

**CULLMAN CITY COUNCIL MEETING
FRIDAY, SEPTEMBER 2nd, 2011
LUCILLE N. GALIN AUDITORIUM**

Council President Garlan E. Gudger Jr. called the Cullman City Council Meeting to order at 12:09 p.m. on Friday, September 2nd, 2011. Ms. Lea, presented the invocation.

A roll call by City Accountant Wesley M. Moore reflected the following: Present - Mayor Max A. Townson, President Garlan E. Gudger, Jr, Council Member Andy Page, Council Member Clint Hollingsworth and Council Member Jenny Folsom. 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 August 22nd, 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 Page: Aye. Council Member Folsom: Aye. Council Member Hollingsworth: Aye. Nays: None.

Council Member Folsom made a motion to approve the minutes of August 22nd, 2011 as written. Council Member Page 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 #8 under Roman Numeral XI which is a Resolution 2011-144 to appoint the Board of Design and Review. 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 add #9 under Roman Numeral XI which is Ordinance 2011-144 to create the Facade Improvement Program. Council Member Hollingsworth 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 - Council Member Page recognized Police Officer Matt Dean and Police Officer Mick Harbison for winning the best overall team in the First Annual Harley Davidson Motor Officer Competition. Council Member Page also recognized Police Officer Matt Dean for finishing 2nd place in the individual portion of the competition.

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.

SPECIAL COMMITTEE REPORTS

None.

REPORTS OF OFFICERS

None.

COMMENTS FROM ANYONE NOT ON THE AGENDA

None.

PETITIONS, APPLICATIONS, COMPLAINTS, APPEALS & COMMUNICATIONS

Council President Gudger opened a public hearing at 12:19 p.m. for Ordinance 2011-23 to amend the Zoning Ordinance of the City of Cullman CBD District. Council President Gudger asked for comments from those in favor of the Ordinance 2011-23, but there was none. He then asked for comments from those against the Ordinance 2011-23, but there was none. Council President Gudger closed the public hearing on Ordinance 2011-23 at 12:21 p.m.

Council Member Page made a motion to approve the request from Sacred Heart for an approval letter for a special events alcohol license during Oktoberfest which received a favorable recommendation from the Alcohol Review Committee with restrictions. Council President Gudger asked Mr. Wesley Moore to state the restrictions for Sacred Heart. The restrictions were as follows: (1) beer and wine on-premise only and (2) clear plastic cups. 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 Mr. Jason Moore for an approval letter for a special events alcohol license during Oktoberfest which received a favorable recommendation from the Alcohol Review Committee with restrictions. Council President Gudger asked Mr. Wesley Moore to state the restrictions for Jason Moore. The restrictions were as follows: (1) beer and wine on-premise only, (2) clear plastic cups, (3) employ security officer which must be certified off-duty police officer, (4) must have a controlled entrance and/or exit, (5) provide wristbands to show legal age and (6) barricade the approved on-premise area. Council Member Page 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 Mr. Rodger Turner for an approval letter for a special events alcohol license during Oktoberfest which received a favorable recommendation from the Alcohol Review Committee with restrictions. Council President Gudger asked Mr. Wesley Moore to state the restrictions for Rodger Turner. The restrictions were as follows: (1) beer and wine on-premise only, (2) clear plastic cups, (3) employ security officer which must be certified off-duty police officer, (4) must have a controlled entrance and/or exit, (5) provide wristbands to show legal age and (6) barricade the approved on-premise area. Council Member Page 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 the Water & Sewer Superintendent Chris Freeman to competitively bid the materials to replenish the stock for daily operations. 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 the Fire Chief Reinhardt to transfer budgeted funds to purchase airline respirators with connections, hoses and fittings in the amount of \$2,995. 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 the Economic Development Director Peggy Smith for the purchase and installation of a sign at Cullman Industrial Park V in the budgeted amount of \$12,481. 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 approve the request from Mr. Mark Aderhold of the Cullman Lions Club for permission to hold the annual fair parade on Saturday, September 17th, 2011 at 2:00 p.m. on U.S. Highway 31 from 7th Street SW to the North Shopping Center. 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 approve the request from Mr. Shaun Bell to close Clark Street on Saturday, October 15th, 2011 at 5:00 p.m. for his son's wedding at the Rotunda. 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 2011-125
RESOLUTION INCREASING THE THRESHOLD
ON CAPITAL ASSETS OF THE CITY OF CULLMAN
FOR DEPRECIATION PURPOSES**

WHEREAS, the City Council finds and determines that increasing the threshold on capital assets of the City of Cullman for depreciation purposes is needed to increase efficiency and effectiveness in the accounting procedures of the City of Cullman.

WHEREAS, the City Council finds and determines that the interests of the City can be best served by increasing the threshold on capital assets of the City of Cullman for depreciation purposes from \$2,500 to \$5,000.

BE IT RESOLVED, by the City Council of the City of Cullman hereby increases the threshold on capital assets of the City of Cullman for depreciation purposes from \$2,500 to \$5,000.

ADOPTED this the 2nd 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 2nd day of September, 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.

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

RESOLUTION NO. 2011 - 138
Repairs to the Animal Shelter
Bid Award

WHEREAS, bids were opened on August 24th, 2011 at 2:00 pm for repairs to the Cullman County Animal Shelter located at 935 Convent Road NE,

WHEREAS, the following bids were opened:

Walker Brothers, LTD

Bill Hendrix

Horizon Contracting

Dennis Guthrie Construction LLC

Greg Allred Construction

Eidson Construction

Nearen Construction

Minard Homes

David Branch Construction

Randy Childers Construction

Baileyton
35,863.88

Cullman

No Bid

Cullman

No Bid

Vinemont

No Bid

Hanceville

No Bid

Cullman

No Bid

Cullman

No Bid

Cullman

No Bid

Cullman

No Bid

Cullman

No Bid

WHEREAS, the recommendation from Mark Watson, Maintenance Supervisor for the City of Cullman is to award the bid to Walker Brothers, LTD, the lowest responsible bidder.

BE IT RESOLVED by the City Council of the City of Cullman that the bid for repairs to the Cullman County Animal Shelter located at 935 Convent Road NE be awarded to Walker Brothers, LTD of Baileyton, Alabama at this time.

ADOPTED this the 2nd 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 2nd 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 - 139
14,000 lbs Four Post Lift with two 7,000 lbs Rolling Jacks
Bid Award

WHEREAS, bids were opened on August 24th, 2011 at 2:00 pm for a 14,000 lbs Four Post Lift with two 7,000 lbs Rolling Jacks,

WHEREAS, the following bids were opened:

Automotive Equipment Distributors

Bendpak/Ranger Products

Greg Smith Equipment Sales Inc

McGriff Tire

Northport, AL

9,950.00

Santa

Paula, CA No Bid

Norcross, GA

No Bid

Cullman, AL

13,375.00

WHEREAS, the recommendation from Mason Kugler, Garage Superintendent for the City of Cullman is to award the bid to Automotive Equipment Distributors, the lowest responsible bidder.

BE IT RESOLVED by the City Council of the City of Cullman that the bid for a 14,000 lbs Four Post Lift with two 7,000 lbs Rolling Jacks be awarded to Automotive Equipment Distributors of Northport, Alabama at this time.

ADOPTED this the 2nd 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 2nd 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 Page made a motion to adopt the following resolution:

RESOLUTION NO. 2011-141
RESOLUTION AUTHORIZING MAYOR ENTER INTO
NEGOTIATIONS WITH THE CULLMAN ELECTRIC COOPERATIVE
FOR BILLING SERVICES EFFECTIVE JANUARY 1, 2012

WHEREAS, the City Council of the City of Cullman has determined that it would be in it's best interest to allow the Mayor to enter into negotiations with the Cullman Electric Cooperative for billing services effective January 1, 2012; and

WHEREAS, the City Council of the City of Cullman believes that it is in the best interest of the City to negotiate with the Cullman Electric Cooperative for billing services effective January 1, 2012 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 on the 2nd day of September, 2011 is hereby authorized to enter into negotiations with the Cullman Electric Cooperative for billing services effective January 1, 2012.

ADOPTED this the 2nd 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 2nd 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. 2011-142
RESOLUTION AUTHORIZING CHANGE ORDER NO. 1,
ECONOMIC DEVELOPMENT BUILDING REPAIRS NO. R-01603

WHEREAS, The City of Cullman has heretofore awarded a contract for repairs to the Economic Development Building; and

WHEREAS, It has been determined that a change order to the contract is necessary to prevent roof leaks in the future; and

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. 1 now before the Council to increase to the amount of the contract by \$3,550, on behalf of the City of Cullman.

ADOPTED this the 2nd 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 2nd 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 Hollingsworth made a motion to adopt the following ordinance:

ORDINANCE 2011-23
An Ordinance to amend the Zoning Ordinance of the City of Cullman CBD District

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

Section 1. The attached Design Guidelines are incorporated in the Zoning Ordinance as Section 62-334 of the Cullman City Code.

Section 2. The City of Cullman hereby create a board of Design Review made up of seven (7) members to be appointed by the Mayor and Council. The Cullman City Council Members will appoint six (6) members and the Mayor will appoint one (1) board member. The first term of members will serve as follows:

- Place #1 and #2 will serve for two (2) years
- Place #3 and #4 will serve for three (3) years
- Place #5 and #6 will serve for four (4) years

The appointment made by the Mayor shall serve a four (4) year term. The board members shall serve without compensation.

Section 3. The purpose of the Board of Design and Review

1. To review the facade plans of any structure which owner submits for the construction or improvement of which requires a building permit for repairs.
2. To issue a Certificate of Appropriateness (COA) or to deny the facade design with specific reasons why such design is rejected.
3. Failure of the Board to issue a COA or a letter of rejection within seven (7) days from the meeting for which the design was reviewed the design shall be deemed acceptable.
4. The facade Design must be submitted by an architect or engineer licensed and doing business in the State of Alabama.
5. All facades construction requiring a building permit must be submitted to the board and be received 14 days prior to the Board of Design Review meeting date. Plans shall be submitted to the City of Cullman Building Department.
6. Any aggrieved party may appeal to the Zoning Board of Adjustment of the City of Cullman within fourteen (14) days of denial.

ADOPTED this the 2nd 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 2nd day of September, 2011.

/s/ Max A. Townson
Mayor

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

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

RESOLUTION NO. 2011-143
RESOLUTION AUTHORIZING MAYOR ENTER INTO
NEGOTIATIONS WITH THE CULLMAN POWER BOARD
FOR ADDITIONAL LIGHTING AT DEPOT PARK

WHEREAS, the City Council of the City of Cullman has determined that it would be in it's best interest to allow the Mayor to enter into negotiations with the Cullman Power Board for additional lighting at Depot Park; and

WHEREAS, the City Council of the City of Cullman believes that it is in the best interest of the City to negotiate with the Cullman Power Board for additional lighting at Depot Park 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 on the 2nd day of September, 2011 is hereby authorized to enter into negotiations with the Cullman Power Board for additional lighting at Depot Park.

ADOPTED this the 2nd 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 2nd day of September, 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 Folsom made a motion to adopt the following resolution.

RESOLUTION NO. 2011-144 OF THE CITY COUNCIL
OF THE CITY OF CULLMAN, ALABAMA

WHEREAS, the City of Cullman has adopted the Design Guidelines for certain areas of the City of Cullman for buildings that are used for both commercial and mixed occupancies and the City of Cullman has created a Board of Design and Review;

THEREFORE, BE IT RESOLVED by the City Council for the City of Cullman, that the following individuals are hereby appointed to serve in the following places on the Board:

Place 1:	Hugh Outzen
Place 2:	Donna Ritcher
Place 3:	Mary Ellen Werner
Place 4:	Casey Grier
Place 5:	Joel Leonard
Place 6:	Mike Minard

IT IS FURTHER RESOLVED, that the Mayor hereby appoints Becky Bonnam for a four year term.

IT IS FURTHER RESOLVED, that the City Council designates Council President Garlan E. Gudger, Jr., as the Council liaison and non-voting member of the Design Review Board to serve until such time as the Council otherwise appoints.

ADOPTED this the 2nd 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 2nd day of September, 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.

Council Member Folsom made a motion to suspend the rules. Council Member Page 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 Page: Aye. Council Member Folsom: Aye. Council Member Hollingsworth: Aye. Nays: None.

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

ORDINANCE NO. 2011 - 25
AN ORDINANCE CREATING A FACADE IMPROVEMENT PROGRAM

WITHIN THE CBD DISTRICT OF THE CITY OF CULLMAN, ALABAMA

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

Section I. Purpose.

The purpose of this Ordinance is to provide guidelines for the improvement of the appearance of street facades and the quality of the built environment in the City of Cullman, Alabama, to promote and develop for the public good and general welfare trade, commerce, industry, and employment opportunities in the City of Cullman, Alabama.

Section II. Development Area and Structures.

- A. The area within the corporate limits of the City of Cullman, Alabama, shown on Exhibit "A" as "downtown core" and "downtown edge".
- B. Private buildings used for business, commercial, and mixed use purposes.

Section III. Definition of Facade.

- A. The principal face of a building which faces a public street or roadway;
- B. As determined by the Board of Design Review for any particular building (which must be visible from the fronting street).

Section IV. Legal Authority.

- A. Amendment No. 772 of the Constitution of Alabama of 1901, as amended
- B. Compliance with Amendment No. 772
 - 1. Any proposed action under Amendment No. 772 must be taken at a public meeting.
 - 2. Notice describing the proposed action and private businesses to benefit therefrom must be published at least seven days in advance.

Section V. Process.

- A. Application to and approval by the City Council of the City of Cullman, Alabama, upon recommendation by the Board of Design Review as set forth in Exhibit "B".
- B. The Application shall be in the form and of content as set forth in Exhibit "C" and shall contain an agreement in which the beneficiary shall covenant and agree that (i) the Program Requirements will be met; (ii) the beneficiary shall maintain and preserve such facade as long as the City has a facade program and in condition specified portion of the funds advanced by the City for such facade; and (iii) all successors in title to the beneficiary shall be bound by such agreement.

Section VI. Program Requirements.

- A. Improvements made in accordance with conditions and standards approved by the City in advance of work being done.
- B. Improvements made by licensed/bonded contractor(s) in the City.
- C. Historic palette must be used for color scheme on all repainting of facades regardless of permit requirements.

- D. Building permit, if required.

Section VII. Amount; Payment Aid.

- A. (i) Lessor of 50% of cost or \$5,000.00;
(ii) The City may, in its discretion, increase the amount paid for facade improvements in certain circumstances (such as multiple tenants of one building) or with respect to certain buildings (such as buildings with special historical significance).
- B. Paid upon written request accompanied by invoices of approved work after improvements are inspected by the City.

Section VIII. Unlawful Acts.

It shall be unlawful for any property owner within the area covered by this Ordinance to fail to comply with each and every requirement hereunder and it shall be deemed a nuisance.

Section IX. Penalties.

- A. Each of the unlawful acts defined in this Section is hereby declared to be a public nuisance and in the event the owner or person in charge of any premises upon which conditions or such other unsanitary conditions exist, fails to make such premises completely safe and sanitary or to remove the cause of such nuisances within ten days after written notice by the building inspector, fire marshal or their designee, or the health officer to do so, shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished as provided in Section 1-19 (Code 1960, Section 11-6; Code 1983, Section 11-25)
- B. Each day the owner or person in charge of any premises shall allow such condition or nuisance to continue, after having received ten days written notice to abate same, shall constitute a separate offense and, upon conviction thereof, such owner or person in charge shall be punished as herein provided. (Code 1960, Section 11-7; Code 1983, Section 11-26)
- C. Should the owner or such person in charge of premises subject to conditions described in this Section fail or refuse to abate such nuisance upon being notified to do so, then the City is authorized to do such work at the expense of the owner of such property, the cost thereof to be a lien upon the property and to be collected as any other debts are collected or liens enforced. (Code 1960, Section 11-8; Code 1983 Section 11-27)
- D. The amount of the cost of abatement of a nuisance by the City, including all court costs, appraisal fees, administrative costs, attorney's fees, and all other costs necessarily associated with the abatement action, shall constitute a lien against the real property upon which such costs were incurred. The lien provided for in this section shall be perfected and foreclosed as provided by state law.
- E. Any judge of the municipal court of the City shall have the power to order the removal, abatement, demolition, fine or other appropriate judicial remedy of those things which are declared either by this article, state law or federal law to be nuisances, or which are nuisances per se, and from their nature indisputably are so.

- F. Summary abatement, without notice to the owner thereof, shall only occur where the nuisance is of imminent and serious danger to the health, safety, or general welfare of the citizens of the City and the owner or occupant cannot be notified.

Section X. Subject to Law-Imposed Requirement.

The amounts provided by the City under this program are, in accordance with Johnson v. Sheffield, 183 So. 265 (Ala. 1938), subject to the law-imposed requirement that, if necessary, there must first be paid from all funds and revenues of the City the legitimate and necessary governmental expenses of operating the City.

Section XI. Special Note Regarding Application of Historic Preservation Laws.

- A. There are no regulatory requirements or restrictions under Alabama law upon use of private citizens, and funds of the City of Cullman which are derived from local taxes, for the improvement, repair and restoration of facades of historic buildings in Cullman, including buildings that are listed on national and state registers of historic places, except as provided in Chapter 68 of Title 11 of the Code of Alabama 1975, (providing for establishment of local historic preservation commission). Cullman has not created a historic preservation commission under Chapter 68 therefore the provisions in Chapter 68 do not apply to Cullman or the use of public funds of Cullman for facade improvement program.
- B. There shall be no use of Federal funds for such purposes.

Section XII. Severability Clause.

Each and every provision of this Ordinance is hereby declared to be an independent provision and the holding of any provision hereof to be void or invalid for any reason shall not affect any other provision hereof, and it is declared that the other provisions of this Ordinance would have been enacted regardless of any provisions which might have been invalid.

Section XIII. Effective Date.

This Ordinance shall be effective following its passage, approval, and publication as required by law.

ADOPTED this the 2nd 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 2nd day of September, 2011.

/s/ Ruth W. Rose
City Clerk

APPROVED by the Mayor this the 2nd day of September, 2011.

/s/ Max A. Townson
Mayor

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

Council Member Hollingsworth made a motion to adjourn. Council Member Page seconded the motion and the meeting was adjourned at 12:44 p.m. by a voice vote. Ayes: All. Nays: None.