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Anniston, Alabama  
February 22, 2011

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 22, 2011, at approximately 3:21 o'clock p.m.

Council Member Dawson prayed the Invocation.

Council Member Dawson 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 Spain, 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 Little made a motion to dispense with the reading of and approve the minutes of February 8, 2011. The motion was seconded by Council Member Palmore; and on call of the roll the following vote was recorded: ayes: Council Members Spain, Palmore, Little, Dawson and Robinson; nays: none. The motion carried.

Council Member Little stated he would like to add to the agenda a presentation and discussion of the Alabama Land Trust proposal and a motion to move forward with an ethics review concerning the Revolving Loan Fund.

Council Member Dawson stated he would like to separate the addition of these agenda items to be voted on separately.

Council Member Little stated he would be fine with that.

Council Member Little made a motion to split the proposed additions to the agenda for separate votes of adding said proposed additions to the agenda said proposed additions being a presentation and discussion of the Alabama Land Trust proposal and a motion to move forward with an ethics review concerning the Revolving Loan Fund. The motion was seconded by Council Member Dawson; and on call of the roll the following vote was recorded: ayes: Council Members Palmore, Little, and Dawson; nays: Council Members Spain and Robinson. The motion carried.

Council Member Dawson stated that splitting these two motions would now allow discussion of the motions.

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Mayor Robinson asked if there was any discussion on placing on the agenda a presentation and discussion of the Alabama Land Trust proposal.

Council Member Spain stated he had concerns about splitting the addition of these two items to the agenda. He stated both items had been on the Informal Agenda but neither had been discussed during the Informal Meeting. He stated both should be added to the agenda.

Mayor Robinson stated they were asking for additions to the agenda of an immediate nature and he had voted no because neither was of an immediate nature.

Council Member Little stated he felt it was important that the people who had traveled to be heard concerning the Alabama Land Trust proposal have a chance to discuss the proposal.

Mayor Robinson stated neither of these items was of an immediate nature and therefore neither should be added to the agenda.

Council Member Little asked what the definition of immediate was.

Mayor Robinson stated that immediate meant of an emergency nature.

Cleo Thomas, City Attorney, addressed the Council and read the additions of an emergency nature section of the Council's rules of order. He stated the question was if there was a rule of the Council that only permits things to be added to the agenda of an emergency nature. He asked if the Council is constrained from adding to the agenda anything that is not of an emergency nature. He asked how things that are on the Informal Agenda but were not discussed are handled when it comes to adding them to the Formal Agenda. He stated he thought things of an emergency nature would not have been on the informal. He stated he deferred to the Council as to how they wanted to interpret their rules of order on this matter.

Council Member Little stated that the motion to move forward with an ethics review concerning the Revolving Loan Fund was supposed to be place on the Formal Agenda.

Mayor Robinson stated he had made the statement at the last meeting that he was going to stop the Informal Session at 3:00 p.m. so they could start the Formal Meeting on time. He stated they could have work sessions to handle items on the Informal Session.

Council Member Palmore stated that the people who had traveled to discuss the Alabama Land Trust proposal could be heard at the end of the meeting during the citizen's comments.

Council Member Little stated they could suspend the rules.

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Council Member Dawson stated that the question was legally divided. He stated neither one had been brought forth by a motion or voted on motion. He stated under parliamentary inquiry the Chair rules as to whether they hear either of these issues, He stated it was a total Chair rule and if not heard today they would come up at the very next meeting. He asked Mayor Robinson if they would hear the first item that was divided.

Mayor Robinson stated that they would not hear the first item that was divided.

Council Member Dawson stated that this item should come up at their work session on Tuesday.

Council Member Dawson asked Mayor Robinson if they would hear the second item that was divided.

Mayor Robinson stated that they would not hear the first item that was divided.

Council Member Dawson stated they should move forward and both these items should be on the work session agenda for Tuesday.

Council Member Little made a motion to suspend the rules. The motion was seconded by Council Member Dawson; and on call of the roll the following vote was recorded: ayes: Council Members Spain and Little; nays: Council Members Palmore, Dawson, and Robinson. The motion failed.

Mayor Robinson made a motion for no additions or deletions to the agenda. The motion was seconded by Council Member Dawson; and on call of the roll the following vote was recorded: ayes: Council Members Palmore, Dawson and Robinson; nays: Council Members Spain and Little. The motion carried.

Council Member Dawson 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 Palmore, Dawson and Robinson; nays: Council Members Spain and Little. The motion carried.

Mayor Robinson made a motion to remove from the table Resolution Number 11-R-5. The motion was seconded by Council Member Dawson; and on call of the roll the following vote was recorded: ayes: Council Members Spain, Palmore, Little, Dawson and Robinson; nays: none. The motion carried.

Council Member Spain asked Cleo Thomas, City Attorney, to read the resolution on board appointments and ward diversity.

Cleo Thomas, City Attorney, read Resolution Number 98-R-9.

Council Member Spain stated based upon Resolution Number 98-R-9 they did not have board diversity on the RMC board. He stated he was opposed to this appointment based

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on this resolution since this appointment would make Ward 4 have four members on the RMC board.

Mayor Robinson stated this was the Mayor's pick. He stated that Judge Monk resigned and had been picked by Mayor Howell. He stated he had looked at the need for this board and had come up with the nomination of Mandy King. He stated he was fighting for the right of future mayors to have a pick on this board.

Council Member Little stated that Mayor Howell did not pick Judge Monk for this board. He stated the Mayor did not have an appointment to this board.

Council Member Spain stated his issue was that this would make four appointments from Ward 4 and these appointments should be spread evenly across the community.

Council Member Palmore stated they should table this resolution until they could get a clear answer from the City Attorney.

Council Member Palmore made a motion to table Resolution Number 11-R-5 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 Spain, Palmore, and Little; nays: Mayor Robinson; abstentions: Council Member Dawson. The motion carried.

Council Member Little made a motion to remove from the table a motion to authorize the City Attorney to proceed with legal action to collect on the unpaid invoice to the Anniston Star in the amount of \$1,855.40 for records requests of Council Member's emails of January 14, 2010. The motion was seconded by Council Member Dawson; and on call of the roll the following vote was recorded: ayes: Council Members Palmore and Little; nays: Council Members Spain, Dawson and Robinson. The motion failed.

Mayor Robinson announced that was the time for the public hearing on the proposed abatement of properties declared nuisances at the following locations: 1316 West 16<sup>th</sup> Street, 207 "B" Street, 1325 Bancroft Avenue, 1407 Boynton Avenue, 1213 Crawford Avenue, 2307 Moore Avenue, 521 South Leighton Avenue, 0 South of West 16<sup>th</sup> Street, 1308 and 1312 Bancroft Avenue, 704 Blue Ridge Drive, 0 Church Street, 1408 Duncan Avenue, 2401 Moore Avenue, 101 West 22<sup>nd</sup> and 2201 Gurnee Avenue; declared the hearing open and asked if anyone wished to address the Council concerning said properties.

Vicky Burt addressed the Council concerning the property located at 2410 Moore Avenue and stated she needed time to get the property cleaned up.

Marvin Reese addressed the Council concerning the property located at 0 Church Street and stated he needed some time to clean up the property.

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Roosevelt Boyd addressed the Council on behalf of his mother concerning the property located at 1408 Duncan Avenue and stated they would like to find out what would be involved in getting the property torn down.

Jackie Harris addressed the Council concerning the property located at 2307 Moore Avenue and stated she had begun the abatement of the property. She stated the house was structurally sound and she was still paying on the home.

Angela McCain addressed the Council on behalf of her grandmother concerning the property located at 704 blue Ridge Drive and stated they would like to have more time to sell the house.

Ms. Kendrick addressed the Council concerning the property located at 1407 Boynton Avenue and stated they needed some time to abate this property.

Mayor Robinson asked if anyone else wished to address the Council concerning said properties.

No one else addressed the Council concerning said properties.

Mayor Robinson declared the public hearing on the proposed abatement of properties declared nuisances at the following locations: 1316 West 16<sup>th</sup> Street, 207 "B" Street, 1325 Bancroft Avenue, 1407 Boynton Avenue, 1213 Crawford Avenue, 2307 Moore Avenue, 521 South Leighton Avenue, 0 South of West 16<sup>th</sup> Street, 1308 and 1312 Bancroft Avenue, 704 Blue Ridge Drive, 0 Church Street, 1408 Duncan Avenue, 2401 Moore Avenue, 101 West 22<sup>nd</sup> and 2201 Gurnee Avenue closed.

Mayor Robinson introduced and read Resolution Number 11-R-17 as follows:

(11-R-17, reimbursements for travel expense)

Mayor Robinson made a motion for the passage and adoption of Resolution Number 11-R-17 as introduced and read. The motion was seconded by Council Member Spain; and on call of the roll the following vote was recorded: ayes: Council Members Spain, Palmore, Little, Dawson and Robinson; nays: none. The motion carried and Resolution Number 11-R-17 was passed and adopted.

Mayor Robinson introduced and read Resolution Number 11-R-18 as follows:

RESOLUTION NUMBER 11-R-18

BE IT RESOLVED by the City Council of the City of Anniston, Alabama, as follow:

Section 1. That Jim Farrell be and the same is hereby reappointed as a representative of the City of Anniston to the McClellan Development Authority for a term to expire March 9, 2014.

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Section 2. That the City Clerk cause a copy of this resolution to be mailed to the above named appointee and to James Dunn, Chairman of the Calhoun County Commission.

PASSED AND ADOPTED this the 22nd day of February, 2011.

CITY COUNCIL OF THE CITY OF  
ANNISTON, ALABAMA

By: /s/ Gene Robinson, Mayor

By: /s/ John Spain, Council Member

By: /s/ David Dawson, Council Member

ATTEST:

/s/ Alan B. Atkinson, City Clerk

Mayor Robinson made a motion for the passage and adoption of Resolution Number 11-R-18 as introduced and read. The motion was seconded by Council Member Spain; and on call of the roll the following vote was recorded: ayes: Council Members Spain, Dawson and Robinson; nays: none; abstentions: Council Members Palmore and Little. The motion carried and Resolution Number 11-R-18 was passed and adopted.

Council Member Palmore introduced and read Resolution Number 11-R-19 as follows:

(11-R-19, ordering public nuisances to be abated)

Council Member Palmore made a motion for the passage and adoption of Resolution Number 11-R-19 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 Spain, Palmore, Little, Dawson and Robinson; nays: none. The motion carried and Resolution Number 11-R-19 was passed and adopted.

Council Member Spain introduced and read Resolution Number 11-R-20 as follows:

RESOLUTION NUMBER 11-R-20

WHEREAS, the City Council of the City of Anniston, Alabama is governed by the Anniston Council Manager Act of 1953 (as amended) and the Code of Alabama, including its enactments concerning public records, public information, incident or offense reports and other matters; and

WHEREAS, the Council wishes to determine the identifiable boundaries between access to public records and the legitimate needs of law enforcement to keep some police reports and Alabama Uniform Incident/Offense Reports confidential; and

WHEREAS, the Council wishes to determine what lawful access, if any, the City Manager, the Council as deliberative body or an individual Council

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member, separately and severally, in their official capacities; and

WHEREAS, the Council deems it prudent to determine the lawful scope of its authority and discretion, and that of the City Manager, in the matter of police reports and Alabama Uniform Incident/Offense Reports.

THEREFORE, BE IT RESOLVED, by the City Council of the City of Anniston as follows:

Section 1. That Cleophus Thomas, Jr., City Attorney of the City of Anniston be and he is hereby authorized to request an official opinion of the Hon. Luther Strange, Attorney General of the State of Alabama, regarding police reports or Alabama Uniform Incident/Offense Reports.

Section 2. That the nature and character of the question include:

1. Does a Council Member in the furtherance of his/her duty to establish a review policy for the city or in his/her capacity to protect the interest of citizens have "need to know" access to complete or entire police reports or Alabama Uniform Incident/Offense Reports including criminal investigations in progress?

2. As a component of the statutory authority given in the Code of Alabama, Section 45-8A-23.262 (which states in pertinent part: *The council, the city manager, or any person or committee authorized by either of them, shall have power to inquire into the conduct of any office, department, board or agency or officer of the city and to make investigations as to municipal affairs, and for the purpose may subpoena witnesses, administer oaths, and compel the production of books, papers, and other evidence*) does the Council, City Manager or authorized person, have authority to examine the full content of a police report or Alabama Uniform Incident/Offense Reports in order to inquire into municipal matters after a police investigation has been closed and when the Council, City Manager or authorized person deems there to be probable cause of some impropriety in the taking of the report or in the conduct of the investigation.

3. Absent authorization from the Council as a body does an individual Council Member have any authority in his capacity as an individual Council Member to obtain information in a police report or Alabama Uniform Incident/Offense Report?

4. Does the City Manager, the chief administrative officer to whom the Chief of Police reports have any authority in his capacity as City Manager to obtain information in a police report or Alabama Uniform Incident/Offense Report?

PASSED AND ADOPTED this the 22nd day of February, 2011.

CITY COUNCIL OF THE CITY OF  
ANNISTON, ALABAMA

By: /s/ John Spain, Council Member

By: /s/ Herbert N. Palmore, Council Member

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By: /s/ Benjamin L. Little, Council Member

ATTEST:

/s/ Alan B. Atkinson, City Clerk

Council Member Spain made a motion for the passage and adoption of Resolution Number 11-R-20 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 Spain, Palmore, and Little; nays: Council Members Dawson and Robinson. The motion carried and Resolution Number 11-R-20 was passed and adopted.

Council Member Spain made a motion to approve a retail beer (off premises only) and retail table wine (off premises only) ABC application for Irelands Pit Stop d/b/a Ireland LLC located at 1415 U.S. Highway 431 North. The motion was seconded by Council Member Dawson; and on call of the roll the following vote was recorded: ayes: Council Members Spain, Palmore, and Dawson; nays: none; abstentions: Council Members Little and Robinson. The motion carried.

Mayor Robinson made a motion to approve the seven companies applying for renewal to the Wrecker Rotation as required in the Code of Ordinances of the City of Anniston, Section 31.31 and 31.35 said seven companies being (1) Owens Towing and Recovery (2) Anniston Auto Trim and Glass, Inc. (3) Auto Beauty Shoppe (4) Pressley Body Shop and Towing (5) 101 Towing and Service (6) Anniston Body Shop, and (7) Auto Body Shop. The motion was seconded by Council Member Dawson; and on call of the roll the following vote was recorded: ayes: Council Members Spain, Palmore, Little, Dawson and Robinson; nays: none. The motion carried.

Council Member Little stated they still needed to deal with the sidewalk issue and the land swap deal at the airport.

Council Member Dawson stated they needed the survey for the airport, also.

Mayor Robinson stated they would set the work sessions for the first Tuesday of each month at 2:30 p.m. in the Old Council Chambers.

Council Member Spain stated the situation with the revolving loan fund and the Mayor was an ethical issue and he would ask that it be put back on the agenda for the next meeting.

Mayor Robinson stated he was a working mayor and he makes mistakes. He stated this was simply a working, honest mistake. He stated he was told by the staff that he could not do this and had not done it since then. He stated he did not benefit from it. He stated he would probably continue to make mistakes.

There being no further business to come before the meeting at that time Council Member Palmore made a motion the meeting be adjourned. The motion was seconded by Council

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Member Spain; and on call of the roll the following vote was recorded: ayes: Council Members Spain, Palmore, Little, Dawson and Robinson; nays: none. The motion carried and the meeting was adjourned at approximately 4:41 o'clock p.m.