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 Thursday, 7 March 2013.

Present were Council President Jack Burrell, Councilmembers: Rich Mueller, Diana Brewer, Michael A. Ford, and Kevin Boone, Mayor Timothy M. Kant, 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 Reverend Donald M. Smith, from St. James Episcopal Church, and the Pledge of Allegiance was recited.

Council President Burrell stated there was a need to add on an agenda item after Agenda Item Number 21; a Change Order Number 1 for Bid No. 028-12 (REC005-12) for Renovations to the Children's Pool for a cost of \$439.00.

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

Councilmember Brewer moved to approve minutes of the 25 February 2013, regular meeting; minutes of the 25 February 2013, work session; and minutes of the 25 February 2013, agenda meeting. Seconded by Councilmember Boone, motion passed unanimously by voice vote.

Sherry Sullivan, Community Affairs and Recreation Director, addressed the City Council and announced that our football field was recognized as a 2012 Field of Excellence Award by Pioneer Athletics for the second year. Ms. Sullivan recognized and gave credit to Tom Kuhl and his staff for all of their hard work.

Joe Birindelli addressed the City Council regarding the Veterans Memorial. He explained the meaning of the statue which is called "Tears of Sorrow, Tears of Joy." He mentioned that this statue not only pays tribute to the veterans, but also to the families. The groundbreaking ceremony will be on Tuesday, April 2nd at 10:00 a.m. The Fairhope Veterans Memorial dedication will be held on May 30, 2013 with special guest Winston Groom; Lori Dubose will be the moderator; and performance by the Baldwin Pops. Mr. Birindelli introduced the committee members: Sissy Birindelli, Stephen Spears (artist), Jim Jeffries, Jewel Byrd, and Joey Butler.

7 March 2013

The following individuals spoke during Public Participation:

- 1. Molly Peterson addressed the City Council regarding Agenda Item Number 9, a resolution to award RFQ for street paving over gas repairs on Fairhope Avenue to Asphalt Services, Inc. Ms. Peterson requested that the City Council consider Fairhope Avenue as the great connector of the City.
- 2. Mike Odom, Editor of the Fairhope Courier, addressed the City Council regarding Agenda Item Number 16, a resolution stating that all City Council and Planning Commission meetings shall be recorded; retained until the official minutes have been approved; and then destroyed. Mr. Odom mentioned coming before the City Council regarding public participation. He said recordings show what took place and encouraged the Council to keep the recordings.
- 3. Carl Black addressed the City Council regarding Agenda Item Number 6, appointments and reappointments for the Harbor Board. Mr. Black stated there was no notice or publication of applications for the Harbor Board.

Council President Burrell congratulated Councilmember Diana Brewer for her recent appointment as Interim CEO of the Mobile Symphony.

Councilmember Boone moved to approve the appointment of Tom Yeager, Pete Bremer, Tony Chavers, Floyd Bishop, Bob Riggs, John Henry, Jr., and Hank Miner to the Harbor Board for a two-year term. The motion was seconded by Councilmember Ford. Councilmember Boone stated the Harbor Board was formed with seven members for a two-year term. We had seven applications that were turned in and those are my recommendation. Council Burrell commented that this was announced during the work session in February by Councilmember Boone. After further discussion, the motion passed unanimously by voice vote.

Council President Burrell announced we have 22 committees and 18 of these have members who need to be appointed. The City Council asked that a public announcement be placed on the City's website for applications.

Councilmember Mueller moved for final adoption of Ordinance No. <u>1488</u>, an ordinance to amend Ordinance No. <u>1438</u>, an Ordinance to amend Chapter 15, Article II, Policy and Procedure for Park Usage, Section 15-61, Fairhope Code of Ordinances. (Introduced at the February 25, 2013 City Council Meeting). Seconded by Councilmember Boone, motion for final adoption passed by the following votes: AYE – Burrell, Mueller, Brewer, Ford, and Boone. NAY – None.

Councilmember Ford introduced in writing, and moved for the adoption of the following resolution, a resolution to award bid for Chain Link Fence for Youth Baseball Fields (Bid Number 005-13) to Perimeter Fence & Deck. Seconded by Councilmember Boone, motion passed unanimously by voice vote.

RESOLUTION NO. 2050-13

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 Chain Link Fence for Youth Baseball Fields (Bid Number 005-13) 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 Chain Link Fence for Youth Baseball Fields

[3] After evaluating the bid proposals with the required bid specifications, Perimeter Fence & Deck, with the total bid proposal of approximately \$28,610.00, is now awarded the bid for Chain Link Fence for Youth Baseball Fields.

Adopted on this 7th day of March, 2013

Attest:

Lisa A. Hańks, MMC

City Clerk

TOF FAIRMORE
TAB AND REC
NUMBER: 005-13
NAME: CHAIN LINK FENCE FOR YOUTH BASEBALL FIELDS
ENED: February 4, 2013 2:30 p.m. Compliance

Councilmember Mueller introduced in writing, and moved for the adoption of the following resolution, a resolution to award RFQ for Street Paving over Gas Repairs on Fairhope Avenue (RFQ Number 001-13) to Asphalt Services, Inc. Seconded by Councilmember Boone, motion passed unanimously by voice vote.

RESOLUTION NO. 2051-13

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

- [1] That the City of Fairhope did request and receive RFQs for Street Paving Over Gas Repairs on Fairhope Avenue at 555 South Section Street in the City of Fairhope offices, Fairhope, Alabama.
- [2] At the appointed time and place, the following RFQs were received and tabulated as follows:

Please see attached RFQ Tabulation for Street Paving Over Gas Repairs on Fairhope Avenue

[3] At the appointed time and place; after evaluating the RFQ proposal with the required specifications, Asphalt Services, Inc., is now awarded (RFQ No. 001-13) for Street Paving Over Gas Repairs on Fairhope Avenue; for a total cost of \$33,045.00.

Adopted on this 7th day of March, 2013

Timothy M. Kant, Mayor

Attest:

Lisa A. Hanks, MMC

City Clerk

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Councilmember Brewer introduced in writing, and moved for the adoption of the following resolution, a resolution authorizing Mayor Timothy M. Kant to execute a Contract for Professional Services for an Economic Impact of Oil Spill to the City of Fairhope with Hartmann, Blackmon & Kilgore, P.C. and the Baldwin County Economic Development Alliance. Seconded by Councilmember Ford, motion passed unanimously by voice vote.

RESOLUTION NO. 2052-13

BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF FAIRHOPE, ALABAMA, that Mayor Timothy M. Kant is hereby authorized to execute a Contract for Professional Services for an Economic Impact of Oil Spill to the City of Fairhope with Hartmann, Blackmon & Kilgore, P.C. and the Baldwin County Economic Development Alliance with the cost approximately of \$35,000.00.

DULY ADOPTED THIS 7TH DAY OF MARCH, 2013

Γimothy M. Kant, Mayor

Attest:

City Clerk

7 March 2013

Councilmember Boone introduced in writing, and moved for the adoption of the following resolution, a resolution authorizing Mayor Timothy M. Kant to execute a Contract for Professional Testing Services and negotiate the cost for Mandatory EPA and ADEM Water Testing with Envirochem, Inc. Seconded by Councilmember Mueller, motion passed unanimously by voice vote.

RESOLUTION NO. 2053-13

BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF FAIRHOPE, ALABAMA, that Mayor Timothy M. Kant is hereby authorized to execute a Contract for Professional Testing Services for Mandatory EPA and ADEM Water Testing with Envirochem, Inc. (PS009-13) to be negotiated by Mayor Kant (under \$100,000.00).

DULY ADOPTED THIS 7TH DAY OF MARCH, 2013

Timothy M. Kant, Mayor

Attest:

Lisa A. Hanks, MMC

City Clerk)

Councilmember Boone introduced in writing, and moved for the adoption of the following resolution, a resolution authorizing Mayor Timothy M. Kant to execute a second extension of the Contract for Lift Station Odor Control Chemicals Re-Bid for the Sewer Department. Seconded by Councilmember Brewer, motion passed unanimously by voice vote.

RESOLUTION NO. 2054-13

BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF FAIRHOPE, ALABAMA, that Mayor Timothy M. Kant is hereby authorized to execute a second extension of the Contract for Bid No. 010-11, Lift Station Odor Control Chemicals Re-Bid, with BioMagic, Inc. for the Sewer Department for an additional one year, ending April 17, 2014, as per the terms and conditions of the original contract. The cost will be \$6.30 per metered gallon or approximately \$185,684.63.

ADOPTED ON THIS <u>7TH</u> DAY OF <u>MARCH</u>, 2013

Timothy M. Kant, Mayor

Attest:

Lisa A. Hanks, MMC

City Clerk

Councilmember Boone introduced in writing, and moved for the adoption of the following resolution, a resolution that the City of Fairhope will provide police escorts by the Fairhope Police Department for funerals at the discretion of the Chief of Police. The motion was seconded by Councilmember Mueller.

Councilmember Brewer commented that the funeral homes were not making money. She said this is not helping the funeral homes, but helping the families. Mayor Kant mentioned that after the previous resolution was adopted the cost for escorts was put back on the families; and we help other communities with escorts through the City. Councilmember Boone stated this would be the last act the City of Fairhope can do for you; and it would be wonderful for us to do this. Council President Burrell said he grew up with this service in Mississippi and it is a great feeling. He commented "this is much to do about nothing." Councilmember Ford said he was glad to see this back. After further discussion, the motion passed unanimously by voice vote.

RESOLUTION NO. 2055-13

WHEREAS, the City Council adopted Resolution No. <u>1649-10</u> on May 24, 2010 to discontinue police escorts for funerals, except in the case of firefighters, police officers, and citizens of Fairhope on active military duty who were killed in the line of duty; and

WHEREAS, the City Council now desires to provide police escorts by the Fairhope Police Department for funerals at the discretion of the Chief of Police who has the responsibility for the availability and safety of his officers; and

NOW THEREFORE BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF FAIRHOPE, ALABAMA, that the City of Fairhope will provide police escorts by the Fairhope Police Department for funerals at the discretion of the Chief of Police; and Resolution No. 1604-09 is hereby repealed.

Adopted on this 7th day of March, 2013

Timothy M. Kant, Mayor

Attest:

City Clerk)

Councilmember Ford moved to amend the following resolution by adding the words "and negotiate" after the words "to execute." Seconded by Councilmember Brewer, motion passed unanimously by voice vote.

Councilmember Boone introduced in writing, and moved for the adoption of the following resolution, a resolution authorizing Mayor Timothy M. Kant to execute and negotiate a Real Estate Purchase Agreement and all documents necessary with U.S. Bank National Association for 451 Pecan Avenue property as amended. Seconded by Councilmember Ford, motion passed unanimously by voice vote.

Council President Burrell commented that the building itself appraised at \$1.6 million with 7 acres. Mayor Kant said that this building with the property will save the City in the long run. It would cost another \$500,000 plus for a new warehouse, \$80,000 for a new parking lot, and \$200,000 to \$300,000 for our recycling center.

RESOLUTION NO. 2056-13

BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF FAIRHOPE, ALABAMA, that Mayor Timothy M. Kant, is authorized to execute and negotiate a Real Estate Purchase Agreement between U.S. Bank National Association, as Trustee for Lehman Brothers Small Balance Commercial Mortgage Pass-Through Certificates, Series 2005-2 by Ocwen Loan Servicing, LLC, Attorney-In-Fact and the City of Fairhope for 451 Pecan Avenue Property (APN: 46-03-37-0-015-211.00); and to execute and negotiate all documents necessary to complete the closing and to acquire title on behalf of the City.

Adopted this 7th day of March, 2013

Timothy M. Kant, Mayor

ATTEST:

Lisa A. Hanks, MMC

City Clerk

Councilmember Brewer introduced in writing, and moved for the adoption of the following resolution, a resolution authorizing Mayor Timothy M. Kant to execute the Agreement between the Baldwin County Board of Education regarding the City's donation of \$350,000 to the Board for use by Fairhope Public Schools. Seconded by Councilmember Boone, motion passed unanimously by voice vote.

RESOLUTION NO. 2057-13

BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF FAIRHOPE, ALABAMA, that Mayor Timothy M. Kant is hereby authorized to execute the Agreement with the Baldwin County Board of Education regarding the city's donation of \$350,000 to the Board for use in the following schools: Fairhope Elementary, Fairhope Intermediate, Fairhope Middle, Fairhope High and J. Larry Newton. The donated funds are to be used strictly in conformance with the Fairhope's Education Advisory Committee's Executive Summary and the Agreement.

ADOPTED ON THIS 7TH DAY OF MARCH, 2013

Timothy M. Kant, Mayor

Attest:

Lisa A. Hanks, MMC

City Clerk

Councilmember Boone introduced in writing, and moved for the adoption of the following resolution, a resolution stating that all City Council and Planning Commission meetings shall be recorded, retained until the official minutes have been approved, and then destroyed; and repealing Resolution No. 1604-09. The motion was seconded by Councilmember Mueller. Councilmember Brewer stated that the City of Orange Beach records and keeps theirs for the term of the Council which is four years; wonders why this was not an option. Council President Burrell commented that the media could record and/or audio record these meetings and the Council has no control over this. He read the results of the survey from the Cities regarding who records and destroys after approval, who does not record meetings; and who records and keeps for a period of time. After further discussion, the motion passed by the following voice votes: AYE – Burrell, Mueller, Ford, and Boone. NAY – Brewer.

RESOLUTION NO. 2058-13

WHEREAS, the City Council adopted Resolution No. 1604-09 on December 28, 2009 for the City Council meetings and the Planning Commission meetings to be recorded for a verbatim transcript to be on record and to aid in the preparation of the minutes; and these recordings were to be retained for a period of five years; and

WHEREAS, the City Council now desires to retain these tapes according to the requirement of the State of Alabama Department of Archives and History along with the Local Government Records Commission requiring audio or video recordings provide a verbatim account of debate and public input at meetings of the municipal council and municipal boards, commissions, or similar bodies; and to be used only as an aid to preparation of the minutes and retained until minutes are approved; and

NOW THEREFORE BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF FAIRHOPE, that all City Council and Planning Commission meetings shall be recorded, retained until the official minutes have been approved, and then destroyed; and Resolution No. 1604-09 is hereby repealed.

Adopted on this 7th day of March, 2013

Timothy M. Kant, Mayor

Attest:

City Clerk

Councilmember Boone introduced in writing, and moved for the adoption of the following resolution, a resolution repealing the following resolutions that are in conflict with Local and State Laws, Supreme Court rulings or are no longer in effect: Resolution Nos. <u>1534-09</u>, <u>1513-09</u>, <u>1633-10</u>, and <u>1644-10</u>. Seconded by Councilmember Mueller, motion passed unanimously by voice vote.

RESOLUTION NO. 2059-13

BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF FAIRHOPE, ALABAMA, that the City Council repeals the following resolutions that are in conflict with Local and State Laws, Supreme Court rulings or are no longer in effect: Resolution Nos. 1534-09; 1513-09; 1633-10; and 1644-10.

Adopted on this 7th day of March, 2013

Timothy M. Kant, Mayor

Attest:

isa A. Hanks, MMC

City Clerk

Councilmember Ford introduced in writing, and moved for the adoption of the following resolution, a resolution amending Resolution No. 1879-11 to remove the name "City Administrator" due to this position being eliminated in November 2012. Seconded by Councilmember Mueller, motion passed unanimously by voice vote.

RESOLUTION NO. 2060-13

BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF FAIRHOPE, ALABAMA, that the City Council amends Resolution No. <u>1879-11</u> to remove the name "City Administrator" due to this position being eliminated in November 2012.

Adopted on this 7th day of March, 2013

Timothy M. Kant, Mayor

Attest:

Lisa A. Hanks, MMC

City Clerk

Councilmember Boone moved to grant the request of Will Carlton, Event Coordinator for the Fairhope Rotary Club Foundation, requesting permission to hold their Rotary Steak Cook Off on May 10, 2013, for street closures of De Le Mar and Church Streets from 5:00 p.m. until 11:30 p.m., and to allow alcohol on City streets. Seconded by Councilmember Brewer, motion passed by the following voice votes: AYE – Burrell, Mueller, Brewer, and Boone. NAY – None. ABSTAIN – Ford.

City Council reviewed an application for a Special Retail License by Will Carlton, on behalf of the Fairhope Rotary Club Foundation, for their Ninth Annual Rotary Steak Cook Off on May 10, 2013 located at De La Mare and Church Streets, Fairhope, Alabama. Councilmember Mueller moved to approve the issuance of the license. Seconded by Councilmember Brewer, motion passed by the following voice votes: AYE – Burrell, Mueller, Brewer, and Boone. NAY – None. ABSTAIN – Ford.

City Council reviewed an application for a Restaurant Liquor License by Tamara G. Wintzell, d/b/a The Venue, located at 105 S. Section Street, Fairhope, Alabama. Councilmember Ford moved to approve the issuance of the license. Seconded by Councilmember Mueller, motion passed unanimously by voice vote.

Councilmember Ford moved to grant Change Order Number 1. A change order by the City of Fairhope to contractor, Cox Pools of the Southeast, Inc., for Bid No. 028-12 (Project No. REC005-12) for Renovations to 1700 SF Children's Pool increasing the contract by \$439.00. Seconded by Councilmember Boone, motion passed unanimously by voice vote.

Howard Eddy, 2013 Event Chairman of the Rotary Steak Cook Off, addressed the City Council on behalf of the Fairhope Rotary Club and thanked them for approving the event. Mr. Eddy said last they rose over \$10,000 for scholarships. The Rotary Foundation helps with the Fairhope Point Clear Rotary Youth Club and recently helped with a Youth Violence Program. Mr. Eddy also gave a thank you to the City staff for all of their work during the Steak Cook Off event.

Erik Cortinas addressed the City Council on behalf of the Baseball Association and announced Saturday would be opening day for baseball. He also raved about the improvements to the park.

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

7 March 2013

There being no further business to come before the City Council, the meeting was duly adjourned at 6:55 p.m.

Lisa A. Nanks, MMC City Clerk