

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, 26 October 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. President Quinn said there was an addition to the minutes of both the October 12, 2009 regular meeting and the October 12, 2009 work session; and asked City Clerk Lisa Hanks to read the additions to the minutes:

October 12, 2009 City Council Meeting minutes:

Chief Bill Press addressed the City Council for any additional clarifications of the ordinance. Council President Quinn read parts of a letter submitted by Jim Horner and Chief Press addressed those issues in the letter.

October 12, 2009 Work Session minutes:

I-10 Overpass at Highway 13 – The first phase was Highway 181 Bike Lanes; ALDOT is working on a policy to be implemented that will add lanes to the work orders. We are hopeful that these lanes will work out. Mr. Calmetti thanked Smartcoast and the City for working with ALDOT on this issue.

Councilmember Mixon moved to approve minutes of the 26 October 2009, regular meeting with the addition and the 26 October 2009, work session with the addition. Seconded by Councilmember Kingrea, motion passed unanimously by voice vote.

Sherry Sullivan made to following announcements:

- Fall Outdoor Farm Market
October 8 - November 12, Every Thursday evening, 3:00 p.m. until dusk.
- On November 7, 2009 will be The Angel Ride
- The Veterans Day Parade will also be November 7, 2009 beginning at 10:00 a.m.
- The City of Fairhope Tree Lighting will be held on November 19, 2009.

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Mayor Kant and Joe Birindelli addressed the City Council and gave a brief history on Joseph "Billy" Garner who was recommended as the Veteran of the Year. Mayor Kant presented Billy Garner as City of Fairhope Veteran of the Year for 2009. The following is the press release on the Billy Garner story:

Billy Garner named Fairhope Veteran of the Year

Mayor Tim Kant has announced Joseph "Billy" Garner as Fairhope's Veteran of the Year for 2009. Garner is being recognized for his military service with the Navy during WWII as well as his community involvement over the years. "Mr. Garner is an excellent choice," Kant said. "As a member of the Greatest Generation, he served his country with honor in World War II. After the war, he returned to Fairhope to finish his education and later to raise his family, and, to this day, he has taken an active role in his community."

Garner has lived in Fairhope since he was just two years old. "Fairhope has always been my home, and I'm really proud and honored to be recognized as Veteran of the Year," he said. "I'm sure there are others more qualified than me, but I'll do my best to honorably represent the City."

In 1945, when he was just 17, Garner enlisted in the U.S. Navy, following three older brothers into service. "I wanted to join the Marines, but my dad wouldn't sign for that, so we agreed on the Navy," he recalled. He served onboard the *USS Neville* APA9 and the *USS Livermore* 429 in the South Pacific and was with the *Livermore* when it brought some of the first U.S. Occupational Troops into Japan after the surrender.

After his discharge from the military, Garner returned to Fairhope to finish high school and went on to earn his undergraduate degree from Troy State University and a graduate degree from Auburn University. He served as a science and math teacher for 11 years in Fairhope, Mobile County, and Coweta County, Georgia before returning to Fairhope to open an insurance business in 1963, with which he is still involved.

Mr. Garner's nomination for Veteran of the Year was endorsed by members of the Gaston-Lee Post 5660 V.F.W., of which he is a charter member. He is also a charter member of Faith Baptist Church in Fairhope where he has served as deacon, a Sunday school teacher, training union director, and Sunday School secretary. He is a 50-year member of Greeno Masonic Lodge, and a member of the Civitan Club. In Fairhope, he has coached football and basketball, and he helped establish the city's first league football program in the late 1950s.

Garner's nomination for Veteran of the Year was endorsed by members of the Gaston-Lee VFW.

He and his wife, Ann, have been married since 1955; they have three sons, four grandchildren, and five great grandchildren with a sixth on the way.

This year's selection of Veteran of the Year, was a tough choice, says selection committee member Joe Birindelli. "We had a host of great candidates this year. They were all very good choices, but we narrowed it down and recommended Mr. Garner. We think he is a fine choice for this year's Veteran of the Year."

Billy Garner stated this was a great honor and he has enjoyed this. Then Mr. Garner said "God Bless you."

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Mayor Kant addressed the City Council and presented the following proclamation to the Fairhope Garden Club for their 80th Anniversary:



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Dr. John Meyer said the Fairhope Garden Club contributes to the City of Fairhope, but not like the Veterans. He mentioned in 1930 the Fairhope Garden Club addressed the City Council requesting the restriction of livestock walking the streets of Fairhope. The citizens of Fairhope contribute each year to the Garden Walk. Dr. John thanked the City for allowing them to continue with the Fairhope Garden Club.

Council President Quinn thanked David Ed Bishop, Chairman of the Baldwin County Commission, for his attendance tonight.

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A Public Hearing was held as advertised on a proposed vacation of portions of Lots 5, 7, and 8 of Dogwood Subdivision, a 66-foot right-of-way situated in Fairhope, Alabama, by Black Angus Development, LLC and Sybil Stoudenmire are the owners and holders of interest of the lands abutting the portions of Lots 5, 7, and 8 of Dogwood Subdivision, a 66-foot right-of-way situated in Fairhope described as follows, to-wit:

BEGINNING AT THE SOUTHWEST CORNER OF LOT 1, VIRGIE SMITH SUBDIVISION, AS RECORDED ON SLIDE 2353-D, IN THE OFFICE OF THE JUDGE OF PROBATE, BALDWIN COUNTY, ALABAMA; THENCE RUN S-00°19'42"-E, ALONG THE EAST LINE OF DOGWOOD SUBDIVISION, AS RECORDED ON SLIDE 2367-F, IN THE OFFICE OF THE JUDGE OF PROBATE, BALDWIN COUNTY, ALABAMA 66.00 FEET TO A POINT; THENCE RUN S-89°45'45"-W, LEAVING SAID EAST LINE, 297.28 FEET TO A POINT ON THE EAST RIGHT-OF-WAY LINE OF VALLEY STREET; THENCE RUN N-00°13'20"-W, ALONG SAID EAST RIGHT-OF-WAY LINE 66.00 FEET TO A POINT; THENCE RUN N-89°45'45"-E, LEAVING SAID EAST RIGHT-OF-WAY LINE, 297.18 FEET TO THE POINT OF BEGINNING.

Council President Quinn opened the Public Hearing at 6:20 p.m.

Jonathan Smith, Director of Planning and Building, explained that this vacation was to clear up the chain of title and all departments had signed off on approving the vacation.

No one present opposed the proposed vacation, the Public Hearing closed at 6:20 p.m.

Councilmember Stankoski introduced in writing, and moved for the adoption of the following resolution, a resolution authorizing the vacation of portions of Lots 5, 7, and 8 of Dogwood Subdivision, a 66-foot right-of-way situated in Fairhope, Alabama, described in this Resolution. Seconded by Councilmember Ford, motion passed unanimously by voice vote.

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26 October 2009

COUNTY OF BALDWIN:

STATE OF ALABAMA:

RESOLUTION NO. 1572-09

RESOLUTION OF THE CITY OF FAIRHOPE OF
BALDWIN COUNTY, ALABAMA FOR THE
VACATION OF A PORTION OF LOTS 5, 7, AND 8
OF DOGWOOD SUBDIVISION (66' RIGHT-OF-WAY)

RECITALS:

1. Black Angus Development, LLC and Sybil Stoudenmire (the "Petitioners") are the owners and holders of interest of the lands abutting that portion of Lots 5, 7, and 8, a 66-foot right-of-way situated in Fairhope, Alabama, described as follows, to-wit:

BEGINNING AT THE SOUTHWEST CORNER OF LOT 1, VIRGIE SMITH SUBDIVISION, AS RECORDED ON SLIDE 2353-D, IN THE OFFICE OF THE JUDGE OF PROBATE, BALDWIN COUNTY, ALABAMA; THENCE RUN S-00°19'42"-E, ALONG THE EAST LINE OF DOGWOOD SUBDIVISION, AS RECORDED ON SLIDE 2367-F, IN THE OFFICE OF THE JUDGE OF PROBATE, BALDWIN COUNTY, ALABAMA 66.00 FEET TO A POINT; THENCE RUN S-89°45'45"-W, LEAVING SAID EAST LINE, 297.28 FEET TO A POINT ON THE EAST RIGHT-OF-WAY LINE OF VALLEY STREET; THENCE RUN N-00°13'20"-W, ALONG SAID EAST RIGHT-OF-WAY LINE 66.00 FEET TO A POINT; THENCE RUN N-89°45'45"-E, LEAVING SAID EAST RIGHT-OF-WAY LINE, 297.18 FEET TO THE POINT OF BEGINNING.

2. The Petitioners have filed a Petition with the City of Fairhope of Baldwin County, Alabama (the "City") requesting that the City adopt a resolution to vacate that portion of Lots 5, 7, and 8, a 66-foot right-of-way situated in Fairhope, Alabama, described in Paragraph 1. of this Resolution.

3. The Petitioners, pursuant to Ala. Code 1975, §23-4-20, desire to vacate that portion of Lots 5, 7, and 8, a 66-foot right-of-way situated in Fairhope, Alabama, described in Paragraph 1. of this Resolution, and, pursuant to applicable law, destroy the force and effect of the dedication of that portion of Lots 5, 7, and 8, a 66-foot right-of-way situated in Fairhope, Alabama, described in Paragraph 1. of this Resolution, and to divest all public rights, including any and all rights which may have been acquired by prescription in and to that portion of Lots 5, 7, and 8, a 66-foot right-of-way situated in Fairhope, Alabama, described in Paragraph 1. of this Resolution.

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4. The property described in Paragraph 1. of this **Resolution** are located within municipal limits of the **City of Fairhope of Baldwin County, Alabama** and are not located within or share jurisdictional boundaries with any other municipality or Baldwin County, Alabama.

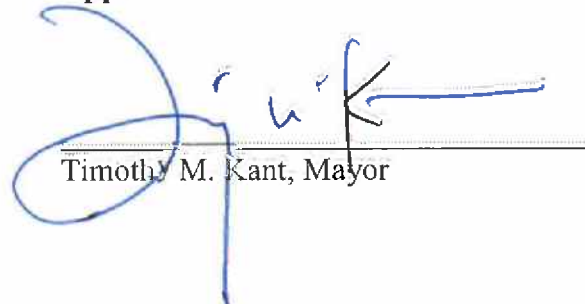
5. It is in the interest of the public that that portion of of Lots 5, 7, and 8, a 66-foot right-of-way situated in Fairhope, Alabama, described in Paragraph 1. of this **Resolution** be closed and vacated.

6. The vacation of that portion of Lots 5, 7, and 8, a 66-foot right-of-way situated in Fairhope, Alabama, described in Paragraph 1. of this **Resolution** shall not deprive other property owners of such rights as they may have to convenient and reasonable means of ingress and egress to and from their property.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF FAIRHOPE OF BALDWIN COUNTY, ALABAMA, that the **City** does assent to the vacation of that portion of Lots 5, 7, and 8, a 66-foot right-of-way situated in Fairhope, Alabama, described in Paragraph 1. of this **Resolution** and that portion of Lots 5, 7, and 8, a 66-foot right-of-way situated in Fairhope, Alabama, described in Paragraph 1. of this **Resolution** is vacated and annulled and all public rights and easements therein divested of the lands described as that portion of Lots 5, 7, and 8, a 66-foot right-of-way situated in Fairhope, Alabama, described in Paragraph 1. of this **Resolution.**

The foregoing resolution was adopted and approved on the 26th day of October 2009, by the City of Fairhope.

Approved:



Timothy M. Kant, Mayor

Attest:



Lisa A. Hanks, City Clerk

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A Public Hearing was held as advertised on a proposed ordinance to amend the Zoning Ordinance No. 1253. Councilmember Stankoski introduced in writing Ordinance No. 1402. The Planning & Zoning Commission recommended approval of this ordinance, an ordinance to rezone the property of Klumpp Family Limited Partnership from RA Residential Agriculture to PUD Planned Unit Development. This property known as Idlewild – 181 Place is located on the west side of State Highway 181 just south of Fairhope Avenue.

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

STAFF INTERPRETATION:

The subject property is zoned R-A (Residential Agriculture). The applicant is requesting to rezone to PUD (Planned Unit Development). The property is currently undeveloped and the applicant's engineer has indicated there are no trees over 20" DBH. The subject property is currently one parcel with approximately 1,252 feet of frontage along Highway 181. If approved, the PUD request will result in a five lot limited commercial subdivision. The property consists of approximately 10.24 acres. The PUD zoning district requires a minimum of three (3) acres.

The Klumpp Family Limited Partnership list of investors is as follows: Michael B. Klumpp, George B. Klumpp Jr. and Fran K. Riggs.

The applicant's PUD request consists of 5 lots accessed by a service road off of State Highway 181. The proposed uses are as follows: Education or Training Facility, General Office Space, Professional Office Space, Retail – Grocery, Retail – Convenience (No Gas), Retail – General Merchandise, Drug Store, Coffee Shop, Post Office, Bank, Barber/Beauty Salon, Film/Photo, Tailor, Office Support Services, Fitness Club, Dry Cleaning/Laundry, Restaurant (No Drive Thru), Catering, Florist and Bakery. The hours of operation proposed by the applicant are 5:30 AM to 11:00 PM. Maximum building coverage is proposed at 30% and total maximum lot coverage is presented at 80%.

Staff feels that the "Restaurant (No Drive Thru)" proposed permitted use is too intense to be located abutting medium-density single family residential (R-2) subdivisions. The Zoning Ordinance defines the aforementioned use as follows: "Restaurant – a business serving prepared meals for consumption on the premises, which may include accessory bar, carry out, drive through, or catering services." (the applicant has voluntarily restricted drive through restaurants). Staff recommends the restaurant use be eliminated from the "Permitted Uses" table on the proposed PUD site plan, due to the offensive odors and noise typically associated with this type use.

As proposed, a twenty foot (20') drainage easement and a twenty foot (20') heavily landscaped buffer (40 feet total) will separate the proposed PUD from the adjacent residential lots in Idlewild, and a twenty foot (20') heavily landscaped buffer is proposed along the southern side of the lot in the proposed development that abuts four (4) lots in Jackson Place. Jennifer Fidler (City Horticulturist) has required an abundance of large plant materials to be incorporated in the proposed buffer areas. The Landscape buffer for the project abutting

Idlewild and Jackson Place shall consist of hollies, pines, cedars, wax myrtles and/or native oaks. There shall be three (3) total rows of landscaping; One (1) row of 3-3 ½" caliper trees and two (2) staggered rows of 15 gallon shrubs. The section of the project fronting Highway 181 ("Linear Park") will have a sixty foot (60') setback/buffer that will be planted with two (2) staggered rows of 3-3 ½ inch caliper trees. These landscape requirements are over and above the requirements of the Fairhope

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Tree Ordinance. Staff feels that an eight foot (8') privacy fence should be added to the property lines of the subject property that abut single family residential zoning and/or uses. This will offer a better visual buffer for the Idlewild and Jackson Place residents.

If the PUD is approved, each proposed site plan shall meet all Fairhope regulations unless specifically drawn on the PUD Site Plan. This includes regulations pertaining to site landscaping, parking lot lighting (10' max height), dumpster and mechanical equipment screening, etc. In addition to other staff requests, **the applicant has agreed to construct 50% of the parking surfaces of a pervious material** (e.g., pervious pavers, pervious concrete, pervious asphalt, etc.).

Upon Preliminary Plat Subdivision application, if the zoning change is approved, the applicant shall be required to submit a drainage plan in compliance with all City of Fairhope stormwater requirements and upon individual lot development any proposed site plan will also be required to be in compliance with City stormwater regulations. Any improvements on the site shall be in compliance with City regulations and Ordinances. At this time, we have received a conceptual drainage layout and a letter stamped and signed by Joe Bullock of Engineering Development Services, LLC stating the drainage system and infrastructure for the project will be in compliance with the Fairhope Subdivision Regulations.

The applicant shall obtain approval from ALDOT for any curb cuts (ingress/egress) or proposed improvements on State Highway 181. The Planning Department has requested that the applicant submit an official letter from ALDOT approving access and any necessary traffic improvements on 181.

Staff contacted ALDOT regarding the proposed access into the project in June, 2009. Terrence Lewis of ALDOT ensured staff that the proposed project ingress/egress points are in compliance with the State Highway 181 Access Management Plan.

The applicant has indicated a pedestrian connection into the Idlewild Subdivision from the primary ingress/egress point in the center of the proposed PUD site plan and a pedestrian connection to the Idlewild stubout located on the north side of the project.

In 2002 the Planning Commission unanimously approved the Preliminary Plat for the phase of Idlewild that abuts the proposed PUD (Phase 7). The Commission specifically required the developer of Idlewild to continue the Orleans Drive future ROW stub-out to the property line in anticipation of a future street connection to the subject property. A copy of the approved June 3, 2002 Planning Commission Minutes are attached.

The residents of the Idlewild residential subdivision are adamantly opposed to a street connection to Orleans Drive. A petition has been submitted and is attached to this Staff Report. Although staff accepts the comments and concerns of Idlewild residents, we feel it is our obligation to recommend that Orleans Drive be connected to the proposed development, due to encouraging language for connectivity in the City's Comprehensive Plan, connectivity requirements in the City's Subdivision regulations and the Planning Commission's required street stubout for Phase VII of Idlewild.

Proposed setbacks are as follows: Front – 110', Rear – 40' and Side 10'. As shown on the PUD Master Plan, the southern setback for lot 5 will be 20' plus an additional 10'. In order to limit the possibility of any "strip" style development, staff recommended a 10' side setback for all lots within the proposed PUD. The applicant agreed to a 10' side setback and to provide "four-sided" architecture for all buildings within the project.

The subject property is bordered to the south and west by R-2 (Medium Density Single Family Residential) zoned property. To the east lies unzoned land in Baldwin County (Wal-Mart), and north is City zoned B-2 (General Business) property.

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STAFF RECOMMENDATION TO THE PLANNING COMMISSION:

Staff recommends the Planning Commission approve the proposed Idlewild – 181 Place PUD contingent upon the following conditions:

1. An eight foot (8') privacy fence shall be added to any property lines for the subject property that abut residential zoning and/or uses.
2. All perimeter buffer landscaping/fences and required vehicular, pedestrian and stormwater infrastructure shown on the PUD site plan shall be installed prior to Final Subdivision Plat approval.
3. A fountain shall be incorporated into the proposed "water feature"/retention pond for the project. This will assist in water circulation and provide an additional aesthetical value to the project.
4. "Restaurant (No Drive Thru)" shall be removed from the Permitted Uses table on the PUD Site Plan.
5. Due to language in the Comprehensive Plan encouraging connectivity, connectivity requirements in the Fairhope Subdivision Regulations and the Planning Commissions approval conditions of Phase VII of the residential Idlewild Subdivision, staff recommends the primary ingress/egress for the project (the central ingress/egress) be connected to Orleans Drive within phase VII of the Idlewild Subdivision. If the connection is approved, the intersection of Orleans Drive and Royal Lane shall be a four-way stop intersection, the applicant shall be responsible for installing all signage; a "No Commercial Vehicles" sign shall be installed before the new street connection meets the existing street stub into the Idlewild Subdivision, and a traffic calming device (e.g., speed hump, speed table, etc.) shall be installed on the new street located at the common property line on the west side of the subject PUD property.
6. Unless specifically defined and/or outlined by the subject PUD Site Plan, all improvements and aspects of the Idlewild-181 Place PUD shall be in compliance with all applicable City regulations.
7. All pervious surfaces shall be constructed and maintained per the latest industry standards; all pervious paving parking surfaces shall be maintained at least once per year. The established POA shall keep a record of parking lot maintenance.

PLANNING COMMISSION DISCUSSION:

Many members of the Planning Commission did not have an issue with the proposed Restaurant (No Drive Thru) use and the Mayor suggested that, if approved, all proposed buildings within the PUD go through formal Site Plan Review to ensure compatibility with the surrounding residential uses. The Site Plan Review process will give staff, the Planning Commission and City Council the opportunity to have input regarding dumpster placement, dumpster screening and containment, etc. Condition number 4 in the original staff recommendation was removed and the following condition was added in its place:

- Allow Restaurant (No Drive Thru) use and each site shall go through the Site Plan Review process.

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Connectivity was discussed and the majority of the Planning Commission members were in favor of a pedestrian and emergency vehicle access connection and not a typical vehicular and pedestrian connection. Therefore staff recommendation number 5 listed above was removed and replaced with the following:

- “Allow pedestrian walk through connectivity only, with emergency vehicle access provided through use of a transmitter activated device on the emergency vehicle, which can be a motorized gate if absolutely necessary”.

PLANNING COMMISSION RECOMMENDATION:

1. An eight foot (8') privacy fence shall be added to any property lines for the subject property that abut residential zoning and/or uses.
2. All perimeter buffer landscaping/fences and required vehicular, pedestrian and stormwater infrastructure shown on the PUD site plan shall be installed prior to Final Subdivision Plat approval.
3. A fountain shall be incorporated into the proposed “water feature”/retention pond for the project. This will assist in water circulation and provide an additional aesthetical value to the project.
4. Allow Restaurant (No Drive Thru) use and each site shall go through the Site Plan Review process.
5. Allow pedestrian walk through connectivity only, with emergency vehicle access provided through use of a transmitter activated device on the emergency vehicle, which can be a motorized gate if absolutely necessary.
6. Unless specifically defined and/or outlined by the subject PUD Site Plan, all improvements and aspects of the Idlewild-181 Place PUD shall be in compliance with all applicable City regulations.
7. All pervious surfaces shall be constructed and maintained per the latest industry standards; all pervious paving parking surfaces shall be maintained at least once per year. The established POA shall keep a record of parking lot maintenance.

Respectfully Submitted for Consideration,

Jonathan I. Smith
Planning and Building Director
City of Fairhope

Council President Quinn opened the Public Hearing at 6:25p.m.

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Keith Jacobson, 304 St. Charles Court, addressed the City Council on behalf of the residents in Idlewild Subdivision with three major concerns:

1. Differentiate Connectivity
2. Walmart access
3. Reoccurring issue – Children in neighborhood

Mr. Jacobson mentioned there are currently four exits within their neighborhood. They agree with the recommendation from the Planning & Zoning Commission regarding connectivity: A pedestrian walk through connection only at Orleans Drive.

Joe Bullock, Engineering Development Services, addressed the City Council on behalf of the Klumpp Family Limited Partnership and said he has only heard of good feedback regarding the recommendation from the Planning & Zoning Commission. The City of Fairhope's Comprehensive Plan promotes connectivity, but in the case of Idlewild Subdivision would not be a good idea. The Partnership would like for the City Council to accept the recommendation as shown without vehicular connection.

The Public Hearing closed at 6:35 p.m.

In order to take immediate action Councilmember Stankoski moved for immediate consideration. Seconded by Councilmember Mixon, motion for immediate consideration passed unanimously by the following votes: AYE – Quinn, Stankoski, Mixon, Ford, and Kingrea. NAY – None. Councilmember Mixon moved for final adoption of Ordinance No. 1402. Seconded by Councilmember Kingrea, motion passed for final adoption by the following votes: AYE – Quinn, Stankoski, Mixon, Ford, and Kingrea. NAY – None.

Mayor Kant addressed the City Council and gave a brief report on the following issues:

1. Arlington Farms and street lights: this subdivision has been waiting since 2007 for street lights. The Baldwin EMC litigation is almost resolved and hopefully will be by the next meeting. We are not just saying no to this subdivision. If this litigation is not resolved by the next meeting, I will be bringing a request to purchase these lights. This would be approximately \$24,000 per Scott Sligh, Electric Department Supervisor, for the lights and a substation.
2. Dog Park: we hope to start the project after the first of the year.
3. Baldwin EMC lawsuit: management has agreed to settle and next meeting we need to go into Executive Session to discuss.

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4. Esfeller: we write checks only with approval of invoice. This is set to go to Court in November.

5. Dyas: this case has been put off until May 2010. The Dyas' have ordered more depositions which caused this postponement. Rick Kingrea brought up costs for attorney fees at the last meeting. We need to sit down and talk about these invoices.

6. Aerospace Alliance for Tanker Project in Mobile: Four states (Alabama, Mississippi, Louisiana, and Florida) are working together to bring this project to Mobile. The Alliance wants to teach the rest of the world that we can do this project in the Southeast and get out story out there.

Council President Quinn asked Mayor Kant about his response to the Tree Committee's letter. Mayor Kant replied Gregg Mims is working on the response.

Councilmember Stankoski addressed the City Council regarding Real Estate suggesting that the Mayor or staff who purchases real estate would consider the following: price negotiation, appraisals, financing, seller's name(s), and discussion on same. This would make it easier for Council when deciding whether or not to purchase.

Council President Quinn addressed the City Council for clarification on travel approval for the Mayor and Councilmembers. Councilmember Mixon stated you need to come back each time for the Council to determine if it benefits the welfare of the community and directly benefits the public. Council President Quinn said there were three meetings she needed to attend: Design Alabama, Alabama League Legislative Committee, and the National League of Cities (NLC) Board meetings.

Councilmember Mixon asked; does this benefit the City and directly affect the City? Council President Quinn replied yes; state and national legislation. Fairhope is a member of the NLC. Councilmember Mixon said there is a disproportionate of expenses for Councilmembers. Councilmember Ford said he was on the Alabama League's Executive Committee and you get to meet Mayors of several cities. Councilmember Ford also said he gave up a day of my business and there are some benefits for the City. Councilmember Stankoski said the networking is valuable and tangible; and some comes back to the City. Councilmember Kingrea stated that the Alabama League and the NLC you could gain a lot from these, but Design Alabama does not do anything for me and we need to do this case-by-case.

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After further discussion, Councilmember Mixon moved to approve Council President Quinn's request to attend the NLC Board meeting and the Alabama League Legislation Committee meeting. Seconded by Councilmember Stankoski, motion passed by the following voice votes: AYE – Stankoski, Mixon, Ford, and Kingrea. NAY – None. ABSTAIN – Quinn.

Councilmember moved to approve the expenditure at Quail Creek Golf Course in the amount of \$ \$14,950 for labor and equipment for asphalt paving. Seconded by Councilmember Stankoski, motion passed unanimously by voice vote.

Council President Quinn announced Items 8.a.), 8.b.), and 8.c.) are minutes from Special Boards and Commissions being presented and reviewed by the City Council:

- a.) Planning & Zoning Commission
 - Review minutes from meeting held August 3, 2009
 - Review minutes from meeting held September 8, 2009
- b.) Recreation Board
 - Review minutes from meeting held August 19, 2009
 - Review minutes from meeting held September 16, 2009
- c.) Financial Advisory Committee
 - Review minutes from meeting held October 12, 2009

Councilmember Stankoski moved to appoint Freda Ward to fill the vacancy of Ginny Stimpson and complete the four-year term which expires in June 2013. Seconded by Councilmember Mixon, motion passed unanimously by voice vote.

Councilmember Ford moved to re-appoint Jeanine Normand, Mark Stejskal, Pete Bremer, and Gary Gover for a four-year term expiring in October 2013. Seconded by Councilmember Kingrea, motion passed unanimously by voice vote.

City Attorney Wynne addressed the City Council and suggested a change in the first question to be answered by the Attorney General: Is the quote "clearly audible" specific and objective enough to pass constitutional requirements or is it too subjective. Councilmember Mixon introduced in writing, and moved for the adoption of the following resolution, a resolution authorizing Mayor Kant to send a letter to the Attorney General of the State of Alabama requesting the Attorney General's opinion regarding Ordinance No. 1401 which amended the Fairhope Code of Ordinances, specifically the sections on Noise as amended above by City Attorney Wynne. Seconded by Councilmember Kingrea, motion passed unanimously by voice vote.

26 October 2009

RESOLUTION NO. 1573-09

BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF FAIRHOPE, ALABAMA, that Mayor Timothy M. Kant is authorized to send a letter to the Attorney General of the State of Alabama requesting the Attorney General's opinion regarding Alabama law on the following questions:

1. Is the quote "clearly audible" specific and objective enough to pass constitutional requirements or is it too subjective?
2. Is the ordinance enforceable as written?
3. Is the ordinance constitutional?

Adopted this 26th day of October, 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 to award the Bid for the Annual Contract for Hydrated Lime and Gas Chlorine Chemical for the Water & Sewer Department (Bid No. 021-09). Seconded by Councilmember Ford, motion passed unanimously by voice vote.

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RESOLUTION NO. 1574-09

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 the Annual Contract for Hydrated Lime and Gas Chlorine Chemicals for the Water & Sewer Department (Bid Number 021-09) at 555 South Section Street in the City of Fairhope offices, Fairhope, Alabama.

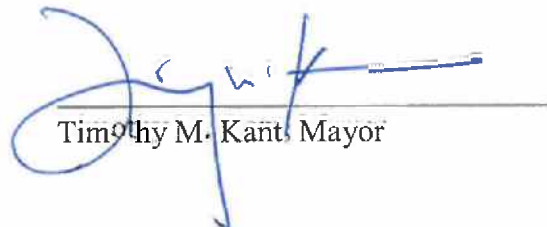
[2] At the appointed time and place, the following bids were opened and tabulated as follows:

HYDRATED LIME AND GAS CHLORINE CHEMICALS

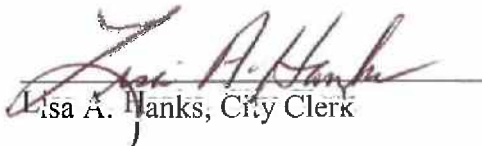
DCP	Lime	\$ 9.75 per Unit
DCP Enterprises	Gas Chlorine	\$92.25 per Unit
Industrial Chemicals, Inc.	Lime Only	\$10.00 per Unit
Harcros Chemicals, Inc.		No Response

[3] After evaluating the bid proposals with the required bid specifications, DCP Enterprises, is now awarded the bid for the Annual Contract for Hydrated Lime and Gas Chlorine Chemicals.

Adopted on this 26th day of October, 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 to purchase Two Vehicles for City Administration and the type of vehicles needed are from the Alabama State Department of Purchasing bid list. Seconded by Councilmember Stankoski, motion passed unanimously by voice vote.

26 October 2009

RESOLUTION NO. 1575-09

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

[1] That the City of Fairhope has voted to purchase Two Vehicles for City Administration and the type of vehicles needed are on the Alabama State Department of Purchasing bid list and therefore does not have to be let out for bid; and

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

Bid Number for Body: T191

Contract Number: 4010936

Chevrolet Malibu (4-Door Sedan) **Not to Exceed \$20,000 each**

Adopted on this 26th day of October, 2009



Timothy M. Kant, Mayor

Attest:



Lisa A. Hanks, City Clerk

Councilmember Stankoski introduced in writing, and moved for the adoption of the following resolution, a resolution authorizing and directing the Mayor and City Clerk to execute and deliver an agreement between the Fairhope Volunteer Fire Department, Inc. and the City of Fairhope. Seconded by Councilmember Mixon, motion passed unanimously by voice vote. A copy of the agreement is on file in the City Clerk's office.

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26 October 2009

RESOLUTION NO. 1576-09

RESOLUTION AUTHORIZING AND DIRECTING THE MAYOR AND CITY
CLERK
TO EXECUTE AND DELIVER AN AGREEMENT BETWEEN THE
FAIRHOPE VOLUNTEER FIRE DEPARTMENT, INC.
AND THE CITY OF FAIRHOPE

WHEREAS, the Fairhope Volunteer Fire Department, Inc. ("Department") will furnish fire protection to all property within the City of Fairhope ("City"); and

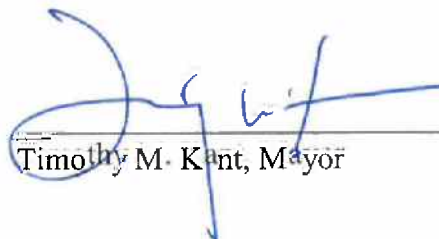
WHEREAS, the City desires that the Department provide such services to the City and the fire jurisdiction; and

WHEREAS, the City Attorney has prepared an Agreement with respect to the matters set forth above, and

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


1. The Agreement between the City and Fire Department attached hereto is hereby approved.
2. The Mayor is authorized and directed to execute and deliver such Agreement on behalf of the City of Fairhope.

DULY ADOPTED THIS 26TH DAY OF OCTOBER, 2009



Timothy M. Kent, Mayor

Attest:



Lisa A. Hanks, City Clerk

26 October 2009

Councilmember Stankoski introduced in writing, and moved for the adoption of the following resolution, a resolution stating that the City Council removes the temporary freeze and reinstates the Education Assistance Program to support City of Fairhope employees in their education. Councilmember Mixon seconded the motion. Councilmember Kingrea asked; do we have the money in the budget; he stated we did this because of hard times and would bring back when we have money appropriated. Councilmember Mixon said the only people in the program can go back into the program.

Mayor Kant stated there are two or three trying to finish up their degree; it will probably be January before we restart the program. Each employee needs to reapply. We are looking at changing the policy. After further discussion, Councilmember Stankoski withdrew his motion and this item will be brought back in two weeks.

Councilmember Kingrea introduced in writing, and moved for the adoption of the following resolution, a resolution accepting the public streets and public right-of-ways located within the Rights-of-Way dedicated (Fly Creek Avenue and Angelo Lane within the Fly Creek PUD) and all Fairhope public utilities located in Rights-of-Way for maintenance; that the City hereby accepts title to the Rights-of-Way pursuant to and in accordance with the Deed; and that the Mayor is hereby authorized, instructed and directed to record (or cause to be recorded) the Deed in the Probate Records of Baldwin County, Alabama. Seconded by Councilmember Mixon, motion passed by the following voice votes: AYE – Quinn, Mixon, Ford, and Kingrea. NAY – None. ABSTAIN - Stankoski.

RESOLUTION NO. 1577-09

WHEREAS, the Fairhope Village, a P.U.D. subdivision (the “Subdivision”) has been subdivided pursuant to and in accordance with those certain plats recorded in the Probate Records of Baldwin County, Alabama at Slides 2389-A, 2389-B, 2422-E, 2422-F, 2424-E, and 2424-F (collectively, the “Plats”), and;

WHEREAS, the Plats delineate certain rights-of-way as “Reserved for Future Access” and as “Fly Creek Avenue” and “Angelo Lane” (collectively, the “Rights-of-Way”), and;

WHEREAS, Angelo Corte, the current owner of the Rights-of-Way, has executed and delivered to the City of Fairhope, Alabama (the “City”) that certain Right-of-Way Deed conveying the Rights-of-Way to the City (the “Deed”), and;

WHEREAS, Angelo Corte and Fairhope, LLC, a Delaware limited liability company (collectively, the “Owners”), as the owners of all of the real property constituting the Subdivision, desire to have all public streets and public right-of-ways located within the Rights-of-Way dedicated and all Fairhope public utilities located in the Rights-of-Way accepted for maintenance by the City, and;

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WHEREAS, the City has received notice from the engineers of record for the Subdivision that the design and capacity of the public improvements located within the Rights-of-Way (the "Improvements") have been designed in conformance with City requirements, and;

WHEREAS, the Public Works Director has indicated that the Improvements meet City requirements, and;

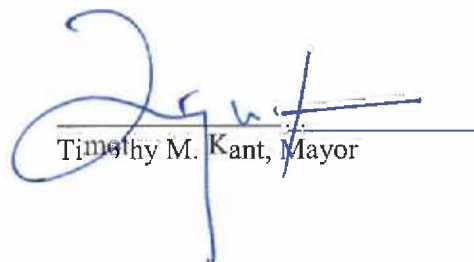
WHEREAS, the City is not and in no manner will be responsible for the maintenance of common areas in the Subdivision as indicated on the Plats, and;

WHEREAS, the City has received from the Owners maintenance bonds for the Improvements constructed for a period of 2 years, and;

NOW, THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FAIRHOPE, ALABAMA that the Improvements are hereby accepted for public maintenance subject to the bond posted, and that the City hereby accepts title to the Rights-of-Way pursuant to and in accordance with the Deed.

BE IT FURTHER RESOLVED that the Mayor is hereby authorized, instructed and directed to record (or cause to be recorded) the Deed in the Probate Records of Baldwin County, Alabama.

Adopted, this 26th day of October, 2009



Timothy M. Kant, Mayor

Attest:



Lisa Hanks, City Clerk

Councilmember Mixon introduced in writing, and moved for the adoption of the following resolution, a resolution to award RFQ for Electric Rate Study (Analysis of Electric Revenue and Rate Date) for the Electric Department. Seconded by Councilmember Ford, motion passed unanimously by voice vote.

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26 October 2009

RESOLUTION NO. 1578-09**BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF FAIRHOPE, ALABAMA, as follows:**

[1] That the City of Fairhope did request and receive RFQs for Electric Rate Study (Analysis of Electric Revenue and Rate Data) for the Electric Department at 555 South Section Street in the City of Fairhope offices, Fairhope, Alabama.

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

ELECTRIC RATE STUDY

R. E. Pender, Inc.	\$ 17,600.00
Jackson Thornton Utilities	37,900.00

[3] After evaluating the RFQ proposal with the required specifications, R. E. Pender, Inc., with the total RFQ proposal of \$17,600.00, is now awarded the RFQ Electric Rate Study (Analysis of Electric Revenue and Rate Data).

Adopted on this 26th day of October, 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 include Quail Creek Golf Course renovations and Clubhouse decking in the Bond Issue 2007. Seconded by Councilmember Kingrea, motion passed unanimously by voice vote.

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RESOLUTION NO. 1579-09

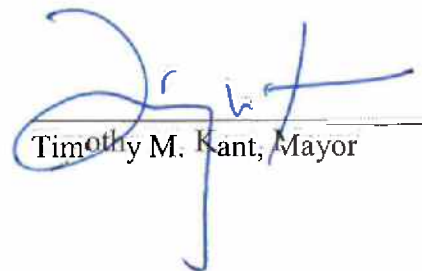
WHEREAS, the City of Fairhope issued General Obligation Warrants, Series 2007 in May 2007 for certain recreational projects; and

WHEREAS, the following projects shall be included in the Bond Issue 2007:

- Quail Creek Golf Course Renovations and Clubhouse Decking ----- \$150,492 37

NOW BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF FAIRHOPE, ALABAMA, that Mayor Timothy M. Kant is hereby authorized to include Quail Creek Golf Course Renovations and Clubhouse Decking in the Bond Issue 2007.

DULY ADOPTED THIS 26TH DAY OF OCTOBER, 2009



Timothy M. Kant, Mayor

Attest



Lisa A. Hanks, City Clerk

Councilmember Stankoski introduced in writing, and moved for the adoption of the following resolution, a resolution to purchase asphalt for Quail Creek Golf Course from the Alabama State Department of Purchasing bid list. Seconded by Councilmember Mixon, motion passed unanimously by voice vote.

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26 October 2009

RESOLUTION NO. 1580-09**BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF FAIRHOPE, ALABAMA, as follows:**

[1] That the City of Fairhope has voted to purchase Asphalt for Quail Creek Golf Course and the type of asphalt needed is on the Alabama State Department of Purchasing bid list and therefore does not have to be let out for bid; and

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

Bid Number for Asphalt: T120A

Contract Number: 4010390

Total cost of Asphalt

\$44,575.68Adopted on this 26th day of October, 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 to purchase an IPSO 55 lb. capacity commercial washing machine for the Municipal Jail. Seconded by Councilmember Kingrea, motion passed unanimously by voice vote.

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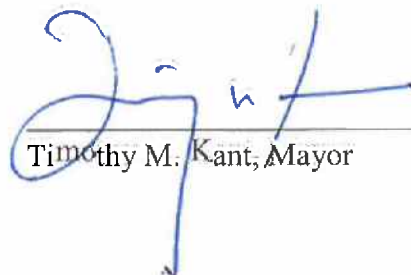
26 October 2009

RESOLUTION NO. 1581-09

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


[1] That the City of Fairhope has voted to purchase an IPSO 55 lb. Capacity Commercial Washer for Municipal Jail and the purchase expense will be funded by the Correction Fund. The replacement cost will be approximately \$9,000 to \$9,500.

Adopted on this 26th day of October, 2009



Timothy M. Kant, Mayor

Attest:



Lisa A. Hanks, City Clerk

Councilmember Mixon introduced in writing Ordinance No. 1403, an ordinance annexing the property of Ladnier Properties, LLC, located at 8281 Gayfer Road Extension, Fairhope, Alabama. Contains 2.66 acres more or less 46-02-09-0-000-012.000 and 46-02-09-0-000-012.003. In order to take immediate action, Councilmember Kingrea moved for immediate consideration. Seconded by Councilmember Stankoski, 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. 1403. Seconded by Councilmember Kingrea, motion for final adoption passed unanimously by the following votes: AYE = Quinn, Stankoski, Mixon, Ford, and Kingrea. NAY - None.

Councilmember Ford introduced in writing an Ordinance to amend and add to Chapter 11, Fire Prevention and Protection, Article I, In General, Fairhope Code of Ordinances – Block Fire Hydrants and Fire Department Connections. Fire Chief John Saraceno addressed the City Council and stated there were approximately 20 fire hydrants blocked.

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Mayor Kant commented that fences could be on the property line or the hydrant is too close. Councilmember Mixon asked; how much would it cost to move the hydrants. Dan McCrory, Water & Sewer Department Supervisor, replied the cost could vary between \$2,000 to \$3,000 dollars per hydrant. In order to research this issue, count the blocked hydrants and look closely at each, and provide further information to the City Council. This ordinance will lay over until the next City Council meeting.

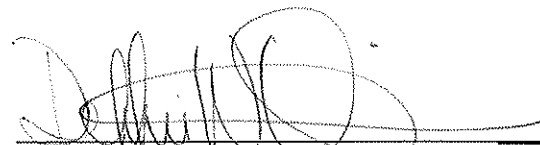

Council President Quinn stated that Paul Ripp, 22985 High Ridge Road, requested that item number 10.a.) be pulled from the agenda.

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

Councilmember Stankoski moved to approve Preliminary Financial Request No. 4, authorizing solicitation of bids for fuel pumps upgrade at the Warehouse. Seconded by Councilmember Ford, motion passed unanimously by voice vote.

Councilmember Stankoski 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 7:31 p.m.


Debbie W. Quinn, Council President
Lisa A. Hanks, City Clerk