

**CULLMAN CITY COUNCIL MEETING
MONDAY, SEPTEMBER 26th, 2011
LUCILLE N. GALIN AUDITORIUM**

Council President Garlan E. Gudger Jr. called the Cullman City Council Meeting to order at 7:00 p.m. on Monday, September 26th, 2011. Mr. Ron Pierce presented the invocation.

A roll call by City Accountant Wesley M. Moore reflected the following: Present - Mayor Max A. Townson, Council Member Andy Page, Council Member Clint Hollingsworth, Council Member Jenny Folsom and President Garlan E. Gudger, Jr. Also present were City Attorney Roy Williams and City Accountant Wesley M. Moore. Absent: Council Member Johnny Cook and City Clerk/Treasurer Ruth W. Rose.

Council President Gudger asked the Council to consider the minutes from September 12th, 2011 and September 14th, 2011. Council Member Folsom made a motion to suspend the rules. Council Member Hollingsworth seconded the motion and the motion was approved by a voice vote. City Accountant Wesley M. Moore polled the Council Members: Council President Gudger: Aye. Council Member Folsom: Aye. Council Member Page: Aye. Council Member Hollingsworth: Aye. Nays: None.

Council Member Folsom made a motion to approve the minutes of September 12th, 2011 and September 14th, 2011 as written. Council Member Hollingsworth seconded the motion and the motion was approved by a voice vote. Ayes: All. Nays: None.

ADDITIONS/DELETIONS TO AGENDA

Council Member Folsom made a motion to add #10 under Roman Numeral IX which is a request from Community Development to apply for the federal "Tiger" grant. Council Member Page seconded the motion and the motion was approved by a voice vote. Ayes: All. Nays: None.

REPORTS OF STANDING COMMITTEES

Council Member Andy Page - Police Committee - No Report.

Council President Garlan Gudger - Fire Committee - Fire Chief Reinhardt introduced Freddie the Fire Truck which will be used to teach children in Cullman about fire safety. President Gudger mentioned that Freddie the Fire Truck has purchased with grant funds.

Council Member Johnny Cook - Sanitation Committee - Absent due to his daughter's surgery.

Council Member Clint Hollingsworth - Street Committee - No Report.

Council Member Jenny Folsom - Finance Committee - Council Member Folsom summarized the City Budget beginning October 1st, 2011 and ending September 30th, 2012 as follows: (1) projected revenues to increase by 13% due to grants and alcohol revenues, (2) projected expenses to increase by 12% due to capital outlay and 3% pay increase, (3) a general fund surplus of \$4,927, (4) increased appropriations for local not-for-profit & government agencies, and (5) started the Cullman Downtown Facade Program for local businesses. Council Member Folsom thanked the department heads and employees for another year of service to the City of Cullman.

SPECIAL COMMITTEE REPORTS

None.

REPORTS OF OFFICERS

Mayor Max A. Townson introduced the City of Cullman's Budget which begins October 1, 2011 and ends September 30, 2012. Mayor Townson thanked the City Council, Mr. Moore, Mrs. Rose and Ms. Quick for their work on the 2011-2012 Budget.

COMMENTS FROM ANYONE NOT ON THE AGENDA

Mr. Larry Ragsdale presented the Mayor and Council with pictures of Downtown Cullman prior to the tornados of April 27th, 2011. Mayor Townson thanked Mr. Ragsdale. Mayor Townson also stated that the pictures will be on display at the Cullman County Museum.

PETITIONS, APPLICATIONS, COMPLAINTS, APPEALS & COMMUNICATIONS

Council President Gudger stated that the request from Jason Moore of Moore's Chevron LLC located at 1701 Cherokee Avenue SW for an approval letter for an off premise beer and wine license will be referred to the Alcohol Review Committee.

Council President Gudger stated that the request from Judy Ann Watts of High Tide Sports Grill located at 1310 2nd Avenue NW for an approval letter for a restaurant retail liquor license will be referred to the Alcohol Review Committee.

Council President Gudger stated that the request from Galea Brown of Brown & Co Beverages located at 5285 AL Highway 157 NW for an approval letter for an off premise beer and wine license will be referred to the Alcohol Review Committee.

Council Member Hollingsworth made a motion to approve the request from Ms. Elizabeth Pylant of Cullman High School for a noise permit and to hold an outside dance on Friday, October 7th, 2011. Council Member Page seconded the motion and the motion was approved by a voice vote. Ayes: All. Nays: None.

Council Member Page made a motion to approve the request from Principal Ernest Hauk of Sacred Heart Schools to close 1st Street SE beginning on September 29th, 2011 at 9:00 a.m. through October 3rd, 2011 for the German Festival. Council Member Folsom seconded the motion and the motion was approved by a voice vote. Ayes: All. Nays: None.

Council Member Folsom made a motion to approve the request from Fire Chief Reinhardt to purchase airline tickets for SWAT Medic training. Council Member Hollingsworth seconded the motion and the motion was approved by a voice vote. Ayes: All. Nays: None.

Council Member Page made a motion to approve the request from Museum Curator Elaine Fuller to transfer funds and purchase a digital camera and scanner. Council Member Hollingsworth seconded the motion and the motion was approved by a voice vote. Ayes: All. Nays: None.

Council Member Hollingsworth made a motion to approve the request from Airport Manager Bob Burns to contract with Good Hope Contracting for paving services at the Cullman Regional Airport not to exceed \$13,000. Council Member Page seconded the motion and the motion was approved by a voice vote. Ayes: All. Nays: None.

Council Member Page made a motion to approve the request from Mr. Ron Pierce of the Cullman Downtown Merchants to close 1st Avenue SE between 4th Street SE and 3rd Street SE and to close the intersection of 4th Street SE and 2nd Avenue SE from 5:30 p.m. until 10:00 p.m. on October 7th, 2011 for Celebrate Oktoberfest

with the Downtown Merchants. Council Member Folsom seconded the motion and the motion was approved by a voice vote. Ayes: All. Nays: None.

Council Member Page made a motion to approve the request from Community Development to apply for the federal “tiger” grant. Council Member Hollingsworth seconded the motion and the motion was approved by a voice vote. Ayes: All. Nays: None.

RESOLUTIONS, ORDINANCES, ORDERS & OTHER BUSINESS

Council Member Folsom made a motion to adopt the following resolution:

RESOLUTION NO. 2011 - 150 TREES SERVICES AT VARIOUS LOCATIONS AWARD BID

WHEREAS, bids were opened on September 15th, 2011 at 2:00 pm for Tree Services located at various locations for the City of Cullman Arborist Department, and the locations were as follows: 16 trees to be cut and 27 stumps to be ground in the City,

WHEREAS, the following bids were opened:

Burk’s Tree Service	Hanceville
	No Bid
B & H Tree Service	Bremen
	No Bid
Colburn’s Tree Service	Cullman
	No Bid
Keller’s Tree Service	Cullman
	9,800.00
Michael’s Tree Service	Addison
	17,150.00
Tommy’s Tree Service	Bremen
	14,275.00
Marshall’s Tree Service	Hanceville
	16,800.00
Discount Tree Service	Crane Hill
	No Bid
Reeves and Son LLC	Vinemont
	11,995.00
A-1 Tree Service	Cullman
	No Bid
Southeast Stump Stompers	Hanceville
	No Bid
Thomas Edge Tree Service	Cullman
	No Bid

WHEREAS, the recommendation from Darrell Johns, Arborist for the City of Cullman is to award the bid to Keller's Tree Service, the lowest bidder.

BE IT RESOLVED by the City Council of the City of Cullman that the bid for tree service be awarded to Keller's Tree Service of Cullman, Alabama at this time.

ADOPTED this the 26th day of September, 2011.

/s/ Garlan E. Gudger, Jr.
President of the City Council

Attest:
/s/ Ruth W. Rose
City Clerk

APPROVED by the Mayor this the 26th day of September, 2011.

/s/ Max A. Townson
Mayor

Council Member Hollingsworth seconded the motion, and the resolution was approved by a voice vote. Ayes: All. Nays: None.

Council Member Page made a motion to adopt the following resolution:

**RESOLUTION NO. 2011 - 151
CHEMICAL OXIDATION AT THE GREIF PROPERTY
AWARD PROPOSAL**

WHEREAS, proposals were opened on September 16th, 2011 for chemical oxidation at the Greif Property.

WHEREAS, the following proposals were opened:

EPSV	Syracuse, NY	No Bid
ExoTech	Monroe, GA	\$171,500
MEC _x	Houston, TX	\$175,900

WHEREAS, the recommendation from Jymayln Redmond, Environmental Manager of Goodwyn, Mills and Cawood, is to award the proposal to ExoTech, the lowest responsible bidder.

BE IT RESOLVED by the City Council of the City of Cullman that the proposal for chemical oxidation at the Greif Property to be awarded to ExoTech of Monroe, Georgia at this time.

ADOPTED this the 26th day of September, 2011.

/s/ Garlan E. Gudger, Jr.
President of the City Council

Attest:
/s/ Ruth W. Rose
City Clerk

APPROVED by the Mayor this the 26th day of September, 2011.

/s/ Max A. Townson
Mayor

Council Member Folsom seconded the motion, and the resolution was approved by a voice vote. Ayes: All.
Nays: None.

Council Member Hollingsworth made a motion to adopt the following resolution:

RESOLUTION 2011-152
RESOLUTION TO VACATE AND DECLARE THE ALLEY
SURPLUS OR NOT NEEDED BY THE CITY OF CULLMAN, ALABAMA

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

WHEREAS, the City Council of the City of Cullman hereby finds and determines that the City is owner of the alley described in Paragraph 2 hereof.

WHEREAS, the City Council finds and determines that this alley is not needed by the City of Cullman for public or municipal purposes, said alley being described as follows:

The “city-owned” alley adjacent to 609 4th Street SE.

WHEREAS, the City Council finds and determines that the interests of the City can be best served by sale or disposal of said property with the restriction that the purchaser must dedicate an easement for the existing Cullman Power Board transmission lines.

BE IT RESOLVED, the City Council hereby authorizes the sell or dispose of the above described property for its fair market value with the restriction that the purchaser must dedicate an easement for the existing Cullman Power Board transmission lines.

This resolution shall be effective upon its passage as required by law.

ADOPTED this the 26th day of September, 2011.

/s/ Garlan E. Gudger, Jr.
President of the City Council

Attest:

/s/ Ruth W. Rose
City Clerk

APPROVED by the Mayor this the 26th day of September, 2011.

/s/ Max A. Townson
Mayor

Council Member Folsom seconded the motion, and the resolution was approved by a voice vote. Ayes: All.
Nays: None.

Council Member Hollingsworth made a motion to adopt the following resolution:

RESOLUTION NO. 2011-153
A RESOLUTION AUTHORIZING THE MAYOR TO ENTER
INTO CONTRACT WITH GOODWYN, MILLS & CAWOOD
FOR PROFESSIONAL SERVICES ON THE CONSTRUCTION
OF A NEW SIXTEEN (16) UNIT T-HANGAR AT THE AIRPORT

WHEREAS, the City Council of the City of Cullman has determined that it would be in it's best interest to enter into a contract with Goodwyn, Mills & Cawood to provide professional services on the construction of a new sixteen (16) unit T-hangar at the Cullman Regional Airport at a total cost not to exceed \$45,000; and

WHEREAS, the scope of work will include but not be limited to professional services on the construction of a new sixteen (16) unit T-Hangar at the Cullman Regional Airport as spelled out in the Professional Services Agreement, Exhibit "A" under Scope of Work, attached hereto; and

WHEREAS, the City Council of the City of Cullman believes that it is in the best interest of the City to enter into the Professional Services Agreement with Goodwyn, Mills & Cawood under the terms as approved by the Mayor;

NOW THEREFORE, BE IT RESOLVED by the City Council for the City of Cullman that Mayor Max A. Townson is hereby authorized to enter into a Professional Services Agreement for professional services and such other necessary documents necessary at a price upon the terms and conditions as set out in the Professional Services Agreement, and to do all other things necessary as he deems just as to said Agreement.

ADOPTED this the 26th day of September, 2011.

/s/ Garlan E. Gudger, Jr.
President of the City Council

ATTEST:
/s/ Ruth W. Rose
City Clerk

APPROVED by the Mayor this the 26th day of September, 2011.

/s/ Max A. Townson
Mayor

Council Member Page seconded the motion, and the resolution was approved by a voice vote. Ayes: All.
Nays: None.

Council Member Folsom made a motion to adopt the following resolution:

RESOLUTION NO. 2011-154
A RESOLUTION AUTHORIZING THE CONSTRUCTION OF RESIDENCES
WITHIN THEIR ORIGINAL FOOTPRINT IN THE CBD DISTRICT

WHEREAS, the City of Cullman was devastated by the tornados of April 27th, 2011, and

WHEREAS, the City of Cullman is one of the many cities still under the Proclamation of Emergency by the Governor of the State of Alabama, and

WHEREAS, the City of Cullman has already drafted and is in the process of amending the Zoning Ordinance to provide relief for property owners which were inhibited with the strict limitations of Sections 60.4(f) and 60.5 concerning Reconstruction of Damaged Buildings or Structures to only 120 days for building permit purposes; and

WHEREAS, many citizens having been delayed by insurance claims, governmental clean-up, the onslaught of demand upon architects and their builders and their availability, and

WHEREAS, in order to relieve the temporary offensive and unattainable time line set out in Section 60.4(f) and 60.5 created by the broad destruction of the City by the tornados of April 27th, 2011;

IT IS HEREBY RESOLVED that any home owners having been using its premises for residential purpose on April 27th, 2011, is hereby granted the right to purchase a building permit without first meeting the requirements of Section 60.4(f) or 60.5 from this date through October 2011 or until Ordinance Number 2011-27 is passed and in effect.

DONE, this the 26th day of September, 2011.

/s/ Garlan E. Gudger, Jr.
President of the City Council

ATTEST:
/s/ Ruth W. Rose
City Clerk

Transmitted to the Mayor this the 26th day of September, 2011.

/s/ Ruth W. Rose
City Clerk

APPROVED by the Mayor this the 26th day of September, 2011.

/s/ Max A. Townson
Mayor

Council Member Hollingsworth seconded the motion, and the resolution was approved by a voice vote. Ayes: All. Nays: None.

Council Member Hollingsworth made a motion to adopt the following resolution:

**RESOLUTION NO. 2011 - 155
A RESOLUTION MAKING APPROPRIATIONS FOR THE
FISCAL YEAR BEGINNING OCTOBER 1, 2011
AND ENDING SEPTEMBER 30, 2012**

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CULLMAN, ALABAMA, AS FOLLOWS:

1. That the General Fund Budget in the amount of \$25,565,427, or so much as may be necessary to defray the expenses and liabilities of the City of Cullman, is hereby appropriated for said purposes as therein specified.
2. That the budget in the amount of \$5,250,000 for the Property and Sales Tax Fund, a major fund, is hereby appropriated for the purposes as therein specified.
3. That the Miscellaneous and Special Fund Budgets in the following amounts: Four Cent Gas Tax Fund - \$93,500; Seven Cent Gas Tax Fund - \$547,500; Lodging Tax Fund - \$168,000; Industrial Purpose Fund - \$12,500; Alabama Trust Fund - \$75,000; Corrections and Court Fund - \$40,000; Industrial Park Fund - \$788,000; Industrial Access Road Fund - \$371,388; Cullman Building Account - \$425,000; Parks and Recreation Construction Fund - \$0; Transportation Enhancement Fund - \$0; Downtown Revitalization Fund - \$275,000; and Debt Service Funds - \$2,264,998, or so much thereof as may be necessary to defray the expenses and liabilities of the City of Cullman, are hereby appropriated for the purposes specified therein.
4. That a budget for expenses for the Sewer Fund in the amount of \$5,323,192; for the Water Fund in the amount of \$10,265,097; for the Utilities Board Water Division in the amount of \$7,746,725; and for the Airport Fund in the amount of \$1,357,160, or so much thereof as may be necessary to defray expenses and liabilities, is hereby appropriated for such purposes as therein specified, together with such expenditures for principal payments and for equipment and capital improvements as authorized by the City Council.
5. That a budget for expenses for the Parks and Recreation Fund in the amount of \$2,774,717, or so much thereof as may be necessary to defray expenses and liabilities, is hereby established for such purposes, together with such expenditures for principal payments and for equipment as may be required.
6. That such amounts (estimated at \$5,172,485) as are required to be transferred between funds for various purposes are hereby appropriated.
7. That adjusted classifications, changes in pay and employee benefits as implemented in these budgets are hereby adopted.

BE IT FURTHER RESOLVED that the Mayor and the Treasurer are authorized to expend such funds as are herein allocated and as may be directed by the City Council from time to time.

BE IT FURTHER RESOLVED that the Mayor and Treasurer are hereby authorized to make such line item adjustments as may be deemed necessary to accurately reflect the expenditures of each department, and as may be directed by the City Council from time to time.

ADOPTED this the 26th day of September, 2011.

/s/ Garlan E. Gudger, Jr.
President of the City Council

Attest:

/s/ Ruth W. Rose

City Clerk

APPROVED by the Mayor this the 26th day of September, 2011.

/s/ Max A. Townson
Mayor

Council Member Page seconded the motion, and the resolution was approved by a voice vote. Ayes: All.
Nays: None.

The following Ordinance was introduced in writing by Council President Gudger:

ORDINANCE NO. 2011-28
ORDINANCE AUTHORIZING AND PROVIDING FOR THE ISSUANCE
OF \$228,424.39 GENERAL OBLIGATION WARRANT
OF THE CITY OF CULLMAN, ALABAMA

BE IT ORDAINED by the City Council of the City of Cullman, Alabama (hereinafter called the "Council") as follows:

SECTION 1. Findings. The Council, which is the governing body of the City of Cullman, Alabama (hereinafter called the "City"), has heretofore ascertained and found and does hereby declare that it is necessary and desirable and in the public interest that the City refund the Airport Hanger Loan (hereinafter called the "Improvements"); that the estimated total cost will be \$228,424.39, that in order to finance a refinance of the Improvements, it will be necessary for the City to provide for the payment in installments and in evidence thereof to issue its \$228,424.39 General Obligation Warrant (hereinafter called the "Warrant"), payable serially in installments over a period of years.

SECTION 2. Authorization. Pursuant to the applicable provisions of Sections 11-47-2 and 11-81-2, as amended, *Code of Alabama*, 1975, and for the purpose of refinancing the Hanger Loan for the Airport Board, the City is hereby authorized to issue Premier Bank of the South, Cullman, Alabama, 35055, (hereinafter sometimes called the "Bank"), the City's \$228,424.35 General Obligation Warrant. The Warrant shall be dated the date of its issuance (which shall be the date on which the loan evidenced thereby is made) shall be payable (as to both principal and interest) to Premier Bank of the South at the address herein above set forth, or such address as Bank designates, shall mature, come due, and shall be payable as follows:

- a. Principal and interest shall be paid in 120 consecutive monthly installments of \$2,167.70 with the first payment of principal and interest being due and payable on the 4th day of October 2011, and with a like and similar sum being due and payable on the same day of each month thereafter until paid in full.
- b. Beginning with the first payment and continuing on the unpaid balance until paid in full, the General Obligation Warrant shall bear a fixed interest rate of 2.6%.

Section 3. Regarding Prepayment. The City shall have the privilege of prepaying all or any part of the principal of the Warrant without penalty.

Section 4. Execution. The Warrant shall be executed on behalf of the City by its Mayor and the seal of the City shall be affixed to the Warrant and attested by the City Clerk. The said Mayor and City Clerk are hereby authorized and directed to execute the Warrant and to affix the seal thereto, all in accordance with the provision of this Section and Section 7 hereof.

Section 5. General Obligation Pledge. The indebtedness evidenced and ordered paid by the Warrant is and shall be a general obligation of the City for payment of the principal of and the interest on which the full faith and credit of the City are hereby irrevocably pledged.

Section 6. Form of Warrant. The Warrant shall be in substantially the following form, with appropriate insertions, omissions, and other changes to comply with the provisions hereof and to reflect the appropriate date:

***UNITED STATES OF AMERICA
STATE OF ALABAMA
THE CITY OF CULLMAN
REVENUE WARRANT***

The City of Cullman, a public corporation organized and existing under the laws of Alabama (the "Borrower"), for value received hereby promises to pay to Premier Bank of the South or its registered assigns noted hereon and on the registration records of the Borrower, but solely out of the revenues hereinafter described, the principal sum of \$228,424.39 on or before the 31st day of October, 2021, together with interest on said sum from the date hereof at the rate of 2.6% per annum payable with principle monthly until paid in full: (1) The principal of and interest on this Warrant are payable in lawful money of the United States of America at the principal office of the said payee in Cullman, Alabama, at par.

The Borrower reserves the right to prepay this Warrant at any time before maturity at its option by the payment of the principal amount hereof plus interest accrued hereon to the date of such prepayment, without penalty.

This Warrant is issued pursuant to Article 1 of Chapter 81 Title 11 of the Code of Alabama, 1975, and a resolution and proceedings of the governing body of the Borrower duly passed, held and conducted on the 26th day of September, 2011, for the purpose of providing funds to pay the repayment of the Hanger Loan of the Airport Board. The principal of and interest on the Warrant is payable solely out of the general revenues of the City of Cullman remaining after payment of all operation and maintenance expenses thereof, and the general faith and credit of the Borrower are not pledged to the payment of the principal of or interest on this Warrant.

IT IS HEREBY RECITED, CERTIFIED AND DECLARED that the obligation evidence by this Warrant will be lawfully due without condition, abatement or offset of any description, and that all conditions, acts and things required by the Constitution and laws of the State of Alabama to happen, exist or be performed precedent to or in the issuance of this Warrant and the adoption of the resolution authorizing its issuance have happened, do exist and have been performed as so required.

IN WITNESS WHEREOF, the Borrower has caused this Warrant to be executed in its name and on its behalf by the Mayor of the City of Cullman and its official seal to be hereunto affixed and attested by its City Clerk/Treasurer and has caused this Warrant to be dated the 26th day of September, 2011.

*/s/ Max A. Townson, Mayor
City of Cullman*

ATTEST:

*/s/ Ruth W. Rose
Its: City Clerk/Treasurer*

OWNERSHIP REGISTRATION CERTIFICATE

The principal of an interest on this obligation will be paid only to the named payee, or its registered assigns as shown hereon and on the books of the Borrower maintained for that purpose by its undersigned registrar. (No writing hereon except by registrar.)

Registered Owner

*/s/ Max A. Townson
Mayor*

*/s/ Ruth W. Rose
City Clerk/Treasurer*

Adopted this the 26th day of September, 2011.

*/s/ Garlan E. Gudger, Jr.
President of the City Council*

ATTEST:

*/s/ Ruth W. Rose
City Clerk*

APPROVED this the 26th day of September, 2011.

*Max A. Townson
Mayor*

Council Member Folsom moved that unanimous consent be given for immediate consideration of and action on said Ordinance, which motion was seconded by Council Member Page and upon the said motion being put to vote, the following vote was recorded:

YEAS:

NAYS:

ABSENT:

Garlan E. Gudger, Jr, Council President
Jenny Folsom, Council Member
Andy Page, Council Member
Clint Hollingsworth, Council Member

None

Johnny Cook, Council Member

The president thereupon declared that the motion for unanimous consent for immediate consideration of and action on said Ordinance had been unanimously carried. Council Member Folsom thereupon moved that the Ordinance be finally adopted, which motion was seconded by Council Member Hollingsworth and, upon the said motion being put to vote, the following vote was recorded:

YEAS:

NAYS:

ABSENT:

Garlan E. Gudger, Jr, Council President
Jenny Folsom, Council Member
Andy Page, Council Member
Clint Hollingsworth, Council Member

None

Johnny Cook, Council Member

ADOPTED this the 26th day of September, 2011.

/s/ Garlan E. Gudger, Jr.
President of the City Council

ATTEST:

/s/ Ruth W. Rose
City Clerk

Council President Gudger stated that tonight is the first reading of Ordinance 2011-29 - To rescind Ordinance No. 2007-22 and to establish a new emergency water conservation plan for the City of Cullman, Alabama:

**ORDINANCE NO. 2011-29
AN ORDINANCE TO RESCIND ORDINANCE NO. 2007 - 22
AND TO ESTABLISH A NEW EMERGENCY WATER
CONSERVATION PLAN FOR THE
CITY OF CULLMAN, ALABAMA**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CULLMAN, AS FOLLOWS:

PARAGRAPH 1

Ordinance No. 2007-22, an Ordinance to establish an Emergency Water Conservation Plan for the City of Cullman, Alabama adopted by the Cullman City Council on July 23, 2007, is hereby rescinded and repealed.

PARAGRAPH 2

A new Emergency Water Conservation Plan is hereby adopted, which reads in its entirety as follows:

THE EMERGENCY WATER CONSERVATION PLAN FOR THE CITY OF CULLMAN WATER DISTRIBUTION SYSTEM

Section 100.00 Scope. There is hereby established an Emergency Water Conservation Plan to be placed in effect fully, or any part thereof, when needed.

Section 100.01 Declaration of Policy. It is hereby declared that, because the conditions prevailing in the Cullman Water Plant from which the System obtains its water supply, the general welfare requires that the water resources available to the System be put to a maximum beneficial use possible, and that the waste or unreasonable use of water be prevented, and the conservation of such water is to be exercised for the reasonable and beneficial use of the customers of the System and for the public welfare.

Section 100.02 Declaration of Urgency. Should there be a need for conservation measures to be enacted, the Cullman Water Plant Superintendent will advise the Superintendent of the City of Cullman Water Distribution System who shall then consult with the Mayor of the City of Cullman. If it is found that there exists within its System a water shortage emergency condition and that as a result there is an urgent necessity to take action to protect the public peace, health, and safety of the System from a public disaster or calamity, the Mayor shall then declare the appropriate phase of water conservation enacted as set out in this Plan.

Section 100.03 Declaration of Purpose. The purpose of this Ordinance is to provide a mandatory water conservation plan to minimize the effect of a shortage of water to customers of the System thereby extending the water available for the customers of the System while reducing the hardship on the System and the general public to the greatest extent possible.

Section 100.04 Definitions. The following words and phrases, whenever used shall be construed as defined in this section unless from the context a different meaning is intended or unless a different meaning is specifically defined within individual sections.

- i. "System" means The City of Cullman Water Distribution System including both wholesale and retail customer
- ii. "Section" means a section of this Plan unless some other Plan is specifically mentioned.
- iii. "City Council" means the City Council of the City of Cullman.
- iv. "Customer" means any person, persons, association, corporation, or governmental agency supplied or entitled to be supplied with water service by the Cullman Water Distribution System.
- v. "Ordinance" means this Ordinance providing for "The Emergency Water Conservation Plan for the City of Cullman Water Distribution System."
- vi. "Officer" means every person designated as an official or acting on behalf of the City of Cullman Water Distribution System.

- vii. "His" as used herein includes masculine, feminine, or neuter, as appropriate.
- viii. "Mayor" means the Mayor of the City of Cullman.
- ix. "Process Water" means water used to manufacture, alter, convert, clean, heat, or cool a product, or the equipment used for such purpose; water used for plant and equipment washing and for transporting the raw materials and products; and water used to grow trees and plants for sale or installations.
- x. "Base Period" means that period of time over which the base is computed.
- xi. "Base" means the minimum bill as set by the System.
- xii. "Billing Unit" means the unit amount of water used to apply water rates for the purpose of calculating commodity charges for customer's water usage.
- xiii. "Residential Customer" means single and multi-family dwelling used for living quarters, for one or more individuals including apartments, residential houses, duplexes, and multi-family housing.
- xiv. "Purchase system" means a wholesale distribution system owned and operated by a government corporation or member association whom have water contracts with the City of Cullman.

Section 100.05 Authorization. The various officers, council, departments, bureaus, boards and agencies of the System are hereby authorized to immediately implement the applicable provisions of this Plan upon the effective date hereof.

Section 100.06 Application. The provisions of this Plan shall apply to all customers and property served by the System wherever situated, and shall also apply to all property and facilities owned, maintained, operated or under the jurisdiction of the various officers, boards, departments, and bureaus or agencies of the System.

Section 100.07 Water Conservation Phases. No customer of the System shall make, cause, use, or permit the use of water from the System for residential, commercial, industrial, poultry farmers (the meter must be separate from the residence) and livestock farmers, governmental or any other purpose in a manner contrary to or in an amount in excess of that use permitted by the conservation phase then in effect pursuant to action taken by the Mayor of the City of Cullman. The purchase systems will be notified at a two foot trigger level before any action level. Phases will be enacted based upon water level in Lake Catoma, *i.e.*, Phase I - 10 feet below full pool; Phase II - 15 feet below full pool; Phase III - 20 feet below full pool; Phase IV - 25 feet below full pool; Phase V - 30 feet below full pool; and Phase VI - 35 feet below full pool. Phases shall be enacted by the Mayor of the City of Cullman through a joint recommendation between the Cullman Water Plant Superintendent and the City of Cullman Water Distribution System Superintendent.

A. Phase I

1. The Mayor after consultation with the Superintendent of the City of Cullman Water Distribution System may, in his discretion, call for customers to voluntarily conserve their water usage below their normal consumption.

B. Phase II

1. Prohibited Uses Applicable to all Customers

- a. There shall be no hose washing of sidewalks, walkways, driveways, or parking areas, pressure washing of homes or businesses, except that flammable or other dangerous substances may be disposed of by direct hose flushing for the benefit of public health and safety.
- b. No water shall be used to clean, fill, or maintain levels in swimming pools except at hospitals or fitness centers when those are used for medical purposes. No filling decorative fountains unless such water is part of a recycling system.
- c. No charity car washes. Any business allowing a charity car wash shall be fined not less than \$200.00 nor more than \$500.00 per day.
- d. No customer of the System shall permit water to leak from any facility on his premises; failure to affect a timely repair of any leak shall subject said customer to all penalties provided herein for waste of water.
- e. Limited lawn, landscape, or other turf areas including vegetable or flower gardens other than commercial nurseries shall be watered or irrigated using water from the System on Tuesday. Athletic fields may be watered between 4:00 p.m. and 9:00 p.m. on Wednesday. Watering of tees and greens from the City's water supply by golf courses may be allowed on Friday between the hours of 1:00 a.m. and 5:00 a.m. We reserve the right to lock out your meter if you violate this provision.
- f. Limited washing of automobiles, trucks, tractors, trailers, or any other vehicle or part thereof will be permitted until normal conditions are reinstated, on Tuesday.
- g. Violators of any of the above restrictions shall be subject to a minimum fine of \$200.00 per day and a maximum fine of \$500.00 per day. Each day is a separate offense.

2. Customer Percentage Curtailment No customer shall make, cause; use, or permit the use of water from the System for any purpose in an amount in excess of ninety percent (90%) of the amount used during the base period, except that process water may be used to the extent of ninety percent (90%) of the base period. During this Phase, there will a temporary fifteen percent (15%) rate increase above the minimum bill amount applied to each customer.

C. Phase III

1. Prohibited Uses Applicable to all Customers. No use of water may be made contrary to the provisions of Subsection 100.07B.
2. Customer Percentage Curtailment. No customer shall make, cause, use, or permit the use of water from the System for any purpose in an amount in excess of eighty-five percent (85%) of the amount used during the base period, except that process water may be used to the extent of eighty-five percent (85%) of the base period. During this Phase, there will be a temporary twenty-five percent (25%) rate increase above the minimum bill amount applied to each customer

D. Phase IV

1. Prohibited Uses Applicable to all Customers. No use of water may be made contrary to the provisions of Subsection 100.07B.

2. Customer Percentage Curtailment. No customer shall make, cause, use, or permit the use of water from the System for any purpose in an amount in excess of eighty percent (80%) of the amount used during the base period, except that the process water may be used to the extent of eighty percent (80%) of the base period. During this Phase there will be a temporary thirty-five percent (35%) rate increase above the minimum bill amount applied to each customer.
3. No irrigation/lawn watering or residential vehicle washing allowed.

E. Phase V

1. Prohibited Uses Applicable to all Customers. No use of water may be made contrary to the provisions of Subsection 100.07B.
2. Customer Percentage Curtailment. No customer shall make, cause, use, or permit the use of water from the System for any purpose in an amount in excess of seventy-five percent (75%) of the amount used during the base period, except that process water may be used to the extent of seventy-five percent (75%) of the base period. During this Phase there will be a temporary forty percent (40%) rate increase above the minimum bill amount applied to each customer.
3. No irrigation/lawn watering or residential vehicle washing allowed.

F. Phase VI

1. Prohibited Uses Applicable to all Customers. No use of water may be made contrary to the provisions of Subsection 100.07B.
2. Customer Percentage Curtailment. No customer shall make, cause, use, or permit the use of water from the System for any purpose in an amount in excess of seventy percent (70%) of the amount used during the base period, except that process water may be used to the extent of seventy percent (70%) of the base period. During this Phase, there will be a temporary forty-five percent (45%) rate increase above the minimum bill amount applied to each customer.
3. No irrigation/lawn watering or residential vehicle washing allowed.

- G. Exception. The prohibited use of water from the System provided for by Subsection 100.07 A.1, B.1 and 2, C.1 and 2, D.1, 2 and 3, E.1, 2 and 3, and F.1, 2 and 3 of this Section are not applicable to that use of water necessary for public health and safety or for essential governmental services such as police, fire, and other similar emergency services.

Section 100.08 Conservation Phase Implementation

- C. Phase Change Initiation. The Cullman Water Plant Superintendent shall monitor and evaluate the projected supply and demand for water by its customers monthly and shall recommend to the City of Cullman Water Distribution System the extent of the conservation required by the customers of the System in order for the Plant to prudently plan for and supply water to its customers. The Cullman Water Plant Superintendent and the City of Cullman Water Distribution Superintendent shall in turn recommend the appropriate phase of water conservation to be implemented. Thereafter, the Mayor of the City of Cullman may order that the appropriate phase of water conservation be implemented. Said order shall be made by public proclamation and shall be published one time only in a daily newspaper of general circulation and shall become effective

immediately upon such publication. The customer percentage curtailment provisions shall take effect with the first full billing period commencing on or after the effective date of the public proclamation by the Mayor of the City of Cullman.

Section 100.09 Failure to Comply.

A. Penalties. It shall be unlawful for any customer of the System to fail to comply with any of these provisions. The penalties for failure to comply shall be as follows:

1. Violations

- a. For the first violation by any customer of the System of any of the provisions of Subsections B.1, C.1, D.1, E.1, or F.1 of Section 100.07, the proper official shall issue a written notice of the fact of such violations to the customer and a \$200.00 dollar charge will be imposed. The City may lock the meter of the violator if found to be watering their lawn on days not permitted. The City may in addition chose to install at property owners expense a flow regulator on the meter.
- b. For a second violation by any customer of the System of any of the provisions of Subsections B.1, C.1, D.1, E.1, or F.1 of Section 100.07, the proper official shall issue a written notice of the fact of such second violation to the customer and a \$500.00 dollar charge will be imposed. The City may lock the meter of the violator if found to be watering their lawn on days not permitted. The City may in addition choose to install, at property owners expense, a flow regulator on the meter.
- c. For the third violation by any customer of the System of any of the provisions of Subsections B.1, C.1, D.1, E.1, or F.1 of Section 100.07, the proper official shall issue a written notice of the fact of such third violation to the customer and a \$500.00 dollar charge will be imposed and a \$500.00 dollar charge for each additional violation, the City may disconnect water supply to violator. In the event of water disconnection a fee of Fifty Dollars (\$50 00) will be charged if restoration of normal service is performed during the hours of 7:30 a.m. to 3:00 p.m. on regular working days. If restoration of normal service is made after regular hours, on holidays, or weekends the restoration service charge shall be Eighty Dollars (\$80.00).
- d. For any subsequent violation by any customer of the System of any of the provisions of Subsections B.1, C.1, D.1, E.1, and F.1 of Section 100.07 within the preceding twelve (12) calendar months, the proper official can discontinue water service to that customer at the premises at which the violation occurred for a period up to the end of the declaration of the water emergency. In the event of water disconnection a fee of Fifty Dollars (\$50.00) will be charged if restoration of normal service is performed during the hours of 7:30 a.m. to 3:00 p.m. on regular working days. If restoration of normal service is made after regular working hours, on holidays, or weekends the restoration service charge shall be Eighty Dollars (\$80.00). The City may lock violators meter if found to be watering the lawn on days not permitted.

B. The proper official shall give notice of each violation to the customer committing such violation as follows:

1. For any violation of the provisions of Subsections B.1 through F.1 of Section 100.07 or for a first or second violation of the provisions of Subsections B.1 through F.1 of

Subsection 100.07, the proper official may give written notice of the fact of such violation to the customer personally or by regular mail.

2. If the penalty assessed is or includes the installation of a flow restrictor or the discontinuance of water service to the customer for any period of time whatever, notice of the violation shall be given in the following manner:

- a. By giving written notice thereof to the customer personally;
- b. If the customer is absent from or unavailable at his place of residence, by leaving a copy with some person of suitable age and discretion and sending a copy through the United States Mail addressed to the customer at his place of residence; or
- c. If such place of residence cannot be ascertained or a person of suitable age or discretion there cannot be found, then by affixing a copy in a conspicuous place on the property where the failure to comply is occurring and also by delivering a copy to a person there residing if such person can be found, and also by sending a copy through the United States Mail addressed to the customer at the place where the property is situated.

3. Said notice shall contain, in addition to the facts of the violation, a statement of the penalties for each violation and a statement informing the customer of his right to a hearing on the violation.

C. Hearing. Any customer against whom a penalty is levied pursuant to this Section shall have a right to a hearing in the first instance by the Supervisor with the right of appeal by City of Cullman customers to the City Council; if a county water department customer, the Cullman County Commission; or if for other customers, the Board appointed or elected to represent the water users. All appeals shall be on the merits of the alleged violation upon the written request of that customer to the System within fifteen (15) days of the date of notification of the violation.

D. Reservation of Right. The rights of the System hereunder shall be in addition to any other right of the System to discontinue service.

Section 100.10 Relief from Compliance.

D. Administrative Relief. Any customer who is dissatisfied with the application of any of the provisions of this Plan as the same relates to him may seek relief as set forth below:

The System shall have the power upon the filing by a customer of an application for relief as herein provided, to take such steps as it deems reasonable and to set up such procedures as it considers necessary to resolve said application for relief prior to the submission of said application to an appeal.

In determining whether relief shall be granted, the System and the appeal boards shall take into consideration all relevant factors including, but not limited to:

1. Adjustments to water use caused by emergency health and safety hazards;
2. Water use necessary for reasons related to family illness or health.

No relief shall be granted to any customer for any reason in the absence of a showing by the customer that he has achieved the maximum practical reduction in water consumption in his

residential, except for commercial (although no exceptions for commercial irrigation), industrial, and poultry and livestock farming, or governmental water consumption as the case may be, other than in the specific area in which relief is being sought.

No relief shall be granted to any customer who, when requested by the System, fails to provide the System with information whereby the service provided to him can be classified. No relief shall be granted to any customer who fails to file an application for relief within one (1) year of the date of the application of the provisions of this Chapter from which he seeks relief.

If a resolution of the application for relief is mutually agreed upon between the System and the customer, the agreement and the fact of concurrence therewith shall be in writing subscribed by the customer.

- B. Curtailement Relief Limitation. A customer may seek relief as herein provided from any application of the provisions of the Subsection G of Section 100.07 as they adversely affect him at any time after any of such provisions are in effect. During any subsequent phase which may hereinafter be imposed, a customer may seek relief as herein provided only as to the issue of whether that customer committed the particular act or acts or omitted to perform the particular act or acts as alleged by the System.
- C. Willful Misrepresentation. Notwithstanding any other provisions of law, and in addition thereto, and not in lieu thereof, any willful misrepresentation of a material fact by any person to the System or to any appeal board established pursuant to this Chapter, made for the purpose of securing relief from the provisions of this Chapter for any customer is unlawful; and a violation of the Subsection shall be punishable by a fine not exceeding the sum of Five Hundred Dollars (\$500.00) or by imprisonment for a period not to exceed six (6) months or by both such fine and imprisonment.

Section 100.11 General Provision.

- E. Enforcement. The Water System shall enforce the provisions of this Plan.
- F. Department to Give Effect to Legislative Intent. The System shall provide water to its customers in accordance with the provisions of this Plan and in a manner reasonably calculated to effectuate the intent hereof.
- G. Reduction in Water Supplied. If any customer fails to comply with any provision of this Plan, the System may reduce the amount of water provided to that customer to the level, which that customer would be using if he were complying with the provisions. The provisions of the Subsection shall be applied in lieu of, or in addition to any other penalties provided in this Plan in the discretion of the System and shall be applied without regarding to the status or nature of the customer.
- D. Public Health and Safety Not to be Affected. Nothing contained in this Plan shall be construed to require the System to curtail the supply of water to any customer when, in the discretion of the System or an appeals board such water is required by that customer to maintain an adequate level for public health and safety.

PARAGRAPH 3

This Ordinance shall be effective upon its adoption and publication as provided by law.

Council President Gudger stated that no action will be taken on Ordinance No. 2011-29 at this time.

Council Member Hollingsworth made a motion to adjourn. Council Member Folsom seconded the motion and the meeting was adjourned at 7:41 p.m. by a voice vote. Ayes: All. Nays: None.