

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 December 2008.

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

There being a quorum present, Council President Quinn called the meeting to order. The invocation was given by Councilmember Stankoski, and the Pledge of Allegiance was recited. Councilmember Mixon moved to approve minutes of the December 8, 2008, regular meeting with amendments from Council President Quinn. Seconded by Councilmember Stankoski, motion passed unanimously by voice vote.

Council President Quinn announced that they needed to add three items to the agenda. A resolution for the Nix Center fees, a resolution in support of the National League of Cities, and an Executive Session to discuss the possibility of purchasing land. She also mentioned that item 7 e.) a resolution authorizing Mayor Kant to purchase property to be perpetually preserved as a public park space, from Fairhope Single Tax Corporation % Lydia Newman Myers, the parcel of land located at the intersection of Fairhope Avenue and Section Street, in the Northeast corner thereof, in the heart of downtown Fairhope would be addressed after the City Council returned from their Executive Session.

Councilmember Ford moved to amend the agenda by adding the above mentioned items. Seconded by Councilmember Mixon, motion passed unanimously by voice vote.

Sherry Sullivan made the following announcements:

- The City of Fairhope will be closed all day Thursday, December 25th and Friday, December 26th for Christmas.
- Fairhope will welcome in the New Year with a downtown street party. Residents are invited to bring their family and friends and ring in the New Year dancing to the variety band, Target. There will also be a karaoke stage with DJ Wade Wellborn, children's entertainment, free party favors and fireworks and a ball drop at midnight. Entertainment begins at 8 p.m. and ends at 12:30 p.m. For more information on the Fairhope New Year's Eve Family Celebration, call 990-0218. There will also be a photo booth.
- Free Mistletoe at the Welcome Center through New Year's Eve.

22 December 2008

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

**CITY OF FAIRHOPE
CITY COUNCIL MEETING
DECEMBER 22, 2008**

**SUMMARY
FINANCIAL REPORTS
TWO MONTHS ENDED
11/30/2008**

GENERAL FUND

	NOV. 2008	NOV. 2007	YTD 11/30/08 TWO MONTHS	YTD 11/30/07 TWO MONTHS	YTD INCREASE (DECREASE)
REVENUES	994,410	1,224,922	2,341,507	2,179,037	171,470
EXPENSES	1,464,380	1,629,288	3,548,925	2,677,068	871,857
EXCESS REV. OVER (UNDER)EXP.	(469,969)	(304,345)	(1,207,418)	(507,030)	(700,387)

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GAS FUND

	NOV. 2008	NOV. 2007	YTD 11/30/08 TWO MONTHS	YTD 11/30/07 TWO MONTHS	YTD INCREASE (DECREASE)
REVENUES	736,378	460,025	1,220,944	810,296	410,648
COST OF ENERGY	382,397	334,056	647,994	523,129	124,865
EXPENSES	284,596	275,023	578,852	528,604	50,248
EXCESS REV. OVER (UNDER)EXP.	69,384	(149,054)	(5,902)	(241,437)	235,535

ELECTRIC FUND

	NOV. 2008	NOV. 2007	YTD 11/30/08 TWO MONTHS	YTD 11/30/07 TWO MONTHS	YTD INCREASE (DECREASE)
REVENUES	1,383,891	1,318,196	3,172,790	2,873,260	299,530
COST OF ENERGY	777,577	682,259	1,595,221	1,412,115	183,106
EXPENSES	576,728	465,443	986,332	918,008	68,384
EXCESS REV. OVER (UNDER)EXP.	29,188	271,494	591,175	543,135	48,040

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WATER FUND

	NOV. 2008	NOV. 2007	YTD 11/30/08 TWO MONTHS	YTD 11/30/07 TWO MONTHS	YTD INCREASE (DECREASE)
REVENUES	603,954	883,558	1,212,526	1,625,067	(412,562)
COST OF ENERGY	59,235	53,868	119,695	101,542	18,153
EXPENSES	703,421	900,182	1,287,414	1,117,455	169,959
EXCESS REV. OVER (UNDER)EXP.	(158,702)	229,518	(194,584)	406,090	(600,674)

ALL FUNDS

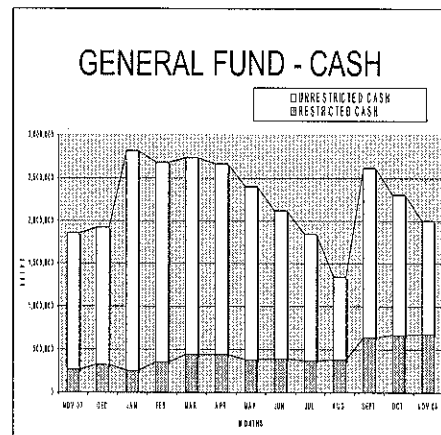
	NOV. 2008	NOV. 2007	YTD 11/30/08 TWO MONTHS	YTD 11/30/07 TWO MONTHS	YTD INCREASE (DECREASE)
REVENUES	3,718,833	3,887,701	7,947,766	7,478,680	469,086
EXPENSES	4,258,732	3,840,089	8,764,499	7,277,921	1,486,572
EXCESS REV. OVER (UNDER)EXP.	(540,099)	47,612	(816,727)	200,759	

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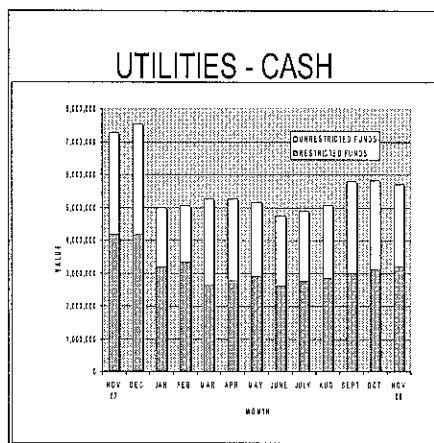
CASH BALANCES

	BALANCE @ 11/30/2008	BALANCE @ 10/31/2008	BALANCE @ 11/30/2007
GENERAL FUND	1,999,720	2,306,771	1,852,253
GAS FUND	329,856	351,130	818,159
ELECTRIC FUND	1,856,364	1,881,798	1,803,690
WATER FUND	3,708,418	3,585,861	4,711,434
GAS TAX FUND	79,868	74,285	326,254
CAPITAL PROJECTS	1,306,416	1,412,835	3,790,284
CAP PROJ-LIBRARY	1	109	37,287
TOTALS	9,079,643	9,612,689	13,139,371
LESS WARRANTS	(1,117,552)	(1,415,001)	(4,126,067)
LESS SINKING	(2,313,884)	(2,200,778)	(2,327,597)
CASH AVAILABLE	5,648,207	5,996,912	6,685,707

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Councilmember Stankoski asked about the advalorem taxes. Ms. Fogarty replied they will not be in until after January. Councilmember Mixon mentioned cash available does not mean we have cash to use. Most of the money is earmarked for a specific purpose.

Councilmember Mixon stated that income is down across the board and wanted to commend department heads on their support, help, and hard work cutting expenses.

Councilmember Stankoski moved to grant the request of Chuck Zunk, Chairman of the Fairhope Airport Authority, requesting that the City Council authorize Mayor Kant and City Attorney Wynne to execute an "Agreement for Transfer of Entitlements" which requests the Federal Aviation Administration to waive our entitlement to \$21,102 of unspent money from our 2006 FAA Grant in favor of a project being done at the airport of Elba, Alabama. Seconded by Councilmember Ford, motion passed unanimously by voice vote.

Councilmember Ford moved to update Fairhope Police Reserve Roster by adding Brady McLaughlin. Seconded by Councilmember Mixon, motion passed unanimously by voice vote.

Councilmember Mixon introduced in writing, and moved for the adoption of the following resolution, a resolution stating that the City of Fairhope will take every possible precaution to protect and enhance the live oaks along U.S. Highway 98 which were planted by the non-profit Corridor 98 Committee with donated money from the citizens of Fairhope and the Eastern Shore. Seconded by Councilmember Stankoski, motion passed unanimously by voice vote.

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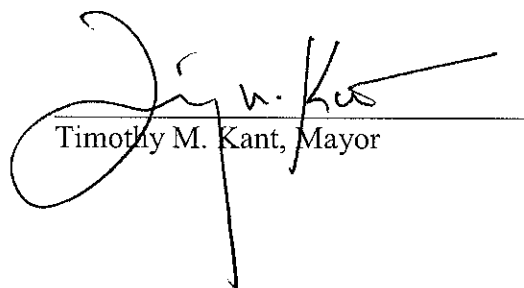
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22 December 2008

RESOLUTION NO. 1477-08

BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF FAIRHOPE, ALABAMA, that the City of Fairhope will take every possible precaution to protect and enhance the live oaks along U.S. Highway 98 which were planted by the non-profit Corridor 98 Committee with donated money from the citizens of Fairhope and the Eastern Shore. The Corridor 98 Committee has placed with the City of Fairhope their trust to ensure that these trees are preserved, protected, and enhanced for the future of the citizens and visitors of the Eastern Shore area.

Adopted on this 22nd day of December, 2008.

Timothy M. Kant, Mayor

Attest:



Lisa A. Hanks, City Clerk

Ken Eslava, Assistant Director of Public Works, explained the agreement with ALDOT and the need for the resolution.

Councilmember Stankoski introduced in writing, and moved for the adoption of the following resolution, a resolution authorizing Mayor Kant to enter into an agreement with the Alabama Department of Transportation for the grading and/or landscaping of State Right of Way located and described as the areas within the median along U.S. Hwy 98 from Fairhope Avenue to U.S. Hwy 104 in Fairhope, Alabama. Seconded by Councilmember Kingrea, motion passed unanimously by voice vote.

22 December 2008

RESOLUTION NO. 1478-08

BE IT RESOLVED, BY THE GOVERNING BODY OF THE CITY OF FAIRHOPE AS FOLLOWS:

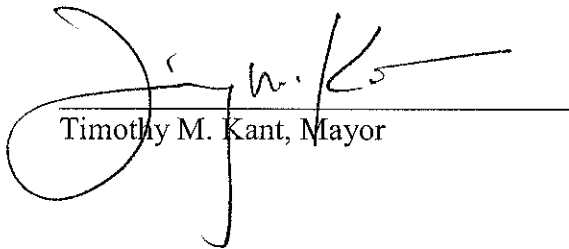
1. WHEREAS, the City of Fairhope, Alabama enter into an agreement with the Alabama Department of Transportation, acting by and through its Transportation Director hereinafter referred to as the STATE for:

The grading and/or landscaping STATE Right of Way located and described as follows: landscaping of areas within the median along U.S. Hwy 98 from Fairhope Avenue to U.S. Hwy 104 in Fairhope, Alabama.

2. WHEREAS, the agreement shall be executed in the name of the City of Fairhope, by its Mayor Timothy M. Kant, for and on its behalf.
3. WHEREAS, the agreement shall be attested by the City Clerk Lisa A. Hanks, and the seal of the City of Fairhope affixed thereto.

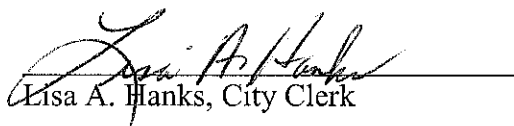
BE IT FURTHER RESOLVED that upon the completion of the execution of the Agreement by all parties, that a copy of such agreement be kept on file by the City Clerk.

Adopted and Approved this 22nd day of December, 2008.



Timothy M. Kant, Mayor

Attest:



Lisa A. Hanks, City Clerk

Ken Eslava, Assistant Director of Public Works, explained the agreement with ALDOT and the need for the resolution.

22 December 2008

Councilmember Mixon introduced in writing, and moved for the adoption of the following resolution, a resolution authorizing Mayor Kant to enter into an agreement with Alabama Department of Transportation for the Cooperative Maintenance of State Right of Way to secure a more pleasing appearance on the roadside between U.S. Hwy 104 and Fairhope Avenue on U.S. Hwy 98 in Fairhope, Alabama. Seconded by Councilmember Ford, motion passed unanimously by voice vote.

RESOLUTION NO. 1479-08

BE IT RESOLVED, BY THE GOVERNING BODY OF THE CITY OF FAIRHOPE AS FOLLOWS:

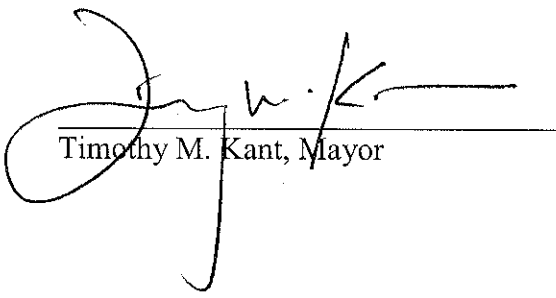
1. WHEREAS, the City of Fairhope, Alabama enter into an agreement with the Alabama Department of Transportation, acting by and through its Transportation Director hereinafter referred to as the STATE for:

The Cooperative Maintenance of STATE Right of Way to secure a more pleasing appearance on the roadside between U.S. Hwy 104 and Fairhope Avenue on U.S. Hwy 98 in Fairhope, Alabama.

2. WHEREAS, the agreement shall be executed in the name of the City of Fairhope, by its Mayor Timothy M. Kant, for and on its behalf.
3. WHEREAS, the agreement shall be attested by the City Clerk Lisa A. Hanks, and the seal of the City of Fairhope affixed thereto.

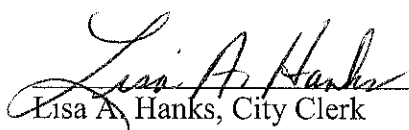
BE IT FURTHER RESOLVED that upon the completion of the execution of the Agreement by all parties, that a copy of such agreement be kept on file by the City Clerk.

Adopted and Approved this 22nd day of December, 2008.



Timothy M. Kant, Mayor

Attest:



Lisa A. Hanks, City Clerk

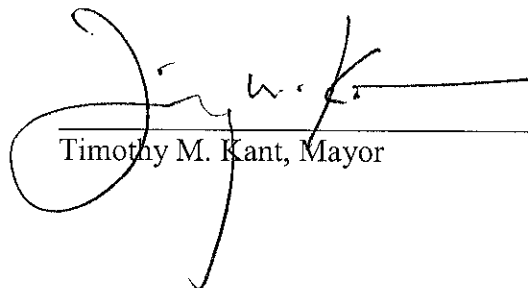
22 December 2008

Councilmember Mixon introduced in writing, and moved for the adoption of the following resolution, a resolution stating that all potential bids being let in the name of the City of Fairhope must first go through the City Council Finance Committee. The Finance Committee will determine if the potential bid needs to be made or held. Seconded by Councilmember Kingrea, motion passed unanimously by voice vote.

RESOLUTION NO. 1480-08

BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF FAIRHOPE, ALABAMA, that all potential bids being let in the name of the City of Fairhope must first go through the City Council Finance Committee. The Finance Committee will determine if the potential bid needs to be made or held. If the item to be bid is deemed a justified need, the bid process continues. All bids will be brought to the City Council for a vote. In the case of an urgent need of the City in which time does not allow for this process, the City Finance Committee process can be skipped.

Adopted on this 22nd day of December, 2008



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 proposing to increase the membership fees for the City of Fairhope James P. Nix Center from \$15.00 to \$20.00 annually. Seconded by Councilmember Stankoski, motion passed unanimously by voice vote.

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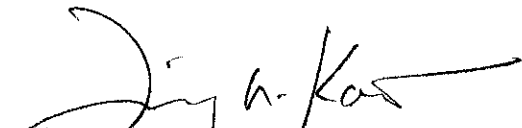
RESOLUTION NO. 1482-08

JAMES P. NIX CENTER FEES

WHEREAS, The Governing Body of the City of Fairhope hereby proposes to increase the membership fees for the City of Fairhope James P. Nix Center from \$15.00 to \$20.00 annually.

BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF FAIRHOPE, FAIRHOPE, ALABAMA, that the proposed fees shall take effect January 1, 2009.

ADOPTED THIS 22ND DAY OF DECEMBER, 2008.



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 that the City of Fairhope does hereby express support for a national economic stimulus package that would spur job creation, help families, and restore economic stability to the nation's cities and towns. Seconded by Councilmember Kingrea, motion passed unanimously by voice vote.

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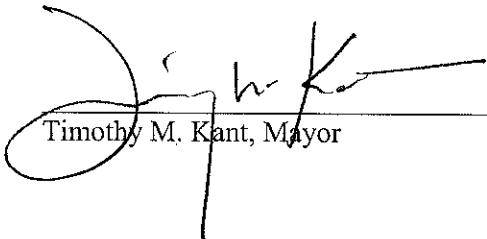
22 December 2008

RESOLUTION NO. 1481-08**RESOLUTION OF THE CITY OF FAIRHOPE, ALABAMA,
EXPRESSING SUPPORT FOR THE
NATIONAL ECONOMIC STIMULUS PACKAGE**

BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF FAIRHOPE, ALABAMA, that the City of Fairhope does hereby express support for a national economic stimulus package that would spur job creation, help families, and restore economic stability to the nation's cities and towns.

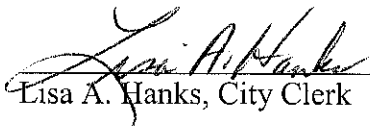
BE IT FURTHER RESOLVED, that the stimulus package needs to include resources that go directly to cities and towns to invest in ready-to-go-job-creating infrastructure projects, provide emergency assistance to families in need, and ensure that the financial markets are functioning well.

Adopted and Approved this 22nd day of December, 2008.



Timothy M. Kant, Mayor

Attest:



Lisa A. Hanks, City Clerk

City Council reviewed an application for a Restaurant Liquor License by Christopher R. Darbe, Darbe LLC, d/b/a Gambino's, located at 18 Laurel Avenue, Fairhope, Alabama. Councilmember Mixon asked Chief Comalander what type of check is done on the applicant. Chief Comalander replied a local computer check is all the law will allow. Councilmember Kingrea moved to approve the issuance of the license. Seconded by Councilmember Ford, motion passed unanimously by voice vote.

Paul Ripp addressed the City Council and stated he has been asking questions for approximately seven months about the Publix and has received no answers. Others have asked similar questions. Councilmember Kingrea mentioned that he and Mr. Ripp met and discussed Publix and he asked Mr. Ripp to provide a list of specific instances of his concerns.

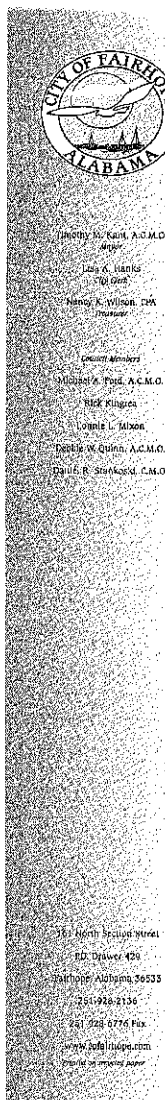
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Mr. Ripp said the Tree Committee gave the City Council seven instances and Mr. Warren explained some. There are no grey areas and they are simple. All we want is what we were told the last three years. We are asking the developer to do what they said they would do.

Council President Quinn stated that she had offered to meet with Mr. Ripp. City Attorney Wynne told the City Council they should wait until after the depositions and be careful not to discuss items in litigation. City Attorney Wynne suggested meeting only with permission of the attorney of personnel before addressing Mr. Ripp.

Mr. Ripp replied these issues are after the fact and Dyas is not the issue.

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



December 22, 2008

Council President Quinn
City Councilmembers

At the request of the City Attorney, Marion E. Wynne the City Council will rise from this meeting to go into Executive Session based on Section 36-25A-7(a)(6) to discuss the consideration the governmental body is willing to offer or accept when considering the purchase, sale, exchange, lease, or market value of real property. The parcel of land is located at the intersection of Fairhope Avenue and Section Street, in the Northeast corner thereof.

City Attorney Wynne does hereby declare that the City Council of the City of Fairhope rise from a Regular City Council meeting, on Monday, December 22, 2008, to go into Executive Session.

The City Council shall be in Executive Session for approximately ¹⁵~~30~~ 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 ^{6:55}~~6:30~~ - City Council exits the dais to go into Executive Session.

Debbie Quinn
Debbie Quinn, City Council President

Marion E. Wynne
Marion E. Wynne, City Attorney

22 December 2008

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

At 6:35 p.m. All Councilmembers and the City Attorney exited the dais.

At 6:50 p.m. All Councilmembers and the City Attorney returned to the dais.

Council President Quinn stated that after some discussions, we have decided not to purchase the property to be perpetually preserved as a public park space, from Fairhope Single Tax Corporation % Lydia Newman Myers, the parcel of land located at the intersection of Fairhope Avenue and Section Street, in the Northeast corner thereof, in the heart of downtown Fairhope, Alabama.

Councilmember Mixon moved to deny purchasing the above described property. The motion was seconded by Councilmember Stankoski. Ms. Myers asked if money was the issue. Council President Quinn replied yes, we do not have the money at this time. Ms. Myers told the City Council that the amount for the property was based on an appraisal from seven years ago and said she was approached to purchase the property. Council President Quinn replied that in 2007 she approached Ms. Myers and finances are tight at this time and we cannot spend that amount of money.

Ms. Myers said she was under the impression the City wanted the property, the courtyard has been talked about, and now you cannot get money for it. Ms. Myers asked "Why did you approach me for the property?" Council President Quinn replied the Fairhope Single Tax Corporation and I did for public use.

Ms. Myers said she notified the City several times for improving the property and the City has not presented her plans back for the improvements. Ms. Myers stated she had been before Planning & Zoning and to the Building Department and received no answers. Councilmember Stankoski asked; when did you go to Planning & Zoning or the Building Department. Ms. Myers replied when Chris Baker and Eric were there and also to Barry Fulford. She reiterated an answer has never been given.

Ms. Myers said she has paid for a lot of improvements; it was not paved when I purchased the property and it did not have a clock. She said I want to sell my building and did not want the courtyard to be part of a political battle; and to keep us out of a legal battle. The community has changed and everyone has an opinion. Ms. Myers said "by God's grace I have the property and improved it. The City has been riding that shirt tail for twenty-five years. Please take into consideration my offer."

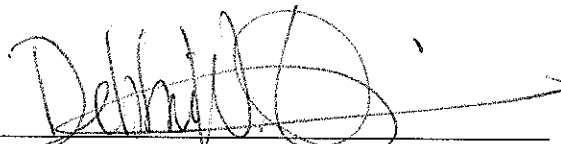
22 December 2008

Councilmember Kingrea replied we don't have the money at this time; this is a cold hard fact. We possibly could purchase the property if it was seven or eight years ago. Ms. Myers stated she was ready to get out of the political game part of it. She said it hurt me regarding the sale of my property. Ms. Myers said she has been approached by someone offering to buy the building and does not want the courtyard. Council President Quinn stated that the City received the offer last week and had to make a decision tonight.

After further discussion, Council President said I have a motion and a second, motion passed unanimously by voice vote.

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 7:05 p.m.

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

Debbie W. Quinn, Council President

A handwritten signature in cursive script, appearing to read "Lisa A. Hanks", written over a horizontal line.

Lisa A. Hanks, City Clerk