

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, 9 August 2010.

Present were Council President Lonnie L. Mixon, Councilmembers: Debbie W. Quinn, Michael A. Ford, and Rick Kingrea, City Attorney Marion E. Wynne, and City Clerk Lisa A. Hanks. Councilmember Daniel Stankoski and Mayor Timothy M. Kant were absent.

There being a quorum present, Council President Mixon called the meeting to order. The invocation was given by Associate Pastor Jeff Ingram, of First Baptist Church and the Pledge of Allegiance was recited. Council President Mixon asked if there were any corrections to the minutes from the 26 July 2010, regular meeting. He then stated if there are no corrections, the minutes stand approved as written. Council President Mixon then asked if there were any corrections to the minutes from the 26 July 2010, work session. He then stated if there are no corrections, the minutes stand approved as written.

Rob Stankoski, along with his brother Clark, attended the meeting and gave an update on his dad, Councilmember Dan Stankoski. Dan suffered a mild stroke on Thursday evening but is doing well and is expected to make a full recovery. Mr. Stankoski thanked everyone for their concern and they are not allowing visitors.

Council President Mixon mentioned the following two items:

- 1) Ken Eslava was thanked for all of his work on the BP Oil Spill.
- 2) Electric Department, Police Department and the Fairhope Volunteer Fire Department were all thanked for their coordinated efforts on the power outage last week; and the Police Department was thanked again for their prompt and diligent action on the recent Young Street murder which led to the suspect turning himself in.

Councilmember Kingrea addressed the City Council regarding "Where Do We Stand" with the following issues:

- 1) Nichols Street Deck – City Attorney Wynne stated the deck was pending on the Preliminary Injunction hearing.
- 2) Jubilee Lounge – status of hearing was questioned; Chief Press said he plead guilty.
- 3) Public Works – Road painting kudos for 15 miles being painted.

9 August 2010

4) Parking in front of Police Department – Parallel parking was recommended. City Administrator Gregg Mims stated Neel Schaffer prepared the study and this issue needs to be addressed.

Christopher Baker of HMR addressed the City Council regarding the Tiger II Planning Grant. He mentioned that Baldwin County, Spanish Fort, and Daphne had already passed and adopted resolutions. This is a competitive nationwide program for planning funding with \$75 million available. He explained the four main tasks: Stormwater Regulation, Future Transportation Routes, County Road 13 Access Management Plan, and Alternative Transportation Master Plan. This will be no cost to the City. Mr. Baker stated he needed affirmative support from the City Council tonight to proceed with the grant application.

After further discussion, Councilmember Ford moved to approve that the City of Fairhope supports the application to be submitted by Baldwin County for the Tiger II Planning grant. The purpose is to develop stormwater regulations based on a watershed, regional wide alternative transportation plan including BRATS, and an access management plan for County Road 13 from U. S. Highway 90 to U. S. Highway 98. Seconded by Councilmember Kingrea, motion passed unanimously by voice vote.

Councilmember Quinn addressed the City Council with an update on the School Feasibility Study being done by Dr. Ira Harvey. She mentioned a public meeting possibly on September 13, 2010. The updates to the Personnel Handbook were questioned and City Administrator Gregg Mims replied this would be discussed at the September work session. Councilmember Quinn also mentioned she would like the sewer upgrades to be discussed at the next work session.

Councilmember Ford stated he was glad Councilmember Stankoski is doing well.

City Administrator Gregg Mims addressed the City Council on the memo from Chief of Police Press regarding the Young Street murder which recognized all who helped with this issue; and stated Ken Eslava will give an update on the BP Oil Spill.

The following is the memo regarding the Young Street murder:


9 August 2010



Bill D. Press, Ph.D.  
Chief of Police

## Fairhope Police Department

"On Beautiful Mobile Bay"








DATE: July 15, 2010  
 TO: Distribution   
 FROM: Dr. Bill D. Press, Chief  
 Fairhope Police Department  
 SUBJECT: Young Street Murder Investigation

On July 5, 2010, at approximately 1 a.m., the Fairhope Police Department received a call of a shooting on Young Street. Upon arrival, the officers discovered that the shooting suspect had fled the scene leaving a fatally wounded body lying in the road. Additional police officers were immediately called out and a murder investigation launched. Numerous resources were used and countless hours spent interviewing witnesses and searching for the suspect. As a result, on July 8, 2010, the suspect in question turned himself in to the Fairhope Police Department.

I would like to thank all those who dedicated their time and resources toward this investigation. Therefore, it is my privilege to commend each of you for a job well done and for working together toward a common goal.

BDP/tdh

Distribution: Assistant Chief Terry Sanders      Captain Joseph Petties  
 Sergeant Mike Crittenden      Sergeant James Gilheart  
 Sergeant Larry Sledge      Corporal Eric Johnson  
 Corporal Shane Nolte      Corporal Wendell Thomas  
 Officer Ernest Bishop      Officer David Hall  
 Detective Stephanie Hollinghead      Officer Tervelle Lee  
 Officer John Morgan      Officer James Nelson  
 Reserve Officer Brady McLaughlin      Dispatcher Suzie Bozeman  
 Dispatcher Gina Dennis      Dispatcher Sheri Swartz

 Baldwin County Sheriff's Office  
 Baldwin County District Attorney's Office  
 Baldwin County Coroner's Office  
 Mobile Police Department  
 Mobile County Sheriff's Department – K-9 Unit  
 U. S. Marshals – Mobile Office  
 Alabama Department of Forensic Science – Mobile Office

C: Gregg Mims, City Administrator  
 Councilmember Mike Ford  
 Councilmember Rick Kingrea  
 Councilmember Lonnie Mixon  
 Councilmember Debbie Quinn  
 Councilmember Dan Stankoski

P.O. Drawer 429

10pc, Alabama 36533

251-928-2385

251-930-0158 Fax

www.cofairhope.com

Printed on recycled paper

9 August 2010

Ken Eslava stated that the Pier Street Boat Ramp was now open; 27,000 feet of containment boom has been decontaminated and will be stored in Theodore; 23,000 of new boom is being stored at the warehouse; and the City will now monitor short and long term environmental impacts. Then, he read the following statement from Bryan Prescott with the Alabama Emergency Management Agency:

**Ken Eslava**

---

**From:** Bryan Prescott [bryanp@ema.alabama.gov]  
**Sent:** Monday, August 09, 2010 2:42 PM  
**To:** Ken Eslava; Tim Kant  
**Cc:** Jeff Byard  
**Subject:** BP Grant Money.

We have been informed by the Examiners of Public Accounts that they will be auditing the funding from BP Oil to the State of Alabama. They are now compiling information from the Finance Department and do not yet know when they'll begin or what procedures they may follow. We will hear more as the plan develops. The Examiners Office stated that any unused funds held by the local governments should be returned to the state. All grant funds delivered to the local governments must be utilized in accordance with the project applications submitted and approved by ADEM and AEMA. If any grant funds have not been spent according to the project applications, those funds should be returned to AEMA.

**If any local government has any unused grant funds and has projects related to the Oil Spill, they should submit their new project applications to AEMA to determine whether the project is in accordance with the following oil spill documents.**

The BP grant agreement with the State states that the funds must be used to pay or otherwise cover costs related to the Event (OIL Spill). In addition, the AEMA grant agreements state: "to prevent, minimize or mitigate the damage from the Deepwater Horizon Incident including any project management costs and equipment costs associated therewith or any protective measures taken to prevent or respond to the oil spill."

**NOTE: Section 6 of the Grant Agreement provides "The Grantee will give the Director of AEMA, the Chief Examiner of Public Accounts, or any of their duly authorized representatives, access to any pertinent books, documents, papers, and records of the Grantee to make audits, financial reviews, examinations, excerpts, and transcripts. The Grantee shall send AEMA a report of disbursements of the grant funds on an annual basis until the grant funds has been fully spent.**

**We interpret Section 6 to mean that the Grantee will send a report of disbursements to AEMA at the end of each fiscal year.**

If you have any question or comment, please call.

**Bryan**

Bryan K. Prescott  
 General Counsel  
 Alabama Emergency Management Agency  
 (205) 280-2209 work  
 (205) 351-1028 cell  
 (205) 280-2394 fax  
 1\*77\*93 linc

9 August 2010

Questions were raised regarding outstanding debts and keeping additional boom. Mr. Eslava replied the City owes approximately \$27,000 to an outside contractor and we need to declare the boom surplus in order to sell.

Councilmember Quinn reminded everyone about the Barbara Davis “Tomato Lady” fundraiser being held Thursday evening.

Bobby Green addressed the City Council and reported on the Knoll Park Restoration:

### **Knoll Park Restoration**

#### **What is Knoll Park ?**

Given to the citizens of Fairhope by the Fairhope Single Tax Colony, the park is a rare, remnant of ‘Sandhill Longleaf Pine Forest’. Such forests once dominated much of the Gulf Coast landscape from New Orleans to Tallahassee, covering millions of acres. In its natural state, the park would be characterized by the towering Longleaf Pine with an open understory of herbaceous wildflowers alive with color in the Spring and the Fall.

#### **Why is it endangered?**

Today, Knoll Park remains one of Fairhope’s treasures. Long-time Fairhopian’s may take them for granted, but to many newer residents the huge pines are unique, and have a rather exotic character. However, some of its most remarkable components have diminished during the past century. By 2006, even the towering pines were in danger. Though collectively quite healthy, they were not reproducing, and there was not a single pine under fifty years old on site. Wildflower populations had become almost insignificant. Mostly they clung to existence at the bases of trees, and on the perimeter slopes. Liatris, asters, and a few others still flowered, but there was a time when wild iris and some now-Federally-endangered plants flourished.

#### **What is the aim of the restoration project?**

The Knoll Park Restoration Project, a joint effort of the Fairhope City Council and Fairhope Single Tax Corporation, aims to restore the site to a point much as it appeared to Fairhope’s Founders. The Founders understood the importance of large passive-use areas to a community. There are precious few Southern Longleaf Pine remnants within urban settings, and the restoration of Knoll Park would be a wonderful gift to future generations.

#### **Why do you keep burning it?**

The Longleaf Pine Ecosystem is very fire-dependent. The pines themselves depend on fire to create a good seedbed and eliminate vines and brush that would stymie seedling establishment. Many populations of herbaceous plants require the same conditions for regeneration and growth.

The project committee consulted foresters and botanists about methods for restoring the native plant populations. These specialists recommended a series of controlled burns, aiming toward a self-sustaining ecosystem. The committee initiated a series of such burns in 2007. The burns are done with permission and participation from the Alabama Forestry Commission and the City.

#### **How successful have you been?**

Over 140 species of trees, shrubs, and wildflowers now have been found and identified within Knoll Park. That number indicates an incredible diversity over a relatively small area. Some herbaceous species seen here are rare or no longer extant elsewhere in Fairhope. Of particular interest are some thirty specimens of the orchid species *Spiranthes praecox*. Consultations with native plant experts have led to re-introduction of lost herbaceous plants which botanists would expect to be on this type site. Over 700 such plants have been planted throughout the park by volunteers. The controlled burns, coupled with a brush removal program within the park, have yielded thousands of tiny longleaf pine seedlings throughout the park.

9 August 2010

**How can we see the park?**

A simple series of bark paths lead visitors to a central gathering area at the knoll of the park which gives one a spectacular view of Mobile Bay as well as an expansive view of the park. We ask visitors to keep to the paths while the fragile surroundings recover.

**What's next?**

A simple parking area is planned for Bayview Avenue. Interpretive signs explaining the history and ecology of the park will be added. It is envisioned that the park becomes a teaching tool for area schools, as well as a place for Fairhope citizens and out-of-town visitors to see what the historic Sandhill Longleaf Pine Forests were like in the Founders' day.

**How can we help?**

Vigilance and patience. To be truly restored, Knoll Park must remain a passive-use area. It is difficult for modern man to see a piece of real estate and not place a monument to himself upon it. It will take continued stewardship and dedication shown by the Fairhope Single Tax Colony, City Of Fairhope, and the many volunteers who have helped with the project.

There is no other place in Fairhope where the harmony of truly natural surroundings can be more appreciated for its simple splendor. We have a golden opportunity to salvage a remnant of that beauty that drew our founders here more than 100 years ago.

\*

THE FAIRHOPE SINGLE-TAX COLONY (ORIGINAL DONOR OF THIS AND OTHER PARK LAND IN FAIRHOPE) AND THE CITY OF FAIRHOPE ARE THE PRINCIPAL SPONSORS OF THE RESTORATION PROJECT. COLLABORATORS INCLUDE THE WISTERIA GARDEN CLUB, THE FAIRHOPE TREE COMMITTEE, AND THE ALABAMA FORESTRY COMMISSION. PLANT SPECIALISTS GENA TODIA, HARRY LARSEN AND FRED NATION HAVE IDENTIFIED THE MANY PLANT SPECIES AT THE SITE AND HELPED IN OTHER RESTORATION WORK. MEMBERS OF THE KNOLL PARK RESTORATION COMMITTEE HAVE PLANNED AND CONDUCTED MUCH OF THE WORK ALSO. THEY INCLUDE MAC McCAWLEY (SINGLE TAX COLONY PROJECT CHAIRMAN), BOBBY GREEN (LANDSCAPE DESIGNER AND NURSERYMAN), LIBBY McCAWLEY (MASTER GARDENER AND ARTIST), DOT YEAGER (REALTOR), MAE MOSS PARKER (WISTERIA GARDEN CLUB), JOHN PATE (GENERAL CONTRACTOR), TOM ELLIS (FAIRHOPE TREE COMMITTEE), MIKE FORD (REALTOR AND CITY COUNCILMAN), PEGGY DYSON (LOCAL TEACHER AND BOTANIST), AND JENNIFER FIDLER (FAIRHOPE CITY HORTICULTURIST).

\*

*Special thanks to John and Julie Pate who have contributed a great deal of time and monies to the project; Electrical Superintendent, Scott Sligh; The Fairhope Volunteer Fire Department; and all the supportive immediate neighbors of Knoll Park.*

A Public Hearing was held as advertised on a proposed ordinance to amend the Zoning Ordinance No. 1253. Councilmember Kingrea introduced an ordinance to rezone the property of Maria Gilheart and Laticia Perez from R-2 Medium Density Single Family Residential to B-2 General Business District. The Planning Commission decision was an unfavorable recommendation of this ordinance. This property is located at 20132 State Highway 181, Fairhope, Alabama.

Jonathan Smith, Planning and Building Director, explained the proposed ordinance:

9 August 2010

**STAFF INTERPRETATION:**

The property consists of one residential lot and is located in the City of Fairhope. It is currently zoned R-2. The lot is approximately 64,565 sf. The applicant is requesting a rezoning from R-2 to B-2.

The investors associated with the development are as follows: Maria Gilheart and Laticia Peralez.

The property is bordered by RA zoned property to the north, R2 zoned property to the east and south, and R1 zoned property to the west. The B-2 zoning designation represents the General Business District. This district is intended to provide opportunity for activities causing noise and heavy traffic, not considered compatible in the more restrictive business district. These uses also serve a regional as well as a local market and require location in proximity to major transportation routes. Recreational vehicle parks, very light production and processing activities are included.

It is staff's opinion that the B-2 zoning for the subject property is not compatible with the zoning designations of surrounding properties. There are no commercial properties contiguous with the subject property.

**PLANNING COMMISSION RECOMMENDATION:**

The application was heard on June 7, 2010. The Planning Commission unanimously voted to deny the request to rezone the subject property from R-2 to B-2.

Respectfully Submitted for Consideration,

Nancy Milford  
Planner  
City of Fairhope

Jonathan I. Smith  
Director of Planning and Building  
City of Fairhope

Council President Mixon opened the Public Hearing at 6:40 p.m.

1. Jack Rousso, 143 Club Drive, addressed the City Council and stated he was not against the rezone, but this could be the start of more without a good zoning plan. This could be continuous on the North side and we should not spot zone.

Jonathan Smith mentioned the domino effect and that is what they looked at. Councilmember Kingrea asked about zoning in the future. Mr. Smith replied a great deal of these properties are unzoned and is our concern with that area. We need to look at these case by case.

2. Maria Gilheart, property owner, addressed the City Council stating they are having a hard time selling the property as residential since it is near Wal Mart. It was mentioned other neighbors want to rezone too, but do not have the money for the application.

9 August 2010

The Public Hearing closed at 6:44 p.m.

In order to take immediate action Councilmember Quinn moved for immediate consideration. The motion failed for lack of a Second. This proposed ordinance will lie over until the next regular City Council meeting.

A Public Hearing was held as advertised on a proposed ordinance to amend the Zoning Ordinance No. 1253. Councilmember Quinn introduced Ordinance No. 1428; an ordinance to amend Article IV Site Designs Standards, Section G. Signs. The Planning Commission decision was a favorable recommendation of this ordinance.

Jonathan Smith, Planning and Building Director, explained the proposed ordinance:

**STAFF INTERPRETATION:**

On December 7, 2009 the Planning Commission established a Sign Ordinance Committee to review the City's Sign Ordinance and discuss possible revisions. The Sign Ordinance Committee consists of Bob Clark, Jennifer Fidler and Jonathan I. Smith. The Committee met on Wednesday, March 21, 2010 and staff reported the results of the committee meeting at the May 3, 2010 Planning Commission meeting.

With the guidance of the Sign Ordinance Committee, staff has prepared several amendments to Article IV, Section G. (Signs) in the Fairhope Zoning Ordinance. The amendments are part of some Zoning Ordinance clean-up efforts as well as efforts to assist business owners throughout the community.

With the exception of a few amendments that will help with consistency throughout the Ordinance, the most substantial of the proposed amendments are as follows: a reduction in maximum height allowed for freestanding signs from twenty feet (20') to eight feet (8'), establishing provisions specifically addressing political signs, established a 30 day time limit and a maximum allowed face area of four (4) square feet for temporary signs, reducing the face area allowed for certain real estate signs, reducing the additional maximum allowable face area for Complex Signs from fifty (50) square feet to twenty (20) square feet and a provision to allow for A-Frame signs in all commercial districts.

A public hearing was held at the June 7<sup>th</sup> Planning Commission meeting regarding the proposed amendments. With a 7 to 1 vote the Planning Commission voted to recommend approval of the proposed amendments with the added amendment addressing political signs as follows:

"Political Signs may be placed on private property after the qualifying deadline for the election. A candidate shall remove his/her political signs from Private Property within five (5) days following the first to occur of (i) said candidate not winning a primary election or prevailing to a run-off in a primary election; (ii) said candidate not winning a primary run-off election; (iii) said candidate not winning a general election or prevailing to a run-off in a general election; or (iv) the general election (provided, that the foregoing use of the term "general election" shall include a run-off in a general election)."

Please find the proposed amended Article IV, Section G (Signs) of the Fairhope Zoning Ordinance attached to this staff report.



9 August 2010

**PLANNING COMMISSION RECOMMENDATION:**

With a 7 to 1 vote on June 7, 2010 the Planning Commission recommended the City Council approve the proposed amendments to Article IV, Section G. (Signs) in the Fairhope Zoning Ordinance.

Respectfully Submitted for Consideration,

Jonathan I. Smith  
Planning and Building Director  
City of Fairhope

Councilmember Kingrea asked if anyone had checked with the Alabama League of Municipalities or City Attorney Wynne regarding signs for political events and limiting freedom of speech. Mr. Smith replied he had consulted with Chris Gill, Attorney with Hand Arendall, before going to the Planning Commission. Councilmember Kingrea asked; will it pass muster or constitutionality. Chris Gill replied there is a rational relationship with political signs.

Councilmember Ford asked about non-conforming signs. Mr. Smith replied that part of the Zoning Ordinance has not been changed. Councilmember Quinn stated the ordinance looks great and it is nice to see limitations.

Council President Mixon opened the Public Hearing at 6:50 p.m. No one present opposed the proposed ordinance, the Public Hearing closed at 6:50 p.m.

In order to take immediate action Councilmember Kingrea moved for immediate consideration. Seconded by Councilmember Quinn, motion for immediate consideration passed unanimously by the following votes: AYE – Quinn, Mixon, Ford, and Kingrea. NAY - None. Councilmember Quinn moved for final adoption of Ordinance No. 1428. Seconded by Councilmember Kingrea, motion passed for final adoption by the following votes: AYE – Quinn, Mixon, Ford, and Kingrea. NAY - None.

A Public Hearing was held as advertised on a proposed ordinance to amend the Zoning Ordinance No. 1253. Councilmember Ford introduced an ordinance to amend Article V Special Districts, Section G. Tourism-Resort District. The Planning Commission decision was a favorable recommendation of this ordinance.

9 August 2010

Jonathan Smith, Planning and Building Director, explained the proposed ordinance:

**STAFF INTERPRETATION:**

The City of Fairhope has long been known for its attractive downtown and waterfront location. Tourists and potential new residents come from all over the world to embrace our much desired quality of life and southern atmosphere. The City of Fairhope Comprehensive Plan (the "Comprehensive Plan") is a steering document for Staff and City Officials to assist in accomplishing goals and setting our community's vision for future growth and development. The Comprehensive Plan specifically identifies the goal of implementing a "specific resort and tourism planning area" (see Section 4.4.9 of the Comprehensive Plan) and mentions numerous policies relative to such an area that are reflected in the proposed Tourism Resort District amendment. The proposed Tourism Resort District is consistent with the goals, policies and intent of the Comprehensive Plan.

Staff and legal counsel to the Planning Commission have been intricately involved in the drafting and review of the proposed Tourism Resort District amendment.

Attached to this Staff Report as Exhibit "A" are sections from the Comprehensive Plan. The Comprehensive Plan documents included consist of Section 4.4.9: Resort and Tourism District '05-'06 and Section 6.2: Strategies Matrix, Economic Development Strategies and Resort and Tourism Strategies. Also attached to this Staff Report as Exhibit "B" is the proposed Tourism Resort District amendment.

As proposed, a Tourism Resort District (a "TR District") must contain at least 175 contiguous acres and be located within 2 miles of an existing full service hotel (with a minimum of 300 hotel rooms), 18-hole championship golf course with related facilities and a marina. The maximum residential density allowed in a TR district is 3.5 units per acre and a minimum of 20% Open Space is required though out a TR District. The Development zones permitted in a TR District are as follows: Recreation Zone (RZ), Low-Rise (LR) Residential Zone, Mid-Rise (MR) Residential Zone, Limited Commercial (LC) Zone and High-Rise (HR) Residential Zone.

The Recreation Zone (RZ) may include Conference Facilities, Restaurants, Bars, Golf Courses, Swimming Facilities, Educational Facilities, Nature and Recreational Areas and Facilities, Specific Retail and Limited Commercial uses, etc. Building Height for the Recreation Zone is not to exceed forty five feet (45').

The Low-Rise (LR) Residential Zone allows a variety of residential uses, senior care facilities and retail and office facilities commonly found in Senior-Oriented Communities, etc. Building Heights in the LR Zone shall not exceed thirty five feet (35').

The Mid-Rise (MR) Residential Zone allows the same type uses allowed in the LR zone and a maximum building height of fifty five feet (55') with the provision that the applicant specifies the number of buildings to be built over thirty five feet (35') in the MR Zone.

The Limited Commercial (LC) Zone allows all of the uses set forth in Table 3-1: Use Table for the City of Fairhope B-1, B-2, B-3a, B-3b, and B-4 Zoning Districts and all permitted uses in the LR and RZ Zones. Maximum Building Height for the LC Zone is forty five feet (45'). A maximum gross floor area of 108, 000 square feet is proposed.

The High-Rise (HR) Residential Zone permits a limited number of high-rise multi-story residential attached dwelling units and any permitted uses allowed in the MR Zone, LR Zone and RZ Zone. Building Height is not to exceed one hundred feet (100'); provided however that, (a) not more than two (2) buildings total may be constructed at heights higher than fifty five feet (55') and (b) the Application for TR District Zoning shall set forth the maximum number of dwelling units which may be developed within the HR Zone in buildings which exceed fifty five feet (55').

9 August 2010

Private Streets without vehicular connectivity requirements are proposed in the TR District. The Comprehensive Plan states that the City should "consider alternative non-street connectivity measures for pedestrians, such as trails and greenways that still aim to meet the internal Connectivity and circulation across areas within the site." Pedestrian Networks throughout a site/project shall be required.

**PLANNING COMMISSION RECOMMENDATION:**

On June 7, 2010 the Planning Commission had a Public Hearing regarding the proposed TR District. With a 7 to 1 vote the Planning Commission recommended the City Council approve the proposed Zoning Ordinance Amendment to Article V Special Districts to allow for Article V, Section G. Tourism Resort (TR) District.

Respectfully Submitted for Consideration,

Jonathan I. Smith  
Planning and Building Director  
City of Fairhope

Council President Mixon opened the Public Hearing at 6:51 p.m.

1. Gary Gover, 300 Lincoln Street, addressed the City Council and mentioned the recommendations he had sent via e-mail. He stated this is a tourist attraction, proposed to encourage growth around, and connectivity not required.
2. Jason Tickle, Project Manager, addressed the City Council stating this project has been developing over that last five years and you have had plenty of time to see the progress of this development. The investor of the Grand Resort had to make a decision whether or not to rebuild after Katrina. There has been a collapse of the real estate economy and the oil spill. We have compromised with the City and worked a long time to get to this point. He thanked staff for their work.

The Public Hearing closed at 7:03 p.m. Council President Mixon stated this proposed ordinance will lie over until the next regular City Council meeting.

A Public Hearing was held as advertised on a proposed ordinance to amend the Zoning Ordinance No. 1253. Councilmember Quinn introduced an ordinance to zone the property of Point Clear Partners, LLC to Tourism Resort (TR) District concurrent with Annexation. The Planning Commission decision was a favorable recommendation of this ordinance. This property is located off Battles Road and is commonly referred to as "The Colony at the Grand," Fairhope, Alabama. Parcel contains 181.1 acres more or less. Tax Parcels: 05-46-09-30-0-000-078.002, 05-46-09-30-0-000-078.003, 05-46-09-30-0-000-080.000, 05-46-09-30-0-000-081.000, 05-46-09-30-0-000-088.000, 05-46-09-30-0-000-088.001, and 05-46-09-30-0-000-89.000.

9 August 2010

Jonathan Smith, Planning and Building Director, explained the proposed ordinance:

**STAFF INTERPRETATION:**

The subject property consists of approximately 184.6 acres and is known as The Colony at the Grand. 637 total residential units are proposed and commercial components of approximately 108,000 square feet are to be incorporated within the district. A minimum of 20% open space will be provided which calculates to approximately 37 acres of open space/green space throughout the project. The applicant is proposing private streets but will provide connectivity measures for the benefit of pedestrian traffic that meets internal connectivity and circulation across areas within the site.

Residential density for the site is broken down between three (3) development zones: Low-Rise (LR), Mid-Rise (MR) and High-Rise (HR) zones. Please see Section 2.09 Permitted Uses and Dimension Standards of the rezoning application for additional information relating to each development zone.

Specific Tree and Landscaping provisions tailored for the subject property are inserted within the TR zoning application documents in Section 3.02. The developer is proposing a 40' buffer along the eastern and southeastern portions of the property which are directly adjacent to both the easternmost and westernmost rights-of-way of Battles Road.

The developer is proposing to retain most of the property's stormwater runoff in "Sweetwater Lake" located on the property. "West of the lake, a bio-swale and wetland have been constructed to capture and treat the current level of development and future development of the property draining to it." Upon future development, the applicant will comply with the City's minimum stormwater and buffer requirements.

The Traffic Study submitted on May 26, 2010 indicates that the study area intersections currently operate at acceptable levels of service; the proposed development is expected to generate approximately 341 trips during the morning peak period and 439 trips during the afternoon peak period. The only traffic improvement recommended by the traffic study is that an "eastbound left turn lane should be constructed at the access to the proposed retail development."

The Comprehensive Plan encourages a transit system connecting the TR District to Downtown Fairhope. Currently, the Grand Hotel provides shuttling from the Hotel to Downtown and around Fairhope. Staff spoke with the developer (Jason Tickle) regarding this issue and the developer ensured us that the same type transit system is planned to be available for the patrons of the Colony at the Grand development.

The development is proposed to be contained wholly within the subject 184.6± acres and as it is laid out in a way that is intended to have minimal impact on adjacent properties.

**PLANNING COMMISSION RECOMMENDATION:**

On June 7, 2010 the Planning Commission unanimously recommended the City Council approve the proposed TR District Zoning for the subject property upon the following condition:

1. An eastbound left turn lane shall be constructed prior to the issuance of any land disturbance or building permits for the proposed Limited Commercial Zone.

9 August 2010

Respectfully Submitted for Consideration,

Jonathan I. Smith  
Planning and Building Director  
City of Fairhope

Council President Mixon opened the Public Hearing at 7:05 p.m.

1. Gary Gover, 300 Lincoln Street, addressed the City Council and stated this is a private and exclusive community. It is a gated and isolated community. This is not part of the surrounding area. There are no workforce accommodations. He recommended this package: the Tourism District and the Colony at the Grand be sent back to Planning for further development.

2. Debra Green, 415 Maple Street, addressed the City Council and said this is an exclusive gated community which Fairhope has always been against. The amenities to follow are for the Grand Hotel. Even with the Impact Fees or any other fees will not be enough for the impact on the City of Fairhope. The City needs to get an outside independent engineer to look at this project; one other than Volkert. Ms. Green questioned whether the City could develop a District that is outside of the City limits.

3. Hop Allen, citizen of Fairhope, addressed the City Council and questioned concurrent with annexation. He asked; don't they have to be contiguous.

Mr. Smith stated that the property must be contiguous to come into the City and the proposed property is contiguous to the City of Fairhope.

The Public Hearing closed at 7:11 p.m. Council President Mixon stated this proposed ordinance will lie over until the next regular City Council meeting.

Council President Mixon announced that Item #11 has been pulled.

Councilmember Ford introduced in writing, and moved for the adoption of the following resolution, a resolution approving and authorizing the Mayor and the City to enter into a Grant Agreement with The Federal Aviation Administration for the benefit of the Fairhope Airport Authority and The Fairhope Airport. The motion was seconded by Councilmember Kingrea. Chuck Zunk, Chairman of the Fairhope Airport Authority explained briefly the Grant Agreement. After further discussion, motion passed unanimously by voice vote.

9 August 2010

**RESOLUTION NO. 1676-10**

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FAIRHOPE,  
ALABAMA, APPROVING AND AUTHORIZING THE MAYOR AND THE  
CITY TO ENTER INTO A GRANT AGREEMENT WITH THE FEDERAL  
AVIATION ADMINISTRATION FOR THE BENEFIT OF FAIRHOPE  
AIRPORT AUTHORITY AND THE FAIRHOPE AIRPORT**

WHEREAS, the United States of America acting through the Federal Aviation Administration has offered to pay a maximum of \$252,167.00 for airport planning and development at the H.L. ["Sonny"] Callahan Airport in Fairhope, being project number 3-01-0029-012-2010; and

WHEREAS, the purpose of this grant is to pay a 95% share of the allowable costs incurred in accomplishing the design construction of access road, apron, and taxiway; and to update the airport layout drawing at the H.L. ["Sonny"] Callahan Airport in Fairhope; and

WHEREAS, this offer of the Federal Aviation Administration is contingent upon acceptance of the grant in accordance with its terms, namely and including, among others, the "Terms and Conditions of Accepting Airport Improvement Program Grants" dated December 15, 2009; and

WHEREAS, the grant application was originally processed with the recipient to be the City of Fairhope, Alabama; and

WHEREAS, during the pendency of the processing of the grant, the City of Fairhope has fully cooperated in the creation of a new entity to own and control the H.L. ["Sonny"] Callahan Airport in Fairhope by the newly-created Fairhope Airport Authority; and

WHEREAS, the transferring of the properties and assets and liabilities concerning the H.L. ["Sonny"] Callahan Airport in Fairhope is still to some extent in progress; and

WHEREAS, the Federal Aviation administration retains the right to approve any such transfer from the City to the Airport Authority of such assets and liabilities of and pertaining to an airport such as H.L. ["Sonny"] Callahan Airport in Fairhope which has received and retained grant money or assets from the Federal Aviation administration; and

9 August 2010

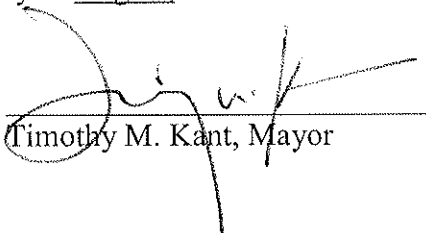
WHEREAS, the process of getting approval of the transfer from the Federal Aviation Administration is still ongoing and is not completed; and

WHEREAS, the deadline date for the receipt of the grant from the Federal Aviation Administration is almost upon us; and

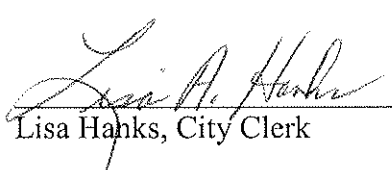
WHEREAS, some intermediate solution to these problems is in the best interests of all concerned;

NOW, THEREFORE, BE IT RESOLVED by the Mayor and City Council of the City, in a regular meeting of the City Council, that the Mayor be and he is hereby authorized to sign and execute any necessary and appropriate documents so that the City can receive the grant during this interim period, acting for and in behalf of the H.L. ["Sonny"] Callahan Airport in Fairhope and Fairhope Airport Authority as Sponsor, so that pending and during the period when the Federal Aviation Administration is approves the transfer of the airport and the grants and liabilities concerning the airport, this grant is not lost unnecessarily but is, instead, accepted in accordance with applicable law and procedures.

Adopted this the 9th day of August, 2010

  
\_\_\_\_\_  
Timothy M. Kant, Mayor

ATTEST:

  
\_\_\_\_\_  
Lisa Hanks, City Clerk

Council President Mixon read several Attorney General Opinions one which prohibits contributing to private citizens and one that allows the City to donate to a ballpark or school if the entity gives back to the City.

Councilmember Ford introduced in writing, and moved for the adoption of the following resolution, a resolution setting forth use of the Fairhope Civic Center, The James P. Nix Center, and Streets and Parks. The motion was seconded by Councilmember Kingrea.

9 August 2010

Councilmember Quinn stated she had an amendment to the resolution. She previously spoke to the Alabama League of Municipalities who said the City could not give away anything of value that was purchased with tax dollars unless giving back to the City as a whole. You can contract with organization for fee waiver or reduction if they give back to the City. Councilmember Quinn moved to amend the resolution by adding "Organizations that are not for profit, with proof of their 501c3, which benefit all residents of the City of Fairhope and can justify a fee waiver, may come before the Council and make a request for the non-profit fee. A portion of the net proceeds of that event must benefit Fairhope citizens or a Fairhope based organization. Any governmental agency may have rental fees waived twice in one fiscal year, by staff evaluation." Motion failed for lack of a second.

Councilmember Kingrea moved to amend the resolution by deleting "Events requested to be held at a City facility by a school cannot be for any other organization and the proceeds (even a portion) cannot benefit any organization other than the school." Dance troops use schools to come in and actually participate; and the school can sponsor it.

Councilmember Ford questioned the sentence deletion and we are defeating the purpose of the resolution. Sherry Sullivan, Director of Senior Services, responded to the request of Councilmember Ford. She said we will not all be in agreement. These organizations apply under the name of school ABC and the money does not go back to the school. Ms. Sullivan said the sentence needs to be left in to the resolution do what we want.

Councilmember Kingrea stated we need to take the politics out of the fees. Ms. Sullivan replied that these organizations are for profit businesses and not school benefits. She said these are good programs and cultural programs. Councilmember Kingrea mentioned he does not care if these are for profit or not for profit; treat each one alike. We need to treat the same and cover our costs. He said if you want something from the City you must give back to the City.

Councilmember Ford questioned the paragraph for "Law Enforcement Fees." Ms. Sullivan replied that the fees go to pay for the Police Officers. Motion failed for lack of a second.

Councilmember Kingrea questioned whether the Fairhope Booster Club fell under this resolution. Ms. Sullivan replied they do not fall under this umbrella.

After further discussion, the original motion for the propose resolution passed by the following voice votes: AYE – Mixon, Ford, and Kingrea. NAY – Quinn.



9 August 2010

**RESOLUTION NO. 1677-10**

**A RESOLUTION SETTING FORTH USE OF THE FAIRHOPE CIVIC CENTER,  
THE JAMES P. NIX CENTER, AND STREETS AND PARKS**

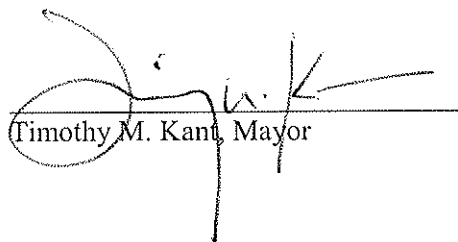
BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF FAIRHOPE, ALABAMA, as follows:

1. Fees for rental, security, clean-up, personnel or damages will not be waived for any organizations who request to use the Fairhope Civic Center, the James P. Nix Center, and the Fairhope Museum of History or to reserve a park or street for an event. *All organizations (except of Fairhope Public Schools and for City Sponsored Events) will pay the fees as listed in the current ordinances pertaining to the Civic Center, the James P. Nix Center, and parks and street rentals and no request may be made for fee waivers to the Mayor and/or City Council.*

2. The Fairhope Public Schools may use the facilities for no charge with a written request by the school principal and the approval of the facility manager as long as the event does not interfere with any regular operations or paying customers. Events requested to be held at a City facility by a school cannot be for any other organization and the proceeds (even a portion) cannot benefit any organization other than the school.

*Law Enforcement Personnel is required for any event where alcohol is present, for any school function or when deemed necessary by the facility or event manager. The number of required law enforcement personnel, fees, and any other law enforcement requirements will be determined by the Fairhope Police Department.*

ADOPTED THIS 9TH DAY OF AUGUST 2010

  
Timothy M. Kant, Mayor

ATTEST:

  
Lisa A. Hanks, City Clerk

Councilmember Ford introduced in writing, and moved for the adoption of the following resolution, a resolution setting forth the rules and regulations for the operation of the Fairhope Museum of History located at 24 N. Section Street, Fairhope, Alabama. Seconded by Councilmember Kingrea, motion passed unanimously by voice vote.

9 August 2010

**RESOLUTION NO. 1678-10**

**A RESOLUTION SETTING FORTH THE RULES AND REGULATIONS FOR THE  
OPERATION OF THE FAIRHOPE MUSEUM OF HISTORY LOCATED AT  
24 N. SECTION STREET, FAIRHOPE, ALABAMA.**

**WHEREAS**, The Fairhope Museum of History is an educational institution dedicated to the collection, preservation, interpretation, and exhibition of historical artifacts. The Museum's comprehensive collections represent the historical achievements of local cultures and highlight the history of Fairhope. The Museum promotes the understanding and enjoyment of history by presenting a wide range of exhibitions, programs, and events for the Fairhope Museum of History and the public.

**WHEREAS**, While the Fairhope Museum of History encourages and supports the use of its facility for limited events and activities, all are subject to the following policies and procedures to ensure the safety and integrity of the Museum, its collections, and its visitors. We ask all who use the Museum to respect and comply with the policies and procedures. The general policies listed below should be consulted before requesting use of the Fairhope Museum of History for events. The event sponsor is responsible for knowing and observing the guidelines set forth by the City of Fairhope and the Fairhope Museum of History. To arrange to use the Museum for an event/activity, please contact the Museum's Director, Donnie Barrett at 251-929-1474.

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

**I. CRITERIA FOR SCHEDULING EVENTS IN THE MUSEUM**

1. Consideration of each request is determined by the timing of the event in relation to Museum activities/events, the ability of the Museum staff to accommodate the intended use, and the suitability of the event with regard to the safety and security of the facility, and its contents.
2. Approval of an event in the past does not guarantee that the event can be accommodated. Rental and usage will be limited to the Fairhope Museum of History business hours only. Non standard and holiday hours will not be reserved for any rental or usage.

**II. RENTAL RATES SHALL BE AS FOLLOWS:**

1. Town Hall Chambers, \$50.00 per event or \$25.00 per hour, not to exceed more than four (4) hours per event.

*\*Please note that the Museum may not be used for weddings, private parties, or receptions. The Museum reserves the right to deny requests and cannot guarantee availability for any specific events.*

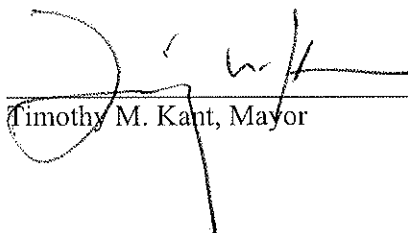
9 August 2010

III. OTHER POLICIES

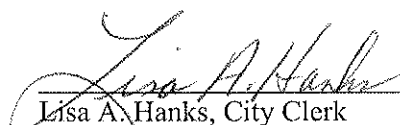
1. Use and request of the Museum is limited to **Fairhope based organizations only.**
2. Smoking is not permitted in any part of the building.
3. Pets are not allowed in any areas of the building with the exception of Seeing Eye dogs.
4. There is no access to room earlier than your scheduled set-up time.
5. Capacity limited to 40 people.
6. Refreshments are only allowed in town council chambers.
7. All set-up and clean up is the responsible of the user. Failure to clean-up may result in fee.
8. All debris/trash must be removed and furniture put back in original location.
9. No museum displays may be tampered with. Damage may result in fee. Door should remain to allow public to view displays in Town Hall Chambers.
10. Noise must be kept to a minimum.
11. Events cannot interfere with museum visitors and the door to town chambers must remain open at all times.
12. Alcoholic beverages strictly prohibited.

The Council reserves the right to amend, delete, adjust, or waive any and all stipulations set out herein.

ADOPTED this 9th day of August 2010

  
\_\_\_\_\_  
Timothy M. Kant, Mayor

Attest:

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

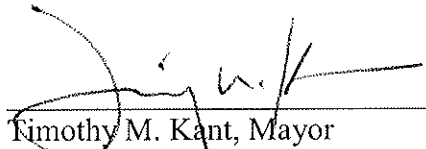
9 August 2010

Councilmember Ford introduced in writing, and moved for the adoption of the following resolution, a resolution authorizing Mayor Timothy M. Kant to execute a Lease Agreement between the City of Fairhope and the University of South Alabama, at 10 North Summit Street. This Lease Agreement shall end August 1, 2020. Seconded by Councilmember Quinn, motion passed unanimously by voice vote.

**RESOLUTION NO. 1679-10**

**BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF FAIRHOPE, ALABAMA**, that Mayor Timothy M. Kant is hereby authorized to execute a Lease Agreement between the City of Fairhope and the University of South Alabama, at 10 North Summit Street. This Lease Agreement shall end August 1, 2020.

Adopted on this 9th day of August, 2010

  
\_\_\_\_\_  
Timothy M. Kant, Mayor

Attest:

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

Councilmember Kingrea introduced in writing, and moved for the adoption of the following resolution, a resolution to lease four (4) copiers: three (3) B&W Xerox for City Hall, Public Utilities Building, and Purchasing Department; and one (1) Color Sharp for the Police Department the type of copiers needed are on the Alabama State Department of Purchasing bid list and therefore do not have to be let out for bid. Seconded by Councilmember Ford, motion passed unanimously by voice vote.

9 August 2010

**RESOLUTION NO. 1680-10**

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

[1] That the City of Fairhope has voted to lease four (4) copiers: three (3) B&W Xerox for City Hall, Public Utilities Building, and Purchasing Department; and one (1) Color Sharp for the Police Department the type of copiers needed are on the Alabama State Department of Purchasing bid list and therefore do not have to be let out for bid; and

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

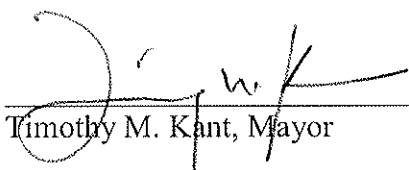
Commodity Number: 985-26-049668 for the (3) B&W Xerox Copiers

Commodity Number: 985-26-088727 for the (1) Color Copier

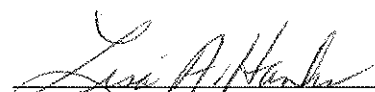
See Attached Tabulated Breakdown for Copiers

**Total Estimated Monthly Cost for Copiers \$1,433.85**

Adopted on this 9th day of August, 2010

  
\_\_\_\_\_  
Timothy M. Kant, Mayor

Attest:

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

Councilmember Kingrea introduced in writing an ordinance amending Ordinance No. 1413 regarding the Application of Proceeds for Tobacco Products Tax; changing the wording from Capital Projects Fund to the General Fund. In order to take immediate action, Councilmember Quinn moved for immediate consideration. Seconded by Councilmember Kingrea, motion for immediate consideration failed for lack of unanimous vote. This proposed ordinance will lie over until the next regular City Council meeting.

9 August 2010

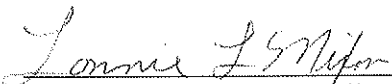
Councilmember Quinn introduced in writing an ordinance amending Ordinance No. 1414 regarding the Application of Proceeds for Beer License Tax; changing the wording from Capital Projects Fund to the General Fund. In order to take immediate action, Councilmember Kingrea moved for immediate consideration. Councilmember Quinn seconded the motion, motion for immediate consideration failed for lack of unanimous vote. This proposed ordinance will lie over until the next regular City Council meeting.

City Attorney Wynne addressed the City Council regarding 7141 Gable Street and the Dangerous Building Report from Barry Fulford, City Building Official. He briefly discussed the procedure from the City of Fairhope Code of Ordinances. Councilmember Kingrea moved to authorize the City of Fairhope to issue a written notice to Velma Jackson regarding 7141 Gable Street and schedule the date of the Show Cause Hearing for August 23, 2010 at 6:00 p.m. which is the next regular City Council meeting. Seconded by Councilmember Ford, motion passed unanimously by voice vote.

Councilmember Kingrea moved to grant the request of Clay Swanzy and Deborah Newberry, Fairhope Committee of Public Art (COPA), requesting permission to display throughout the City from March 2011 through August 2011 art objects in it Jumpin' Jubilee project. A total of 50 decorated crabs, flounder, and shrimp will be the subject of the 2011 project. Seconded by Councilmember Ford, motion passed unanimously by voice vote.

Paul Ripp, 22985 High Ridge, addressed the City Council regarding the following two items: Ducky Johnson House Movers and Fairhope Municipal Stadium upgrade; and the Pittman Tractor contract.

There being no further business to come before the City Council, the meeting was duly adjourned at 7:57 p.m.

  
\_\_\_\_\_  
Lonnie L. Mixon, Council President

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