

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, 22 June 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 Dr. Tim Patrick, Pastor of Faith Baptist Church, and the Pledge of Allegiance was recited. Councilmember Stankoski moved to approve minutes of the 8 June 2009, regular meeting and the 8 June 2009, Work Session. Seconded by Councilmember Mixon, motion passed unanimously by voice vote.

Council President Quinn announced that they needed to amend the agenda by adding on the following items: Executive Session after Public Participation; a resolution for an Intergovernmental Funding Agreement for a transit hub, and Baldwin County Sewer Service Confidentiality Agreement after the Reports of Officers; and to move Mayor Kant after the Executive Session.

Councilmember Mixon moved to address the above mentioned items **not** on the printed agenda. Seconded by Councilmember Stankoski, motion passed by the following voice vote: AYE – Quinn, Stankoski, Mixon, and Kingrea. NAY – Ford.

Sherry Sullivan made the following announcements:

- Fourth of July Celebration at The Bluff beginning at 7:00 p.m. with fireworks at 9:00 p.m.
- Farm Market on Thursdays from 4:00 p.m. until 6:00 p.m. on Church Street.
- The last Fairhope Walking Tour is this week.

Council President Quinn stated that the City Council interviewed the six Chief of Police candidates on Saturday, June 20, 2009; used a similar type of matrix for scoring each as the Chief of Police Search Committee; took information home to think about it over the weekend; and e-mailed the results to the Human Resources Department.

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Council President briefly discussed the voting process that would be used: Start with the number one pick and vote on the candidate, then number two, and so on until we all agree. Councilmember Kingrea moved to accept the voting process as presented. Seconded by Councilmember Mixon, motion passed unanimously by voice vote.

Human Resources Administrator Rhonda White addressed the City Council and stated she had tabulated their voting results and the number one candidate was Bill Press from Miami-Dade, Florida. Councilmember Kingrea moved to appoint Bill Press as the new Fairhope Chief of Police. Seconded by Councilmember Mixon, motion passed unanimously by voice vote.

Councilmember Mixon moved to set the salary for the Chief of Police at \$95,000. Seconded by Councilmember Kingrea, motion passed unanimously by voice vote.

Councilmember Mixon moved to have the new Chief of Police Bill Press begin employment with the City of Fairhope on July 1, 2009. Seconded by Councilmember Kingrea, motion passed unanimously by voice vote.

Council President Quinn thanked Terry Sanders for all of his hard work during his employment as Chief of Police. Councilmember Stankoski moved to keep Chief Sanders through July 8, 2009 which will give the new Chief of Police Press a week for a good transition to the Fairhope Police Department. Seconded by Councilmember Mixon, motion passed unanimously by voice vote.

Councilmember Stankoski moved to stop all lateral transfers within the Fairhope Police Department, for three months, in order for the new Chief of Police to settle in. Seconded by Councilmember, motion passed unanimously by voice vote.

Rose Fogarty, Finance Reporting Manager, and Nancy Wilson, City Treasurer, presented the following PowerPoint presentation no action was taken by City Council.

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22 June 2009

City of Fairhope Financial Statement Review City Council Meeting June 22, 2009

General Fund Revenues

TAXES	\$3,573,731	\$5,117,378	
LICENSES & PERMITS	\$2,357,930	\$1,882,000	
FINES & FORFEITURES	\$177,450	\$156,810	
INTER-GOVERNMENTAL	\$321,229	\$438,006	Y-T-D May 2008
INTERESTS & RENTS	\$163,055	\$135,463	Y-T-D May 2009
CHARGES FOR SERVICE	\$2,959,698	\$3,830,521	
OTHER REVENUE	\$1,553,034	\$256,227	

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General Fund Expenses

GENERAL GOV'T EXPENDITURES	\$3,653,849	\$3,742,287	
POLICE DEPT	\$2,667,382	\$2,542,087	
FIRE DEPT	\$582,671	\$522,690	
RECREATION DEPT	\$752,089	\$767,242	
STREET DEPT	\$1,503,469	\$1,648,485	Y-T-D May 2008
SANITATION DEPT	\$1,140,863	\$977,066	Y-T-D May 2009
GOLF OPERATIONS	\$1,038,127	\$1,174,559	
STAFF AGENCIES & APPROPRIATION	\$755,707	\$601,824	
DEBT SERVICE	\$2,797,759	\$1,485,409	

Gas Income Summary

REVENUE	\$5,932,868	\$6,739,219	
ENERGY COST	-\$1,147,335	-\$2,311,212	Y-T-D May 2008
EXPENSES	-\$1,644,936	-\$1,747,055	Y-T-D May 2009
EARNINGS	\$1,143,597	\$2,710,952	

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Electric Income Summary

REVENUE	\$10,304,426	\$11,407,926	
ENERGY COST	-\$5,903,083	-\$6,170,061	Y-T-D May 2008
EXPENSES	-\$2,927,657	-\$3,010,130	Y-T-D May 2009
EARNINGS	\$1,473,686	\$2,227,715	

Water/Sewer Income Summary

REVENUE	\$5,351,390	\$4,728,591	
ENERGY COST	-\$428,496	-\$467,579	Y-T-D May 2008
EXPENSES	-\$3,837,977	-\$3,866,129	Y-T-D May 2009
EARNINGS	\$1,084,917	\$404,883	

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22 June 2009

Profits/Loss Statement		As of May 2009
UTILITIES		
Revenue		\$ 22,875,735
-Expenses		\$ (17,532,185)
Total		\$ 5,343,550
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-Transfers		\$ 2,877,083
UTILITIES EARNINGS		\$ 2,466,467
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GENERAL		
Revenue		\$ 11,816,405
Transfers		\$ 2,877,083
-Expenses		\$ 13,411,249
GENERAL TOTAL		\$ 1,282,239

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City of Fairhope Cash Allocation As of May 2009		
COMPASS	\$1,843,960	
	\$1,075,769	
CITIZENS	\$607,753	
	\$3,309,079	COMMITTED
WACHOVIA	\$191,410	
	\$-	NON-COMMITTED
WACHOVIA SECURITIES	\$-	
	\$607,411	COMMITTED
COLONIAL	\$108,403	
	\$357,639	
REGIONS	\$1,923,754	
	\$-	
TOTALS	\$4,675,281	
	\$5,343,899	

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TOTAL CASH SUMMARY		
COMMITTED	\$6,191,760	
	\$4,675,281	
NON-COMMITTED	\$4,160,755	As of May 2008
	\$5,349,899	As of May 2009
TOTAL	\$10,352,515	
	\$10,025,180	

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City Treasurer Nancy Wilson addressed the City Council and briefly explained the new Preliminary Financial Request which formalized the prior approval process. Then, Ms. Wilson actually went through the process for approval with the first Preliminary Financial Request being Heavy Duty Commercial Grade Miniature Lights for Christmas 2009. After further discussion, Councilmember Mixon moved to approve Preliminary Financial Request No. 09-001 for going out on bid. Seconded by Councilmember Kingrea, motion passed unanimously by voice vote.

Jim Horner, FEAB Chairman, addressed the City Council with an update of the Alabama Geological Survey for a Sedimentation Study of Fly Creek. This will be a 16 month study for a total cost of \$40,300; and the City of Fairhope will only have to pay \$150 of that cost. Geological Survey of Alabama is giving \$20,150 toward this project and the Mobile National Estuary Program is giving \$20,000.

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Beeman Bond, Chairman, addressed the City Council with an update on the Personnel Board and introduced the other board members: Jerry Middleton, Savan Wilson, Ernie Roberts, and Lorenzo Howard.

Council President Quinn announced Items 5. B. and C. are minutes from Special Boards and Commissions being presented and reviewed by the City Council:

B. Personnel Board

Review minutes from meeting held May 18, 2009

C. Strategic Planning Committee

Review minutes from meeting held May 14, 2009

Councilmember Mixon stated that Rhonda White has been fulfilling both the Human Resources Administrator and Human Resources Director positions. She has been actively involved with the Strategic Planning Steering Committee and the Personnel Board. Councilmember moved to appoint Rhonda L. White to position of Human Resources Director. Seconded by Councilmember Stankoski, motion passed unanimously by voice vote.

Councilmember Mixon moved to set the salary range at \$79,000. Councilmember Ford questioned the increase in salary due to already getting an increase. Councilmember Mixon stated we are paying for the position not the person. Council President Quinn said the past HR Director Bryan Seibt made \$79,000. Councilmember Ford replied he felt women should make what men make if doing same job. After further discussion, Councilmember Kingrea seconded the motion to set the salary range at \$79,000, motion passed unanimously by voice vote.

Councilmember Kingrea introduced in writing, and moved for the adoption of the following resolution, a resolution authorizing Mayor Tim Kant and General Superintendent Gregg Mims to work with County officials to create an intergovernmental funding agreement for the funding of a County transit hub in Fairhope. Seconded by Councilmember Mixon, motion passed unanimously by voice vote.

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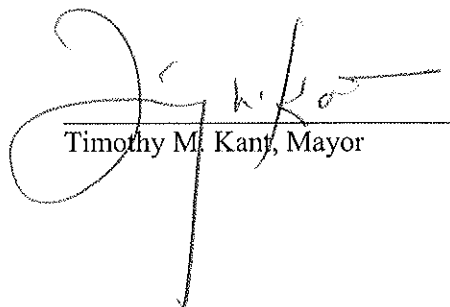
22 June 2009

RESOLUTION NO. 1539-09

BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF FAIRHOPE, ALABAMA, that the City Council authorizes Mayor Tim Kant and General Superintendent Gregg Mims to work with County officials to create an intergovernmental funding agreement for the funding of a County transit hub in Fairhope. The basic terms of the agreement should be as follows:

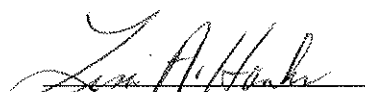
1. The City would reimburse the County the monthly lease payment for the property in question based on the amount reflected in the 20-year lease between the County and Mr. Randy Delchamps (i.e. \$2,000.00 per month with a maximum 5% increase every five years). The funding would begin following the execution of the County's lease.
2. The County will construct a transit hub on the subject property and operate transit services at that location in Fairhope.
3. Fairhope will have administrative approval authority for the site plans.
4. The Mayor, General Superintendent and City Attorney will negotiate the lease agreement with the County.
5. The Mayor will be authorized to sign the lease after Council approval.

Adopted on this the 22nd day of June, 2009



Timothy M. Kant, Mayor

Attest:



Lisa A. Hanks, City Clerk

Councilmember Kingrea moved to authorize Mayor Timothy M. Kant to execute a Confidentiality Agreement with Baldwin County Sewer Service. Seconded by Councilmember Stankoski, motion passed unanimously by voice vote.

Councilmember Ford moved for the adoption of a resolution to authorize Mayor Timothy M. Kant to execute an agreement for engineering services with Thompson Engineering for extension of sewer force main (Introduced at the June 8, 2009 City Council meeting, motion died for lack of a second.

Councilmember Ford questioned why we held this resolution over. Councilmember Kingrea replied the agreement was signed before coming to the Council.

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Councilmember Ford said he yielded to the Mayor's decision. Mayor Kant stated we have talked about the engineer several times. Council President Quinn said the biggest problem is communication. Mayor Kant stated that at the March 16, 2009 Finance Committee meeting this project was okayed to go out on bid and we went forward. Councilmember Ford does the City owe this money. Mayor Kant replied yes. Councilmember Ford said "I hope by turning this down and not paying our bills this doesn't hurt our credit."

Councilmember Mixon introduced in writing, and moved for the adoption of the following resolution, a resolution to award Bid for Three Year Lease for Postage Mailing Machine (Bid Number 011-09). Seconded by Councilmember Kingrea, motion passed unanimously by voice vote.

RESOLUTION NO. 1540-09

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

[1] That the City of Fairhope did request, receive, and open bids for Three Year Lease of Mailing Machine at City Hall (Bid Number 011-09) at 555 South Section Street in the City of Fairhope offices, Fairhope, Alabama.

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

THREE YEAR LEASE FOR POSTAGE MAILING MACHINE

Eagle Business Systems, Inc.	No Bid
Pitney Bowes	Unacceptable Bid
Wade Office Equipment	No Bid
Accurate Control Equipment	\$ 21,564.00

[3] After evaluating the bid proposals with the required bid specifications, Accurate Control Equipment, with the total bid proposal of \$21,564.00, is now awarded the bid for Three Year Lease of Mailing Machine at City Hall.

Adopted on this 22nd day of June, 2009



Timothy M. Kant, Mayor

Attest:



Lisa A. Hanks, City Clerk

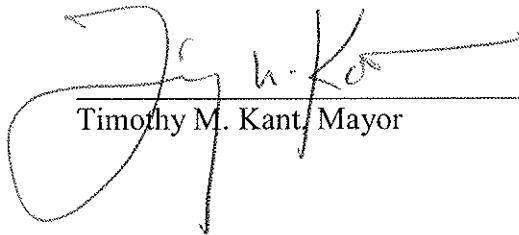
22 June 2009

Councilmember Mixon introduced in writing, and moved for the adoption of the following resolution, a resolution authorizing Mayor Timothy M. Kant to write a letter to DHS/FEMA, Grant Programs Directorate, in support of the Fairhope Volunteer Fire Department applying for Assistance to Firefighters Support Grants: one for Vehicle Acquisition; and the other for Operations and Safety. Seconded by Councilmember Stankoski, motion passed unanimously by voice vote.

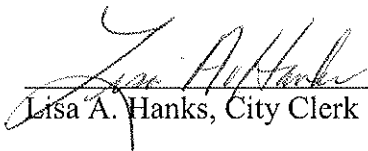
RESOLUTION NO. 1541-09

BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF FAIRHOPE, ALABAMA, that Mayor Timothy M. Kant is hereby authorized to write a letter to DHS/FEMA, Grant Programs Directorate, in support of the Fairhope Volunteer Fire Department applying for Assistance to Firefighters Support Grants: one for Vehicle Acquisition; and the other for Operations and Safety.

DULY ADOPTED THIS 22ND DAY OF JUNE, 2009


 Timothy M. Kant, Mayor

Attest:


 Lisa A. Hanks, City Clerk

Councilmember Mixon introduced in writing, and moved for the adoption of the following resolution, a resolution authorizing Mayor Timothy M. Kant to write a letter of support for Complete Streets subcommittee of the Walkable Communities committee of Smart Coast to work with the Alabama Department of Transportation (“ALDOT”) on bike lanes and sidewalks on the future four lanes of State Highway 181. Seconded by Councilmember Kingrea, motion passed unanimously by voice vote.

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RESOLUTION NO. 1542-09

BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF FAIRHOPE, ALABAMA, that Mayor Timothy M. Kant is hereby authorized to write a letter of support for Complete Streets subcommittee of the Walkable Communities committee of Smart Coast to work with the Alabama Department of Transportation (“ALDOT”) on bike lanes and sidewalks on the future four lanes of State Highway 181.

DULY ADOPTED THIS 22ND DAY OF JUNE, 2009

Timothy M. Kant, Mayor

Attest:



Lisa A. Hanks, City Clerk

Jonathan Smith, Planning and Building Director, addressed the City Council and undated them on the ordinance to amend Zoning Ordinance No. 1253, requesting to rezone the property of Thomas Toombs of Black Angus Development, LLC from R-2 Medium Density Single Family Residential to PUD Planned Unit Development. This property known as Dogwood Subdivision is located on the northeast corner of Valley Street and Middle Street (Introduced at the May 26, 2009 and June 8, 2009 City Council Meetings). Mr. Smith stated that he had received an e-mail request for changes to this ordinance.

Christopher Baker, HMR, LLC, agent for Thomas Toombs of Black Angus Development, LLC, addressed the City Council requesting that the ordinance be sent back to Planning & Zoning. Mr. Baker stated that Jonathan Smith had some issues with the request and they would try to come to an agreement. If they could not agree, his client probably would drop the rezone request.

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Councilmember Stankoski mentioned the opposition at the Planning & Zoning meeting. Mr. Baker stated that the Accessory Dwelling addition had been dropped. Councilmember Stankoski stated he does not have reservations to send back to Planning & Zoning, but when citizens constantly hear this over and over again, they stop coming to the meetings. Council President Quinn stated she felt the City Council should deny the rezone request and standby the recommendation from Planning & Zoning.

After further discussion, Councilmember Ford moved to send the ordinance to amend Zoning Ordinance No. 1253, requesting to rezone the property of Thomas Toombs of Black Angus Development, LLC from R-2 Medium Density Single Family Residential to PUD Planned Unit Development back to Planning & Zoning. Seconded by Councilmember Kingrea, motion passed by the following voice vote: AYE – Stankoski, Mixon, Ford, and Kingrea. NAY – Quinn.

Councilmember Ford addressed the City Council and gave an update on the Garbage Committee and stated that once-a-week garbage won out over twice-a-week garbage by the show of hands at the meeting. The Committee strongly urges the City Council not to vote until all savings are presented by Jennifer Fidler, Public Works Director.

Councilmember Mixon moved to table the ordinance to amend and add to Article VI, Garbage and Trash, Sections 21-71 and 21-72, Fairhope Code of Ordinances (Introduced at the May 26, 2009 and June 8, 2009 City Council Meetings) until the July 27, 2009 regular City Council meeting. Seconded by Councilmember Kingrea, motion passed unanimously by voice vote.

Councilmember Mixon stated that this ordinance is to clean up and remove the duplication of wording: “under the direction of the Mayor.” Councilmember Kingrea introduced in writing Ordinance No. 1391, an ordinance to amend Ordinance No. 1378, Article I, In General, Section 2-15, City Administrator, Fairhope Code of Ordinances. Councilmember Ford questioned if removing those words took away the supervision of the Mayor. Councilmember Mixon reiterated that this change was to clean up the ordinance which did not need this wording. 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 Mixon then moved for final adoption of Ordinance No. 1391. Seconded by Councilmember Kingrea, motion for final adoption passed unanimously by the following votes: AYE – Quinn, Stankoski, Mixon, Ford, and Kingrea. NAY - None.

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City Attorney Wynne addressed the City Council and discussed the new franchise agreement for entities to use City property for private enterprise purposes for profit. The Code of Alabama specifically states these entities must have a contract with the City. However, it does not apply to everything and everyone and is at the discretion of the City Council. Council President Quinn stated there will be a process fee of \$100, entity must obtain a business license, and will be charged a percentage of gross receipts. Councilmember Stankoski commented just for profit entities and we are talking about a handful at the moment. Councilmember Ford stated if we let some do it and not others there will be issues. Council President Quinn stated there are four entities that want to do this and are waiting on us. Councilmember Kingrea said he wants something more specific and our concerns are greater than the four entities. We need consistency. Councilmember Ford stated he wanted to let the four go forward and then move to adopt the agreement. Councilmember Stankoski stated he agreed with Councilmember Kingrea, we must be consistent.

After further discussion, Councilmember Kingrea moved to table the franchise agreement for at least one meeting, the next City Council meeting is July 13, 2009. Seconded by Councilmember Nixon, motion passed unanimously by voice vote.

General Superintendent Gregg Mims addressed the City Council and discussed briefly the Road Name Change Policy. Mr. Mims said the only change he would suggest to the City Council would be to change, in the section Who Can/Must Sign the Petition?, the 100% regarding a personal name being used to 90% to be consistent. After further discussion, Councilmember Nixon moved to adopt the Road Name Change Policy with the amendment from 100% to 90% as stated previously. Seconded by Councilmember Stankoski, motion passed unanimously by voice vote.

Richard F. Pate, 10 North Bay View, addressed the City Council requesting permission to name the easement that runs Westerly from N. Summit Street between Fairhope Avenue and Magnolia Avenue as "Genevieve Lane". Mr. Pate stated he had spoken with neighbors and Gregg Mims regarding the name as requested by the City Council. Mr. Mims stated he recommended approval of the request which was submitted prior to this new policy was passed. Jerry Roberts, 118 Magnolia Avenue, questioned whether or not he had voice regarding this issue. Mr. Mims said that the name Gaston suggested at the last meeting was already used in the City and would not be approved by Baldwin County 9-1-1. Mr. Mims said the name "Genevieve Lane" has already been approved by Baldwin County 9-1-1. Councilmember Nixon moved to grant the request of Richard Pate (Introduced at the May 26, 2009 and June 8, 2009 City Council Meetings). Seconded by Councilmember Stankoski, motion passed by the following voice vote: AYE – Quinn, Stankoski, Nixon, and Ford. NAY – Kingrea.

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Stephen Quinnelly addressed the City Council requesting permission to operate a horse drawn carriage service, serving the Fairhope area, downtown, and Fairhope Pier. Mr. Quinnelly briefly explained his service and stated that there were many other who would have to pay what he would. He stated that mules would pull the carriage because they could tolerate the heat better than horses and would be bagged for collecting waste. Councilmember Stankoski asked; what would be your routes. Mr. Quinnelly replied wherever the City Council desires. Councilmember Mixon said this would add to the uniqueness of the City. Council President Quinn asked Mr. Quinnelly to get with the Police Department and Sherry Sullivan regarding the street routes. Councilmember Kingrea asked; where will you put your horses and base operation. Mr. Quinnelly replied he had several businesses near Fairhope for a base operation.

Council President Quinn read the following memorandum to enter into an Executive Session for approximately 15 minutes:



June 22, 2009

Council President Quinn
City Councilmembers

As City Attorney Norman Stockman, I hereby request the Fairhope City Council go into executive session based on Section 36-25A-7(a)(3) to discuss pending litigation.

City Attorney Stockman does hereby declare that the City Council of the City of Fairhope rise from a Regular City Council meeting, on Monday, June 22, 2009, to go into Executive Session.

The City Council shall be in Executive Session for approximately 15 min minutes/hour(s). At the end of the Executive Session the City Council shall return to the City Council Chambers to resume the Regular City Council meeting.

The time is 7:35 p - City Council exits the dais to go into Executive Session.


Debbie Quinn, City Council President


Norman Stockman, City Attorney

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Councilmember Mixon moved to go into Executive Session. Seconded by Councilmember Kingrea, motion passed unanimously by voice vote.

Exited the dais at 7:35 p.m. Returned at 7:55 p.m.

Mayor Kant addressed the City Council and stated his reasons why Fairhope does not need a City Administrator. His statement gave the following four main reasons:

1. I am the Mayor the citizens elected to run the City.
2. The City Council is trying to micromanage the City.
3. The City Administrator position, in relation to the Mayor's duties, is unworkable because of inevitable conflicts and confusion.
4. The City Administrator will cost a lot of money.

Councilmember Mixon stated the City Council determines what services, finances, and policies that will be followed, set all salaries, appoint duties, and committees. The City Council sets policies and procedures. The Mayor makes sure policies are carried out. The Executive Branch executes the laws.

Councilmember Ford said at the meeting the other day we were told the duties and what we could and could not do. When this ordinance was introduced, I asked if this changed the ordinance and was told it cleaned up.

City Attorney Wynne stated it did not make a difference, the City Administrator will serve under the direction of the Mayor.

Councilmember Kingrea said he looked at the article from Ken Smith and he lobbied against the position of City Administrator based on the Code of Alabama Section 11-43-81; and said he feels Ken Smith is wrong and we prepared the ordinance as we could. Councilmember Kingrea said he is asking that the City Council and Mayor work together.

Council President Quinn said she spoke with the Mayor several times and stated he would not fight this and it would help with communication and personnel issues.


Councilmember Stankoski stated the Mayor was elected by the people, so were the other five of us. We need to do what it takes whether pleasant or unpleasant; and do what is right for the City, what is best for the City, and move forward. We are going to disagree, but once it was passed, we need to go forward; and think first and foremost what is best for the City.

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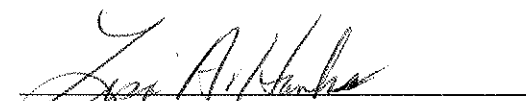
Councilmember Ford said Councilmember Kingrea stated he wants to work with the Mayor, if we go along with what you say. Councilmember Ford stated he thinks he made a mistake voting for the ordinance and his personal agenda is doing what is right for the City.

Councilmember Mixon moved to adjourn the meeting. Seconded by Councilmember Stankoski, motion passed unanimously by voice vote.

There being no further business to come before the City Council, the meeting was duly adjourned at 8:20 p.m.



Debbie W. Quinn, Council President



Lisa A. Hanks, City Clerk