

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, 12 January 2009.

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

There being a quorum present, Council President Quinn 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. Councilmember Mixon moved to approve minutes of the December 22, 2008 regular meeting. Seconded by Councilmember Kingrea, motion passed unanimously by voice vote.

Sherry Sullivan made the following announcements:

- The City of Fairhope & LifeSouth Community Blood Centers will have a Community Blood Drive on Tuesday, January 13, 2009 from 10:00 a.m. to 6:00 p.m. The Blood Drive will be at the James P. Nix Center, 1 Bayou Drive. For information, call 990-0218.
- The City of Fairhope will be closed for Martin Luther King Day on Monday, January 19, 2009.
- On January 19, 2009, the South Team of the 2009 Senior Bowl will practice at the Fairhope Municipal Stadium from 2:45 p.m. – 4:15 p.m.
- Downtown Merchants were surveyed regarding how well their business did during 2008. Responses from 17 merchants showed that business was either flat, up, or less than 10% from last year.
- John Saraceno is the new Fire Chief for the Fairhope Volunteer Fire Department. Mr. Saraceno and his two Assistant Fire Chiefs were in attendance.

The Alabama Committee for the Employer Support of Guard and Reserve presented Sherry Sullivan, Senior Activities Director, with “The Above and Beyond Award”. Committee members: Captain Robert V. Barrow, PhD, USCGR (retired), State Chairman Major General (retired) Russell Summerlin, Executive Director of the State Committee John Q. Adams, State Committee Vice Chairman (South) Richard Little, and District 1 Chairman Dr. William Kringel were involved with the presentation. Captain Barrow said the City of Fairhope is being recognized for its “above and beyond” support of our men and women in uniform. The 1165th Military Police Company is located in Fairhope, and not too far from the Nix Senior Citizen Center. Therefore, it is especially fitting that this award be presented to Ms. Sullivan for her support of the troops.

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Mr. Ed Wilson, former Awards Chair for the Alabama ESGR, nominated Ms. Sullivan and could not be with us tonight due to illness. Captain Barrow said that the City of Fairhope is a secret up North.

Ms. Karen Moore, with Baldwin County Electric Membership Corporation, presented Mayor Timothy M. Kant with their annual business license check. The check was in the amount of \$95,073.84 representing a percentage of BCEMC's business revenues within the City Limits of Fairhope and representing a percentage of BCEMC's business revenues in the police jurisdiction.

A Public Hearing was held as advertised on a proposed ordinance to amend the Zoning Ordinance No. 1253. Councilmember Ford introduced in writing Ordinance No. 1375, an ordinance to repeal and replace Ordinance No. 1373 and to zone the property of Christopher L. Haley to Planned Unit Development (PUD) concurrent with annexation. This property is generally located 7220 Parker Road, Fairhope, Alabama. Parker Place Subdivision.

Planning Director Jonathan Smith explained the proposed ordinance:

The project consists of eight (8) single-family lots on approximately 3.79 acres. On November 24, 2008 the City Council voted unanimously to approve the Parker Place PUD with the added condition that the maximum building height be increased from 30' to 35' measured to the "mean roof line" (which is the middle line between the peak and the eaves).

On December 8, 2008 the Mayor vetoed the PUD Ordinance in order to discuss and remedy confusion over the allowed maximum building height for the project.

Through further discussion between the Mayor, Council and applicant on December 8th, the amended PUD application is presented before you today as approved on November 24th with the exception of the maximum allowed building height being changed from 35' measured to the Mean Roof Line, to 35' measured from the finished floor to the Peak of the roof.

Council President Quinn opened the Public Hearing at 6:22 p.m. No one present opposed the proposed ordinance, the Public Hearing closed at 6:22 p.m. Council President Quinn mentioned that this ordinance was decreasing the height of the buildings previously presented.

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In order to take immediate action Councilmember Mixon moved for immediate consideration. Seconded by Councilmember Kingrea, motion for immediate consideration passed unanimously by the following votes: AYE – Quinn, Stankoski, Mixon, Ford, and Kingrea. NAY - None. Councilmember Stankoski moved for final adoption of Ordinance No. 1375. Seconded by Councilmember Kingrea, motion passed for final adoption by the following votes: AYE - Quinn, Stankoski, 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 in writing Ordinance No. 1376. The Planning & Zoning Commission recommended approval of this ordinance, an ordinance to amend the Planned Unit Development (PUD) for North Village at Stone Creek (Ordinance No. 1322). This property is located north of Stone Creek Subdivision, west of State Highway 181 (aka County Road 27), Fairhope, Alabama. North Village at Stone Creek.

Planning Director Jonathan Smith explained the proposed ordinance:

STAFF INTERPRETATION:

The subject property is located in the City of Fairhope and is zoned PUD (Planned Unit Development). This property contains approximately 63.61± acres. The applicant is proposing to modify the previously approved and amended North Village at Stone Creek PUD.

The Planning Commission conducted an Informal Review of the proposed amendment on August 4, 2008.

The applicant is requesting to change the residential layout for North Village at Stone Creek (Lot 4). The proposed amendments do not affect the commercial layout of the project. The previously approved Site Plan shows 110 residential units at 1.73 units per acre. The units are arranged in a townhouse-like fashion, with two (2) to four (4) connected units positioned throughout lot 4. The previously amended plan shows a twenty-foot (20') wetlands buffer; the newly proposed plan indicates a thirty-foot (30') buffer, bringing the site into compliance with the City's new Wetland Buffer requirements.

The approved plans show 110 condo units, whereas the proposed amendment includes 192 "luxury scale apartments" at a density of approximately three (3) units per acre. The approved plans show 36 building footprint areas covering a large percentage of lot 4. The proposed drawings show 13 building footprint areas with a small reduction in impervious building coverage for lot 4 (23% to 22%). Proposed residential building height has not changed from thirty-five feet (35'), and the amenity area has been moved to a more central location.

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Staff contacted ALDOT regarding the increase in density and the potential increase in traffic along Highway 181. Nick Amberger of ALDOT stated that ALDOT has approved the traffic conditions and structures for the development and they do not have any further comments relating to the proposed amendment.

The applicant has agreed to construct 25% of the parking spaces with pervious materials, which will increase the percentage of pervious area for the site. The pervious parking areas are not currently identified on the Site Plan.

PLANNING COMMISSION RECOMMENDATION:

With 5 aye and 2 nay votes The Planning Commission recommends the City Council approve the amendment to the North Village at Stone Creek PUD contingent upon the following conditions:

1. A sidewalk shall be placed/routed in front of all the units circling the development, and shall connect to the abutting phase of development to the east.
2. In addition to existing natural vegetation, heavy landscape materials shall be used in the north property line buffer area.
3. Parking lot islands shall be arranged in a way that works for maximum tree preservation. The Tree Survey indicates several trees that can be saved if a few parking lot islands are re-arranged.
4. A minimum of 25% of the proposed parking spaces shall be constructed of pervious pavers, or a pervious material approved by staff. Installation of pervious materials shall comply with all applicable industry standards relating to installation and maintenance. The applicant shall submit a maintenance plan for the type pervious material used. The pervious materials used shall be consistent with the underlying materials at the site.
5. Unless specified in this application and site plan, all other aspects of the North Village at Stone Creek shall remain in compliance with the approved PUD plan (amended and approved by the City Council November 13, 2006; ZC 06-17).

Respectfully Submitted for Consideration,

Jonathan Smith
Planner
City of Fairhope

B. Gregg Mims
Planning Director
City of Fairhope

Council President Quinn opened the Public Hearing at 6:30 p.m. No one present opposed the proposed ordinance, the Public Hearing closed at 6:30 p.m.

Councilmember Mixon asked if North Village at Stone Creek was in the City limits. Mr. Smith replied yes. Volkert agreed to the conditions set forth by the Planning & Zoning Commission and are in favor of amending the PUD.

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In order to take immediate action Councilmember Mixon moved for immediate consideration. Seconded by Councilmember Kingrea, motion for immediate consideration passed unanimously by the following votes: AYE - Quinn, Stankoski, Mixon, Ford, and Kingrea. NAY - None. Councilmember Stankoski moved for final adoption of Ordinance No. 1376. Seconded by Councilmember Mixon, motion passed for final adoption by the following votes: AYE - Quinn, Stankoski, Mixon, Ford, and Kingrea. NAY - None.

Councilmember Mixon, Chairman of the Finance Committee, addressed the City Council and reported on the meeting held prior to this City Council meeting. He said that Mayor Kant had recommended reductions that totaled \$1,733,500.00. The Finance Committee also decided to put a temporary hold on the Education Assistance Program. He announced that the Rainy Day Fund is getting low and we need to find ways to get money in, but this is a constant battle. Council President Quinn stated that property taxes will be late for cities and will not be in until sometime around March. She said the City was treading water.

Council President Quinn said that Agenda Item 4. A. contains minutes from The Finance Committee and/or Work Sessions being presented and reviewed by the City Council:

Minutes from meeting held December 8, 2008

Minutes from meeting held December 22, 2008

Councilmember Mixon announced that one of the City's Police Dispatchers was hurt in a car accident this past weekend and the Police Department was in need of a replacement. Councilmember Stankoski moved to grant the request of The Fairhope Police Department requesting permission to hire a full-time dispatcher to replace dispatcher Gina Dennis. Seconded by Councilmember Mixon, motion passed unanimously by voice vote.

Council President Quinn addressed the City Council regarding Impact Fees and wanting to help fund the City's transportation projects with part of the fees. The Impact Fee Committee would like to move approximately half of the allocated fees (\$70,000.00) to the General Fund to apply to the Highway 104 and Highway 98 project. The total cost of this project is approximately \$600,000.00 and the State of Alabama will reimburse the City of Fairhope around \$200,000.00. After further discussion, Councilmember Mixon moved to grant the request of the Impact Fee Committee to transfer \$70,000.00 from the Impact Fee account to the General Fund. Seconded by Councilmember Kingrea, motion passed unanimously by voice vote.

Councilmember Mixon announced that the Finance Committee will look at all future attorney's fees to the City of Fairhope.

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Mayor Kant asked; who said to put the Impact Fee money in the General Fund and not Capital Projects. Ms. Wilson agreed with Mayor Kant and said Capital Projects is where the money for transportation projects is deposited. After further discussion, Councilmember Mixon moved to amend the motion to grant the request of the Impact Fee Committee to transfer \$70,000.00 from the Impact Fee account to the General Fund by changing the transfer to the Capital Projects account. Seconded by Councilmember Stankoski, motion passed unanimously by voice vote.

Councilmember Stankoski moved to appoint Elaine Snyder Conn to the Environmental Advisory Board. This term will end January 12, 2011. Seconded by Councilmember Mixon, motion passed unanimously by voice vote.

Council President Quinn announced there were no Reports of Officers and that the next item on the agenda #7.a.), a resolution appointing a temporary Chief of Police, was being pulled due to technicalities.

Councilmember Ford stated that we have capable employees who could be our temporary Chief. He continued by saying we have a freeze on money and hiring and yet we go outside the City to hire experts. Councilmember Ford said this is bad for morale and it looks like the whole Police Department is out there. He said the decision was made, prior to the new Council, to not hire/appoint anyone who was under the Mayor's influence. Councilmember Ford said he questioned the survey done for the Police Chief and said Joe Petties and Steve Griffis are qualified. Councilmember Ford stated that he also had not heard of any reason why Mike Comalander was being removed as Chief of Police.

Councilmember Stankoski stated that City Attorney Wynne had contacted the City's insurance company and requirements are an issue. If someone is appointed interim and they cannot be insured, he said we don't want the City to have a liability concern.

Councilmember Ford said there are issues with the way the City Council handles objectivity. The Chief of Police was never contacted for two and a half months. Council President Quinn responded by saying the Chief tendered his resignation last week. Councilmember Ford stated that the Chief would not have resigned if he was not under pressure.

City Clerk Lisa Hanks briefly explained the public records policy and the need for the City of Fairhope to have a written policy. Council President Quinn mentioned several items in the policy and Councilmember Stankoski agreed with the need for this policy. After further discussion, Councilmember Kingrea introduced in writing, and moved for the adoption of the following resolution, a resolution to establish a public records policy for the City of Fairhope. Seconded by Councilmember Stankoski, motion passed unanimously by voice vote.

12 January 2009

RESOLUTION NO. 1483-09

**A RESOLUTION TO ESTABLISH A PUBLIC RECORDS
POLICY FOR THE CITY OF FAIRHOPE**

WHEREAS, the official Custodian of Records for the City of Fairhope is the office of the City Clerk pursuant to the Code of Alabama 1975, Section 11-43-100. All access to public records must be requested through the City Clerk; and

WHEREAS, the purpose of the Open Records Act is to allow the public to monitor the manner in which public officers discharge their public duties. However, not all records are public, such as confidential information, sensitive personnel records, records pertaining to pending criminal investigations, and records which if disclosed would be detrimental to the best interests of the public, as well as other categories of information that may not be appropriate for public disclosure; and

WHEREAS, in an effort to protect the City of Fairhope from any potential litigation, to establish accountability, and to establish a good tracking system, the Information Request/Subpoena Policy is hereby implemented; and

WHEREAS, it is the policy of the City of Fairhope to provide copies of public documents upon request in an expedient manner. When the request is received in the office of the City Clerk, the person requesting the information is told the request is normally handled within seven working days. Such requests, particularly those involving a large volume of information, must be handled on a time available basis such as not to compromise the city's day-to-day operations; and

WHEREAS, the municipal officials and employees have no greater rights to inspect records than do members of the public. Also, while the Council acting as a whole has the right to request to see certain documents, individual Councilmembers must demonstrate their interests in order to review records, just like private citizens; and

WHEREAS, the City of Fairhope is entitled to recover its cost of providing requested information and is obligated to institute such procedures as are necessary to protect the public records and insure their continued integrity. To those ends, the following shall apply to all public information requests/subpoenas of any kind:

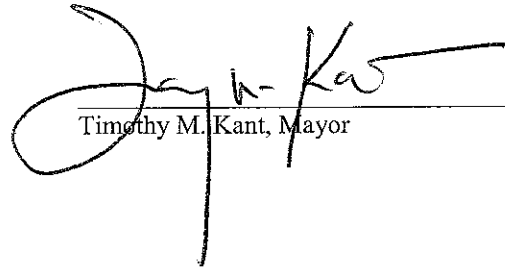
1. For reproduction of records, including Police Department records, the City will assess a per page charge as authorized by laws for reproduction costs; there will be no charges for materials copied for information requests up to the first 20 pages. After the first 20 pages, there will be a \$.25 per page charge. If a request involves a large volume of information, at the discretion of the City Clerk, a retainer may be required before starting the project. If the retainer is not used up, the balance will be refunded.
2. For reproduction of videotaped and/or recorded documents:
 - a. If an attorney or individual provides the City with a tape or any other necessary recording media, the City will copy the requested information at no charge.
 - b. If the City has to use its own tape or any other necessary recording media, a \$5.00 charge per media used will be assessed.
3. For reproduction of records using outside sources, the City will recoup all out-of-pocket expenses, including mileage and any other cost incurred.

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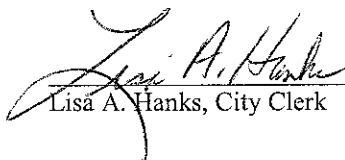
4. With regards to all information requests, whether general or Police related, no employee's time will be charged for preparation and/or research, until changed by the City Council.
5. Reasonable public access shall be granted to view records under the supervision of a City employee designated by the City Clerk or in the City Clerk's office.
6. The City is entitled to require verifiable information as to the identity of the person requesting the records as well as of the person receiving such information.
7. All records must remain in the custody of a City employee at all times. As a measure to safeguard records, reproductions may not be made by anyone other than a City employee designated by the City Clerk.
8. All requests must be presented to the City Clerk on the City of Fairhope's Information Request form and signed. The applicant's signature certifies that the applicant has read, understands, and agrees with the terms and conditions of the policy for handling public information requests.
9. All requests and/or subpoena served by the county sheriff, certified mail, hand delivered by an attorney (pertaining to a lawsuit, and/or claim), must be processed by the City Clerk of the City of Fairhope, the official Custodian of Records.

BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF FAIRHOPE, that the City of Fairhope does hereby accept, approve and adopt the above described Public Records Policy.

ADOPTED THIS 12TH DAY OF JANUARY, 2009.


 Timothy M. Kant, Mayor

ATTEST:


 Lisa A. Hanks, City Clerk

Councilmember Stankoski moved to address the following item **not** on the printed agenda. Seconded by Councilmember Kingrea, motion passed unanimously by voice vote.

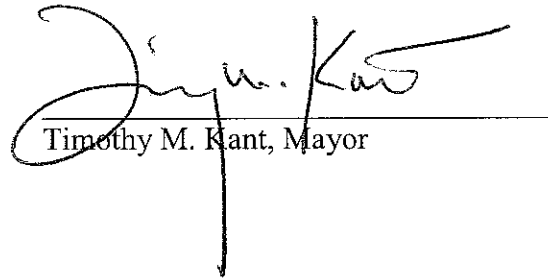
Councilmember Mixon introduced in writing, and moved for the adoption of the following resolution, a resolution to appoint Marion E. (Tut) Wynne as City Attorney. Seconded by Councilmember Kingrea, motion passed unanimously by voice vote.

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RESOLUTION NO. 1484-09

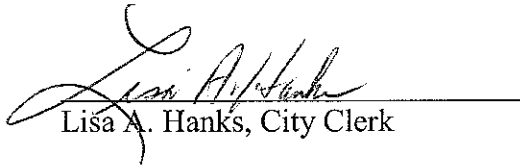
BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF FAIRHOPE, ALABAMA, That Marion E. (Tut) Wynne is hereby appointed as City Attorney. The term of the City Attorney shall serve until the next general municipal election and until a successor is elected by the council and qualified. Section 11-43-3, Code of Alabama, 1975.

ADOPTED 12TH DAY OF JANUARY, 2009.



Timothy M. Kant, Mayor

ATTEST:



Lisa A. Hanks, City Clerk

Councilmember Ford asked; what about the appointment of City Judge. Councilmember Kingrea replied that position was still under review.

Will Carlton of the Fairhope Rotary Club addressed the City Council and explained that this event is the Club's primary fundraiser for the year. He briefly gave details of the fundraiser and the Fairhope Rotary Club's requests. Sherry Sullivan asked the City Council not to waive the clean up fees due to the last event held and problems with street clean up. Mr. Carlton replied that they would restore the street to how it was previously. Councilmember Mixon asked; what was the time frame for their clean up. Mr. Carlton replied immediately after the event. Councilmember Ford told the City Council that \$300.00 was spent to clean up after the last event. Captain Steve Griffis mentioned the need for ABC permitting.

After further discussion, Councilmember Mixon moved to grant the request of Will Carlton of the Fairhope Rotary Club requesting permission to serve alcohol May 8, 2009 from 5:00 p.m. – 12:00 a.m., within the barricaded areas, on De La Mare Avenue and Church Street, to close the streets early, and to waive any fees normally associated with an event of this type. Seconded by Councilmember Kingrea, motion passed by the following voice vote: AYE - Quinn, Stankoski, Mixon, and Kingrea. NAY - None. ABSTAIN – Ford.

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Samuel Andrews, President of Hawthorne Glenn Phase One Property Owners Association and Robert Headrick, contact for Hawthorne Glenn Two petitioner, addressed the City Council requesting them to study and close the Nichols Avenue entrance to Hawthorne Glenn at Hester Street to keep our street safe. If after proper study, the City Council of Fairhope is not willing to close the Nichols Avenue entrance, we request that the City Council institute several speed calming devices on Hawthorne Circle to keep our street safer and reduce the substantial pass-through traffic volume.

Mr. Andrews stated we have become a shortcut for traffic that has caused increasing disturbances. The problem was caused when Phase Two was developed. When Phase Two was brought to Planning & Zoning, the original entrance was to be closed. We want the City of Fairhope to come up with solutions for the problem. Mr. Headrick said there is a thoroughfare down our street and a need for a solution to the traffic problem.

Council President Quinn said these issues usually go to the Traffic Committee. Councilmember Kingrea told Mr. Andrews and Mr. Headrick that He and Jonathan Smith were going to be at their meeting the next day and would discuss the traffic issues. Mr. Andrews said that speed bumps are not our first choice as a solution. Council President Quinn said the Traffic Committee will look over, study, and bring back to the City Council.

Councilmember Mixon moved to pay bills as presented. Seconded by Councilmember Kingrea, motion passed unanimously by voice vote.

Councilmember Mixon stated that the City decided not to buy the boat.

Mayor Kant addressed the City Council and asked for the following letter to be added to the minutes:

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12 January 2009



Timothy M. Kant, A.C.M.O.
Mayor

Lisa A. Hanks
City Clerk

Nancy K. Wilson, CPA
Treasurer

Council Members

Michael A. Ford, A.C.M.O.

Stik Kingrea

Lennie L. Wilson

Debbie W. Quinn, A.C.M.O.

Daniel R. Stanisko, C.M.O.

MEMO – January 12, 2009

TO: Fairhope City Council

FROM: Timothy M. Kant, Mayor

The start of 2009 should be positive. We as elected officials should be the cheerleaders, not the nay-sayers. The downtown rumors are not true. We had a good Christmas season; with that said, I would like your help in the following three areas:

1. Meet with anyone every Friday @ 8:30 AM for coffee to bring everyone up to date on the past week's issues. I will also have the Police Chief, City Clerk, Treasurer, General and Utilities Superintendents present to look into any citizen issue that needs to be addressed. This will help communicate between the two groups. I believe it is time for the openness that we said was needed to happen. Let's not do as an e-mail that went around asking that we keep things private.
2. Diversity on committees – The Council wants to appoint members to the Personnel Board; the only African/American was replaced recently. I believe with 15 percent of city staff being a minority, it is important to make sure the employees will be heard and a fair decision be made. As the Council moves ahead on policy, appointing people on our committees, we need to make sure we make them as diverse as possible, so that the committees are truly a representation of Fairhope.
3. The "Triangle" property needs to be addressed once and for all. I am going to form a committee to look at purchasing the land and make a report to this council on how to pay for the land. This issue has been looked at by Planning Commission for the past 30+ years with no end to the litigation, spending hundreds of thousands of dollars with no end in sight; it would be better to preserve the entrance to Fairhope and stop this madness.

The above three items are what I plan for this coming year. I ask that we start moving this City forward so we can all be able to hold up the January 2030 issue of Southern Living and be number one instead of number two.

161 North Section Street

P.O. Drawer 429

Fairhope, Alabama 36533

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Mayor Kant said that we need to meet in day light and out in front of the public. All items for the agenda need to go in front of Lisa in a timely manner, so she can check out and research requirements. We need to try to do better and meet in the open. The City Council needs to come to an answer regarding the Chief of Police and City Judge. He told the City Council to think about items before going forward. We do not want unions in the City of Fairhope.

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Councilmember Stankoski responded to Mayor Kant's remarks stating that the Council was responsible for the delay in resolving the issue of appointment of Chief of Police, that he had four personal meetings with Mayor Kant, the first before Thanksgiving and the last after New Year, and each time Mayor Kant advised he would resolve this with the Chief of Police.

Councilmember Stankoski addressed the City Council regarding the City of Fairhope's Water & Sewer. He stated that Water & Sewer services are comingled. You cannot look at it and see what is for water and what is for sewer. The City needs to look at getting the City Council a picture of what we are charging for each service. Currently, this is a fuzzy picture. We need to be able to look at each service and see if we are making money, losing money, etc. or if we need to increase or decrease. Councilmember Stankoski commended Dan McCrory, Water & Sewer Supervisor, and his staff for doing a good job.

Council President Quinn stated that the City Council had received the package regarding the Publix property and would bring back to discuss in two weeks.

Councilmember Ford addressed the City Council with regards to transparency and referred to the City Judge and Chief of Police positions. He asked the City Council; "what have they not done? What are the reasons why we are getting rid of the Chief of Police? I hate to see it so cock-eyed."

Councilmember Mixon left the dais at 7:15 p.m.

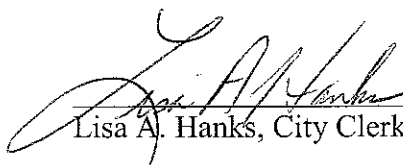
Councilmember Ford asked; why is it taking so long and are we going to get reasons for not appointing. He said we need to do what is right and there is a lot of power playing going on. Council President Quinn responded that this has nothing to do with the Mayor.

No Councilmember motioned for adjournment nor was there a second to the motion.

There being no further business to come before the City Council, the meeting was duly adjourned at 7:21 p.m.



Debbie W. Quinn, Council President



Lisa A. Hanks, City Clerk