human Resources
Mr. Rod Long, City Engineer
Mr. Frank Lopez, Director, Revenue and Taxation
Dr. Melinda Lopez, Chief Financial & Information Officer
Mr. Mac Martin, City Planner
Mr. Craig Moss, Director, Parks & Recreation
Mr. Ben Powell, Director, Purchasing
Mr. Allan Rice, City Administrator
Mr. Tim Westhoven, Chief Operations Officer
Mr. Jim Wyatt, Director, Inspection Services
Mr. Robert Yeager, City Treasurer

The meeting was called to order by Council President Gene Smith.

The clerk had roll call and a quorum was present.

The clerk gave the invocation.

The Pledge of Allegiance was led by Mr. Posey.

1. **REPORTS**

The following candidates came forward and asked for in the upcoming Primary Election:

Horace Kynard, Candidate, District Court Judge Place 11, Jefferson County, Bessemer Div.
Mike Anderton, Candidate, District Attorney, Jefferson County, Birmingham Div.
Steve Ammons, Candidate, Jefferson County Commission, District 5

Dr. Kathy Murphy, Superintendent, Hoover City Schools, reported on the strengths, weaknesses and opportunities of the school system. The overall rating for the school system is A+. Several teachers received awards this year and several of the schools received special acknowledgements as well. The school district recently had an impact study. They are aware of the additional expenses the school district is going to incur. She discussed the long term financial needs and challenges and reviewed proposals for additional revenue. Acknowledging that the city has financial needs and challenges of its own she encouraged the Mayor, City Council, and city leadership to meet with her and the Board of Education to continue to work together on these issues for the future of the city and the schools.

Councilman Murphy thanked Dr. Murphy for taking time from her busy schedule to speak tonight. He concurred that a meeting between the city leadership and the school district is a great idea.

At the request of Mr. Posey, Dr. Murphy reviewed the timeline for various upcoming construction needs as laid out in the impact study.

At the request of Mr. Greene, Dr. Murphy discussed the process of getting additional revenue through a property tax increase. The school district can request an additional 2.4 mills before reaching the maximum on the lid bill. Requesting to lift the lid bill would require a constitutional amendment before coming back to the city for a vote.

Mr. Greene made a motion to reappoint **Mr. Kyle Puchta and Mr. David LaCompte** to the **Board of Zoning Adjustments**. This motion was seconded by Mr. Shaw. On voice vote the motion carried unanimously.

Mr. Smith recognized Mr. Posey regarding appointments to the newly formed **Hoover Arts Council**. The appointments are to be voted on separately. The City Council has four appointments and the Mayor has two appointments.

Mr. Posey made a motion to appoint **Ms. Linda Chastain** to a two year term. Dr. Middlebrooks seconded the motion. There being no discussion, on voice vote the motion carried unanimously.

Mr. Posey made a motion to appoint **Ms. Julie Preskitt** to a four year term. Dr. Middlebrooks seconded the motion. There being no discussion, on voice vote the motion carried unanimously.

Mr. Posey made a motion to appoint **Ms. Paulette Pearson** to a six year term. Dr. Middlebrooks seconded the motion. There being no discussion, on voice vote the motion carried unanimously.

Mr. Posey made a motion to appoint Ms. Delle Kincaid to a six year term. Dr. Middlebrooks seconded the motion and expressed his support of Ms. Kincaid. On roll call vote of the Council the votes were as follows: Mr. Greene, "Nay"; Mr. Lyda, "Nay"; Dr. Middlebrooks, "Yea"; Mr. Murphy, "Yea"; Mr. Posey, "Yea"; Mr. Shaw, "Nay"; and Mr. Smith, "Nay". The motion was denied.

Mayor Brocato recommended two appointments to the Hoover Arts Council: **Ms. Sandra Fuller** and **Ms. Tricia Simpson**. Both are two year terms. Mr. Posey made a motion to

concur with the Mayor's appointments. Dr. Middlebrooks seconded the motion and on voice vote the motion carried unanimously.

Mr. Lyda introduced **4 year old Superhero, Austin Perine**. Austin goes out on the streets wearing a superhero red cape and gives food to the homeless and reminds them "Don't Forget to Show Love". The City Attorney read a **Proclamation** recognizing Austin as a Superhero in the City of Hoover. The proclamation was presented to Austin and his father. Austin's father commented that this was completely Austin's idea and he was very proud of him.

Mayor Brocato recognized the following employees for 20 years of service to the City of Hoover: **Tony Nolen**, Fleet Department, accompanied by his wife; **Melissa Woods**, Finance Department; **Elin Glenn**, Library, accompanied by her husband; **Joe Edmondson**, Park Maintenance, accompanied by his wife and grandparents; **Lt. Marshall Tyler**, Fire Department, accompanied his wife, daughter and grand-daughter.

Chief Bentley introduced **Capt. Scott West**, the Fire Department's most recent captain promotion. Capt. West was accompanied by his wife and son. Capt. West was sworn in by Chief Bentley at this time.

Chief Derzis said the city had been trying to get another **bomb dog** from ATF since the retirement of the previous bomb dog, Hans. ATF has not given a dog to a state or local agency in nine years. He was happy to report that the Hoover Police Department recently got a phone call that ATF had this year chosen eight police departments throughout the country to get a dog and Hoover is one of them.

Chief Derzis introduced **Jason Hu** as the newest member of the police department. Officer Hu was sworn in by Chief Derzis at this time.

Mr. Lyda acknowledged **Dr. Brandon Perry**, son of Sara Perry, who was present in the audience. Dr. Perry grew up in Hoover.

2. **RESOLUTION NO. 5814-18 – AUTHORIZE MAYOR TO EXECUTE ENGAGEMENT LETTER WITH WALLACE, JORDAN, RATLIFF & BRANDT, LLC TO REPRESENT THE CITY IN INVESTIGATION AND LITIGATION OF CLAIMS REGARDING PURDUE PHARMACEUTICAL.**

Mr. Smith passed the gavel to Mr. Greene for this agenda item.

The City Attorney read Resolution No. 5814-18 to authorize the Mayor to execute an engagement letter with Wallace, Jordan, Ratliff & Brandt, LLC to represent the City of Hoover in the investigation and litigation of claims regarding Purdue Pharmaceuticals et al.

Mr. Lyda made a motion to approve **Resolution No. 5814-18**. This motion was seconded by Mr. Posey. Mr. Greene called for discussion from the Council. Mr. Murphy said he would like to discuss this matter. Mr. Greene said the city also needed to discuss its attorney client privilege related to this potential litigation. He asked the city attorney if he had an opinion as to whether it would be proper to go into executive session.

Mr. Corley replied that he had reviewed the matter on which the City Council is considering convening an executive session for discussion with legal counsel regarding a legal matter and

he certified that in his legal opinion this matter is appropriate for executive session under Alabama law.

Mr. Lyda made a motion that the City Council go into **executive session** for the purpose of discussing with the attorney the legal ramifications of and legal options for controversies not yet being litigated but imminently likely to be litigated or imminently likely to be litigated if the city council pursues a proposed course of action . This motion was seconded by Mr. Posey. On roll call vote of the Council the votes were as follows: Mr. Greene, “Yea”; Mr. Lyda, “Yea”; Dr. Middlebrooks, “Yea”; Mr. Murphy, “Yea”; Mr. Posey, “Yea”; Mr. Shaw, “Yea”. Mr. Smith abstained. The motion carried.

The City Council entered Executive Session at 6:57 p.m. and reconvened at 7:18 p.m.

Mr. Greene asked for any additional questions or comments of a non-legal nature from the Council. There was a brief discussion regarding the wording of the resolution. Mr. Greene asked for any additional questions or comments from the Council or audience. There being none, on voice vote the motion carried. Mr. Smith abstained.

At the conclusion of the vote Dr. Middlebrooks exited the meeting.

Mr. Greene returned the gavel to Council President Smith.

3. **RESOLUTION NO. 5812-18 – DECLARE PROPERTIES AS PUBLIC NUISANCES DUE TO WEEDS AND/OR GRASS**

The City Attorney read Resolution No. 5812-18 declaring the following locations as a public nuisance: 1524 Glenwood Road, 2424 Regent Lane and 2233 Tal Heim Drive. This resolution further authorizes the City to proceed with abatement as allowed per Alabama law.

Mr. Lyda made a motion to **approve Resolution No. 5812-18**. This motion was seconded by Mr. Greene. Mr. Smith asked for questions or comments from the Council or the audience. There being none, on voice vote the motion carried unanimously.

4. **RESOLUTION NO. 5813-18 – AUTHORIZE MAYOR TO EXECUTE AGREEMENT WITH ALDOT REGARDING RESURFACING AND INTERSECTION IMPROVEMENTS ON STADIUM TRACE PARKWAY AT BROCK’S GAP AND LEARNING LANE**

The City Attorney read Resolution No. 5813-18 that authorizes the Mayor to execute an agreement with the Alabama Department of Transportation for ATRIP project for the resurfacing and intersection improvements on Stadium Trace Parkway at Brock’s Gap and Learning Lane.

Mr. Lyda made a motion to **approve Resolution No. 5813-18**. This motion was seconded by Mr. Greene. Mr. Smith asked for questions or comments from the Council or the audience. There being none, on voice vote the motion carried unanimously.

5. **2ND READING ORDINANCE NO. 18-2373 – ANNEX PHASE 4 – 7160 CAHABA VALLEY ROAD**

The City Attorney had the second reading of Ordinance No. 18-2373. This would annex Phase 4 of property located at 7160 Cahaba Valley Road, owned by Brook Highland Community Church.

Mr. Posey made a motion to **adopt Ordinance No. 18-2373**. This motion was seconded by Mr. Greene. Mr. Smith called for questions or comments from the Council or the audience. There being none, on roll call vote of the Council the votes were as follows: Mr. Greene, "Yea"; Mr. Lyda, "Yea"; Mr. Murphy, "Yea"; Mr. Posey, "Yea"; Mr. Shaw, "Yea"; and Mr. Smith, "Yea". The motion carried unanimously.

6. **1ST READING ORDINANCE NO. 18-2374 – ANNEX PHASE 5 – 7160 CAHABA VALLEY ROAD**

The City Attorney had the first reading of Ordinance No. 18-2374. This would annex Phase 5 of property located at 7160 Cahaba Valley Road, owned by Brook Highland Community Church.

The second reading and consideration for adoption will be on Monday, June 4, 2018.

7. **1ST READING ORDINANCE NO. 18-2375 – ANNEX 1863 AND 1865 BUTTERCUP DRIVE, OWNED BY BLAKE BAXTER**

The City Attorney had the first reading of Ordinance No. 18-2375. This would annex two vacant residential lots at 1863 and 1865 Buttercup Drive, owned by Blake Baxter. The second reading and consideration for adoption will be on Monday, June 4, 2018.

8. **1ST READING ORDINANCE NO. 18-2378 – AMEND MUNICIPAL CODE - ADD REGULATIONS FOR SMALL CELL FACILITIES**

The City Attorney had the first reading of Ordinance No. 18-2378 that would amend the Municipal Code to add regulations for small cell facilities. The second reading and consideration for adoption will be on Monday, June 4, 2018.

Mr. Smith asked if there was anyone present to speak regarding this ordinance.

Ms. Terri Williams, AT&T Alabama, commented that the small cell facilities are needed to supplement the 4G network.

Mr. Tom Alexander, legal counsel for AT&T, requested the following revisions: Section 4F, page 6, that the annual license fee only be assessed on a new support structure rather than per node; Section 4K, page 6, regarding escalation of fees, that the entire section be deleted; Section 6K, page 7, revise the introduction paragraph regarding factors considered in awarding a permit; Section 9E, pages 16 and 17, revise this paragraph regarding submission of application and an expedited application fee.

Mr. Smith called for questions from the Council.

Mr. Shaw said this is a cost recovery process and is a huge opportunity for the city and its citizens.

After a brief discussion regarding fees, Mr. Rod Evans then addressed each of the items presented by Mr. Alexander and the basis for the current language and provisions in the ordinance. Mr. Alexander emphasized that no other city ordinances have an escalation

clause nor do they have a per node charge. There was additional discussion between the Council and Mr. Evans regarding the fee structure within the ordinance.

9. **ABC APPLICATION –AMERICAN CANCER SOCITY INC D/B/A THE 2018 BRENDA LADUN DECADE DASH AND BLOCK PARTY - PARKING LOT OF 7191 CAHABA VALLEY ROAD**

Mr. Smith this is a request for approval of an ABC Application (240-Non-Profit Tax Exempt) for the **American Cancer Society Inc.** d/b/a the **2018 Brenda Ladun Decade Dash And Block Party**, to take place on **June 23, 2018 from 8:00 a.m. until 11:59 p.m. in the parking lot of 7191 Cahaba Valley Road, Hoover, AL.** This is a permitted accessory use for a special event retail license for on-premises consumption.

Mr. Shaw made a motion to approve the **ABC Application.** This motion was seconded by Mr. Posey. Mr. Smith called for questions or comments from the Council or the audience. There being none, on voice vote the motion carried unanimously.

10. **SET PUBLIC HEARINGS FOR MONDAY, JUNE 18, 2018 AT 6:00 P.M.**

Mr. Smith stated public hearings are hereby set for Monday, June 18, 2018 at 6:00 p.m. to consider the following requests coming forward with a positive recommendation from the 5/14/18 Planning and Zoning Commission regular meeting and the 5/17/18 special meeting:

- a. Richard Johnson, representing SB Dev. Corp., is requesting the **Thirteenth Amendment to Trace Crossings Planned Unit Development**, rezoning approximately 2.4 acres known as the “Feldspar Property” from PR-1 (Planned Single Family) to PI (Planned Light Industrial). (P&Z Case #Z-0518-07).

The City Attorney had the 1st Reading of Ordinance No. 18-2376.

- b. Andrew Phillips, representing The Rime Companies, is requesting a zoning amendment change to the **International Park PUD**, regarding International Park 2nd Sector, Lot 7, located at 2545 Acton Road. The property is currently zoned Planned Office (PO) and the proposed zoning request change is for Planned Commercial (PC). The Rime Companies are the property owners. (P&Z Case #Z-0518-08)

The City Attorney had the 1st Reading of Ordinance No. 18-2377.

- c. Andrew Phillips, representing The Rime Companies, is requesting **Conditional Use** approval for a **Mixed Use Development Plan** at International Park 2nd Sector, Lot 7, located at 2545 Acton Road. The property owners are The Rime Companies and the property is currently zoned PO (Planned Office). (P&Z Case #C-0518-07)

Mr. Andrew Phillips and Mr. Meisler, representing The Rime Companies, spoke regarding both requests regarding Lot 7 International Park. They propose a 73,000 sq. ft. building with a mixed use of commercial and residential units. The units will be mostly for rental and everything about the development will be first class.

Mr. Mac Martin briefly discussed the traffic study and noted that the additional traffic is not enough to warrant a new traffic signal.

Mr. Shaw commented that he disliked residential use being presented as a conditional use as the process was not very transparent. Mr. Martin spoke at length on the concept of the mixed use urban development. The city is viewing this as part of a larger development and re-development of International Park. This development would increase the walkability and livability of International Park.

- d. Brooks Knapp, Vice-President, EBSCO Industries, Inc., is requesting approximately 63.31 acres, (+/-) located at US Highway 280 and Al State Highway 119, currently zoned C-2 and NZ (not zoned), be zoned as the **Tattersall Park Planned Unit Development (PUD)**. The property owner is EBSCO Industries, Inc. (P&Z Case #Z-0418-06).

The City Attorney had the 1st Reading of Ordinance No. 18-2379.

Mr. Steve Monk addressed the Council on behalf of Ebsco Industries, the property owner and applicant. The entire PUD is proposed to be zoned Planned Commercial which also allows office development. He reviewed the layout of the proposed Tattersall development.

11. **DISCUSSION REGARDING CITY BUDGETARY AVAILABILITIES**

Mr. Yeager stated at the request of Mr. Smith a team consisting of Allen Rice, Melinda Lopez, Frank Lopez and Mr. Yeager had comprised an informational list of items for consideration to increase revenue. He reviewed the list as follows:

Property Tax – Increasing the allowable limit of 2.4 mills would raise about four million dollars. To exceed the lid bill would require legislative action. Increasing property taxes would require a public vote.

Residential Rental Tax – Adding 1% would raise about one million dollars. This would require the passage of an ordinance.

Lodging Tax – Increasing from 3% to 6% would raise about \$1,950,000. This would require the passage of an ordinance and would put Hoover in line with virtually every other surrounding city.

Garbage Fee - Hoover currently does not charge a garbage fee but if the City were to do so that would bring in around 7.4 million dollars. This would require the passage of an ordinance.

Occupational License Fee – Adding 1% would raise between \$16 million to \$20 million. This would require the passage of an ordinance.

Sales and Use Tax – Adding 1% would raise \$20,000,000 and would put Hoover in line with most surround cities. This would require the passage of an ordinance.

Mr. Yeager spoke about the sewer system, which has not had a rate increase in 14 years. Public meetings will be held soon regarding funding for the sewer. Mr. Allan Rice said the Mayor desires to have an open dialogue with the residents who use the system before bringing any suggestions before the Council.

Mr. Yeager presented a summary of the City's general fund and debt service. Mr. Lyda spoke regarding restructuring the City's debt to create some positive cash flow between now and 2022.

12. PAYMENT OF BILLS

Mr. Lyda made a motion to approve the payment of the bills. Mr. Greene seconded the motion. On voice vote the motion carried unanimously.

Mayor Brocato stated he looked forward to the beginning of the **SEC Baseball Tournament**.

Mr. Pete Mosely, 3415 Heather Lane, spoke about a couple of items that were discussed earlier in the meeting: (1) the requested changes to the small cell ordinance; (2) the proposed mixed use development at International Park. (3) the shortfall for the sewer systems He was opposed to the entire City having to supplement the sewer system for those neighborhoods as they are already paying for their own sewer. Mr. Yeager said the City is not providing funding for the sewer system.

Mr. Bill Richardson, 1853 Deo Dara Drive, agreed with Mr. Shaw regarding the non-transparency of the proposed zoning change from a planned office site to a planned commercial site with apartments on top of the residential development.

There being no additional questions or comments the meeting was adjourned.

Margie Handley, City Clerk