

STATE OF ALABAMA)
 :
 COUNTY OF BALDWIN)

The City Council, City of Fairhope, met in regular session at 6:00 p.m., Fairhope Municipal Complex Civic Center, 161 North Section Street, Fairhope, Alabama 36532, on Monday, 28 March 2016.

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 Councilmember Boone and the Pledge of Allegiance was recited. Councilmember Brewer moved to approve minutes of the 14 March 2016, regular meeting; minutes of the 24 March 2016, work session; and minutes of the 14 March 2016, agenda meeting. Seconded by Councilmember Mueller, motion passed unanimously by voice vote.

Council President Burrell announced that Agenda Item Number 5 had been pulled at the request of the Developer and Property Owner.

Councilmember Brewer moved for final adoption of Ordinance No. 1571, an ordinance to declare that certain real property (the upstairs portion of the Fairhope Public Library on Fairhope Avenue which includes nursing lab, small class room, large classroom, small office and small storage area) of the City of Fairhope is not needed for public or municipal purposes in response to an offer to lease property by Faulkner State Community College beginning on April 1, 2016. All other terms and conditions are set forth in the lease agreement. (Introduced at the March 14, 2016 City Council Meeting) Seconded by Councilmember Boone, motion for final adoption passed by the following voice votes: AYE – Burrell, Mueller, Brewer, Boone, and Ford. NAY - None. Councilmember Brewer mentioned this is for a three-year lease with an option for two additional three-year terms. The Library Board and the Library Foundation have a strategic plan and want to utilize the upstairs for the Library. She stated they were in agreement for a three-year lease.

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 amend the property of Fred Corte and Angelo Corte known as the Fly Creek PUD; specifically approximately 39.46 acres of the total 214 acres (Ordinance No. 1317). This property is located on the southeast corner of the intersection of U. S. Highway 98 and Parker Road, north of The Woodlands at Fairhope subdivision and south of Sandy Ford subdivision. Fairhope, Alabama.

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Parcel Nos. 05-46-02-04-0-000-001.000; 05-46-02-04-0-000-002.000; 05-46-03-08-0-000-002.000; 05-46-03-08-0-000-002.001; 05-46-03-08-0-000-002.002; 05-46-03-08-0-000-002.003; 05-46-03-08-0-000-002.004; 05-46-03-08-0-000-002.005; 05-46-03-08-0-000-002.006. 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. He said there are low impact developments in the plan with proposed less environmental impact. Mayor Kant left the dais at 6:14 p.m. and returned to the dais at 6:15 p.m. Mr. Smith stated the Planning Commission's recommendation was based on an 8 to 1 vote contingent upon the following conditions:

- 1) A formal Site Plan/Multiple Occupancy Project Review shall be conducted.
- 2) A Tree Preservation/Grading Plan shall be submitted at the time of Site Plan Review.
- 3) The proper measures shall be taken to protect Fly Creek from run-off and any other environmentally sensitive aspects, which may come from a project of this size and nature. Any outside agency permits shall be obtained from the appropriate authorities (USACOE, ADEM, ADCNR, etc.).
- 4) The "wilderness area" shown on the plans shall be fenced off prior to any land disturbance activity. Accommodations shall be made to ensure the "wilderness area" remains in its natural state.
- 5) An Environmental Impact Study and revised Traffic Study shall be performed for the proposed project and submitted at the time of Site Plan Review.

Stewart Speed, President of Leaf River Group, LLC, addressed the City Council and gave a Power Point Presentation titled "Retreat at Fairhope Village." (A copy of the presentation is on file with the City Clerk's office). Mr. Speed mentioned the average monthly rental for the proposed apartments is \$1,000.00 to \$1,600.00 per month. Shane Bergin, P.E. from Neel-Schaffer Engineering addressed the City Council and gave brief update on the traffic on Highway 98. Lee Walters, professional wetland scientist and regional vice president with Goodwyn, Mills and Cawood, addressed the City Council regarding the wetland and stream habitat assessments. He stated there would be no direct impacts on the environment; and they would monitor during construction and post construction.

Mr. Speed stated they are offering insurance for pollution during the 18 months of construction with a policy of \$1,000,000.00 for any catastrophic event. We are preserving and building on the unique character that makes Fairhope special.

Councilmember Mueller questioned the transportation from Daphne being 40 percent more on Highway 98 going to or from the South; and having a monitor station further west of property. The response was the traffic is from both to and from Daphne from the south; and the furthest monitor station is west of the property.

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Councilmember Brewer questioned the policy for pollution and whether or not others have done this; and is 18 months long enough. Mr. Speed replied that having a pollution policy is unusual and had to speak with his agent. He also stated he tried to speak with Rock Creek and Sandy Ford, but had no luck.

Councilmember Boone questioned the sunset provision being proposed. Attorney Chris Gill stated this could be put in the ordinance; and that other Cities have this provision in their Zoning Ordinances.

Council President Burrell asked “what happens if other projects go bad, what is your financial footing?” He said it worries him that Phase One will be built and that Phase Two would be built based on market demand. Mr. Speed said that other investors are in those projects. Council President Burrell commented if this does not move forward, it would revert back to the PUD as it is now.

Council President Burrell opened the Public Hearing at 7:15 p.m. The following individuals spoke during the Public Hearing:

- 1) Dot Yeager, 451 South Mobile Street, addressed the City Council with concerns and confusion about the Fly Creek PUD. She questioned if all of the utilities will be Fairhope utilities; and if garbage would be through Fairhope. She requested them to not approve until the questions and concerns were answered. Ms. Yeager never stated if she was for or against the proposed amendment.
- 2) David Legier, 1 Cane Brake Place, addressed the City Council and said that public trust is his main concern; and an agreement was made with a Fly Creek committee. He stated most people may not know about the proposed amendment. He suggested a petition to find out how many are in favor of the amendment. Mr. Legier never stated if he was for or against the proposed amendment.
- 3) Adam Milam, 116 Pecan Avenue, addressed the City Council and stated the insurance policy is for weather related issues; and a surety bond should be requested with a higher amount. He said this is not in compliance with the Comprehensive Plan; and there is no obligation to build Phase Two. He also said this does not comply with Ordinance No. 1370 known as the Wetlands Ordinance. Mr. Milam said there needs to be an independent environmental analysis as well as an independent traffic study. Mr. Milam is not in favor of the proposed amendment.
- 4) Lee Frailie, 213 North Circle, addressed the City Council and stated he had attended both of the Planning Commission meetings. He said no one stepped forward to support the ordinance. Mr. Frailie said this is a bad idea to amend the Fly Creek PUD which impacts 15 percent of Fairhope. Mr. Frailie is not in favor of the proposed amendment.
- 5) Lynn Maser, resident in Chestnut Ridge in Rock Creek, addressed the City Council on behalf of the Fairhope 98 Committee and is against the proposed amendment. Ms. Maser gave statistics on homes and rentals that were less than the proposed rental rates. She said there has been a 25 percent growth faster than the past four years; managed growth is needed in Fairhope.

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Ken Moore at 105 Woodcove Drive, Jim Powell at 3 Viale Trentino, and Adolf Acevedo at 103 Old Mill Road all yielded their time to Ms. Maser to continue speaking. Ms. Maser reiterated the need for an independent environmental study and an independent traffic study. She stated the City should get a bond for the project; and the City Council should do their due diligence with this project. Ms. Maser, Mr. Moore, Mr. Powell, and Mr. Acevedo are not in favor of the proposed amendment.

- 6) Chris King, 211 Heather Lane and future home at 39 Viale Bellezza, addressed the City Council and stated the bond would need to be ongoing. Mr. King is not in favor of the proposed amendment and quoted "Paved Paradise put in a parking lot."
- 7) Pam Hardison, 32 Cumberland in Sandy Ford, addressed the City Council and stated apartments will bring more families with no real estate taxed being paid. She was concerned with growth and how it will affect our schools. Ms. Hardison never stated if she was for or against the proposed amendment.
- 8) Jim Conwell, 430 Clubhouse Drive, addressed the City Council and stated he votes and his opinion does matter. He said this would be a negative impact on property values, there are connectivity concerns, and concerns in the future development being sold. Mr. Conwell never stated if he was for or against the proposed amendment.
- 9) Norma Mullins, 7935 Parker Road, addressed the City Council and stated she has lived at this address for 47 years. She saw the development of Rock Creek, The Woodlands, and the Publix Shopping Center; and all of these owned by the Cortes. She stated all of these developments were high end, so the proposed development would be a high end development. Ms. Mullins is in favor of the proposed amendment.
- 10) Amy Baughman, 24007 Trowbridge Court in Daphne, addressed the City Council and said she is looking to downsize and these apartments would be an option. Ms. Baughman stated she would not have to worry about a yard or the size of a home. Ms. Baughman also commented she works in Fairhope and is looking to relocate here. Ms. Baughman is in favor of the proposed amendment.
- 11) Ann Davis, 934 Sea Cliff Drive, addressed the City Council and said the City needs to make sure a surety bond is in place before beginning the project. She requested the City Council to think about these changes and the environmental implications. Ms. Davis never stated if she was for or against the proposed amendment.
- 12) Leo Da Silva, 119 Willow Lake Drive, addressed the City Council and stated his home backs up to the PUD. Mr. Da Silva stated he had no problem with the development. Mr. Da Silva is in favor of the proposed amendment.
- 13) Mary Cane, 12629 Mary Ann Beach Road, addressed the City Council and said there is a need for apartments for our community. Ms. Cane commented on recent clients: a nurse, a middle aged couple, and an elderly lady looking for apartments in the area. Ms. Cane is in favor of the proposed amendment.
- 14) Chip Shaw, 916 Sea Cliff Drive, addressed the City Council regarding the depth of Fly Creek which is owned by the State. He said this does not affect the water quality, but may have a significant impact like after the Publix Construction. He said the City needs a topography map before the project is approved to show what it looks like now. Mr. Shaw never stated if he was for or against the proposed amendment.

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- 15) Kenny McClain, property owner in Fairhope, addressed the City Council and stated he developed Rock Creek which also came with opposition. He said now it is one of the best neighborhoods in Fairhope. Mr. McClain is in favor of the proposed amendment.
- 16) Paul Ripp, 22985 High Ridge Road, addressed the City Council and mentioned the "Triangle" and Publix projects. He stated runoff in Fly Creek did happen; and this is degrading residents and not building a village. Mr. Ripp is not in favor of the proposed amendment.
- 17) Dianne Bernasconi, 107 Ronforth Street and teacher in Fairhope, addressed the City Council and said that \$225,000.00 in property taxes would pay for five teachers. The proposed apartments will require seven to eight school buses and twelve teachers with additional aides. She said this will affect the quality of education for our kids. Ms. Bernasconi is not in favor of the proposed amendment.
- 18) Randy Niemeyer, 216 Hawthorne Circle, addressed the City Council and said there is a definite need for apartments. Mr. Niemeyer commented he gets calls every day for rentals. He said some want to rent before owning. Mr. Niemeyer is in favor of the proposed amendment.
- 19) Lynn Johansen, 261 North Summit, addressed the City Council and stated she agreed with all of the concerns; and support all of the concerns brought up tonight. She also questioned the other nearby apartments. Ms. Johansen is not in favor of the proposed amendment.
- 20) Kenny Crow, 550 North Station, addressed the City Council and mentioned all of the cars on Highway 98. He questioned how the City will deal with this issue. He also stated traffic concerns for not only Highway 98, but State Highway 181 and County Road 13. Mr. Crow is not in favor of the proposed amendment.
- 21) Scott Mann, 121 Sandy Ford, addressed the City Council and stated there are many questions without answers. He said that everyone else had stated his concerns. Mr. Mann is not in favor of the proposed amendment.

Councilmember Mueller stated to the audience that there would not be a vote on this item tonight; and there may have been some miscommunication. He said unless someone moves for immediate consideration, this ordinance will layover until the next City Council meeting.

The Public Hearing closed at 8:20 p.m.

Councilmember Brewer questioned the surety bond opposed to the insurance policy; creating an obligation for Phase Two to be built; and legal issues with the two Planning Commission meetings. Councilmember Brewer stated she had no problems with apartments in this location or any place in Fairhope and wants affordable housing. Her main concern is the potential damage to Fly Creek.

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Mr. Speed commented this is a pollution policy not just for hurricanes; and the City would be additional insured. Chris Gill replied that there is no bond available and the insurance site coverage is appropriate in this case. Mr. Speed stated he was not sure how the City can obligate and investor; but we still have the same landowner who wants high quality. Mr. Gill said that the Zoning Ordinance allows the applicant to pull an item off the agenda at any time; and the reason it was placed back on the Planning Commission's agenda was a procedural issue. We had a motion to approve, but no motion to deny the application for recommendation to the City Council.

Councilmember Boone said all of his questioned have been answered; and he has no concerns for the development of the apartments. He also commented there is a need for apartments in Fairhope. He said this amendment is far better than the old PUD that was approved; and density will always be around.

Council President Burrell stated the following observations: The PUD plan is aligned with the Comprehensive Plan as well as the 2006 approved PUD. The demand is for more start up property. He said my obligation is to the citizens and not the people who are not citizens. Councilmember Brewer commented growth is happening here; and she does not want Fairhope to be where only the wealthy can live here. We should protect Fairhope's identity for welcoming everyone.

Council President Burrell stated it is not hard to find a home for \$1,200.00 per month; and he would tell his children to invest in property. He said the people he spoke to were overwhelming against this PUD amendment with the vast majority against apartments. He said in 2006 promises were made to the people and the City of Fairhope; and he has concerns that if this is not approved or fails that it will revert back to old PUD with same stipulations.

Chris Gill replied there are different layers of rules and regulations; and the PUD zoning cannot be changed from what was approved and established. He said this amendment is only affecting 39.46 acres of the entire PUD.

Mayor Kant stated he was confused with Phase Two and what is being built. Mr. Smith replied they could build homes before townhomes in Phase Two; and they will have low impact developments which will be imposed on the entire PUD.

Councilmember Mueller said he had a problem with the comment they were not listening to the citizens in how we vote; and said every vote is based on the majority of the citizens. Councilmember Boone commented that all the people he has spoken with were either for the proposed amendment or did not care.

Due to lack of a motion for immediate consideration, this ordinance will layover until the April 11, 2016 City Council meeting.

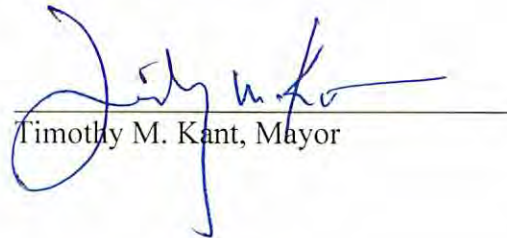
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Councilmember Boone introduced in writing, and moved for the adoption of the following resolution, a resolution that Mayor Timothy M. Kant is hereby authorized to execute an agreement between the City of Fairhope and BP Energy Company, for the Fourth Amendment to Natural Gas Purchase and Sale Agreement. Seconded by Councilmember Ford, motion passed unanimously by voice vote.

RESOLUTION NO: 2512-16

BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF FAIRHOPE, ALABAMA, That Mayor Timothy M. Kant is hereby authorized to execute an agreement between the City of Fairhope and BP Energy Company, for the Fourth Amendment to Natural Gas Purchase and Sale Agreement.

DULY ADOPTED THIS 28TH DAY OF MARCH, 2016



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 procure needed Equipment for Hard Drive/Storage Upgrade per the request of the IT Department and the type of equipment is available on the National IPA Buying Group and on Alabama State Department of Purchasing bid list; and therefore does not have to be let out for bid. The total cost is \$86,294.94. The motion was seconded by Councilmember Mueller. Mayor Kant clarified that the City of Fairhope does not have to bid these items due to the fact that the buying groups have already gone through the bid process. Councilmember Boone explained that two of the vehicles were purchased off of a buying group and then sold afterwards for the same price. Jeff Montgomery briefly explained the savings for these items. After further discussion, motion passed unanimously by voice vote.

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RESOLUTION NO. 2513-16

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

That the City of Fairhope has voted to procure needed Equipment for Hard Drive/Storage Upgrade per the request of the IT Department for the City of Fairhope and the type of equipment is available on the National IPA Buying Group and on Alabama State Department of Purchasing bid list and therefore does not have to be let out for bid; and

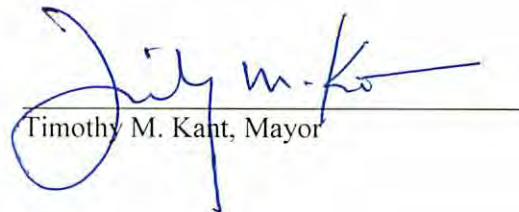
[2] The following is the information for both contracts:

- (a) National IPA Buying Group Contract:
Contract Number: 13073
CDW Government, Inc. Cost is \$64,375.00

- (b) Alabama State Department of Purchasing Contract:
Bid Number: T631 Contract Number: 4013322
GKR Systems Cost is \$21,919.94

Total Cost is \$86,294.94

Adopted on this 28th day of March, 2016



Timothy M. Kant, Mayor

Attest:



Lisa A. Hanks, MMC
City Clerk

Councilmember Boone introduced in writing, and moved for the adoption of the following resolution, a resolution that Mayor Timothy M. Kant is hereby authorized to enter into an agreement with the Alabama Department of Transportation for the Cooperative Maintenance of State Right of Way to secure a more pleasing appearance on the Shared Use Path along U. S. 98 and AL-104 to South Drive in Fairhope, Alabama. Seconded by Councilmember Brewer, motion passed unanimously by voice vote.

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RESOLUTION NO. 2514-16

BE IT RESOLVED, BY THE GOVERNING BODY OF THE CITY OF FAIRHOPE AS FOLLOWS:

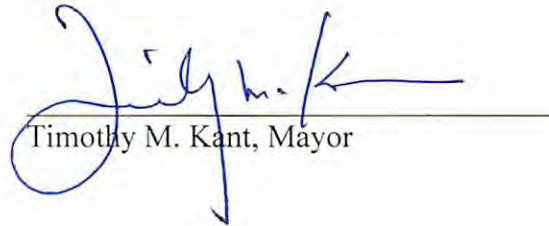
1. WHEREAS, the City of Fairhope, Alabama enter into an agreement with the Alabama Department of Transportation, acting by and through its Transportation Director hereinafter referred to as the STATE for:

The Cooperative Maintenance of STATE Right of Way to secure a more pleasing appearance on the Shared Use Path along U. S. 98 from AL-104 to South Drive; ALDOT right-of-way from Mile Post 42.54 and Mile Post 43.79 in Fairhope, Alabama for sidewalks, landscaping and vegetative cover.

2. WHEREAS, the agreement shall be executed in the name of the City of Fairhope, by its Mayor Timothy M. Kant, for and on its behalf.
3. WHEREAS, the agreement shall be attested by the City Clerk Lisa A. Hanks, and the seal of the City of Fairhope affixed thereto.

BE IT FURTHER RESOLVED that upon the completion of the execution of the Agreement by all parties, that a copy of such agreement be kept on file by the City Clerk.

Adopted and Approved this 28th day of March, 2016



Timothy M. Kant, Mayor

Attest:



Lisa A. Hanks, MMC
City Clerk

Councilmember Brewer moved to appoint Jeannie McCain, Sietze Slinkman, and Gina Walcott to the Pedestrian and Bicycle Committee for a three-year term which will expire March 2019. Seconded by Councilmember Boone, motion passed unanimously by voice vote.

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City Council reviewed an application for a Non-Profit Tax Exempt License (Alcoholic Beverage License) by Erik Cortinas for The Fairhope Pirate Booster Club, Inc., for the 21st Annual Drawdown and Silent Auction located at 161 North Section Street, Fairhope, Alabama on April 16, 2016. Councilmember Brewer moved to approve the issuance of the license. Seconded by Councilmember Mueller, motion passed unanimously by voice vote.

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

There being no further business to come before the City Council, the meeting was duly adjourned at 9:10 p.m.



Jack Burrell, Council President



Lisa A. Hanks, MMC
City Clerk