

19 September 2018

NOTICE AND CALL OF SPECIAL MEETING


Notice is hereby given of a special meeting of the City Council of the City of Fairhope, Alabama, to be held at the Fairhope Municipal Complex on Wednesday, 19 September 2018, at 6:00 p.m., for the purpose to:

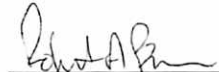
- ❖ Resolution to authorize the firm of Wilkins, Bankester, Biles and Wynne P.A. to conduct legal research and take any legal action necessary to conduct a valid and transparent election related to the proposed elimination of Fairhope's Mayor/Council form of government and change to a Council/Manager form of government.



 Jack Burrell, Council President

CONSENT TO HOLDING OF MEETING

The undersigned members of the City Council of the City of Fairhope, Alabama, do hereby acknowledge service of the Notice and Call of Special Meeting hereinabout set forth and do hereby consent to the holding of such meeting as such time in such place for the purpose set forth therein.







Attest:


 Lisa A. Hanks, MMC
 City Clerk

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STATE OF ALABAMA)(
 :
 COUNTY OF BALDWIN)(

The City Council, City of Fairhope, met in Special Session at 6:00 p.m., Fairhope Municipal Complex Civic Center, 161 North Section Street, Fairhope, Alabama 36532, on Wednesday, 19 September 2018.

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

There being a quorum present, Council President Jack Burrell called the meeting to order at 6:05 p.m. and explained that the main reason we are here is to discuss and authorize the firm of Wilkins, Bankester, Biles and Wynne to conduct legal research and take any legal action necessary to conduct a valid and transparent election related to the proposed elimination of Fairhope's Mayor/Council form of government and change to a Council/Manager form of government. He said there will be public comments with a limit of three minutes each. The invocation was given by Councilmember Kevin Boone and the Pledge of Allegiance was recited.

Councilmember Robinson briefly went over the history: In June we had two petitions; one for Council/Manager form of government with districts and one for Council/Manager form of government for at large. July one petition was certified and an election was scheduled for October 2, 2018. He said bad information has been passed around; i.e. the City Council sat on the issue and did nothing. Councilmember Robinson said the legislature and Probate Judge were contacted; and the Judge said the petition is valid. He said voters are voting for an at large Council/Manager form of government. Councilmember Robinson stated the preliminary legal opinion from the Attorney General's office states the election must be for districts. He said absentee voters have already voted thinking it will be at large; and are completely uncertain for this new law. He commented we all thought the vote would be for change of government and Council would decide at large or districts. Councilmember Robinson said that if one ballot has been cast for at large, this would be wrong; and we want this done correctly and fairly. He said this will be an injunction for the election.

Councilmember Brown stated that Fresh Start Fairhope said it does not matter whether it will be at large or districts; they just want a change of government. He read a posting from their website.

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Councilmember Boone said he did not have any comments; and echoed the other two Councilmembers.

Council President Burrell stated there are four choices for government: no change, at large, change with districts or just change. He commented we have not seen any clarity; and the petition was verified late June. Council President Burrell said we have asked for an Attorney General's opinion for clarification; and the preliminary ruling was for districts.

The following individuals spoke during Public Participation:

- 1) Bob Gentle, 156 Orange Street, addressed the City Council and stated Sam Gaston presented a Power Point presentation regarding the new law; and he co-wrote the bill. He said we need to be transparent; and this resolution is a little late in the game. Mr. Gentle said 800 plus citizens need an answer.

Councilmember Robinson replied that we began research in June or July; and said whatever the vote is it will be same as today or with districts. Mr. Gentle commented that Fresh Start Fairhope request an "opinion" too. Council President Burrell said the Council stayed out of it and tried not to sway the vote.

- 2) Wendy Fuess, 293 Chet Avenue, addressed the City Council and said we are big enough now for a Council/Manager form of government. She questioned how an Attorney General get from A to B. The City needs a professional City Manager, but asked why we must go to districts.

Councilmember Robinson commented there are conflicting sections and overlapping codes.

- 3) John Manelos, 104 White Avenue, addressed the City Council and thanked Councilmember Robinson for his statement. He said the old law requires ten percent of the voting citizens with petition for election for districts. The new law requires the City Council by resolution to authorize the change. Mr. Manelos said we do need to know what we are voting on.
- 4) Jim Morgan, 18459 Point Clear Court, addressed the City Council and asked what prompted the Attorney General now. Council President Burrell replied mid-July we began research for answers. He said we are meeting to try and get answers before the election.
- 5) Chuck Zunk, 59 White Avenue, addressed the City Council representing Fresh Start Fairhope. He told the City Council you could have requested an Attorney General's opinion 8 weeks, 10 weeks or 12 weeks ago. He said you have already decided to go to court; but we should have election on October 2, 2018 as the "AGO" has said. He said we have had the ballot information for 10 weeks; and not having the election would deprive 800 plus citizens to have their right to vote. Mr. Zunk said there is a lack of transparency in wording for resolution; and the City Council did not hold non-partisan forums for this election.

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Councilmember Robinson replied he has the utmost respect for Mr. Zunk and told him he knew why. He said Fresh Start Fairhope was transparent; but ballots have already been cast and we do not want one person robbed of his or her vote. Councilmember Robinson asked if this is the most important issue, then what is the rush. He said my decision is to get an injunction for clarification; and the things you said about the City Council are not true.

Council President Burrell said we are not voting to stop the election just to stay the election. He stated people need proper information too.

- 6) Jerry Bergman, 169 Pemberton Loop, addressed the City Council and said he was the President of the Subdivision Association. He commented people do not know; and if you have the election great deal of people will be short changed. Mr. Bergman stated there are 460 incorporated Cities in Alabama; and only 16 have a Council/Manager form of government. He said the City Council could change this and hire a City Administrator to help the Mayor. Mr. Bergman commented every government is political.
- 7) Tennant McWilliams, 154 Gaston Avenue, addressed the City Council and commented he has lived in Vestavia Hills and Mountain Brook. He agreed with getting an Attorney General's opinion; and it is urgent we get clarification.
- 8) Gary Gover, 300 Lincoln Street, addressed the City Council and said "as you go forward, do not delay or stop this referendum."

Councilmember Robinson replied we are asking the Court for clarity.

- 9) Jim Cochran, 156 Ertle Street, addressed the City Council and said the referendum must be held within 90 days. He questioned would the stay stop the election or would the stay be valid for a later election.

Councilmember Robinson replied the injunction is an emergency and should be answered quickly.

- 10) Marcella Franssen, 505 Myrtle Street, addressed the City Council and said we should take our time and get the right information out there. She said this is impacting us and we need to do our due diligence.
- 11) Ben Midgette, 139 Sedgefield Avenue, addressed the City Council and said he has lived in Fairhope for seven years. He commented there have only been two issues since moving here: routing for districts; and Fresh Start Fairhope just want the change.

Councilmember Robinson replied we represent the entire City of Fairhope.

- 12) Alison Knight, 50 N. Bayview Street, addressed the City Council and commented the Attorney General's opinion is non-binding. She questioned how do you deal with the certified petition; and was it valid.

Councilmember Robinson stated this is only an advisory opinion.

- 13) Joanne Brown, 62 S. Ingleside, addressed the City Council and stated she did not know about a petition. Ms. Brown said she has lived here 65 years and likes the form of government we have now.

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- 14) Bob Seiner, 252 N. Summit, addressed the City Council and asked “what will the wording be on questions?”

Councilmember Brown replied we want to make sure we get it right for citizens.

- 15) Kristen Laraway, 20320 Marion Court, addressed the City Council and said she would be happy for more clarification. She thanked the City Council for what they are doing; and said she likes the concept, but wants to know more.

Councilmember Brown asked if we have districts, then who draws the lines. He commented we are staying the election not cancelling it.


Council President Burrell read the resolution in its entirety. He said this Council is here to serve and respect feedback. Councilmember Robinson stated that the meeting was noticed Monday morning.

Councilmember Brown introduced in writing, and moved for the adoption of the following resolution, a resolution that the City Council authorizes the firm of Wilkins, Bankester, Biles and Wynne P.A. to conduct legal research and take any legal action necessary to conduct a valid and transparent election related to the proposed elimination of Fairhope’s Mayor/Council form of government and change to a Council/Manager form of government. Seconded by Councilmember Boone, motion passed unanimously by voice vote.

RESOLUTION NO. 3173-18

BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF FAIRHOPE, ALABAMA, That the City Council authorizes the firm of Wilkins, Bankester, Biles and Wynne P.A. to conduct legal research and take any legal action necessary to conduct a valid and transparent election related to the proposed elimination of Fairhope’s Mayor/Council form of government and change to a Council/Manager form of government.

ADOPTED THE 19TH DAY OF SEPTEMBER, 2018


 Jack Burrell, Council President

ATTEST:


 Lisa A. Hanks, MMC
 City Clerk

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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 7:26 p.m.



Jack Burrell, Council President



Lisa A. Nanks, MMC
City Clerk