

**HOOVER CITY COUNCIL
MINUTES OF MEETING**

DATE: April 4 2016
TIME: 6:00 P.M.
PLACE: Hoover Municipal Center
PRESENT: Mayor Gary Ivey
Mr. Jack Wright, Council President
Mr. Brian Skelton, Council President Pro-Tempore
Mr. John Greene, Council Member
Mr. John Lyda, Council Member
Admiral Jack Natter, Council Member
Mr. Joe Rives, Council Member
Mr. Gene Smith, Council Member

ALSO PRESENT: Mr. Charlie Waldrep, Waldrep Stewart & Kendrick, City Attorney
Ms. Leslie Klasing, Waldrep Stewart & Kendrick
Ms. April Danielson, Waldrep Stewart & Kendrick
Mr. Bob House, House Consultants
Ms. Amanda Borden, 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, Director, Information Management & Reporting
Mr. Craig Moss, Director, Parks and Recreation
Mr. Allen Pate, Executive Director
Mr. Ben Powell, Purchasing Director
Mr. Tim Westhoven, Assistant Executive Director
Chief Chuck Wingate, Fire Chief
Mr. Robert Yeager, Finance Director

The meeting was called to order by Council President Jack Wright.

The clerk had roll call and a quorum was present.

The clerk gave the invocation.

The Pledge of Allegiance was led by Mr. Rives.

1. **REPORTS**

The City Attorney read a **Proclamation** for the month of April, 2016 as **National Donate Life Month**. Mayor Ivey presented the framed proclamation to Angie Smith.

The City Attorney read a **Proclamation** for the month of April, 2016 as **Sexual Violence Awareness Month**. Mayor Ivey presented the framed proclamation to Valencia Albright.

2. **MINUTES**

Mr. Wright stated each member of the Council had previously received a copy of the minutes of the March 21, 2016 regular meeting.

Mr. Smith made a motion that the minutes be approved as presented and to dispense with the reading. This motion was seconded by Mr. Skelton. Mr. Wright called for discussion. There being none, on voice vote the motion carried unanimously.

3. **RESOLUTION NO. 5383-16 – BID NO. 02-16-1A – HOOVER SPORTSPLEX – EVENT CENTER PRE-ENGINEERED METAL BUILDING**

The City Attorney read Resolution No. 5383-16. This would award Bid No. 02-16-1A for the Hoover Sportsplex Event Center Pre-Engineered Metal Building to Dunn Building Company, LLC, in the total amount of \$3,372,477.00 (including two alternates); theirs being the lowest responsible bid meeting all specifications and requirements. This would also authorize the Mayor to execute a contract with said company for the work to be performed.

Mr. Smith made a motion to approve **Resolution No. 5383-16**. This motion was seconded by Mr. Skelton. Mr. Wright called for comments or questions from the Council.

Admiral Natter inquired as to any past business the city had done with this company. Mr. Allen Pate said this company did the existing city hall so they have been around for many years and he recommending them for this project. Mr. Wright recalled they did the initial library building as well. Mr. Pate concurred.

Mr. Wright called for questions from the audience. There being none, on roll call vote of the Council the votes were as follows: Mr. Greene, “Nay”; Mr. Lyda, “Yea”; Admiral Natter, “Yea”; Mr. Rives, “Yea”; Mr. Skelton, “Yea”; Mr. Smith, “Yea”, and Mr. Wright, “Yea”. The motion carried.

4. **RESOLUTION NO. 5385-16 – APPOINTMENT OF FINANCIAL TEAM FOR BOND ISSUE REGARDING HOOVER SPORTS COMPLEX – Continued from the 3/21/16 Meeting**

The City Attorney read Resolution No. 5385-16. This would appoint Merchant Capital, LLC, Raymond James, and Piper Jaffray as underwriters; as well as Kipling Jones & Co., LTD, as financial advisor for the upcoming bond issue regarding the Hoover sports complex. The fee structure and percentage of participation will be determined once the bond issue amount is finalized.

Admiral Natter made a motion to approve **Resolution No. 5385-16**. This motion was seconded by Mr. Skelton. Mr. Wright called for comments or questions from the Council.

Mr. Smith asked if Mr. Hooks was present in the audience. Mr. Hooks was not present. Mr. Smith asked who was present to speak on his behalf with knowledge about his participation in the industry over the last few years. There was no one present. Mr. Smith said he was out of state at the time of the March 17, 2016 work session but based on the minutes of the meeting it was discussed that Mr. Hooks had not participated in Alabama for at least the last past twelve months in performing as financial advisor. He has been told that it may be even as long as two and a half years. He said the Dodd-Frank Act has brought a lot of changes and he had some concerns that Mr. Hooks has not participated in the bond system. He said he understood that UAB is his current employer and doing bonds may be something on the side. Mr. Smith said he intended vote nay.

Mr. Lyda said that at that work session he shared those same concerns expressed by Mr. Smith tonight. He said Mr. Hooks chose to leave this industry over two years ago. In fact, he started a think tank called The Edge of Chaos at UAB. He said the city did not need chaos in dealing with \$70 million of taxpayer's money. He felt that to recommend someone who left the industry and has not even done a bond deal in over two years is irresponsible.

Mr. Wright said Mr. Hooks had done two bond deals for the City of Hoover in the past. Mr. Robert Yeager said Mr. Hooks did those refinances in 2010 and 2013 and the results were good. Mr. Wright recalled that percentage wise the city's cost was one of the lowest in the state. Mr. Yeager said yes; the city has maintained very low cost of issuance. Mr. Wright said Mr. Hooks then has a proven track record with Hoover. Mr. Yeager answered yes and he was comfortable with him. Mr. Smith asked Mr. Yeager when the Dodd-Frank Act passed. Mr. Yeager said he believed it was 2014 or 2015 but he was not certain. Mr. Smith said Mr. Hooks had not done a bond deal with the city since that act became federal law. Mr. Yeager said he would have to say that is correct.

Mr. Lyda said there is a corporation currently active on the books at the Secretary of State's office called The Alabama Green Initiative which was incorporated by Mayor Ivey, David Hooks and Larry Langford. He asked the city attorney, Charlie Waldrep, what implications are there with the Mayor entering into an agreement with David Hooks and Kipling Jones & Co., LTD, with one of the incorporators in that organization. Mr. Waldrep replied not any to his knowledge. He was not sure what the Secretary of State's records were but he understood that it was being handled by Danny Patterson and was dissolved eighteen months to two years ago. Mr. Wright said he believed there were other parties besides those three involved in that including the City Council of Hoover that voted to support it. There was a meeting at Aldridge Gardens when the Obama administration first came out and they were advised that such a coalition in Jefferson County amongst the cities of Jefferson County would make it receptive for a lot of new federal money that was coming in for parks and bicycle trails for recreation. The City Council at that time, which did not include Mr. Lyda, voted for it and they had the groundbreaking at Aldridge Gardens. Mr. Hooks was there as a representative of the head of the finance committee of the Homewood City Council which he served on for three or four terms. That was his reason for being a party to that. There were quite a few additional parties including Mayor Tony Petelos and it passed unanimously by the City Council. According to Mr. Langford it ran into some difficulties in the City of Birmingham which caused the demise of it; even though the Obama administration was not forthcoming with any of the funds that they had anticipated. It was strictly to set up a shell to receive federal money to build recreational parks for the citizens of Jefferson County. It is his understanding there was no collusion or conspiracy. There were about 250 people including the major reserves of the Freshwater Land Trust at Aldridge Gardens; all of which thought were doing the right thing at the time but were ahead of their time. Mr. Waldrep said that was a fair reflection that he recalled.

Mr. Smith said he believed Mr. Hooks at that time was either a member or president of the Homewood City Council and he felt that caused his participation and Mayor Petelos participated in the corporation as well. Mr. Wright said David Hooks was head of the finance committee in Homewood for twelve years and was also Tony Petelos' chief of staff when he went to Jefferson County as county manager.

The city attorney said that event was attended by a number of elected officials. Although it takes three incorporators Hoover, Fultondale, Birmingham and Homewood were initially involved but when the roll out occurred there were many mayors and council members present. He recalled there being close to 300 people there at Aldridge Gardens.

Mr. Wright called for questions or comments from the audience. There being none, on roll call vote of the Council the votes were as follows: Mr. Greene, "Nay"; Mr. Lyda, "Nay"; Admiral Natter, "Yea"; Mr. Rives, "Yea"; Mr. Skelton, "Yea"; Mr. Smith, "Nay", and Mr. Wright, "Yea". The motion carried.

5. **RESOLUTIONS 5386-16, 5387-16 & 5388-16– AUTHORIZE MAYOR TO EXECUTE AGREEMENTS WITH ALDOT**

Mr. Waldrep read the following resolutions which would authorize the Mayor to execute agreements with the Alabama Department of Transportation regarding various projects:

Resolution No. 5386-16 – Utility Agreement regarding Chapel Road Sidewalks, Sidewalks along Chapel Road from Park Avenue to Stone Brook Parkway.

Resolution No. 5387-16 – Utility and Construction Agreement regarding Bluff Park Community Sidewalks on various streets in the Bluff Park Community.

Resolution No. 5388-16 – Standard Project Resolution, Maintenance Agreement and Plans for Planing, Resurfacing, Loop Detectors, Permanent Traffic Stripe and Guardrail End Anchors along Hwy. 150 from I-459 to Hwy. 31.

Mr. Smith made a motion to approve **Resolution No. 5386-16, Resolution No. 5387-16, and Resolution No. 5388-16**. This motion was seconded by Mr. Skelton. Mr. Wright called for comments or questions from the Council or the audience. There being none, on voice vote the motion carried unanimously.

6. **RESOLUTION NO. 5389-16 – AUTHORIZE MAYOR TO EXECUTE REAL ESTATE SALES CONTRACT WITH THE HOOVER BOARD OF EDUCATION FOR THE PURCHASE OF PROPERTY TO BE PART OF THE HOOVER SPORTS COMPLEX**

The City Attorney read Resolution No. 5389-16. This would authorize the Mayor to execute a Real Estate Sales Contract with the Hoover Board of Education regarding the purchase of a 20.77 acre tract of land to be part of the new sports complex in the amount of \$337,940.00.

Mr. Smith made a motion to approve **Resolution No. 5389-16**. This motion was seconded by Mr. Skelton. Mr. Wright called for comments or questions from the Council. Mr. Smith asked who performed the appraisal on the property. Mr. Allen Pate said the Board of Education chose Graham & Company as the appraiser and the City of Hoover paid for the appraisal. Mr. Smith acknowledged that School Board Member, Mr. Craig Kelly, was present in the audience. He asked Mr. Kelly if the School Board had voted on this. Mr. Allen Pate said that he and the superintendent have discussed this and have both agreed on this contract but neither the city nor the school board had yet agreed on the contract. Should the City Council approve this tonight, he will give it to the superintendent to place on the next School Board agenda. Mr. Smith said he understood then that the city is making an offer and it is up to the school board to accept it. Mr. Pate said that was correct.

Mr. Lyda asked would this be paid out of the bond issue or city reserve. Mr. Yeager it is his intention that this would be coming out of the bond issue. This was the purpose of the reimbursement resolution approved by the Council a couple of months ago so that the city could reimburse itself for these expenditures and any others the city has incurred since December.

Mr. Wright called for additional 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, "Nay"; Mr. Lyda, "Yea"; Admiral Natter, "Yea"; Mr. Rives, "Yea"; Mr. Skelton, "Yea"; Mr. Smith, "Yea", and Mr. Wright, "Yea". The motion carried.

7. **RESOLUTION NO. 5390-16 – AUTHORIZE MAYOR TO EXECUTE CLAIM ADMINISTRATION AND PAYMENT ASSIGNMENT WITH MIDWEST EMPLOYERS CASUALTY COMPANY**

The City Attorney read Resolution No. 5390-16. This would authorize the Mayor to execute a Claim Administration and Payment Assignment Agreement with Midwest Employers Casualty Company.

Mr. Smith made a motion to approve **Resolution No. 5390-16**. This motion was seconded by Mr. Skelton. Mr. Wright called for comments or questions from the Council.

Mr. Smith said he understood from reading the resolution that this is insurance kicking in after the city has met the contracted maximum. Mr. Pate said the city has stop loss coverage and has exceeded its maximum. Currently the city pays the client and then files for reimbursement from the insurance company. The approval of this agreement tonight would allow the insurance company to start paying it directly and take the city out of the middle. Mr. Smith asked would this be on all future claims or would this just be for the overage. Ms. Reba McFee, Risk Management, said there is only one claim that is in excess. Mr. Smith said the resolution referred to a list but the list was not included. Ms. McFee said the list was not published because it contained the employee's name. Mr. Smith asked shouldn't the Council know how much and who. Mr. Pate answered no, but he would give it to the Council confidentially.

Mr. Wright called for further comments or questions from the Council or the audience. There being none, the motion carried, with one "Nay" vote from Mr. Smith for withholding of information. At this time, Mr. Pate wrote the name on paper and gave it to Mr. Smith.

8. **ABC APPLICATION (140 SPECIAL EVENTS RETAIL) – RAGTIME CAFÉ 25TH ANNIVERSARY CELEBRATION**

The City Attorney said this is a request from Ragtime Café, Inc. for approval of a 140 Special Events ABC Application for the Ragtime Café 25th Anniversary event to be held on April 30, 2016 in the parking lot of 2080 Valleydale Road.

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

9. **ABC APPLICATION (140 SPECIAL EVENTS RETAIL) – SPRNG INTO SUMMER CRAWFISH BOIL – CAJUN STEAMER**

The City Attorney said this is a request from CS Hoover, LLC, for approval of a 140 Special Events ABC Application for their Spring Into Summer Crawfish Boil event to be held on April 16, 2016 in the parking lot of Cajun Steamer, 180 Main Street, Suite 200.

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

10. **2ND READING ORDINANCE NO. 16-2299 – ANNUAL TAX LEVY**

The City Attorney had the second reading of Ordinance No. 16-2299. This would provide for the levying of municipal taxes for the City of Hoover and allow for the assessment of such taxes for the tax year beginning October 1, 2016.

Mr. Smith made a motion to adopt **Ordinance No. 16-2299**. This motion was seconded by Mr. Skelton. Mr. Wright called for comments or questions from the Council. Mr. Smith asked Mr. Yeager to verify there is no change from the previous year. Mr. Yeager stated that was correct. Mr. Rives asked what the 24 mill tax on property would bring to the city schools. Mr. Yeager replied approximately \$37 million. Mr. Smith said that is \$37 million of local money. Mr. Yeager concurred. Mr. Wright said that is not counting the City Council's additional funding. The 24 mill portion of the property tax goes to the schools. There being no further discussion from the Council or the audience, on roll call vote of the Council the votes were as follows: Mr. Greene, "Yea"; Mr. Lyda, "Yea"; Admiral Natter, "Yea"; Mr. Rives, "Yea"; Mr. Skelton, "Yea"; Mr. Smith, "Yea", and Mr. Wright, "Yea". The motion carried unanimously.

11. **2ND READING ORDINANCE NO. 16-2300 – AMEND MUNICIPAL CODE AND GRANT NON-EXCLUSIVE TELECOMMUNICATIONS FRANCHISE TO LEVEL 3 COMMUNICATIONS, LLC**

The City Attorney had the second reading of Ordinance No. 16-2300. This would amend the Municipal Code, Appendix IV, and grant a non-exclusive telecommunications franchise to Level 3 Communication, LLC.

Mr. Smith made a motion to adopt **Ordinance No. 16-2300**. This motion was seconded by Mr. Skelton. Mr. Wright called for comments or questions from the Council. Mr. Smith asked who this company planned to compete with for business. Mr. Ben Powell said this company operates fiber optic communication lines and there are a number of companies currently operating in the city; AT&T, Charter Communications, Bright House Networks, Access Fiber Group (which is now known as Crown Castle), and Southern Light. This particular company is looking in the Riverchase Parkway area. He said this is a very high speed and global company and we look forward to its expansion in Hoover.

There being no further discussion from the Council or the audience, on roll call vote of the Council the votes were as follows: Mr. Greene, "Yea"; Mr. Lyda, "Yea"; Admiral Natter, "Yea"; Mr. Rives, "Yea"; Mr. Skelton, "Yea"; Mr. Smith, "Yea", and Mr. Wright, "Yea". The motion carried unanimously.

12. **1ST READING ORDINANCE NO. 16-2301 – AMEND MUNICIPAL CODE BY ADDING SOLICITATION & PEDDLING REGULATIONS**

The City Attorney had the first reading of Ordinance No. 16-2301. This would amend the Municipal Code, Chapter 8, License and Business Regulations, by adding Article XIII, Solicitation and Peddling Regulations. Under these regulations solicitors and peddlers will be required to obtain a permit and an identification badge from the Hoover Revenue Department and as part of the permit approval process applicants will be required to undergo a criminal background check. Solicitors and peddlers will also be required to abide by rules of conduct in the ordinance including but not limited to hours of solicitation and not entering upon property marked with a no solicitation sign. As the law requires, this ordinance exempts certain individual and organizations from the solicitation requirements including but not limited to solicitation made on behalf of a local affiliate of a nationally recognized charitable or benevolent entity (such as boy scouts, girl scouts, etc.), any solicitation made on behalf of an organization or a group affiliated with primary, middle or secondary education, or a canvasser as defined in the ordinance.

This ordinance will have its second reading and consideration for adoption on Monday, April 18, 2016.

Mr. Wright called for questions or comments from the Council. Mr. Smith asked would the exemption include census takers. The city attorney said yes, that would be a canvasser. Admiral Natter said it would seem that the police department would have their hands full with this ordinance. Chief Derzis said they worked with the city attorney and Mr. Lopez, Revenue and Taxation Director, on this and they feel confident with it. The fact that a criminal background check is required is a positive thing. Admiral Natter asked if Hoover currently had an issue with peddlers and solicitors. Chief Derzis said there had been some issues in the past and that is why for the past year they have been trying to develop a better ordinance than what the city currently has in place. Mr. Rives asked if this applied only to physical peddlers and not telephone peddlers. The city attorney said it does not apply to telephone solicitors.

13. **PUBLIC HEARING - CONDITIONAL USE – REVOLVE KITCHEN & BREW – SALE OF RESTAURANT RETAIL LIQUOR & APPROVAL OF ABC APPLICATION (Continued from the 3/21/16 meeting)**

Mr. Wright stated this is the public hearing to consider the request of Douglas Hovanec for **Conditional Use** approval to allow the sale of Restaurant Retail Liquor at **Revolve Kitchen & Brew** located at **611 Doug Baker Blvd., Suite 103** in the Lee Branch Shopping Center Phase II. Monarch at Lee Branch, LLC is the property owner and the property is zoned C-2 Community Business District. (*P&Z Case #C-0316-03*) This item is continued from the March 21, 2016 meeting.

Mr. Lyda made a **motion to approve the conditional use**. This motion was seconded by Mr. Skelton. Mr. Wright called for discussion from the Council. Mr. Lyda said there was a question about this at the last Council meeting and Chief Derzis was going to review a criminal background issue. Chief Derzis said he had spoken with some of the council members about this issue and met with the applicant as well. He said he was very comfortable with it at this time as this was an issue that happened twenty years ago and no issues since that time. Mr. Smith said he understood the applicant already has some licenses within the city. Chief Derzis stated that was correct.

There being no further discussion from the Council or the audience, on voice vote the motion carried with one “Nay” vote from Mr. Greene.

Mr. Lyda made a motion to approve **ABC Application for Life Is Sweet Tre, LLC**. This motion was seconded by Mr. Skelton. Mr. Wright called for discussion from the Council or the audience. There being none, on voice vote the motion carried unanimously. Mr. Wright asked Mr. Greene to verify that he did vote. Mr. Greene answered yes, he voted “Yea”.

14. **2ND READINGS – ORDINANCES 16-2296 AND 16-2297 – CITY COUNCIL**
REQUEST TO REZONE 273 ACRES OFF I-459 BETWEEN PRESERVE PKWY
AND PATTON CREEK SHOPPING CENTER FROM R-4 TO C-2 AND R-1
(Continued from the 3/7/16 meeting)

Mr. Wright said this is the public hearing to consider the request of The Hoover City Council to **rezone** approximately 273 acres located south of I-459 between Preserve Parkway and Patton Creek Shopping Center from R-4 (Multi-Family District) to C-2 (Community Business District) and R-1 (Single Family Residential). *PZ Case #Z-0216-01* This is continued from the March 7, 2016 meeting.

The City Attorney had the Second Reading of Ordinance No. 16-2296.

Mr. Smith made a motion to adopt **Ordinance No. 16-2296**. He commented that Hoover has been around for a very long time. There have been a number of areas that for whatever reason have not been built out for any project whatsoever. Times change and when times change sometimes the needs of the community changes. When that happens it is up to those that are currently in office to recognize such changes and act appropriately. The motion to adopt the ordinance was seconded by Mr. Lyda.

Mr. Bob House, House Consultants, presented a handout to the Mayor, City Council, City Attorney and City Clerk of the findings of the Planning and Zoning Commission in recommending adoption of Ordinances 16-2296 and 16-2297, along with an attached map of the property with the proposed C-2 zoning area shown in yellow and the proposed R-1 zoning shown in blue. He also presented an enlarged copy of said map and referred to it as he reviewed those findings. The subject property is located south of I-459, west of the Galleria and Patton Creek shopping centers, east of the Preserve Parkway commercial area, and north of the ridgeline that separates the Highway 150 corridor from I-459. I-459 cannot be seen from Highway 150 traveling either direction. Conversely Highway 150 cannot be seen from I-459. That ridgeline is about 100 feet tall which is a significant physical barrier to the uses along Highway 150 and uses on this property. There are some residential properties on the Highway 150 side of this ridge that are very close to the proposed commercial property but they are separated by this ridge and will not be visible or have any effect on that property. The majority of the property is proposed for C-2 zoning with the remaining twenty acres proposed for R-1 zoning because that property has access to Paradise Acres subdivision. There is actually a stub-out from the cul-de-sac of the Paradise Acres neighborhood and the most appropriate use for that would be single family not commercial and not multi-family. Based upon the following findings, the Planning and Zoning Commission recommends adoption of these two ordinances:

1. The subject properties have been zoned R-4 Multi-Family District for many years but have not been developed.

2. There have been significant changes in the land use pattern of the areas since the properties were zoned R-4 Multi-Family District. The current zoning is no longer the most appropriate zoning for the property.
3. The Highway 150 corridor is developed. Rezoning of the properties highlighted in yellow on the attached map to the C-2 Community Business District, and construction of a public street, will create a commercial corridor parallel to Highway 150, connecting the Galleria and Preserve Parkway commercial areas. This corridor will relieve traffic on Highway 150 and provide additional commercial property.
4. The Comprehensive Plan, prepared in 2003, recommends three land uses for the properties, none of which may be developed in the R-4 Multi-Family District. Although the plan was not adopted, it represents the most recent land use analysis of the entire city and this specific area, conducted by a team of professional city planners. Rezoning of this property highlighted in yellow on the attached map to the C-2 Community Business District will permit most the uses recommended in the plan.
5. The R-1 Single Family District is the most appropriate zoning for the property highlighted in blue on the attached map because the property has public street access to the Paradise Acres neighborhood and its proximity to the neighborhood.

Mr. House noted, regarding Item 4, that the 2003 Comprehensive Plan recommended straight up commercial zoning on either end down by Patton Creek shopping center and then mixed use (live/work uses) which has not worked well in the City of Hoover. The C-2 District much more reflects the recommendations of the plan than the R-4 District.

Mr. Smith asked that his motion include that the Planning and Zoning documents be included in the minutes. (A copy is attached and made a part of the minutes of this meeting.)

Mr. Wright called for comments or questions from the Council.

Admiral Natter asked Mr. House to what extent was the proposed 2003 Comprehensive Plan distributed and known to the public. Mr. House said the plan started with one or two visioning sessions which were basically public hearings to give an opportunity for the public to give their thoughts as to what the city needed and what direction they felt the city was traveling. The plan was then prepared pursuant to those meetings followed by three public hearings where he received very good reception. All property in the city was included in this plan, including the subject property.

Mr. Wright called for additional comments from the Council. There being none, he called for comments from the audience.

Mr. Jammie Cowden, representing US Steel, 610 Preserve Parkway, spoke in opposition to the proposed rezoning of their property. He said that US Steel is a large landowner in the City of Hoover and over the past years had provided tremendous value to the city through its residential and commercial developments and has been a good corporate citizen for the city. He said US Steel was not developing any property. They were simply trying to sell the property they own with the zoning entitlements that were with the property when they purchased it five years ago. He felt this was a hearing in reverse, noting that typically a request to rezone property would be initiated by the land owner. This case is the exact

opposite. He asked those present to put themselves in the landowner's shoes. If someone owns land in the City of Hoover it carries with it a zoning along with certain uses upon it. What if the land owner decides to sell the property with its current zoning and the city blocks the sale by rezoning that property to affectively strip the rights of the land owner. No one would want the city rezoning their property without their consent; thereby diminishing the value of their property. He said the city claims this is about providing additional commercial land for the Highway 150 corridor. He presented a map they prepared showing over 200 acres of property located in the City of Hoover that is currently zoned commercial. The vast majority of the property fronts Highway 150. Not only is there a significant amount of available property in the city currently zoned commercial but it is in prime locations; much better locations than the subject property which is located a quarter mile off of Highway 150. Additionally, there is much more land fronting Highway 150 that could be rezoned commercial or annexed into the city to provide additional commercial property. If commercial property along Highway 150 is so important then why just 11 months ago did this city council refuse to rezone 26 acres on Shades Crest Road to commercial. That property is also a quarter mile off of Highway 150 and is shown on the 2003 comprehensive plan as being commercial. Mr. Cowden then presented the following timeline on the property. The land has been zoned for over 30 years. The city at that time had no response to rezoning this property. In 2003 a master plan was developed for the city and as mentioned by Mr. House was never adopted. The plan called for this land to be commercial land. He questioned why the city did not rezone the property in 2003. In 2005 the then owner of the property submitted a plan for R-4 development under its current zoning. The city did not attempt to rezone the property at that time. US Steel purchased the property in 2010. In October, 2015, US Steel filed for a preliminary plat in order to sell the property. The plat was denied by the Hoover Planning and Zoning Commission. In December, 2015, US Steel filed again for preliminary plat and it was again denied by the Hoover Planning and Zoning Commission. Approximately six weeks later the City of Hoover issued a request for rezoning for the Hoover City Council without a phone call, email, letter or an offer to meet with any of the landowners. The city could have initiated action on this property at any point in history but chose to issue a rezoning right after denying the preliminary plat. Just as US Steel was trying to sell the property. He said this was not handled properly by the City of Hoover and its actions were inconsistent with its past practices. He questioned why the city would take such unprecedented action. He said they could have had a conversation about what the city wants or needs. They could have come up with an amicable solution that would solve the problem for the city council and provide the citizens of Hoover what they want. This is how US Steel has always conducted itself with the city. He said there is a motion on the table. However, he called on the City Council to table this vote until they have met with US Steel to resolve this issue.

Mr. Smith said Mr. Cowden mentioned how good past relationships with the city had been; whether it was the present or past administrations. He asked Mr. Cowden how many acres USX had sold in the City of Hoover that had been developed and how many acres had yet to be developed. Mr. Smith noted they have 4,000 or more homes on the other side of Highway 52. Mr. Cowden agreed they have a significant amount of land left in the City of Hoover. Mr. Smith said he felt the city had been able to work well with USX up to this and he felt it

was unfortunate that they have chosen to be as negative as they are with the money they have made off the city and with the money they are still going to make.

Mr. Cowden said the city only had to do what it has done in the past and that is to contact them and let them know it has a problem and they always work it out. They have worked with the city in the past. It was the city that refused to contact them.

Mr. Smith asked Mr. Cowden if his client tried to contact the city council leadership at any time before tonight. Mr. Cowden answered yes.

Mr. Wright said he had not received any calls. Mr. Cowden concurred he had not tried to contact President Wright or President Pro-Tem Skelton.

Admiral Natter said he had been contacted by Mr. Cowden who asked him where the city was on this and he said he did not know. They had a short conversation and he asked Mr. Cowden who were the other property owners of the adjacent property. They had a very civil and calm discussion of what Hoover means to US Steel and what US Steel means to Hoover.

Mr. Cowden said US Steel still values its relationship with the city and he could not understand why the city would go out and rezone their property without contacting them.

Mr. Lyda said it is mandated by state statute that land owners are notified and even neighboring land owners. He asked Mr. House if this landowner was notified through that process used for all other zoning cases. Mr. House answered yes, as well as all property owners within 500 feet of the property. Mr. Lyda said US Steel as one of those property owners would have been contacted. Mr. House said they were notified, yes. Mr. Cowden said they received the notice in the mail.

Admiral Natter asked Mr. Cowden if all he was asking was that this ordinance be tabled so US Steel has an opportunity to discuss it further with the leadership of the City of Hoover and the Mayor. Mr. Cowden answered yes.

Mr. Curt Posey, 238 Cambo Drive, said US Steel had been very good to the City of Hoover. He understood the high school was built on land that they gave the city. However, he wanted US Steel to understand the concerns of the citizens. Over the last few years there has been a lot of discussion about rezoning schools because there are schools in areas that are overcrowded where a lot of these subdivisions were built. He said he was at the meeting regarding the preliminary plat that was mentioned earlier. This would have created 900 additional front doors with children going to Trace Crossings; along with two other subdivisions behind The Met that would be another 1,000 homes going to Trace Crossings. The infrastructure, roads, public safety and schools cannot handle any more. He applauded the City Council for looking at this and drawing the line. He agreed that R-4 is not the use for this property. He said he read the Comprehensive Plan. He felt it was a great plan and hated to hear it was not adopted. He agreed with Mr. Cowden that conversations need to happen because there is a lot more property out there to be developed. He applauded the City Council for taking the first step to stopping this and he encouraged them to continue doing so. He agreed with Mr. Smith's comments earlier that opinions change and times change. The citizens in Hoover right now want to grow responsibly in measured growth and they need the landowners and partners to work with them to ensure that we do not overburden what we already have.

Mr. Smith said he would like the minutes to reflect that his motion did not carry thoughts or considerations about school issues. It was strictly about the use of the property.

Mayor Ivey clarified for the record that USX did not give the high school property to the city. The city purchased it from the Wheeler Fleming Foundation.

In light of Mr. Cowden's comments, Admiral Natter made a motion to modify the motion to the fact that the motion be tabled. The motion died for the lack of a second.

Mr. Arnold Singer, 613 Riverhaven Place, said he spoke at the Planning and Zoning meeting when this case was presented where he made the point that because the land was undeveloped it could be rezoned for the betterment of the community as determined by the appropriate bodies which would be the zoning board and now the city council. In taking a look at the history of Hoover a lot of the major events that have taken place with large pieces of property have been through PUD's (Planned Unit Developments) which is typically for mixed use. He felt the Council should do whatever action it chooses to do in their own individual opinion but also the property owners can get together and propose at any point in time a PUD. It would be a way of achieving everyone's goals.

Mr. Meade Whitaker, spoke on behalf of himself, his sister, and on behalf of the trustee for a trust established by his late father. The three of them are owners of a significant portion of the subject property located to the east closest to the Patton Creek shopping center. He wanted to make it clear that the property owners did not request this rezoning and are adamantly opposed to this rezoning. He said it is completely unprecedented for a city to rezone property on its own motion over the strenuous objections of the property owners. He said it is a gross violation of fundamental rights of property ownership and egregious abuse of power. This sort of action sets a dangerous precedent. He said Mr. House mentioned earlier that the subject property had been vacant for a long time but he failed to mention why. In 2006 Alex Baker's company, which had developed Patton Creek shopping center, contracted to purchase their property for an expansion of that shopping center. Mr. Baker planned to construct a bridge across Patton Creek and to continue the shopping center to the west. In order to allow for the project Mr. Whitaker requested that his property be rezoned to commercial but the City Council refused to rezone the property. The project was dropped and the shopping center was completed to its present configuration. That was after the 2003 Comprehensive Plan which proposed commercial development for his property. He felt it was disingenuous for the city to say it now wants commercial development on the property and to use the master plan as the excuse. If the City Council had rezoned the property when the owners requested it the city would have enjoyed substantial tax benefits for a number of years. He believes the city is responsible for the fact that the property is still vacant. He said there had also been mention of the construction of a road parallel to the interstate. The suggestion of a very expensive two mile road as a justification for the proposed rezoning is not realistic. He said they have a pending and enforceable contract to sell their property for a perfectly legitimate R-4 use. That contract was in effect long before the city council decided to rezone the property. If the property is rezoned it will have a detrimental effect on this contract and the city council will be responsible for interfering with a legitimate contract. He said the council should think carefully before taking any action to rezone the property that constitutes an intentional interference with a legitimate contract. At that same work session there were questions about property values and the suggestion that the proposed rezoning

would increase the value of the property. He said it would have the opposite effect. In conclusion, he asked the council members if they would want this done to them if they were the property owners.

Mr. Wright asked the city attorney if he would address any of the legal points made. Mr. Waldrep said any discussion regarding legal points should be done in executive session.

Mr. Sonny Culp, 5 Glenview Circle, Birmingham, Alabama, 35213, said he was representing Meade Whitaker in his real estate transaction. He was also representing the Glass/Barrington group and they too have a pending legitimate real estate contract that predated the efforts to rezone. He said he attended the Planning and Zoning Commission meeting where Mr. House gave a presentation. He said Mr. House's presentation tonight eliminated a piece of what he presented at the Planning and Zoning meeting. At the Planning and Zoning meeting Mr. House summarized two reasons the R-4 was no longer the most appropriate use. One being that Highway 150 is saturated with commercial development and there was no more commercial available. Mr. Culp said The Grove shopping center has a building pad for a 60,000 square foot retail box and there are several outparcels in front of The Grove. USX has land behind The Grove. Baptist Health Systems has land for sale at the corner of Highway 150 and I-459. The former Winn-Dixie shopping center is for sale. The second thing Mr. House said then and mentioned again tonight is that there was always in plan a two mile road from Stadium Trace to Chapel Lane. Mr. Culp said there was no discussion at the Planning and Zoning meeting as to the feasibility of building the road, how much it would cost, who would pay for it, and was the extension designed to accept a road to intercept into it because it is downhill and would require building a bridge to a bridge. He questioned whether or not it could even be built. He felt the responsible thing to do would be to determine these important issues before rezoning the property. He asked that the City Council table this motion tonight.

Mr. Smith made the observation that between 2006 and now the majority of the council has changed. There are only three remaining that were on the council in 2006. He said the makeup of the council as it currently sits has been part of the issue to bring it up.

Mr. Dan Fulton, 1440 Alford Avenue, agreed with Admiral Natter that this needed to be tabled for reasons previously discussed. It was also his understanding that USX has asked the Hoover Board of Education if they wanted to purchase some of the property for future use. He talked about apartments having their place in the city to provide affordable housing. In reference to the 2003 study, he felt it was out of date and he felt the city needed an up to date and recent study that brings in online marketing and retail which has a big impact on the retail developments of the future.

Attorney Norman Orr spoke on behalf of the Birmingham Association of Realtors in opposition of the rezoning. He said what the city is trying to do is in direct conflict with furthering the interest of real property ownership. By rezoning the property without the owners' permission or consent the city would be depriving those owners of their constitutional rights of private property ownership. Furthermore, such action would be bad for business not only for the City of Hoover but also for the Greater Birmingham Area in general. At a time when the City of Hoover like other municipalities in Alabama is hungry for economic development projects he found it hard to believe that the City of Hoover is

contemplating rezoning in this manner. The rezoning of this property without the owners' consent not only stymies the development of the property in question but also would be detrimental to landing future projects in Hoover and in the Greater Birmingham Area. He asked first and foremost that the city council vote against rezoning or at the very least the city council should table this and meet with the property owners to work out a compromise. On behalf of the Board of Realtors they have been in touch with Councilman Lyda and have tried to get the parties together because they feel they could act as a mediator in this matter. They do not have an ownership in the property.

Mr. Smith asked Mr. Orr if he notified his commercial clients that he would be speaking against this proposed commercial rezoning. Mr. Orr said he represents private property owners be it commercial or residential. He does not represent any municipalities or public property owners.

At this time, Mr. Smith called for the question. Mr. Skelton seconded the call for the question. On voice vote the call for the question passed.

Mr. Wright called for a vote on the motion and second on the floor to adopt **Ordinance No. 16-2296**. On roll call vote of the Council the votes were as follows: Mr. Greene, "Yea"; Mr. Lyda, "Yea"; Admiral Natter, "Nay"; Mr. Rives, "Yea"; Mr. Skelton, "Yea"; (Before voting, Mr. Smith asked Mr. Waldrep to confirm that there is a procedure in place to allow the Planning and Zoning Commission and the City Council to do what is being done; Mr. Waldrep confirmed this is true.) Mr. Smith, "Yea"; and Mr. Wright, "Yea". The motion carried.

The City Attorney had the Second Reading of Ordinance No. 16-2297.

Mr. Lyda made a motion to adopt **Ordinance No. 16-2297**. This motion was seconded by Mr. Skelton. Mr. Wright called for discussion 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"; Admiral Natter, "Nay"; Mr. Rives, "Yea"; Mr. Skelton, "Yea"; Mr. Smith, "Yea"; and Mr. Wright, "Yea". The motion carried.

15. SET PUBLIC HEARING – CONDITIONAL USE – EVENT FACILITY/ LIVE ENTERTAINMENT & APPROVAL OF ON PREMISE SALE OF ALCOHOL AT PARK CREST, 2034 LITTLE VALLEY ROAD – C-2 - WILLIAM GARY BEARD

Mr. Wright stated a public hearing is hereby set for Monday, April 18, 2016 at 6:00 p.m. to consider the request of William Gary Beard for **Conditional Use** approval for an event facility with live entertainment for weddings, corporate events and other similar functions; and for the on premise sale of alcohol at **Park Crest**, 2034 Little Valley Road. Mr. William Gary Beard, Park Crest Properties, LLC, is the property owner and the property is zoned C-2 Community Business District. (*PZ Case #C-0416-05*) This request will be considered by the Planning and Zoning Commission at their 4/11/16 meeting.

16. PAYMENT OF BILLS

Mr. Smith made a motion that the bills be paid as submitted. This motion was seconded by Mr. Skelton. Mr. Wright called for questions or comments. There being none, on voice vote the motion carried unanimously.

Mr. Wright called for additional comments or questions from the Council.

Mr. Wright stated the City Council received seven applications for the **Board of Education**. **Interviews** will be held this **Friday, April 8th**, from **1:00 p.m. to 4:00 p.m.**

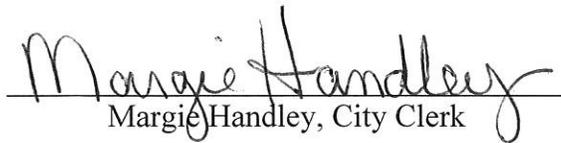
Admiral Natter announced that the **Library** had been awarded the **Gold Level Standard Award** by the Alabama Library Association. The award will be presented on Thursday, April 14th in Gadsden at the Gadsden Museum of Art. Congratulations to the Library on obtaining the Gold Level of Standard. It is the first one in the State of Alabama. He asked that congratulations be passed on to Linda Andrews and the entire staff.

Mr. Wright announced that tomorrow at Vestavia Country Club the **Committee of 100** will recognize **Linda Williams** for her accomplishment on the **Artists on the Bluff** located in the facility at the old Bluff Park school.

Mr. Arnold Singer, 613 Riverhaven Place, said he understood the **sports complex** would be developed in two phases; the structure first and then the surrounding fields and inquired as to why the fields could not be done at the same time as the structure. Mr. Allen Pate said where the event center is to be built can be built today. The playing fields require a corps permit and it is anticipated that it will be at least July before that permit would be in place. The other reason for starting on the event center is to have it in place by May of next year in hopes of giving some leverage in securing the SEC Baseball Tournament for another five years. If they can have the event center finished by May of next year, then in February, 2018, they will have the playing fields complete for spring and summer playing season. Mr. Wright added that there are pipe lines and major power lines that need to be moved and there is also a need for some of that land for a drop lot to build this building.

Mr. Singer said with regard to the rezoning of the 273 acres he heard some statements tonight that concerned him. Spot zoning is illegal based upon Supreme Court ruling and 273 acres certainly would not be spot zoning. He felt the city council was on firm ground in that area.

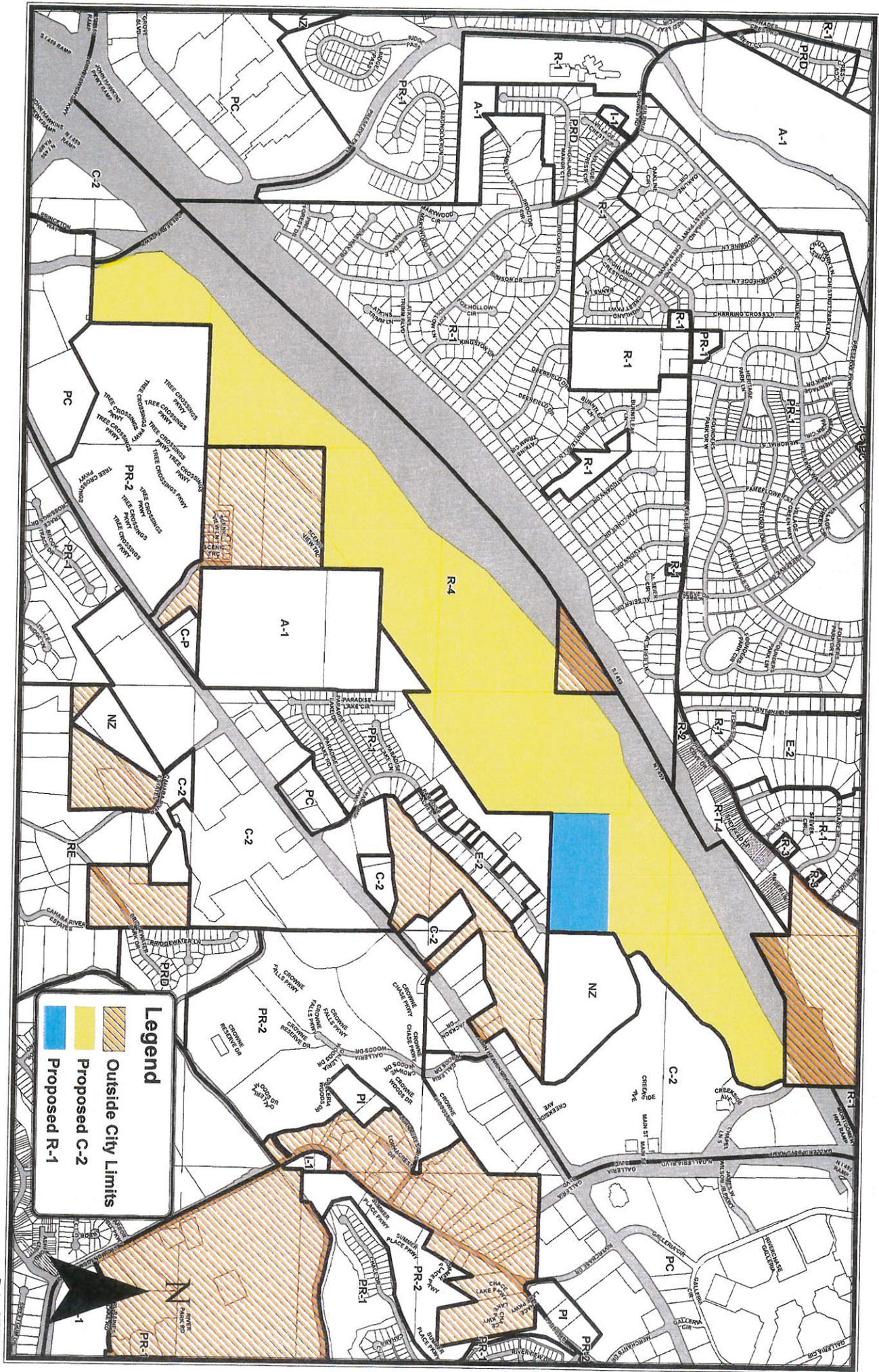
There being no additional comments or questions, the meeting was adjourned.


Margie Handley, City Clerk

Approved by
City Council
4/4/16

Based upon these findings, the Planning and Zoning Commission recommends adoption of ordinance numbers 16-2296 and 16-2297:

1. The subject properties have been zoned R-4 Multi-Family District for many years but have not been developed.
2. There have been significant changes in the land use pattern of the area since the properties were zoned R-4 Multi-Family District. The current zoning is no longer the most appropriate zoning for the property.
3. The Highway 150 corridor is developed. Rezoning of the properties highlighted in yellow on the attached map to the C-2 Community Business District and construction of a public street, will create a commercial corridor parallel to Highway 150, connecting the Galleria and Preserve Parkway commercial areas. This corridor will relieve traffic on Highway 150 and provide additional commercial property.
4. The Comprehensive Plan, prepared in 2003, recommends three land uses for the properties, none of which may be developed in the R-4 Multi-Family District. Although the plan was not adopted, it represents the most recent land use analysis of the entire city and this specific area, conducted by a team of professional city planners. Rezoning of the property highlighted in yellow on the attached map to the C-2 Community Business District will permit most of the uses recommended in the plan.
5. The R-1 Single Family District is the most appropriate zoning for the property highlighted in blue on the attached map because the property has public street access to the Paradise Acres neighborhood and its proximity to the neighborhood.



Legend

- Outside City Limits
- Proposed C-2
- Proposed R-1

Date: 3/2/2016