

CULLMAN CITY COUNCIL
REGULAR MEETING
February 28th, 2011

The Mayor and Council Members have scheduled three Public Hearings for Alcohol Sales Licenses tonight which began at 6:00 P.M. Mayor Townson and Council Member Johnny Cook were absent. President Gudger The Public Hearings were held in the Lucille N. Galin Auditorium. The ARC Board Members were also present.

President Pro-Tem Jenny Folsom called the meeting to order. She announced the first public hearing was opened for Joe's Freeway Exxon, located at 6390 Alabama Highway 157 NW, Cullman, AL. The request was for the convenience store to sell beer and wine for off premise consumption. There were no objections to the request and Mr. Joe Sinclair was present to support the application. President Folsom closed the public hearing.

President Folsom opened the next public hearing for Lombardo's Pasta Bar located at 202 First Avenue SE, Cullman, AL. The request was for on premise consumption of beer and wine. There was no response in objection to the permit. Russell and Martha Lombardo were present in favor of the request. President Folsom closed the public hearing.

The final public hearing was opened for New China Buffet located at 6092 Alabama Highway 157 NW. The request was for on premise consumption of beer. President Folsom asked anyone to come forward for or against the permit. There was no response. She then closed the public hearing.

President Pro-Tem Folsom said the ARC Board will review the applications at this point and the Council will review the board's recommendations at the 7:00 P.M. tonight.

The Cullman Economic Development Meeting was held while the ARC Board dismissed to the conference room for review of the applications.

The Council Members had a short meeting with Mr. Jason Neal, Liberty National Manager, to discuss the City of Cullman's cafeteria plan for employees.

The Cullman City Council met in regular session on Monday, February 28th, 2011 at 7:00 p.m. in the Lucille N. Galin Auditorium. Council President Garlan Gudger called the meeting to order and Police Chief Culpepper presented the invocation.

A roll call by the City Clerk reflected the following. Present - President Garlan E. Gudger, Jr, Council Member Andy Page, Council Member Jenny Folsom and Council Member Clint Hollingsworth. President Gudger stated that Mayor Townson was in Washington DC and Council Member Cook was out of town. Also present were City Attorney Roy Williams and City Clerk Ruth W. Rose.

Council Member Folsom made a motion to suspend the rules in order to consider the minutes from the meeting on February 14th, 2011 and take immediate action. Council Member Page seconded the motion and the motion carried on a roll call vote. Council Member Page: Aye, Council President Gudger: Aye. Council Member Folsom: Aye. Council Member Hollingsworth: Aye. Nays: None.

Council Member Folsom then moved to approve the minutes as written on February 14th, 2011 and Council Member Hollingsworth seconded the motion. Motion was approved by a voice vote. Ayes: All Nays: None.

ADDITIONS/DELETIONS TO AGENDA

Council Member Hollingsworth made a motion to delete item #7 under Roman Numeral X, which was an ordinance amending the procedure for appointing department heads, superintendents, board members or other officers of the City of Cullman. Council Member Folsom seconded the motion and the item was deleted from the agenda 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 - No Report.

Council Member Johnny Cook - Sanitation Committee- Absent

Council Member Clint Hollingsworth - Street Committee - No Report

Council Member Jenny Folsom - Finance Committee - No Report

REPORTS OF OFFICERS

Mayor Max A. Townson - Absent

COMMENTS FROM ANYONE NOT ON THE AGENDA

None.

Recommendations from the ARC Board

President Gudger said the ARC Board gave a favorable recommendation for Joe's Freeway Exxon located at 6390 Alabama Highway 157 NW, who requested a license for retail sale of beer and wine for off premise consumption. Council Member Folsom made a motion to approve the request and Council Member Hollingsworth seconded the motion. The motion was approved by a voice vote. Ayes: All. Nays: None.

The next favorable recommendation was from Lombardo's Pasta Bar located at 202 First Avenue SE requesting to sale wine and beer for on premise consumption. President Gudger asked what was the pleasure of the council? Council Member Page made a motion to approve the request and Council Member Folsom seconded the motion. The motion was approved by a voice vote. Ayes: All. Nays: None.

President Gudger said the ARC Board gave a favorable recommendation for New China Buffet located at 6092 Alabama Highway 157 NW to sell beer for on premise consumption. Council Member Folsom made

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

President Gudger thanked the ARC Board Members for their work and dedication to this process. He also gave them permission to leave if they so desired.

PETITIONS, APPLICATIONS, COMPLAINTS, APPEALS & COMMUNICATIONS

Council Member Page made a motion to approve a request from Mr. Drew Nelson, Project Engineer for Utility Engineering Consultants, LLC, to re-bid the Austin Avenue Gravity Sewer Project. Council Member Folsom seconded the motion. The contract has not been signed by Midsouth Trenchless, Inc and it has been delayed for over 12 weeks. The request was approved by a voice vote. Ayes: All. Nays: None.

Council Member Hollingsworth made a motion to table a request from Ms. Tami Crook, Fairview High School Prom Sponsor, who requested to close Clark Street on Friday, April 8th, 2011 at 9:00 A.M. Council Member Folsom seconded the motion. There are some questions regarding the closing of the street for all day Friday and how the tent will be installed on the pavement. The motion was tabled by a voice vote. Ayes: All. Nays: none.

Council Member Folsom made a motion to table the request from Mr. Kyle Doty for a noise permit for Depot Park for May 7th, 2011. Council Member Page seconded the motion. There was discussion regarding the large crowd attending and the ending time of the concert. The motion was tabled by a voice vote. Ayes: All. Nays: None.

President Gudger read a request from Roger Turner and Tony Wilkins to have 12.6 acres re-zoned from B2 to E1. This request will be sent to the Planning Commission for review.

Council Member Folsom made a motion to approve the purchase of a car for Darrell Johns, Arborist, from the ADECA Surplus Office in the amount of \$4,400.00. She also announced the ADECA Surplus Office located in Eva will be closing soon. Council Member Hollingsworth seconded the motion and the purchase was approved by a voice vote. Ayes: All. Nays: None.

President Gudger read a request from Andy Heis, Desperation Church, to hold an Easter Egg Hunt in Depot Park on April 23rd, 2011 from 11:00 A.M. until 2:00 P.M. The church also wants to use the vacant property next to Depot Park for the egg drop from a helicopter. Council Member Hollingsworth made a motion to approve the request and Council Member Folsom seconded the motion. Police Chief Culpepper said he will help address the safety issues. The request was approved by a voice vote. Ayes: All. Nays: None.

Council Member Folsom made a motion to approve the request from Mr. Junior Heaton, Water Superintendent, to take bids for water materials to replenish stock. Council Member Page seconded the motion and the motion was approved by a voice vote. Ayes: All. Nays: None.

President Gudger said the next request was from Dana Phillips, Court Clerk and Daniel Hunt, IT Manager, to have the exterior doors in the City Hall Building retrofitted or replaced to allow electronic control entry. A price quote from Sharp Communications of \$42,297 falls under the \$50,000 bid limit. Council Member

Folsom made a motion to approve the request and Council Member Hollingsworth seconded the motion. The funds to pay for this project will be taken from special court funds allocated for security of the courtroom. The request was approved by a voice vote. Ayes: All. Nays: None.

RESOLUTIONS, ORDINANCES, ORDERS AND OTHER BUSINESS

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

RESOLUTION NO. 2011-61

**RESOLUTION AUTHORIZING CHANGE ORDER NO. 3,
U.S. HIGHWAY 278 STREETScape PHASE II
TRANSPORTATION ENHANCEMENT PROJECT NO. STPTE-TE08 (903)**

WHEREAS, The City of Cullman has heretofore awarded a contract for the U.S. Highway 31 Streetscape Phase II to Powe General Contracting, LLC.; and

WHEREAS, It has been determined that a change order to the contract is necessary as follows:

- | | |
|--|------------|
| 1. Change the Electric Service Location from Private Buildings | \$3,268.58 |
| This project being a 80% State and 20% City - Local funds | 653.72 |

THEREFORE, BE IT RESOLVED by the City Council of the City of Cullman that the Mayor be, and is hereby, authorized to execute Change Order No.3 now before the Council at an increased amount \$3,268.58 of the contract, on behalf of the City of Cullman.

ADOPTED this 28th day of February, 2011.

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

Attest:

/s/ Ruth W. Rose
City Clerk

APPROVED this 4th day of March, 2011.

/s/ Max A. Townson
Mayor

Council Member Page seconded the motion to adopt the resolution. 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. 2011-62

**RESOLUTION AUTHORIZING CHANGE ORDER NO. 2,
U.S. HIGHWAY 278 STREETScape PHASE III
TRANSPORTATION ENHANCEMENT PROJECT NO. STPTE-TE09 (968)**

WHEREAS, The City of Cullman has heretofore awarded a contract for the U.S. Highway 278 Streetscape Phase III to Powe General Contracting, LLC.; and

WHEREAS, It has been determined that a change order for two locations of electric service mountings to the contract is necessary as follows:

1. Change Electric Power Service from a Building Mount to a Frame Mount	\$6,539.16
This project being a 80% State and 20% local City Funds	1,307.83

THEREFORE, BE IT RESOLVED by the City Council of the City of Cullman that the Mayor be, and is hereby, authorized to execute Change Order No. 2 now before the Council at an increased amount \$6,539.16 of the contract, on behalf of the City of Cullman.

ADOPTED this 28th day of February, 2011.

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

Attest:

/s/ Ruth W. Rose
City Clerk

APPROVED this 4th day of March, 2011.

/s/ Max A. Townson
Mayor

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

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

**RESOLUTION 2011-63
AUTHORIZING THE MAYOR TO APPLY FOR A GRANT
TO PURCHASE A RECYCLING TRUCK AND EQUIPMENT
BETWEEN THE CITY OF CULLMAN AND ADEM**

WHEREAS, the Cullman City Council authorizes the Mayor to sign application for a grant from ADEM in the amount of up to \$300,000 ; and

WHEREAS, the Cullman Council Members are aware of the terms and conditions in the grant agreement obligating the City of Cullman for no local matching funds; and

WHEREAS, the City Council deems it appropriate to apply for this grant for the City of Sanitation Department to purchase a Recycling Truck and Recycling Equipment.

THEREFORE, BE IT RESOLVED by the City Council that the Mayor is hereby authorized to execute the grant application now before this Council on behalf of the City of Cullman.

ADOPTED this the 28th day of February, 2011.

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

ATTEST

/s/ Ruth W. Rose
City Clerk

Transmitted to the Mayor this the 4th day of March, 2011.

/s/ Ruth W. Rose
City Clerk

APPROVED by the Mayor this the 4th day of March, 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 Folsom made a motion to approve the following resolution:

**RESOLUTION 2011-64
AUTHORIZING THE MAYOR TO ACCEPT GRANT OF \$220,000
BETWEEN THE CITY OF CULLMAN AND ADECA**

WHEREAS, the Cullman City Council authorizes the Mayor to sign and accept a grant from ADECA in the amount of \$220,000 ; and

WHEREAS, the Cullman Council Members are aware of the terms and conditions in the grant agreement obligating the City of Cullman to provide the necessary information; and

WHEREAS, the City Council deems it appropriate to accept this grant for the City of Cullman Police Department for emergency vehicles; and

THEREFORE, BE IT RESOLVED by the City Council that the Mayor is hereby authorized to execute the grant agreement now before this Council on behalf of the City of Cullman.

ADOPTED this the 28th day of February, 2011.

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

ATTEST

/s/ Ruth W. Rose
City Clerk

Transmitted to the Mayor this the 4th day of March, 2011.

/s/ Ruth W. Rose
City Clerk

APPROVED by the Mayor this the 4th day of March, 2011.

/s/ Max A. Townson
Mayor

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 adopt the following resolution which will change the next city council meeting date:

RESOLUTION 2011-65

Resolution Authorizing Change of Regular Scheduled Meeting Date

WHEREAS, The City of Cullman has heretofore scheduled meeting dates of the second and fourth Monday of each month; and

WHEREAS, It has been determined that the Mayor and Council Members will be in Washington DC on March 14th, 2011 and that date will be changed to March 7th, 2011 for the regular city council meeting.

THEREFORE, BE IT RESOLVED by the City Council of the City of Cullman that the date be hereby amended.

ADOPTED this 28th day of February, 2011.

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

Attest:

/s/ Ruth W. Rose
City Clerk

APPROVED this 4th day of March, 2011.

/s/ Max A. Townson
Mayor

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

President Gudger read the first reading for Ordinance 2011-13 declaring surplus property located at 711 Second Avenue NE. The house and lot are not needed by the City of Cullman. No action was taken on the first reading of the ordinance.

ORDINANCE NO. 2011-13

**AN ORDINANCE DECLARING CERTAIN
CITY PROPERTY SURPLUS OR NOT NEEDED
FOR PUBLIC OR MUNICIPAL PURPOSES**

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

1. The City Council of the City of Cullman hereby finds and determines that the City is the owner of property described in Paragraph 2 hereof.

2. The City Council finds and determines that the house and lot located at **711 Second Avenue NE**, is not needed by the City of Cullman for public or municipal purposes, said property being described as follows:

Begin 80.7 feet South of the point of intersection of the South line of Eighth Avenue and Second Avenue East which is the Southeast Corner of Lot Number Eleven in the Griswold Addition to Cullman, Alabama, thence Westwardly along the South line of Lot Number 11, 134 feet; thence 88 degrees 45' right for a distance of 136.7 feet to a point on the South line of Eighth Avenue 143.2 feet to the point of intersection with the West line of Second Avenue East 80.7 feet to the point of beginning. Situated in Cullman County, Alabama.

A one-half interest in an unnamed street 40 feet wide, beginning at the West line of Second Street and extending West along the North edge of Lot 19 in Griswold's Addition, a distance of 144.5 feet. Situated, lying and being in Cullman County, State of Alabama.

3. The City Council finds and determines that the interests of the City can best be served by sale of said property, provided the buyer dedicates an easement to the City for existing utilities, if any, in the property to be vacated by the City Council.

4. The City Council orders and directs that the property be appraised by a certified appraiser to determine its fair market value.

5. The City Council hereby authorizes the Mayor to execute a deed conveying the above described property to the highest bidder, in consideration of dedication of any required utility easement to the City, and in consideration of payment of at least the appraised value of the property to be conveyed, together with the costs to the City associated with vacation, appraisal and conveyance of said property.

6. This ordinance shall be effective upon its passage and publication as required by law.

ADOPTED this the 7th day of March, 2011.

President of the City Council

Attest:

City Clerk

Transmitted to the Mayor this the 7th day of March, 2011.

City Clerk

APPROVED this the 7th day of March, 2011.

Mayor

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

RESOLUTION NO. 2011 - 66
Rescue Tools for the Fire Department
Bid Award

WHEREAS, bids were opened on February 25th, 2011 at 2:00 pm for rescue tools for the City of Cullman Fire Department,

WHEREAS, the following bids were opened:

NAFECO	Decatur, AL	24,788.00
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WHEREAS, the recommendation from Edward Reinhardt, Chief for the City of Cullman Fire Department, is to award the bid to NAFECO, the sole responding bidder.

BE IT RESOLVED by the City Council of the City of Cullman that the bid for rescue tools be awarded to NAFECO at this time.

ADOPTED this the 28th day of February, 2011.

/s/ Max A. Townson
President of the City Council

Attest:

/s/ Ruth W. Rose
City Clerk

APPROVED by the Mayor this the 4th day of March, 2011.

/s/ Max A. Townson
Mayor

Council Member Folsom seconded the motion. President Gudger asked Fire Chief Reinhardt to explain the grant agreement. Chief Reinhardt explained the City of Cullman will only pay 5% of the total expense of \$24,788. The approval was made by a voice vote. Ayes: All. Nays: None.

Council Member Hollingsworth made a motion to adjourn and Council Member Folsom seconded the motion. The meeting was adjourned at 7:35 P.M. by a voice vote. Ayes: All. Nays: None.