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Anniston, Alabama  
June 14, 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, June 14, 2011, at approximately 5:19 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 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 May 24, 2011. 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.

Mayor Robinson made a motion to delete from the agenda the second reading of Resolution Number 11-R-42, a resolution authorizing the execution of a lease agreement with the Public Building Authority of the City of Anniston. 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, and Robinson; nays: Council Member Dawson. The motion carried.

Council Member Little made a motion to adopt the agenda as amended. The motion was seconded by Mayor Robinson; and on call of the roll the following vote was recorded: ayes: Council Members Spain, Palmore, Little, and Robinson; nays: Council Member Dawson. The motion carried.

Mayor Robinson read the following proclamation:

(World Elder Abuse Day)

Council Member Little made a motion to remove from the table a proposed resolution appointing an alternate Municipal Judge for a two year term or until his successor is appointed. The motion was seconded by Council Member Dawson; and on call of the roll the following vote was recorded: ayes: Council Members Spain, Little and Dawson; nays: Council Members Palmore and Robinson. The motion carried.

Council Member Little introduced and read Resolution Number 11-R-47 as follows:

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RESOLUTION NUMBER 11-R-47

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

Section 1. That James Marvin Sims, a duly licensed attorney at law in the State of Alabama and a graduate of the University of Alabama School of Law be and he is hereby appointed as an alternate Municipal Judge of the City of Anniston, Alabama with the full authority to adjudicate cases in the Municipal Court on behalf of the City of Anniston, Alabama. Said appointment will serve only upon the temporary absence of the Municipal Court Judge and is for a term of two years or until his successor is appointed. That James Marvin Sims is the alternate judge and the Council has no other appointments.

Section 2. That the City Clerk cause copies of this resolution to be delivered to the Clerk of the Municipal Court and to James Marvin Sims whose post office address is Post Office Box 1123, Anniston, Alabama, 36202.

PASSED AND ADOPTED this the 14th day of June, 2011.

CITY COUNCIL OF THE CITY OF  
ANNISTON, ALABAMA

By: /s/ Gene Robinson, Mayor

By: /s/ John Spain, Council Member

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

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

By: /s/ David Dawson, Council Member

ATTEST:

/s/ Alan B. Atkinson, City Clerk

Council Member Little made a motion for the passage and adoption of Resolution Number 11-R-47 as introduced and read. The motion was seconded by Council Member Palmore.

Mayor Robinson made a motion to amend Resolution Number 11-R-47 to delete Section 2 of the resolution. The motion was seconded by Council Member Dawson.

Council Member Dawson stated that he felt there should be a name in Section 2 and not just a reference to a resolution number.

Mayor Robinson stated his amendment was to not replace the current alternate and to appoint Mr. Sims as another alternate.

Council Member Little stated he felt Mr. Sims should be the first alternate and Mr. Allen could be appointed as the second alternate.

Council Member Palmore asked if they could dictate to the judge which alternate he should use in his absence.

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Cleo Thomas, City Attorney, stated he felt the judge would call the alternate at his own discretion.

Council Member Spain stated he did not feel they could tell the judge who the first and second alternates were.

On call of the roll on Mayor Robinson's motion to amend Resolution Number 11-R-47 to delete Section 2 of the resolution and Council Member Dawson's second to said motion the following vote was recorded: ayes: Council Members Palmore, Dawson and Robinson; nays: Council Members Spain and Little. The motion carried.

Council Member Spain made a motion to amend Resolution Number 11-R-47 to state that James Marvin Sims is the alternate municipal judge and the Council has no other appointments. 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.

On call of the roll on Council Member Little's motion for the passage and adoption of Resolution Number 11-R-47 as amended and Council Member Palmore'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 11-R-47 was passed and adopted.

Mayor Robinson announced that was the time for the public hearing to receive comments on the proposed abatement of grass lots declared public nuisances at the following locations: 0 East 10<sup>th</sup> Street, 1701, 1720, 1728 Pine Avenue, 0 Grant Avenue, 131 South Allen Avenue, 0 5<sup>th</sup> and Goodwin Circle, 1736 Patch Place, 703, 706 Pine Avenue, 212, 210, 208 B Street, 0 Cobb Avenue (rear), 418, 422 Chestnut Avenue, 21, 220 South Leighton Avenue, 2312 Moore Avenue, 1631, 1629 Murray Avenue, 0 Cooper Alley, 711 West 16<sup>th</sup> Street, 0 Murray Avenue, 1622, 1624, 1626 Murray Avenue, 1302, 1304, 1104, 1106, 1114 Crawford Avenue and 1428 West 12<sup>th</sup> Street; declared the hearing open and asked if anyone wished to address the Council concerning the proposed abatement of grass lots declared public nuisances at said locations.

Jacqueline Lindsey addressed the Council concerning the property located at 1629 Murray Avenue and stated they would cut the grass.

Mayor Robinson asked if anyone else wished to address the Council concerning the proposed abatement of grass lots declared public nuisances at said locations.

No one else addressed the Council concerning the proposed abatement of grass lots declared public nuisances at said locations.

Mayor Robinson declared the public hearing to receive comments on the proposed abatement of grass lots declared public nuisances at the following locations: 0 East 10<sup>th</sup> Street, 1701, 1720, 1728 Pine Avenue, 0 Grant Avenue, 131 South Allen Avenue, 0 5<sup>th</sup> and Goodwin Circle, 1736

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Patch Place, 703, 706 Pine Avenue, 212, 210, 208 B Street, 0 Cobb Avenue (rear), 418, 422 Chestnut Avenue, 21, 220 South Leighton Avenue, 2312 Moore Avenue, 1631, 1629 Murray Avenue, 0 Cooper Alley, 711 West 16<sup>th</sup> Street, 0 Murray Avenue, 1622, 1624, 1626 Murray Avenue, 1302, 1304, 1104, 1106, 1114 Crawford Avenue and 1428 West 12<sup>th</sup> Street closed.

Council Member Spain introduced and read Ordinance Number 11-O-11 as follows:

(11-O-11, revising Section 12.7 of Chapter 12, Article I Garbage, Litter and Weeds; first reading)

Council Member Palmore introduced and read Resolution Number 11-R-48 as follows:

(11-R-48, over-ruling objections to the abatement of identified nuisances)

Council Member Palmore made a motion for the passage and adoption of Resolution Number 11-R-48 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-48 was passed and adopted.

Council Member Spain made a motion to table a proposed resolution electing directors of Ayers State Technical College Public Educational Building Authority. 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: Council Members Little and Robinson. The motion carried.

Council Member Spain made a motion to approve a retail beer (off premises only) and retail table wine (off premises only) ABC application for Eagle Foods Inc. d/b/a Piggly Wiggly 289 located at 1615 Quintard Avenue. 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

Mayor Robinson made a motion to suspend the rule requiring the City Council to meet on the fourth Tuesday of June, 2011. 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 Dawson made a motion to remove from the table a proposed resolution electing directors of Ayers State Technical College Public Educational Building Authority. The motion was seconded by Council Member Little; and on call of the roll the following vote was recorded: ayes: Council Members Palmore, Little, Dawson and Robinson; nays: Council Member Spain. The motion carried.

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Cleo Thomas, City Attorney, stated the purpose of this resolution was so this board could meet to refinance their bonds at a more favorable rate. He stated the terms of all the board members had expired.

Mayor Robinson introduced and read Resolution Number 11-R-49 as follows:

(11-R-49, electing directors of Ayers State Technical College Public Educational Building Authority)

Mayor Robinson made a motion for the passage and adoption of Resolution Number 11-R-49 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, Little, Dawson and Robinson; nays: none. The motion carried and Resolution Number 11-R-49 was passed and adopted.

Mayor Robinson made a motion to approve the Policy and Procedure Manual to include one new policy. The motion was seconded by Council Member Dawson.

Council Member Spain asked if they knew what the cost would be to comply with the new policy concerning the provision of street lights. He stated they should be down firing lights.

Don Hoyt, City Manager, stated he did not know the exact figures but this policy was consistent with past policy. He stated this policy adds the ability to place street lights in alley ways which they had not been able to do before. He stated he did not know how many lights the City was deficient in.

On call of the roll on Mayor Robinson's motion to approve the Policy and Procedure Manual to include one new policy and Council Member Dawson's second to said motion 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 to approve an additional \$150,000 to \$200,000 for nuisance lot cleaning. The motion was seconded by Council Member Spain.

Council Member Little stated this would simply allow all the lots to be cut. He stated it might not take this much money because the citizens would start to cut their lots. He stated this was not ward specific and they should cut city wide. He stated they could aggressively cut the lots with this amount of money.

Mayor Robinson stated they should wait to see how much the Public Works Department could accomplish with the cutting. He stated they could not amend the budget until July.

Council Member Spain stated they should table this motion until they have a feel for how much the Public Works Department could accomplish with the cutting and they would have a better idea of the amount of money needed to accomplish the aggressive cutting.

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Council Member Little stated the cutting should be done by the Public Works Department in conjunction with private contractors.

Council Member Spain made a motion to table Council Member Little's motion to approve an additional \$150,000 to \$200,000 for nuisance lot cleaning. 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 made a motion to approve the placement of speed humps at certain locations within the city limits. The motion was seconded by Council Member Spain.

The Council discussed the locations for speed humps and what types and sizes of speed humps they would have in the city.

Mr. Hoyt stated the staff could make recommendations about locations for and the size and composition of the speed humps. He stated they cost approximately \$1,500.00 each to install.

Council Member Little made a motion to table his motion to approve the placement of speed humps at certain locations within the city limits. 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 made a motion to have an ethics investigation on the legality of the way the architect was selected for the Criminal Justice Center Project. The motion was seconded by Council Member Palmore.

Cleo Thomas, City Attorney, stated he was not sure they could get an ethics opinion on a concluded action. He stated the Ethics Commission only gives opinions on actions before they are actually taken. He stated he did not think they could get an advisory opinion on an action that has already been taken.

Council Member Little stated there may be some ethics opinions or attorney general's opinions already out there pertaining to this issue. He stated they could get the minutes from the Planning Commission and the PBA.

Mr. Thomas stated the opinions that would be out there would be fact specific. He stated he assumes that the architect is engaged by the PBA. He stated he would need to be supplied with all the facts.

Mayor Robinson stated the PBA was created by the Council and had been tasked with the DHR and the Judicial Center projects. He stated with both of these projects the architects were selected by the PBA after formal request for qualifications were sent out for each project.

Council Member Spain stated he would suggest putting the facts together and asking for an attorney general's opinion through resolution at the next Council meeting. He stated that he would want to include the issue with JSU, also.

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Council Member Dawson stated he did not think the attorney general would give them a retrospective opinion on this issue.

Mr. Thomas stated that he did not think the issue with JSU was a concluded matter.

Council Member Spain stated they could get an ethics opinion on the JSU issue. He stated that the architect issue with Judicial Center project could be put forward in a hypothetical question for future reference and they could describe facts similar to the current facts.

Council Member Little made a motion to table his motion to have an ethics investigation on the legality of the way the architect was selected for the Criminal Justice Center Project. 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 Dawson made a motion for the City Attorney to request ethics opinions regarding the City contracting architectural services with a member of the City's Planning Commission and other boards and Council Member Spain's ability to participate in Council decisions and discussions concerning the contracting of services with JSU along with an opinion regarding previously discussed matters related to Council Member Dawson. 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.

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

### **FACT SHEET**

**SUBJECT:** Street resurfacing and reconstruction.

**FACTS:** The base bid is for 10<sup>th</sup> Street, Noble Street and Norwood Avenue.

### **VENDORS SUBMITTING BIDS**

McCartney Construction Co.

\$629,705.75

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APAC, Alabama

\$701,191.52

RECOMMENDATION: In the bid documents, under “Scope of Work” (6) “the City reserves the right to add or delete any street or any portion of any street, and to increase or decrease plan quantities at the bid price.” Attached are portions of ten additional streets and their cost based on the unit cost as bid above. The additional cost for these ten streets is \$270,685.39 which brings the total cost to \$900,391.14.

We recommend that the contract be awarded to McCartney Construction Company in the amount of \$900,391.14.

Mayor Robinson made a motion that the bid in the total amount of \$900,391.14 by McCartney Construction Company for street resurfacing and reconstruction be accepted. 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 Sheet had been given to the Council:

(Three pickup trucks for the Public Works Dept.)

Council Member Dawson made a motion that the bid in the total amount of \$46,374.00 by Sunny King Ford for three pickup trucks for the Public Works Department 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.

Wanda Champion addressed the Council concerning the need for historical street marker signs and directions for the historical areas.

Mayor Robinson stated if everyone would attend work sessions they could save some time in the formal Council meetings.

Council Member Little stated he felt there were some problems with the formation and legitimacy of the PBA.

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

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Spain, Palmore, Little, Dawson and Robinson; nays: none. The motion carried and the meeting was adjourned at approximately 7:08 o'clock p.m.