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Anniston, Alabama
March 23, 2010

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, March 23, 2010, at approximately 4:10 o'clock p.m.

Mayor Robinson prayed the Invocation.

Mayor Robinson 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 Dawson made a motion to dispense with the reading of and approve the minutes of February 23, 2010. The motion was seconded by Council Member Little; 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.

Mayor Robinson made a motion to add to the agenda an Executive Session concerning ongoing litigation and possible pending litigation and a possible motion concerning said litigation when the Council reconvenes. 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.

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

Mayor Robinson made a motion to remove from the table Resolution Number 10-R-31, a resolution authorizing the purchase of the Anniston Water Works and Sewer Board property located at 131 West 11th Street. The motion was seconded by Council Member Spain.

Council Member Little stated they should have the lease agreement before them. He stated he still had not seen anything from the Board requesting that the City purchase this property.

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Council Member Palmore stated they should leave this resolution on the table until they have all the information.

Council Member Spain stated that they knew the terms and conditions that the City is willing to offer to buy this property. He stated if the Board chooses not to accept that offer then it simply goes nowhere. He stated they have two appraisals and should move forward with this offer.

Council Member Dawson stated the Board has agreed to the lower appraisal and they could move forward with the purchase offer and then negotiate the lease terms.

Council Member Little asked if this was a budgeted item and where was the money coming from.

Danny McCullars, Finance Director, stated this was not a budgeted item and Economic Development has a balance of about \$100,000. He stated otherwise it would come from reserves.

On call of the roll on Mayor Robinson's motion to remove from the table Resolution Number 10-R-31, a resolution authorizing the purchase of the Anniston Water Works and Sewer Board property located at 131 West 11th Street and Council Member Spain's second to said motion the following vote was recorded: ayes: Council Members Spain, Dawson and Robinson; nays: Council Member Palmore; abstentions: Council Member Little. The motion carried.

Council Member Dawson stated he would like for the next motion, a motion to vacate an alley way located at Keith and Highland Avenues, to be removed from the agenda.

Council Member Spain made a motion to remove from the agenda a motion to vacate an alley way located at Keith and Highland Avenues. 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.

Mayor Robinson made a motion to remove from the table Resolution Number 10-R-34, a resolution approving three year contracts for the administration of the HOME Investment Partnership Act Program on behalf of the Anniston/Calhoun County HOME Consortium. The motion was seconded by Council Member Dawson; and on call of the roll the following vote was recorded: ayes: Council Members Spain and Dawson; nays: Council Members Little and Robinson; abstentions: Council Member Palmore. The motion failed.

Mayor Robinson made a motion to remove from the table a motion authorizing the City Manager to negotiate a lease agreement with Mr. Ervin Romine for the operation of the Cane Creek Restaurant located in the Cane Creek Golf Course Club House at McClellan. The motion was seconded by Council Member Dawson; and on call of the roll the

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following vote was recorded: ayes: Council Members Dawson and Robinson; nays: Council Members Spain, Palmore and Little. The motion failed.

Mayor Robinson introduced and read Resolution Number 10-R-35 as follows:

(10-R-35, reimbursements to City officials for travel expense)

Mayor Robinson made a motion for the passage and adoption of Resolution Number 10-R-35 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 10-R-35 was passed and adopted.

Council Member Palmore introduced and read Resolution Number 10-R-36 as follows:

(10-R-36, declaring vehicles on certain properties public nuisances)

Council Member Palmore made a motion for the passage and adoption of Resolution Number 10-R-36 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 Spain, Palmore, Little, Dawson and Robinson; nays: none. The motion carried and Resolution Number 10-R-36 was passed and adopted.

Council Member Spain introduced and read Resolution Number 10-R-37 as follows:

(10-R-37, ordering the removal of nuisances from certain from certain properties within a specified time period)

Council Member Spain made a motion for the passage and adoption of Resolution Number 10-R-37 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 10-R-37 was passed and adopted.

Mayor Robinson introduced and read Resolution Number 10-R-38 as follows:

(10-R-38, contract with Economic and Community Development Institute, Auburn University)

Mayor Robinson made a motion for the passage and adoption of Resolution Number 10-R-38 as introduced and read. The motion was seconded by Council Member Dawson.

Mike Easterwood, Economic and Community Development Institute, Auburn University, addressed the Council and stated they would develop a city wide commercial development plan. He stated they would use parts of the Buxton study.

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Council Member Spain stated he would like to see a complete presentation be made to the Council.

Council Member Little stated that East Alabama Planning Commission had made studies for long range plans. He stated the Buxton study was there to go forward with the next step.

Council Member Spain stated over a million dollars had been spent on studies at McClellan that had not been followed through with.

Council Member Dawson stated he would like to see a presentation by this group with the City Planner present and for the Council to have a chance to discuss these issues.

Council Member Little stated they needed to go through the studies they already have.

Mayor Robinson stated that Mr. Easterwood and Dr. Summerlin had been before the Council before and gave them documentation about the issues they were discussing. He stated they needed to execute this contract today.

Council Member Dawson made a motion to table this resolution until the next meeting. 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 and Dawson; nays: Mayor Robinson. The motion carried.

The Council discussed Resolution Number 10-R-31, a resolution authorizing the purchase of the Anniston Water Works and Sewer Board property located at 131 West 11th Street, and changes that needed to be made to the resolution which would be the price of the property and the negotiation of the lease of said property.

On call of the roll on Council Member Spain's motion for the passage and adoption of Resolution Number 10-R-31 as introduced and read and Council Member Dawson's second to said motion the following vote was recorded: ayes: Mayor Robinson; nays: Council Members Spain, Palmore, Little and Dawson. The motion failed.

Council Member Spain introduced and read Resolution Number 10-R-39 as follows:

(10-R-39, authorizing the purchase of the Anniston Water Works and Sewer Board property located at 131 West 11th Street)

Council Member Spain made a motion for the unanimous consent of the Council Members present for the immediate consideration of Resolution Number 10-R-39 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, Little, Dawson and Robinson; nays: none; abstentions: Council Member Palmore. The motion failed.

Council Member Spain introduced and read Resolution Number 10-R-40 as follows:

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(10-R-40, submission of grant application for financial assistance under the ESG Program)

Council Member Dawson made a motion for the passage and adoption of Resolution Number 10-R-40 as introduced and read. The motion was seconded by Mayor Robinson.

Susan Shipman addressed the Council and stated that ADECA required the City to do this resolution as the applicant. She stated that there had never been an issue in the past the any of the participating organizations did not provide their match. She stated the application is due on April 14.

Council Member Dawson asked who from the City would administer the grant.

Don Hoyt, City Manager, stated he would administer the grant for the City.

On call of the roll on Council Member Dawson's motion for the passage and adoption of Resolution Number 10-R-40 as introduced and read and Mayor Robinson's second to said motion the following vote was recorded: ayes: Council Members Spain, Palmore, Little, Dawson and Robinson; nays: none. The motion carried and Resolution Number 10-R-40 was passed and adopted.

Council Member Spain made a motion to approve a retail beer (on or off premises) and retail table wine (on or off premises) ABC application for HMEP Inc. d/b/a HMEP located at 251 Straub Circle. The motion was seconded by Council Member Dawson.

Bill Chatman, project manager for HMEP, addressed the Council and stated this license was to operate a lounge strictly for the first responders that train at their facility.

On call of the roll on Council Member Spain's motion to approve a retail beer (on or off premises) and retail table wine (on or off premises) ABC application for HMEP Inc. d/b/a HMEP located at 251 Straub Circle and Council Member Dawson's second to said motion the following vote was recorded: ayes: Council Members Spain, Palmore, and Dawson; nays: none; abstentions: Council Members Little and Robinson. The motion carried.

Council Member Dawson made a motion to approve a Special Events Retail ABC application for East Alabama Shrine Club of Zamora Temple Inc. d/b/a the Country Cash located at 1615 Noble Street. The motion was seconded by Council Member Spain; 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.

Council Member Dawson made a motion to approve a retail beer (off premises only) and retail table wine (off premises only) application for Yousef Yaquob Inc. d/b/a Expressmart 15 located at 2328 Noble Street. 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, and Dawson; nays: none; abstentions: Council Members Little and Robinson. The motion carried.

Council Member Spain made a motion to authorize the City Manager to make an application for a Special Retail (more than 30 days) Beer and Table Wine (on and off premises) for Cane Creek Restaurant which is owned and operated by the City of Anniston. The motion was seconded by Council Member Dawson..

Council Member Palmore stated he was apprehensive about the City being in the business of selling alcoholic beverages.

Council Member Dawson stated he was apprehensive about the City being in the business of selling alcoholic beverages but it would only be a temporary thing.

On call of the roll on Council Member Spain's motion to authorize the City Manager to make an application for a Special Retail (more than 30 days) Beer and Table Wine (on and off premises) for Cane Creek Restaurant which is owned and operated by the City of Anniston and Council Member Dawson's second to said motion the following vote was recorded: ayes: Council Members Spain, Palmore, Dawson and Robinson; nays: none; abstentions: Council Member Little. The motion carried.

Council Member Little made a motion requesting that the City Attorney examine and report to the Council on its compliance with state requirements in the collection of sales and use taxes and business license fees. The motion was seconded by Council Member Palmore.

Council Member Spain made a motion to postpone Council Member Little's motion requesting that the City Attorney examine and report to the Council on its compliance with state requirements in the collection of sales and use taxes and business license fees until after the Council's executive session. 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.

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

(property insurance)

Council Member Little made a motion that the bid in the total amount of \$35,476.04 by Insurance Planning Services for property insurance for City owned buildings be accepted. The motion was seconded by Council Member Spain.

Council Member Dawson stated that the Glenaddie Community Center should be removed from the City's property insurance list because it no longer belonged to the City.

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Jim Garmon, Insurance Planning Services, addressed the Council and stated that the Glenaddie Community Center could be removed and the rate adjusted.

Council Member Dawson stated they needed to look at the Anniston Inn Kitchen and the property at 2006 McCoy Avenue.

On call of the roll on Council Member Little's motion that the bid in the total amount of \$35,476.04 by Insurance Planning Services for property insurance for City owned buildings be accepted and Council Member Spain's second to said motion the following vote was recorded: ayes: Council Members Spain, Palmore, Little, Dawson and Robinson; nays: none. The motion carried.

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

(golf course maintenance equipment)

Council Member Dawson made a motion that the bid in the total amount of \$3,270.00 per month for 60 months with a \$1.00 buy out by Jerry Pate Turf and Irrigation for golf course maintenance equipment be accepted. 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.

Council Member Dawson made a motion to reconsider the vote for unanimous consent for immediate consideration of Resolution Number 10-R-39 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, and Dawson; nays: Mayor Robinson; abstentions: Council Member Palmore. The motion carried.

Council Member Spain made a motion for the unanimous consent of the Council Members present for the immediate consideration of Resolution Number 10-R-39 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 Spain, Little, Dawson and Robinson; nays: none; abstentions: Council Member Palmore. The motion failed.

Curtis Ray stated he was still waiting on information he had asked for from Mr. Hoyt and Mr. Atkinson.

Woody Johnson, 1309 Crawford Avenue, addressed the Council concerning a vehicle nuisance on his property.

Council Member Little stated it was troubling that the City Manager went forward with the permanent appointment of the Chief of Police without further consultation with the Council.

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Council Member Spain stated that he was opposed to the process of the choosing of the Chief of Police and did not like these types of surprises.

Don Hoyt, City Manager, stated he had only two candidates to choose from for the Chief's position and he thought he had discussed the candidates with the Council.

Council Member Dawson made a motion pursuant to Section 7 of the Alabama open meeting law for an Executive Session for the purpose of discussing with the City Attorney the legal ramifications of and legal options for pending litigation, controversies not yet being litigated but imminently likely to be litigated if the governmental body pursues a proposed course of action. The motion was seconded by Council Member Little; 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 Council went into Executive Session at approximately 5:55 p.m.

Council Member Dawson made a motion to reconvene. The motion was seconded by Council Member Little; 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 reconvened at approximately 7:27 p.m.

Mayor Robinson made a motion concerning Kilgore Construction Company vs. the City of Anniston, Alabama, Circuit Court of Calhoun County, Alabama, Case Number CV2007-431, that the City of Anniston would confirm the settlement reached in the mediation process in which all parties would settle and mutually release each other of all claims with the City of Anniston paying the amount of \$61,250.00 by April 9, 2010, and that the Mayor of the City of Anniston, Alabama, be authorized to execute releases and all documents that are required and that the City Clerk would be authorized to attest to the Mayor's signature and in consideration of that the parties would jointly petition the Court for an order of dismissal with prejudice of all issues presented or which could have been presented in the case and the costs would be taxed as already paid. 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.

Council Member Little made a motion requesting that the City Attorney examine and report to the Council on its compliance with state requirements in the collection of sales and use taxes and business license fees. 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, and Dawson; nays: Mayor Robinson. The motion carried.

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 Little; 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 7:31 o'clock p.m.