

**Vestavia Hills  
City Council Agenda  
May 8, 2017  
6:00 PM**

1. Call to Order
2. Roll Call
3. Invocation – Mark Hogewood, President, Vestavia Hills Board of Education
4. Pledge Of Allegiance
5. Announcements and Guest Recognition
6. City Manager’s Report
7. Councilors’ Reports
8. Proclamation – World Neurofibromatosis Awareness Day
9. Proclamation – Steve Gaydosh Day – May 13, 2017
10. Presentation – National Senior Games – David Knight – June 2-15, 2017
11. Presentation – David Barber, Prescott House
12. Approval of Minutes –April 17, 2017 (Special Work Session), April 17, 2017 (Regular Work Session), April 21, 2017 (Special Work Session) and April 24, 2017 (Regular Meeting)

**Old Business**

**New Business**

13. Resolution Number 4949 – A Resolution Authorizing The Settlement Of The Safe Routes To Schools Sidewalk Litigation

**New Business (Unanimous Consent Requested)**

**First Reading (No Action Taken At This Meeting)**

14. Ordinance Number 2707 - Conditional Use Approval – 4249 Paxton Place; Conditional Use for Home Occupation; Amber Nix, Owner
15. Citizen Comments
16. Motion For Adjournment

## **CITY OF VESTAVIA HILLS**

### **CITY COUNCIL**

### **MINUTES**

### **WORK SESSION**

**APRIL 17, 2017**

The City Council of Vestavia Hills met in a special work session on this date at 10:00 AM following posting/publication as required by Alabama law. The Mayor called the meeting to order and the roll with the following:

**MEMBERS PRESENT:**

Mayor Ashley C. Curry  
Kimberly Cook, Councilor  
Rusty Weaver, Mayor Pro-Tem  
Paul J. Head, Councilor

**MEMBERS ABSENT:**

George Pierce, Councilor

**OTHER OFFICIALS PRESENT:**

Jeff Downes, City Manager  
Rebecca Leavings, City Clerk  
Brian Davis, Public Services Director  
Tommy Coggin, Community Spaces  
Committee Member

### **INTERVIEWS**

The Council interviewed companies who have applied to serve as project manager for the City's Community Spaces Program. The following companies submitted RFP's:

- Capital Program Management; Tim Coker
- Brailsford and Dunlavey; Rebecca Geraghty and Ryan Conway
- Hoar Program Management; Mike Lanier, and Jason Abernathy
- Robins and Morton; Phil Yance and Richard Nelson
- TCU Consulting; Ken Upchurch

There being no further discussion, work session adjourned at 3:15 PM.

Ashley C. Curry  
Mayor

ATTESTED BY:

Rebecca Leavings  
City Clerk

## **CITY OF VESTAVIA HILLS**

### **CITY COUNCIL**

### **MINUTES**

### **WORK SESSION**

**APRIL 17, 2017**

The City Council of Vestavia Hills met in a regular work session on this date at 6:00 PM following posting/publication as required by Alabama law. The Mayor called the meeting to order and the roll with the following:

**MEMBERS PRESENT:**

Mayor Ashley C. Curry  
Kimberly Cook, Councilor  
Rusty Weaver, Mayor Pro-Tem  
Paul J. Head, Councilor  
George Pierce, Councilor

**OTHER OFFICIALS PRESENT:**

Jeff Downes, City Manager  
Patrick Boone, City Attorney  
Rebecca Leavings, City Clerk  
Brian Davis, Public Services Director  
Christopher Brady, City Engineer  
Dan Rary, Police Chief  
Jim St. John, Fire Chief  
Terry Ray, Asst. Fire Chief  
Jason Hardin, Police Captain  
Kevin York, Police Captain  
Melvin Turner, Finance Director

### **INTERVIEWS**

The Mayor called the work session to order and introduced Trenton Turner, Turner Food Service. Mr. Turner addressed the Council relative to his upcoming request for a license to sell beer at the annual Wing Ding celebration to be held at City Hall in a few weeks. He explained what they are planning to request and answered questions from the Council.

**EXECUTIVE SESSION**

The Mayor stated that the Council needed to go into Executive Session for an estimated 20 minutes to discuss existing/pending litigation. He indicated that Mr. Boone and Bent Owens are present for the session. He opened the floor for a motion.

**MOTION** Motion to move into executive session for an estimated 20 minutes was by Mrs. Cook and 2<sup>nd</sup> was by Mr. Weaver. Roll call vote as follows:  
Mrs. Cook -- yes                      Mr. Head – yes  
Mr. Pierce – yes                      Mr. Weaver – yes  
Mayor Curry – yes                      Motion carried.

At 6:10 PM, the Council moved into Executive Session. At 6:40 PM, the Council exited Executive Session and the Mayor called the meeting back to order.

Mrs. Cook updated the Council on the report from Corporate Strategies to the Board of Education and initiated a discussion of the Helena Water Conservation Ordinance. Mr. Brady discussed the City’s efforts to develop municipal separate storm sewer system (MS4) permit regulations, including a draft ordinance for compliance with these requirements that is in effect through the end of April. MS4 requirements are more stringent and require more frequent inspections. Mr. Brady mentioned the need for an additional engineering tech to keep up with the increased workload.

Mr. Downes gave an update on the inspections of the Gold’s Gym facility and indicated these should be complete by the first week of May. He stated that all problems discussed at the Council meeting were relayed to the inspectors.

Mr. Turner and Mr. Downes discussed the dissolution of the Regional Jail Authority and the need to go ahead and release the funds.

Mr. Downes stated the City is working on a draft ordinance and negotiation of franchise fees for the micro-cellular technology, previously discussed.

Mr. Pierce expressed growing frustration with the garbage services provided by Republic.

There being no further discussion, work session adjourned at 7:30 PM.

Ashley C. Curry  
Mayor

ATTESTED BY:

Rebecca Leavings  
City Clerk

# CITY OF VESTAVIA HILLS

## CITY COUNCIL

### MINUTES

### WORK SESSION

**APRIL 21, 2017**

The City Council of Vestavia Hills met in a special work session on this date at 9:00 AM following posting/publication as required by Alabama law. The Mayor called the meeting to order and the roll with the following:

**MEMBERS PRESENT:**

Mayor Ashley C. Curry  
Kimberly Cook, Councilor  
Rusty Weaver, Mayor Pro-Tem  
Paul J. Head, Councilor  
George Pierce, Councilor

### INTERVIEWS

The Council interviewed the following applicants for the Vestavia Hills Board of Education:

- Steve Bendall
- Patrick Dewees
- Ty Dedmon

Two other applications were received but the applicants were unable to make a personal interview because of prior commitments: John Henley and Robert Belcher.

The Council discussed applicant qualifications and observations from the interviews.

There being no further discussion, work session adjourned at 12:15 PM.

Ashley C. Curry  
Mayor

ATTESTED BY:

Rebecca Leavings  
City Clerk



## **CITY OF VESTAVIA HILLS**

### **CITY COUNCIL**

### **MINUTES**

**APRIL 24, 2017**

The City Council of Vestavia Hills met in regular session on this date at 6:00 PM. The Mayor called the meeting to order and the City Clerk called the roll with the following:

**MEMBERS PRESENT:**

Mayor Ashley C. Curry  
Kimberly Cook, Councilor  
Paul Head, Councilor  
George Pierce, Councilor  
Rusty Weaver, Mayor Pro-Tem

**OTHER OFFICIALS PRESENT:**

Jeff Downes, City Manager  
Patrick Boone, City Attorney  
Rebecca Leavings, City Clerk  
Jason Hardin, Police Captain  
Kevin York, Police Captain  
Jim St. John, Fire Chief  
Marvin Green, Deputy Fire Chief  
Terry Ray, Deputy Fire Chief  
Melvin Turner, Finance Director  
George Sawaya, Asst. Treasurer  
Brian Davis, Public Services Director  
Christopher Brady, City Engineer  
Lori Beth Kearley, Assistant City Engineer

Invocation was given by Sam Williamson, Associate Pastor, Canterbury United Methodist Church, followed by the Pledge of Allegiance.

### **ANNOUNCEMENTS, GUEST RECOGNITION**

- Mayor Curry announced that Councilor Weaver could not be present tonight because of a death in the family.
- Linda Parker and James Robinson both members of the Chamber of Commerce Board and Karen Odle, President of the Chamber.
- Mrs. Cook welcomed Deloye Burrell, Planning and Zoning Commission member along with Cinnamon McCulley, the City's new Communications Specialist.

- Mr. Weaver stated that the Boys Varsity baseball team qualified for playoffs and will be in Sparkman on Friday night.

### **CITY MANAGER'S REPORT**

- Mr. Downes announced that Fire Chief Jim St. John will begin his retirement on May 1, 2017. He stated tonight is his last night to be physically here in the office and the last Council meeting he will attend. Mr. Downes stated that Chief St. John is faithful to lifelong learning and self-improvement. He highlighted Chief St. John's career at Vestavia Hills including a brief period as Acting City Manager. He presented a plaque to Chief St. John expressing gratitude for his years with the City.
  - Chief St. John thanked Mr. Downes, the Mayor and City Council for allowing him to serve the City for so many years. He stated he was humbled to lead his department and to serve the community. He introduced his two daughters, Jessica and Allison who were in the audience. He indicated that this Council has been a pleasure to work with and he appreciated their support.
- Mr. Downes introduced Cinnamon McCulley who began work today as the City's Communications Specialist.
- Mr. Downes asked Brian Davis to update the Council on several issues.
  - Brian Davis stated that there will be a ribbon cutting on May 1 for the new Meadowlawn Park along with a lunch at the Heights Village. He thanked everyone that has made this a possibility.
  - The Community Foundation is planning a movie night on May 12 (May 19, in case of rain).
  - Phase II SHAC is close to being ready and an opening event will be held on May 18, from 4-6 PM.
- Mr. Downes stated there were conversations at the last work session regarding the Wing Ding, which will be held for the second year in a row here at City Hall. Donnie Winningham, Leadership Vestavia Hills, briefed the Council on the Wing Dings celebration.
  - Mr. Winningham indicated that this is the sixth year for Wing Ding, which was primarily designed to be a community event and bring people to the City. When the City Hall facility was built, there were discussions to bring it to City Hall. This year the celebration is scheduled for May 20 and they have looked into service of beer at this event, provided through the City's contracted concessions provider, Turner Food Systems. Prior years, Mugshots sold alcoholic beverages to people attending the event. He stated he was there to answer any questions related to the plan to sell these beverages. Proceeds from the event will go to benefit the Cystic Fibrosis Foundation. Discussion ensued as to whether or not the beer sales would increase the proceeds, the vendor's strategy to prohibit sales to minors through the utilization of wristbands for anyone of age, and controlled access to and from the event.

- Mr. Downes stated that Jerry Stignani and Carlos Guerrero were present to answer questions about Republic's services, primarily debris pickup.
  - Mr. Stignani indicated that they are employing extra employees on Saturdays and during the next couple of days to catch up on debris collection around the City. He stated that supervisors will ride through the City to ensure pickup of debris. They have just gained access to the City's Action Center and will be responding directly to complaints. Mr. Pierce stated he is extremely dissatisfied with their services and that bagged leaves and debris are not being picked up in many areas of the City. He asked them to be proactive each year, knowing that Easter and spring clean-up is coming. Discussion ensued as to waste collection guidelines, such as, if a contractor takes down a tree, the contractor should haul it off and whether or not action request responses are communicated to the resident. The Mayor stated he has received emails and has forwarded them to Mr. Davis to have them resolved and that he has seen some improvement in response.

### **COUNCILOR REPORTS**

- Mrs. Cook welcomed Nancy Corona, Board of Education, to the meeting.
- Mrs. Cook announced a Board of Education meeting this Wednesday at 6 PM. She stated that the agenda is posted on the Board's website along with supporting documents. She said that the agenda indicates the superintendent will make a facilities recommendation to the Board at that meeting.
- Mr. Pierce stated that the Chamber's Board meeting was last Thursday. He announced that at noon, April 26, 2017, the Chamber will host an internet security workshop; May 15<sup>th</sup> will be a new member orientation in the Chamber office and June 8 is a ribbon cutting at the Cahaba Ridge Retirement Community.
- Mr. Head thanked Mike Hill for taking care of the playing fields through the weekend under difficult conditions.
- The Mayor stated several April events were held:
  - Art in the Hills, Saturday, April 15 hosted by the Beautification Board and featured over 30 artisans.
  - The annual Mayor's Prayer Breakfast was held last Tuesday, with keynote speaker Edie Hand and other inspirational speakers. He commended the Chamber of Commerce for hosting this event.
  - The First Responders Celebration was held last Saturday and was a wonderful event. He thanked the Sunrise Rotary Club for hosting this event. Mayor Curry stated that the public sometimes takes these first responders for granted for the services they provide for this community. He gave a special thank you to all these individuals.
  - The Mayor's Soccer Cup was held last Saturday morning with a packed crowd. He indicated the high point of the event was the recognition of 22 high school students from the Vestavia Hills Soccer Club, who received

scholarships. He thanked the volunteers of the Soccer Club for hosting this event.

- The Belles Presentation was held on Sunday afternoon at the Vestavia Country Club, hosted by the Beautification Board. This honored the existing as well as new and graduating Belles.

### **PROCLAMATION**

The Mayor presented a proclamation designating the week of May 7-13, 2017, as “Municipal Clerk’s Week” in honor of municipal clerks in all municipalities. Mr. Downes read the proclamation aloud and the Mayor presented it to City Clerk Rebecca Leavings. The Mayor stated that the Clerk handles many duties within the City and “has no end of patience.”

### **PRESENTATION**

Joan Wright, Childcare Resources, thanked the Mayor and Council for their financial support of their organization and asked for continued support. She stated that she submitted the annual reports of their foundation to the Council to show the use of the funding.

### **FINANCIAL REPORTS**

Mr. Turner, Finance Director, presented the financial reports for the month ending March 2017. He read and explained the balances and answered any questions of the Council.

Mr. Pierce noted sales tax collections were down. Mr. Turner stated that year-to-date collections are up, despite this slower month.

### **APPROVAL OF MINUTES**

The minutes of the April 10, 2017 (Regular Meeting) were presented for approval:

**MOTION** Motion to dispense with the reading of the minutes of March 13, 2017 (Work Session), March 20, 2017 (Work Session) and approve them as presented was by Mrs. Cook and second by Mr. Pierce. Roll call vote as follows:

Mrs. Cook – yes

Mr. Head – yes

Mr. Pierce – yes

Mr. Weaver – abstained

Mayor Curry – yes

Motion carried.

**OLD BUSINESS**

**RESOLUTION NUMBER 4942**

**Resolution Number 4942 – Annexation – 90-Day – 3308 Misty Lane; Lot 1, The Woods At Rocky Ridge; Will And Jill Smith, Owners (public hearing)**

**MOTION** Motion to approve Resolution Number 4942 was by Mr. Pierce and second was by Mr. Weaver.

Will and Jill Smith were present in regard to this request.

Mr. Pierce gave the annexation report from the Annexation Committee. He noted that the Committee was concerned about notes from the City Engineer concerning turn-around emergency services access and a wall encroaching into the right-of-way.

Mr. Brady stated that, at the time of his report, he was unaware that the City was serving a property at the end of the roadway and later learned that the fire apparatus does have the ability to turnaround; however, the roadway might need to be improved later. He stated there is a small stormwater drainage pipe in this location that would need further review.

Mr. Weaver asked if this property is located near other City properties.

Discussion ensued as to the shape of the drainage pipe in the right-of-way and no drainage swales on the property. Mr. Brady stated that eventually there needs to be some method of drainage, but that would require removal of trees. Mr. and Mrs. Smith agreed to allow the City to make changes to their property's gate, should the roadway be widened. Mr. Brady stated that, if that happens and the wall is required to be removed, this would be at the homeowner's expense. Mr. Smith stated that if the City/County decides to widen the road, they would bear the expense of relocating the wall/gate encroachment.

The Mayor opened the floor for a public hearing. There being no one to address the Council, the Mayor closed the public hearing and called for the question.

Mrs. Cook – yes	Mr. Head – yes
Mr. Pierce – yes	Mr. Weaver – yes
Mayor Curry – yes	Motion carried.

**ORDINANCE NUMBER 2706**

**Ordinance Number 2706 - Annexation – Overnight – 3308 Misty Lane; Lot 1, The Woods At Rocky Ridge; Will And Jill Smith, Owners (*public hearing*)**

**MOTION** Motion to approve Ordinance Number 2706 was by Mr. Pierce and second was by Mr. Weaver.

Mayor stated that this is the overnight annexation of the same property.

Ms. Leavings explained the process of 90-day versus overnight annexations.

The Mayor opened the floor for a public hearing. There being no one to address the Council, the Mayor closed the public hearing and called for the question.

Mrs. Cook – yes	Mr. Head – yes
Mr. Pierce – yes	Mr. Weaver – yes
Mayor Curry – yes	Motion carried.

**ORDINANCE NUMBER 2703**

**Ordinance Number 2703 – An Ordinance Approving Conditional Use Approval For A Home Occupation For Property Located At 4648 Jackson Loop, Lot 1041, Heritage Hills, Phase III, Sector 2; Tammy Williamson, Owner. The Property Is Currently Zoned Vestavia Hills PUD PR-1 (*public hearing*)**

**MOTION** Motion to approve Ordinance Number 2703 was by Mrs. Cook and second was by Mr. Pierce.

Mr. Downes explained this Ordinance is a request for a home occupation for a home located in Liberty Park. The Planning and Zoning Commission gave a unanimous recommendation for approval along with a recommendation from LPJV based upon information provided by the applicant.

Tammy Williamson was not present for the meeting.

The Mayor opened the floor for a public hearing. There being no one to address the Council, the Mayor closed the public hearing and called for the question.

Mrs. Cook – yes	Mr. Head – yes
Mr. Pierce – yes	Mr. Weaver – yes
Mayor Curry – yes	Motion carried.

**ORDINANCE NUMBER 2704**

**Ordinance Number 2704 – Rezoning – 3111 And 3115 Timberlake Road; Rezone From Vestavia Hills R-1 (Residential District) To Vestavia Hills O-1 (Office District); Eiffel Partners, LLC, Owners (public hearing)**

**MOTION** Motion to approve Ordinance Number 2704 was by Mrs. Cook and second was by Mr. Head.

Mr. Downes explained this Ordinance is a request for zoning to construct an office building. He read the conditions written in the Ordinance at the recommendation of the Planning and Zoning Commission.

No one from Eiffel Partners was present in regard to this request.

The Mayor opened the floor for a public hearing. There being no one to address the Council, the Mayor closed the public hearing and called for the question.

Mrs. Cook – yes	Mr. Head – yes
Mr. Pierce – yes	Mr. Weaver – yes
Mayor Curry – yes	Motion carried.

**ORDINANCE NUMBER 2705**

**Ordinance Number 2705 – Rezoning – 3700 Cahaba Heights Road; Rezone From Vestavia Hills B-3 (Business District With Conditions) To Vestavia Hills R-9 (Planned Residential District); Black Box Management, LLC, Owners (public hearing)**

**MOTION** Motion to approve Ordinance Number 2705 was by Mr. Pierce and second was by Mr. Head.

Mr. Downes explained that this Ordinance is a request to rezone property once zoned for a “River Centre” development to a planned residential neighborhood. He indicated that this request comes to the Council with a negative recommendation because of a 5 (yes) to 1 (no) vote. The Ordinance contains certain conditions. Mr. Downes read the recommendations.

Mr. Weaver stated that the law mandates six affirmative votes to positively recommend a project. That particular night, there were only six members present and one member voted “no” to the project. He explained that he would have been the seventh member but was held up in traffic traveling back from South Alabama and missed the meeting. He indicated that the City Council will hear this request “*de novo*” (meaning “all anew”) and consider the recommendation of the Planning and Zoning Commission.

Brooks Harris, developer and applicant, stated they are currently developing two subdivisions within the City, Steelmonte and Altadena Ridge. This request is a

downzoning from B-3 (commercial) to R-9 (planned residential subdivision), a more restrictive zoning. He indicated they have taken some time to ensure that engineering has considered all sensitivities of development of this property.

David Stovall, Engineering Design Group, explained the design work done for this project. He stated that the purpose of the R-9 zoning ties the zoning to the site plan and design. They have met with the Cahaba River Society and later, with Cahaba Riverkeepers and have tried to answer all of their questions regarding stormwater quality and the wastewater treatment system. He pointed out there is a hill that separates this development from the interstate, which serves as a sound buffer.

Wynn Echols, described a cluster on-site wastewater treatment system, that will only serve this subdivision. This will be permitted by Jefferson County and will be in keeping with the regulations from the Health Department, the Birmingham Water Works and ADEM. Each home will have a septic system with a pump to pump the wastewater to a treatment facility; later to be pumped to a spray field. A management company, as yet to be identified, will manage, maintain and operate the system. The Public Service Commission will approve and regulate the management company. The facility will be manned by a certified officer and will have emergency stand-by power.

Discussion ensued regarding wastewater treatment and stormwater management concerns. The City Engineer explained MS4 stormwater regulations and how those would provide protections for the nearby river from contamination. Mr. Pierce asked, whether there are other locations with this type of facility and the City Engineer answered he had toured a similar facility in Trussville. The City Engineer and Mr. Echols, the applicant's engineer, explained how residents are billed. Rates are regulated by the Public Service Commission. Maintenance of the individuals' septic system would be the responsibility of the property owner until it hits the treatment tank. The tank and pump are the responsibility of the management company. The distance between the treatment system and the river would be approximately 1,000 feet. The City Engineer answered questions about the proximity of the effluent materials and the proposed treatment facility to the nearest proposed house. The treatment facility (tank) is 16' by 24' steel structure on a concrete pad, which is watertight and built to strict design standards. The effluent from the tank would be wastewater treated to high degree of quality. The system will be tested multiple times before it is put into use. The system was compared to Liberty Park's effluent sprayfields, in that the treatment process will be similar; however, Liberty Park's system is different because it discharges effluent through spray and Helen Ridge will utilize drip irrigation lines, which are pressurized septic field lines buried in the ground.

Mr. Weaver asked what would happen in the event of a system failure. Would there be a risk of runoff into the river?

Mr. Echols stated that this system would include redundant features for all critical components. He said, in a septic system with a pump, the most likely failure would be at



the pump. If that happens, an alarm will sound in the home. The septic tank will have plenty of excess storage to allow time for repair of the pump. The system consists of a series of tanks that provide excess storage capacity if a failure occurs and until repairs are done.

Mrs. Cook asked if another system has ever been installed this close to the river.

Mr. Echols stated that they did an upgrade to Liberty Park's system, which is fairly close to a natural water source, and he isn't aware of any failures.

Mr. Pierce asked about the proposed homes.

Mr. Harris showed depictions of homes they are building in Steelemont, similar to what they plan for this development, which they are calling Helen Ridge. He described there are various floorplans, 48 total proposed homes, each with a price point of \$500,000. He stated they contacted the schools and that the superintendent recommends kids from this development be zoned for Liberty Park. Based on a demographer's projections for a similar subdivision in the City, Steelemont, these homes are projected to yield 0.8 children per residential unit. Based upon that and Dr. Phillips statement that these students would be zoned for Liberty Park, they feel the development would have minimum impact on the schools.

Mr. Weaver asked about the build-out time.

Mr. Harris stated they anticipate residents occupying the homes in 2018.

Mr. Pierce asked about the number of children in Pumphouse Village. He asked about traffic safety on Cahaba Heights Road. He stated that he is concerned about a residential development of this type causing overcrowding in the school system. He stated that when he was first approached about this development, he suggested a retirement community to the builder.

Mr. Harris stated they considered the suggestion but, with the price point of the homes, the development would not be ideal for retirement housing. He stated that, for the homes they are building now, only approximately 30% are empty-nesters.

Mrs. Cook stated that the demographers report showed the average yield in Liberty Park is 0.7, but the demographer's data showed Steelemont's yield was higher, so using a 0.8 yield is consistent with the demographer's projections.

Mr. Head asked about the allowed uses in a B-3 zoning. Mr. Downes explained the potential B-3 commercial uses and the site limitations based upon the filled areas and challenging terrain.

Mr. Weaver stated if this is not approved, a future development proposal might be far riskier. Mrs. Cook pointed out that larger parking lots in this area wouldn't be as environmentally friendly as this development.

Mrs. Cook stated that, when the demographers did their projections for the school system, they did take this subdivision into account, so she has confidence in the numbers and that the school system is making adequate plans to accommodate these additional students.

Mr. Harris stated there is land that extends toward the river that they plan to dedicate ~5 acres to the Freshwater Land Trust, which would constitute a 30% increase in their property holdings in this area. He pointed out, on the map, the area that would be dedicated, should this subdivision be approved. There is also additional property that will be offered for dedication to the City, which totals about 16 +/- acres and access to these properties is provided.

Mr. Weaver asked about the donations of the property to the City. Since it is not written into the Ordinance, it would need to be addressed.

Mr. Boone stated dedication of the additional land cannot be a part of the posted ordinance, but that it could be accomplished through a separate letter of intent.

Mrs. Cook asked about the access to the property and if the connection to Cahaba Beach Road would affect this.

Mr. Brady explained that the access would have to be determined as they work the property.

Mr. Downes stated that Cahaba Beach Road would have no direct access to this.

Mrs. Cook asked about accidents along Cahaba Heights Road.

Mr. Brady stated that the city conducted a traffic study, which recommends the installation of a turning lane. Based upon the traffic study, the Planning and Zoning Commission's recommendations and accident history information, the City recommends the installation of that turn lane. Mr. Brady reported there have been 16 accidents, over the last 3 years, at the location of the entrance to the proposed subdivision.

Mike Brown, Bradley Arant, explained the public access to the properties beyond.

Mrs. Cook asked Mr. Brady who would be responsible for installation of traffic safety controls and signage as well as removal of vegetation to increase line of sight.

Mr. Brady stated that the signage costs could be comingled, but the removal of vegetation would be the responsibility of the developer. He explained the permitting

process, which would ensure that all plans are done in accordance with discussions tonight.

The Mayor stated that he has contacted Dr. Phillips and her feeling was, with this being zoned Liberty Park, she didn't have a problem with the development. He stated that it is important to remember that adding 48 half-million dollar homes produces a good bit of ad valorem revenue to go to the school system.

The Mayor opened the floor for a public hearing.

Deloye Burrell, 1373 Farrington Wood Way, stated he was the lone negative vote and explained why he voted the way he did. He stated that the explanation for the sanitary sewer system was better here than at the Commission meeting. He stated that the technology of the wastewater treatment appears to work and he withdraws his objection. He stated there are others to address the environmental concerns. The one huge objection to this subdivision is traffic on Cahaba Heights Road, where cars leave the roadway time and time again. He stated he is not convinced that the safety issue will go away with just the installation of a turn lane.

Peggy Gargis, 3931 South River Circle, reiterated Mr. Burrell's point of the traffic problems on this road, especially in this area. She indicated she believes that this issue should be tabled, but thanked the developer for meeting with the Cahaba Riverkeepers and providing more information than was presented to the Planning and Zoning Commission. (Mrs. Gargis asked that her comments be attached to the record, see "Exhibit A".)

Mr. Weaver asked if this area is already covered with impervious soils because of the construction of the interstate.

Mrs. Gargis admitted that she doesn't know what that property was used for; but, the forestation surrounding it has protected the watershed.

Jana Owens, Environmental Scientist from SWMA, stated her watershed work was with the Cahaba. She stated there are other concerns that are not covered with the MS4 regulations. She stated that the BWWB adopted a watershed policy for the Cahaba River and Lake Purdy, which requires extra care and disallowed development in the vicinity of the pump house. She stated she has met with these developers and this project has been done with due diligence, but they do have to be mindful of development going forward.

Mr. Head asked her opinion about their projections for this development and does their design work?

Ms. Owens stated she has a lot of questions for the BWWB because of the age of their studies and recommendations. She stated that she covered this topic in her doctoral

dissertation. She explained her thoughts on the project, but said she is not a wastewater engineer.

Celia Anthony, 3611 Whetstone Road, asked about issues of buffer zones and recommended the City specify whether or not the buffer zone is to be left undisturbed or replanted.

David Butler, 3563 Wisteria Drive, stated he is a member of the Cahaba Riverkeeper and recommended more stringent inspections because there have been complaints from adjacent neighbors of the Steelemont development as well as the one in Trussville. Stormwater regulations do not address the impact of development along stream banks, which is the City's responsibility. He asked, as the development moves forward, that the City pay particular attention to stormwater detention systems, both pre- and post-construction.

Mr. Harris stated that they are a builder in the Trussville development, but that they are not the developer responsible for the stormwater runoff system, which Mr. Butler said was insufficient.

Mike Brown, Bradley Arant, described the impact of ad valorem taxes, the sales tax revenues, etc. He stated that the current zoning of the property is B-3 which is a commercial zoning by right. This rezoning is a request with a submitted plan that gives the City controls they might not otherwise have.

There being no one to address the Council, the Mayor closed the public hearing and called for the question.

Mrs. Cook – yes

Mr. Head – yes

Mr. Pierce – no

Mr. Weaver – yes

Mayor Curry – yes

Motion carried.

The Mayor adjourned the meeting for a 10-minute recess. At 8:45, the Mayor called the meeting back to order and resumed the meeting.

### **RESOLUTION NUMBER 4943**

**Resolution Number 4943 – A Resolution Authorizing The Mayor And City Manager To Execute And Deliver An Agreement With The Regional Planning Commission Of Greater Birmingham For An APPLE Project To Study And Further Develop Improvement Plans For A Section Of Crosshaven Drive From Cahaba Heights Road To Overton Road (public hearing)**

**MOTION** Motion to approve Resolution Number 4943 was by Mrs. Cook and second was by Mr. Weaver.

Mr. Downes explained that this is a grant opportunity totaling \$60,000 to do a feasibility study for widening of Crosshaven Drive. The \$60,000 includes a 20% local match.

Mike Kaczorowski, RPCGB, stated that the program is called APPLE and the purpose of the program is to allow municipalities to do engineering work. He described the parameters of the project and the team that will be involved in the study.

Mr. Pierce asked about a timeline.

Mr. Kaczorowski stated they study will begin as soon as possible.

The Mayor opened the floor for a public hearing. There being no one to address the Council, the Mayor closed the public hearing and called for the question.

Mrs. Cook – yes

Mr. Head – yes

Mr. Pierce – yes

Mr. Weaver – yes

Mayor Curry – yes

Motion carried.

## **NEW BUSINESS**

### **RESOLUTION NUMBER 4938**

**Resolution Number 4938 – Liquor License – New Season LLC D/B/A Texas Taco Grill For The On-Premise Sale Of Restaurant Retail Liquor; Denis Jerome Gavlik And Larry Maddox Beasley, Jr, Executives (public hearing)**

**MOTION** Motion to approve Resolution Number 4938 was by Mr. Pierce and second was by Mr. Weaver.

Mr. Downes stated that this was presented at the last Council meeting and, for this particular license, the police marked it as “needing further review.” This was voted upon at the previous meeting with a tie vote. The owner has requested a reconsideration of the petition.

Max Beasley, manager partner, stated that the restaurant opened up recently and this application is for an alcohol license for beer, wine and a frozen margarita machine.

Mr. Pierce asked if anything had changed from when this was heard before. The owner said nothing had changed.

The Mayor clarified the actual charges when adjudicated.

Mr. Head asked about safeguards if there is a future problem with the vendor.

Chief Rary stated, if there are problems, the ABC Board can be petitioned to remove the license.

The Mayor opened the floor for a public hearing. There being no one to address the Council, the Mayor closed the public hearing and called for the question.

Mrs. Cook – no	Mr. Head – yes
Mr. Pierce – no	Mr. Weaver – yes
Mayor Curry – yes	Motion carried.

#### **RESOLUTION NUMBER 4944**

**Resolution Number 4944 - Alcohol License – Edward Scott LLC D/B/A Snapper Grabbers For A 040 – Retail Beer (On- Or Off-Premises) And A 060 – Retail Table Wine (On- Or Off-Premises); Pamela Jo Scott And Edward Kent Scott, Executives (NOTE: This Changes This Vendor From Sale Of Wine Only To Also Allow Sale Of Beer) (Public Hearing)**

**MOTION** Motion to approve Resolution Number 4944 was by Mr. Pierce and second was by Mr. Weaver.

Mr. Downes explained that this is an expansion from wine only to both beer and wine.

Mr. and Mrs. Scott were present in regard to this request.

Ms. Leavings explained they currently have a wine license and this license request allows them to sell beer, also.

The Mayor opened the floor for a public hearing. There being no one to address the Council, the Mayor closed the public hearing and called for the question.

Mrs. Cook – yes	Mr. Head – yes
Mr. Pierce – yes	Mr. Weaver – yes
Mayor Curry – yes	Motion carried.

#### **RESOLUTION NUMBER 4945**

**Resolution Number 4944 - Alcohol License – Crawfish Boil (Public Hearing)**

**MOTION** Motion to approve Resolution Number 4944 was by Mrs. Cook and second was by Mr. Head.

Mr. Downes explained that this is the third annual crawfish boil. The owner has a license; this is outside and it requires a special event license.

Killen Duran, general manager, was present in regard to this request. He explained that they do this every year without a problem.

Mrs. Cook asked about provisions for keeping the alcohol on premise and what is used to keep minors from being served or to prevent over-service of patrons. Mr. Duran stated that he carefully monitors the service and that the event is secured with appropriate barriers.

The Mayor opened the floor for a public hearing. There being no one to address the Council, the Mayor closed the public hearing and called for the question.

Mrs. Cook – yes	Mr. Head – yes
Mr. Pierce – yes	Mr. Weaver – yes
Mayor Curry – yes	Motion carried.

#### **RESOLUTION NUMBER 4946**

**Resolution Number 4946 – A Resolution Rescinding Resolution Number 3721 And Providing For The Annual Participation Of The City Of Vestavia Hills In The Back To School Sales Tax Holiday As Authorized By 40-23-210 Through 40-23-213, Code Of Alabama, 1975**

**MOTION** Motion to approve Resolution Number 4946 was by Mrs. Cook and second was by Mr. Weaver.

Mr. Downes explained that the legislature moved the dates of the back to school sales tax holiday weekend. This updates the ordinance to allow the change of dates.

There being no one to address the Council, the Mayor closed the public hearing and called for the question.

Mrs. Cook – yes	Mr. Head – yes
Mr. Pierce – yes	Mr. Weaver – yes
Mayor Curry – yes	Motion carried.

#### **RESOLUTION NUMBER 4947**

**Resolution Number 4947 – Alcohol License – Turner Food Systems LLC D/B/A Wing Ding 2017; 140 – Special Events Retail – Parking Lot Of City Hall, 1032 Montgomery Highway; Donna Leigh And Trenton Turner Jr., Executives**

**MOTION** Motion to approve Resolution Number 4947 was by Mr. Pierce and second was by Mr. Weaver.

Mr. Downes stated this was discussed at the beginning of the meeting and would allow beer sales at the Wing Ding event. The vendor will purchase a special license, with the City and LVH being named as additional insureds, which requires the approval of the Council. This vendor is the current concessionaire for the City.

Trenton Turner answered questions of the Council concerning the event. He explained this allows the sale of canned beer and that access to the serving and consumption area would be strictly controlled. ABC requires controlled access along with police presence.

Mrs. Cook stated that she had questioned various members of the community and they felt that LVH has handled this event well in the past, but someone suggested a wristband for designated drivers as a way to promote responsible consumption. She offered to provide wristbands for that purpose if LVH wanted to utilize this system.

Mr. Weaver clarified that this particular event is Wing Ding. He asked everyone not to confuse this with the First Responders Celebration on Saturday.

Mr. Downes stated that police protection is required at any event on City premises.

Mr. Pierce stated that they might consider moving the event into an entertainment district, to promote local businesses, as opposed to City Hall.

The Mayor opened the floor for a public hearing. There being no one to address the Council, the Mayor closed the public hearing and called for the question.

Mrs. Cook – yes

Mr. Head – yes

Mr. Pierce – yes

Mr. Weaver – yes

Mayor Curry – yes

Motion carried.

### **RESOLUTION NUMBER 4948**

#### **Resolution Number 4948 – Appointing A Member To The Vestavia Hills Board Of Education**

**MOTION** Motion to approve Resolution Number 4948 was by Mrs. Cook and second was by Mr. Weaver.

Mrs. Cook explained that the Council received five applications for the Board of Education. The Council personally interviewed three of the candidates. She thanked all who applied and noted that it is difficult to put yourself out there and prepare for the application and interview process. She stated that the selection process was adopted by Resolution. She stated she wants to select someone who will put students first, work collaboratively with the team and be analytical in their thinking.



Mr. Pierce stated he wanted someone who knows Vestavia Hills and what the City needs. He reminded everyone that these individuals represent the Council and that the Council holds the appointees accountable to represent the entire city.

Mayor Curry stated he feels the Council was satisfied in the quality of the candidates. Mr. Weaver echoed the comments of the other councilors and said that this decision was difficult.

**MOTION** Motion to amend Resolution Number 4948 to appoint Steve Bendall to the Board of Education was made by Mrs. Cook and second was by Mr. Weaver. Roll call vote as follows:

Mrs. Cook – yes	Mr. Head – yes
Mr. Pierce – yes	Mr. Weaver – yes
Mayor Curry – yes	Motion carried.

There being no one to address the Council the Mayor called for the question.

Mrs. Cook – yes	Mr. Head – yes
Mr. Pierce – yes	Mr. Weaver – yes
Mayor Curry – yes	Motion carried.

### **FIRST READING (NO ACTION TO BE TAKEN AT THIS MEETING)**

The Mayor stated that the following resolutions and/or ordinances will be presented at a public hearing at the Council's next regular meeting on May 8, 2017, at 6:00 PM.

- None

### **CITIZEN COMMENTS**

None.

At 9:10 PM, Mr. Head made a motion to adjourn, seconded by Mr. Weaver. The meeting adjourned at 9:11 PM.

Ashley C. Curry  
Mayor

ATTESTED BY:

Rebecca Leavings  
City Clerk

Exhibit "A"

Comments on Ordinance 2705, proposed Helen Ridge development at 3700 Cahaba Heights Rd.

Council Members,

Regarding the Helen Ridge development, I reiterate some of my concerns stated at the Planning & Zoning meeting about impervious cover, aka build-out, in the watershed. For reasons I will state below, I believe that this issue should **be tabled tonight and continued at a later date**, after more conversations with the Birmingham Water Works Board.

First, though, I would like to thank Engineering Design Group for meeting with Cahaba Riverkeeper's executive director Dr. Myra Crawford, Dr. Janna Owens, and me. We applaud them for their commitment to going the extra measure in their work and for being so forthcoming with us about their plan. That said, I submit that even with the best of engineering methods and the greatest of care, this site is too close to the river AND that the Birmingham Water Works Board should *never have sold the property* for development. At one of the first meetings of the Upper Cahaba Watershed Study, the Center for Watershed Protection scientist and author Tom Schueler gave a presentation on the consequences of impervious cover. At that presentation, I came to understand how forested land had been serving as our "free" water filtration systems and protecting Alabama's streams and lakes. Research has shown that the greater the percentage of forested land within a watershed, the lower the costs of cleaning this water to potable standards.

Schueler's and others' research has shown that the greater the percentage of impervious cover, the smaller the percentage of rainfall filtering into groundwater and the greater the velocity of water running off to the lowest level it seeks. That is, the higher proportion of developed land to forested or vegetated land, the more flooding, the more stream bank scouring, the more sediment and pollutant runoff into streams, and the greater the expense of filtering sediment from our drinking water. And then there are the costs of flood damage to structures and flood mitigation.

In my years in River Run, I have witnessed continuing stream bank erosion (and trees downed by flood waters and bank scouring) along the Cahaba River in my area, and I have seen my water bills increase more times than I can count.

As an example of the expense of filtering our drinking water, I offer this memory of a Birmingham Water Works Board meeting I attended in 2001 or 2002. Then-Assistant General Manager Randy Chafin requested a \$90 million filtration system for sediment. And that was for just ONE segment of the BWWB's Cahaba system.

At one of the Vestavia City Council meetings regarding the proposed (but never built) River Centre either on or near this site, I asked Mr. Chafin *why*

the BWWB would even consider selling its property so very close to the Cahaba's water intakes. His answer was that he couldn't advise his Board to turn down such an offer. Doesn't it seem ironic that the BWWB was (and still is) incurring such high costs to clean dirt from our drinking water while selling their own protective lands to be developed, which would result in more construction runoff and more impervious cover?

I propose that we wait until we can get more clarification from the BWWB before continuing with this decision.

I thank you for your consideration.

Peggy Gargis

3931 S. River Circle

Vestavia Hills, AL 35243

205-967-8254

**RESOLUTION NUMBER 4949**

**A RESOLUTION AUTHORIZING THE SETTLEMENT OF THE SAFE ROUTES TO SCHOOLS SIDEWALK LITIGATION**

**WHEREAS**, by Resolution Numbers 4206 and 4206A, the City of Vestavia Hills entered into two contracts with the State of Alabama through ALDOT involving the design and construction of sidewalks and crosswalks at various locations in the City colloquially known as the “Safe Routes to Schools” projects; and,

**WHEREAS**, the contract for project STPBH-CN10(908) (originally STPBH-CN06()) (“908”) was executed in or about October 2008 and the contract for project SRTS-SR09(914) (“914”) was executed in or about February 2009. 2008; and,

**WHEREAS**, the ALDOT projects STPBH-CN10(908) (Canyon and Merryvale Road Sidewalks) and SRTS-SR09(914) (Eastwood, Post Oak, and Willoughby Sidewalks) were performed by R.E. Grills Construction Co., Inc. and the contract for these project were directly with ALDOT, while the City is served as the local sponsor and was responsible for matching funds to go toward the construction; and,

**WHEREAS**, in 2013, despite the fact that portions of the projects remained incomplete, the City accepted the work performed by R.E. Grills; and,

**WHEREAS**, a dispute arose between R.E. Grills and ALDOT concerning a claim for delay damages caused by ALDOT exceeding Three Hundred Thousand Dollars (\$300,000); and,

**WHEREAS**, since ALDOT was immune from suit, R.E. Grills instead sued the City and others demanding additional compensation for these delay damages; and,

**WHEREAS**, in order to involve a protracted trial and the expenses attendant thereto, the parties have now reached an agreement to end the pending litigation of a doubtful and disputed claim against the City for which liability has been denied and vigorously contested, as well as to compromise, settle and release any and all claims made by R.E. Grills in the lawsuit against the City.

**NOW, THEREFORE BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF VESTAVIA HILLS, ALABAMA, AS FOLLOWS:**

1. The City of Vestavia Hills shall pay to R.E. Grills Construction Co., Inc. the sum of Forty Thousand Dollars (\$40,000.00) which represents a complete settlement and compromise of the disputed claim, and

2. The Vestavia Hills City Council authorizes the Mayor, City Clerk and Finance Director to execute the required documents and fund transfers in an amount not to exceed Forty Thousand Dollars (\$40,000.00) with said settlement and refund to be paid from the City of Vestavia Hill's General Fund, and

3. The City Attorney shall be authorized to execute the necessary documents and pleadings to effect a dismissal of all claims *with prejudice* and with costs taxed as paid and to secure a full and final release of all claims, and

4. This Resolution Number 4949 shall be effective immediately upon approval and adoption.

**ADOPTED and APPROVED** this 8<sup>th</sup> day of May, 2017.

Rusty Weaver  
Mayor Pro-Tem

ATTEST

Rebecca Leavings  
City Clerk

**Certification:**

I, the undersigned qualified City Clerk of the City of Vestavia Hills, Alabama, do hereby certify that the above and foregoing is a true copy of a resolution lawfully passed and adopted by the City Council of the City named herein, at a special called meeting of such Council held on the 8<sup>th</sup> day of May, 2017, and that such resolution is on file in the office of the City Clerk and that no action has been taken to rescind or modify said Resolution.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the City on this \_\_\_\_ day of May, 2017.

---

City Clerk

[SEAL]

**ORDINANCE NUMBER 2707**

**AN ORDINANCE GRANTING CONDITIONAL USE APPROVAL  
FOR A HOME OCCUPATION**

**WHEREAS**, on December 13, 2010, the City Council of the City of Vestavia Hills, Alabama, adopted and approved Ordinance Number 2331, also known as the City of Vestavia Hills Zoning Code; and

**WHEREAS**, on February 19, 2001 the City Council of the City of Vestavia Hills adopted and approved Ordinance Number 1864 to rezone 3,350 +/- acres from multiple Jefferson County and Vestavia Hills zoning classifications to Vestavia Hills P.U.D.; and

**WHEREAS**, Section 709.5.A.1.b of Ordinance Number 1838 classifies a “home occupation” permitted only as a “Conditional Use” and

**WHEREAS**, Amber Nix is the owner of the property located at 4249 Paxton Place, currently zoned Vestavia Hills PUD PR-1 (planned unit development planned residential district) more particularly described as Lot 445, Paxton Place, Sector One; and

**WHEREAS**, Amber Nix has submitted application for Conditional Use Approval for a home occupation to be operated in her residence located at 4249 Paxton Place, Vestavia Hills, Alabama located in the Liberty Park P.U.D.; and

**WHEREAS**, Amber Nix has indicated in her application for Conditional Use Approval that she will operate an office for her sign greeting business out of her home pursuant to the specifications of a home occupation; and

**WHEREAS**, a copy of said application dated March 8, 2017 is marked as Exhibit A, attached and hereby incorporated into this Ordinance Number 2707.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF  
THE CITY OF VESTAVIA HILLS, ALABAMA, AS FOLLOWS:**

1. Conditional Use Approval is hereby approved for Amber Nix for a home occupation as described in the above-referenced application for her residence located at 4249 Paxton Place, Vestavia Hills, Alabama located in Liberty Park P.U.D. subject to the provisions outlined in Article 9 of the Vestavia Hills Zoning Code outlined as follows:
  - a. “Home occupation is defined as any use customarily conducted entirely within a dwelling and carried on solely by the inhabitant thereof, and



- which use is clearly incidental, accessory, subordinate and secondary to the use of the dwelling for dwelling purposes, and does not change the character of the dwelling itself or any part of parcel of property in the neighborhood surrounding said dwelling; and
- b. Home occupations shall be conducted only in the main dwelling building on the lot. No more than twenty-five percent (25%) of the said dwelling may be used for a home occupation; and
  - c. There shall be no public display of goods and absolutely no commodities sold on the premises; and
  - d. No sign may be attached to the dwelling or any part of the real estate advertising any home occupation; and
  - e. No home occupation or profession shall be permitted if such occupation creates noise, odors, vibrations or traffic which interferes with the residential qualities of the neighborhood insofar as health, safety, morals, convenience and general welfare are concerned; and
  - f. In order to be a permitted home occupation or profession, the use must be one which is habitually, customarily and commonly established as a reasonable incidental, accessory, subordinate and secondary use; and
  - g. Operation of any and all other business of any nature in residential zones is expressly prohibited; and
  - h. The activity carried on as home occupation shall be limited to the hours between 7:00 AM and 10:00 PM; and
  - i. No home occupation shall be permitted that requires the operation or keeping on premises a commercial vehicle and no additional traffic shall be generated by said conditional use; and
  - j. No persons other than members of the family residing on the premises shall be employed by the home occupation; and
2. Conditional Use Approval is further conditioned upon and subject to all applicable private and restrictive covenants attached to the said property located in the Liberty Park P.U.D.

3. A City of Vestavia Hills Business License shall be issued upon application and payment by Amber Nix working subject to the rules and regulations outlined in the Vestavia Hills Business License Code and shall be renewed each year that the home occupation is operated from the said property located in the Liberty Park P.U.D.
4. At any time should Amber Nix vacate the premises located at 4249 Paxton Place, Vestavia Hills, Alabama, discontinue or relocate this business, this Conditional Use Approval shall be nullified and said Ordinance Number 2707 shall be automatically repealed.
5. This Ordinance Number 2707 shall become effective immediately upon adoption, approval and publishing/posting pursuant to Alabama law.

**DONE, ORDERED, ADOPTED and APPROVED** this the 22<sup>nd</sup> day of May, 2017.

Ashley C. Curry  
Mayor

ATTESTED BY:

Rebecca Leavings  
City Clerk

**CERTIFICATION:**

I, Rebecca Leavings, as City Clerk of the City of Vestavia Hills, Alabama, hereby certify that the above and foregoing copy of 1 (one) Ordinance # 2707 is a true and correct copy of such Ordinance that was duly adopted by the City Council of the City of Vestavia Hills on the 22<sup>nd</sup> day of May, 2017 as same appears in the official records of said City.

Posted at Vestavia Hills Municipal Center, Vestavia Library in the Forest, Vestavia Hills New Merkle House and Vestavia Hills Recreational Center this the \_\_\_\_\_ day of \_\_\_\_\_, 2017.

Rebecca Leavings  
City Clerk