

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, 14 September 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 Reverend Donald M. Smith, Priest at St. James Episcopal Church, and the Pledge of Allegiance was recited.

Council President Quinn announced that they needed to amend the agenda by adding on the following items: Resolution awarding the bid for Quail Creek Golf Course Food Service, Resolution authorizing Mayor Timothy M. Kant to execute an agreement with the Alabama Department of Transportation relating to a Transportation Enhancement project, and Executive Session to discuss current and pending litigation.

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

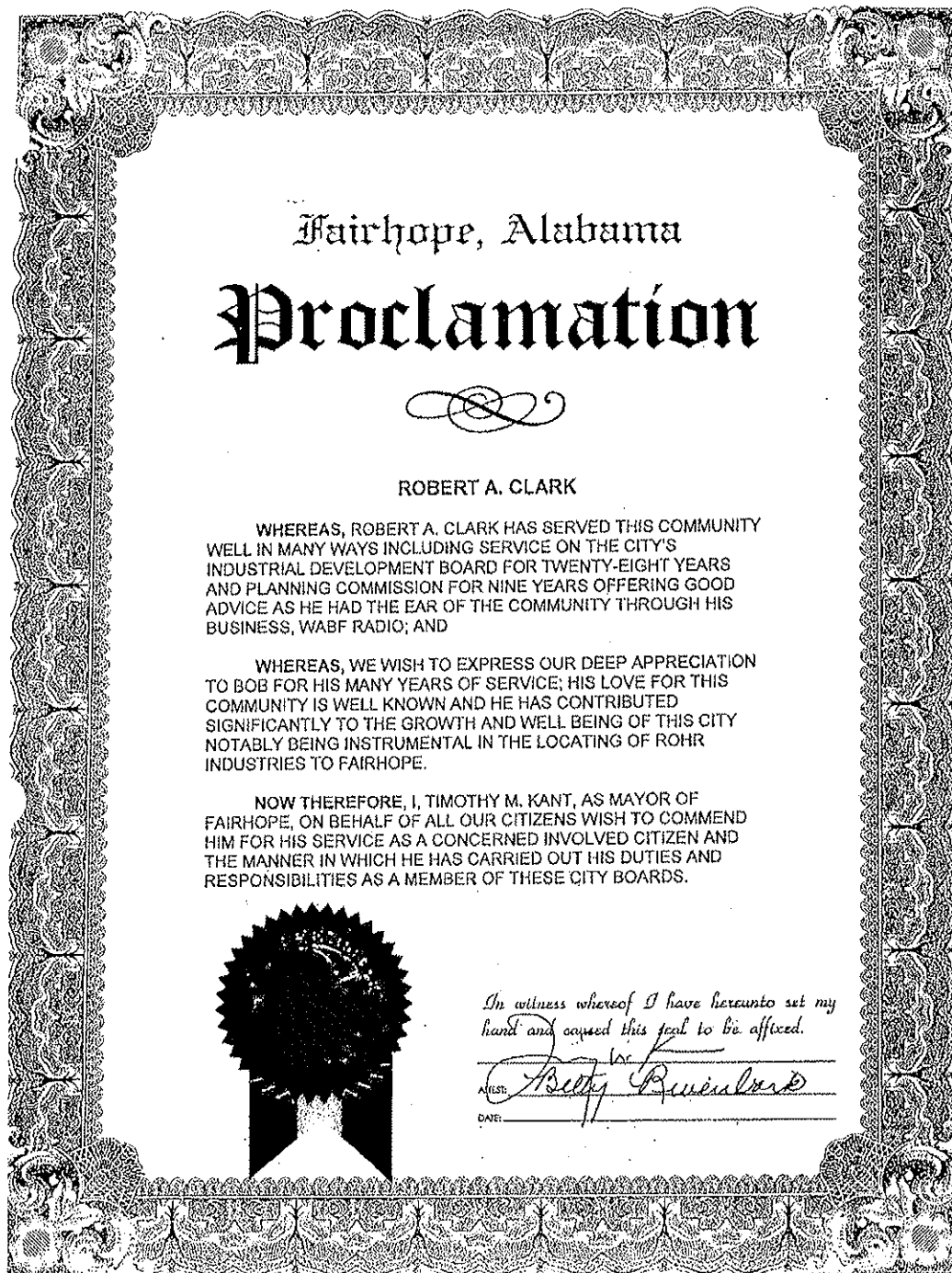
Councilmember Mixon moved to approve minutes of the 24 August 2009, regular meeting. Seconded by Councilmember Kingrea, motion passed unanimously by voice vote.

Sherry Sullivan made the following announcements:

- 22nd Annual Alabama Coastal Cleanup on Saturday, September 19, 2009 at 8:00 a.m.
- Fairhope High School will have its Draw Down on Saturday evening
- FEEF – Phantasy of the Arts 2009, a benefit for the Fairhope Educational Enrichment Foundation, is set for Saturday, Sept. 26, 2009 at the Fairhope Civic Center at 6:30 p.m.
- Twitter.com – You can now twitter The City of Fairhope.

Mayor Kant presented the following Proclamation to Robert A. Clark for all of his work as a member on the Industrial Development Board for the past 28 years:

14 September 2009



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Mr. Clark stated he enjoyed meeting people in the community and what sets our City aside from others are our volunteers; the citizens of the City of Fairhope.

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Councilmember Ford addressed the City Council and questioned the August 4, 2009 letter from Mayor Kant regarding the Assistant Chief of Police position. Council President Quinn replied that the Police Chief and Gregg Mims had spoken to Mayor Kant and settled this matter. Mayor Kant said we just didn't follow the procedures. Councilmember Kingrea stated he shared the concern with following procedures and didn't want to expose ourselves for liabilities. He said if we have to go back and correct the error, we will appoint Terry Sanders as interim Assistant Chief of Police, ask the Mayor to post the job and give us his recommendation, and at the next meeting appointment Sanders as Assistant Chief of Police. City Attorney Wynne stated the Mayor did find a glitch and it has been settled. This issue will alert us for future decisions.

Gregg Mims, City Administrator, addressed the City Council and gave an update on projects being looked at in the Human Resources Department. The following is the list of projects discussed: monthly orientation for new employees and a tour of the City, quarterly training of supervisors, progressive discipline, drug training, safety, employee evaluations, workman's compensation, Blue Cross Blue Shield dos and don'ts, computer use, purchase order requests, substance abuse (zero tolerance), time management, department head annual reviews, job description and pay scales, and procedural manual and cheat sheets.

Lorenzo Howard, Personnel Board member, addressed the City Council and discussed supervisor training, specifically performance evaluations. He said there would be two sessions on this training: one for supervisors on goal setting process and motivation; and the second session would be for all employees. We hope to complete by the end of the year. We will be working on salary administration, performance, communication segments, and employee discipline by working toward goals and objectives.

Rhonda Bishop, Human Resources Director, addressed the City Council and briefly explained the job description for the Assistant City Clerk position. Ms. Bishop also recommended the salary range to be \$43,000 to \$50,000. She stated this was comparable to other cities. Mayor Kant stated that the only reason this position posted with a higher salary and requiring a Bachelor Degree in 2007 was the fact that Ms. Johnson was looking for her replacement. After further discussion, Councilmember Mixon moved to set the salary at \$43,000 for this position. The motion died for lack of a second.

Councilmember Stankoski then moved to set the beginning salary range from \$38,000 to \$43,000 for the Assistant City Clerk position. Seconded by Councilmember Kingrea, motion passed unanimously by voice vote.

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Council President Quinn asked Ms. Bishop to explain the other open position. Ms. Bishop went over the position for the Mayor's Administrative Assistant and recommended a salary range of \$18.00 to \$21.00 per hour. Mayor Kant stated that the position for his Executive Secretary had already been posted for \$20.00 to \$25.00 per hour and received 71 applications for this position. He also mentioned interviews were scheduled to begin this week. Mayor Kant also questioned whether or not he could hire his own secretary. Ms. Bishop stated the Personnel Board was trying to unify the administrative assistant positions and keep salary ranges comparable. Councilmember Ford questioned the City Council; you are going to hire the Mayor's assistant. Ms. Bishop also mentioned that the position required good computer skills, a Bachelor Degree, or equivalent experience which would be around 10 to 15 years experience.

After further discussion, Councilmember Kingrea moved to pass this item until the next City Council meeting which will be on September 28, 2009, in order for Mayor Kant and Ms. Bishop to settle on the job title and the proposed salary range. Seconded by Councilmember Stankoski, motion passed unanimously by voice vote.

Eddie Boyett, Director of Recreation, and Liz Chandler, Recreation Center Director, addressed the City Council with a proposal for a special discounted City employee membership rates for the Fairhope Recreation Center and to allow monthly payments for employees opting for an annual membership enrollment. Mayor Kant mentioned this would be an addition to the employee benefits which would need to be amended in the Personnel Manual via ordinance.

Councilmember Mixon moved to approve the 25% employee discount and allow the annual membership to be paid on a monthly basis. Seconded by Councilmember Ford, motion passed unanimously by voice vote.

Council President Quinn stated that under the Utility Board section she wanted to discuss the separation of the Water & Sewer financial statements. Councilmember Mixon replied that this was already being taken care of and there was no need to vote on this issue.

Councilmember Stankoski moved to appoint Rod Platt to the Fairhope Airport Authority to fill the vacancy of Ken Knutsen, for the balance of the six-year term expiring March 2011 and to reappoint Joe McEnerney for a six-year term expiring March 2015. Seconded by Councilmember Ford, motion passed unanimously by voice vote.

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Jim Horner, Chairman of the Fairhope Environmental Advisory Board, addressed the City Council and explained the STAG Grant, the Special Appropriations Projects Funding Process and the City's request for inclusion on the funding list. Mr. Horner also explained that the City had already sent an informal request to be included on the funding list via e-mail and now the City needs to formally request the same. He said the reason for the grant was to create a GIS based inventory of the City's existing storm water infrastructure which will include detention and retention ponds, inflows and outflows along with the City's storm water conveyance system. Nancy Milford, City Planner, stated that this was a non-construction project for an assessment of regional retention and would cost the City at the most \$202,000. Councilmember Mixon asked if we write the letter are we obligated for this money. Ms. Milford replied no.

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

c.) Personnel Board

Review minutes from meeting held July 16, 2009

Review minutes from meeting held August 6, 2009

Council President Quinn stated that the Mayor had recommended the appointment of Walt Bolton for the Tree Committee, but wanted to hold off on this appointment to make sure other citizens (Garden Society) were also appointed. Mayor Kant stated he spoke with Tom Ellis about the two other appointments for this committee. After further discussion, Councilmember Ford moved to appoint Walt Bolton to the Tree Committee for a three-year term expiring in September 2012. Seconded by Councilmember Kingrea, motion passed by the following voice votes: AYE – Stankoski, Mixon, Ford, and Kingrea. NAY – Quinn.

Council President mentioned that she was going to review all of the committees' By-Laws with Sherry Sullivan. Mayor Kant replied that Ms. Sullivan would not be doing this review because she is not qualified. He said Gregg Mims will get someone to help you.

Gregg Mims addressed the City Council and commented that preparing a grant takes a great deal of work to compile. He said we do not need to send a letter to be on the funding list if we are not going to accept the grant. Councilmember Mixon said we need to know the matching amounts in order to budget and this item needs to go before the Fairhope Financial Advisory Committee. Ms. Milford said she would get the information for the committee. This item was put on hold until the September 28, 2009 City Council meeting.

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Councilmember Mixon introduced in writing, and moved for the adoption of the following resolution, a resolution to award the Bid for Chlorine Monitoring System for the Water & Sewer Department (Bid No. 020-09). Seconded by Councilmember Stankoski, motion passed unanimously by voice vote.

RESOLUTION NO. 1555-09

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

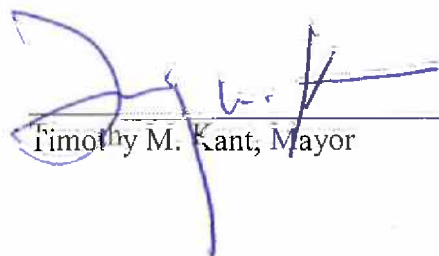
[1] That the City of Fairhope did request, receive, and open bids for Chlorine Monitoring System for the Water & Sewer Department (Bid Number 020-09) at 555 South Section Street in the City of Fairhope offices, Fairhope, Alabama.

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

Please see attached Bid Tabulation for Chlorine Monitoring System for the Water & Sewer Department

[3] After evaluating the bid proposals with the required bid specifications, Aqua Products, Inc., with the total bid proposal of \$29,333.00, is now awarded the bid for Chlorine Monitoring System.

Adopted on this 14th day of September, 2009



Timothy M. Kant, Mayor

Attest:



Lisa A. Hanks, City Clerk

14 September 2009

CITY OF FAIRHOPE
 BID TABULATION AND RECOMMENDATION
 BID NO. 100-09
 BID NAME: CHLORINE MONITORING SYSTEM
 BID OPENED: 09-01-09
 Note: BSI Remd Waived

| VEENDOR | Bid Bond | Manufacturer | Model | Specification Compliance | Bid Price Per Unit | Quantity | Item Total Price | Alternate Signed / Ref | Grand Total Bid Price |
|---|----------|----------------------|----------------|--------------------------|--------------------|-------------|------------------|------------------------|-----------------------|
| AQUA PRODUCTS, INC | Yes / OK | | | Yes | | | | Yes | \$29,333.00 |
| Chlorine Monitors with Chart Recorders, Installed | | Prominator/Honeywell | D1C0R4300 | | \$4,172.00 | 6 | \$25,032.00 | | |
| Chlorine Monitors with Chart Recorders, Not Installed | | Prominator/Honeywell | D1C0R4300 | | \$4,172.00 | 1 | \$4,172.00 | | |
| Charts for Recorder | | Honeywell | 24001901-021 | | | 144 | \$120.00 | | |
| Alternate Bid | | | | | | | \$26,386.00 | | |
| HAGERMEYER NA | NO BID | NO BID | NO BID | NO BID | NO BID | NO BID | NO BID | NO BID | NO BID |
| Chlorine Monitors with Chart Recorders, Installed | | NO BID | NO BID | NO BID | NO BID | 6 | NO BID | NO BID | NO BID |
| Chlorine Monitors with Chart Recorders, Not Installed | | NO BID | NO BID | NO BID | NO BID | 1 | NO BID | NO BID | NO BID |
| Charts for Recorder | | NO BID | NO BID | NO BID | NO BID | 144 | NO BID | NO BID | NO BID |
| Alternate Bid | | NO BID | NO BID | NO BID | NO BID | | NO BID | NO BID | NO BID |
| J.H. WRIGHT & ASSOCIATES, INC. | Yes / OK | | | Yes | | | | Yes | \$36,670.00 |
| Chlorine Monitors with Chart Recorders, Installed | | Severn Trent | Microchem2 | | \$7,316.00 | 6 | \$43,896.00 | | |
| Chlorine Monitors with Chart Recorders, Not Installed | | Severn Trent | Microchem2 | | \$6,710.00 | 1 | \$6,710.00 | | |
| Charts for Recorder | | Severn Trent | 77-4004 | | | 144 | \$0.00 | | |
| Alternate Bid | | | | | | | \$48,606.00 | | |
| SOUTHEAST WATER SYSTEMS, LLC | No | | | Yes | | | | | \$29,333.00 |
| Chlorine Monitors with Chart Recorders, Installed | | Hydro Inst | RP11-250-2-6-1 | | \$3,650.00 | 6 | \$21,900.00 | | |
| Chlorine Monitors with Chart Recorders, Not Installed | | Hydro Inst | RP11-250-2-5-1 | | \$3,200.00 | 1 | \$3,200.00 | | |
| Charts for Recorder | | Honeywell | 24001901-024 | | | 144 | \$50.00 | | |
| Alternate Bid | | | | | | | \$28,650.00 | | |
| TECHNICAL SPECIAL TIES, INC | | No Response | No Response | No Response | No Response | No Response | No Response | No Response | No Response |
| Chlorine Monitors with Chart Recorders, Installed | | No Response | No Response | No Response | No Response | 6 | No Response | No Response | No Response |
| Chlorine Monitors with Chart Recorders, Not Installed | | No Response | No Response | No Response | No Response | 1 | No Response | No Response | No Response |
| Charts for Recorder | | No Response | No Response | No Response | No Response | 144 | No Response | No Response | No Response |
| Alternate Bid | | No Response | No Response | No Response | No Response | | No Response | No Response | No Response |
| CONTROL PRODUCTS | | No Response | No Response | No Response | No Response | No Response | No Response | No Response | No Response |
| Chlorine Monitors with Chart Recorders, Installed | | No Response | No Response | No Response | No Response | 6 | No Response | No Response | No Response |
| Chlorine Monitors with Chart Recorders, Not Installed | | No Response | No Response | No Response | No Response | 1 | No Response | No Response | No Response |
| Charts for Recorder | | No Response | No Response | No Response | No Response | 144 | No Response | No Response | No Response |
| Alternate Bid | | No Response | No Response | No Response | No Response | | No Response | No Response | No Response |
| CARL E. JOHNSON, INC | | No Response | No Response | No Response | No Response | No Response | No Response | No Response | No Response |

| | | | | | | | | | |
|---|--|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|
| Chlorine Monitors with Chart Recorders, Installed | | No Response | No Response | No Response | No Response | 6 | No Response | No Response | No Response |
| Chlorine Monitors with Chart Recorders, Not Installed | | No Response | No Response | No Response | No Response | 1 | No Response | No Response | No Response |
| Charts for Recorder | | No Response | No Response | No Response | No Response | 144 | No Response | No Response | No Response |
| Alternate Bid | | No Response | No Response | No Response | No Response | | No Response | No Response | No Response |
| WATER TREATMENT & CONTROLS CO. | | No Response | No Response | No Response | No Response | No Response | No Response | No Response | No Response |
| Chlorine Monitors with Chart Recorders, Installed | | No Response | No Response | No Response | No Response | 6 | No Response | No Response | No Response |
| Chlorine Monitors with Chart Recorders, Not Installed | | No Response | No Response | No Response | No Response | 1 | No Response | No Response | No Response |
| Charts for Recorder | | No Response | No Response | No Response | No Response | 144 | No Response | No Response | No Response |
| Alternate Bid | | No Response | No Response | No Response | No Response | | No Response | No Response | No Response |
| C & H SYSTEMS, LLC | | No Response | No Response | No Response | No Response | No Response | No Response | No Response | No Response |
| Chlorine Monitors with Chart Recorders, Installed | | No Response | No Response | No Response | No Response | 6 | No Response | No Response | No Response |
| Chlorine Monitors with Chart Recorders, Not Installed | | No Response | No Response | No Response | No Response | 1 | No Response | No Response | No Response |
| Charts for Recorder | | No Response | No Response | No Response | No Response | 144 | No Response | No Response | No Response |
| Alternate Bid | | No Response | No Response | No Response | No Response | | No Response | No Response | No Response |
| SOUTHERN WATER TECHNOLOGIES, INC. | | No Response | No Response | No Response | No Response | No Response | No Response | No Response | No Response |
| Chlorine Monitors with Chart Recorders, Installed | | No Response | No Response | No Response | No Response | 6 | No Response | No Response | No Response |
| Chlorine Monitors with Chart Recorders, Not Installed | | No Response | No Response | No Response | No Response | 1 | No Response | No Response | No Response |
| Charts for Recorder | | No Response | No Response | No Response | No Response | 144 | No Response | No Response | No Response |
| Alternate Bid | | No Response | No Response | No Response | No Response | | No Response | No Response | No Response |
| THERMO FISHER SCIENTIFIC | | No Response | No Response | No Response | No Response | No Response | No Response | No Response | No Response |
| Chlorine Monitors with Chart Recorders, Installed | | No Response | No Response | No Response | No Response | 6 | No Response | No Response | No Response |
| Chlorine Monitors with Chart Recorders, Not Installed | | No Response | No Response | No Response | No Response | 1 | No Response | No Response | No Response |
| Charts for Recorder | | No Response | No Response | No Response | No Response | 144 | No Response | No Response | No Response |
| Alternate Bid | | No Response | No Response | No Response | No Response | | No Response | No Response | No Response |

Recommendation: To accept the bid of Aqua Products, Inc. in the amount of \$29,333.00
 9/2/09
 Dan McCoy, Water & Sewer Superintendent

To the best of my knowledge this is a true and accurate bid tabulation
 Daniel P. Amas, Purchasing Manager
 9/2/09

14 September 2009

City Council reviewed an application for a Restaurant Liquor License by Xian Chu Ou, Shanghai Cottage at Fairhope, Inc., d/b/a Shanghai Cottage at Fairhope located at 22530 U. S. Highway 98, Suite 250, Fairhope, Alabama. Councilmember Mixon moved to approve the issuance of the license. Seconded by Councilmember Stankoski, motion passed unanimously by voice vote.

Mayor Kant addressed the City Council requesting to extend the September 30, 2009 deadline for the services of a City employee helping with the office work for the Fairhope-Point Clear Rotary Youth Programs, Inc.'s Youth Facility known as the Boys & Girls Club until after the budget for the year ending September 30, 2010 is approved. Councilmember Kingrea moved to extend the deadline for the services of a City employee helping at the Youth Facility located on Young Street until after the budget for the year ending September 30, 2010 is approved. Seconded by Councilmember Stankoski, motion passed unanimously by voice vote.

Mayor Kant stated that he had only heard good comments regarding Charles Durgin, the City employee, who is helping at the Youth Facility. He said Mr. Durgin is doing an excellent job.

Charles Durgin addressed the City Council and gave an update on the Youth Facility. Mr. Durgin said they broke records this summer with attendance with 139 kids. The after school program was also higher with 43 kids. He mentioned the Youth Facility needing volunteers and that on September 17, 2009 a fundraiser will be held at the Fairhope Civic Center for this facility.

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

Councilmember Mixon introduced in writing, and moved for the adoption of the following resolution, a resolution to award the Bid for Quail Creek Golf Course Food Service (Bid No. 023-09). Seconded by Councilmember Kingrea, motion passed unanimously by voice vote.

*

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14 September 2009

RESOLUTION NO. 1556-09

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 Quail Creek Golf Course Food Service (Bid Number 023-09) 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:

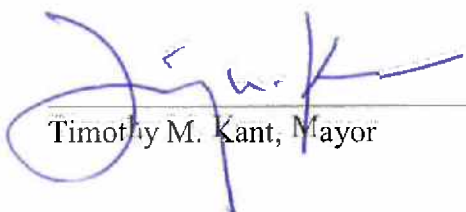
QUAIL CREEK GOLF COURSE FOOD SERVICE

| | |
|------------------------------|--|
| A Taste of New Orleans, Inc. | Alternative Bid 3% 1 st year, 5% thereafter Initial Term: 2 years with 3 possible 1-year extensions |
|------------------------------|--|

NO OTHER RESPONSES WERE RECEIVED

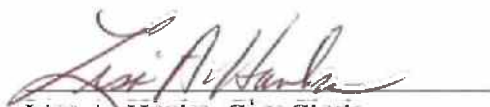
[3] After evaluating the bid proposals with the required bid specifications, A Taste of New Orleans, Inc., based on the alternative bid proposal, is now awarded the bid for Quail Creek Golf Course Food Service.

Adopted on this 14th day of September, 2009



Timothy M. Kant, Mayor

Attest:



Lisa A. Hanks, City Clerk

14 September 2009

Councilmember Stankoski introduced in writing, and moved for the adoption of the following resolution, a resolution authorizing Mayor Timothy M. Kant to execute an agreement with the Alabama Department of Transportation relating to a Transportation Enhancement project (Project No. STPTE-TE09(978) for Greeno Road sidewalks. Seconded by Councilmember Mixon, motion passed unanimously by voice vote.

RESOLUTION NO. 1557-09

BE IT RESOLVED, by the City of Fairhope as follows:

1. That the City enters into an agreement with the State of Alabama, acting by and through the Alabama Department of Transportation relating to a Transportation Enhancement project with partial funding by the Federal Highway Administration, which agreement is before this Council;
2. That the agreement be executed in the name of the City, for and on behalf of the City, by its Mayor.
3. That it be attested by the Clerk and the seal of the City affixed thereto.

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

DULY ADOPTED THIS 14TH DAY OF SEPTEMBER, 2009



Timothy M. Kant, Mayor

ATTEST:



Lisa A. Hafiks, City Clerk

Debra Green addressed the City Council and gave a brief synopsis of the following document regarding the City Council meetings being recorded:

14 September 2009

September 14, 2009
Fairhope City Council
Request for Reconsideration of Council Minutes
Debra Green
Page 1 of 2

I spent 17 years as a registered nurse. Council President Quinn was also a nurse in another life. Through this experience, we learned, sometimes the hard way, if it is not documented, it did not happen. Period.

I use this as an analogy regarding the official recording of the minutes of the Fairhope City Council. The meeting minutes are the permanent, official record of what has transpired during Council meetings. As such, they are utilized as official documentation in a Court of Law. Daphns, Mabilo, and other government bodies have embraced this technology, which has been around since 1877 when Thomas Edison uttered his first recorded words.

A few weeks ago, a motion was made by this council to officially record the meeting minutes. Although I did not attend this particular meeting, it is my understanding the motion died for lack of a second. Rationale for same, unknown.

I believe every citizen of Fairhope would agree, for a multitude of reasons, recording of Council Minutes is not a luxury but a proven necessity, especially considering the omission within the minutes of promises made by Mr. Arthur Cotto during the October 23, 2008 Council meeting.

THIS IS A PRIME EXAMPLE AS TO WHY THEY MUST BE RECORDED.

During the 08/09 P&Z Commission meeting, according to statements made by its representatives, although promises were made in 2008; however, not documented, the impression is Mr. Cotto is of the opinion he does not have to comply with the more stringent regulations including setbacks vs. buffers, which have been adopted since the initial approval of the Cotto PUD.

Had the meeting been recorded and reviewed, the comments would be on record and he might possibly be required to adhere to his promises. Many of us remember his promises including Jim Turner, Bobby Green, Jackie Wavrunok, myself, and many other members of our community.

Further, I cannot tell you how many times I have heard Mayor Kaul comment, "I didn't make the minutes, but don't you remember..." Mayor Kaul is correct. Many items are not included in meeting minutes. This is through no fault of the City Clerk. It is impossible to include every detail in a summary; however, since the minutes are an official record, there should be more official documentation than the summary. There have been many meetings where I read the official minutes, compared them with my own notes, and had to ask myself "did I attend that same meeting?"

Officially documented meetings will make matters clear, provide exact details and may possibly help the City avoid a tidal wave of lawsuits. Many, me included, have come before the Council with complaints and concerns regarding developments and other issues, telling us your attention that your approval was far from the result. Without any official recording, the Council relies on staff to follow up and Staff, at present, is utilized as the best tool the Council has to implement decisions. Staff, although intelligent and professional at their respective duties are human, we all make mistakes. Official recordings will serve as a better tool as it is impossible for each of you to always remember exactly what was approved.

September 14, 2009
Fairhope City Council
Request for Reconsideration of Council Minutes
Debra Green
Page 2 of 2

This Council has sought more transparency with our City Government, particularly with the mayor and the finances. You have also changed the policy of city employees and to whom they answer with the hopes of placing them more at ease and forthcoming without the fear of punishment or penalty. You want to grant longtime to select a new Police Chief from outside the fold to ensure the law would be equally and lawfully enforced. You have made great strides to implement measures for the betterment of our City Government.

However, with the lack of any second to the motion to record the minutes, and without any amount of disrespect, you have given the impression you are not willing to place this same type of transparency upon yourselves. I am of the belief you should not be exempt.

In April 2007, Tut Wynn reported on the Alabama Open Meetings Act "in a nutshell." (A copy of which is attached.) This information covers recording of minutes and behavior expected of elected officials regarding a quorum, special events and other incidents; however, did not outline any information pertaining to the Council's ability or authority to record meeting minutes. The only clear statement is "A meeting of a governmental body may be openly recorded by any person in attendance by means of a tape recorder or by other means."

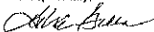
I have contacted the League of Municipalities regarding this issue; however, although taxpayer funded, was told I was unauthorized to receive any information, the League was in place to protect and provide information to elected officials and authorized personnel, not the public.

With this in mind, it is my hope and sincere request you will reconsider this issue and motions to make to:

1. Officially record meeting minutes
2. Research and determine the proper mechanism of recording that can be utilized in a court of law.
3. Investigate and determine how and who will maintain any such recordings and how they will be made available for public review.

Thank you for your thoughtful and immediate consideration to this most important issue. I also hereby request this document be made part of the official record and minutes of the September 14, 2009 Council Meeting.

Respectfully,



Debra Green

14 September 2009

4143

26 April 2007

- City Attorney, Marion E. Wynne reported on the Alabama Open Meeting Act in A Notebook

**ALABAMA OPEN MEETINGS ACT
IN A NOTEBOOK**

It is the policy of the state that the deliberative process of government and all governmental bodies shall be open to the public and no meeting shall be held without giving notice as required by the Open Meetings Act (OMA). Electronic communications shall not be utilized to circumvent this goal. "Deliberation" is defined as "an exchange of information or ideas among a quorum of members of a governmental body intended to arrive at or influence a decision as to how the members of the governmental body should vote on a specific matter that at the time of the exchange is expected to come before the body."

The OMA applies to a "meeting" of a governmental body. A meeting is "a purposeful gathering of a quorum of a governmental body at a time and place which is set by law. A "meeting" is also a purposeful gathering of a quorum of a governmental body during which time the body is authorized by law to exercise its powers or to expend public funds. A "meeting" is also a gathering whether purposeful or not of a quorum of a governmental body during which the members deliberate specific matters that they expect to come before the body at a later date. A "meeting" is also a gathering of a governmental body which is a social gathering, convention or other gathering so long as the body does not deliberate specific matters that are expected to come before the body. A "quorum" is a majority of the voting members of the governmental body. For the Fairhope City Council a quorum is three members. These members could be together to attend a social function or an athletic event, but they while together should not discuss matters that are expected to come before the council for a decision.

All governmental bodies subject to the OMA shall post notice of all meetings at least seven calendar days before the meeting. A city council shall post notice of such meeting on a bulletin board at a place convenient to the public in the city hall. The council shall also notify any member of the public or the news media who has registered with the city to receive notifications of meetings. The notice shall include the date, time and place of the meeting with an agenda of the subjects to be covered at the meeting. A meeting of a governmental body may be openly recorded by any person in attendance by means of a tape recorder or by other means.

An executive session is a portion of a meeting of a governmental body from which the public is excluded for one or more of the reasons prescribed in the OMA. The allowed reasons for an "executive session" are: (1) To discuss the general reputation and character, physical condition, professional competence, or mental health of individuals or to discuss the job performance of certain persons. This reason is subject to certain limitations; (2) To discuss and consider discipline or dismissal of a public employee when expressly allowed by federal or state law; (3) To discuss pending or threatened litigation; (4) To discuss security plans and procedures; (5) To discuss information that would disclose the identity of an undercover law enforcement agent or to discuss whether or not to file a criminal complaint; (6) To discuss how much the body is willing to pay to purchase or lease property or how much the body will pay to buy property; (7) To discuss matters of trade or commerce where the governmental body will be competing in the market place with other companies or governmental bodies; (8) To discuss strategy in preparing for negotiations between the governmental body and a group of public employees; (9) To discuss evidence or testimony presented when the governmental body is acting in a quasi-judicial capacity.

Joe Birindelli addressed the City Council and announced that the Honor Flight for the World War II veterans would be this Wednesday. He invited everyone to the Mobile Regional Airport to greet the veterans when the Honor Flight returns Wednesday evening.

Mayor Kant addressed the City Council and gave an update on the sidewalk on Young Street for the Fairhope-Point Clear Rotary Youth Club and said he asked David Ed Bishop about giving an estimate on what it would cost to extend the sidewalk. Mayor Kant said he would bring back to the City Council once he has the estimate and ask for their help.

4144

26 April 2007

Recently the Alabama Attorney General decided not to prosecute the Auburn City Council for violating the OMA because a quorum of council members were gathered outside of a formal meeting to discuss the matter. The newspaper argues in an April, 2007 editorial that the attorney general missed the point. His newspaper says one council member circumvented the law through individual contacts with other council members so that a decision was made outside of the public view before the formal meeting occurred. One council member circulated a letter among several council members saying that they did not want an opinion regarding the mayor's actions and would not seek such an opinion. The letter was read to a "private meeting" at the council meeting. The Opelika-Auburn News reported on how the decision was made and lodged a formal complaint with the One County District Attorney.

The newspaper's position is that the decision should not be based on whether or not a quorum was present at any one meeting, but on whether the open deliberative process was thwarted by the individual contact outside of public view. The paper pointed out that the OMA prohibits secret building and the use of electronic media and communications to circumvent the open meeting. Even though the council members did not get together in person in a room, they violated the spirit and intent of the law. That is the newspaper's position. As of yet no court has decided this issue.

However, since the goal is to promote transparency in government operations and avoid the appearance of inappropriate decisions making out of public view, it is reasonable to avoid activity like that practiced by the Auburn City Council.

Tia Wynne
City Attorney
April 24, 2007

- Mr. Joel Hamel with U.S. EPA Region 4 presented the following PowerPoint Presentation to explain a research study that EPA will conduct at the City of Fairhope beach. The interviews for the study will start May 19, 2007 through Labor Day weekend, at 10:00 a.m. The study will be conducted on weekends only except for the 4th of July.

14 September 2009

Council President Quinn entered the following memorandum to go into an Executive Session for approximately 30 minutes:



September 14, 2009

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

Lisa A. Hanks
City Clerk

Nancy K. Wilson, CPA
City Treasurer

Council Members

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

Rick Kingree

Lonnie L. Nixon

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

Daniel R. Stanekski, C.M.O.

Council President Quinn
City Councilmembers

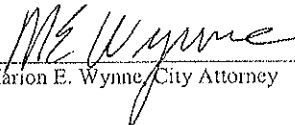
As City Attorney Marion E. Wynne, I hereby request the Fairhope City Council go into executive session based on Section 36-25A-7(a)(3) to hear an update of all the legal issues (current and pending).

City Attorney Wynne does hereby declare that the City Council of the City of Fairhope rise from a Regular City Council meeting, on Monday, September 14, 2009, to go into Executive Session.

The City Council shall be in Executive Session for approximately 30 minutes 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 7:25 P.M. City Council exits the dais to go into Executive Session.


Debbie Quinn, City Council President


Marion E. Wynne, City Attorney

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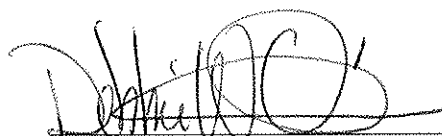
14 September 2009

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

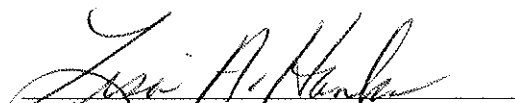
Exited the dais at 7:25 p.m. Returned at 7:51 p.m.

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

There being no further business to come before the City Council, the meeting was duly adjourned at 7:52 p.m.

A handwritten signature in black ink, appearing to read "Debbie W. Quinn", written over a horizontal line.

Debbie W. Quinn, Council President

A handwritten signature in black ink, appearing to read "Lisa A. Hanks", written over a horizontal line.
Lisa A. Hanks, City Clerk