

CULLMAN CITY COUNCIL
REGULAR MEETING
August 24TH , 2009

The Mayor and Council met in the council chambers at 6:30 pm. Mayor Townson and all Council Members were present.

The Cullman City Council met in regular session on August 10th , 2009 at 7:00 o'clock p.m. in the Cullman City Hall Auditorium. Council President Garlan Gudger called the meeting to order, and Reverend Ruland, St. Paul's Lutheran Church presented the invocation.

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

Council Member Cook made a motion to suspend the rules in order to consider the minutes from the meeting on August 10th , 2009. Council Member Folsom seconded the motion and motion carried on roll call. Ayes: Council Members Page, Cook, Gudger, Folsom and Hollingsworth. Nays: None.

Council Member Cook then moved to approve the minutes as written and Council Member Page seconded the motion. Motion was approved by a voice vote. Ayes: All Nays: None.

ADDITIONS/DELETIONS TO AGENDA

Council Member Cook requested to add item numbers 9 and 10 under Roman Numeral X. Resolution 2009-111 authorizing Gallet & Associates the authority to proceed with testing for vacant pool property and park property according to LWCF requirements. Item 10 being the approval for Mr. Nick Greenwood, Attorney for Duck River Project to proceed with water contracts with independent water systems. A motion was made by Council Member Cook to add these 2 items under Roman Numeral X to the agenda and the motion was seconded by Council Member Folsom. Motion carried on a voice vote. Ayes: All. Nays: None.

REPORTS OF STANDING COMMITTEES

Council Member Andy Page - Police Committee - No report.

Council President Gudger - Fire Committee - Open house and ribbon cutting was held on Saturday for the new fire station on Main. Refreshments were served and Chief Hackney thanked everyone for coming by to show their support. President Gudger said all had fund especially the children with the stickers and water bottles.

Council Member Cook - Sanitation Committee -No report.

Council Member Clint Hollingsworth - Street Committee - No report.

Council Member Jenny Folsom - Finance Committee - No report.

REPORTS OF OFFICERS

Mayor Max A. Townson - No Report.

COMMENTS FROM ANYONE NOT ON THE AGENDA

None.

PETITIONS, APPLICATIONS, COMPLAINTS, APPEALS & COMMUNICATIONS

A written request by Elaine Fuller and Chris Van Dyke to host the 3rd Annual Oktoberfest 5 K Run on Saturday, October 10th, 2009. The 2nd Avenue NE Street would need to be closed from 7:00 AM until noon. Chief Culpepper said this would be fine with his department. A motion was made by Council Member Folsom to approve the request and Council Member Hollingsworth seconded the motion. The request was approved by a voice vote. Ayes: All. Nays: None.

A written request from Deanie Penney, representing the Cullman County Historical Society, to host a Front Porch Tour on Saturday, October 10th, 2009. Mrs. Penney was present to explain this event was being held on 6th Avenue SE from 9:00 AM until 1:00 PM. The Betts Addition area. Everyone on the street agrees to the closing except for one resident. Chief Culpepper came to the podium to view the map she presented. He said there must be total agreement from all residents due to blocking people from their home. Chief Culpepper suggested Mrs. Penney go back to all residents to agree and give permission to close the street. Council Member Folsom made a motion to table the request until the next meeting. Council Member Hollingsworth seconded the motion and motion carried on a voice vote. Ayes: All. Nays: None.

A written request from John and Rachel McPhillips to have their property at Magic Farms annexed into the City of Cullman. Mr. Rick Fulmer, Building Inspector Supervisor, suggested getting a packet describing annexation procedures to all residents who live in the area of Magic Farms. Mayor Townson suggested getting Jerry Freeman to prepare the information for the residents. Council Member Cook asked Mr. Fulmer if the entire area being brought in at one time would be easier to annex. Some residents who do not touch the water and touch other property could be annexed at this time. The fire and police service could be handled better by more residents being annexed. This request from the McPhillips was referred to the City of Cullman Planning Commission.

Mr. Robert Tidwell, Jr., representing Northbrook Church, was present to request permission to host the 2nd Annual 5 K Run on September 12th, 2009. Chief Culpepper has reviewed the request and feels they have reached a compromise regarding Eva Road. The runners will be on the side of the road and the road will not be closed. A motion to approve the request was made by

Council Member Cook and seconded by Council Member Hollingsworth. The request was approved by a voice vote. Ayes: All. Nays: None.

Mr. John Sellers, Director of Cullman County Parks and Recreation, was present to ask permission to host a fireworks show at Sportsman Lake Park on New Year's Eve. He has talked to Fire Chief Hackney who referred to the Mayor and Council. Cullman County owns the park which is located within the City of Cullman. Eric Parker, Premier Pyrotechnics, who will be performing the show was also present to answer any questions. This is the 6th Annual Christmas Lights Show. Last year around 4,000 cars toured the event. The fire works show would be a closing for the Christmas Lights week event. The event would be at 7:00 PM and both the Fire Chief and Police Chief reviewed the request. The Fire Marshall will inspect the scene before the event and the fire works will be shot over the lake for protection. A motion to approve the request was made by Council member Cook and seconded by Council Member Hollingsworth. The motion was approved by a voice vote. Ayes: All. Nays: None.

The Police Department made a request to have the electrical changes made to the new building in the amount of \$910.00 to be paid from special funds to K & M Electrical Contractors. A motion was made by Council Member Page to approve the request. The motion was seconded by Council Member Folsom and the motion passed on a voice vote. Ayes: All. Nays: None.

A motion to approve extra cabinets for the new police building was made by Council Member Cook. Hall Woodworks gave a price of \$300.00 to be paid by special police funds for the project. The motion was seconded by Council Member Folsom. The motion carried on a voice vote. Ayes: All. Nays: None.

The motion to approve new appliances in the amount of \$4,068.85 for the new police station was made by Council Member Folsom. This will be paid out of special funds to Luyben and Boike Appliances. Council Member Page seconded the motion and motion was approved by a voice vote. Ayes: All. Nays: None.

The next request is for 4 Keltec Sub2000 Guns for the police department for an estimated \$1,600.00 from One Stop Pawn and Gun Shop. A motion to approve this purchase from special police funds was made by Council Member Cook and seconded by Council Member Hollingsworth. The motion was approved by a voice vote. Ayes: All. Nays: None.

There were no bids received on August 19th, 2009 for a Police Dare vehicle. The vehicle was to be paid from special funds. No action was required on this item.

RESOLUTIONS, ORDINANCES, ORDERS AND OTHER BUSINESS

Council Member Cook made a motion to approve a resolution authorizing Mayor Townson to work with Goodwyn, Mills and Cawood, Inc. on the project of clean up of the Greif Brothers Property The following resolution was read:

RESOLUTION NO. 2009-105 RESOLUTION AUTHORIZING CONTRACT FOR PROFESSIONAL

**SERVICES FOR EXPANDED PHASE II ENVIRONMENTAL SITE
ASSESSMENT FOR GREIF BROTHERS FACILITY**

WHEREAS, GOODWYN, MILLS AND CAWOOD, INC. has presented a proposal to provide professional services related to Environmental Site Assessment at Greif Brothers Facility hereafter referred to as the "Project"

WHEREAS, the City has considered the scope of work included in the proposal and the estimated costs are not to exceed \$34,500; and

WHEREAS, the City Council finds that it is in the best interest of the City to proceed with the work set out in the proposal and should be completed within 90 days.

THEREFORE, BE IT RESOLVED by the Cullman City Council that the Mayor is hereby authorized to execute an agreement with **Goodwyn, Mills and Cawood, Inc.** for and on behalf of the City of Cullman to perform the services related to the Project as set out in the proposed agreement for services.

ADOPTED this the 24th day of August, 2009.

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

ATTEST:

/s/ Ruth W. Rose
City Clerk

Transmitted to the Mayor this the 24th day of August, 2009.

/s/ Ruth W. Rose
City Clerk

APPROVED by the Mayor this the 24th day of August, 2009.

/s/ Max A. Townson
Mayor

Council Member Page seconded the motion and motion passed with a voice vote. Ayes: All. Nays: None.

A motion was made by Council Member Folsom to approve the following resolution:

RESOLUTION 2009-106

WHEREAS, the **City of Cullman and the Cullman County Commission** in a joint partnership are eligible to submit an application for funding assistance through the U.S. Department of Transportation (DOT), Transportation Investment Generating Economic Recovery (TIGER) discretionary fund and

WHEREAS, this grant will focus on the widening of Alabama State Highway 157 from the intersection of Alabama Highway 31 to the intersection of Alabama Highway 69 and

WHEREAS, this project has been a top priority project for the Cullman area for many years and has the full support of the city council and

WHEREAS, Mayor Max A. Townson, is hereby authorized on behalf of the **City of Cullman** to sign any and all documents relating to this grant application.

Passed, adopted and approved on **24th day of August, 2009**

/s/ Max A. Townson, Mayor

/s/ Garlan E. Gudger, Jr., Council President

/s/Andy Page, Council Member

/s/ John W. Cook, Council Member

/s/ Jenny Folsom, Council Member

/s/ Clint Hollingsworth, Council Member

ATTEST:

SEAL

/s/ Ruth W. Rose, City Clerk

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

President Gudger asked Mr. Robert Tidwell to come forward to present the next request. Mr. Robert Tidwell, representing Axsys Technologies, explained the new expansion and the reason for the request for tax abatement for this business. There are 9 people being relocated from Michigan with the hope of creating 20 new jobs. This abatement does not have any effect on educational ad valorem taxes. The request is for a 10 year abatement. Council Member Cook made a motion to approve the following resolution:

**Resolution 2009-107
Tax Abatement for Axsys Technologies Expansion**

This Resolution is made this 24th day of August, 2009 by the **City of Cullman**, Alabama, to grant a tax abatement for **Axsys Technologies**.

WHEREAS, **Axsys Technologies** has announced plans for expansion of over \$2 million and could create over 20 jobs in the near future and is located within the jurisdiction of the City of Cullman; and

WHEREAS, pursuant to the Tax Incentive Refprm Act of 1992 (Section 40-9B-1 et seq., Code of Alabama 1975) (the Act), **Axsys Technologies** has requested from the City of Cullman as Abatement of all state and local non-educational ad valorem taxes, all construction related transaction taxes, except those construction related transaction taxes levied for educational purposes or for capital improvements for education, and all mortgage and recording taxes; and

WHEREAS, **Axsys Technologies** has requested that the abatement of state and local non-educational ad valorem taxes be extended for a period of 10 years, in accordance with the Act; and

WHEREAS, The City of Cullman has considered the request from **Axsys Technologies**' application to be sufficient to permit the City of Cullman to make a reasonable cost/benefit analysis of the project and to determine the economic benefits to the community; and

WHEREAS, the construction of the project will involve capital investment of \$2,500,000; and

WHEREAS, **Axsys Technologies** is duly qualified to do business in the State of Alabama, and has powers to enter into, and to perform or observe the agreements and covenants on its part contained in the Tax Abatement Agreement; and

WHEREAS, the City of Cullman represents and warrants to **Axsys Technologies** that it has power under the constitution and laws of the State of Alabama (including particularly the provisions of the Act) to carry out provisions of the Tax Abatement Agreement;

NOW THEREFORE, be it resolved by the City of Cullman as follows:

Section 1. Approval is hereby given to the application of **Axsys Technologies** and abatement is hereby granted of all state and local non-educational ad valorem taxes, all construction related transaction taxes, except those construction related transaction taxes levied for educational purposes or for capital improvements for education and all mortgage and recording taxes as the same may apply to the fullest intent permitted by the Act. The period of abatement for the non-educational ad valorem taxes shall extend for a period of 10 years measured as provided in Section 40-9B-3(h) of the Act.

Section 2. The Mayor and City Council Members for the City of Cullman is authorized to enter into the abatement agreement with **Axsys Technologies** to provide for the abatement granted in Section 1.

Section 3. A certified copy of this resolution, with the application and abatement agreement, shall be forwarded to **Axsys Technologies** to deliver to the appropriate local taxing authorities and to the Alabama Department of Revenue in accordance with the Act.

Section 4. The Mayor and City Council Members of the City of Cullman are authorized to take any and all actions necessary or desirable to accomplish the purpose of the foregoing of this resolution.

I hereby certify that the foregoing was duly adopted by the City of Cullman, of Alabama at a City Council Meeting held on the 24th day of August, 2009.

/s/ Garlan E. Gudger, Jr. President
Cullman City Council

ATTEST:

/s/ Ruth W. Rose, City Clerk

Transmitted to the Mayor this 24th day of August, 2009.

/s/ Ruth W. Rose, City Clerk

APPROVED by the Mayor this 24th day of August, 2009.

SEAL

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

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

The next item on the agenda was the awarding of a bid to Mitch Smith Chevrolet for a truck for the water department. Council Member Folsom made a motion to approve the following resolution:

RESOLUTION NO. 2009-108
Water Truck Bid Award

WHEREAS, bids were opened on August 20, 2009 for a 4X4 Crew Cab Pick Up Truck for the City of Cullman Water Department, and

WHEREAS, the following bids were opened from 2 vendors:

Eckenrod Ford	\$27,700.00
Mitch Smith Chevrolet	27,500.00

WHEREAS, the recommendation from Junior Heaton, Water and Sewer Superintendent is to award the bid to Mitch Smith Chevrolet, the lowest bidder.

BE IT RESOLVED by the City Council of the City of Cullman, Alabama that the bid for the truck be awarded to Mitch Smith Chevrolet at this time.

ADOPTED this the 24th day of August, 2009.

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

ATTEST:

/s/ Ruth W. Rose
City Clerk

Transmitted to the Mayor this the 24th day of August, 2009.

/s/ Ruth W. Rose
City Clerk

APPROVED by the Mayor this the 24th day of August, 2009.

/s/ Max A. Townson
Mayor

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

Council Member Cook made a motion to approve the following resolution which awards the bid to G.&C. Water Works for materials for stock for the water department. It is as follows:

RESOLUTION NO. 2009-109
Water Materials Bid Award

WHEREAS, bids were opened on August 21, 2009 for Materials for stock for the City of Cullman Water Department, and

WHEREAS, the following bids were opened from 6 vendors:

Empire Pipe & Supply	\$45,164.27
Ferguson Water Works	38,608.92
G. & C. Water Works	38,347.64
H. D. Supply	40,633.98
Summit Pipe and Supply	39,267.64
Vellano Brothers	42,102.50

WHEREAS, the recommendation from Junior Heaton, Water and Sewer Superintendent is to award the bid to G. & C. Water Works, the lowest bidder.

BE IT RESOLVED by the City Council of the City of Cullman, Alabama that the bid for the Materials be awarded to G. & C. Water Works at this time.

ADOPTED this the 24th day of August, 2009.

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

ATTEST:

/s/ Ruth W. Rose
City Clerk

Transmitted to the Mayor this the 24th day of August, 2009.

/s/ Ruth W. Rose
City Clerk

APPROVED by the Mayor this the 24th day of August, 2009.

/s/ Max A. Townson
Mayor

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

Council Member Cook made a motion to adopt the following resolution to prevent identity theft in the Water Department:

RESOLUTION 2009-110
ADOPT IDENTITY THEFT PREVENTION PROGRAM

WHEREAS, the Federal Trade Commission has adopted a rule, commonly known as the Red Flag Rule, 16 C.F.R. Part 681, which implements Section 114 of the Fair and Accurate Credit Transaction Act of 2003, to require every financial institution and creditor to establish an identity theft prevention program.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Cullman, Alabama that the policies attached hereto and titled City of Cullman Identity Theft Prevention Program are hereby adopted and shall be implemented upon adoption with respect to the City's ongoing effort to detect, prevent and mitigate identity theft.

Adopted this the 24th day of August, 2009.

/s/ Max A. Townson, Mayor

/s/ Garlan E. Gudger, Jr., President

/s/ Andy Page, Council Member

/s/ John W. Cook, Council Member

/s/ Jenny Folsom, Council Member

/s/ Clint Hollingsworth, Council Member

ATTEST:

SEAL

/s/ Ruth W. Rose, City Clerk

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

The following zoning ordinance was read for the first reading and a public hearing is set for September 28th, 2009 at 7:00 PM after the legal advertisements have been completed:

ORDINANCE NO. 2009-18

**AN ORDINANCE TO AMEND THE ZONING ORDINANCE
OF THE CITY OF CULLMAN TO PROVIDE ADDITIONAL
CONDITIONAL USES IN BUSINESS ZONE FOR TATTOOING,
BRANDING AND BODY PIERCING**

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

SECTION 1. Under the authority of Chapter 52, Articles 1 through 4, Section 11-5-1 through 11-52-54, Code of Alabama, 1975, as amended, and Article XI of the Zoning Ordinance of the City of Cullman Zoning Ordinance Number 2004-03, as hereby amended as follows:

SECTION 2. The paragraph entitled Conditional Use: in Section 70.5 B-3 General Business District of said Zoning Ordinance is hereby amended by deleting the current paragraphs which read as follows:

CONDITIONAL USE: Churches and similar places of worship, public schools; private schools having curricula substantially the same as that ordinarily provided in public schools; libraries; fire stations; hospitals and animal hospitals; banks; doctor and dentist offices; professional buildings; funeral homes; automotive service stations; planned shopping centers; rental apartment buildings with five (5) or more units; public buildings; public transportation; manufacturing incidental to retail business where articles are sold at retail on the premises; places of amusement and assembly; mini-warehouse units and similar items so designated by the Planning Commission which comes within the spirit or intent of the Zoning District.

No Building Permit or Certificate of Occupancy shall be issued by any of the items listed under Conditional Use except upon the written approval of the Planning Commission and subject to the approval of the site and development plan by the Planning Commission, in accordance with SECTION 81.0 and 103.3 of this Ordinance.

and by substituting the following paragraph which read as follows:

CONDITIONAL USE: Churches and similar places of worship; public schools; private schools having curricula substantially the same as that ordinarily provided in public schools; libraries; fire stations; hospitals and animal hospitals banks; doctor and dentist offices; professional buildings; funeral homes; automotive service stations; planned shopping centers; rental apartment buildings with five (5) or more units; public buildings; public transportation; manufacturing incidental to retail businesses where articles are sold at retail on the premises; places of amusement and assembly; mini-warehousing units, similar items so designated by the Planning Commission which comes within the spirit or intent of the Zoning District, and tattooing facilities as defined by Title 22-17A-1, Code of Alabama, 1975, as amended, subject to the following restrictions:

1. Restrictions for Tattoo Facilities: It shall be prohibited for any tattoo facility to be located within a B-3 Zone which at the time of the approval is within 1,000 feet of any park, church, public school, private school, kindergarten, daycare, public pool, athletic facility or ball facility, amusement park, miniature golf course, theater, library, places of amusement, public tennis courts, or other facilities which in the judgment of the Planning Commission, minors under the age of eighteen (18) years generally frequent or are encouraged to attend or are in the general spirit or intent of the above prohibited areas.

No Building Permit or Certificate of Occupancy shall be issued by any of the items listed

under Conditional Use except upon the written approval of the Planning Commission and subject to the approval of the site and development plan by the Planning Commission, in accordance with Section 81.0 and 103.3 of this Ordinance.

SECTION 3. All other provisions of Zoning Ordinance of the City of Cullman, as amended, shall remain in full force and effect.

SECTION 4. All Ordinances or parts of Ordinances in conflict herewith are to the extent of such conflict repealed.

SECTION 5. The section, paragraph, sentence, clause, word, and phrase of the Ordinance are severable, and if any phrase, clause, word, 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, phrase, clause, word, sentence or section since the same would have been enacted by the City of Council without incorporation of such unconstitutional paragraph, phrase, clause, word, sentence, or section.

SECTION 6. This Ordinance shall take effect upon it's adoption and publication as required by law.

ADOPTED this the 28th day of September, 2009.

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

ATTEST:

/s/ Ruth W. Rose
City Clerk

Transmitted to the Mayor this the 28th day of September, 2009.

/s/ Ruth W. Rose
City Clerk

APPROVED by the Mayor this the 28th day of September, 2009.

/s/ Max A. Townson
Mayor

Item #8 on the agenda is Board Appointments. Council Member Cook made a motion to reappoint Mr. Morgan Edwards to the Personnel Board for another 6 year term. Council Member Hollingsworth seconded the motion and motion was approved by a voice vote. Ayes: All. Nays:

None.

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

RESOLUTION NO. 2009-111

RESOLUTION AUTHORIZING CONTRACT FOR PROFESSIONAL SERVICES FOR NEPA EVALUATION FOR OLD CULLMAN POOL SITE AND PARK CONVERSION FOR LWCF SCREENING PROPOSAL:09-1268

WHEREAS, Gallet & Associates have presented a proposal to provide professional services related to National Environmental Policy Act at vacant land on First Avenue for a new park and on Fourth Avenue NE where the old Cullman Pool property was vacated hereafter referred to as the "Project"

WHEREAS, the City has considered the scope of work included in the proposal and the estimated costs are not to exceed \$4,800.00; and

WHEREAS, the City Council finds that it is in the best interest of the City to proceed with the work set out in the proposal to meet the requirements of Land and Water Conservation Fund (LWCF).

THEREFORE, BE IT RESOLVED by the Cullman City Council that the Mayor is hereby authorized to execute an agreement with **Gallet & Associates** for and on behalf of the City of Cullman to perform the services related to the Project as set out in the proposed agreement for services.

ADOPTED this the 24th day of August, 2009.

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

ATTEST:

/s/ Ruth W. Rose
City Clerk

Transmitted to the Mayor this the 24th day of August, 2009.

/s/ Ruth W. Rose
City Clerk

APPROVED by the Mayor this the 24th day of August, 2009.

/s/ Max A. Townson
Mayor

Council Member Hollingsworth seconded the motion and motion was approved by a voice vote.

Ayes: All. Nays: None.

Council Member Page made a motion to authorize the Mayor to work with Mr. P. Nicholas Greenwood, General Bond Counsel for Hand Arendall, to prepare water contracts for the independent systems. Council Member Cook seconded the motion and motion was approved by a voice vote. Ayes: All. Nays: None.

Being no further business to come before the Mayor and Council a motion was made by Council Member Hollingsworth to adjourn. The motion was seconded by Council Member Page and meeting was adjourned at 7:35 pm.