

GREENWOOD CITY COUNCIL

February 28, 2005 - 6:28 p.m.

MINUTES

PRESENT

Mayor Nicholson; Council Members: Niki Hutto, Linda Edwards, Betty Boles, Herbert Vaughn, Johnny Williams, and Barbara Turnburke; City Manager; Assistant City Manager; City Clerk; City Attorney; Phil Lindler; and Wallace McBride from the Index-Journal.

MINUTES

Mayor Nicholson asked for a motion to approve the minutes of the City Council Public Hearing and Meeting on January 24, 2005, plus Executive Session on February 7, 2005.

Motion was made by Linda Edwards, seconded by Betty Boles, approving the minutes as presented.

The Mayor asked, "Is there any discussion or corrections? All in favor raise your right hand. So moved."

Motion was passed unanimously.

REPORTS

Mayor Nicholson asked for a motion to accept as information the reports from the City Manager for January 2005.

Motion to accept the reports as information was made by Johnny Williams, seconded by Herbert Vaughn.

The Mayor asked, "Is there any discussion or corrections? All in favor raise your right hand. So moved."

Motion passed unanimously.

CONSIDER

Ordinance
Amending
Official Zoning
Map (Ordinance
No. 04-020) by
Rezoning
Property Located
at 1411 and
1419 East Durst
Avenue from R3
(Single-Family
Residential) to
R4 (Single-
Family
Residential).

(2nd reading)

Under old business, Mayor Nicholson read the first item and asked for a motion.

Motion to approve the Ordinance was made by Niki Hutto, seconded by Linda Edwards.

"Is there any discussion? All in favor raise your right hand. So moved."

Motion passed unanimously.

- attach -

CONSIDER

Ordinance
Amending
Ordinance 03-
010, Zoning
Ordinance,
Chapter 3,
Zoning District
Regulations,
Section, 3.1.3
and Section

Mayor Nicholson read the second item and asked for a motion.

Motion to approve the Ordinance was made by Niki Hutto, seconded by Betty Boles.

"Is there any discussion? All in favor raise your right hand. So moved."

3.3.4.1,
Additional Uses
Permitted in
General
Commercial
(GC).

Motion passed unanimously.

- attach -

(2nd reading)

CONSIDER

Mayor Nicholson read the last item under old business and asked for a motion.

Annexing
Approximately 9 Acres
of Property off Calhoun
Road Owned by H.
Edward Munnerlyn and
Brenda G. Munnerlyn.

(2nd
reading)

JOHNNY WILLIAMS

“May I ask the Attorney a question? What does the owner need to do?”

JOHN MCCRAVY

“If City Council is reluctant to approve the annexation due to the questionable contiguity, I would propose that the property owner seek a declaratory judgment on the issue of contiguity.

NIKI HUTTO

“So can we table the annexation until the property owner has time to explore that option?”

JOHN MCCRAVY

“I think that would be appropriate.”

MAYOR NICHOLSON

“Do you have any additional information, Mr. Brown? I know there has been a question about it being contiguous?”

STEVEN BROWN

“I think the real problem is the lack of clarification in the State Code regarding the contiguity question. It would be left to the interpretation of an individual judge. State law stipulates that a roadway cannot make

contiguity. In other words, you cannot take this road and connect it to a property a mile and a half away. But the law says, if the roadways were removed and the two properties touched, then the road does not destroy contiguity. So in looking at how we would analyze this situation, we first observed the routine procedure used when governments abandon rights-of-ways. The procedure provides for the government abandoning the right-of-way to give half of the right-of-way to each of the adjacent property owners. In using that procedure, we believe that this tip here (pointing) does front 72 West in a small way. Meaning, if these two properties were pulled together, then they would touch.

We are not sure that a judge would use the same procedure to determine if it's contiguous. The City Attorney nor the City Manager can assure Council, if there was a protest, the procedure a judge may use to determine contiguity. I may have an opinion, and each of you may have an opinion, but we do not know the procedure that will be used by a judge. It's not clear cut. I think the City Attorney is falling on the safe side to opine that the annexation may be overturned by any procedure that a judge would use. I think the City Attorney has offered you an alternative by suggesting the property owner take it to a judge prior to your decision and determine if there is a judgement by the court that this is contiguous.

The second issue that I would address to the City Council is the comments made about the zoning classification. When the Planning Commission recommended the new zoning text and land use map, City Council adopted both. The new Zoning Ordinance has been an integral part in both hearings tonight. R-1, under the old ordinance, is no where similar to what R-1 is now. There were so many drastic changes. When we annex properties, we must assign land use (zoning district) classifications in accordance with the approved map. The New

Land Use Map recommended to the County Council is used to determine the Planning Commission's recommendation. The Planning Commission recommended that the Munnerlyn's 9 acres be assigned the zoning district classification of Neighborhood Commercial (NC).

You are not obligated in any manner. You have full authority to accept, deny, or change the recommendation. If you believe the Kimbrook property owners, who are opposed, have merit, you're not obligated to take that NC recommendation. If you think it shouldn't remain residential, then that's City Council prerogative. I don't want you to think that you're bound by that NC designation. There are two issues, one is the zoning and the other is the contiguity of the property to the existing City Limits."

MAYOR NICHOLSON

"Okay. You've heard the information coming from the City Attorney and the City Manager. Do I have a motion concerning the annexation of Mr. Munnerlyn's property?"

Motion to table the issue until the property owner has time to investigate whether or not the property is contiguous was made by Niki Hutto, seconded by Johnny Williams.

"Is there any discussion? All in favor raise your right hand. Opposed? Okay, 5 - 2. So we'll just table it."

Those who voted in favor were: Mayor Nicholson, Niki Hutto, Linda Edwards, Betty Boles, and Johnny Williams. Those voting against were Herbert Vaughn and Barbara Turnburke.

Motion passed.

CONSIDER

Ordinance
Amending Official
Zoning Map
(Ordinance No.
04-020) by
Rezoning 41.25
Acres Located on
East Cambridge
Avenue
Extension and
Emerald Farm
Road from Single
Family
Residential (R-3)
to Single Family
Residential (R-4).

(1st reading)

Under New Business, Mayor Nicholson read the first item and asked for a motion.

Motion to deny the request was made by Linda Edwards, seconded by Herbert Vaughn.

“Is there any discussion? All in favor of denying this request, raise your right hand. So moved.”

Motion passed unanimously

CONSIDER

Ordinance
Annexing
Approximately
5.11 Acres off
Blakedale Circle,
Near Montague
Avenue / US 25
Highway North.

(1st reading)

Mayor Nicholson read the second item and recognized the City Manager.

STEVEN BROWN

“Mr. Mayor and City Council, several months ago you annexed a number of parcels of property on the northern end of the City. One of those being property

owned by the Greenwood Development Corporation. The purpose of that annexation was twofold. One was because Greenwood Development wanted it to be annexed. Number two, it got us to some property that was being developed by CVS pharmacy. If you'll look where the pointer is (pointing), that is the CVS property inside of the City.

The rear property is owned by two gentlemen, Mr. William Wilson and Mr. Claude Bond from Abbeville, in the name of Bond and Wilson Enterprises. Originally it was about 6.15 acres. You'll notice that they have sold one acre of land, and they now have 5.11 acres remaining.

This property was recommended by the Planning Commission to be Single Family Residential (R-3), which is three homes per acre. Mr. Bond and Mr. Wilson has requested that when you annex it, to consider zoning it to Single Family (R-4) allowing them four homes per acre. In questioning the Planning Staff, I asked if the Single Family R-4 Zoning District complies with the Comprehensive Plan? Phil tells me that it does.

It's my understanding that they intend to put townhouses in this area, which would be very similar to the townhouses which have been built off of Mathis, and is intended for East Durst Avenue. So we'll have a public hearing at the next meeting, if you pass it on first reading tonight. Phil, you may want to respond to changing the zoning district from Single Family R-3 to Single Family R-4."

PHIL LINDLER

"Thank you, Mr. Brown, Mr. Mayor and Members of Council. In your 1999 Comprehensive Plan, you and County Council identified this area as being medium density, residential. In your new zoning ordinance that you passed in August, your single family residential categories coincide with that density category. So you have low density residential being your Single Family R-1 and R2, and your medium density residential are Single Family R-3 and R-4. Because the Comprehensive Plan shows that as medium density, we would certainly recommend an Single Family R-3 to Single Family R-4 zoning district.

But this time, Single Family R-3 or Single Family R-4 would meet the standards as set forth within that plan.”

NIKI HUTTO “So they’re saying they don’t want to be annexed into the City unless they are R4?”

STEVEN BROWN “They are not saying that.”

NIKI HUTTO “Okay. I just wanted to make that clear.”

STEVEN BROWN “They realize that the recommendation is R3 and have asked for your consideration to increase it to R4, but did not say that they would not annex.”

MAYOR NICHOLSON “So right now, the issue is annexation.”

NIKI HUTTO “It’s just an annexation issue, not a rezoning issue.”

MAYOR NICHOLSON “They would have to come back for that.”

STEVEN BROWN “No sir. In your ordinance to annex, you must declare a zoning classification.”

MAYOR NICHOLSON “Okay. So right now, they don’t have a classification?”

STEVEN BROWN “No sir. The recommendation from the Planning Commission is R3. So either City Council will accept that and zone it to R3, or you may consider changing it to their request of R4. It’s 5.11 acres. The only difference is, R3 has a 14,520 square foot lot, and R4 has 10,000.”

NIKI HUTTO “But this says R4.”

STEVEN BROWN “I understand. I wrote it as he requested it. That’s why we were explaining to you that the recommendation was R3.”

LINDA EDWARDS “Let’s get this straight.”

MAYOR “Are any more homes up Northside Drive?”

NICHOLSON

STEVEN BROWN

"There are some homes that are fronting Montague Avenue Extension."

MAYOR
NICHOLSON

"It's only about four or five?"

STEVEN BROWN

"There are none off of Blakedale Circle."

NIKI HUTTO

"And where would these houses go? Do you have a plat?"

PHIL LINDLER

"Not at this time. Just in conversations with the property owners, they intend to put in a road and have individual lots cut off from that road."

NIKI HUTTO

"Isn't there a pond behind it?"

PHIL LINDLER

"Yes
ma'am."MAYOR
NICHOLSON

"Yes, there is a pond back there. This is the first reading. We will have a public hearing prior to second reading."

LINDA
EDWARDS

"If we take first reading, we're doing the annexing part, right?"

MAYOR
NICHOLSON

"And the recommendation for R4."

LINDA
EDWARDS

"But there will be a public hearing, as far as changing the zoning classification of the ordinance?"

MAYOR
NICHOLSON

"Right."

NIKI HUTTO

"So in R4, we can basically get additional 10,000 square foot lots?"

STEVEN BROWN

"I don't really think that R3 or R4 is an issue with the annexation. If City Council feels uncomfortable, you need to go with your comfort zone."

NIKI HUTTO

"Can't we annex it in R3?"

STEVEN BROWN "That's your prerogative. You are still free to do what you feel comfortable doing."

MAYOR
NICHOLSON "That's optional. You can choose R3 or R4. Either one of them are medium density."

STEVEN BROWN "I was obligated to let you know what his request was."

NIKI HUTTO "What is the actual zone in the County?"

PHIL LINDLER "It is zoned R1 in the County."

NIKI HUTTO "The old R1?"

PHIL LINDLER "The old R1 for the City."

STEVEN BROWN "It will allow 15,000 square foot lots."

NIKI HUTTO "Which is like R3?"

STEVEN BROWN "It is 14,520, so you're talking about a little over 400 square feet less."

MAYOR
NICHOLSON "But their recommendation is to go medium R3 or R4."

PHIL LINDLER "Yes, sir."

NIKI HUTTO "In the new R3, they can get more density if they put in sidewalks, incorporate walking trails, and things like that. They could actually preserve more of the habitat to give them more flexibility than they had before."

STEVEN BROWN "The R3 is about the same square footage, but is also less restrictive on your setbacks. So either way they get more houses."

NIKI HUTTO "They get more houses either way. Okay."

MAYOR
NICHOLSON "Are there any other questions for Steve or Phil? Do we have a motion one way or another?"

Motion to annex under R-3 zoning classification was made by Niki Hutto, seconded by Linda Edwards.

“Is there any further discussion? All in favor raise your right hand? All opposed? Okay, 6-1.”

Those who voted in favor of the annexation were: Mayor Nicholson, Niki Hutto, Linda Edwards, Betty Boles, Johnny Williams, and Barbara Turnburke. Herbert Vaughn voted against the annexation.

Motion passed.

- attach -

CONSIDER

Request from City
of Greenwood
Housing
Authority.

Mayor Nicholson read the third item and recognized the City Manager.

STEVEN BROWN

“Mr. Mayor, I’m going to let the Assistant City Manager handle that question.”

CHARLES
BARRINEAU

“Mr. Mayor and Council, as you know John Lamb came at your last meeting to discuss the possibility of City Council assisting with the demolition of the old foundry on the south end of town. He was going to be here tonight but, unfortunately, he’s sick. We requested that John seek bids and, in the short amount of time, received bids with the high range of \$149,750, to a low range of \$44,870. The Housing Authority received four bids and, if you’re thinking like me, that’s a large gap. We as staff has some concerns and ask the Council to consider allowing us to study it even further. Maybe we can seek somebody that could assist us to get a better determination if those are good bids or not. It’s my understanding that the individual that offered the low

bid probably didn't come onto the property. I just needed to let you know that."

MAYOR
NICHOLSON

"I will entertain a motion that the City Manager further review those bids and get more information."

Motion was made by Betty Boles, seconded by Niki Hutto.

"All in favor raise your right hand. So moved."

Motion passed unanimously

CONSIDER

Accepting Bids for
City Sanitation
Truck.

Mayor Nicholson read the last item and recognized the City Manager.

STEVEN
BROWN

"Mr. Mayor and City Council, at the January meeting I brought up an issue with the disposal of a surplus truck. At that time, we only received one bid which was \$2,500, and I let City Council know that I was not comfortable with it. We have now received two additional bids. The second one was \$4,500 and a third of \$7,500, which gives credence to my concern on that \$2,500 bid.

I would recommend that City Council approve us disposing of that truck for \$7,500."

MAYOR
NICHOLSON

"Do I have a motion?"

Motion was made by Herbert Vaughn, seconded by Johnny Williams.

"Are there any questions or discussion? All in favor

raise your right hand. So moved.”

Motion passed unanimously.

“Is there anything else to come before Council? This is the fourth Monday. We will be back on the regular schedule starting March 7th. We usually have work session on the first Monday, which will be next Monday, and the regular Council Meeting will be the third Monday. So work session will be next Monday at 5:30.

Thank you, everyone. The meeting is adjourned.”

Meeting adjourned at 6:51 p.m.

Floyd Nicholson, Mayor

ATTEST:

City Clerk and Treasurer