

STATE OF ALABAMA  
ST. CLAIR COUNTY

The City Council of the City of Pell City met in a regular council meeting at City Hall at 7:00 p.m. on Monday, August 24, 2020. Present were Council President James McGowan, Councilmen Jay Jenkins, Blaine Henderson, Jason Mitcham and Jud Alverson. Those present constituting the entirety of the Council, the following business was transacted:

The invocation was led by Councilman Jay Jenkins.

The pledge to the American Flag was led by Assistant City Clerk Sheree Pruitt.

The City Clerk had roll call for attendance.

A work session was not held prior to the council meeting.

On motion of Councilman Henderson, seconded by Councilman Jenkins, the Council unanimously approved the agenda as presented.

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

On motion of Councilman Jenkins, seconded by Councilman Mitcham, the Council unanimously approved the minutes of the regularly scheduled council meeting held on August 10, 2020.

On motion of Councilman Henderson, seconded by Councilman Mitcham, the Council unanimously approved the minutes of the reconvened council meeting held on August 13, 2020.

Now was the time set aside for a public hearing to consider the rezoning of property located at 190 Vaughan Lane and owned by Terra Pell City, LLC (Alan Hawkins). The requested rezoning was from B-2 (General Business District) to B-3 (Heavy Business District). The requested rezoning came from the Planning Commission with a recommendation for approval. The recommendation was not unanimous. Council President McGowan opened the public hearing at 7:04 p.m.

Martie Murphy appeared on behalf of Tidal Wave Auto Spa. Mr. Murphy advised Tidal Wave Auto Spa had been in business since 2004 with 51 locations in operation. Mr. Murphy stated their business exceeded any expectations placed on them by any community they located in and advised they wanted to create a convenience for citizens in the community. He presented a site plan for the location and advised they were requesting a rezoning of the property. Mr. Murphy advised the building was approximately a total of 3,500 square feet and stated the wash tunnel was 120' by 18' wide. He stated comments were received from the planning commission which were worked with and created more stacking ability. He advised the stacking ability of 33 cars would eliminate any traffic issues that might occur on Vaughan Lane. Mr. Murphy advised he had proof that the car wash would generate less traffic than the business that was previously permitted to exist on the premises.

Mr. Alan Hawkins addressed the Council regarding the rezoning. Mr. Hawkins advised he owned the property that Tidal Wave Auto Spa was prepared to purchase. Mr. Hawkins referenced information that was in the traffic study that was conducted by the City in 2016. He advised he believed that the data in the report showed there was very little impact for the development in the area.

Council President McGowan introduced **ORDINANCE NO. 2020 – 5357** regarding the rezoning of property located at 190 Vaughan Lane from B-2 (General Business District) to B-3 (Heavy Business District).

Councilman Alverson 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 Alverson then moved that said ordinance be now placed upon its final passage and adopted. There was no second; therefore, the motion failed.

Councilman Alverson confirmed there would be a roll call vote on the Motion to Adopt the Ordinance. City Manager Brian Muenger advised the first action of Council was to suspend the rules, which allowed the Ordinance to rezone the property to occur. He advised that Council President McGowan had called for the actual approval of the Ordinance. Mr. Muenger advised the positive action would lead to the approval of the property rezoning to B-3 and inaction would lead to the property to remain with a zoning of B-2. Councilman Alverson questioned whether there would be an actual roll call vote. City Attorney John Rea confirmed there would be a roll call vote, but advised if the motion was made, the individual making the motion would be in favor of the action. City Manager Muenger questioned for what motion the roll call was conducted. City Clerk Penny Isbell advised the roll call was conducted for the Motion to Suspend the Rules. City Attorney John Rea advised due to the rules being suspended, the Ordinance was ready for immediate consideration. He further advised that the City Manager had pointed out misinformation within the minutes of the Planning Commission Meeting. Mr. Rea advised his view on spot zoning was whether or not the specified use was in line with the City's highest and best use for future development. He confirmed a car wash was not permitted in B-2 zones but were permitted in B-3 zones. He advised the City did not have a centrally located B-2 zoning district or B-3 zoning district. Mr. Rea advised the Council should consider the uses available in B-3 and whether or not that use was the appropriate use for the property surrounded by the other properties in the specific commercial corridor. Mr. Muenger advised the B-3 zoning located on the southern side of the interstate was to give permanency to the automobile dealerships that were granted conditional uses in B-2. He also advised it was pertinent to advise the City did have existing car washes and confirmed that at the time the car washes were built B-3 zoning did not exist. Mr. Muenger advised there was existing land that was zoned B-3 that was available. Councilman Alverson advised that he was not in favor of the rezoning and believed he had made the motion to set up a five person vote and advised he wanted to rescind his motion. He further clarified that he was of the opinion it was a misuse of the property. Councilman Jay Jenkins advised he believed it was spot zoning, which he was not in favor. He advised he believed the problem with the zoning of B-3 was not the business particularly but the other uses allowed in B-3. Mr. Muenger clarified for Councilman Jenkins that the current comprehensive plan showed the property in question for business uses, not necessarily B-2 or B-3 uses. Councilman Alverson stated he would like to have the business in the City, but advised he did not believe that was the highest and best use of the property for the City. Councilman Jenkins advised the property located beside American Family Care was available and would possibly be more convenient. Councilman Henderson questioned how much tax revenue the car wash generated. Mr. Murphy advised he could not speak to tax revenue but advised they did generate water, sewer and utility usage. Mr. Murphy reiterated the major impact the commission was concerned was the traffic, which had been addressed. He requested the Council consider a special use to locate on the property. Mr. Murphy advised he did feel like their request was the best use at the location requested.

Councilman Mitcham moved that the Ordinance be denied. Councilman Alverson seconded the motion to deny. On roll call vote, the motion to deny was unanimously approved. Those voting aye being: Council President McGowan, Councilmen Jenkins, Henderson, Mitcham and Alverson. Nays: None. Council President McGowan declared the motion to deny approved.

Now was the time set aside for a Public Hearing to determine if the following properties constituted a public nuisance and order the properties abated:

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| • Property on 19 <sup>th</sup> Street So. (Bussie) | Parcel #: 28-01-01-2-006-019.001 |
| • Property on 19 <sup>th</sup> Street So. (Bussie) | Parcel #: 28-01-01-2-006-018.000 |
| • 3312 Tyler Street                                | Parcel #: 22-09-31-3-001-002.009 |
| • 470 Hillstone Drive                              | Parcel #: 22-09-31-4-000-019.018 |
| • 2717 Dellwood Drive                              | Parcel #: 29-03-06-3-001-036.000 |
| • 2717 Dellwood Drive                              | Parcel #: 29-03-06-3-001-035.000 |

City Manager Muenger advised the parties had been properly noticed and the properties had been properly posted. City Attorney John Rea advised one Public Hearing could be held regarding all properties and a single motion to approve or deny all Resolutions could be made as well.

Council President McGowan opened the Public Hearing at 7:40 p.m. There being no one present on behalf of or in opposition to the nuisance abatement, Council President McGowan closed the Public Hearing at 7:40 p.m.

On motion of Councilman Jenkins, seconded by Councilman Alverson, the Council unanimously approved the following resolutions declaring the properties a nuisance and ordering them abated:

- **RESOLUTION NO. 2020 – 5359**
  - *Property Located on 19<sup>th</sup> Street South (Bussie) (28-01-01-2-006-019.001)*
- **RESOLUTION NO. 2020 – 5360**
  - *Property Located on 19<sup>th</sup> Street South (Bussie) (28-01-01-2-006-018.000)*
- **RESOLUTION NO. 2020 – 5361**
  - *3312 Tyler Street (22-09-31-3-001-002.009)*
- **RESOLUTION NO. 2020 – 5362**
  - *470 Hillstone Drive (22-09-31-4-000-019.018)*
- **RESOLUTION NO. 2020 – 5363**
  - *2217 Dellwood Drive (29-03-06-3-001-036.000)*
- **RESOLUTION NO. 2020 – 5364**
  - *2217 Dellwood Drive (29-03-06-3-001-035.000)*

On motion of Councilman Mitcham, seconded by Councilman Henderson, the Council unanimously approved a transfer of Retail Beer License (Off Premise Only) and Retail Table Wine License (Off Premise Only) for 1859 Martin Street South for OM Hare Krishna Corporation (d/b/a Hop In Pell City).

On motion of Councilman Alverson, seconded by Councilman Mitcham, the Council unanimously approved **RESOLUTION NO. 2020 – 5358** authorizing a User Agreement with St. Clair County for the use of their Electronic Voting Machines for the 2020 Municipal Election.

On motion of Councilman Henderson, seconded by Councilman Jenkins, the Council unanimously approved the FY2020/2021 Holiday Calendar as presented.

On motion of Councilman Alverson, seconded by Councilman Henderson, the Council unanimously approved setting the 2020 Municipal Election Canvassing meeting for Monday August 31, 2020 at 5:30 p.m.

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

  
James McGowan – Council President

ATTEST:

  
Penny Isbell – City Clerk