

FEBRUARY 10, 1992

7:30 P.M.

REGULAR CITY COUNCIL MEETING
CITY COUNCIL CHAMBERS
226 SOUTH WALL STREET

PRESENT: JOHN D. MEADOWS, III, MAYOR
THOMAS BOND, MAYOR PRO-TEM
H.A. OLDFIELD, JR., COUNCILMAN
JOHN D. SHELTON, COUNCILMAN
PAUL MCENTIRE, COUNCILMAN

STAFF: KELLY CORNWELL, DIRECTOR UTILITIES/PUBLIC WORKS
T. JOSEPH CAMPBELL, CITY ATTORNEY
CATHY HARRISON, CITY ADMINISTRATOR

1. Mayor Meadows called the meeting to order and gave the invocation.
2. Mayor Meadows led the group in the Pledge of Allegiance to the U.S. Flag.
3. Minutes of the January 20, 1992 Regular City Council Meeting were approved.
4. Mayor's Comments:
 - a. Mayor Meadows stated the 1992 GMA Legislative Meeting was very informative. He reviewed H.B. Nos. 159 and 362. He also reviewed current legislation being proposed for forming a Cable Authority.
 - b. Mayor Meadows commended the City Board of Education on their local strategic planning session involving the Partners in Education.
 - c. Mayor Meadows commended Ken Payne and JoAnn Owens for their assistance in making the State Class A Wrestling Tournament in Calhoun a success.
 - d. Mayor Meadows congratulated Candi Brown, a native of Calhoun, on her success as first runner up for Miss U.S.A. in which she served as Miss Alabama.
5. Council's Comments:
 - a. Mayor Pro-Tem Bond stated the Street Department did ditching; cleaning of right-of-ways during the month. They also hauled fill for the landfill along with a contractor, and are preparing the new section of the cemetery.
 - b. Councilman Oldfield stated the Electric Department sold 19,953,104 KWH of electricity to a customer base of 3,605 in January, 1992. They issued five permits and did 32 inspections. The Building Inspector issued three permits for \$165,000.00 of residential construction.
 - c. Councilman Shelton stated the Fire Department answered 17 calls, for a total damage of \$12,050.00. The Fire Department made 30 inspections during January. The Police Department made 112 arrests of which 11 were DUI's. They collected fines of \$19,475.00; investigated 160 incidents; 78 accidents; provided 57 escorts and answered 87 burglar alarms.
 - d. Councilman McEntire stated the Water Plant pumped 299,989,000 gallons of raw water in January, 1992; the Waste Treatment Plant treated an average of 10.407 million gallons daily with BOD being 18; suspended solids 26 and COD 122. The Water/Sewer Construction Departments made 26 water taps; 14 sewer taps; installed 1640 feet of 2 inch PVC; 120 feet of 4 inch PVC; 800 feet of 8 inch line and 165 feet of 12 inch line.

6. Public Hearings and Comments:

a. Mayor Meadows reopened the E.R. Brownlow Hearing regarding a re-zoning request to re-zone the lot at the corner of Highway 136 and Riverview Drive from R-2 to C-2 or Industrial-G to allow a trucking terminal operation. Mayor Meadows proposed the following findings of facts based upon prior testimony at the hearing, documents submitted by the applicant and documents presented by the City's Legal Council and City Planner:

1. Has not been used as zoned and is not practical to remain as R-2.
2. Has not, however, been used as a truck terminal since 1973 except for the brief period that applicant used it without having the appropriate City business license.
3. Applicant's prior brief non-conforming use as a truck terminal caused much more disruption to the surrounding neighbors than the prior businesses which were wholesale/retail cut order rug and warehousing of carpet scraps and waste.
4. Applicant's brief non-conforming use on said premises was so intrusive as to be totally disruptive to the residents in the adjacent subdivision in that:
 - a. The noise level especially at night threatened the health of said residents;
 - b. Traffic congestion and parking caused much disruption to the normal neighborhood traffic so as to constitute a public safety hazard;
 - c. Public health and safety could be jeopardized as indicated by an accident which caused much property damage, which again indicates this use to be a public safety hazard.
5. Since no residents complained or commented about the prior use, it is clear that the commercial use prior to Applicant's which was not as a truck terminal but was commercial did not disrupt the neighborhood due to the light or non-night type commercial traffic with almost total lack of large truck traffic between 1973 and 1985.
6. Riverview Drive is constructed for residential use only and does not have the required paving and base to support heavy truck and commercial use and the limited paving width and actual right-of-way make it extremely difficult for trucks to get from State Route 136 onto Applicant's property without creating a traffic hazard, safety and congestion problem.
7. Applicant lot's topography with the gravel parking area and the extreme slope from road to building further compound the public safety problem as to tractor trailer use referenced above and also makes it difficult to use property for residential purposes.

Mayor Meadows stated it was clear that while the subject property's best and highest use is commercial, the public safety and health of the residents of Riverview Drive override the use of this property as a truck terminal as requested by the applicant. Mayor Meadows called for a motion regarding the facts. Councilman Oldfield made a motion to adopt the facts as stated by Mayor Meadows, 2nd by Mayor Pro-Tem Bond with Councilman Oldfield, Mayor Pro-Tem Bond, Councilman Shelton and Councilman McEntire voting affirmatively, motion carried.

Attorney Campbell stated he had sent Mr. Brownlow's

Attorney, Mr. George Dillard, a letter outlining a possible commercial zoning with restrictions and asked for their response. Mr. Dillard stated it was evident a truck terminal was not allowable, but he was concerned with the hours restricting truck deliveries, and the prohibition of trucks at all would prohibit most commercial activity. Mrs. J.R. Rogers stated she was adjacent to the property and she was concerned about the safety and welfare of her family if a truck terminal was allowed. Following group discussion, Mayor Meadows closed the hearing and called for a motion. Councilman McEntire made a motion to re-zone to C-2 with the following restrictions:

1. No tractor trailer traffic to and from the lot onto Riverview Drive from West Line Street, except for commercial deliveries not to exceed two per day.
2. No tandem type vehicles (trucks) between the hours of 9:00 P.M. to 7:00 A.M. any day of week.
3. As to any transfer or sale, applicant must notify prospective purchaser by means of sales contract or other appropriate written document that current zoning classification of property is subject to the above use restrictions.

Motion 2nd by Mayor Pro-Tem Bond. Attorney Dillard stated he and Mr. Brownlow were in agreement with these restrictions. Councilman McEntire, Mayor Pro-Tem Bond, Councilman Oldfield and Councilman Shelton voted affirmatively to approve, motion carried.

- b. A 2nd reading was given on the Paul Lusk Annexation Ordinance Request for the lot adjoining Lot 32 of Park Place Estates for R-1 zoning. A public hearing was opened; the ZAB recommended approval, there were no other comments and the hearing was closed. Mayor Pro-Tem Bond made a motion to waive the 3rd and 4th readings and approve, 2nd by Councilman Oldfield with Mayor Pro-Tem Bond, Councilman Oldfield, Councilman Shelton and Councilman McEntire voting affirmatively, motion carried. Ord. No. 478
- c. A 2nd reading of the Loel and Randall McKinnon Annexation Ordinance Request for a lot off Georgia Drive for R-2 zoning was given. A public hearing was opened with the ZAB recommending approval. There were no other comments and the hearing was closed. Councilman Oldfield made a motion to waive 3rd and 4th readings and approve, 2nd by Councilman McEntire with Councilman Oldfield, Councilman McEntire, Councilman Shelton and Mayor Pro-Tem Bond voting affirmatively, motion carried. Ord. No. 476
- d. A 2nd reading was given to the Retho Carter Annexation Ordinance Request for two one half acre lots off Kenmoreland Circle for R-1 zoning. A public hearing was opened with the ZAB recommending approval. There were no other comments and the hearing was closed. Mayor Pro-Tem Bond made a motion to waive 3rd and 4th readings and to approve, 2nd by Councilman Shelton with Mayor Pro-Tem Bond, Councilman Shelton, Councilman Oldfield, and Councilman McEntire voting affirmatively, motion carried. Ord. No. 477
- e. A 2nd reading was given to the Royce and Martha Currie Annexation Ordinance Request for Lot 25 of Amakanata Subdivision for R-1 zoning. A public hearing was opened with the ZAB recommending approval. There were no other comments and the hearing was closed. Councilman McEntire made a motion to waive the 3rd and 4th readings and approve, 2nd by Councilman Oldfield with Councilman McEntire, Councilman Oldfield, Councilman Shelton and Mayor Pro-Tem Bond voting affirmatively, motion carried. Ord. No. 479

- f. A public hearing was opened on the Zoning Variance Request of Dr. H. Kosmahl for a sign to be located in the center front of his building lot rather than being attached to the building. The lot is on the west side of Windsor on Highway 156. The ZAB recommended approval. Ken Payne questioned the visibility at the intersection. Bond stated the sign would be in the middle front of the lot, not on the side, and would not block the view. There were no other comments and the hearing was closed. Mayor Pro-Tem Bond made a motion to approve, 2nd by Councilman McEntire with Mayor Pro-Tem Bond, Councilman McEntire, Councilman Shelton and Councilman Oldfield voting affirmatively, motion carried.
- g. A public hearing was opened on the Zoning Variance Request of Ray Duncan to replace four signs on I-75 at the Red Bud Road Intersection. The ZAB recommended the variance for the 15 foot additional height, and the variance eliminating the requirement for signs to be located within 600 feet of an on-going commercial or industrial activity; however, it did not recommend granting the variance eliminating the requirement of no sign to be located within 500 feet of an I-75 ramp. Mr. Bond stated an adjoining property owner, Mrs. Barbara Smith, opposed the granting of the variance. A representative of the sign company, Jim Harpole, reviewed the request and the type of signs which would replace the existing signs. Councilman Oldfield asked if there was access to the property. Mr. Jim Harpole responded, an easement was being negotiated. There were no other comments and the hearing was closed. Mayor Pro-Tem Bond made a motion to approve on the basis as recommended by the ZAB, which would allow replacement of three of the four signs provided the state DOT approved and an easement was obtained, 2nd by Councilman McEntire with Mayor Pro-Tem Bond, Councilman McEntire, and Councilman Shelton voting affirmatively to approve, Councilman Oldfield voting negatively, motion carried.
- h. A public hearing was opened on the Gosain Enterprises Beer/Wine Pouring Renewal License Application for the restaurant at the Red Carpet Inn on Highway 53, East. Harrison stated the renewal request submitted prior to the end of the year had been filed and not processed, and was discovered in January when the license was not purchased. The incident was not the fault of Mr. Gosain, but the City. This 2nd reading completed the renewal requirement. There were no other comments and the hearing was closed. Mayor Pro-Tem Bond made a motion to approve, 2nd by Councilman McEntire, with Mayor Pro-Tem Bond, Councilman McEntire, Councilman Shelton and Councilman Oldfield voting affirmatively, motion carried.
- i. A public hearing was opened on the Beer/ Wine Pouring License Request for Creekside Executive Golf Course, Inc. d/b//a Creekside Restaurant, Timothy Edward Taylor, Manager for property off Highway 41 North and Jolley Road. A clear Police Report was given. There were no other comments and the hearing was closed. Councilman McEntire made a motion to approve, 2nd by Mayor Pro-Tem Bond with Councilman McEntire, Mayor Pro-Tem Bond, Councilman Shelton and Councilman Oldfield voting affirmatively, motion carried.
- j. A 2nd reading was given to the Charles Prater, Bill Walraven Annexation Ordinance Request for property off Jones Road, Viking Drive for R-2 zoning. A public hearing was opened. The ZAB recommended approval. There were no other comments and the hearing was closed. Councilman Oldfield made a motion to waive the 3rd and 4th readings and approve, 2nd by Mayor Pro-Tem Bond with Councilman Oldfield, Mayor Pro-Tem Bond, Councilman Shelton and Councilman McEntire voting affirmatively, motion carried.

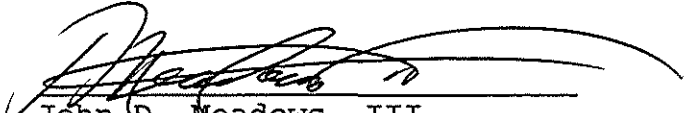
- k. A delegation from the Chamber of Commerce presented two recommendations of the recent Davidson-Peterson study.
1. Dan Davis, Chamber Board Member, presented a recommendation to increase the Hotel-Motel Tax to 5%, with the additional 2% being used exclusively for promotion of tourism. Councilman Oldfield stated he had no objection provided motels do not object, and it is adopted by the City and County with the City receiving an administrative fee. Phil Overton stated a 5% tax would be equal to the tax for surrounding areas. The community needs to bring in tour buses now going to other areas. Mayor Pro-Tem Bond stated he understood the Chamber had poled the motel owners and there would be no problem. Dawn Townsend stated the state law requires 40% of the tax to be spent on tourism not bricks and mortar type projects. The owner of Scottish Inn stated he and several owners were opposed to the increase since motel owners are having a hard time attracting customers at the present time. Mayor Meadows stated he hoped to hear from all motel owners/operators. He stated the procedure would be to draft an ordinance amendment, and hold a public hearing prior to adoption.
 2. Sam Payne, President of the Chamber stated the report also recommended liquor by the drink was needed to attract additional restaurants and motels to the area. He asked the council to call for a referendum to allow liquor by the drink to bring in the white table cloth restaurant trade. Mayor Meadows stated the Council would need to hear from other organizations, citizens in the City regarding whether to hold a referendum. Mayor Meadows stated he felt the public should know that if a referendum was held and liquor by the drink was authorized, the Council would draft the ordinance to exclude bars. Councilman Oldfield stated the Carrolton Ordinance requires 60% or more of sales to be for food for an authorized license holder. Robert Milner of Portifino's stated liquor and food sales should be tied together. He would support the issue with tight regulations. Mr. Patel stated liquor by the drink would benefit motel industry as well. The owner of Scottish Inn stated he approved for restaurants. Bob Sisler of Portifino's stated he felt they could pull in outside the county trade with liquor by the drink. Mayor Pro-Tem Bond stated the Council should let the people decide, need input, and if approved, a good tight ordinance should be developed. He stated he appreciated the Chamber for bringing this to the Council. Councilman McEntire stated the requirement should be for 60% or more for food sales. Councilman Shelton stated the Council needs participation, public input and he urged the public to let the Council know how they feel over the next one and one-half months. Bob Gates of Best Western stated that most tourists did not understand what a dry county was. He stated it should help the motel industry. The operator of Holiday Inn stated they continually loose business because liquor by the drink is not served.

Therrill Goswick stated he applauded the Chamber. He stated public hearings tend to get emotional, and the silent majority do not normally let their feelings be known. He stated everyone would have an opportunity to cast a vote in a referendum. Sam Defalco of OMC stated he frequently took visiting officials out of town for meals and motel because the City/County did not have liquor by the drink. Mayor Meadows stated that over the next month and a half he hoped the Council would hear from most City citizens on whether to hold a referendum or not. Sam Payne thanked the Council.

7. Old Business: None
8. New Business:
 - a. Harrison presented the amended city map which includes all 1991 annexations and zoning changes. She recommended official adoption of the map. Councilman McEntire made a motion to adopt, 2nd by Councilman Shelton with Councilman McEntire, Councilman Shelton, Councilman Oldfield, and mayor Pro-Tem Bond voting affirmatively, motion carried.
 - b. The adoption of the Multi-Jurisdictional Solid Waste Management Plan was held.
 - c. A 1st reading was given to the Susie Gray and attorney in fact for others, Annexation Ordinance Request for 9.845 acres off Belwood Road for C-2 zoning. Councilman Oldfield made a motion to set the public hearing for March 9, 1992 at 7:30 p.m., 2nd by Mayor Pro-Tem Bond, with Councilman Oldfield, Mayor Pro-Tem Bond, Councilman Shelton and Councilman McEntire voting affirmatively, motion carried.
 - d. A 1st reading was given to the L.D. Shaw, Charles Shaw, Harold Shaw and Helen Richardson Annexation Ordinance Request for 28.08 acres off Belwood Road for C-2 zoning. Councilman Oldfield made a motion to set the public hearing for March 9, 1992 at 7:30 p.m. 2nd by Councilman McEntire with Councilman Oldfield, Councilman McEntire, Councilman Shelton and Mayor Pro-Tem Bond voting affirmatively, motion carried.
 - e. A 1st reading was given to the Mary Hudgins Annexation Ordinance Request for Lot 14 of Block "D" of Black Oaks Subdivision for R-1 zoning. Mayor Pro-Tem Bond made a motion to set the Public Hearing for March 9, 1992 at 7:30 p.m., 2nd by Councilman McEntire with Mayor Pro-Tem Bond, Councilman McEntire, Councilman Shelton and Councilman Oldfield voting affirmatively, motion carried.
 - f. A 1st reading was given to the Vivian Sheehan Annexation Ordinance Request for Lot 4 of Black Oaks Park Subdivision for R-1 zoning. Councilman McEntire made a motion to set a public hearing for March 9, 1992 at 7:30 p.m., 2nd by Councilman Oldfield with Councilman McEntire, Councilman Oldfield, Councilman Shelton and Mayor Pro-Tem Bond voting affirmatively, motion carried.
 - g. A 1st reading was given to the John W. Russell Zoning Variance Request to allow construction of a utility building within the set back on the east property line. Said variance being for six feet. Councilman McEntire made a motion to set the public hearing for March 9, 1992 at 7:30 p.m., 2nd by Mayor Pro-Tem Bond with Councilman McEntire, Mayor Pro-Tem Bond, Councilman Shelton and Councilman Oldfield voting affirmatively, motion carried.
 - h. A 1st reading was given to the Amusement License Application for Parkway Game Room, Emmett Dupree, 188 W.C. Bryant parkway with Ray L. Mathews, Jr. as Manager. A 2nd reading and approval/denial scheduled for February 24, 1992.

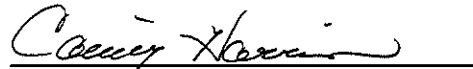
- i. A 1st reading was given to the D & S Pawn License Application of Bobby J. Dobbs, for 326 Highway 53, East (Morrow Building near Subway Sandwich Shop). A 2nd reading and approval/denial scheduled for February 24, 1992.
 - j. Harrison reviewed the first six months of the 1991-92 Budget to Actual Income and Expenses. The Income and Expenses being on line with a minimum of adjustment needed at mid year. Harrison presented proposed budget amendments totaling \$108,469.00, with \$55,801.00 representing the interest on the Middle School Lease/Purchase Project which was executed following adoption of the Budget. Following a review of the proposal, Councilman Shelton made a motion to adopt a resolution approving the amendments, 2nd by Mayor Pro-Tem Bond with Councilman Shelton, Mayor Pro-Tem Bond, Councilman Oldfield and Councilman McEntire voting affirmatively, motion carried.
 - k. A 1st reading was given to the Stanley Simpson Annexation Ordinance Request for two lots adjoining Westwood Hills Development off New Town Road for C-2 zoning. Councilman Shelton made a motion to set the public hearing for March 9, 1992 at 7:30 p.m., 2nd by Mayor Pro-Tem Bond with Councilman Shelton, Mayor Pro-Tem Bond, Councilman Oldfield, and Councilman McEntire voting affirmatively, motion carried.
 - l. Following review of two county sewer tap requests, Wayne Moore for 104 Circle Drive and Robin Long for 507 Circle Drive, (both not being eligible for annexation, but within 200 feet of current sewer and both being denied sanitary septic service through the local health authority), Councilman Oldfield made a motion to approve at county rates, 2nd by Mayor Pro-Tem Bond with Councilman Oldfield, Mayor Pro-Tem Bond, Councilman McEntire and Councilman Shelton voting affirmatively, motion carried.
 - m. Following a recommendation by the Library Board, Councilman McEntire made a motion to appoint Ray Denmon to serve the unexpired term (2 years) of Joyce Brownlee on the Library Board, 2nd by Mayor Pro-Tem Bond with Councilman McEntire, Mayor Pro-Tem Bond, Councilman Shelton and Councilman Oldfield voting affirmatively, motion carried.
9. Director Cornwell's Work Report:
- a. Bids were opened on truck (pick-up) for Street Department: Service Co., \$12,311.32; Prater Ford \$12,466.00. Councilman McEntire made a motion to accept the low bid of Service Co. \$12,311.32, 2nd by Mayor Pro-Tem Bond with Councilman McEntire, Mayor Pro-Tem Bond, Councilman Shelton and Councilman Oldfield voting affirmatively, motion carried.
10. Councilman Oldfield made a motion to move to Executive Session for legal and real estate matters, 2nd by Mayor Pro-Tem Bond with Councilman Oldfield, Mayor Pro-Tem Bond, Councilman McEntire and Councilman Shelton voting affirmatively, motion carried.
11. Councilman Oldfield made a motion to move to General Session, 2nd by Mayor Pro-Tem Bond with Councilman Oldfield, Mayor Pro-Tem Bond, Councilman Shelton and Councilman McEntire voting affirmatively, motion carried.
12. Mayor Pro-Tem Bond made a motion to adjourn, 2nd by Councilman Oldfield with Mayor Pro-Tem Bond, Councilman Oldfield, Councilman Shelton and Councilman McEntire voting affirmatively, motion carried.

Approved:



John D. Meadows, III
Mayor

Submitted:



Cathy Harrison
City Administrator

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