

**CITY OF FLORENCE
MINUTES OF CITY COUNCIL
September 1, 2009**

The regular meeting of the City Council of the City of Florence, Alabama, was held in the City Hall Auditorium in Florence at 5:00 p.m., on Tuesday, September 1, 2009. President Barnhart called the meeting to order. City Councilmember Betterton gave the invocation and led in the Pledge of Allegiance. Robert M. Leyde, City Clerk, performed the roll call and noted that all six Councilmembers were present and a quorum was present with the following members of the City Council in attendance: Sam Pendleton, Jr., William D. Jordan, Hermon T. Graham, Barry Morris, James H. Barnhart and Andrew Betterton.

AGENDA

CITY OF FLORENCE, ALABAMA

CITY COUNCIL MEETING

September 1, 2009

5:00 P. M.

-
1. Meeting called to order - President Barnhart
 2. Invocation - Councilmember Betterton
 3. Pledge of Allegiance
 4. Roll Call - President Barnhart
 5. Approval of Agenda
 6. Message from Mayor
 7. Reports of Department Heads
 8. Reports of Standing Committees
 9. Public Hearings: None
 10. Business from floor pertaining to items on the consent and regular agenda (5-minute limit).
 11. Consent Agenda:

All matters listed within the Consent Agenda have been distributed to each member of the Florence City Council for reading and study, are considered to be routine, and will be enacted by one motion of the Council with no separate discussion. If separate discussion is desired, that item may be removed from the Consent Agenda and placed on the Regular Agenda by request. Please call 760-6400 for questions on Consent Agenda items prior to the Council meeting.

- (a) Approval of minutes of the Regular Meeting held on August 18, 2009.
- (b) Confirm payment of bills by the City Treasurer.
- (c) Resolution authorizing the City to enter into a contract with Gilbert Pump & Mechanical, Inc., to provide labor, equipment, materials and incidentals necessary to repair the Cypress Creek Single Stage Vertical Turbine Pump, in the amount of \$10,400.00, to be paid from budgeted funds, sponsored by Mike Doyle.
- (d) Resolution authorizing the City to enter into a contract with the Northwest Alabama Council of Local Governments, Area Agency on Aging, to receive funds to provide to eligible clients or other eligible participants at a nutrition site, Senior Center, or some other congregate setting, meals meeting certain criteria, sponsored by Todd Nix.

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- (e) Resolution authorizing the City to enter into a contract with the Handy Hills Citizens for Progress, in the amount of \$10,000.00, to assist with computer training which will assist participants to learn to use computers, in accordance with the approved Action Plan, to be paid from Community Development funds, sponsored by Phil Stevenson.
 - (f) Resolution authorizing the City to enter into a contract with the Northwest Alabama Council of Local Governments, in the amount of \$16,000.00, to provide transportation services to low and moderate income and disabled residents who reside within the City, in accordance with the approved Action Plan, to be paid from Community Development funds, sponsored by Phil Stevenson.
 - (g) Resolution authorizing the City to enter in a Home Energy Supplier Agreement for Low Income Home Energy Assistance Program with the Alabama Department of Economic and Community Affairs, sponsored by Richard Morrissey and Vance Young.
 - (h) Resolution authorizing the City to enter into an Agreement with Bellsouth Telecommunications, Inc., for the provision of IP-enabled video service, City to be paid 5% of the Gross Revenues, sponsored by Bill Musgrove.
 - (i) Resolution to advance and reimburse Travel Expenses to City employees, sponsored by Mayor Irons.
12. Regular Agenda:
- (a) Ordinance to amend *Section 2-1. Depositories of city funds designated* of the Code of Florence, Alabama, as amended, sponsored by Dan Barger and Vance Young.
 - (b) Ordinance adopting rules and regulations governing smoking in public places, to be included in Chapter 10 of the Code of Florence, as amended, as Article IV of such chapter, sponsored by Mayor Irons and Council President Barnhart.
 - (c) Ordinance to lease Suite 527 in the Florence-Lauderdale Government Building to WHNT TV-19, for a term of one year commencing on September 1, 2009, in the amount of \$3,600.00, sponsored by Dan Barger.
 - (d) Resolution authorizing the City to approve an Amendment to the Use Agreement with Florence Marina City, Inc., sponsored by Todd Nix. **(This resolution did not receive immediate consideration)**
13. General Business:
- (a) Resolution authorizing the City to appropriate the following sums for the Gas Department Budget, reflecting projected revenues of \$22,212,600.00 and projected expenses of \$21,611,300.00 and the Water Department Budget, reflecting projected revenues of \$17,903,000.00 and projected expenses of \$14,627,514.00 for fiscal year ending June 30, 2010, and shall not appropriate an amount in excess of its annual legally authorized revenue, sponsored by Mayor Irons.
 - (b) Resolution – Alcohol Beverage License Application for the operation of an Automobile Self-Service Station & Convenience Foods with Off-Premises Beer & Wine by GANESHAYNAMH, LLC, d/b/a GANESHAYNAMH CONVENIENCE STORE, located at 3135 HUNTSVILLE ROAD, FLORENCE, AL 35630, sponsored by Robert M. Leyde.
 - (c) Resolution – Alcohol Beverage License Application for the operation of a Full-Menu Restaurant with On-Premises Liquor, Beer & Wine by LUIS V. BERMUDEZ, d/b/a EL MAZATLAN, located at 212 COX CREEK PARKWAY, FLORENCE, AL 35630, sponsored by Robert M. Leyde.

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(d) Board Openings within the next 90 days or less:

<u>Board</u>	<u>Member</u>	<u>Appointed</u>	<u>Expire</u>
City Historian			
Adjustments and Appeals	Jack Reid	09/06/05	09/30/09
	Gene Crane	09/06/05	09/30/09
SEDA	Macke Mauldin	11/21/00	09/30/09
	Jack Johnson	02/01/00	09/30/09
Tourism	Bill Hunt	08/28/03	09/30/09

14. Business from the public (5-minute time limit).

15. Council Members reports and/or comments (5-minute limit).

Councilmember Betterton
 Councilmember Pendleton
 Councilmember Jordan
 Councilmember Graham
 Councilmember Morris
 Councilmember Barnhart

16. Motion to Adjourn.

President Barnhart asked for a motion for approval of the agenda. Councilmember Jordan moved for approval of the agenda. Councilmember Pendleton seconded the motion. There being no discussion, a vote taken thereon resulted as follows:

Ayes: Sam Pendleton, Jr.
 Herman T. Graham
 William D. Jordan
 Barry Morris
 James H. Barnhart
 Andrew Betterton

Noes: None

Message from the Mayor:

Mayor Irons presented a Proclamation to Mr. LoAllen Shipley, an employee of Hampton Inn in Florence, for rescuing a co-worker.

Mayor Irons gave an up-date on sales tax revenue. Mayor Irons noted that the sales tax revenue has continued to decrease. Mayor Irons stated that our 2010-2011 budget will be very lean. Mayor Irons assured the citizens of Florence that services for them will not be effected. Mayor Irons complimented the Department Heads for controlling spending. Mayor Irons stated that our goal is to operate within our budget and not to use our reserves.

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Mayor Irons made comments concerning the no-smoking ordinance on the agenda. Mayor Irons stated that after reviewing the ordinance, he feels this is an excellent solution to our smoking issue. Mayor Irons also stated that he believes that this ordinance is a win-win for all parties involved. Mayor Irons stated that he is in full support of the no-smoking ordinance and he asked the City Council for their approval.

Reports of Department Heads: None

Reports of Standing Committees:

Councilmember Betterton presented comments from a Parks & Recreation committee meeting that was held on August 20, 2009. Said comments follows, to wit:

Public Hearings: None

Business from the Floor Pertaining to Items on the Consent or Regular Agenda:

Rogers Kimbrell, 307 Davis Avenue, appeared and made comments in favor of the no-smoking ordinance. Mr. Kimbrell stated that his brother, Raymond Kimbrell, passed away last week as a result of lung disease. Mr. Kimbrell stated that the government mandates that citizens wear seat belts, remove lead from paint and have our children vaccinated for prevention of illnesses, then why should the government not mandate clean air.

Charles Harlan, Berry Avenue, appeared and made comments in support of the no-smoking ordinance. Mr. Harlan stated that he suffers with lung disease and he would like to be able to eat in a restaurant without second-hand smoke. Mr. Harlan asked the City Council to please pass this ordinance for the health of the public.

John Hargett, 1406 North Wood Av, appeared and made comments in opposition to the proposed no-smoking ordinance. Mr. Hargett stated that the essence of freedom is the limitation of government. Mr. Hargett also stated that the owner of a restaurant should determine if it is a smoking or non-smoking establishment.

Billy Ray Simpson, 1738 Ingleside Avenue, appeared and made comments in support of the proposed no-smoking ordinance. Mr. Simpson stated that the ordinance is a good compromise. Mr. Simpson also stated that this ordinance shows we do not want government to have complete control.

James Jennings, 620 Howell St and Manager of Smokehouse Restaurant, appeared and made comments in opposition to the proposed no-smoking ordinance. Mr. Jennings stated that it should be up to the business owners to decide if smoking is permitted. Mr. Jennings also stated that under-age drinking needs to be addressed in the City of Florence.

Rogers Kimbrell, 107 Davis Street, appeared and stated that the proposed no-smoking ordinance is a health issue. Mr. Kimbrell stated that he feels this City Council is making a decision based on the benefits the health of the citizens of Florence.

Consent Agenda:

President Barnhart asked for a motion for approval of the Consent Agenda items. Councilmember Pendleton moved for approval of (a) Approval of minutes of the Regular Meeting on August 18, 2009 and (b) Confirmation of payment of bills by the City Treasurer; and The ordinances and resolutions as follow, to-wit:

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Councilmember Betterton seconded the motion. There being no discussion, a vote taken thereon resulted as follows:

Ayes: Sam Pendleton, Jr.
Herman T. Graham
William D. Jordan
Barry Morris
James H. Barnhart
Andrew Betterton

Noes: None

Regular Agenda:

City Clerk, Robert M. Leyde, presented an Ordinance to amend *Section 2-1. Depositories of city funds designated* of the Code of Florence, Alabama, as amended, sponsored by Dan Barger and Vance Young. Said Ordinance follows, to wit:

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Councilmember Jordan moved for immediate consideration of the foregoing ordinance.

Councilmember Graham seconded the motion. A vote taken thereon resulted as follows:

Ayes: Sam Pendleton, Jr.
Hermon T. Graham
William D. Jordan
Barry Morris
James H Barnhart
Andrew Betterton

Noes: None

Councilmember Jordan moved for adoption of the foregoing ordinance. Councilmember Graham seconded the motion.

There being no discussion, a vote taken on the motion resulted as follows:

Ayes: Sam Pendleton, Jr.
Hermon T. Graham
William D. Jordan
Barry Morris
James H Barnhart
Andrew Betterton

Noes: None

City Clerk, Robert M. Leyde, presented an Ordinance adopting rules and regulations governing smoking in public places, to be included in Chapter 10 of the Code of Florence, as amended, as Article IV of such chapter, sponsored by Mayor Irons and Council President Barnhart. Said ordinance follows, to wit:

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Councilmember Betterton moved for immediate consideration of the foregoing ordinance.

Councilmember Pendleton seconded the motion. A vote taken thereon resulted as follows:

Ayes: Sam Pendleton, Jr.
Hermon T. Graham
William D. Jordan
Barry Morris
James H Barnhart
Andrew Betterton

Noes: None

Councilmember Betterton moved for adoption of the foregoing ordinance. Councilmember Pendleton seconded the motion.

Discussion:

President Barnhart made comments in support of this ordinance. President Barnhart stated that this ordinance has something for the smokers, non-smokers and business owners. President Barnhart also thanked Mayor Irons for his opinion and his support of this ordinance.

Councilmember Pendleton made comments in support of this ordinance. Councilmember Pendleton stated that Mayor Irons and President Barnhart have made this issue very simple. Councilmember Pendleton also stated that this ordinance has due process and a choice. Councilmember Pendleton stated that children are being affected by smoking other than in restaurants.

Councilmember Graham made comments in support of this ordinance. Councilmember Graham stated that he believes in freedom, but he also believes in the health of citizens.

Councilmember Morris made comments in opposition to this ordinance. Councilmember Morris stated that this ordinance is un-necessary. Councilmember Morris also stated that there has not been sufficient time to debate this issue. Councilmember Morris stated that according to the TimesDaily Newspaper there are more than 100 smoke-free restaurants in Florence. Councilmember Morris also stated that the non-smoking consumer has a choice of restaurants in Florence. Councilmember Morris stated that the public has not had sufficient time to view this ordinance.

Councilmember Jordan made comments in support of this ordinance. Councilmember Jordan stated that this is a health issue. Councilmember Jordan also stated that it has been proven that second hand smoke does cause cancer. Councilmember Jordan stated that he appreciates Mayor Irons and President Barnhart for bringing this issue to the City Council.

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There being no further discussion, a vote taken on the motion resulted as follows:

Ayes: Sam Pendleton, Jr.
Hermon T. Graham
William D. Jordan
James H Barnhart
Andrew Betterton

Noes: Barry Morris

City Clerk, Robert M. Leyde, presented an Ordinance to lease Suite 527 in the Florence-Lauderdale Government Building to WHNT TV-19, for a term of one year commencing on September 1, 2009, in the amount of \$3,600.00, sponsored by Dan Barger. Said Ordinance follows, to wit:

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Councilmember Betterton moved for immediate consideration of the foregoing ordinance.

Councilmember Graham seconded the motion. A vote taken thereon resulted as follows:

Ayes: Sam Pendleton, Jr.
Hermon T. Graham
William D. Jordan
Barry Morris
James H Barnhart
Andrew Betterton

Noes: None

Councilmember Pendleton moved for adoption of the foregoing ordinance. Councilmember Betterton seconded the motion.

There being no discussion, a vote taken on the motion resulted as follows:

Ayes: Sam Pendleton, Jr.
Hermon T. Graham
William D. Jordan
Barry Morris
James H Barnhart
Andrew Betterton

Noes: None

City Clerk, Robert M. Leyde, presented a Resolution authorizing the City to approve an Amendment to the Use Agreement with Florence Marina City, Inc., sponsored by Todd Nix. Said resolution follows, to wit:

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Councilmember Betterton moved for immediate consideration of the foregoing resolution.

Councilmember Pendleton seconded the motion. A vote taken thereon resulted as follows:

Ayes: Sam Pendleton, Jr.
Hermon T. Graham
Barry Morris
James H Barnhart
Andrew Betterton

Noes: William D. Jordan

This resolution did not receive a unanimous vote for immediate consideration.

Discussion:

Councilmember Pendleton asked if this resolution will be carried over until the next meeting? President Barnhart directed Mr. Bill Musgrove, City Attorney to answer the question. Mr. Musgrove stated that according to State Law that a resolution must have unanimous vote for immediate consideration. Mr. Musgrove also stated that State Law does not dictate that the resolution must appear on the next City Council meeting. A brief discussion was conducted among the City Council and Mr. Musgrove concerning resolutions that do not receive unanimous vote for immediate consideration.

City Clerk, Robert M. Leyde, presented a Resolution authorizing the City to appropriate the following sums for the Gas Department Budget, reflecting projected revenues of \$22,212,600.00 and projected expenses of \$21,611,300.00 and the Water Department Budget, reflecting projected revenues of \$17,903,000.00 and projected expenses of \$14,627,514.00 for fiscal year ending June 30, 2010, and shall not appropriate an amount in excess of its annual legally authorized revenue, sponsored by Mayor Irons. Said Resolution follows, to wit:

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Councilmember Betterton moved for immediate consideration of the foregoing resolution.

Councilmember Graham seconded the motion. A vote taken thereon resulted as follows:

Ayes: Sam Pendleton, Jr.
Hermon T. Graham
William D. Jordan
Barry Morris
James H Barnhart
Andrew Betterton

Noes: None

Councilmember Pendleton moved for adoption of the foregoing resolution. Councilmember Jordan seconded the motion.

Discussion:

Councilmember Jordan thanked Mayor Irons, Mike Doyle and Vance Young for their work on this budget.

There being no further discussion, a vote taken on the motion resulted as follows:

Ayes: Sam Pendleton, Jr.
Hermon T. Graham
William D. Jordan
Barry Morris
James H Barnhart
Andrew Betterton

Noes: None

City Clerk, Robert M. Leyde, presented a Resolution – Alcohol Beverage License Application for the operation of an Automobile Self-Service Station & Convenience Foods with Off-Premises Beer & Wine by GANESHAY NAMH, LLC, d/b/a GANESHAY NAMH CONVENIENCE STORE, located at 3135 HUNTSVILLE ROAD, FLORENCE, AL 35630, sponsored by Robert M. Leyde. Said Resolution follows, to wit:

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Councilmember Pendleton moved for immediate consideration of the foregoing resolution.

Councilmember Graham seconded the motion. A vote taken thereon resulted as follows:

Ayes: Sam Pendleton, Jr.
Hermon T. Graham
William D. Jordan
Barry Morris
James H Barnhart
Andrew Betterton

Noes: None

Councilmember Pendleton moved for adoption of the foregoing resolution. Councilmember Betterton seconded the motion.

Discussion:

Councilmember Graham asked City Clerk, Mr. Robert Leyde, the name of the previous owner of this establishment.

There being no further discussion, a vote taken on the motion resulted as follows:

Ayes: Sam Pendleton, Jr.
Hermon T. Graham
William D. Jordan
Barry Morris
James H Barnhart
Andrew Betterton

Noes: None

City Clerk, Robert M. Leyde, presented a Resolution – Alcohol Beverage License Application for the operation of a Full-Menu Restaurant with On-Premises Liquor, Beer & Wine by LUIS V. BERMUDEZ, d/b/a EL MAZATLAN, located at 212 COX CREEK PARKWAY, FLORENCE, AL 35630, sponsored by Robert M. Leyde. Said Resolution follows, to wit:

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Councilmember Graham moved for immediate consideration of the foregoing resolution.

Councilmember Betterton seconded the motion. A vote taken thereon resulted as follows:

Ayes: Sam Pendleton, Jr.
Hermon T. Graham
William D. Jordan
Barry Morris
James H Barnhart
Andrew Betterton

Noes: None

Councilmember Pendleton moved for adoption of the foregoing resolution. Councilmember Graham seconded the motion.

There being no discussion, a vote taken on the motion resulted as follows:

Ayes: Sam Pendleton, Jr.
Hermon T. Graham
William D. Jordan
Barry Morris
James H Barnhart
Andrew Betterton

Noes: None

(d) Board Openings within the next 90 days or less:

<u>Board</u>	<u>Member</u>	<u>Appointed</u>	<u>Expire</u>
City Historian			
Adjustments and Appeals	Jack Reid Gene Crane	09/06/05 09/06/05	09/30/09 09/30/09
SEDA	Macke Mauldin Jack Johnson	11/21/00 02/01/00	09/30/09 09/30/09
Tourism	Bill Hunt	08/28/03	09/30/09

Business from the Public (5-minute time limit):

James Jennings, Manager of Smokehouse Restaurant, appeared and made comments concerning poker tournaments and beer pong. Mr. Jennings stated that he was told these activities were illegal in the City of Florence. Mr. Jennings also stated that there are other restaurants and lounges in the City of Florence that are allowed to provide these activities. Mr. Jennings stated that if it is illegal for one business then it should be illegal for all businesses.

Valerie Thigpen, 1541 Linden Drive, Killen, Alabama, appeared and made comments in support of the no-smoking ordinance. Ms. Thigpen thanked the City Council for the passing of the ordinance.

Charles Harlann, Berry Avenue, appeared and made comments regarding City Board appointments. Mr. Harlan stated that when someone has served numerous terms on a Board, then other applicants should be considered.

Mr. Harlan made comments in support of the no-smoking ordinance.

Barbara Tubbs Hill, 769 Sannoner Avenue, appeared and made comments regarding the conditions of the Indian Mound Museum. Ms. Hill read a prepared statement. The statement follows, to wit:

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Billy Ray Simpson, 1738 Ingleside Avenue, appeared and made comments regarding under age drinking.

A gentleman , appeared and made comment in opposition to the no-smoking ordinance. The gentleman stated that he does not want the government to tell people what to do. **(Did not state his name)**

Jabari Sullen, 206 Heathrow Drive, appeared and made comments in support of the no-smoking ordinance. Mr. Sullen applauded the City Council for making strides to protect the citizens of Florence. Mr. Sullen noted that in a recent litter campaign that 3,800 cigarette butts were collected around the Lauderdale County Court House and City Hall.

Jason Robinett, appeared and made comments in opposition to the no-smoking ordinance. Mr. Robinett thanked Councilmember Morris for his position on this matter.

John Hargett, 1406 North Wood Av, appeared and made comments in opposition to the no-smoking ordinance. Mr. Hargett stated that freedom is a precious commodity.

Council Reports and/or Comments:

Councilmember Betterton read a prepared statement. The prepared statement follows, to wit:

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Councilmember Pendleton made comments in favor of the no-smoking ordinance. Councilmember Pendleton thanked Ms. Thigpen for her support regarding the no-smoking ordinance. Councilmember Pendleton stated that the government is charged to protect the citizens. Councilmember Pendleton stated that the City Council is protecting the health of citizens. Councilmember Pendleton also stated that this ordinance gives establishments a choice.

Councilmember Pendleton thanked E C M Hospital Board for choosing Mr. Jody Pigg as Director of the hospital.

Councilmember Pendleton also stated that he is in full support of our City school system and the Postal Service.

Councilmember Jordan thanked Ms. Hill for bringing the condition of the Indian Mound to the City Council's attention.

Councilmember Jordan stated that he voted against immediate consideration for the resolution concerning the amendment for Use Agreement with Florence Marina City, Inc. because he wants to get input from business owners and fishermen.

Councilmember Graham congratulated Mr. Shipley for his act of bravery. Councilmember Graham also congratulated the University of North Alabama and Florence High School on their recent football wins.

Councilmember Graham noted that renovations for the tennis courts at Veterans Park are now completed. Councilmember Graham stated that the tennis courts look great.

Councilmember Graham reminded everyone of the District 3 Community meeting on October 29th at 6:00 p.m. Councilmember Graham noted that the meeting will be held at the Broadway Recreation Center.

Councilmember Morris thanked Ms. Hill for the up-date on the conditions of the Indian Mound and the Florence Cemetery.

President Barnhart thanked Councilmember Graham for serving in the military and defending our Country.

President Barnhart stated that he is very proud of how this City Council conducts itself and also how it exposes itself to the public on issues such as the smoking debate.

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Councilmember Graham made a motion to adjourn the meeting. Councilmember Betterton seconded the motion. A vote taken thereon resulted as follows:

Ayes: Sam Pendleton, Jr.
Hermon T. Graham
William D. Jordan
Barry Morris
James H Barnhart
Andrew Betterton

Noes: None

Councilmember Pendleton presented the closing prayer.

There being no further business the meeting was adjourned.

ATTEST:

CITY CLERK