

**CULLMAN CITY COUNCIL
REGULAR MEETING
May 9th, 2011
7:00 P.M.**

The Mayor and Council Members met with local downtown business owners who had damaged buildings from the tornado on April 27th, 2011. The meeting began at 5:30 P.M. and was a very informative meeting with several sources for good information. There were discussions on rebuilding, restoring and sources of help with style or facade for businesses located on the same street. There were also discussions on underground wiring. Mike Manning, Director of Cullman Power Board, was present to answer questions.

President Gudger called the Cullman City Council Meeting to order at 7:00 P.M. Fire Chief Reinhardt presented the invocation.

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

President Gudger asked Mr. Roy Williams, City Attorney, if all three sets of written minutes could be considered with one motion. Mr. Williams said if any Council Member had any questions or issues with the minutes. There were none. He then said it would be permissible to approve all the minutes with one motion.

Council Member Cook made a motion to suspend the rules in order to consider the minutes from the meetings on April 25th, April 28th and May 4th, 2011 and take immediate action. Council Member Folsom seconded the motion and the motion carried on a roll call vote. Council Member Page: Aye. Council Member Cook: Aye. Council President Gudger: Aye. Council Member Folsom: Aye. Council Member Hollingsworth: Aye. Nays: None.

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

ADDITIONS/DELETIONS TO AGENDA

None.

REPORTS OF STANDING COMMITTEES

Council Member Andy Page - Police Committee - Council Member Page commented on the outstanding job from all departments and he asked Police Chief to update the group. Chief Culpepper asked for patience with the students returning to school for their first day today since the tornado. Signs have been erected to help direct traffic around East Elementary School. The traffic problems have gotten better.

Council President Garlan Gudger - Fire Committee - President Gudger stated the command post spearheaded by Fire Chief Reinhardt has been moved back to station #1. There will be personnel stationed

at the command post to continue distributing water and tarps to the public.

Council Member Johnny Cook - Sanitation Committee- Thanks to all who are working so hard.

Council Member Clint Hollingsworth - Street Committee - He is so amazed at the progress of all the departments being made daily. He asked Mr. Rick Henry, Street Department Superintendent, to update the group. Mr. Henry said his employees are moving brush and debris. They are working long hard hours and will continue until the job is completed.

Council Member Jenny Folsom - Finance Committee - She does not have an estimate of the projected costs of the tornado damages. All sources of financial help are being contacted such as FEMA, SBA, ADECA and other state agencies. A report will be made when the information is available. Governor Bentley and his staff have been very helpful and offer support for rebuilding the City of Cullman.

REPORTS OF OFFICERS

Mayor Max A. Townson - Thanked all department heads for the long hard hours. He also thanked the Cullman Power Board. He noted the Discovery Channel crew have been filming in this area. Mayor Townson said this is not a sprint but a marathon. He asked for patience and understanding from residents until work can be completed in all areas. President Gudger thanked Cullman Jefferson Gas Employees for getting gas back on in some on the downtown areas. All departments are working toward the same goal.

COMMENTS FROM ANYONE NOT ON THE AGENDA

None

PUBLIC HEARINGS

President Gudger opened the public hearing for Ordinance 2011-19 Re-zoning property owned by Mr. Rodger Turner and Mr. Tony Wilkins to E-1 (Entertainment District). There were no responses when asked for supporters or people against this request. President Gudger then closed the public hearing.

The next public hearing was opened for Ordinance 2011-18 Re-zoning of property owned by Judy Ross and Tommy Ross (Frances Nearen Estate) to E-1 (Entertainment District). President Gudger asked for anyone against this request to come to the podium to speak. There were none. He asked for supporters of this request to come to the podium. There were none. The public hearing was then closed.

PETITIONS, APPLICATIONS, COMPLAINTS, APPEALS & COMMUNICATIONS

Mr. Gary Sanders of Pinson requested a noise permit for a fund raiser to be held on Saturday, June 11, 2011 beginning at 1:00 P.M. until 9:00 P.M. The event will be held at the Fairgrounds. The proceeds will be given to the American Red Cross. Mr. Sanders said United Way did not want to participate with event due to the possibility of alcohol being served. Mr. Sanders said the concessions will not offer alcoholic beverages. Police Chief Culpepper and Fire Chief Reinhardt did not have a problem with the traffic. Council Member Folsom asked Mr. Sanders to get approval from the Cullman County Commission. Council Member Folsom made a motion to approve the request pending the approval from the Cullman

County Commission with an ending time of 9:00 P.M. for the noise permit. Council Member Hollingsworth seconded the motion and the motion was approved by a voice vote. Ayes: All. Nays: None.

Council Member Folsom made a motion to table a request from Mrs. Shelba Burgess for a noise permit for a benefit to be held on Saturday, May 21, 2011 at the Fairgrounds. The event would begin at 12:00 Noon and this is the same date of the Wings Over Cullman Air Show. Police Chief Culpepper said he spoke with Mrs. Burgess and told her he may not be able to provide adequate patrol supervision for the traffic. Mayor Townson said the air show is now being considered a fund raiser for the American Red Cross and Cullman United Way. The date and time could conflict for people wishing to attend both events. Council Member Cook seconded the motion to table the request and the motion was approved by a voice vote. Ayes: All. Nays: None.

Mr. Jeff Adams, Superintendent of the Cullman Waste Water Treatment Plant, had a request for a new Scada System in the amount of \$14,950 and repair of 13 U.V. breakers in the amount of \$12,323.09. These were damaged by the tornado and required to be repaired for operation of the treatment plant. President Gudger asked Wes Moore, Accountant, if these were budgeted items. Mr. Moore said no but the City of Cullman could be reimbursed by FEMA for the damages. Council Member Cook made a motion to approve the request and Council Member Hollingsworth seconded the motion. The request was approved by a voice vote. Ayes: All. Nays: None.

President Gudger read a unfavorable recommendation from the Planning Commission to re-zone property owned by Nate Harvell located at 402 4th Avenue NE from R-3 to B-2. Council Member Page made a motion to approve and accept the recommendation from the planning commission. Council Member Cook seconded the motion. Council Member Folsom asked Mr. Rick Fulmer to clarify the location of the property. Mr. Fulmer stated this property is located in residential property with residential zoning. When the Hospice Office was located in the building it was not re-zoned. The building remained vacant for a period of time and still has the zoning of residential. The motion was approved to leave the property zoned R-3 by a voice vote. Ayes: All. Nays: None.

RESOLUTIONS, ORDINANCES, ORDERS AND OTHER BUSINESS

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

RESOLUTION 2011-96 RELINQUISHING THE MAYOR TO SIGN ANY AGREEMENTS FOR EMERGENCY SERVICES

WHEREAS, the Cullman City Council authorized the Mayor to sign any agreements by passing Resolution 2011-93 due to the emergency created by the tornado on Wednesday, April 27th, 2011; and

WHEREAS, the Cullman Council are appreciative of the extra time and effort given by the Mayor to accomplish these duties; and

WHEREAS, the City Council deems it appropriate to take responsibility for the duties assigned by their oath of office.

THEREFORE, BE IT RESOLVED by the City Council that the Mayor is hereby applauded for his decisions and leadership shown during this emergency on behalf of the City of Cullman.

ADOPTED this the 9th day of May, 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 9th day of May, 2011.

/s/ Ruth W. Rose
City Clerk

APPROVED by the Mayor this the 9th day of May, 2011.

/s/ Max A. Townson
Mayor

Council Member Cook seconded the motion. The resolution was approved by a voice vote. Ayes: All. Nays: None. President Gudger noticed a difference in the resolution number listed on the agenda (2011-94) being different from the actual resolution (2011-96). The City Clerk verified the correct number as being 2011-96. This was a typo error on the agenda.

President Gudger announced the next Ordinance listed on the agenda had been tabled from January 11, 2011 when it was first read. This ordinance adopts the Code of Ordinances adopted by the City Council through November 23, 2009. President Gudger asked Mr. Rick Fulmer to comment on the status of the building codes. The codes need to be adopted to be updated for the new construction that will be generated by the recent tornado. Council Member Cook wanted to clarify there will be changes made to the AG-2 Zoning at a later date. Council Member Folsom made a motion to adopt the following Ordinance:

Ordinance 2011-10

AN ORDINANCE ADOPTING AND ENACTING A NEW CODE FOR THE CITY OF CULLMAN, ALABAMA; PROVIDING FOR THE REPEAL OF CERTAIN ORDINANCES NOT INCLUDED THEREIN; PROVIDING A PENALTY FOR THE VIOLATION

THEREOF; PROVIDING FOR THE MANNER OF AMENDING SUCH CODE; AND PROVIDING WHEN SUCH CODE AND THIS ORDINANCE SHALL BECOME EFFECTIVE.

BE IT ORDAINED BY THE CITY COUNCIL:

Section 1. The Code entitled "Code of Ordinances, City of Cullman, Alabama," published by Municipal Code Corporation, consisting of chapters 1 through 62, each inclusive, is adopted.

Section 2. All ordinances of a general and permanent nature enacted on or before November 23, 2009, and not included in the Code or recognized and continued in force by reference therein, are repealed.

Section 3. The repeal provided for in section 2 hereof shall not be construed to revive any ordinance or part thereof that has been repealed by a subsequent ordinance that is repealed by this ordinance.

Section 4. Unless another penalty is expressly provided, every person convicted of a violation of any provision of the Code or any ordinance, rule or regulation adopted or issued in pursuance thereof shall be punished by a fine not to exceed \$500.00, incarceration for a period not to exceed six months, or both. Each act of violation and each day upon which any such violation shall continue or occur shall constitute a separate offense. The penalty provided by this section, unless another penalty is expressly provided, shall apply to the amendment of any Code section, whether or not such penalty is reenacted in the amendatory ordinance. In addition to the penalty prescribed above, the city council may pursue other remedies such as abatement of nuisances, injunctive relief and revocation of licenses or permits.

Section 5. Additions or amendments to the Code when passed in such form as to indicate the intention of the * to make the same a part of the Code shall be deemed to be incorporated in the Code, so that reference to the Code includes the additions and amendments.

Section 6. Ordinances adopted after November 23, 2009, that amend or refer to ordinances that have been codified in the Code shall be construed as if they amend or refer to like provisions of the Code.

Section 7. This ordinance shall become effective May 9th, 2011.

Passed and adopted by the city council this 9th day of May 2011.

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

ATTEST:

/s/ Ruth W. Rose
City Clerk

APPROVED this the 9th Day of May, 2011.

/s/ Max A. Townson
Mayor

1st Reading: January 11th, 2011
2nd Reading: May 9th, 2011

Certificate of Adoption

I hereby certify that the foregoing is a true copy of the ordinance passed at the regular meeting of the city council, held on the 9th day of May, 2011.

/s/ Ruth W. Rose. City Clerk

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

Ayes: All. Nays: None.

President Gudger stated the next ordinance 2011-17 had the first reading and public hearing previously. It is Ordinance 2011-17 which is a request to re-zone property located on Cherokee/Broadway Lot #9 to B-2. Council Member Hollingsworth made a motion to adopt the following Ordinance:

Ordinance 2011-17
NOTICE OF PUBLIC HEARING CULLMAN CITY COUNCIL

Pursuant to instructions of the Cullman City Council, notice is hereby given that the proposed ordinance set forth below will be considered by the Council at a meeting to be held at 7:00 p.m. Monday, April 25th, 2011 in the Cullman City Hall Auditorium.

The purpose of the ordinance is to amend Ordinance No. 2004-03 and the Zoning map of the City of Cullman adopted on January 26, 2004.

All interested citizens will have the opportunity, to be heard concerning the amendment during the April 25th, 2011 council meeting prior to further consideration of the ordinance.

**City of Cullman
Ruth W. Rose
City Clerk**

ORDINANCE 2011-17

AN ORDINANCE AMENDING ORDINANCE NO. 2004-03 AND THE ZONING MAP OF THE CITY OF CULLMAN, ALABAMA, DATED JANUARY 26, 2004, TO REZONE CERTAIN PARCELS OF PROPERTY AS SET FORTH HEREIN

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

1. Under the authority of Chapter 52, Articles 1 through 4, Section 11-52-1 through Section 11-52-84, Code of Alabama 1975, as amended, and specifically Sections 11-52-77 and at the request of property owner Ranjan Patel of Krussi Inc., 1705 Cherokee Avenue, Cullman utilizing the property, the following describe tracts or parcels of land, to-wit:

Lot #9 of W&W Development Property as recorded in Cabinet B Slide 101B in the Probate Records of Cullman County Alabama.

situated within the city limits of Cullman, Alabama, and lying and being in Cullman County, State of Alabama, heretofore designated as a B-3 Volume Business District on the Zoning Map of the City of Cullman, Alabama, under Ordinances No. 2004-03 and as may be reflected in any comprehensive master plan for the City of Cullman, Alabama, be, and is hereby changed from a B-3 Volume Business District to a **B-2 General Business District**.

2. That this ordinance be published at least once a week for two consecutive weeks in advance of its final passage in a newspaper with general circulation within the City of Cullman, Alabama, the first publication of said notice and ordinance being verbatim and the second publication either verbatim or synopsised, with the last publication being at least 15 days

prior to the date set for public hearing and passage of said ordinance.

3. That a public hearing be held relative to the passage of this ordinance on the 25th day of April, 2011, at 7:00 o'clock p.m., at which time interested parties and citizens shall have the opportunity to be heard concerning said ordinance and any changes relating thereto.

4. That all notices as required by law be given by the City Clerk concerning said public hearing, and in addition thereto, a certified letter be sent by the Clerk to all contiguous property owners at their last known addresses as shown by the tax records for the City of Cullman, Alabama.

5. That upon final passage of this ordinance, all zoning maps, master comprehensive plans or any other documents of the City of Cullman, Alabama, in conflict with this ordinance be and are hereby changed and amended to reflect the changes and amendments herein.

6. Should any part or portion of this ordinance be held invalid, unenforceable or unconstitutional, for whatever reason, by a court of competent jurisdiction, such ruling shall not affect any other part or portion of this ordinance.

7. This ordinance shall take effect and be in force from and after its passage or adoption as required by law, including notice, publication and public hearing, all in accordance with Section 11-52-1, et seq., Code of Alabama 1975, as amended.

ADOPTED this the 9th day of May, 2011.

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

ATTEST:

/s/ Ruth W. Rose
City Clerk

TRANSMITTED to the mayor this the 9th day of May, 2011.

/s/ Ruth W. Rose
City Clerk

APPROVED this the 9th day of May, 2011.

/s/ Max A. Townson
Mayor

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

Council Member Hollingsworth made a motion to adjourn and Council Member Cook seconded the motion. The meeting was adjourned at 7:42 P.M. by a voice vote. Ayes: All. Nays: None.