

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, 23 November 2015.

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

There being a quorum present, Council President Burrell called the meeting to order. The invocation was given by Judson Shores, Family Pastor of Celebration Church, and the Pledge of Allegiance was recited. Councilmember Brewer moved to approve minutes of the 12 November 2015, regular meeting; minutes of the 12 November 2015, work session; and minutes of the 12 November 2015, agenda meeting. Seconded by Councilmember Boone, motion passed unanimously by voice vote.

Mayor Kant addressed the City Council regarding the following items:

- 1) Mentioned the Lighting of the Trees with over 12,000 people in attendance; thanked Sherry Sullivan and staff; thanked Jimmy Cluster and staff; and said the lights were the prettiest he has seen in a long time.
- 2) Said we should all be thankful for all things and wished everyone a Happy Thanksgiving.

Councilmember Mueller addressed the City Council regarding the National League of Cities Conference held in Nashville that all the Councilmembers attended, except for Councilmember Ford. He mentioned the seminars they attended were for how we could improve our Cities. The City of Fairhope is already on the cutting edge; and this only verifies what we do. He stated this was not a waste of time or money.

Councilmember Brewer addressed the City Council regarding the NLC Conference and mentioned the mobile workshops that were three hours long; and said she appreciated the opportunity to go to this conference.

Council President Burrell addressed the City Council and stated the "Lighting of the Trees" was a great event. He mentioned the Faulkner State Amphitheatre being a nice event. Council President Burrell also mentioned that Congressman Byrne and representatives were here last week.

23 November 2015

A Public Hearing was held as advertised to approve the issuance of the Bonds to refund certain outstanding debt incurred to finance improvements and additions to and equipment for Thomas Hospital, and (ii) the location and nature of the System Facilities in the City of Fairhope, Alabama.

Council President Burrell opened the Public Hearing at 6:14 p.m.

Jim Mitchell with Infirmiry Health Services, Inc. addressed the City Council and explained this public hearing is a 501(c)(3) requirement for bonds. He stated that the City of Fairhope would not be financially liable for this debt, but has to authorize the issuance of bonds when there are facilities in the municipality that funds will be spent on.

No one present opposed the issuance of the Bonds for Infirmiry Health the benefit of Infirmiry Health Services, Inc. and its affiliates, the Public Hearing closed at 6:14 p.m.

Councilmember Ford introduced in writing, and moved for the adoption of the following resolution, a resolution approving the issuance of the Bonds to finance improvements and additions for Infirmiry Health System, Inc. Seconded by Councilmember Boone, motion passed unanimously by voice vote.

#### **RESOLUTION NO. 2449-15**

**WHEREAS**, Infirmiry Health System Special Care Facilities Financing Authority of Mobile, a public corporation organized under the laws of the State of Alabama (the "Authority"), proposes to issue its revenue bonds in an amount not to exceed \$250,000,000 (the "Bonds"). The Bonds will be issued to provide financing for the benefit of Infirmiry Health System, Inc. ("IHS") and its affiliates, Mobile Infirmiry Association ("Mobile Infirmiry"), Gulf Health Hospitals, Inc. ("Gulf Health") and Infirmiry Health Hospitals, Inc. ("Infirmiry Hospitals"). IHS and its affiliates (collectively referred to as the "IHS System Affiliates") operate health care facilities in Mobile and Baldwin Counties; and

**WHEREAS**, the Bonds may be issued in a single series or in two or more series over a period ending December 31, 2018; and

**WHEREAS**, proceeds of the Bonds will be used will be used for the following purposes: (i) to finance the costs of acquiring, constructing and equipping a free-standing emergency room facility (the "ER Facility") to be located on the southwestern quadrant of the intersection of Alabama Highway 181 and U.S. Highway 90 in Baldwin County; (ii) to finance the costs of renovating, improving and equipping IHS's oncology facilities (the "Oncology Facilities") located at Mobile Infirmiry Medical Center, Thomas Hospital and North Baldwin Infirmiry; (iii) to finance the costs of acquiring, constructing and equipping certain diagnostic and other health care facilities (the "Diagnostic Facilities") to be located in a medical office building being constructed on the northwest corner of Alabama Highway 158 and U.S. Interstate 65 in Saraland, Alabama; (iv) to finance the costs of acquiring, constructing, improving, expanding, renovating, equipping or furnishing the various existing acute care hospital and outpatient facilities (collectively the "Existing System Facilities") of the IHS System Affiliates; and (v) to refund certain outstanding debt or bonds of the IHS System Affiliates incurred or issued to finance the Existing System Facilities;

23 November 2015

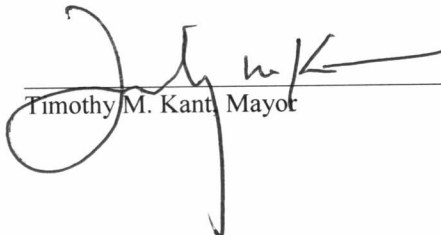
**WHEREAS**, the Existing System Facilities include: (i) Mobile Infirmary Medical Center located at 5 Mobile Infirmary Circle (near Springhill Avenue and Mobile Infirmary Boulevard), in Mobile, Alabama; (ii) Thomas Hospital, located at 750 Morphy Avenue in Fairhope, Alabama; (iii) Thomas Medical Center located at 27961 U.S. Highway 98 in Daphne, Alabama; (iv) North Baldwin Infirmary located at 1815 Hand Avenue in Bay Minette, Alabama; (v) Infirmary Eastern Shore Outpatient Center located at 7101 Highway 90 in Daphne, Alabama; and (vi) Infirmary LTAC Hospital located at 5644 Girby Road in Mobile, Alabama. The Existing System Facilities, the ER Facility, the Oncology Facilities and the Diagnostic Facilities are referred to collectively herein as the "Bond-Financed Facilities".

**WHEREAS**, the proceeds of the Bonds will be loaned to one or more of the IHS System Affiliates pursuant to one or more loan agreements between the Authority and IHS System Affiliates. The loan agreements will provide for loan payments by one or more of the IHS System Affiliates in amounts sufficient to pay debt service on the Bonds when due. The Bonds will be limited obligations of the Authority and will be payable solely from the loan payments by the IHS System Affiliates to the Authority. The Bonds will not be general obligations of the Authority and will not in any way constitute a debt, liability or obligation of the State of Alabama or any political subdivision of the State of Alabama, including without limitation the political subdivisions holding the hearings described above or the political subdivisions where the Bond-Financed Facilities are located. The Bonds will not be payable from any tax revenues; and

**WHEREAS**, a public hearing concerning the proposed issuance of the Bonds was held in Council Chambers at City Hall, 161 North Section Street, in the City of Fairhope, Alabama at 6:00 p.m. on Monday, November 23, 2015; notice of such hearing was given by publication in *The Mobile Press Register* on October 25, 2015 and in *The Baldwin Times* on October 30, 2015, and such hearing provided an opportunity for persons with different views on the proposed issuance of the Bonds and the location and nature of the Bond-Financed Facilities to express their views, both orally and in writing.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FAIRHOPE, ALABAMA** that they hereby approve (i) the issuance of the Bonds to finance the improvements and additions to and equipment for Thomas Hospital, and to refund certain outstanding debt incurred to finance improvements and additions to and equipment for Thomas Hospital, and (ii) the location and nature of the Bond-Financed Facilities in the City of Fairhope, Alabama, in accordance with the foregoing proposal of the Authority. Such approval is being given pursuant to, and solely for the purposes of, the provisions of Section 147(f) of the Internal Revenue Code of 1986, as amended, and Section 11-62-1(a)(8) of the Code of Alabama (1975). The consent to and approval of the issuance of the Bonds by the Authority should not be construed as expressing any view whatsoever as to the financial feasibility of the Bond-Financed Facilities or the adequacy of any security provided for the Bonds.

**APPROVED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF FAIRHOPE, ALABAMA**, this 23rd day of November, 2015.

  
 Timothy M. Kant, Mayor

ATTEST:

  
 Lisa A. Hanks, MMC  
 City Clerk

23 November 2015

Councilmember Ford introduced in writing an ordinance to rezone the property of Winterhaven, Inc. from R-6 Mobile Home Park District to R-2 Medium Density Single Family Residential District. This property is generally located on the southeast corner of the intersection of Ertle Street and Cain Lane, Fairhope, Alabama. Parcel No. 05-46-03-37-0-008-076.000. The Planning Commission gave a favorable recommendation of this ordinance. Council President Burrell read the proposed ordinance and stated Councilmember Boone would be abstaining from voting and would not be included in any discussions for this ordinance. Planning Director Jonathan Smith briefly explained the proposed ordinance; and stated that the subdivision has already been approved subject to approval of this rezone.

In order to take immediate action, Councilmember Ford moved for immediate consideration. Seconded by Councilmember Mueller, motion for immediate consideration passed unanimously by the following voice votes: AYE – Burrell, Mueller, Brewer, and Ford. NAY - None. ABSTAIN – Boone.

Councilmember Mueller then moved for final adoption of the above mentioned ordinance. Seconded by Councilmember Brewer, motion for final adoption passed by the following voice votes: AYE – Burrell, Mueller, Brewer, and Ford. NAY - None. ABSTAIN – Boone.

City Clerk Lisa Hanks stated she had a question for the City Attorney; with the abstention is this unanimous consent for immediate consideration. City Attorney Wynne replied an abstention is neither for nor against the vote. Therefore the vote would be a unanimous consent.

A Public Hearing was held as advertised on a proposed ordinance to amend Zoning Ordinance No. 1253, adopted 27 June 2005. Councilmember Brewer introduced in writing an ordinance to zone the property of Grand Properties, LLC to a Planned Unit Development (PUD) concurrent with annexation into the City of Fairhope. This property is generally located on the northwest corner of the intersection of Twin Beech Road and Battles Road, Fairhope, Alabama. Parcel No. 05-46-09-30-0-000-062.000 and 05-46-09-30-0-000-062.001. Pointe Place, Phase II. The Planning Commission gave a favorable recommendation of this ordinance. Council President Burrell read the proposed ordinance. Planning Director Jonathan Smith briefly explained the proposed ordinance and answered questions from the City Council.

City Clerk Hanks mentioned to Council President Burrell that the required Public Hearing for Agenda Item Number 6 was not held. Mayor Kant stated that normally the Councilmember who abstains would leave the room, so that there would be unanimous consent of the ones present in the room. After further discussion, Councilmember Boone was requested to leave the room while this ordinance was discussed and the hearing held.

23 November 2015

A Public Hearing was held as advertised on a proposed ordinance to amend Zoning Ordinance No. 1253, adopted 27 June 2005. Councilmember Brewer introduced in writing Ordinance No. 1556, an ordinance to rezone the property of Winterhaven, Inc. from R-6 Mobile Home Park District to R-2 Medium Density Single Family Residential District. This property is generally located on the southeast corner of the intersection of Ertle Street and Cain Lane, Fairhope, Alabama. Parcel No. 05-46-03-37-0-008-076.000.

Council President Burrell opened the Public Hearing at 6:25 p.m. No one present opposed the proposed ordinance, the Public Hearing closed at 6:25 p.m. Council President Burrell and City Attorney Wynne discussed the proper procedure to now vote for the proposed ordinance. Mayor Kant said that only the two Councilmembers who moved for immediate consideration or made the second could move to reconsider the ordinance.

After further discussion, Councilmember Ford moved to reconsider the motion for immediate consideration. Seconded by Councilmember Brewer, motion for immediate consideration passed unanimously by the following voice votes: AYE – Burrell, Mueller, Brewer, and Ford. NAY - None. ABSTAIN – Boone.

Councilmember Brewer then moved for final adoption of Ordinance No. 1556. Seconded by Councilmember Mueller, motion for final adoption passed by the following voice votes: AYE – Burrell, Mueller, Brewer, and Ford. NAY - None. ABSTAIN – Boone. Councilmember Boone returned to the dais at 6:28 p.m.

Council President Burrell opened the Public Hearing at 6:29 p.m. for Agenda Item Number 7. No one present opposed the proposed ordinance, the Public Hearing closed at 6:29 p.m.

Due to lack of a motion for immediate consideration, this ordinance will layover until the December 14, 2015 City Council meeting.

Councilmember Mueller moved to amend Agenda Item Number 8; an ordinance to prescribed Regulations for the Leaseholder and Vehicle Operators of the Fairhope Municipal Pier Restaurant and Marina for a Motorized Vehicle by adding to Section I. Purpose after the words for the disabled: “as defined by the Americans with Disabilities Act.” Seconded by Councilmember Boone, motion passed unanimously by voice vote.

Councilmember Mueller moved for final adoption of Ordinance No. 1557, an ordinance to protect the Public Safety, Health and Welfare by Prescribing Regulations for the Leaseholder and Vehicle Operators of the Fairhope Municipal Pier Restaurant and Marina for a Motorized Vehicle as amended.

23 November 2015

(Introduced at the October 26, 2015 City Council Meeting) The motion was seconded by Councilmember Boone. Councilmember Brewer read an e-mail from a citizen regarding the shuttle who was against it being used on the pier; and she agreed with the citizen. She stated the presence of the shuttle violates sacred ground and this is the only place left where people can walk without tripping or having vehicles in the way. Councilmember Ford said we need to rewrite the law; and the Federal ADA regulations supersede the Cities. Councilmember Boone said this is a good idea and an asset and service for citizens. Council President Burrell agreed this is an asset for citizens; and the ordinance has penalties for violations. He said there are many for it and many against it. Councilmember Mueller stated his decision is based on what the people who elected him want; and personally he does not want to adopt this. He stated our citizens want this service. After further discussion, motion for final adoption passed by the following voice votes: AYE – Burrell, Mueller, Ford, and Boone. NAY - Brewer. Council President Burrell questioned Mr. Gambino regarding the two shuttles being used. Mr. Gambino said only the small shuttle will be used on the pier.

Councilmember Boone moved to amend Agenda Item Number 9; an ordinance to provide Standards for the keeping of Domestic Poultry in Single-Family Residential Zones in the City of Fairhope by deleting from Section III. Requirements for Henhouses and Runs under 1) Location iii. after the words from the residence: “of the domestic poultry permit holder.” Seconded by Councilmember Mueller, motion passed unanimously by voice vote.

Councilmember Boone moved for final adoption of Ordinance No. 1558, an ordinance to provide Standards for the keeping of Domestic Poultry in Single-Family Residential Zones in the City of Fairhope as amended. (Introduced at the November 12, 2015 City Council Meeting) Seconded by Councilmember Mueller, motion for final adoption passed by the following voice votes: AYE – Burrell, Mueller, Brewer, Ford, and Boone. NAY - None.

Councilmember Ford introduced in writing, and moved for the adoption of the following resolution, a resolution that Mayor Timothy M. Kant is hereby authorized to execute Amendment Number 1 to the Agreement for Engineering Services with Neel-Schaffer, Inc. with additional services with the City of Fairhope Project No. PS005-14 described above with a proposed cost not to exceed of \$4,500.00. The motion was seconded by Councilmember Brewer who then questioned a possible traffic circle at Main Street and Veterans Drive intersection. Planning Director Jonathan Smith replied various options will be looked at and several traffic counts will be done before a recommendation is brought before the City Council. After further discussion, motion passed unanimously by voice vote.

23 November 2015

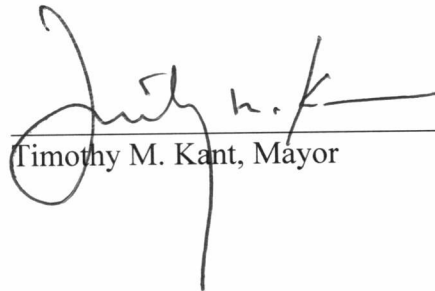
**RESOLUTION NO. 2450-15**

**WHEREAS**, the City of Fairhope entered into an agreement on March 24, 2014 with Neel-Schaffer, Inc. for engineering services for traffic operations and planning report upgrade for RFQ No. PS005-14;

**WHEREAS**, the City of Fairhope desires to proceed with additional services to include an engineering study of the traffic movements and intersection geometry at the intersection of North Section Street and Main Street;

**BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF FAIRHOPE, ALABAMA**, that Mayor Timothy M. Kant is hereby authorized to execute Amendment Number 1 to the Agreement for Engineering Services with Neel-Schaffer, Inc. with additional services with the City of Fairhope Project No. PS005-14 described above with a proposed cost not to exceed of \$4,500.00.

DULY ADOPTED THIS 23RD DAY OF NOVEMBER, 2015

  
\_\_\_\_\_  
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 that the City of Fairhope has voted to purchase a Ditch Witch RT55H Heavy Duty Trencher Machine for the Gas Department and requested item is available for direct procurement through the National Joint Powers Alliance ("NJPA") Buying Group Contract. The cost is approximately \$96,229.56 to allow for freight cost variations at ship time. Seconded by Councilmember Boone, motion passed unanimously by voice vote.

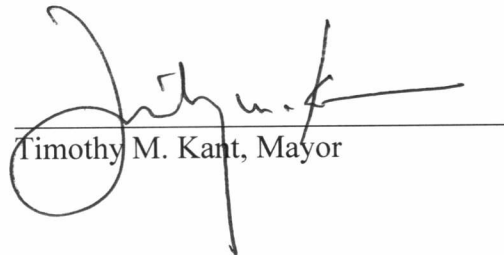
23 November 2015

**RESOLUTION NO. 2451-15**

**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 Ditch Witch RT55H Heavy Duty Trencher Machine for the Gas Department and requested item is available for direct procurement through the National Joint Powers Alliance ("NJPA") Buying Group Contract. The cost is approximately \$96,229.56 to allow for freight cost variations at ship time.

Adopted on this 23rd day of November, 2015



\_\_\_\_\_  
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 that the City Council hereby authorizes and approves to extend the deadline to May 1, 2016 in order for the Fairhope Elementary School to use the remaining balance to fund tutors which are needed throughout the entire year. Seconded by Councilmember Mueller, motion passed unanimously by voice vote.

\*

\*

\*



23 November 2015

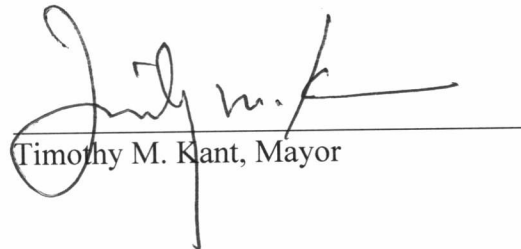
**RESOLUTION NO. 2452-15**

**WHEREAS**, the City has earmarked \$350,000.00 ("Contribution") of its 2014-2015 General Operations Budget for the improvement of education in the five schools; and,

**WHEREAS**, on October 26, 2015 the City Council is desirous, at the request of Terry Beasley, Principal of Fairhope Elementary School, to extend the deadline to May 1, 2016 to use the remaining balance of \$14,000.00 in order to fund tutors which are needed throughout the entire year.

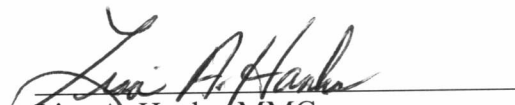
**BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF FAIRHOPE, ALABAMA**, that the City Council hereby authorizes and approves to extend the deadline to May 1, 2016 to use the remaining balance of \$14,000.00 in order to fund tutors which are needed throughout the entire year.

ADOPTED ON THIS 23RD DAY OF NOVEMBER, 2015



Timothy M. Kant, Mayor

Attest:



Lisa A. Hanks, MMC  
City Clerk

Councilmember Brewer moved to grant the request of James Corte requesting a variance in the noise ordinance and permission for the 12th Annual Wiseman Ball, being held at the Fairhope Inn & Restaurant, to have live music playing in the courtyard on December 12, 2015, which benefits needy children by collecting toys and raising money. The band will be playing from 8:00 p.m. until midnight. Seconded by Councilmember Ford, motion passed unanimously by voice vote.

City Council reviewed an application for a Beer/Wine Off Premises Licenses by Lawrence Gatta, Jr., LLC Manager, Dolgencorp, LLC, d/b/a Dollar General Store #4952, located at 904 Morphy Avenue, Fairhope, Alabama. Councilmember Brewer moved to approve the issuance of the license. Seconded by Councilmember Mueller, motion passed unanimously by voice vote.

23 November 2015

The following individuals addressed the City Council during Public Participation for Non-Agenda Items:

- 1) John Manelos, 104 White Avenue, addressed the City Council and thanked them for representing the City of Fairhope citizens. Mr. Manelos stated his concerns with the park at the South side of the Fairhope Municipal Pier regarding the trash truck riding along the sidewalk to pick up trash in the can. He stated this is a safety issue for walkers.

Councilmember Brewer moved to adjourn the meeting. Seconded by Councilmember Mueller, motion passed unanimously by voice vote.

There being no further business to come before the City Council, the meeting was duly adjourned at 6:55 p.m.

  
\_\_\_\_\_  
Jack Burrell, Council President

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