

11/9/2010

Anniston, Alabama
November 9, 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, November 9, 2010, at approximately 4:03 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 Dawson made a motion to dispense with the reading of and approve the minutes of October 26, 2010. 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 to add to the agenda a motion for an Executive Session to discuss the possible purchase and market value of real property. 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 and Dawson; nays: Mayor Robinson. The motion carried.

Council Member Dawson made a motion to adopt the agenda as amended. 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.

Council Member Dawson introduced and read Ordinance Number 10-O-14 as follows:

(10-O-14, amending Ordinance 98-O-11 which granted a franchise for use of city right-of-way to Interstate Fibernet)

Council Member Dawson made a motion for the unanimous consent of the Council for the immediate consideration of Ordinance Number 10-O-14 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, Dawson and Robinson; nays: Council Member Little. The motion failed.

11/9/2010

Council Member Palmore introduced and read Resolution Number 10-R-119 as follows:

(10-R-119, reimbursements to City officials for travel expense)

Council Member Palmore made a motion for the passage and adoption of Resolution Number 10-R-119 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-119 was passed and adopted.

Mayor Robinson introduced and read Resolution Number 10-R-120 as follows:

RESOLUTION NUMBER 10-R-120

WHEREAS, the owners of all lands abutting on a street or alley hereinafter described have joined in a written instrument to declare said street or alley to be vacated; and

WHEREAS, convenient means of ingress and egress to and from said lands is afforded to all other property owners owning property to the tract of land embraced in the map, plat or survey hereinafter referred to, either by the remaining streets or alleys dedicated by such map, plat or other streets and alleys; and

WHEREAS, the vacation of said part of said street or alley shall not deprive any other property owners of such right as they have to convenient and reasonable means of ingress and egress to and from their property; and

WHEREAS, it is in the public interest of the Council of the City of Anniston, Alabama, to assent to the vacation of said part of said street or alley.

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

Section 1. That the said Council does hereby assent and consent to the vacation of said part of said street or alley, the same being described as follows:

The South 162.5 feet of the North/South Alley between E. 16th Street and E. 16th Street and located between Wilmer Avenue and Noble Street.

Section 2. Provided, however, that this Resolution shall not prejudice the rights of any public utilities or railroads now operating easements, lines, pipes, railways lines, and rights-of-way in the area encompassed by said part of said street whether above ground, at ground level or below ground, it being specifically understood that this vacation is without prejudice as to the rights of such utilities.

PASSED AND ADOPTED this the 9th day of November, 2010.

CITY COUNCIL OF THE CITY OF
ANNISTON, ALABAMA

11/9/2010

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

Mayor Robinson made a motion for the unanimous consent of the Council for the immediate consideration of Resolution Number 10-R-120 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. Unanimous consent of the Council having been given for the immediate consideration of Resolution Number 10-R-120 as introduced and read, Council Member Palmore made a motion for the passage and adoption of Resolution Number 10-R-120 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-120 was passed and adopted.

Council Member Spain introduced and read Resolution Number 10-R-121 as follows:

(10-R-121, declaring vehicles surplus and authorizing their sale)

Council Member Spain made a motion for the passage and adoption of Resolution Number 10-R-121 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-121 was passed and adopted.

Council Member Little introduced and read Resolution Number 10-R-122 as follows:

(10-R-122, Annual Application for Federal/State Assistance for FY 2011 with ALDOT)

Council Member Little made a motion for the passage and adoption of Resolution Number 10-R-122 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 and Dawson; nays: none; abstentions: Mayor Robinson. The motion carried and Resolution Number 10-R-122 was passed and adopted. Council Member Spain introduced and read Resolution Number 10-R-123 as follows:

(10-R-123, redistricting services with East Alabama Regional Planning Commission)

Council Member Spain made a motion for the passage and adoption of Resolution Number 10-R-123 as introduced and read. The motion was seconded by Mayor Robinson; and on call of the roll the following vote was recorded: ayes: Council

11/9/2010

Members Spain, Palmore, Little, Dawson and Robinson; nays: none. The motion carried and Resolution Number 10-R-123 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 Jignesh Patel d/b/a Jay Express Mart located at 1229 Wilmer Avenue. The motion was seconded by Council Member Palmore; 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 Palmore made a motion to approve 101 Towing and Service as an addition to the City of Anniston Wrecker Rotation Program. The motion was seconded by Mayor Robinson.

Jim Pritchett addressed the Council concerning said motion to approve 101 Towing and Service as an addition to the City of Anniston Wrecker Rotation Program.

On call of the roll on Council Member Palmore's motion to approve 101 Towing and Service as an addition to the City of Anniston Wrecker Rotation Program 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.

Mayor Robinson made a motion to grant a waiver on time limit for requesting CDBG Outside Agency funds. The motion was seconded by Council Member Little.

Johnny Byrd, Boys and Girls Club, addressed the Council and stated he thought he had turned in the application on time and there had been a mix up on locating the application after he turned it in. He stated he had resubmitted the application.

Council Member Little asked where the money had been put originally.

Don Hoyt, City Manager, stated he did not know what had happened to the original application. He stated that an additional \$5,000.00 was placed in the Summer Youth Program and when the application came in and before the Council took action he placed the \$5,000.00 in the Boys and Girls Club appropriation.

Council Member Little stated the Council should be made aware if a situation like this arises.

Council Member Dawson asked if they had received the application in the appropriate time.

Mr. Hoyt stated they did not receive the application according to the advertised deadline.

11/9/2010

Council Member Dawson stated the application should be dated as to when it was received.

Council Member Spain stated if they had lost the application then whatever copy had been resubmitted would not be date stamped as to the original submission.

On call of the roll on Mayor Robinson's motion to grant a waiver on time limit for requesting CDBG Outside Agency funds and Council Member Little'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 Dawson stated that in the future any application should be date stamped and a form should be provided to the person submitting the application acknowledging receipt of the document.

Council Member Spain stated they could date and time stamp the cover sheet of the application and return a copy to the person submitting.

Council Member Palmore stated they could have sign in sheet for this purpose.

Council Member Palmore made a motion to approve an invoice from Family Services Center of Calhoun County, Inc. for reimbursement of expenditures as a sub-grantee of the Homelessness Prevention and Rapid Re-Housing Program (HPRP). 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 an invoice from Jason C. Odom, LLC for legal charges regarding Council Inquiry representation of a City employee. The motion was seconded by Council Member Dawson.

Mayor Robinson stated they should pay this invoice. He stated the Council could incur a lawsuit if they do not pay this invoice. He stated a lawsuit could cost much more than this invoice.

Council Member Dawson stated they should not be paying Mr. Allen and Mr. Odom at the same time to represent a City employee.

Council Member Spain stated he was absolutely opposed to the paying of this invoice. He stated if they paid this invoice they would be opening the door for any City employee to retain their own counsel and expect payment to be made for such counsel.

Council Member Dawson stated he thought Mr. Odom was entitled to payment from someone but they could not pay Mr. Allen for sitting there and representing no one at that point while the City employee had engaged Mr. Odom. He stated he was willing to pay one or the other but not both.

11/9/2010

Council Member Spain stated that Mr. Allen was the counsel for the City employees. He stated they approved nothing any different from that. He stated he did not understand how they could be billed for these services that they did not authorize.

Council Member Little stated he could see no basis for paying this invoice. He stated the Council had hired Mr. Allen to represent the employees. He stated that if an employee wanted additional counsel that should have been brought to the attention of the City Manager. He commended the City Attorney for the job he had done involving the Council Inquiry. He stated they should get ready to move forward and conclude the proceedings. He stated he had heard a conversation the other day coming into City Hall by the Mayor saying to include him in any legal action to be taken against the Council. He stated on one hand the Mayor is talking about no legal action but at the same time he was on the phone talking real loud about this Council and to include him on any legal action against the Council because they were after him now and they were after another individual who got de-elected and they were after the both of us but now they are after me and so include him any legal action they want to take against the Council and to also include the City Attorney. He stated he was standing in the office reading the paper and the Mayor was talking so loud they could hear him.

Council Member Dawson made a motion to table Mayor Robinson's motion to approve an invoice from Jason C. Odom, LLC for legal charges regarding Council Inquiry representation of a City employee until legal counsel could determine and advise them as to whether they should pay this invoice and if they could deduct said amount from Mr. Allen's bill. The motion did not receive a second.

Council Member Spain made a motion to table Mayor Robinson's motion to approve an invoice from Jason C. Odom, LLC for legal charges regarding Council Inquiry representation of a City employee until they could bring forth suitable reasoning for the paying the bill. The motion was seconded by Council Member Dawson; and on call of the roll the following vote was recorded: ayes: none; nays: Council Members Spain, Palmore, Little and Robinson; abstentions: Council Member Dawson. The motion failed.

On call of the roll on Mayor Robinson's motion to approve an invoice from Jason C. Odom, LLC for legal charges regarding Council Inquiry representation of a City employee and Council Member Dawson's second to said motion the following vote was recorded: ayes: Council Members Dawson and Robinson; nays: Council Members Spain, Palmore and Little. The motion failed.

Council Member Little made a motion to hire Jacksonville State University to do a survey of the region for the possibility of opening a shuttle service at the airport. The motion was seconded by Council Member Spain.

Council Member Dawson stated they did not know if Jacksonville State University had the ability to perform the survey.

11/9/2010

Council Member Little made a motion to table his motion to hire Jacksonville State University to do a survey of the region for the possibility of opening a shuttle service at the airport until they could find out if Jacksonville State University could perform this survey and what the cost would be. 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, and Dawson; nays: Mayor Robinson. The motion carried.

Council Member Little made a motion to approve the placement of Customer Parking Only signs to be placed on the east side in Parking Lot #4 on 11th Street. The motion was seconded by Council Member Palmore.

Council Member Palmore asked the City Attorney if they could do this.

Council Member Dawson stated the Zoning Ordinance gave the power to make this kind of parking designation in City owned parking lots.

Mr. Thomas, City Attorney, stated that Council Member Dawson had stated where the authority came from for this action and he was not prepared to state today whether this was procedurally the right way to go about it.

Council Member Little stated they could take it before the Planning Commission if that needed to be done.

Council Member Dawson made a motion to table Council Member Little's motion to approve the placement of Customer Parking Only signs to be placed on the east side in Parking Lot #4 on 11th Street with referral to the Planning Commission. The motion was seconded by Council Member Little; and on call of the roll the following vote was recorded: ayes: Council Members Little, Dawson and Robinson; nays: Council Members Spain and Palmore. The motion carried.

Troy Shantylfelt, Champaign Avenue, addressed the Council and stated that before they spent any money on the property on Quintard they should decided how to replace the money they had spent on the Council inquiry.

Johnny Warren, Anniston EMS, addressed the Council and thanked them for vacating the alley.

Dr. Mike Kimberly, 195 Buckner Circle, asked the Council to consider the clean air requests and an updated smoking ordinance.

Council Member Palmore stated he did not understand how his name came up concerning the Council inquiry and the purchase of the former Downtowner property.

11/9/2010

Council Member Little stated that they needed the 25 feet from the doorway in the smoking ordinance. He stated that the Mayor had made a statement that he and the Mayor were on a collision course. He stated he was not going to tolerate the Mayor's actions and threats. He stated he would not let the Mayor provoke him into doing something. He stated the City needed to take action to move forward with information gathered in the Council Inquiry. He stated he would not be tormented and harassed by the Mayor. He stated they should move forward to submit things to the District Attorney to take some action. He stated the inquiry had been conducted in a professional manner.

Council Member Spain stated that if people had issues with the Council Inquiry they should attend so they could see how they are conducted. He asked Mr. Hoyt to have for the next informal agenda a request for an Attorney General's Opinion on the actions of any City Council Member bartering for services in lieu of cash payment for services would violate State Law, to include: spousal abuse, preferential treatment, exceeding authority, unauthorized use of City resources, threat to Council Members, hostile workplace, false statements to law enforcement, making a realtor the official realtor of the City and directing business to the new City employee, bartering with the FOP for expediency versus what is right or wrong in the matter.

Council Member Dawson stated that he had received requests for the removal of the three way stop sign at Hillyer High and Ruby Ridge and stated he would be bringing that forward to the Council for discussion. He stated that Oak Street and Keith Avenue have a three way stop and he had a petition to make that one way.

Council Member Little made motion for an Executive Session to discuss the purchase of and market value of real property. 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 Council went into Executive Session at approximately 5:30 p.m.

Council Member Dawson made a motion the meeting be reconvened. 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 reconvened at approximately 6:00 p.m.

Council Member Dawson made a motion authorizing Ed Isom, attorney, to represent the interests of the City of Anniston, Alabama at the auction to be held on the property formerly known as the Downtowner that is to be held on November 10, 2010. The motion was seconded by Council Member Little; and on call of the roll the following vote was recorded: ayes: Council Members Spain, Little and Dawson; nays: Mayor Robinson; abstentions: Council Member Palmore. 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

11/9/2010

Members Spain, Palmore, Little, Dawson and Robinson; nays: none. The motion carried and the meeting was adjourned at approximately 6:03 o'clock p.m.