

STATE OF ALABAMA
ST. CLAIR COUNTY

The City Council of the City of Pell City met in a work session at the City Hall at 5:30 p.m. on Monday, March 30, 2020. Present were Council President James McGowan, Councilmen Jay Jenkins, Jud Alverson, Jason Mitcham, and Blaine Henderson. Council President McGowan opened the meeting for discussion.

The invocation was led by Councilman Jay Jenkins.

The pledge to the American Flag was led by City Manager Brian Muenger.

The City Clerk had roll call for attendance.

Councilman Jud Alverson advised the bills had been reviewed and were okay to be paid.

There were no comments on the minutes of the regular Council Meeting held on March 9, 2020 or the minutes of the Special Called Council Meeting held on March 20, 2020.

There was no discussion on the Public Hearings to be held at 7:00 p.m. regarding requests received for rezoning on the following properties:

- 1402 Bunt Dr. – R1 (Low Density Residential District) to B2 (General Business District)
- 1404 Bunt Dr. – R1 (Low Density Residential District) to B2 (General Business District)
- Property Owned by Daris Jordan – PR (Planned Residential) to PUD (Planned Unit Development)

Greg Bain with Bain and Company, PC addressed the Council regarding the City's 2018/2019 Financial Audit. Mr. Bain advised the Independent Auditor's Report Opinion was unmodified and confirmed there were no material weaknesses or significant deficiencies found in Internal Control. City Manager Brian Muenger thanked Mr. Bain and his staff for their work on the City's audits. Mr. Bain stated he had been working with the City since 1994 and the audits were a lot better and easier to work on with the efficiency of the Finance Director Teri St. James and staff.

City Manager Brian Muenger addressed the Council regarding an agreement with Pyro Shows of Alabama for the Annual 4th of July Fireworks Show. Mr. Muenger advised the agreement was the same terms as the Agreement for 2019 and confirmed the fee was \$18,000.00.

City Manager Brian Muenger addressed the Council regarding the revised Telecommunications Ordinance. He advised the Ordinance was set aside approximately six months ago due to the legislation delaying at the State House. Mr. Muenger confirmed that State Bill 172 would preempt the City from adoption of any of its own regulations if the Ordinance was not adopted prior to May 1, 2020. He advised the "stand alone" form of an Ordinance, as the City of Madison adopted and was provided to Council, was preferred by wireless providers. Mr. Tim Hawkins, a representative with AT&T, who resides at 2111 3rd Avenue North, Pell City, advised there were several items that AT&T believed were against FCC Orders but confirmed they agreed with the Ordinance adopted by the City of Madison. Mr. Hawkins confirmed the biggest issue was the review fees charged by CMS. Following a discussion, it was agreed that the Ordinance could be modified between meetings to reflect the same language as laid out in the Ordinance for the City of Madison to ensure the City would be able to recoup all costs related to the applications received. Councilman Alverson confirmed that should it not be feasible to collect the reimbursement of costs from the applicants, the Ordinance would be amended in the future.

City Manager Brian Muenger addressed the Council regarding a User Agreement with the Pell City Chamber of Commerce concerning the 2020 Hometown Block Party. Mr. Muenger confirmed the agreement was similar to past agreements and stated it set out the area to be used for the block party.

City Manager Brian Muenger addressed the Council regarding extending the lease agreement with First Baptist Church concerning Avondale Park for an additional five years. Mr. Muenger advised it was only an action item should the City choose to not renew the current agreement. He advised the agreement was a user agreement and confirmed that First Baptist Church and City Staff were happy with renewing the agreement.

City Manager Comments: Mr. Muenger expressed his appreciation to the staff as a whole. Mr. Muenger advised the staff continued with a high-quality work with the high level of personal stress and wanted to thank the City Staff.

Mayor Comments: Mayor Pruitt stated it had been a rough couple of weeks and was pleasantly surprised with the local businesses looking to stand up and reaching out to offer a helping hand. He said he was proud of the way the community had pulled together during the difficult time.

Council President McGowan adjourned the City Council Work Session at 6:15 p.m.

The City Council of the City of Pell City met in a regular council meeting at City Hall at 7:04 p.m. on Monday, March 30, 2020. Present were Council President James McGowan, Councilmen Jay Jenkins, Blaine Henderson, Jud Alverson and Jason Mitcham. Those present constituting the entirety of the Council, the following business was transacted:

The City Clerk had roll call for attendance.

On motion of Councilman Jenkins, seconded by Councilman Alverson, the council unanimously approved the agenda as presented.

On motion of Councilman Henderson, seconded by Councilman Jenkins the council unanimously approved the payment of bills on file.

On motion of Councilman Mitcham, seconded by Councilman Henderson, the Council unanimously approved the minutes of the Regularly Scheduled Council Meeting held on March 9, 2020.

On motion of Councilman Jenkins, seconded by Councilman Mitcham, the Council unanimously approved the minutes of the Special Called Council Meeting held on March 20, 2020.

Now was the time set aside for a Public Hearing to consider the request from Yen Ho to rezone property she owned located at 1402 Bunt Drive. The requested rezoning was from R-1 (Low Density Residential District) to B-2 (General Business District). The request came from the Planning Commission with a unanimous recommendation for approval.

Council President McGowan opened the Public Hearing at 7:07 p.m. There being no one present, Council President McGowan closed the Public Hearing at 7:07 p.m.

Council President McGowan introduced the following ordinance rezoning the property located at 1402 Bunt Drive from R-1 (Low Density Residential District) to B-2 (General Business District):

ORDINANCE NO. 2020 - 5281

AN ORDINANCE AMENDING ORDINANCE NO. 79-516 TO REZONE FROM R-1 TO B-2 CERTAIN PROPERTY LOCATED WITHIN THE CITY LIMITS OF THE CITY OF PELL CITY, ALABAMA

WHEREAS, Yen Ho, the owner of the hereinafter described real estate situated in Pell City, St. Clair County, Alabama, did file with the Clerk of the City of Pell City, Alabama, a written petition duly signed by Yen Ho, requesting that said described property located within the corporate limits of the City of Pell City be rezoned from R-1 (Low Density Residential District) to B-2 (General Business District) under the provisions of section 11-52-70, *et seq*, Code of Alabama, 1975, as amended; and

WHEREAS, said petition did have attached thereto an accurate description of said territory proposed to be rezoned, together with a map of said property, all as is required under the provisions of said section 11-52-70, *et seq*; and

WHEREAS, the City Council of the City of Pell City has heretofore given notice of and convened a public hearing on March 30, 2020 pertaining to said rezoning; and has examined the aforesaid petition and exhibits attached thereto and finds that the said described lands are located within the corporate limits of the City of Pell City.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PELL CITY, ALABAMA, as follows:

Section 1. The petition of Yen Ho, the owner of the following described lands situated in the City of Pell City, Alabama, requesting that the same be rezoned from R-1 to B-2 be and the same is hereby approved, to-wit:

All that part of Lot Six (6) lying North of Hospital Drive (currently known as John Haynes Drive) of the Bunt Subdivision as recorded in the Subdivision Book, Page 81-A in the Office of the Judge of Probate of St. Clair County, Alabama in Northwest ¼ of the Northwest ¼ of Section 31, Township 16 South, Range 4 East. Parcel ID: 22-09-31-2-000-010-000.

Section 2. The Zoning District Map of the City of Pell City shall be amended by rezoning the aforesaid described parcel of land from R-1 to B-2.

Section 3. This Ordinance shall become effective upon approval, passage and publication as required by law.

Councilman Henderson moved that all rules and regulations, which unless suspended would prevent the immediate consideration and adoption of said ordinance, be suspended and that unanimous consent to the immediate consideration and adoption of said ordinance be given. The motion was seconded by Councilman Mitcham. On roll call vote, the motion was unanimously approved. Those voting aye being: Council President McGowan, Councilmen Jenkins, Henderson, Mitcham and Alverson. Nays: None. Council President McGowan declared the motion approved.

Councilman Henderson then moved that said ordinance be now placed upon its final passage and adopted. The motion was seconded by Councilman Mitcham. The question being put as to the adoption of said motion and the passage of said ordinance, on roll call vote, the motion was unanimously approved. Those voting aye being: Council President McGowan, Councilmen Jenkins, Henderson, Mitcham and Alverson. Nays: None. Council President McGowan declared the motion approved and the ordinance adopted.

Now was the time set aside for a Public Hearing to consider the request from Yen Ho to rezone property she owned located at 1404 Bunt Drive. The requested rezoning was from R-1 (Low Density Residential District) to B-2 (General Business District). The request came from the Planning Commission with a unanimous recommendation for approval.

Council President McGowan opened the Public Hearing at 7:09 p.m. There being no one present, Council President McGowan closed the Public Hearing at 7:09 p.m.

Council President McGowan introduced the following ordinance rezoning the property located at 1404 Bunt Drive from R-1 (Low Density Residential District) to B-2 (General Business District):

ORDINANCE NO. 2020 - 5282

AN ORDINANCE AMENDING ORDINANCE NO. 79-516 TO REZONE FROM R-1 TO B-2 CERTAIN PROPERTY LOCATED WITHIN THE CITY LIMITS OF THE CITY OF PELL CITY, ALABAMA

WHEREAS, Yen Ho, the owner of the hereinafter described real estate situated in Pell City, St. Clair County, Alabama, did file with the Clerk of the City of Pell City, Alabama, a written petition duly signed by Yen Ho, requesting that said described property located within the corporate limits of the City of Pell City be rezoned from R-1 (Low Density Residential District) to B-2 (General Business District) under the provisions of section 11-52-70, *et seq*, Code of Alabama, 1975, as amended; and

WHEREAS, said petition did have attached thereto an accurate description of said territory proposed to be rezoned, together with a map of said property, all as is required under the provisions of said section 11-52-70, *et seq*; and

WHEREAS, the City Council of the City of Pell City has heretofore given notice of and convened a public hearing on March 30, 2020 pertaining to said rezoning; and has examined the aforesaid petition and exhibits attached thereto and finds that the said described lands are located within the corporate limits of the City of Pell City.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PELL CITY, ALABAMA, as follows:

Section 1. The petition of Yen Ho, the owner of the following described lands situated in the City of Pell City, Alabama, requesting that the same be rezoned from R-1 to B-2 be and the same is hereby approved, to-wit:

A parcel in Section 31, Township 16 South, Range 4 East in St. Clair County, Alabama and being more particularly described as follows: Lot Five (5) of Bunt Subdivision as recorded in Subdivision Book, Page 81-A, in the Office of the Judge of Probate St. Clair County, Pell City, Alabama and also up to the Hospital Road right-of-way. Property ID: 22-09-31-2-000-009.000.

Section 2. The Zoning District Map of the City of Pell City shall be amended by rezoning the aforesaid described parcel of land from R-1 to B-2.

Section 3. This Ordinance shall become effective upon approval, passage and publication as required by law.

Councilman Mitcham moved that all rules and regulations, which unless suspended would prevent the immediate consideration and adoption of said ordinance, be suspended and that unanimous consent to the immediate consideration and adoption of said ordinance be given. The motion was seconded by Councilman Jenkins. On roll call vote, the motion was unanimously approved. Those voting aye being: Council President McGowan, Councilmen Jenkins, Henderson, Mitcham and Alverson. Nays: None. Council President McGowan declared the motion approved.

Councilman Alverson then moved that said ordinance be now placed upon its final passage and adopted. The motion was seconded by Councilman Henderson. The question being put as to the adoption of said motion and the passage of said ordinance, on roll call vote, the motion was unanimously approved. Those voting aye being: Council President McGowan, Councilmen Jenkins, Henderson, Mitcham and Alverson. Nays: None. Council President McGowan declared the motion approved and the ordinance adopted.

Now was the time set aside for a Public Hearing to consider the request from Birmingham LD, LLC representing Daris Jordan to rezone property Mr. Jordan owned located south of Fox Hollow Phase 4. The requested rezoning was from P-R (Planned Residential District) to PUD (Planned Unit Development District). The request came from the Planning Commission with a unanimous recommendation for approval.

Council President McGowan opened the Public Hearing at 7:11 p.m. Mr. Ben Watson with Birmingham LD, LLC was present. Mr. Watson advised that if approved, the zoning would be concurrent with the remainder of Fox Hollow. There being no other comments, Council President McGowan closed the Public Hearing at 7:12 p.m.

Council President McGowan introduced the following ordinance rezoning the property located south of Fox Hollow Phase 4 from P-R (Planned Residential District) to PUD (Planned Unit Development District):

ORDINANCE NO. 2020 - 5283

AN ORDINANCE AMENDING ORDINANCE NO. 79-516 TO REZONE FROM P-R TO PUD CERTAIN PROPERTY LOCATED WITHIN THE CITY LIMITS OF THE CITY OF PELL CITY, ALABAMA

WHEREAS, Daris Jordan, the owner of the hereinafter described real estate situated in Pell City, St. Clair County, Alabama, did file with the Clerk of the City of Pell City, Alabama, a

written petition duly signed by Daris Jordan, requesting that said described property located within the corporate limits of the City of Pell City be rezoned from P-R (Planned Residential District) to PUD (Planned Unit Development District) under the provisions of section 11-52-70, *et seq*, Code of Alabama, 1975, as amended; and

WHEREAS, said petition did have attached thereto an accurate description of said territory proposed to be rezoned, together with a map of said property, all as is required under the provisions of said section 11-52-70, *et seq*; and

WHEREAS, the City Council of the City of Pell City has heretofore given notice of and convened a public hearing on March 30, 2020 pertaining to said rezoning; and has examined the aforesaid petition and exhibits attached thereto and finds that the said described lands are located within the corporate limits of the City of Pell City.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PELL CITY, ALABAMA, as follows:

Section 1. The petition of Daris Jordan, the owner of the following described lands situated in the City of Pell City, Alabama, requesting that the same be rezoned from P-R to PUD be and the same is hereby approved, to-wit:

Commence at the 5/8" rebar in place at the Northeast corner of the Northwest ¼ of the Southeast ¼ Section 35 Township 16 South Range 3 East St. Clair County, Alabama; Said point being the POINT OF BEGINNING

From this point of beginning, proceed South 0° 27' 05" West for a distance of 993.24' feet to a set 1/2" capped rebar; thence proceed North 89° 32' 55" West for a distance of 755.27' feet to a point; thence proceed North 54° 13' 29" West for a distance of 391.29' feet to a point; thence proceed North 41° 17' 48" West for a distance of 337.57' feet to a point; thence proceed North 0° 47' 45" East for a distance of 483.59' feet to a 1/2" rebar in place at the Southeast corner of the Southeast ¼ of the Northwest ¼ Section 35 Township 16 South Range 3 East St, Claire County, Alabama; thence proceed North 89° 03' 31" East for a distance of 103.97' feet to a point; thence proceed North 89° 03' 23" East for a distance of 1192.79' feet to the POINT OF BEGINNING of the Parcel containing approximately 26.49+/- acres.

Section 2. The Zoning District Map of the City of Pell City shall be amended by rezoning the aforesaid described parcel of land from P-R to PUD.

Section 3. This Ordinance shall become effective upon approval, passage and publication as required by law.

Councilman Mitcham moved that all rules and regulations, which unless suspended would prevent the immediate consideration and adoption of said ordinance, be suspended and that unanimous consent to the immediate consideration and adoption of said ordinance be given. The motion was seconded by Councilman Henderson. On roll call vote, the motion was unanimously approved. Those voting aye being: Council President McGowan, Councilmen Jenkins, Henderson, Mitcham and Alverson. Nays: None. Council President McGowan declared the motion approved.

Councilman Alverson then moved that said ordinance be now placed upon its final passage and adopted. The motion was seconded by Councilman Henderson. The question being put as to the adoption of said motion and the passage of said ordinance, on roll call vote, the motion was unanimously approved. Those voting aye being: Council President McGowan, Councilmen Jenkins, Henderson, Mitcham and Alverson. Nays: None. Council President McGowan declared the motion approved and the ordinance adopted.

On motion of Councilman Jenkins, seconded by Councilman Mitcham, the Council unanimously approved the City's 2018/2019 Financial Audit as presented by Greg Bain.

On motion of Councilman Alverson, seconded by Councilman Henderson, the Council unanimously approved **RESOLUTION NO. 2020-5284** regarding an agreement with Pyro Shows of Alabama for the annual 4th of July Fireworks show.

Council President McGowan introduced **ORDINANCE NO. 2020 – 5285** regulating and permitting, siting and construction of wireless telecommunications facilities, including but not limited to towers and any associated equipment or facilities.

Councilman Henderson moved that all rules and regulations, which unless suspended would prevent the immediate consideration and adoption of said ordinance, be suspended and that unanimous consent to the immediate consideration and adoption of said ordinance be given. The motion was seconded by Councilman Alverson. On roll call vote, the motion was unanimously approved. Those voting aye being: Council President McGowan, Councilmen Jenkins, Henderson, Mitcham and Alverson. Nays: None. Council President McGowan declared the motion approved.

City Attorney John Rea advised the revisions that were made to the Ordinance between meetings should be specified prior to adopting the Ordinance. City Manager Brian Muenger advised the following revisions to section 17 with regard to escrow fees and costs had been made per discussions had during the work session in concert with Tim Hawkins, representative of AT&T:

Section 17: Retention of Expert Assistance Cost to be Borne by Applicant

- (a) The City may hire a consultant to assist the City in reviewing and evaluating applications. Cost for any outside expert assistance shall be paid from the escrow account for each individual project or as reimbursed as set forth below.
- (b) The total amount of the funds needed as set forth herein may vary with the scope and complexity of the application, the completeness of the application and other information as may be needed to complete the necessary review, analysis and inspection of any construction or modification. The City reserves the right to amend initial deposit amounts in this Section at its sole discretion.
- (c) To prevent the taxpayers from having to bear the cost related to the issue of permitting and regulating wireless telecommunication facilities, an applicant shall place with the City a deposit, which shall be maintained in an escrow account for that application.
 - (1) The escrow deposit amount for new macro wireless telecommunication facilities and substantial modifications, shall be \$7,500.00.
 - (2) The escrow deposit amount for modifications and co-locations, of macro wireless facilities, that are eligible facility request, shall be \$7,500.00.
 - (3) Notwithstanding anything herein to the contrary, no escrow deposit shall be required for small wireless facilities. However, due to the fact that small wireless facility application processing will create work load burdens for City staff, the City reserves the right to require providers to reimburse the City for actual costs incurred in application processing prior to permit issuance if said costs exceed the permit application and review fee. The City may charge for administrative and advertising expenses, staff, and professional review at standard hourly rates, and other actual and reasonable costs incurred. The City will provide evidence to applicant of the actual reasonable costs to be reimbursed by applicant.

Councilman Jenkins confirmed that the Ordinance could be Amended prior to May 1st if the costs were not being recovered. City Attorney John Rea confirmed and read Section 17 (c)(3) and advised the language was verbatim from the Ordinance of the City of Madison which had been provided to the City Council.

Councilman Alverson then moved that said ordinance be now placed upon its final passage and adopted with the revisions as outlined by the City Manager and City Attorney. The motion was seconded by Councilman Henderson. The question being put as to the adoption of said motion and the passage of said ordinance, on roll call vote, the motion was unanimously approved. Those voting aye being: Council President McGowan, Councilmen Jenkins, Henderson, Mitcham and Alverson. Nays: None. Council President McGowan declared the motion approved and the ordinance adopted.

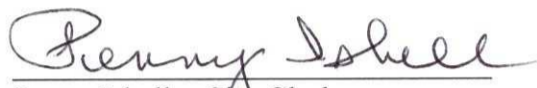
On motion of Councilman Jenkins, seconded by Councilman Mitcham, the Council unanimously approved **RESOLUTION 2020-5286** regarding a User Agreement with the Pell City Chamber of Commerce for the 2020 Hometown Block Party.

City Attorney John Rea confirmed there was not a motion necessary on the lease agreement with First Baptist Church regarding Avondale Park. He advised there being no motion, the agreement would renew for another 5-year term.

On motion of Councilman Alverson, seconded by Councilman Henderson, the Council adjourned subject to the call of the Council President.


James McGowan - Council President

ATTEST:


Penny Isbell – City Clerk