

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, 8 December 2008.

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. Jerry Henry, Pastor of First Baptist Church, and the Pledge of Allegiance was recited. Councilmember Stankoski moved to approve minutes of the November 24, 2008, regular meeting with amendments from Council President Quinn and Councilmember Stankoski. Seconded by Councilmember Mixon, motion passed unanimously by voice vote.

Council President Quinn announced there were no Reports of Standing Committees.

Council President Quinn stated that she wants to set up an Impact Funds Committee with Councilmember Stankoski, Gregg Mims, and herself as the members. This Committee will review the Impact Fees collected and make sure these are used for the following as described in the Impact Fee Study as well as the Impact Fee Ordinance: Parks and Recreation, Fire, Police, and Transportation.

Items C, D, E, and G are minutes from Special Boards and Commissions being presented and reviewed by the City Council:

- C. Museum Advisory Board
 Review minutes from meeting held November 5, 2008
- D. Fairhope Tree Committee
 Review minutes from meeting held November 12, 2008
- E. Recycling Committee
 Review minutes from meeting held December 2, 2008
- G. Growth & Sustainability Study Group
 Review minutes from meeting held November 20, 2008

Councilmember Mixon moved to appoint Hubert Hinote to the Industrial Development Board. This term will end December 2013. Seconded by Councilmember Kingrea, motion passed unanimously by voice vote.

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Councilmember Ford moved to reappoint Beemon Bond and to newly appoint Lorenzo Howard and Dr. Ernest Roberts to the Personnel Board, for a 5-year term. The term shall end December 2013. Seconded by Councilmember Kingrea, motion passed unanimously by voice vote.

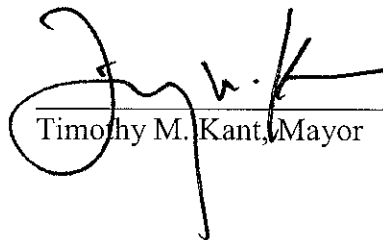
Councilmember Mixon introduced in writing, and moved for the adoption of the following resolution, a resolution approving the Proposed Budget FY 2008-2009 through March 31, 2009 with specified caveats. Seconded by Councilmember Stankoski, motion passed unanimously by voice vote.

RESOLUTION NO. 1476-08

BE IT RESOLVED by the Mayor and Council of the City of Fairhope, Alabama, that the proposed Budget presented and reviewed this 8th day of December 2008, be hereby approved and adopted through March 31, 2009, with the following caveats:

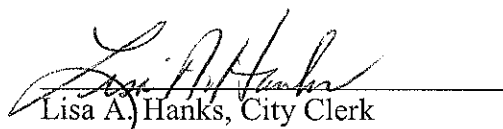
1. Prohibit any capital expenditures over \$7,500.00
2. Continue with the freeze on new hires, filling of vacancies and promotions
3. Keep a tight hold on employee overtime

ADOPTED THIS 8TH DAY OF DECEMBER, 2008.



Timothy M. Kant, Mayor

ATTEST:



Lisa A. Hanks, City Clerk

Council President Quinn briefly discussed the main points from the Finance Work Session prior to the City Council meeting. She said there will be issues with the budget and what we will be spending. This will be a larger mess than Hurricane Katrina was for the City of Fairhope.

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

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**CITY OF FAIRHOPE
CITY COUNCIL MEETING
DECEMBER 8, 2008**

**SUMMARY
FINANCIAL REPORTS
ONE MONTH ENDED
10/31/2008**

General Fund

	1 month Ended 10/31/2008	1 month Ended 10/31/2007	YTD Increase (Decrease)
Revenues	1,347,097	945,115	401,982
Expenses	2,061,305	1,147,800	913,505
Excess Revenues Over (Under) Expenses	(714,208)	(202,685)	

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Gas Fund

	1 month Ended 10/31/2008	1 month Ended 10/31/2007	YTD Increase (Decrease)
Revenues	484,566	350,271	134,295
Cost of Energy	265,597	189,073	76,524
Expenses	284,254	253,581	30,673
Excess Revenues Over (Under) Expenses	(65,285)	(92,383)	

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Electric Fund

	1 month Ended 10/31/2008	1 month Ended 10/31/2007	YTD Increase (Decrease)
Revenues	1,788,899	1,554,064	234,835
Cost of Energy	817,244	829,855	(12,611)
Expenses	409,666	452,583	(42,917)
Excess Revenues Over (Under) Expenses	561,989	271,646	

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Water Fund

	1 month Ended 10/31/2008	1 month Ended 10/31/2007	YTD Increase (Decrease)
Revenues	608,571	741,529	(132,958)
Cost of Energy	60,460	47,683	12,777
Expenses	583,993	517,271	66,722
Excess Revenues Over (Under) Expenses	(35,882)	176,575	

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All Funds

	1 month Ended 10/31/2008	1 month Ended 10/31/2007	YTD Increase (Decrease)
Revenues	4,229,133	3,705,099	524,034
Expenses	4,482,519	3,568,550	913,969
Excess Revenues Over (Under) Expenses	(253,386)	136,549	

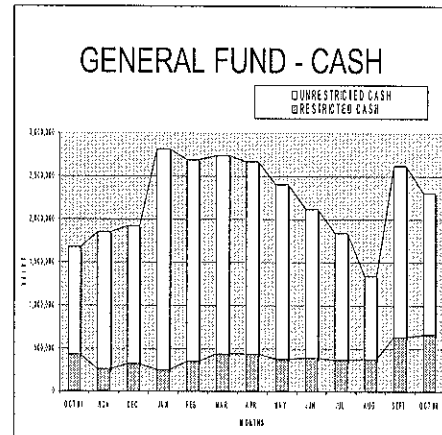
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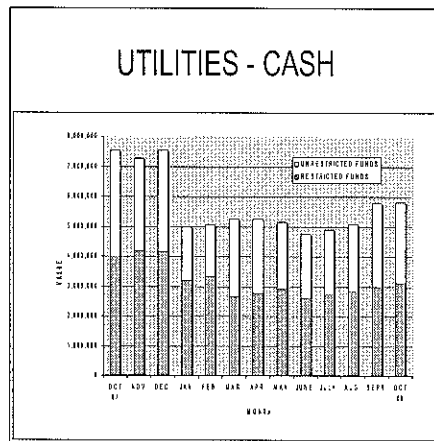
CITY OF FAIRHOPE
MONTH ENDING 10/31/2008
CASH BALANCE COMPARISON

	CURRENT MONTH @ 10/31/2008	PRIOR MONTH @ 9/30/2008	ONE YEAR AGO @ 10/31/2007
	TOTAL	TOTAL	TOTAL
GENERAL FUND	2,906,771	2,778,330	1,044,222
GAS FUND	351,530	314,443	910,413
ELECTRIC FUND	1,801,730	1,904,547	2,231,042
WATER FUND	3,585,061	3,462,450	4,325,830
GAS TAX FUND	74,385	87,625	319,714
CAPITAL PROJECTS	1,412,825	2,217,136	3,840,812
CAPITAL PROJECTS-LIBRARY	826	100	87,979
TOTALS	9,812,528	10,694,631	13,425,118
Less Warrants Funds Included	(145,000)	(135,735)	(4,114,415)
Less Sinking Funds Included	(2,200,723)	(2,087,261)	(2,245,723)
Total Cash Available	\$ 5,996,812	\$ 6,691,466	\$ 7,095,014



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Slide 8



Slide 9

Council President Quinn addressed the City Council and announced that Mayor Kant had vetoed Ordinance No. 1373, an Ordinance to Amend Zoning Ordinance No. 1253 and requesting to zone the property of Christopher L. Haley to Planned Unit Development (PUD) concurrent with annexation. This property is generally located at 7220 Parker Road, Fairhope, Alabama, and the parcel contains 3.795 acres more or less, 05-46-03-07-0-000-18.000; known as Parker Place Subdivision. The following is the Mayor's letter vetoing the proposed ordinance that was read by Council President Quinn:

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12-02-08P04:01 RCVD

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

December 2, 2008

Dear Council Members:

After the City Council Meeting November 24, 2008, there was a lot of confusion over the height and the approval of Chris Haley PUD, Parker Place Subdivision. It was stated in the meeting that the Planning Commission had no problem with the height and had discussed the height at their meeting. This did not happen because when the developer presented his plans he informed staff that he was not going to deviate from the 30' rule so it was never an issue during the September 2, 2008, meeting of the Planning & Zoning Commission.

As a personal note we have denied any new subdivisions coming on line in the Montrose area whether being one lot or several because the water system is inadequate for fire protection. The developer knowing this issue decided to add sprinklers to all the homes to be built which in my opinion does not address the water volume needed for adequate fire protection for our city residents who live in that part of town. The reason that I believe this is important is because insurance rates are already at an all time high and I don't want to see our city residents rates go up higher because of decisions to build more homes in an area that may not have adequate fire protection.

Thirdly, the Historic Commission in the Montrose area has been working with the City for years to insure that we maintain the County's R-1A and R-2 A size lots and we have honored that by changing our rules to require all annexations to first come in under the R-1A County designation which is 40,000 sq ft. I don't want to start a precedent of allowing smaller lots moving down through the Montrose area.

Thank you for listening to my concerns and if these are concerns of yours I would ask that you send this PUD back to the Planning Commission for further review before you finally adopt this Ordinance to annex this property with the smaller lots.

161 North Section Street
P.O. Drawer 429
Fairhope, Alabama 36533
251-928-2136
251-928-6776 Fax
www.cofairhope.com
Printed on recycled paper

Timothy M. Kant, Mayor
City of Fairhope

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Jonathan Smith, City Planner, addressed the City Council and stated the main issue was the height of the PUD being changed from 30' to 35' to the median roof line. He mentioned Village North, Stone Creek, and Fly Creek were all over the 30' height. The Parker Place PUD is consistent with our Zoning Ordinance. Councilmember Kingrea asked; what exactly does a PUD Ordinance require for height. Mr. Smith replied typically it varies: could be stricter or more lax. Councilmember Stankoski asked; does this fall under the same criteria. Mr. Smith replied the PUD would be consistent with the roof line being 35' to peak of roof. Councilmember Ford asked if the County rule outside the City limits is 35' to mean level. Mr. Smith responded he didn't know. Council President Quinn mentioned that most buildings around the Parker Place property are 35' to the mean roof line, but have been consistent with the area. Council President Quinn said she spoke with the developer and he agreed to the 35' to the peak.

Council President Quinn asked Mayor Kant if he would like to speak. Councilmember Ford said, "Mayor you need to explain why you did this?" He continued by stating the water is owned by Daphne.

Mayor Kant replied we need to set a precedent and I am concerned with the height limit. Mr. Haley came in front of the Planning & Zoning Commission and did not bring up the change. Debbie Quinn and Gregg Mims told Chris Haley to just come up here and ask for the change during the City Council meeting. If you do not need to pass an ordinance, please lay over to the next meeting. I do not have a problem with the change, just that it was not discussed and published with the 35' median height. I vetoed the ordinance to have an open debate regarding the change. I want the City Council to have a need for the Planning & Zoning Commission and their recommendations. In regards to the water, we have been flowing water hydrants in that area. Daphne is going to come up here and say most of the residents on this system are yours and will ask us to take on the area.

Councilmember Ford stated if we change to the 35' peak of roof we are in agreement. Councilmember Kingrea said we are trying to work through this and have spoken with Gregg Mims who said early in 2009 the Zoning Ordinance will be reviewed. Councilmember Kingrea stated he believes the Ordinance 35' height was put in to protect the downtown buildings. He continued by saying it is important to have public input and important for you to voice your opinions. We are trying to work to do the right thing. Councilmember Stankoski stated it should have gone to Planning & Zoning and had a public hearing. He mentioned residents did not have a say so on this change and wants to be consistent and open. Councilmember Mixon said we need to look at each PUD individually. Councilmember Ford thanked Council President Quinn for allowing Mayor Kant to speak.

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Chris Haley addressed the City Council and asked them to amend and pass the Ordinance. He asked if he could go before the Board of Adjustments. Councilmember Kingrea stated the needs to override the veto and build to 35'. City Attorney Wynne stated that until the Plat is signed no permit can be issued. He said I think you need to amend the PUD and publish again. Council President Quinn asked City Clerk Lisa Hanks what was the earliest the Ordinance would come back to be addressed by the City Council. Ms. Hanks replied you must advertise for two consecutive weeks and fifteen days after the second publication you can then hold the public hearing which would be at the earliest the first meeting in January.

Councilmember Mixon moved to override the Mayor's veto of Ordinance No. 1373, an Ordinance to Amend Zoning Ordinance No. 1253 and requesting to zone the property of Christopher L. Haley to Planned Unit Development (PUD) concurrent with annexation, known as Parker Place Subdivision located at 7220 Parker Road, Fairhope, Alabama. Seconded by Councilmember Ford, motion passed by the following voice votes: AYE - Quinn, Stankoski, Mixon, Ford, and Kingrea. NAY-None.

The ordinance will be advertised again for two consecutive weeks for a public hearing and a revote taken for the 35' from finished floor to peak of roof, instead of 35' to run to the median roof line, on January 12, 2009.

Councilmember Mixon moved for final adoption of Ordinance No. 1374, an ordinance for election and appointment of City officers and City Council as appointing authority. (Introduced at the November 10, 2008 City Council meeting and the November 24, 2008 City Council meeting). Councilmember Kingrea added that the employees only have one boss and new hires upon recommendation by the Mayor. Seconded by Councilmember Ford, motion for final adoption passed unanimously by the following votes: AYE - Quinn, Stankoski, Mixon, Ford, and Kingrea. NAY- None.

Council President Quinn announced that Councilmember Mixon is the liaison with the Personnel Board and that they will be meeting with our Personnel Attorney to correct the Personnel Manual. She also mentioned that the City Council wants to hold a half day retreat with all supervisors.

City Council reviewed an application for a Restaurant Liquor License by James Peyton McKay d/b/a McKays Subs & Suds located at 333 S. Greeno Rd., Suite F, Fairhope, Alabama. Councilmember Stankoski moved to approve the issuance of the license. Seconded by Councilmember Mixon, motion passed unanimously by voice vote.

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City Council reviewed an application for a Restaurant Liquor License by Randall Carlton Niemeyer, Elliegator LLC, d/b/a Fly Creek Café, located at 831 N. Section Street, Fairhope, Alabama. Councilmember Ford moved to approve the issuance of the license. Seconded by Councilmember Stankoski, motion passed unanimously by voice vote.

Councilmember Ford moved to grant the request of Dan Ames, Purchasing Manager, requesting permission to negotiate a contract for maintenance service of the elevator at the City of Fairhope Museum and approving Mayor Kant to execute a contract for maintenance service at the City of Fairhope Museum provided the yearly cost remains under the legal bid limit. Seconded by Councilmember Mixon, motion passed unanimously by voice vote.

Don Gordon, Construction Manager for the new Fairhope Recreation Center, addressed the City Council and presented the following bids for the project.

Bid Tabulation Sports Flooring

<u>Contractor</u>	<u>Base Bid</u>
Covington Flooring Company	\$ 110,995.00
Gym Service & Installation	\$ 126,144.00

Councilmember Ford moved to accept the low bid of Covington Flooring Company, provided all specifications are met, for the Sports Flooring work at the Fairhope Recreation Center. Seconded by Councilmember Stankoski, motion passed unanimously by voice vote. This purchase will be funded by the 2007 GOW.

Bid Tabulation Racquetball Court

<u>Contractor</u>	<u>Base Bid</u>
The Court Company	\$ 36,200.00

Councilmember Mixon moved to accept the bid of The Court Company, provided all specifications are met, for the Racquetball Court work at the Fairhope Recreation Center. Seconded by Councilmember Kingrea, motion passed unanimously by voice vote. This purchase will be funded by the 2007 GOW.

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Bid Tabulation Flooring

<u>Contractor</u>	<u>Base Bid</u>
Bay Flooring	\$ 15,327.00
Gleem's Carpet One	\$ 15,561.00
Bradford Installations, Inc.	\$ 17,865.00
Delta Flooring	\$ 18,771.00

Councilmember Ford moved to accept the low bid of Bay Flooring, provided all specifications are met, for the Flooring work at the Fairhope Recreation Center. Seconded by Councilmember Stankoski, motion passed unanimously by voice vote. This purchase will be funded by the 2007 GOW.

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

Jennifer Fidler, Public Works Director, addressed the City Council requesting to authorize Mayor Kant to execute an agreement between the City of Fairhope and the United States Department of Agriculture Natural Resources Conservation Service (NRCS) for damages as a result of Hurricane Gustav and Tropical Storm Fay. She stated we are submitting four projects for funding. After discussion, Councilmember Stankoski moved to grant the request by Jennifer Fidler. Seconded by Councilmember Ford, motion passed unanimously by voice vote.

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

Chris Warner addressed the City Council and read the following letter:

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December 8, 2008

TO: Fairhope City Council, City Clerk, & Mayor Tim Kant

FROM: Christopher E. Warner, Ph.D.
115 Bonham Lane
Fairhope, AL 36532

RE: Parker Road Project Violations

The following related improprieties should be noted for the official record:

- 1) The Parker Road Project (i.e. Publix) is not in keeping with the stated tenets of the Fairhope Comprehensive Plan.
 - a. The project is *not* a village; it is a big box strip center with 850 homes behind it
 - b. It is *not* three miles from the nearest designated village (Triangle Property)
- 2) The Parker Road Project (i.e. Publix) site plan passed by the City Council is *not* being followed.
 - a. The designated, 40' natural/landscaped buffer on Parker Road has been eliminated
 - b. By law, this should be mitigated (put back in its natural state) by the developer
- 3) The Parker Road Project (i.e. Publix) main entrance accessway violates the following City of Fairhope Ordinance (Ch. 19, Article IV), relative to Restricted Accessways, found on the City of Fairhope website, adopted March 11, 1998:

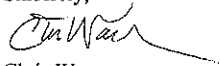
“(c) Accessways upon Greeno Road (U.S. Highway 98) shall be located not nearer than six hundred (600) feet to other accessways and, where established shall, to the maximum extent practicable, align with accessways existing on the opposite side of the highway, within the corporate limits.”

NOTE: The Parker Road accessway is approximately 310 feet from the proposed main entrance to the project, which is in direct violation of Ch. 19, Art. IV. By the city's own public safety ordinance, this main entrance cannot be built here.

If appropriate action (mitigation) in defense of the citizens of Fairhope is not taken, a class action lawsuit will be filed against the City of Fairhope.

It is past due time to do the right thing and to stop the chicanery and favoritism that have become the city government's hallmark. The people deserve better.

Sincerely,



Chris Warner

John Parker addressed the City Council and stated that he was a forty-four year resident and a member of the Eastern Shore Corridor 98 Committee. Over \$228,000 has been raised by private citizens who have planted approximately 1,600 Live Oaks. Fairhope is a peaceful community lined with trees that puts a balance between urban forestry and commercial development. Eighty percent of the whole

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thirteen miles came from Point Clear and the City of Fairhope. We have now lost twelve trees in Daphne and five trees in Fairhope. The last were in the Publix development. Jennifer Fidler had a hold on the trees. The Tree Committee finally succumbed to the developers. Please insist that this planning effort be preserved and save our trees.

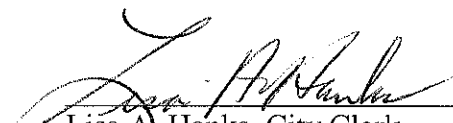
Council President Quinn stated that the Tree Committee debated and conversed over two hours regarding the trees at Publix. This is a huge project; the terrain and topography has been unreal. She said the staff has done all that they could do. Council President Quinn mentioned that she has asked staff to look at the Red Clay Ordinance as well as other ordinances to help with buildings. We should look at a resolution to protect the trees. Councilmember Stankoski said we need to come up with a short review regarding the issues brought up by citizens. City Attorney Wynne said that Mayor Kant stated we are in litigation and should not be discussing.

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

There being no further business to come before the City Council, the meeting was duly adjourned at 7:29 p.m.



Debbie W. Quinn, Council President



Lisa A. Hanks, City Clerk