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Anniston, Alabama
September 28, 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, September 28, 2010, at approximately 4:05 o'clock p.m.

Council Member Spain prayed the Invocation.

Council Member Spain 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.

Mayor Robinson made a motion to remove from the agenda a proposed ordinance to amend Ordinance Number 10-O-9 known as the Residential Health and safety Property Inspection Policy, a proposed resolution vacating a portion of the north/south alley running between West 15th and 16th Streets, a proposed resolution vacating a portion of the north/south alley running between 15th and 14th Streets, a proposed motion to approve the process/procedure for the City manager to take time off/leave requiring notification to the Council by email or phone and the approval of three Council Members, and to add to the agenda a proposed ordinance authorizing the issuance of general obligation refunding and improvement warrants and general obligation recovery zone economic development warrants. 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 adopt the agenda as amended. 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.

Sherry Summers, Calhoun County Chamber of Commerce, addressed the Council concerning a new initiative by the Chamber of Commerce called the citizen's code.

Mayor Robinson read the following proclamation:

(Citizen's Code)

Council Member Dawson reintroduced and read Ordinance Number 10-O-12 as follows:

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ORDINANCE NUMBER 10-O-12

AN ORDINANCE AMENDING SECTION 8.17 OF "THE CODE OF THE CITY OF ANNISTON, ALABAMA, 1981" LEVYING SPECIAL OR ADDITIONAL COURT COSTS AND FEES.

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

SECTION 1. The following portions of sections are hereby amended to read as follows:

Sec. 8.17. Special or additional court costs and fees to be levied and placed in corrections fund.

(a) *Special or additional court costs and fees.* The total amount of court costs levied within the municipal court of the City of Anniston shall be equal to amounts levied by the District Court of Calhoun County in similar cases with all applicable special or additional proceeds placed in the City of Anniston Corrections Fund as permitted by section 11-47-7.1, of the Code of Alabama, 1975, as amended.

(b) *Corrections fund account established.* An account shall be established to be known as the City of Anniston Corrections Fund, and that all proceeds from this fund or additional court cost and fees shall be deposited into this fund pursuant to said section 11-47-7.1, of the Code of Alabama, 1975, as amended.

(c) *Use of corrections fund.* The funds contained in the corrections fund shall be used exclusively for construction and exceptional maintenance needs of the municipal jail, other correctional facilities, or court complex established after this date pursuant to said section 11-47-7.1, of the Code of Alabama, 1975, as amended.

(d) *Exceptions to provisions of this section.* This special or additional court cost and fees shall not apply to parking violation adjudications.

SECTION 2. The sections, paragraphs, sentences, clauses and phrases of this ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this ordinance shall be declared unconstitutional by a court of competent jurisdiction, then such ruling shall not affect any other paragraphs and sections, since the same would have been enacted by the municipality council without the incorporation of any such unconstitutional phrase, clause, sentence, paragraph or section.

SECTION 3. To the extent that all other ordinances or parts of ordinances of the City of Anniston conflicting herewith or inconsistent with the provisions in this ordinance, the same are hereby repealed to the extent of such conflict.

Section 4. The provisions of this ordinance shall become effective at 12:01 a.m. on January 1, 2011, and the City Clerk of the City of Anniston is hereby ordered and

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directed to cause a copy of this ordinance to be published one time in The Anniston Star, a newspaper of general circulation published in the city of Anniston, Alabama.

PASSED AND ADOPTED this the 28th day of September, 2010.

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/ M. David Dawson, Council Member

ATTEST:

/s/ Alan B. Atkinson, City Clerk

Council Member Dawson made a motion for the passage and adoption of Ordinance Number 10-O-12 as introduced and read. The motion was seconded by Council Member Spain.

Council Member Little stated he was not in favor of going all the way to the district court levels at this time but could support a partial increase.

On call of the roll on Council Member Dawson's motion for the passage and adoption of Ordinance Number 10-O-12 as introduced and read and Council Member Spain's second to said motion the following vote was recorded: ayes: Council Members Spain, Palmore, Dawson and Robinson; nays: Council Member Little. The motion carried and Ordinance Number 10-O-12 was passed and adopted.

Council Member Spain reintroduced and read Resolution Number 10-R-97 as follows:

RESOLUTION NUMBER 10-R-97

A RESOLUTION CHANGING THE CURBSIDE GARBAGE COLLECTION SERVICE CHARGE FOR EACH RESIDENTIAL UNIT IN THE CITY OF ANNISTON

WHEREAS, Section 12.52 (a) of the City Code of the City of Anniston, Alabama, as amended allows the City Council to change, alter or amend the curbside collection charge for each residential unit in the city.

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

Section 1. The curbside garbage collection service charge for each residential unit in the city of Anniston is changed to the sum of \$10.00 per month.

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Section 2. That this resolution shall become effective on January 1, 2011, provided however that said resolution shall have been published one time in The Anniston Star prior to said effective date.

PASSED AND ADOPTED this the 28th day of September, 2010.

CITY COUNCIL OF THE CITY OF
ANNISTON, ALABAMA

By: /s/ Gene Robinson, Mayor

By: /s/ John Spain, Council Member

By: /s/ M. David Dawson, Council Member

ATTEST:

/s/ Alan B. Atkinson, City Clerk

Council Member Spain made a motion for the passage and adoption of Resolution Number 10-R-97 as introduced and read. The motion was seconded by Council Member Dawson.

Council Member Palmore stated he could not vote for a \$3.00 increase but he would be will to consider a \$1.50 increase. He stated he could not vote for this increase until he saw an amendment to allow those who could not afford to pay to be exempt. He stated he hoped they could come back with an exemption that would be adequate to the needs of the public.

Council Member Little asked what percentage was delinquent currently on their garbage bill payments. He stated he was not in favor of increasing this fee. He stated they would only be penalizing the citizens who are actually paying their fees. He stated they should do a better job of collecting the delinquent fees.

Council Member Dawson asked what it was currently costing the City for garbage and brush pick up.

Danny McCullars, Finance Department, stated it cost over \$19.00 per household per month for garbage and brush pick up.

Council Member Dawson stated they were increasing the fee from \$7 to \$10 per month per household for a cost that was over \$19 per month per household. He stated these were basic necessities but they had to look at the cost of living in the city which includes police and fire protection. He stated they had to look at the quality of life items that were providing to the citizens. He stated they have to look at operating the City more like a business and at some point they have to look at paying the bills.

Council Member Spain stated he hated to raise any cost in any amount for anything but there were times when raising cost could not be avoided. He stated he did want to avoid any billing problems with the change in the monthly charge.

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Don Hoyt, City Manager, stated that at the end of 2008 the delinquent amount was \$156,000 and total collected was \$624,000 and at the end of 2009 the delinquent amount was \$242,000 and total collected was \$566,000.

Council Member Little stated the data shows there are financial difficulties out there already before this increase. He stated that the citizens have never paid for the brush pick up. He stated that the cost from BFI was over \$8 and the city was going to charge \$10 and that was not fair. He stated that the citizens were paying ad valorem taxes and the City should be doing things for the citizens.

Mayor Robinson stated that for garbage pick up Gadsden charged \$13, Weaver charged \$13, Jacksonville charged \$11.56, Calhoun County charged \$17, Opelika charged \$16, Auburn charged \$17, and Cullman charged \$14. He stated that \$10 was a bargain.

On call of the roll on Council Member Spain's motion for the passage and adoption of Resolution Number 10-R-97 as introduced and read and Council Member Dawson's second to said motion the following vote was recorded: ayes: Council Members Spain, Dawson and Robinson; nays: Council Members Palmore and Little. The motion carried and Resolution Number 10-R-97 was passed and adopted.

Council Member Spain made a motion to remove from the table a motion directing and empowering the Public Building Authority to take all necessary steps in facilitating construction and financing of a new public safety and judicial complex for the City of Anniston. The motion was seconded by Mayor Robinson; and on call of the roll the following vote was recorded: ayes: Council Members Spain, Palmore, Dawson and Robinson; nays: Council Member Little. The motion carried.

Council Member Little stated that even if the PBA handled this project it would still be the City's debt and the City would be liable for it. He stated they needed to discuss this project. He stated he thought the PBA they created was strictly for the DHR building. He stated they had not determined how much they want to spend on this project.

Mayor Robinson stated each Council Member appointed a member to the PBA and so each Council Member had a voice on the PBA. He stated the Council could focus the direction of the PBA. He stated by using the PBA for this project it would not show on the City's balance sheet against their debt limit. He stated the PBA could probably work together better than the Council.

Danny McCullars, Finance Director, stated that the Council could place stipulations within this motion such as approval over a certain dollar amount. He stated the City has a debt margin. He stated they had established their PBA and there were buildings that had to be built and sustained for core government services. He stated that the City's debt margin was approximately \$54 million. He stated that he would argue that the City might need the flexibility in the future to go back to bond market if necessary.

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Council Member Palmore stated he did not want the cost of these projects taken out of the Council's hands.

Mr. McCullars stated they could stipulate a dollar amount in the motion. He stated they could table the motion till they could come up with language they would be comfortable with for this to go through the PBA. He stated with rates where they were and the progress on the DHR project they should address this issue in the next month.

Cleo Thomas, City Attorney, stated the members of the PBA had no liability for the debt of the DHR project because the revenue from leasing the building to DHR is going to cover the debt. He asked for a jail who would be responsible for providing the revenue to retire that debt.

Council Member Palmore made a motion to table a motion directing and empowering the Public Building Authority to take all necessary steps in facilitating construction and financing of a new public safety and judicial complex for the City of Anniston. 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.

Mayor Robinson announced that was the time for the public hearing on the proposed revocation of the business license of Ron Gibson d/b/a Ron Gibson Construction, declared the hearing open and asked if anyone wished to address the Council either in favor of or in opposition to said proposed revocation of the business license of Ron Gibson d/b/a Ron Gibson Construction.

No one addressed the Council either in favor of or in opposition to said proposed revocation of the business license of Ron Gibson d/b/a Ron Gibson Construction.

Mayor Robinson declared the public hearing on the proposed revocation of the business license of Ron Gibson d/b/a Ron Gibson Construction closed.

Mayor Robinson made a motion for the unanimous consent of the Council to introduce and read by title Ordinance Number 10-O-13. The motion was seconded by Council Member Dawson.

Mayor Robinson asked if anyone wished to address the Council either in favor of or in opposition to the introduction and reading by title of Ordinance Number 10-O-13.

No one addressed the Council either in favor of or in opposition to the introduction and reading by title of Ordinance Number 10-O-13.

On call of the roll on Mayor Robinson's motion for the unanimous consent of the Council to introduce and read by title Ordinance Number 10-O-13 and Council Member Dawson's second to said motion the following vote was recorded: ayes: Council

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Members Spain, Palmore, Little, Dawson and Robinson; nays: none. The motion carried.

Unanimous consent of the Council having been granted for the introduction and reading by title of Ordinance Number 10-O-13, Mayor Robinson introduced and read by title Ordinance Number 10-O-13 as follows:

(10-O-13, authorizing the issuance of general obligation refunding and improvement warrants and general obligation recovery zone economic development warrants)

Mayor Robinson introduced and read Resolution Number 10-R-100 as follows:

(10-R-100, reimbursements to City officials for travel expense)

Mayor Robinson made a motion for the passage and adoption of Resolution Number 10-R-100 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 carried and Resolution Number 10-R-100 was passed and adopted.

Council Member Little introduced and read Resolution Number 10-R-101 as follows:

(10-R-101, board appointment, Parks and Rec. Bd)

Council Member Little made a motion for the passage and adoption of Resolution Number 10-R-101 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-101 was passed and adopted.

Council Member Palmore introduced and read Resolution Number 10-R-102 as follows:

(10-R-102, grant application for financial assistance under the EPA Brownfields Assessment Grant Program)

Council Member Palmore made a motion for the passage and adoption of Resolution Number 10-R-102 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-102 was passed and adopted.

Council Member Spain introduced and read Resolution Number 10-R-103 as follows:

(10-R-103, PUD for Alagasco Operations Center)

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Council Member Spain made a motion for the passage and adoption of Resolution Number 10-R-103 as introduced and read. The motion was seconded by Mayor Robinson.

Council Member Little stated he did not if this was legal since Alagasco did not own this property. He stated this resolution would need unanimous consent for immediate consideration.

Council Member Spain stated this was in his ward. He stated he did not believe this was unusual for them to lay ground work for zoning before the built on the property.

General Scott, MDA, stated that Alagasco did not want to spend the money for the property or construction unless the PUD was going to be approved.

Council Member Palmore stated he was not aware that Alagasco did not own the property. He stated he did not think this was legal and the one buying the property did not have the right to ask for this PUD. He stated they needed to do this legally.

Council Member Spain asked the City Attorney if there was anything illegal about this resolution. He stated if Alagasco does not acquire this property then they could rectify the situation.

Council Member Dawson stated this was a Planned Unit Development and was specific for what they had planned this property for. He stated if the plans for the property fall through then property would revert back to its former zoning.

Council Member Palmore stated that he had never known a PUD to operate like this. He stated he did not want to do anything that was illegal. He stated he did not feel comfortable with nobody being responsible for the land.

Mayor Robinson stated that the Alagasco plan was well thought out and would be good for this area. He complimented Jay Jenkins on his work with the Planning Commission.

On call of the roll on Council Member Spain's motion for the passage and adoption of Resolution Number 10-R-103 as introduced and read and Mayor Robinson'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 and Resolution Number 10-R-103 was passed and adopted.

Council Member Palmore introduced and read Resolution Number 10-R-104 as follows:

(10-R-104, declaring certain properties public nuisances)

Council Member Palmore made a motion for the passage and adoption of Resolution Number 10-R-104 as introduced and read. The motion was seconded by Mayor Robinson; and on call of the roll the following vote was recorded: ayes: Council

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Members Spain, Palmore, Little, Dawson and Robinson; nays: none. The motion carried and Resolution Number 10-R-104 was passed and adopted.

Council Member Little introduced and read Resolution Number 10-R-105 as follows:

RESOLUTION NUMBER 10-R-105

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

Section 1. That Don A. Hoyt, City Manager of the City of Anniston be and he is hereby authorized, directed and empowered for and in the name of the City of Anniston to execute a professional consulting and related services contract with Development Solutions, LLC for consulting services related to the City's Community Development Block Grant Program at \$7,000.00 per month for a term of twelve months which may be cancelled on thirty days notice.

Section 2. That Alan B. Atkinson, City Clerk of the City of Anniston be and he is hereby directed to attest the City Manager's execution of said contract and affix the seal of the City thereto.

PASSED AND ADOPTED this the 28th day of September, 2010.

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 10-R-105 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-105 was passed and adopted.

Council Member Spain made a motion to authorize a retail beer (on or off premises) license application for Cecil Lamar and Lori Phillips d/b/a Goal Post BBQ located at 1910 Quintard Avenue. 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.

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Mayor Robinson announced that was the time for the public hearing on an application for a Restaurant Retail Liquor ABC license by Ervin Romine Jr., d/b/a Romines Cane Creek Grill at McClellan, declared the hearing open and asked if anyone wished to address the Council either in favor of or in opposition to said application for a Restaurant Retail Liquor ABC license by Ervin Romine Jr., d/b/a Romines Cane Creek Grill at McClellan.

No one addressed the Council either in favor of or in opposition to said application for a Restaurant Retail Liquor ABC license by Ervin Romine Jr., d/b/a Romines Cane Creek Grill at McClellan.

Mayor Robinson declared the public hearing on an application for a Restaurant Retail Liquor ABC license by Ervin Romine Jr., d/b/a Romines Cane Creek Grill at McClellan closed.

Council Member Spain made a motion to approve an application for a Restaurant Retail Liquor ABC license by Ervin Romine Jr., d/b/a Romines Cane Creek Grill at McClellan. The motion was seconded by Council Member Dawson; and on call of the roll 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 to authorize the revocation of the business license issued to Ron Gibson d/b/a Ron Gibson Construction. The motion was seconded by Council Member Dawson.

Council Member Palmore stated he could not vote on this motion.

Mayor Robinson stated Mr. Gibson has operated without proper licenses in the city. He stated that Mr. Gibson has cost the City money concerning the CDBG home repair program.

On call of the roll on Council Member Little's motion to authorize the revocation of the business license issued to Ron Gibson d/b/a Ron Gibson Construction and Council Member Dawson's second to said motion 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 approve the concept plan for OMG Donuts to be located at 17th Street and Quintard Avenue. 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 approve amendments to FY 2010 General Fund Budget as follows; City Manager and City Council increases by \$40,000, Police Department decreases by \$125,000, Municipal Court decreases by \$40,000, and Parks and Recreation Department increases by \$125,000. The motion was seconded by Council

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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.

LaQuita Mack, Atlanta, addressed the Council concerning a letter she had written to the Justice Department and a human rights organization concerning a drug bust at 1604 Cobb Avenue.

Lisa Baker, 1116 West 17th Street, addressed the Council and stated she worked with CAP. She stated she was inquiring about the equipment that was purchased with Brownsfield Grant Training Program.

Council Member Spain stated he would be responding to Mayor Robinson's comments that he made at his most recent press conference.

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 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 5:40 o'clock p.m.