

City Council met for a Joint Public Hearing with Zoning Commission and Special Called City Council meeting on July 23, 2018 in the Council Chambers at City Hall, 907 E. Houston.

MEMBERS PRESENT: Councilmember Mike Penry, Councilmember Marilyn Clay, Councilmember Fred Terrell, Councilmember Jennifer Bergman, City Manager Kelly McDonald, City Secretary Angela Smith and Assistant City Attorney Derra Purnell.

ABSENT: Mayor Otis Cohn (arrived at 6:05 pm), Councilmember Danny Lee

ZONING COMMISSION PRESENT: Niki Coats, Brent McWaters, Carolyn McWaters, Julia Payne, Cheryl Driver

VISTORS: Harry Williams, Joe Bob Croley, Mary Ann Anders, Alvin & Karen O'Brien, Buford Miles Simpson, James Walker, Marcia Smith, Michael Smith, KA. Levens, Kord Levens, Bonnie Howard, Rebecca Jacobs, Tracy McWaters, Terry & Bob Baker, Kevin Jacobs, Caroline Hearnberger, Rich & Bendie E., Demetrian Weberg

EMPLOYEES: Frieda Joyce, Bobby Pennington, Mary Cohn, Mary Hale, Rod Hainey

Councilmember Bergman called the meeting to order at 5:06 pm and stated there was a quorum. Both the Mayor and the Mayor Pro-Tem were not present. Niki Coats gave the invocation and Councilmember Clay led the pledge to the US flag and Councilmember Terrell led the pledge to the Texas flag.

The Zoning Commission stated they had a quorum and opened their meeting at 5:06 pm.

Joint Public Hearing of the Zoning Commission and City Council

- 1. Discuss the Zoning Commission's preliminary report on an application for property rezone of 819 acres, being known as Peter Ornie, Abstract 326; Thomas Devers Survey, Abstract 790 (M) and 169 (L); Pressley Gill, A-230, L.A. Halphen, Abstract 680 (M) and Abstract 854 (L) from zoning district R-1 Residential District to General Commercial (GC)**

Public hearing was opened at 5:08 pm. Harry Williams spoke as applicant. BNSF Railroad is the company he is dealing with to purchase the property and they do not provide any information as to the use. City Manager McDonald stated that when property comes into the city by annexation it is zoned Residential 1 (R1) and then any zoning changes have to be done by petition. Assistant City Attorney Purnell stated that the Zoning Commission has to hold a public hearing on this request then have a final meeting before coming back to council with their recommendation. This request is only for General Commercial (GC) use and not industrial use. Councilmember Penry commented that he is worried about use of commercial without having any knowledge of buyer's intention such as a land fill. Ms. Purnell stated that a land fill is not allowed in a General Commercial zone. Mr. Williams stated that it was his call to change to General Commercial as the railroad just said not residential zoning. The property has been on the market for about five years and the railroad came to him through a broker. Discussion occurred about what the railroad may use the property for and Assistant City Attorney Purnell

reminded council that the purpose is just to determine if this piece of property is appropriate to be zoned General Commercial.

The Public Hearing was closed at 5:39 pm. The Zoning Commission was going to move to the Board Room to finish their meeting but they stayed in the council chambers. Assistant City Attorney Purnell stated that the Zoning Commission held a prior meeting where they had a preliminary report, they held the public hearing today and now they are looking for their final recommendation/report to give to council. Zoning Commission discussed the issue.

Brent McWaters made a motion to approve the request to rezone to General Commercial with a second from Cheryl Driver. Motion passed unanimously.

Discussion and Action of City Council

- 2. Receive the Zoning Commission's final report on an application for property rezone of 819 acres, being known as Peter Ornie, Abstrat 326; Thomas Devers Survey, Abstract 790 (M) and 169 (L); Pressley Gill, A-230, L.A. Halphen, Abstract 680 (M) and Abstract 854 (L) from zoning district R-1 Residential District to General Commercial (GC) and take possible action on an Ordinance amending the City's Comprehensive Plan and Zoning Map to reflect this reclassification**

Julia Payne, Zoning Commission, reported back to City Council that the Zoning Commission's final recommendation is to approve the rezoning request to change to General Commercial (GC).

Councilmember Bergman made a motion to approve the final recommendation of the Zoning Commission for property rezone of 819 acres, being known as Peter Ornie, Abstrat 326; Thomas Devers Survey, Abstract 790 (M) and 169 (L); Pressley Gill, A-230, L.A. Halphen, Abstract 680 (M) and Abstract 854 (L) from zoning district R-1 Residential District to General Commercial (GC) and to approve the Ordinance amending the City's Comprehensive Plan and Zoning Map to reflect this reclassification.

Councilmember Terrell stated that 819 acres is a lot for general commercial and he would prefer to know what is going in there. Councilmember Bergman stated that we are allowing other uses for the property. The intention was for a racetrack before and now this opens up other development opportunities that we can't turn down as it has the ability to possibly bring jobs to the City. Discussion on why the railroad will not reveal needs occurred.

Mayor Cohn arrived at 6:05 pm and took over presiding the meeting and received an update from City Manager McDonald. He stated that General Commercial would help the city more than residential as Cleveland is progressing. This should be a no-brainer for commercial property and less residential. The railroad has the power to condemn and the City has the power to condemn. We would have to agree before they go through with the process.

Councilmember Clay stated that given the Mayor's explanation she will second the motion by Councilmember Bergman to approve the final recommendation of the Zoning Commission.

Councilmember Bergman and Clay voted "AYE" and Councilmember Penry and Terrell voted "NAY". Mayor Cohn voted "AYE" to break the tie causing the motion to pass.

Assistant City Attorney Purnell asked Chairperson Payne to complete the remaining two items on their agenda and then they can adjourn their meeting.

Brent McWaters made a motion to approve the minutes for March 20 and July 9, 2018 as presented with a second from Carolyn McWaters. All members present voted "AYE". Motion carried.

Brent McWaters made a motion to adjourn the Zoning Commission Meeting with a second from Carolyn McWaters. All members present voted "AYE". Motion carried. Meeting adjourned at 6:05 pm.

The scheduled 5:30 pm Special Called City Council Meeting with Executive Session agenda item occurred next.

Executive Session

- 1. Closed Executive Session under Texas Government Code 551.071 for Consultation with Attorney, specifically to discuss pending or contemplated litigation concerning the possible relocation of the Carroll and Jennings family cemetery plots, and to discuss matters in which the duty of the City Attorney requires to be discussed in executive session under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas. This Executive Session to consult the City's attorney will be conducted via telephone conference call, as authorized under Section 551.129 of the Texas Government Code.**
- 2. Closed Executive Session under Texas Local Government Code 551.072 to deliberate the purchase, exchange, lease or value of real property**

Mayor Cohn read the agenda item and council left for closed executive session at 6:05 pm. The City Attorney consult did not occur via telephone conference call since Assistant City Attorney Purnell was present, she provided the consulting.

Open Session

- 3. Return to open session and take action on items from Executive Session, specifically the possible settlement of the Carroll and Jennings family cemetery plot matter, if needed.**

Council returned to open session at 6:42 pm with no action being taken.

Adjourn

Councilmember Bergman made a motion to adjourn with a second from Councilmember Clay.
Meeting adjourned at 6:42 pm.

PASSED AND APPROVED this 21st day of August 2018.

ATTEST:

Angela Smith, City Secretary