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Anniston, Alabama
February 14, 2012

The City Council of the City of Anniston, Alabama, met in Regular Session in the Council Chamber in the City Hall of the City of Anniston, Alabama, on Tuesday, February 14, 2012, at approximately 6:00 o'clock p.m.

Council Member Palmore prayed the Invocation.

Council Member Palmore led the Pledge of Allegiance to the Flag.

Mayor Robinson called the meeting to order. On call of the roll the following Council Members were found to be present: Council Members Jenkins, Palmore, Little, Dawson and Robinson; absent: none. A quorum was present and the meeting opened for the transaction of business.

Don A. Hoyt, City Manager, was present.

Cleo Thomas, City Attorney, was present.

Council Member Jenkins made a motion to dispense with the reading of and approve the minutes of January 24, 2012. The motion was seconded by Council Member Palmore; and on call of the roll the following vote was recorded: ayes: Council Members Jenkins, Palmore, Little, Dawson and Robinson; nays: none. The motion carried.

Council Member Jenkins made a motion to adopt the agenda. The motion was seconded by Council Member Palmore; and on call of the roll the following vote was recorded: ayes: Council Members Jenkins, Palmore, Little, Dawson and Robinson; nays: none. The motion carried.

Mayor Robinson read the following proclamation:

(Arbor Week)

Council Member Jenkins introduced and read Resolution Number 12-R-10 as follows:

(12-R-10, declaring a reported condition to be a public nuisance; group 12)

Council Member Jenkins made a motion for the passage and adoption of Resolution Number 12-R-10 as introduced and read. The motion was seconded by Mayor Robinson; and on call of the roll the following vote was recorded: ayes: Council Members Jenkins, Palmore, Little, Dawson and Robinson; nays: none. The motion carried and Resolution Number 12-R-10 was passed and adopted.

Council Member Palmore introduced and read Resolution Number 12-R-11 as follows:

(12-R-11, declaring a reported condition to be a public nuisance; group 13)

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Council Member Palmore made a motion for the passage and adoption of Resolution Number 12-R-11 as introduced and read. The motion was seconded by Mayor Robinson; and on call of the roll the following vote was recorded: ayes: Council Members Jenkins, Palmore, Little, Dawson and Robinson; nays: none. The motion carried and Resolution Number 12-R-11 was passed and adopted.

Mayor Robinson introduced and read Resolution Number 12-R-12 as follows:

(12-R-12, declaring a reported condition to be a public nuisance; group 2012-01)

Mayor Robinson made a motion for the passage and adoption of Resolution Number 12-R-12 as introduced and read. The motion was seconded by Council Member Jenkins; and on call of the roll the following vote was recorded: ayes: Council Members Jenkins, Palmore, Little, Dawson and Robinson; nays: none. The motion carried and Resolution Number 12-R-12 was passed and adopted.

Council Member Little introduced and read Resolution Number 12-R-13 as follows:

(12-R-13, appointing member to the Parks, Recreation and Beautification Board)

Council Member Little made a motion for the passage and adoption of Resolution Number 12-R-13 as introduced and read. The motion was seconded by Mayor Robinson; and on call of the roll the following vote was recorded: ayes: Council Members Jenkins, Palmore, Little, Dawson and Robinson; nays: none. The motion carried and Resolution Number 12-R-13 was passed and adopted.

Council Member Dawson introduced and read Resolution Number 12-R-14 as follows:

(12-R-14, appointing members to Historic Preservation Commission)

Council Member Dawson made a motion for the passage and adoption of Resolution Number 12-R-14 as introduced and read. The motion was seconded by Council Member Little; and on call of the roll the following vote was recorded: ayes: Council Members Jenkins, Palmore, Little, Dawson and Robinson; nays: none. The motion carried and Resolution Number 12-R-14 was passed and adopted.

Council Member Jenkins introduced and read Resolution Number 12-R-15 as follows:

(12-R-15, permanent closing of a portion Littlebrandt Drive)

Council Member Jenkins made a motion for the passage and adoption of Resolution Number 12-R-15 as introduced and read. The motion was seconded by Mayor Robinson; and on call of the roll the following vote was recorded: ayes: Council Members Jenkins, Palmore, Little, Dawson and Robinson; nays: none. The motion carried and Resolution Number 12-R-15 was passed and adopted.

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Mayor Robinson introduced and read Resolution Number 12-R-16 as follows:

(12-R-16, implementing that component of the Anniston HOME Consortium First Year Action Plan by transferring certain real property)

Mayor Robinson made a motion for the passage and adoption of Resolution Number 12-R-16 as introduced and read. The motion was seconded by Council Member Jenkins; and on call of the roll the following vote was recorded: ayes: Council Members Jenkins, Palmore, Little, Dawson and Robinson; nays: none. The motion carried and Resolution Number 12-R-16 was passed and adopted.

Council Member Dawson introduced and read Resolution Number 12-R-17 as follows:

(12-R-17, declaring various vehicles and pieces of equipment as surplus and authorizing their sale)

Council Member Dawson made a motion for the passage and adoption of Resolution Number 12-R-17 as introduced and read. The motion was seconded by Mayor Robinson; and on call of the roll the following vote was recorded: ayes: Council Members Jenkins, Palmore, Little, Dawson and Robinson; nays: none. The motion carried and Resolution Number 12-R-17 was passed and adopted.

Council Member Jenkins introduced and read Resolution Number 12-R-18 as follows:

(12-R-18, declaring various vehicles surplus and authorizing their donation)

Council Member Jenkins made a motion for the passage and adoption of Resolution Number 12-R-18 as introduced and read. The motion was seconded by Mayor Robinson; and on call of the roll the following vote was recorded: ayes: Council Members Jenkins, Palmore, Little, Dawson and Robinson; nays: none. The motion carried and Resolution Number 12-R-18 was passed and adopted.

Mayor Robinson reintroduced and read Resolution Number 12-R-7 as follows:

(12-R-7, notifying the public of a proposed grant of a right-of-way and franchise and a proposed determination of a finding of a public purpose for the grant)

Mayor Robinson made a motion for the passage and adoption of Resolution Number 12-R-7 as reintroduced and read. The motion was seconded by Council Member Dawson.

Council Member Little read from the "Selected Readings for Municipal Officials" and stated that ordinances could not discriminate between classes of people. He stated with this drive through they were violating State law. He read that ordinances must be fair and impartial and not in conflict with common rights. He stated this ordinance should not be passed because it is infringing on others in the area. He stated that Council Member Jenkins should not vote on this resolution due to his dealings with the PBA and Mr. Miller's membership on the PBA.

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Mayor Robinson stated that his interpretation of the law was different from Council Member Little's interpretation concerning this resolution.

Council Member Jenkins stated that the drive through at Stewart's Cleaners had been referenced and he stated that the drive through at Stewart's Cleaners was on private property.

Council Member Palmore asked if the people who had come and opposed this drive through were still opposed to it. He stated he felt this drive through and one way alley would create traffic problems and also be a safety problem.

Council Member Little stated he still questions the constitutionality of this resolution. He stated he still felt it would be unethical Council Member Jenkins to vote on this resolution.

On call of the roll on Mayor Robinson's motion for the passage and adoption of Resolution Number 12-R-7 as reintroduced and read and Council Member Dawson's second to said motion the following vote was recorded: ayes: Council Members Jenkins, Dawson and Robinson; nays: Council Members Palmore and Little. The motion carried and Resolution Number 12-R-7 was passed and adopted.

Mayor Robinson introduced and read Resolution Number 12-R-19 as follows:

(12-R-19, supporting the submission of a proposed plan document to the Alabama Legislature by the Police and Fire Retirement Board)

Mayor Robinson made a motion for the passage and adoption of Resolution Number 12-R-19 as introduced and read. The motion was seconded by Council Member Jenkins.

Council Member Little stated that the taxpayers should not have to bail out this fund just because things had gone wrong. He stated he felt they did need to do something to help this retirement fund but he felt this method was wrong. He stated he thought this fund had been moving toward being incorporated into RSA. He stated they should ask for an Attorney General's opinion to see if they were legal in doing this.

Council Member Little made a motion to ask for an Attorney General's opinion concerning Resolution Number 12-R-19. (The motion received no second.)

Council Member Palmore asked Danny McCullars, Finance Director, if the cost of going into RSA had been stated to be \$2 million at the first meeting concerning this issue.

Mr. McCullars stated that the preliminary estimate had been \$2 million or over really either way. He stated the numbers they had seen before had been before the concessions by the active police and fire to contribute 14% and reduce their benefit factor and their maximum benefit.

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Council Member Palmore stated his main concern was that the police and fire retiree's families were taken care of. He stated they would lose some substantial income but their families would be taken care of. He asked if the health benefits for retirees would be addressed.

Mr. McCullars stated that the gross fix for this plan would be approximately \$1.7 million per year and what they could do to mitigate that was to raise RSA employees' contributions from 5% to 7.5%. He stated the State and most cities in RSA had already done this. He stated they could also phase out or change the retiree health care plan but that was a different issue.

Council Member Palmore stated he would not be in favor of phasing out the retiree health care.

Council Member Jenkins stated he attended the meeting when the Police and Fire Retirement Board voted unanimously to accept the alterations to the plan. He stated the police and fire were giving a significant amount of their incomes and their future retirement toward making this plan right. He stated this resolution just endorses the plan which must be submitted to the State Legislature. He stated this was part of the reason for the one cent sales tax increase.

Council Member Little stated he felt it would be more feasible for them to go into RSA. He stated he questions Council Member Jenkins ability to vote on this resolution since he was the architect for the proposed justice center. He stated the citizens were paying twice for this retirement plan.

On call of the roll on Mayor Robinson's motion for the passage and adoption of Resolution Number 12-R-19 as introduced and read and Council Member Jenkin's second to said motion the following vote was recorded: ayes: Council Members Jenkins, Palmore, Dawson and Robinson; nays: Council Member Little. The motion carried and Resolution Number 12-R-19 was passed and adopted.

Mayor Robinson introduced and read Resolution Number 12-R-20 as follows:

(12-R-20, instructing the City Manager to comply with a nuisance citation related to the Anniston Land Company building)

Mayor Robinson made a motion for the passage and adoption of Resolution Number 12-R-20 as introduced and read. The motion was seconded by Council Member Dawson.

Council Member Dawson asked Mr. Hoyt if they had complied with the Historic Preservation Commission concerning this building. He stated they had two options, either tear it down or repair it.

Don Hoyt, City Manager, stated this was a safety issue. He stated the Historic Preservation Commission was expected to discuss this issue soon at a meeting. He stated the Council could delay a vote until after the AHPC had discussed this issue. He stated the safety of the public had to be a concern, also.

Council Member Palmore asked when the AHPC was going to meet again.

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Mr. Hoyt stated they were supposed to meet this Thursday.

Council Member Palmore stated he wanted to make sure they did not violate any laws if the building was removed.

Council Member Jenkins stated that the AHPC was meeting Thursday and they would probably allot some time for the discussion of this building. He stated he did not know where the dollar amounts were coming from in reference to stabilizing the building. He stated he felt they should participate in a joint session with the AHPC.

Council Member Jenkins made a motion to table Mayor Robinson's motion for the passage and adoption of Resolution Number 12-R-20 as introduced and read. The motion was seconded by Council Member Dawson; and on call of the roll the following vote was recorded: ayes: Council Members Jenkins, Palmore, Dawson and Robinson; nays: Council Member Little. The motion carried.

Mayor Robinson introduced and read Resolution Number 12-R-21 as follows:

(12-R-21, authorizing the City Manager to execute an agreement with Morris and Brumlow for professional services in the formation of a CDA)

Mayor Robinson made a motion for the passage and adoption of Resolution Number 12-R-21 as introduced and read. The motion was seconded by Council Member Jenkins.

Council Member Little stated he did not think they needed a CDA right now and it would be nothing but political bureaucrats. He stated it was only six months until the election. He stated if he did serve again he would want to get rid of the CDA.

Mayor Robinson stated they should have created a CDA three years ago when it was first brought up. He stated the CDA would take the politics out of developing the city. He stated this board could develop the whole city. He stated this would bring in more tax revenue for the city.

Council Member Palmore stated he did not see in this resolution how they were going to appoint the board members. He stated he did not see what the bid process would be with the CDA in this resolution.

Council Member Jenkins stated they were authorizing Morris and Brumlow to draft articles for the creation of a CDA and the Council would have to approve any such document that was drafted.

Council Member Dawson asked how much this agreement was going to cost the City.

Drew Isom, Morris and Brumlow, addressed the Council concerning the creation of a CDA and stated this agreement would cost the City \$7,500.00.

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On call of the roll on Mayor Robinson's motion for the passage and adoption of Resolution Number 12-R-21 as introduced and read and Council Member Jenkins' second to said motion the following vote was recorded: ayes: Council Members Jenkins, Dawson and Robinson; nays: Council Member Little; abstentions: Council Member Palmore. The motion carried and Resolution Number 12-R-21 was passed and adopted.

Council Member Palmore introduced and read Resolution Number 12-R-22 as follows:

(12-R-22, asking the Civil Service Board to revise rules for selecting police and fire chiefs)

Council Member Palmore made a motion for the passage and adoption of Resolution Number 12-R-22 as introduced and read. The motion was seconded by Council Member Little.

Council Member Dawson stated he had always been in favor of promoting from within the departments. He stated he would like to see something from the Civil Service Board about the promotion process and criteria before they vote on this resolution.

Council Member Palmore stated he wanted the Civil Service Board to consider this revision and allow the City to recruit for the chiefs' positions from outside the City.

Council Member Jenkins stated he was not opposed to opening this to the outside but he did want to see in the revised language assurances that their current and future captains are on a level playing field with any other applicants.

Council Member Little stated he did not think the Civil Service Board would have a problem putting these criteria in but they could not guarantee a level playing field because some applicants could be more qualified than others.

On call of the roll on Council Member Palmore's motion for the passage and adoption of Resolution Number 12-R-22 as introduced and read and Council Member Little's second to said motion the following vote was recorded: ayes: Council Members Jenkins, Palmore and Little; nays: Council Members Dawson and Robinson. The motion carried and Resolution Number 12-R-22 was passed and adopted.

Council Member Dawson introduced and read Resolution Number 12-R-23 as follows:

(12-R-23, lease agreement with Municipal Asset Management for the lease of fitness equipment)

Council Member Dawson made a motion for the passage and adoption of Resolution Number 12-R-23 as introduced and read. The motion was seconded by Mayor Robinson; and on call of the roll the following vote was recorded: ayes: Council Members Palmore, Dawson and Robinson; nays: Council Member Little; abstentions: Council Member Jenkins. The motion carried and Resolution Number 12-R-23 was passed and adopted.

Mayor Robinson reintroduced and read Ordinance Number 12-O-3 as follows:

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(12-O-3, readjusting and defining the voting wards of the City for the 2012 municipal election; second reading)

Mayor Robinson made a motion for the passage and adoption of Ordinance Number 12-O-3 as reintroduced and read. The motion was seconded by Council Member Jenkins.

Council Member Little stated that this ordinance was unbalanced and off key. He stated they had not been through the due process they should have gone through. He stated they did not have a polling place for the Ward 4 voters who had been voting at the Mental Health Center. He stated this should not go to the Justice Department without the polling places being resolved.

Council Member Dawson stated that his complaint was the loss of the Mental Health Center as a polling place. He stated they needed two polling places in Ward 4 as in the other wards. He stated he could not support this ordinance without knowing where the other Ward 4 polling place was going to be.

On call of the roll on Mayor Robinson's motion for the passage and adoption of Ordinance Number 12-O-3 as reintroduced and read and Council Member Jenkins' second to said motion the following vote was recorded: ayes: Council Members Jenkins, Palmore, and Robinson; nays: Council Members Little and Dawson. The motion carried and Ordinance Number 12-O-3 was passed and adopted.

Mayor Robinson reintroduced and read Ordinance Number 12-O-5 as follows:

(12-O-5, granting a Franchise for Use of City right of way to Watermark Tower LLC)

Mayor Robinson made a motion for the passage and adoption of Ordinance Number 12-O-5 as reintroduced and read. The motion was seconded by Council Member Dawson.

Council Member Little stated that ordinances may not discriminate in favor of one person or class of persons over another. He stated that ordinances must operate equally for all persons for their equal benefits and protection. He cited Section 89 of the Alabama State Constitution. He stated he did not think Council Member Jenkins should be voting on this ordinance because Mr. Miller was the CEO of the Water Works and Sewer Board and was the Chairman of the PBA that had voted to give Mr. Jenkins firm the contract for the jail and so it would be unethical and illegal for Council Member Jenkins to vote on this ordinance.

Mayor Robinson stated that this was a matter of interpretation.

Council Member Palmore stated he was concerned about the safety part of this ordinance. He stated he did not question Council Member Jenkins' right to vote on this ordinance and he thought they had already resolved that issue.

Council Member Little stated everything was subject to interpretation. He stated this ordinance was arbitrary and oppressive. He stated he did intend to file whatever he needed to file to stop this stuff. He stated this ordinance was unsafe.

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On call of the roll on Mayor Robinson's motion for the passage and adoption of Ordinance Number 12-O-5 as reintroduced and read and Council Member Dawson's second to said motion the following vote was recorded: ayes: Council Members Jenkins, Dawson, and Robinson; nays: Council Members Palmore and Little. The motion carried and Ordinance Number 12-O-5 was passed and adopted.

Mayor Robinson introduced and read Ordinance Number 12-O-6 as follows:

(12-O-6, amending the City Code Section 34.16; first reading)

Mayor Robinson made a motion to appoint Council Member Jenkins as the council representative on the Planning Commission. The motion was seconded by Council Member Palmore.

Council Member Little stated he did not think this was ethical to have Council Member Jenkins on the Planning Commission.

On call of the roll on Mayor Robinson's motion to appoint Council Member Jenkins as the council representative on the Planning Commission and Council Member Palmore's second to said motion the following vote was recorded: ayes: Council Members Palmore and Robinson; nays: Council Member Little; abstentions: Council Members Jenkins and Dawson. The motion failed.

Council Member Dawson made a motion to reconsider the vote on the motion to appoint Council Member Jenkins as the council representative on the Planning Commission. The motion was seconded by Mayor Robinson.

(Mayor Robinson left the meeting at approximately 8:15 p.m.)

On call of the roll on Council Member Dawson's motion to reconsider the vote on the motion to appoint Council Member Jenkins as the council representative on the Planning Commission and Mayor Robinson's second to said motion the following vote was recorded: ayes: Council Members Palmore and Dawson; nays: Council Member Little; abstentions: Council Member Jenkins; absent: Mayor Robinson. The motion failed.

Alan Atkinson, City Clerk, advised that copies of the following Bid Fact Sheet had been given to the Council:

(One truck cab and chassis – brush truck)

Council Member Little made a motion that the bid in the total amount of \$63,740.00 by Sunny King Ford for one (1) truck cab and chassis (brush truck) for the Public Works Department be accepted. The motion was seconded by Council Member Palmore; and on call of the roll the following vote was recorded: ayes: Council Members Jenkins, Palmore, Little, and Dawson; nays: none; absent: Mayor Robinson. The motion carried.

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Murrell Huguley, 1314 Christine Avenue, addressed the Council and stated he thought it would be unethical for Council Member Jenkins to serve on the Planning Commission. He stated they were approaching 10 years of failure in Anniston education.

James Lloyd addressed the Council and stated he was representing Watermark Tower LLC. He thanked the Council for passing the franchise use of right of way ordinance. He stated their drawings were approved two years ago for this drive through by the City of Anniston.

Council Member Little stated that this situation was not over with the franchise use of right of way ordinance.

Council Member Jenkins stated he had requested an opinion from the Ethics Commission before he took the office of Council Member and he had not violated any rules set forth by the Ethics Commission. He stated he had served 17 years on the Planning Commission.

There being no further business to come before the meeting at that time Council Member Dawson made a motion the meeting be adjourned. The motion was seconded by Council Member Jenkins; and on call of the roll the following vote was recorded: ayes: Council Members Jenkins, Palmore, Little, and Dawson; nays: none; absent: Mayor Robinson. The motion carried and the meeting was adjourned at approximately 8:27 o'clock p.m.