

**CALLED MEETING MINUTES
MAY 4, 2017**

The members of the City Council and Planning Commission of the City of Phenix City, Alabama met with the Phenix City Board of Realtors in a called meeting at 5:30 p.m. Eastern Time on Thursday, the 4th day of May, 2017 in the Max Wilkes Fellowship Hall of the Martin-Idle Hour Park Community Center located at 3743 Moon Lake Drive, Phenix City, Alabama. The purpose of said meeting was to discuss the Residential Housing Market in Phenix City.

The following Council Members were present: Councilmember Arthur L. Day, Jr., Councilmember Steve Bailey, Councilmember R. Griff Gordy, and Mayor Eddie N. Lowe. Councilmember Johnnie C. Robinson, Jr. arrived at 5:37pm.

The following Planning Commission Members were present: Co-Chairman Jimmy Davis, Don Ivy, Billy Sims, Councilmember Steve Bailey, and Secretary Shaun Culligan. Mayor's Designee Tony Taylor arrived at 5:35pm. Planning Commission Members Marie Gill, Annie Lindsey, and Chairman Pat Howard were not present.

Representing the Phenix City Board of Realtors was Association Executive Chris Lammons and Home Builders Association of Alabama Representative Jason Reid.

Also present were City Manager Wallace B. Hunter, City Attorney Jimmy Graham, City Attorney Jim McKoon, City Clerk Charlotte L. Goodrich, City Clerk and City Manager Office Manager Melony Lee, City Clerk Administrative Assistant Shannon Davis, Chief Building Official Gil Griffith, Economic Development Manager Shaun Culligan, City Engineer Angel Moore, Engineering Office Manager Kathy Jo Davis, Engineering Department Inspector Paul Chastain, Graduate Civil Engineer Tyler Hayes, Public Works Administrative Assistant Barbara DeLong, Utilities Director Steve Smith, IT Manager Mike Bauer, Fire Chief Kris Kennedy, Golf Course Manager Julie Taylor, Parks and Recreation Director Todd Hughes, Parks and Recreation Assistant Director Ernest (Skip) Hansberger, Human

Resource Director Stephanie Chastain, Police Chief Ray Smith, and Utilities Engineer John Spraggins. Members of the media were also present.

There being a quorum present Mayor Lowe called the meeting to order and welcomed everyone. Mayor Lowe made a few opening statements:

1. The meeting will end promptly at 7:00 pm and the only issues that will be discussed are: Indemnification Clause; System Development Fees; and working/doing business in/with Phenix City. Anyone speaking will be held to three minutes for their comments/questions.
2. Councilmember Johnnie C. Robinson, Jr. will arrive later.
3. He explained the process of addressing council at a Work Session and explained why Council and the Planning Commission are holding this meeting with the Board of Realtors.

Councilmember Johnnie C. Robinson, Jr. arrived at 5:37 pm.

Mayor Lowe introduced Council, City Manager, and City Attorneys.

Mayor Lowe made a few brief comments regarding the job of the City Manager, and he dispelled false rumors of raising business license taxes.

Councilmember Robinson led the invocation.

Mayor Lowe led the Pledge of Allegiance.

Mayor Lowe called upon Utilities Director Steve Smith to give the city's PowerPoint presentation. Mr. Smith briefly reviewed:

1. Brief history of system development fees. He explained the city first implemented the fees in 1998 (\$1,000 each for water and sewer) and then C.M. Krebs Consulting was hired in 2007 to study the City's fee structure and recommend any changes the study warranted. They noted in their study that new construction as a result of the growth of the system "should bear its pro-rata share of this cost". In 2007 fees increased to \$1,237 for water and \$2,518 for

sewer, for a total of \$3,755. In 2008 total fees increased to \$3,605, slightly less than Krebs recommended.

2. Brief remarks regarding the 2007 lawsuit brought about by Phenix City Home Builders regarding the Water and Sewer Development Fees. He explained the city won this case for summary judgement at the cost to taxpayers of \$178,000.00.
3. In 2010 most new construction was taking place on the outer edges of the City causing the cost to provide water and sewer to increase. In an attempt to encourage development closer to the City center, the development fees were reduced by $\frac{1}{2}$ in areas with water or sewer lines more than 20 years old. This reduced those fees to a total of \$1,877.50.
4. In 2014 the City increase fees to \$2,000 for water and \$2,500 for sewer (total \$4,500) or (\$2,250 in older areas).
5. He advised most of the lines in the reduced fee area, are more than 70 years old. He questioned that if fees were an issue with developing the city, why these areas are over looked and not developed on.
6. In 2017 the City asked Constantine Engineering to review the fee structure. Based on their study, the City has \$11.2 million in capital needs over the next 3 years and would need to collect an additional \$500,000 per year in development fees to cover this need. Constantine advised an increase of 51% would be needed to offset these increases, but noted that the market conditions would not support an increase of this nature. The City adopted an increase in fees to be effective in April, 2018 of 5% with an additional 5% increase effective in April of 2019.
7. Mr. Smith advised the medium income in Phenix City is less than \$40,000.00. The City works hard to hold the average water and sewer rates down for the

citizens. Mr. Smith showed a comparison of what a typical Phenix City customer will pay in water and sewer fees as compared to other citizens in other areas. He also showed a comparison of the water and sewer fees in Phenix City (broken down to areas where the lines are older than 20 years, and the rest of the city) against other cities in our area.

8. Mr. Smith advised the charge for development fees is based on the cost of expansion and major capital upgrades to the system (most of which is new development). The City's fees are based on the developer paying ½ of the cost.
9. Mr. Smith briefly went over the HARD-ING BUILDERS, LLC lawsuit.

Mayor Lowe advised each time the rates have been increased there was a Public Hearing.

Mayor Lowe called upon City Attorney Jim McKoon. Mr. McKoon discussed the following:

1. Indemnification Agreement – Mr. McKoon went over the lawsuit that brought about this agreement. He advised the city ended up paying \$182,000 for a house in a subdivision built above a pipe, because the time had lapsed to hold the Engineer responsible. When the previous council was advised the city would be responsible, they put the agreement in place to protect the taxpayers from any future similar situation. The engineers complained about the agreement. There were problems with the time limit to hold them accountable, and there were problems with their insurance coverage. The engineers asked for changes to satisfy the insurance companies. The changes were made, but still the engineers were not happy about the agreement. Mr. McKoon advised he has recommended to the Planning Commission to remove the Indemnification Agreement altogether.

2. Subdivisions that do not fall under the Indemnification Agreement – Mr. McKoon advised there are 11 subdivisions that have been approved for a 24 month time extension due to the economy; and there are 21 subdivisions that have an approved final plat and available lots. None of the mentioned subdivisions would require the Indemnification Agreement. Mr. McKoon stated that when a reason was listed for a subdivision time extension it was due to the economy.
3. Construction Plan Review by City – Mr. McKoon briefly went over the city's procedure of reviewing construction plans.

Planning Commission Co-Chairman Jimmy Davis asked if the removal of the Indemnification Agreement will be on the Planning Commission Agenda for Tuesday, May 9, 2017. Mr. McKoon advised it would need to be brought up, although it may take time to remove it.

Mayor Lowe went over the following:

1. Phenix City home sales in March being up 17% over the prior year.
2. Phenix City growth compared to surrounding cities.
3. Phenix City growth compared to other cities in Alabama.

Mayor Lowe asked for any questions and/or statements from anyone in the audience. No one came forward.

Mayor Lowe called upon Chris Lammons, Association Executive for the Phenix City Board of Realtors. Mr. Lammons introduced himself and advised he was also here with the full support of the Phenix City Home Builders Association, the Alabama Home Builders Association, and the Alabama Association of Realtors. He thanked everyone for being here to discuss the issues brought up before the council. He stated that the figures quoted earlier by the City include figures from various surrounding counties; therefore they are incorrect numbers for Phenix City. He asked everyone to remember the hot market back in 2007 and 2008 when they look at the figures quoted from those years. Mr. Lammons advised he was

going to address the Indemnification Agreement; but since it will be removed; there is no need for him to address that issue. Mr. Lammons quoted the following excerpts from the Phenix City Comprehensive Community Master Plan (December 2014), page 10:

“Goals: A City in which our neighborhoods are a source of community pride, and where: ...New neighborhood development will complement overall community development and improvement.”

“Goals: A City which provides for excellence community facilities, amenities and cost effective infrastructure, where: ... Infrastructure is provided on a cost effective and sustainable basis in support of overall community development.” He asked that everyone view his presentation with the thought of these goals in mind.

Mr. Lammons went on to speak about the following topics:

1. Excessive Tap and System Fees are having a negative impact on new residential development in Phenix City.
2. Residential Sales in Phenix City in 2014 through 2016 as compared to Residential Building Permits.
3. Water and Sewer Tap and System Fees, including the future increase in 2018.
4. Tap Fees as a percentage of new home price in the First Quarter of 2017 – Fees based on the Average price of new home as compared to the fees based on the surrounding area average price of new home.
5. New housing figures from 2011-2016. He discussed the availability of lots in subdivisions as being less desirable to build on.
6. Phenix City Median List price of homes from 2013-2016. The lack of new construction has had an effect on property values. The average new home price has fallen in this time frame.
7. Phenix City Residential Permits by Week in the First Quarter of 2017. Building Permits are down.

8. Solutions to new residential development in Phenix City – lower fees associated with new residential development; form an advisory group of industry professionals to provide information to city leaders.

Mr. Lammons commented on how hard it is to speak with city leaders and city officials on the previous issues listed. Mayor Lowe disagreed with Mr. Lammons. There was discussion on city fees eating up profits. Mayor Lowe explained that the city has to stay in compliance with state regulations, and that costs money to bring issues into compliance.

Mr. Lammons asked permission for Mr. Jason Reid, of the Alabama Home Builders Association to speak. Mayor Lowe had no objection. Mr. Reid spoke briefly on the HARDING BUILDERS, LLC lawsuit. He advised they spent over \$200,000.00 on that case; he further advised all they wanted was to find a happy medium between the cost of the Development Fees in Phenix City and the actual cost of development in Phenix City. He advised that the developers and builders in Phenix City are more than willing to pay their fair share of development fees; however, it is not fair of the city to impose higher fees on them to cover costs associated with Capital Outlay on existing systems or to cover bad investments; some things should come out of the General Fund. He advised the housing market today is not going to look the same as it did before the economic downturn. He explained how the number of rooftops affect commercial development, which brings more money into the city. He advised the developers and builders want to grow Phenix City; he asked if the fees could be rolled back, even if it is for just a period of time.

Councilmember Gordy asked Chris Lammons about the issues with the two subdivisions that were being held up. Mr. Lammons responded that one of the subdivisions had an issue with the Indemnification Agreement; the other subdivision had an issue with tap fees and the Indemnification Agreement.

Councilmember Gordy thanked everyone for coming to the meeting. He advised he likes the idea of an advisory group.

Councilmember Bailey advised he voted against the increase. He advised there were no fee increases last year but the building permits were not up. Mr. Lammons advised there were a lot of challenges that builders face besides tap fees.

Local builder, Rusty Ninas, advised getting rid of the Indemnification Agreement is helpful. He pointed out the fees impact a \$150,000 home more than a more expensive home. He would like to see the communication lines opened up between the city and the builders.

Councilmember Robinson spoke briefly on a prior meeting with realtors and Russell County. He asked the developers and builders to look at how they market the homes in Phenix City.

Councilmember Bailey thanked everyone for coming. He advised he is always available to speak to anyone.

Mayor Lowe reminded everyone that we are all in this together; we need to help each other. He further advised if there is a problem, come to the council and speak with them about it.

There being no further business to come before council, the meeting adjourned at 7:00 pm.