

STATE OF ALABAMA)(
 :
 COUNTY OF BALDWIN)(

The City Council, City of Fairhope, met in regular session at 6:00 p.m., Fairhope Municipal Complex Council Chamber, 161 North Section Street, Fairhope, Alabama 36532, on Monday, 8 April 2013.

Present were Council President Jack Burrell, Councilmembers: Rich Mueller, Diana Brewer, and Michael A. Ford, Mayor Timothy M. Kant, City Attorney Marion E. Wynne, and City Clerk Lisa A. Hanks. Councilmember Kevin Boone was absent.

There being a quorum present, Council President Burrell called the meeting to order. The invocation was given by Gray Strickland, Pastor of The Way Community Church, and the Pledge of Allegiance was recited. Councilmember Brewer moved to approve minutes of the 22 March 2013, regular meeting; minutes of the 22 March 2013, work session; and minutes of the 22 March 2013, agenda meeting. Seconded by Councilmember Mueller, motion passed unanimously by voice vote.

Mayor Kant addressed the City Council regarding the following items:

1. Attended the Airbus groundbreaking ceremony and this was a positive feeling. An eighth grader presented a speech which stole the ceremony.
2. Alabama Policy Institute presented their 50 largest cities in Alabama for most "Business Friendly" and the City of Fairhope ranked Number One.
3. Appointed the following individuals to the Planning Commission: reappointed Lee Turner and appointed Bernie Fogarty. This leaves one appointment to fill.
4. Dan McCrory, Water & Sewer Superintendent, addressed the City Council and said he attended the Alabama Rural Water Association Conference in March. The City of Fairhope won the 2013 Drinking Water Taste Test at the conference. Mr. McCrory introduced and thanked Curtis Cooper, Joe Webber, and Adam Willis from the Water Department.

The following individuals spoke during Public Participation:

1. Stephanie Crowe, 103 Fairway Court, addressed the City Council regarding Agenda Item Number 19, a recommendation from the Street & Traffic Control Committee. Ms. Crowe requested that the speed limit remain at 25 mph, remove the stop signs, and add children at play.
2. Charles Smith, citizen of Quail Creek for 17 years, addressed the City Council regarding Agenda Item Number 19, a recommendation from the Street & Traffic Control Committee. Mr. Smith stated there have been no fatalities and Lake Ridge is a main thoroughfare. He said a small group was given a quick fix with the stop signs; and requested the stop signs be removed too.

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3. Jack Ardrey, 111 Lake Ridge Drive resident for 20 years, addressed the City Council regarding Agenda Item Number 19, a recommendation from the Street & Traffic Control Committee. He said this is a friendly neighborhood and this is bad for Quail Creek. He said the signs are tacky for Quail Creek and asked the City Council to not act hastily and get input from the Subdivision.

4. Warren Clark, 210 Lake Ridge Drive, addressed the City Council regarding Agenda Item Number 19, a recommendation from the Street & Traffic Control Committee. He said there are approximately 110 stops at the stop sign in front of his house. Mr. Clark said it was a physical event of the driver that caused this action not a speeding event. 15 mph is an arbitrary number picked to settle conflict.

5. Marilyn McAleer, 313 South Tee Drive, addressed the City Council regarding Agenda Item Number 19, a recommendation from the Street & Traffic Control Committee. She said we need young people to move her, but if each requests a stop sign we would have an issue; and stop signs are not for calming speed.

Council President Burrell stated that the stop signs were only a temporary measure until we could find another solution.

Councilmember Brewer addressed the City Council and announced that the City had received the agreement from the Baldwin County Board of Education and the \$350,000 appropriation was sent to them.

Council President Burrell addressed the City Council regarding the following items:

1. Sent out well wishes to Councilmember Boone who is recovering from knee surgery.
2. Spoke with Fairhope High School principal Jon Cardwell regarding the possibility of the Video Production Team Classes videotaping our Council meetings and other meetings.
3. Announced that Cub Scout Troop 47 was in attendance tonight. The three scouts were asked to come forward and help with the next agenda item.

Councilmember Brewer moved to reappoint Charlie Bassett and Howard Hadley to the Fairhope Airport Authority for a six year term. The term will expire in April 2019. Seconded by Councilmember Mueller, motion passed unanimously by voice vote.

Councilmember Ford moved to appoint Kevin Grimes and Cathy Hudson to the Fairhope Recreation Board for a 5 year term. The term will expire in April 2018. Seconded by Councilmember Brewer, motion passed unanimously by voice vote.

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Councilmember Brewer moved to appoint Clark Stankoski to the Fairhope Personnel Board for a 5 year term. The term will expire in April 2018. Seconded by Councilmember Ford, motion passed unanimously by voice vote.

Due to no motion for appointments to the Board of Adjustments and Appeals, Council President Burrell announced that Agenda Item would be pulled.

Councilmember Brewer moved for final adoption of Ordinance No. 1489, an ordinance to Amend and Add to Chapter 21 Utilities and Services, Article II, Electricity, Additional Facilities Charge Rider, Fairhope Code of Ordinances. (Introduced at the March 22, 2013 City Council Meeting). Seconded by Councilmember Ford, motion for final adoption passed by the following votes: AYE – Burrell, Mueller, Brewer, and Ford. NAY – None.

Councilmember Brewer moved to amend the Ordinance to Repeal and Replace Ordinance No. 1344 to protect the Public Health, Safety and Welfare by providing Policy and Procedure for Sidewalk and/or Street usage within the City of Fairhope by adding the text “via U. S. mail, e-mail or door-to-door” after “notified of the event” in paragraph four. Seconded by Councilmember Mueller, motion passed unanimously by voice vote.

Councilmember Brewer moved for final adoption of Ordinance No. 1490, an ordinance to Repeal and Replace Ordinance No. 1344 to protect the Public Health, Safety and Welfare by Providing Policy and Procedure for Sidewalk and/or Street Usage Within the City of Fairhope as amended. (Introduced at the March 22, 2013 City Council Meeting). Seconded by Councilmember Ford, motion for final adoption passed by the following votes: AYE – Burrell, Mueller, Brewer, and Ford. NAY – None.

Councilmember Ford introduced in writing Ordinance No. 1491, an ordinance to declare that certain real property (Manley Road property) of the City of Fairhope is not needed for public or municipal purposes in response to an offer to lease property from April 17, 2013 through November 30, 2013.

In order to take immediate action, Councilmember Brewer moved for immediate consideration. Seconded by Councilmember Ford, motion for immediate consideration passed unanimously by the following voice votes: AYE – Burrell, Mueller, Brewer, and Ford. NAY - None. Councilmember Ford then moved for final adoption of Ordinance No. 1491. Seconded by Councilmember Brewer, motion for final adoption passed by the following voice votes: AYE – Burrell, Mueller, Brewer, and Ford. NAY - None.

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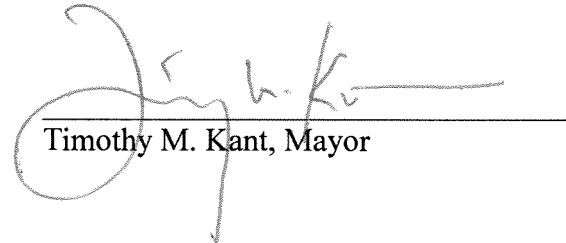
Councilmember Mueller introduced in writing an Ordinance to Approve and Adopt Police General Order (“PGO”) 3.400 Police Department Discipline. Due to no motion for immediate consideration, this ordinance will layover until the April 22, 2013 City Council meeting.

Councilmember Ford introduced in writing, and moved for the adoption of the following resolution, a resolution authorizing Mayor Timothy M. Kant to execute an Amendment to Contract for Engineering Services for Painting of Water Towers for the Water Department with a cost not to exceed \$45,415.00. Seconded by Councilmember Brewer, motion passed unanimously by voice vote.

RESOLUTION NO. 2067-13

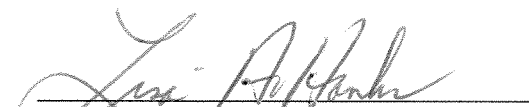
BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF FAIRHOPE, ALABAMA, that Mayor Timothy M. Kant is hereby authorized to execute an Amendment to Contract for Engineering Services for Painting of Water Towers for the Water Department with Thompson Engineering as Project Engineer with a cost not to exceed \$45,415.00.

DULY ADOPTED THIS 8TH DAY OF APRIL, 2013



Timothy M. Kant, Mayor

Attest:



Lisa A. Hanks, MMC
City Clerk

Councilmember Brewer introduced in writing, and moved for the adoption of the following resolution, a resolution to Purchase Security Equipment for the Municipal Jail with a total cost of \$30,945.00. Seconded by Councilmember Mueller, motion passed unanimously by voice vote.

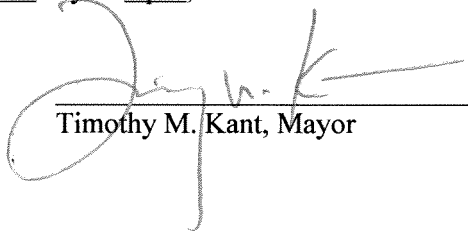
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RESOLUTION NO. 2068-13

BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF FAIRHOPE, ALABAMA, as follows:

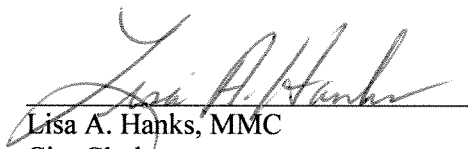
That the City of Fairhope has voted to purchase Security Equipment (Locking and Intercom Controls) for the Municipal Jail and authorizes procurement based on the option allowed by the Code of Alabama 1975, Section 41-16-51. The cost will be \$30,945.00.

Adopted on this 8th day of April, 2013



Timothy M. Kant, Mayor

Attest:



Lisa A. Hanks, MMC
City Clerk

Councilmember Brewer introduced in writing, and moved for the adoption of the following resolution, a resolution to Purchase Security Equipment for Six new Police Vehicles for the Police Department with a total cost of \$36,251.70. Seconded by Councilmember Ford, motion passed unanimously by voice vote.

RESOLUTION NO. 2069-13

BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF FAIRHOPE, ALABAMA, as follows:

That the City of Fairhope has voted to purchase Security Equipment for Six New Police Vehicles for the Police Department and authorizes procurement based on the option allowed by the Code of Alabama 1975, Section 41-16-51. The cost will be \$36,251.70.

Adopted on this 8th day of April, 2013



Timothy M. Kant, Mayor

Attest:



Lisa A. Hanks, MMC
City Clerk

8 April 2013

Councilmember Brewer introduced in writing, and moved for the adoption of the following resolution, a resolution to Purchase a 2013 Ford Explorer Truck for the Gas Department with a cost of \$23,078.00. Seconded by Councilmember Ford, motion passed unanimously by voice vote.

RESOLUTION NO. 2070-13

BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF FAIRHOPE, ALABAMA, as follows:

[1] That the City of Fairhope has voted to purchase a 2013 Ford Explorer Truck for the Gas Department and the type of vehicle needed is on the Alabama State Department of Purchasing bid list and therefore does not have to be let out for bid; and

[2] The following is the Alabama State Department of Purchasing contract information:

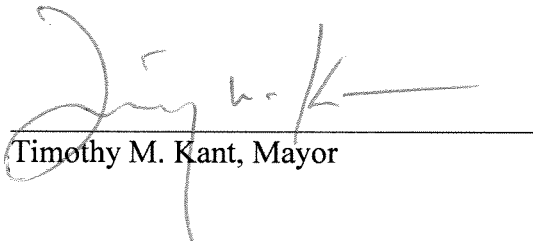
Bid Number: T191A

Contract Number: 4012411

Ford Explorer Truck

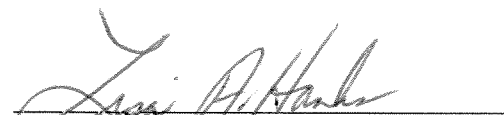
Cost is \$23,078.00

Adopted on this 8th day of April, 2013



Timothy M. Kant, Mayor

Attest:



Lisa A. Hanks, MMC
City Clerk

Councilmember Brewer moved to amend the Resolution to purchase three Permanent Backup Power Generators by changing the approximate cost from "\$72,949.00" to "\$142,025.00." Seconded by Councilmember Mueller, motion passed unanimously by voice vote.

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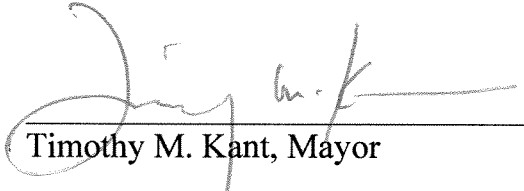
Councilmember Brewer introduced in writing, and moved for the adoption of the following resolution as amended, a resolution to purchase three Permanent Backup Power Generators for City Lift Stations with an approximate cost of \$142,025.00; as part of the Hazard Mitigation Grant Program. Seconded by Councilmember Mueller, motion passed unanimously by voice vote.

RESOLUTION NO. 2071-13

BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF FAIRHOPE, ALABAMA, as follows:

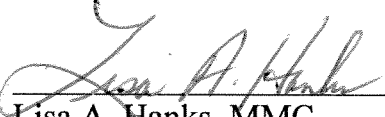
That the City of Fairhope has voted to purchase a Three Permanent Backup Power Generators for City Lift Stations for the Sewer Department and the requested items are available for direct procurement through the National Intergovernmental Purchasing Alliance. This procurement is a part of the Hazard Mitigation Grant Program. The approximate cost is \$142,025.00

Adopted on this 8th day of April, 2013



Timothy M. Kant, Mayor

Attest:



Lisa A. Hanks, MMC
City Clerk

Councilmember Brewer introduced in writing, and moved for the adoption of the following resolution, a resolution to Award Bid for Troyer-Boothe Road Improvements (Bid No. 011-13) with a total bid proposal of \$526,568.44. Seconded by Councilmember Ford, motion passed unanimously by voice vote.

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RESOLUTION NO. 2072-13

BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF FAIRHOPE, ALABAMA, as follows:


[1] That the City of Fairhope did request, receive, and open bids for Troyer-Boothe Road Improvements (Bid Number 011-13) at 555 South Section Street in the City of Fairhope offices, Fairhope, Alabama.

[2] At the appointed time and place, the following bids were opened and tabulated as follows:

Please see attached Bid Tabulation for Troyer-Boothe Road Improvements

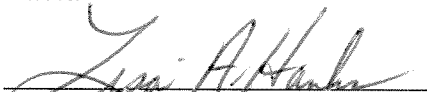
[3] After evaluating the bid proposals with the required bid specifications, John G. Walton Construction Company, Inc., with the total bid proposal of \$526,568.44, is now awarded the bid for Troyer-Boothe Road Improvements.

Adopted on this 8th day of April, 2013



Timothy M. Kant, Mayor

Attest:



Lisa A. Hanks, MMC
City Clerk

**CITY OF FAIRHOPE
TROYER - BOOTHE ROAD IMPROVEMENTS
BID TABULATION
Project No. 011-13
February, 2013**

ITEM	UNITS	DESCRIPTION	QTY	JOHN G. WALTON		ANDREWS & BILKINGTON		ASPHALT SERVICES		ROBERSON EXCAVATING		R & S PAVING		FRANK TURNER CONST		GULF ATLANTIC CORP	
				UNIT PRICE	AMOUNT	UNIT PRICE	AMOUNT	UNIT PRICE	AMOUNT	UNIT PRICE	AMOUNT	UNIT PRICE	AMOUNT	UNIT PRICE	AMOUNT	UNIT PRICE	AMOUNT
201A000	Lump Sum	Clearing & Grubbing (Approximately 2 ac)	1	12,160.37	12,160.37	30,000.00	30,000.00	21,000.00	21,000.00	15,000.00	15,000.00	32,297.28	32,297.28	15,000.00	15,000.00	15,000.00	15,000.00
208A000	Linear Feet	Removing Pipe	20	14.75	295.00	8.00	160.00	20.00	400.00	13.00	260.00	20.00	400.00	26.00	520.00	7.50	150.00
209A000	Each	Manhole Bases, Single	1	42.58	42.58	100.00	100.00	50.00	50.00	100.00	100.00	150.00	150.00	150.00	150.00	75.00	75.00
210A000	Cubic Yards	Unclassified Excavation	1378	8.91	12,279.28	4.00	5,500.00	4.00	5,500.00	3.00	4,125.00	2.00	2,750.00	8.47	11,662.32	8.50	11,662.50
210C000	Cubic Yards	Back Excavation	100	8.92	892.00	8.00	800.00	10.00	1,000.00	3.00	300.00	8.00	800.00	13.00	1,300.00	12.50	1,250.00
210D000	Cubic Yards	Storm Excavation A-2-4	6000	7.32	43,920.00	12.00	72,000.00	7.22	43,320.00	10.00	60,000.00	8.00	48,000.00	11.33	67,980.00	18.00	108,000.00
210E	Roll-Off	Roll-off Dumpster	14	204.70	2,865.80	180.00	2,520.00	300.00	4,200.00	527.15	7,380.10	375.00	5,250.00	705.10	9,871.40	410.00	5,740.00
210F010	Square Yards	Geosynthetic Reinforcement (Linear TX 140)	3186	3.81	12,138.06	3.51	11,184.36	4.42	14,077.20	3.12	9,865.60	3.75	12,000.00	3.65	11,589.90	2.23	7,108.20
210F012	Square Yards	Geosynthetic Reinforcement (Linear TX 140)	3222	13.79	44,431.38	11.38	36,646.36	11.50	37,057.50	13.32	42,917.04	14.00	45,108.00	11.44	36,848.48	16.50	53,145.00
210F013	Square Yards	Geosynthetic Reinforcement (Linear TX 140)	3222	0.92	2,964.24	1.00	3,222.00	1.40	4,510.80	1.10	3,544.20	1.25	4,027.50	1.28	4,124.16	0.73	2,354.50
210F014	Ton	Impregnated Bituminous Concrete Wearing Surface Layer 1/2" Maximum Aggregate Size Min. 5%AS, Range B (375-3800)	432	79.48	34,340.64	77.60	33,747.20	92.50	39,855.00	110.00	46,430.00	90.00	37,980.00	86.23	36,849.60	90.00	37,980.00
210F015	Linear Feet	1/2" Spun, 1/2" Rise Roadway Pipe (Class 1 R.C.)	66	38.17	2,510.22	37.14	2,458.14	31.83	2,098.40	24.00	2,176.00	40.00	2,800.00	41.40	2,749.60	62.00	3,972.00
210F016	Linear Feet	1/2" Spun, 1/2" Rise Roadway Pipe (Class 3 R.C.)	200	22.32	4,464.00	27.24	5,448.00	26.00	5,200.00	32.00	6,400.00	32.00	6,400.00	33.92	6,784.00	27.50	5,500.00
210F017	Lump Sum	Mobilization	1	16,357.43	16,357.43	17,000.00	17,000.00	15,000.00	15,000.00	20,000.00	20,000.00	15,000.00	15,000.00	15,000.00	15,000.00	17,300.00	17,300.00
210F018	Each	Roll-off Dumpster	17	209.20	3,536.40	245.00	4,165.00	125.00	2,525.00	74.00	1,258.00	390.00	6,230.00	199.27	3,587.58	195.00	3,712.50
210F019	Square Yards	Geosynthetic Reinforcement, Non-Woven	3222	1.59	5,122.98	2.27	7,313.94	3.00	9,666.00	1.98	6,379.56	3.00	9,666.00	2.88	9,273.36	1.80	5,800.00
210F020	Square Yards	Geosynthetic Reinforcement, Non-Woven	100	69.30	6,930.00	61.50	6,150.00	71.00	7,100.00	100.00	10,000.00	65.00	6,500.00	70.85	7,085.00	80.00	8,000.00
210F021	Each	1/2" Spun, 1/2" Rise Roadway Pipe End Treatment (Class 1)	2	239.60	479.20	300.00	600.00	350.00	700.00	495.00	990.00	800.00	1,600.00	480.00	960.00	1,000.00	2,000.00
210F022	Each	Flare Holster Reset	1	1,619.33	1,619.33	800.00	800.00	750.00	750.00	8,000.00	8,000.00	2,000.00	2,000.00	2,287.65	2,287.65	4,652.00	4,652.00
210F023	Cubic Yards	Fill	430	8.81	3,788.30	6.90	2,957.00	12.00	5,160.00	20.00	8,600.00	12.00	5,160.00	11.12	4,781.60	8.00	3,440.00
210F024	Acres	Seeding	1	1,601.07	1,601.07	1,000.00	1,000.00	2,000.00	2,000.00	1,000.00	1,000.00	2,000.00	2,000.00	1,021.11	1,021.11	2,000.00	2,000.00
210F025	Square Yards	Solid Siding (Shade Tolerant Species)	4300	5.41	23,243.00	4.71	20,297.00	6.00	25,800.00	4.00	17,200.00	3.25	14,062.50	6.72	28,856.00	3.00	12,900.00
210F026	Acres	Mulching	1	972.73	972.73	1,000.00	1,000.00	1,000.00	1,000.00	1,000.00	1,000.00	1,000.00	1,000.00	265.84	265.84	1,000.00	1,000.00
210F027	Each	Play Box	100	16.13	1,613.00	2.00	200.00	2.00	200.00	4.00	400.00	2.00	200.00	6.70	670.00	12.00	1,200.00
210F028	Linear Feet	5/8" Fence, Type A	2600	2.65	6,890.00	4.00	10,400.00	3.00	7,800.00	3.00	7,800.00	4.00	10,400.00	3.92	10,192.00	2.25	5,850.00
210F029	Linear Feet	5/8" Fence Removal	2600	1.73	4,498.00	1.00	2,600.00	1.00	2,600.00	1.25	3,250.00	1.00	2,600.00	1.00	2,600.00	0.62	1,652.00
210F030	Linear Feet	5/8" Fence	100	11.59	1,159.00	7.00	700.00	7.00	700.00	4.25	425.00	3.00	300.00	8.47	847.00	2.23	223.00
210F031	Linear Feet	5/8" Fence	2600	0.19	494.00	1.40	3,640.00	1.50	3,900.00	1.00	2,600.00	1.50	3,900.00	1.00	2,600.00	0.81	2,106.00
210F032	Linear Feet	Solid Siding, Class 2, Type A Traffic Strip (1/2" W/Gr)	4300	0.74	3,182.00	0.78	3,366.00	1.50	6,450.00	1.00	4,300.00	1.50	2,250.00	1.00	1,350.00	0.95	4,085.00
210F033	Linear Feet	Solid Siding, Class 2, Type A Traffic Strip (1/2" W/Gr)	4300	0.74	3,182.00	0.78	3,366.00	1.50	6,450.00	1.00	4,300.00	1.50	2,250.00	1.00	1,350.00	0.95	4,085.00
210F034	Linear Feet	Traffic Control Markings, Class 3, Type A White Strip (1/2" W/Gr)	40	1.40	56.00	1.00	40.00	1.00	40.00	3.20	128.00	1.00	40.00	2.00	80.00	2.00	80.00
210F035	Each	Personnel Markers, Class A-1, Type 1-A	15	4.12	61.80	3.00	45.00	3.00	45.00	6.00	90.00	10.00	150.00	4.00	60.00	2.64	39.60
210F036	Each	Personnel Markers, Class A-1, Type 2-D	32	4.11	1,315.12	3.00	96.00	3.00	96.00	6.00	192.00	10.00	320.00	4.00	128.00	2.64	84.48

8 April 2013

CITY OF FAIRHOPE
TROYER - BOOTHE ROAD IMPROVEMENTS
BID TABULATION
Project No. PW 001-413
February, 2013

Table with columns: ITEM, UNIT, DESCRIPTION, QTY, and multiple columns of numerical values representing bid amounts for various construction items.

CERTIFICATION

I, JOSEPH R. BULLOCK, P.E., HEREBY CERTIFY THAT THE BID TABULATION IS A CORRECT INTERPRETATION OF THE BIDS SUBMITTED ON THIS PROJECT.

Joseph R. Bullock
3/20/13
Date



Councilmember Ford introduced in writing, and moved for the adoption of the following resolution, a resolution authorizing Mayor Timothy M. Kant to execute a Memorandum of Understanding between the City of Fairhope Police Department and the Baldwin County Sheriff's Office. Seconded by Councilmember Mueller, motion passed unanimously by voice vote.

RESOLUTION NO. 2073-13

BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF FAIRHOPE, ALABAMA, that the City Council hereby approves and authorizes the City of Fairhope to execute a Memorandum of Understanding between the City of Fairhope Police Department and the Baldwin County Sheriff's Office.

Adopted on this 8th day of April, 2013

Timothy M. Kant
Timothy M. Kant, Mayor

Attest:

Lisa A. Hanks
Lisa A. Hanks, MMC
City Clerk

8 April 2013

Councilmember Brewer moved to grant the request of The Fairhope Public Library Foundation requesting permission to serve alcohol on City property on the green space lawn area behind Library on April 26, 2013. Seconded by Councilmember Ford, motion passed unanimously by voice vote.

Chief Petties addressed the City Council and explained the average speed in Quail Creek was 39 mph and the Street & Traffic Control Committee along with the citizens who attended the last meeting were in agreement to reduce the speed limit to 15 mph. He said there is a problem with speeding and whatever the City Council decides we will enforce. Councilmembers Ford and Mueller both agreed the speed limit should be left at 25 mph. Councilmember Mueller said the speed limit in neighborhoods all across the nation are 25 mph; and people need to be responsible.

Council President Burrell commented he was on the committee and he heard common sense here tonight. He said the accident could have hurt a child or an adult and it was not due to speeding. Council President Burrell stated if we don't lower the speed limit, we have not settled the problem.

Councilmember Mueller moved to amend the request of the Street & Traffic Control Committee recommending removal of Stop Signs on Lake Ridge Drive and placement of yellow Children at Play and Slow signs as well as dropping the speed limit to 15 mph for a four month trial period; by recommending removal of Stop Signs on Lake Ridge Drive and placement of yellow Children at Play and Slow sign, but leaving the speed limit at 25 mph and removing the four month trial period. Seconded by Councilmember Brewer, motion passed by the following voice votes: AYE – Mueller, Brewer, and Ford. NAY – Burrell.

Councilmember Mueller moved to grant the request of the Street & Traffic Control Committee as amended. Seconded by Councilmember Ford, motion passed unanimously by voice vote.

At the request of the City Attorney, Marion E. Wynne, the City Council will rise from the meeting to go into Executive Session based on Section 36-25A-7(a)(3) to discuss pending litigation. The approximate time to be in Executive Session is 20 minutes. Councilmember Brewer moved to go into Executive Session. Seconded by Councilmember Mueller, motion passed unanimously by voice vote.

Exited the dais at 7:05 p.m. Returned at 7:35 p.m.

8 April 2013

Councilmember Ford moved to add on the following item **not** on the printed agenda: motion authorizing Mayor Timothy M. Kant to execute a Conditional Settlement Agreement. Seconded by Councilmember Mueller, motion passed unanimously by voice vote.

Caine O'Rear addressed the City Council as Counsel for the City of Fairhope in litigation that is pending in the Circuit Court of Baldwin County filed by the Dyas family against the City regarding property that the Dyas family owns at the Triangle and north of the Triangle called the Village North Project consists of 108 acres. The property has been in litigation on a number of occasions and this particular one has been pending for a few years. We have an opportunity now which is very unique; certainly to the City and to the Dyas family as well. We have an opportunity to resolve certain problems relating to the watershed through a project that is called the Fly Creek Watershed Restoration Project.

Mr. O'Rear said a study had been done by Thompson Engineering which recommends that the number one way to address the watershed restoration of that area would be to purchase the property for public use. We have an opportunity through the BP litigation to potentially obtain Restore Act funds which at no cost to the City would provide the availability to purchase the property at a negotiated price. A representative of the Dyas family, Mr. Art Dyas, is here.

We have been working for a number of months on a possible resolution. The case has gone to mediation where a mediator has been involved helping the parties to settle the case. We have now reached agreement, at least among the parties, on a Conditional Settlement Agreement which would be subject to approval by the Council, execution by the Mayor, and attestation by the City Clerk; and also would have to be signed by all the Dyas family who were plaintiffs in the lawsuit to settle the case.

The settlement is conditional and the two primary conditions are that the City be able to obtain the negotiated purchase price of \$8.75 million dollars exclusively through Restore Act Funding through the BP fine's process; and that the Dyas family present to the City an appraisal, of the 108 acres, which places a fair market value on the property of \$12.75 million dollars or greater, so that there is a \$4 million dollar spread between the amount of money that the City pays and the appraised fair market value of the property.

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The agreement is specifically conditioned upon those two things. There are also certain other provisions in the agreement regarding rights of first refusal and other things, but those are the principal conditions. The settlement will not have to be consummated unless those conditions are fulfilled. But, we have come to a point now where we need public approval and public authorization for the Mayor to sign the agreement, so that we can move forward in a more unified way with the Dyas family to bring this project to fruition.

Councilmember Brewer asked Mayor Kant about the BP Restore Act Funds in regards to the City's chances of obtaining the funds. Mayor Kant replied that we have had very positive reaction; especially when Senator Sessions and Rick Dearborn made the comment this is the only environmental project that has come across their desks. They put people on it right away to see how we could get funds because most environmental projects are looking towards Louisiana. The White House was also very positive along with Senator Shelby's office. Congressman Bonner made the comment I am glad Fairhope is trying to look at the issue; had Mobile done the same we would not be seeing all of the articles in the paper dealing with Dog River. My counterparts on the Restore Act all think this is a very positive environmental project.

Council President Burrell asked Mayor Kant would there be any chances of getting Restore Act money for other projects. Mayor Kant replied this money we are going after is the environmental monies; and there are two pots of money with both having elements in them that has to be spent for environmental projects. Other projects can be discussed in our Strategic Planning process and would be for economic growth.

Council Burrell asked Mayor Kant if he was seeking additional funds like turning this property into a park; and additional funds for infrastructure and improvements. Mayor Kant replied he would like to get \$22 million dollars for the total project. The first phase is only around \$12 million, but if we could get the total \$22 million, we could put the park area in and eventually put a botanical garden on the side.

Council President Burrell asked Mr. O'Rear about the appraisal and when the City should expect it. Mr. O'Rear explained that the discussion has been once the Dyas family feels comfortable that the City is able to get the funding; then they would go forward and get the final appraisal. Mayor Kant said we need to get this ironed out because one of the first questions that will be asked is "do we have a firm price", so we need to make sure we have an agreement in place.

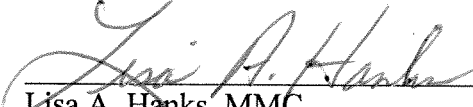
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Councilmember Mueller moved to authorize Mayor Timothy M. Kant to execute the Conditional Settlement Agreement regarding the Dyas vs. City of Fairhope litigation. The motion was seconded by Councilmember Ford. Council President Burrell said hopefully we are fortunate enough to get the Restore Act money. This would be a great acquisition for the City; especially in light of the environmental impact on our community with the Creek and the Bay. He hopes the City is successful. Mayor Kant thanked the Dyas family for setting up to the plate and I figuring this out because this will be a win-win situation for everybody; the citizens of Fairhope, the Dyas family, and the City. This is a very positive endeavor that everybody has got onboard with. After further discussion, motion for authorizing Mayor Kant to execute the Conditional Settlement Agreement passed unanimously by voice vote.

There being no further business to come before the City Council, the meeting was duly adjourned at 7:45 p.m.



Jack Burrell, Council President



Lisa A. Hanks, MMC
City Clerk