

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, 10 April 2017.

Present were Council President Jack Burrell, Councilmembers: Jay Robinson, Jimmy Conyers, Robert Brown, and Kevin Boone, Mayor Karin Wilson, City Attorney Marion E. Wynne, and City Clerk Lisa A. Hanks.

There being a quorum present, Council President Burrell called the meeting to order. The invocation was given by Gray Strickland, Pastor of the Way Community Church, and the Pledge of Allegiance was recited.

Council President Burrell stated there was a need to add on one agenda item after Agenda Item Number 8: a Resolution that the City Council approves the selection of Stewart Engineering, Inc. for RFQ No. PS025-17, Professional Engineering Services to Upgrade Fairhope's Electrical System Map and our associated Software Model, and authorize Mayor Karin Wilson to negotiate a fee schedule, establish a not-to-exceed figure with that firm, and to execute the associated contract.

Councilmember Boone moved to add on the above mentioned item **not** on the printed agenda. Seconded by Councilmember Conyers, motion passed unanimously by voice vote.

Councilmember Boone moved to approve minutes of the 27 March 2017, regular meeting; minutes of the 27 March 2017, work session; minutes of the 27 March 2017, agenda meeting; and minutes of the 5 April 2017, special called meeting. The motion was seconded by Councilmember Robinson who stated he would be abstaining from the minutes of 27 March 2017 due to not being present. Council President Burrell commented that Roberts Rule of Order allows for all to vote on minutes even if not present. After further discussion, motion passed by the following voice votes for minutes of the 27 March 2017 regular meeting, work session, and agenda meeting: AYE – Burrell, Conyers, Brown, and Boone. NAY – None. ABSTAIN – Robinson; and motion passed unanimously by voice vote for the 5 April 2017 special meeting.

Mayor Wilson addressed the City Council and recognized two City retirees: Kathy Gordon with 15 years of service and Tom Odom with 31 years of services. Mayor Wilson presented two framed awards: one award to Townes Bowman for winning the 5th Grade Anti-Litter Campaign Contest; and one to Jacob Hartley for achieving the Eagle Scout Award.

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The following individuals spoke during Public Participation for Agenda Items:

- 1) Chip Shaw, 916 Sea Cliff Drive, addressed the City Council regarding Agenda Item No. 5: An ordinance amending Ordinance No. 1572: Fly Creek PUD Sunset Provision; Paragraph 3 (a). Mr. Shaw commented the face of the Council has changed. He said let it drop; and it would have all been over. He stated the voices of citizens and thoughts are clear. Mr. Shaw is opposed to the ordinance.
- 2) Francis Paul Ripp, 22985 High Ridge Road, addressed the City Council regarding Agenda Item No. 5: An ordinance amending Ordinance No. 1572: Fly Creek PUD Sunset Provision; Paragraph 3 (a). Mr. Ripp stated this is the 10th meeting and thousands came out against the Fly Creek PUD; and Breland will have to be given the same. He said citizens will be dealing with this forever. Mr. Ripp said "Let it die; put an end to it."
- 3) Chief Petties stated that he had put the note on the agenda for everyone to be civil; and he commented for all to act like grown people.
- 4) Maggie Mosteller, resident of Fairhope, addressed the City Council regarding Agenda Item No. 6: A resolution that the City Council approves the selection of Mississippi State University Gulf Coast Community Design Studio for RFQ No. PS021-17, Professional Consulting Services for South Fairhope Community Action Plan. Ms. Mosteller is in favor of this resolution; and said we should study the whole area and come up with solutions to see how we can bring the people outside the City limits into the City.
- 5) Johnny Chaney, resident of Fairhope, addressed the City Council regarding Agenda Item No. 6: A resolution that the City Council approves the selection of Mississippi State University Gulf Coast Community Design Studio for RFQ No. PS021-17, Professional Consulting Services for South Fairhope Community Action Plan. He thanked the City Council for what they do. He gave a history of SARPC and the grant which was first agreed to back in September 2015. He stated this is a great thing for all being concerned.
- 6) Reverend Williams, resident of Fairhope, addressed the City Council regarding Agenda Item No. 6: A resolution that the City Council approves the selection of Mississippi State University Gulf Coast Community Design Studio for RFQ No. PS021-17, Professional Consulting Services for South Fairhope Community Action Plan. He said the drainage is from the County into the City; and he no longer has a backyard. He commented water is coming from other areas too; and the damages are unknown.
- 7) Lynn Buchanan, 58 Nichols, addressed the City Council and said these are the same issues that need to be addressed; and should not have to be brought up at every meeting.
- 8) Judy Bond, 213 South Drive, addressed the City Council regarding Agenda Item No. 5: An ordinance amending Ordinance No. 1572: Fly Creek PUD Sunset Provision; Paragraph 3 (a). Ms. Bond stated these issues need to be resolved; and tourism is important here. Ms. Bond said, "Do the right thing."

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- 9) Larry Morris, retired Natural Resource Conservationist and current Project Manager for Weeks Bay Plan, addressed the City Council regarding Agenda Item No. 5: An ordinance amending Ordinance No. 1572: Fly Creek PUD Sunset Provision; Paragraph 3 (a). Mr. Morris spoke on behalf of Mr. Corte. Mr. Morris stated he was here at Arthur Corte's request. Mr. Morris said he gave a plan with gully structure to the former Mr. Corte who told him that he had dredged out Fly Creek and made it navigable as a young man. Mr. Morris said that the former Mr. Corte did not want the creek damaged. He said Arthur Corte is a chip off the old block (his Dad).
- 10) John Parker, Fairhope resident for 50 years, addressed the City Council regarding Agenda Item No. 5: An ordinance amending Ordinance No. 1572: Fly Creek PUD Sunset Provision; Paragraph 3 (a). Mr. Parker said he had served on the City Council and the Planning Commission and the process works. He stated the Corte Family annexed first and then came to the City for development approval; and he is aware of the process they had to go through for streets, drainage, etc. He requested the City to offer an objective and fair decision.
- 11) Reily Murphy, 22163 Main Street, addressed the City Council regarding Agenda Item No. 5: An ordinance amending Ordinance No. 1572: Fly Creek PUD Sunset Provision; Paragraph 3 (a). Mr. Murphy stated he was against the extension; and this project is an environmental issue for him. He said utmost safety is his goal. He mentioned the Daphne apartments built 10 months ago which are only fifty percent occupied. Mr. Reily asked the City Council to please make the right decision.
- 12) Bob Wills, on behalf of Arthur Corte and Leaf River, addressed the City Council regarding Agenda Item No. 5: An ordinance amending Ordinance No. 1572: Fly Creek PUD Sunset Provision; Paragraph 3 (a). Mr. Wills said he appreciated all who had spoken. He gave a brief history of facts: the moratorium was passed, MOP was done and denied, there is a conflict with language of application and PUD, all additional items were done. He stated Fairhope has stringent requirements and those were met. He said they have requested an extension of the Sunset Clause.
- 13) Kelly Eby, 9828 Chariot Avenue, addressed the City Council regarding Agenda Item No. 5: An ordinance amending Ordinance No. 1572: Fly Creek PUD Sunset Provision; Paragraph 3 (a). She said the developer and Corte had six months to meet the PUD language and did not. She stated they should follow the rules.
- 14) Rollin Neason, 95 Blue Island Drive, addressed the City Council regarding Agenda Item No. 5: An ordinance amending Ordinance No. 1572: Fly Creek PUD Sunset Provision; Paragraph 3 (a). He said there is a no growth side and a developer side. He said they are all in it for the money; and asked the City Council will the project be good for the City. Mr. Neason commented "Do the right thing."
- 15) Unknown Citizen commented "Do the right thing."

Councilmember Robinson apologized for missing the last meeting, but it was due to the arrival of Greer Elizabeth Robinson. He thanked Thomas Hospital for caring for his wife and mother during their stay. He also confessed that he watches the videos from the Council meetings to make sure his points came across how he intended.

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Councilmember Robinson gave a small talk on civility and said we all want to do the right thing. He said we all need accurate information; and facts that are not right escalate. He said we need to be transparent.

Councilmember Conyers brought up the Airport Authority and the compromised he had suggested for both members. He commented both current members right now are highly qualified and doing an excellent job. Councilmember Conyers said the Library Board meets next Monday; and announced the upcoming events: The Bald Eagle Bash for the Weeks Bay Foundation; Eastern Shore Repertory will have a coastal cleanup to promote "The Little Mermaid;" and Fairhope High School will be presenting "The Tempest."

Councilmember Brown apologized for missing the last meeting due to a preplanned vacation. He said, "I will do the right thing and had prayed about his decision."

Councilmember Boone said he is promoting Easter and why we have it.

Council President Burrell said he respects everyone on the dais; and whatever the decision he would respect the City Council. Council President Burrell said he has spent untold number of hours regarding this ordinance.

Councilmember Boone moved for final adoption of Ordinance No. 1591, an ordinance to amend Ordinance No. 1572: Fly Creek PUD Sunset Provision; Paragraph 3 (a). (Introduced at the 27 March 2017 City Council Meeting) The motion was seconded by Councilmember Brown. Planning Director Wayne Dyess explained the ordinance. Councilmember Robinson asked if the MOP was approved would the new rules in place apply. Mr. Dyess said the old rules that were in place at the time PUD was approved would be used.

Councilmember Robinson said the ordinance from last April had a one-year extension to adhere the MOP application; and this extension would only allow them four more months. He said the moratorium took away four months; and there are certain scenarios the City Council have to look at:

- 1) Deny and City gets sued and wins; and still build something
- 2) Deny and City gets sued and loses; and still build
- 3) Deny and City gets sued; and owner annexes into Daphne who regulate rules

Councilmember Robinson stated he has a strong concern about anything being built on the property. He said this project has more environmental safeguards in place.

Councilmember Conyers commented this is a difficult issue and it boiled down to what was the best interest of Fairhope and/or developer. Councilmember Conyers said he has the utmost respect to all of the Councilmembers.

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Councilmember Brown said we want to treat everyone fairly; and commented he has known Corte for decades. He said that Corte's developments are all nice. He said this is a great location and more development to come behind these. He said the rest of the property could be Daphne or could be Fairhope; and we need to address the projects before these get to us.

Councilmember Boone stated that he wants a fair playing field for everyone.

Council President Burrell mentioned the timeline for this development; and that he was the only elected official who voted against it. He said last April he voted no and wished it was denied, but the vote was three to two for the Fly Creek PUD and the majority wins. He said it had a one-year sunset clause; on October 3rd applied for MOP and it was denied; six months after denial could reapply on April 3rd and get building permit. He said that is 110 days lost; and if we grant 120 days would give them one opportunity to go to Planning Commission. Council President Burrell commented we need to consider the pact we made a year ago; and we took four months away from them. He suggested giving them 120 days for MOP hearing and 130 days to get building permit.

Councilmember Robinson stated we should give them apples to apples; and give them as close to what we took away. Council President Burrell stated there is only one of us who supports the new revision. Councilmember Brown commented there were three separate engineering firms who reviewed and approved this project; and a few days before the MOP application, one of the firms changed its approval to denial. After further discussion, motion for final adoption passed by the following voice votes: AYE – Burrell, Robinson, Brown, and Boone. NAY - Conyers.

Sherry-Lea Botop along with David Perkes AIA, and Kelsey Johnson both with the Gulf Coast Community Design Studio addressed the City Council and explained the need for the professional consulting services to provide a South Fairhope Community Action Plan. Ms. Johnson said the HUD money could only be used in the City limits; but possibly could get grant funding at the State level. Mr. Perkes stated they were brought in initially to help with HUD grant; and have spoken with community. He said the study is to identify broader issues and work to find sources of funding; and this would be the community working together. Johnny Chaney spoke up and requested the City Council to help get the grant, mentioned possible suit the City did not help. He said we need something done.

Councilmembers questioned stormwater management in RFQ, getting ahead before annexing, how can we spend outside City limits, and working with the County. The study will help address priorities and to figure out resources for all while working in the City and with the County and the State.

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Councilmember Boone introduced in writing, and moved for the adoption of the following resolution, a resolution that the City Council approves the selection of Mississippi State University Gulf Coast Community Design Studio for RFQ No. PS021-17, Professional Consulting Services for South Fairhope Community Action Plan, and authorize Mayor Karin Wilson to negotiate a fee schedule and a not-to-exceed figure. Seconded by Councilmember Robinson, motion passed unanimously by voice vote.

**RESOLUTION NO. 2711-17**

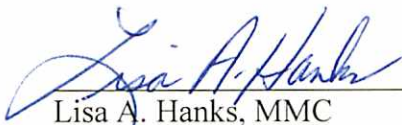
**BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF FAIRHOPE, ALABAMA,** that the City Council approves the selection of Mississippi State University Gulf Coast Community Design Studio for RFQ No. PS021-17, Professional Consulting Services for South Fairhope Community Action Plan, and authorizes Mayor Karin Wilson to negotiate a fee schedule and a not-to-exceed figure.

Adopted on this 10th day of April, 2017



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Karin Wilson, Mayor

Attest:



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Lisa A. Hanks, MMC  
City Clerk

Councilmember Conyers introduced in writing, and moved for the adoption of the following resolution, a resolution that the City of Fairhope has voted to purchase the annual renewal of the ASTRO25 Trunking Infrastructure Service Maintenance Agreement for the Police Department Dispatch Consoles and the type of agreement needed is on the Alabama State Department of Purchasing bid list and therefore does not have to be let out for bid (T-300); and the vendor Motorola, Inc. is the Sole Source Distributor for this equipment. The cost of this hardware and software support is \$22,220.40. Seconded by Councilmember Robinson, motion passed unanimously by voice vote.

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**RESOLUTION NO. 2712-17****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 the annual renewal of the ASTRO25 Trunking Infrastructure Service Maintenance Agreement for the Police Department Dispatch Consoles and the type of agreement needed is on the Alabama State Department of Purchasing bid list and therefore does not have to be let out for bid (T-300); and the vendor Motorola, Inc. is the Sole Source Distributor for this equipment. The cost of this hardware and software support is \$22,220.40.

Adopted on this 10th day of April, 2017\_\_\_\_\_  
Karin Wilson, Mayor

Attest:

  
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Lisa A. Hanks, MMC  
City Clerk

Councilmember Conyers introduced in writing, and moved for the adoption of the following resolution, a resolution that Mayor Karin Wilson is hereby authorized to execute Extension No. 1 of the Contract with Delta Industries, Inc., d/b/a Gulf States Ready Mix, for the annual bid of Ready-mix Concrete for the City (Bid Number 017-16) for an additional one year as per the terms and conditions of the original contract. The annual bid for unit prices as listed on attached schedule with an estimated annual cost of \$46,000.00. Seconded by Councilmember Robinson, motion passed unanimously by voice vote.

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**RESOLUTION NO. 2713-17**

**BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF FAIRHOPE, ALABAMA**, that Mayor Karin Wilson is hereby authorized to execute Extension No. 1 of the Contract with Delta Industries, Inc., d/b/a Gulf States Ready Mix, for the annual bid of Ready-mix Concrete for the City (Bid Number 017-16) for an additional one year as per the terms and conditions of the original contract. The annual bid for unit prices as listed on attached schedule with an estimated annual cost of \$46,000.00.

Adopted on this 10th day of April, 2017  
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Karin Wilson, Mayor

Attest:

  
\_\_\_\_\_  
Lisa A. Hanks, MMC  
City Clerk

Councilmember Conyers introduced in writing, and moved for the adoption of the following resolution, a resolution that the City Council approves the selection of Stewart Engineering, Inc. for RFQ No. PS025-17, Professional Engineering Services to Upgrade Fairhope's Electrical System Map and our associated Software Model, and authorize Mayor Karin Wilson to negotiate a fee schedule, establish a not-to-exceed figure with that firm, and to execute the associated contract. Seconded by Councilmember Boone, motion passed unanimously by voice vote.

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**RESOLUTION NO. 2714-17**

**BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF FAIRHOPE, ALABAMA**, that the City Council approves the selection of Stewart Engineering, Inc. for RFQ No. PS025-17, Professional Engineering Services to Upgrade Fairhope’s Electrical System Map and our associated Software Model, and authorize Mayor Karin Wilson to negotiate a fee schedule, establish a not-to-exceed figure with that firm, and to execute the associated contract.

DULY ADOPTED THIS 10TH DAY OF APRIL, 2017



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Karin Wilson, Mayor

Attest:



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Lisa A. Hanks, MMC  
City Clerk

The following individuals spoke during Public Participation for Non-Agenda Items:

- 1) Flor Fellers, 19195 Scenic Highway 98, addressed the City Council and said she was a naturalized citizen from Cuba and thankful to be a citizen. Ms. Fellers spoke against the City Council settling the Breland case and against the filling in of 10.5 acres of wetlands. She said her home would be the most jeopardized and will be negatively impacted.
- 2) Walter Woodrow, 399 South Ingleside, addressed the City Council regarding his house being flooded near the intersection of Middle and Ingleside. Mr. Woodrow said permits were given to build subdivision, but no ponds built. He then brought up the Nightmare Chambers and the issues with it being brought to the City’s attention. Mr. Woodrow said he did not understand why this business did not have to go before the Board of Adjustments and citizens notified before allowing in a neighborhood.
- 3) Susie Glickman, 411 South Mobile Street, addressed the City Council and questioned before you were elected why didn’t you tell us you could do nothing. Ms. Glickman said, “please tell us when you cannot do anything.”

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- 4) Bud Pommer, 9626 Derby Lane, addressed the City Council and stated he wants to be safe in the City. He told the City Council a story regarding the Police Department in Alabaster. Mr. Pommer said that never in five years has the Fairhope Police Department patrolled his street; and every street should be patrolled.
- 5) Bob Gentle, 55 Church Street, addressed the City Council regarding the Mayor and Council issues. He said they conducted themselves very well tonight. He said the Council set rules and need to explain that to the citizens; and they need to be informed on the "Strong Council/Weak Mayor" form of government which came about in 2005. Mr. Gentle said he was an old arbitration mediator and offered his services for free.
- 6) Yael Girard, Executive Director of the Weeks Bay Foundation, addressed the City Council regarding the filling of the wetlands. Ms. Girard said this will directly and negatively impact the wetlands. She explained the function of the wetlands and said we need to protect all of our wetlands. Ms. Girard stated that the whole Weeks Bay Foundation Board is unanimously against the filling of the wetlands.
- 7) Johnny Chaney, 598 Middle Street, addressed the City Council and commented this was the best meeting this year. Mr. Chaney thanked the City Council.
- 8) Cade Kistler, Program Director for Mobile Baykeeper, addressed the City Council regarding the filling of the wetlands. He said the wetlands are vital to our quality of life and critical to protect. Mr. Kistler stated that the Battles Wharf wetlands should not be filled; and the City Council should take into account public interest. He said we need to enforce our ordinances.
- 9) Burt Sonenstein, 2 Molokai Drive, addressed the City Council regarding the Battles Wharf wetlands area. He commented insurance will pay for the defense of the case. He stated that filling the wetlands is environmentally unconscionable. He said Titi Swamp will be endangered; and asked for them to work with Community participation.  

Mayor Wilson commented we will look at ordinances that were in place when this was done. She said we will make decisions in the best interest for the City and fair to all citizens.
- 10) Fred Killion, 19313 Scenic Highway 98, addressed the City Council and explained the legal fees; reimbursement of and for defense of case. He mentioned a Bad Faith claim still pending against AMIC. He said do not allow Breland to fill in 10.5 acres of wetlands.
- 11) Steve Ewell, 6081 Nelson Drive, addressed the City Council regarding the 65 acres Breland purchased. He mentioned another property owner who has wetlands on the back portion of his property that cannot be filled. He commented a wealthy developer and a single resident are no different.
- 12) John Parker, 19397 Scenic Highway 98, addressed the City Council regarding the wetlands; and gave a petition to the City Council from 119 people petitioning to not fill in wetlands on any part of the 64-acre property.

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At the request of the City Attorney, Marion E. Wynne, the City Council will rise from the meeting to go into Executive Session based on Section 36-25A-7(a)(3) to discuss pending and potential litigation. The approximate time to be in Executive Session is 30 minutes. Councilmember Conyers moved to go into Executive Session. Seconded by Councilmember Brown, motion passed unanimously by voice vote.

Exited the dais at 8:19 p.m. Returned at 9:18 p.m.

Councilmember Robinson moved to adjourn the meeting. Seconded by Councilmember Boone, motion passed unanimously by voice vote.

There being no further business to come before the City Council, the meeting was duly adjourned at 9:19 p.m.

  
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Jack Burrell, Council President

  
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Lisa A. Hanks, MMC  
City Clerk