

**CITY OF FLORENCE  
MINUTES OF CITY COUNCIL  
JULY 5, 2011**

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, July 5, 2011. President Barnhart called the meeting to order. President Barnhart gave the invocation and led in the Pledge of Allegiance. Robert M. Leyde, City Clerk, performed the roll call and noted that 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 Barnhart and Andrew Betterton.

**AMENDED AGENDA**

**CITY OF FLORENCE, ALABAMA**

**CITY COUNCIL MEETING**

**July 5, 2011**

**5:00 P.M.**

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1. Meeting called to order - President Barnhart
  2. Invocation
  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:
  10. Business from floor pertaining to items on the consent and regular agenda (5-minute time 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 June 21, 2011. **(This item was moved to Regular Agenda Item 12 (b))**
- (b) Confirm payment of bills by the City Treasurer. **(This item was moved to Regular Agenda Item 12 (c))**
- (c) Resolution to approve a Water Purchase Contract with West Lauderdale Water and Fire Protection Authority, sponsored by Mike Doyle.
- (d) Resolution authorizing the City to enter into a contract with Anthony Austin, DBA Austin Fencing, to provide labor, equipment, materials and incidentals necessary to repair 220 feet of fencing mesh, attached windscreen, replace posts, top and mid rails damaged during the May 25, 2011 storms at the Cox Creek Tennis Facility, in the amount of \$5,220.00, to be paid from Repairs and Maintenance 260-44725, sponsored by Todd Nix.

- (e) Resolution authorizing the City to enter into a contract with Anthony Austin, DBA Austin Fencing, to provide labor, equipment, materials and incidentals necessary to install approximately 350 linear feet of six foot high green vinyl fence with 2 3/8" line post, 1 5/8" top rail and 3" terminal post around the skate bowl at the Skate Park at Cox Creek Park, in the amount of \$5,200.00, to be paid from budgeted funds - Municipal Capital Improvement Fund 117 account No.1053-44410, sponsored by Todd Nix.
- (f) Resolution authorizing the City to enter into a contract with CPS, Inc., DBA Cass Pace Services, to provide labor, equipment, materials and incidentals necessary to hydro-seed and mulch the slopes at the Coffee-O'Neal Park Sports Complex, in the amount of \$6,200.00, to be paid from Grounds Maintenance 265-44725, sponsored by Todd Nix.
- (g) Resolution to approve a Contract for the Provision of Supplemental Police Services with the Florence Housing Authority, sponsored by Chief Singleton.
- (h) Resolution to approve the Satisfaction of Mortgage to Margaret Wilbanks, sponsored by Melissa Bailey.
- (i) Resolution to approve the Satisfaction of Mortgage to Theola Marie Foster, sponsored by Melissa Bailey.
- (j) Resolution to approve the Satisfaction of Mortgage to Joseph and Edna Earl Rice, sponsored by Melissa Bailey.
- (k) Resolution to approve the Satisfaction of Mortgage to Joseph Rice, sponsored by Melissa Bailey.
- (l) Resolution to approve the Satisfaction of Mortgage to Sharon Loraine Shewbart, sponsored by Melissa Bailey.
- (m) Resolution to approve the Satisfaction of Mortgage to Jessiephine Crittenden, sponsored by Melissa Bailey.
- (n) Resolution to approve the Satisfaction of Mortgage to Clara Mae Skipworth, sponsored by Melissa Bailey.
- (o) Resolution to approve the Satisfaction of Mortgage to Kathleen Cabler, sponsored by Melissa Bailey.
- (p) Resolution to approve the Satisfaction of Mortgage to Mattie Brown, sponsored by Melissa Bailey.
- (q) Resolution to approve the Satisfaction of Mortgage to Dempsey and Carol Young, sponsored by Melissa Bailey.
- (r) Resolution to approve the Satisfaction of Mortgage to Merry Johnson, sponsored by Melissa Bailey.
- (s) Resolution to approve the Satisfaction of Mortgage to Governor O'Neal Johnson, sponsored by Melissa Bailey.
- (t) Resolution to approve the Satisfaction of Mortgage to David and Emma Watkins, sponsored by Melissa Bailey.
- (u) Resolution to approve the Satisfaction of Mortgage to Marie Darlene Jordan, sponsored by Melissa Bailey.
- (v) Resolution to advance and reimburse Travel Expenses to City employees, sponsored by Mayor Irons.

12. Regular Agenda:

- (a) Ordinance to amend Chapter 13 of the Code of Florence, Alabama, as amended, to add ARTICLE VIII. WIRELESS COMMUNICATION DEVICES, to prohibit texting while operating a motor vehicle, sponsored by Andy Betterton.
- (b) Approval of minutes of the Regular Meeting held on June 21, 2011. **(This item was moved from Consent Agenda Item 11 (a))**

- (c) Confirm payment of bills by the City Treasurer. **(This item was moved from Consent Agenda Item 11 (b))**

13. General Business:

- (a) Resolution to approve the revised Community Development Block Grant Year 2 Action Plan for Program Year 2011-2012, sponsored by Melissa Bailey.
- (b) Resolution to approve the reallocation of project funds for the Community Development Block Grant Action Plan for Program Year 2011-2012, sponsored by Melissa Bailey.
- (c) Resolution to approve the Community Development Block Grant Citizen Participation Plan, sponsored by Melissa Bailey.
- (d) Resolution – Alcohol Beverage License Application for the operation of a Full-Menu Restaurant with On-Premises Beer by ECO-SCENT CORPORATION, d/b/a FAT BOY’S GRILLE II, located at 2908 FLORENCE BLVD., FLORENCE, AL 35630, sponsored by Robert M. Leyde.
- (e) Resolution – Alcohol Beverage License Application for the operation of a Lounge with On-Premises Liquor, Beer & Wine by JERRY COCHRAN, INC., d/b/a SOMEWHERE ELSE SIDE POCKETS LOUNGE, located at 1816 DARBY DRIVE, FLORENCE, AL 35630, sponsored by Robert M. Leyde.

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

<u>Board</u>	<u>Member</u>	<u>Appointed</u>	<u>Expire</u>
Adjustments & Appeals	William T. Wynne	09/06/05	09/30/11
	Thomas G. Pigg	09/06/05	09/30/11
	Fitzgerald Hill	09/06/05	09/30/11
Beautification Board	3 - Vacancies		
Port Authority	Darlene Ballard (Joint)	05/06/08	07/21/11
SEDA	Martin R. Abroms	12/18/08	09/30/11
	Hermon Graham	07/06/06	09/30/11

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

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

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

16. Motion to Adjourn.

President Barnhart noted that at the request of Councilmember Pendleton that Consent Agenda Item 11 (a) Approval of minutes of the Regular Meeting held on June 21, 2011 and Consent Agenda Item 11 (b) Confirm payment of bills by the City Treasurer will be moved to the Regular Agenda Items 12 (b) and 12(c).

**Discussion:**

Councilmember Pendleton asked President Barnhart if the City pays for each Councilmember to be a member of the Alabama League of Municipalities and the Shoals Chamber of Commerce. Mr. Leyde stated that the memberships to these organizations are paid by the City for all City Officials. Councilmember Pendleton asked that his name be removed from their mailing list. There being no other changes or discussions, President Barnhart asked for a motion for approval of the amended agenda. Councilmember Jordan moved for approval of the agenda. Councilmember Betterton seconded the motion.

There being no further discussion, a vote taken thereon resulted as follows:

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

Noes: None

**Message from the Mayor:**

Mayor Irons made comments regarding the recent fishing tournaments that was held several weeks ago.

Mayor Irons announced that the State Cal Rikpen Tournament for 7, 10 & 11 year olds will be held at the Sports Complex this weekend. Mayor Irons encouraged everyone to come out and support the teams participating.

Mayor Irons recognized the City's Swim Team that recently won the Tennessee Valley Conference Championship.

Mayor Irons made comments regarding recycling. Mayor Irons encouraged all citizens to recycle to reduce the cost of solid waste.

**Reports of Department Heads:** None

**Reports of Standing Committees:** None

**Public Hearing:** None

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

Mr. Billy Ray Simpson, 1738 Ingleside Avenue, appeared and made comments in opposition to Regular Agenda Item 12 (a) Ordinance to prohibit “texting” while operating a motor vehicle, sponsored by Andy Betterton. Mr. Simpson stated that sometimes when we create a law, we also create another criminal. Mr. Simpson also stated that he does not understand how a police officer is going to enforce this law. Mr. Simpson stated that we need to have a reality check. Mr. Simpson also stated that it will endanger our police officer’s lives.

**Consent Agenda:**

President Barnhart asked for a motion for approval of the Consent Agenda items. Councilmember Graham moved for approval of the ordinances and resolutions as follow, to-wit:

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

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

Noes: None

City Clerk, Robert M. Leyde, presented an Ordinance to amend Chapter 13 of the Code of Florence, Alabama, as amended, to add ARTICLE VIII. WIRELESS COMMUNICATION DEVICES, to prohibit texting while operating a motor vehicle, sponsored by Andy Betterton. Said Ordinance follows, to wit:

Councilmember Pendleton moved for immediate consideration of the foregoing ordinance.

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

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

Noes: None

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

**Discussion:**

Councilmember Pendleton made comments in favor of the proposed ordinance. Councilmember Pendleton stated that when this issue first came up, he was not in favor of it, but texting and talking on a cell phone is different. Councilmember Pendleton also stated that texting requires more cognitive thinking and therefore is more of a distraction. Councilmember Pendleton stated that recent accidents are leading him to believe that texting has been involved. Councilmember Pendleton also stated that he hopes this ordinance will help to reduce distractions.

Councilmember Graham made comments in favor of the proposed ordinance. Councilmember Graham stated that young people are the majority of people talking and texting. Councilmember Graham also stated that he believes more people are talking and texting than they are eating and applying makeup.

Councilmember Morris made comments in opposition to the proposed ordinance. Councilmember Morris' comments follow, to wit:

Councilmember Betterton asked, "What is the value of a life?" Councilmember Betterton stated that this ordinance will not probably eliminate texting but should be used as a tool to educate our children regarding safety. Councilmember Betterton stated that parents have come to him and asked him not to give up on this issue. Councilmember Betterton also stated that 23% of accidents are a result of talking and texting.

President Barnhart stated that he would vote in favor of the proposed ordinance. President Barnhart commended Councilmember Betterton for his work on this issue. President Barnhart also stated that if it saves one life then it is worth it.

Councilmember Jordan commended Councilmember Betterton on his work on the proposed resolution.

Councilmember Graham stated that he does not believe this ordinance will increase texting.

Councilmember Morris stated that he does not believe this is enforceable. Councilmember Morris also stated that it is already illegal for 16 & 17 year olds to text while driving and that he would like to know how many citations have been written. Councilmember Morris stated that the jurisdictions that have anti texting in place have seen an increase in accidents.

Councilmember Betterton stated that the internet is covered up with statistics and we can choose to believe what we want.

Councilmember Morris stated that he would love to see evidence that laws prohibiting texting while driving works. Councilmember Morris also stated that to pass an ordinance because it feels good is wrong.

There being no further discussion, a vote taken thereon resulted as follows:

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

Noes: Barry Morris

City Clerk, Robert M. Leyde, presented a Resolution for the approval of minutes of the Regular Meeting held on June 21, 2011. Said Resolution follows, to wit:



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.  
William D. Jordan  
Hermon T. Graham  
Barry Morris  
James H. Barnhart  
Andrew Betterton

Noes: None

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

**Discussion:**

Councilmember Pendleton asked if a proper survey has been completed on the former Florence Golf & Country property since the City has purchased the property. Councilmember Pendleton stated that we need to protect the interest of the City. Councilmember Pendleton submitted copies that follow, to wit:

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

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

Noes: Sam Pendleton, Jr.

City Clerk, Robert M. Leyde, presented a Resolution to Confirm payment of bills by the City Treasurer. Said Resolution follows, to wit:

Councilmember Betterton moved for immediate consideration of the foregoing resolution.

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

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

Noes: None

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

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

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

Noes: Sam Pendleton, Jr.

City Clerk, Robert M. Leyde, presented a Resolution to approve the revised Community Development Block Grant Year 2 Action Plan for Program Year 2011-2012, sponsored by Melissa Bailey. Said Resolution follows, to wit:

Councilmember Graham moved for immediate consideration of the foregoing ordinance.

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

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

Noes: None

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

**Discussion:**

Councilmember Pendleton, Councilmember Graham, Councilmember Morris and Councilmember Jordan expressed their appreciation to Ms. Bailey and her department for their hard work to bring this matter to the City Council in a timely manner.

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

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

Noes: None

City Clerk, Robert M. Leyde, presented a Resolution to approve the reallocation of project funds for the Community Development Block Grant Action Plan for Program Year 2011-2012, sponsored by Melissa Bailey. Said Resolution follows, to wit:

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.  
William D. Jordan  
Hermon T. Graham  
Barry Morris  
James H. Barnhart  
Andrew Betterton

Noes: None

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

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

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

Noes: None

City Clerk, Robert M. Leyde, presented a Resolution to approve the Community Development Block Grant Citizen Participation Plan, sponsored by Melissa Bailey. Said Resolution follows, to wit:

Councilmember Pendleton moved for immediate consideration of the foregoing resolution.

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

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

Noes: None

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

**Discussion:**

Councilmember Pendleton stated that this resolution is the most important because HUD requires you to have public participation.

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

Ayes: Sam Pendleton, Jr.  
William D. Jordan  
Hermon T. Graham  
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 Beer by ECO-SCENT CORPORATION, d/b/a FAT BOY'S GRILLE II, located at 2908 FLORENCE BLVD., FLORENCE, AL 35630, sponsored by Robert M. Leyde. Said Resolution follows, to wit:

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.  
William D. Jordan  
Hermon T. Graham  
Barry Morris  
James H. Barnhart  
Andrew Betterton

Noes: None

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

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

Ayes: Sam Pendleton, Jr.  
William D. Jordan  
Hermon T. Graham  
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 Lounge with On-Premises Liquor, Beer & Wine by JERRY COCHRAN, INC., d/b/a SOMEWHERE ELSE SIDE POCKETS LOUNGE, located at 1816 DARBY DRIVE, FLORENCE, AL 35630, sponsored by Robert M. Leyde. Said Resolution follows, to wit:

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.  
William D. Jordan  
Hermon T. Graham  
Barry Morris  
James H. Barnhart  
Andrew Betterton

Noes: None

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

**Discussion:**

Robert M. Leyde, City Clerk, noted that this proposed resolution is for a name change only.

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

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

Noes: None

**Board Openings:**

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

<u>Board</u>	<u>Member</u>	<u>Appointed</u>	<u>Expire</u>
Adjustments & Appeals	William T. Wynne	09/06/05	09/30/11
	Thomas G. Pigg	09/06/05	09/30/11
	Fitzgerald Hill	09/06/05	09/30/11
Beautification Board	3 - Vacancies		
Port Authority	Darlene Ballard (Joint)	05/06/08	07/21/11
SEDA	Martin R. Abroms	12/18/08	09/30/11
	Hermon Graham	07/06/06	09/30/11



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

Mr. Billy Ray Simpson, 1738 Ingleside Avenue, appeared and made comments regarding man-made drugs versus God-Made drugs. Mr. Simpson stated that one major problem with legislatures making laws today is that they create laws according to how they feel. Mr. Simpson noted that there is no money to be made by selling God-Made drugs. Mr. Simpson stated that we find ourselves fighting injustice in our justice systems. Mr. Simpson also stated that the war on drugs is crossing racial lines.

**Council Reports and/or Comments:**

Councilmember Graham made comments regarding the Cal Rikpen State Tournaments to be held at the Sports Complex. Councilmember Graham noted that there will be 30 games played this weekend and encouraged everyone to come out and support the teams.

Councilmember Graham made comments regarding "texting." Councilmember Graham stated that if this causes more accidents, he would be willing to vote this down.

Councilmember Morris stated "God Bless America."

Councilmember Betterton made comments regarding the "texting while driving" ban. Councilmember Betterton stated that in this great Country, we can agree to disagree. Councilmember Betterton stated that this ordinance may not be enforceable in a lot of ways but it can cause parents to instruct their children not to text. Councilmember Betterton also stated that if it can limit the number of accidents then this ordinance is worth it. Councilmember Betterton stated that we need to do all we can to insure the safety of our citizens.

Councilmember Betterton wished "Happy Birthday" to Ms. Agnes Glasscock, owner of the "Ye Ole General Store and also to Ms. Marilyn Maugher.

Councilmember Pendleton made comments regarding the sale of the former Florence Golf & Country Club property. Councilmember Pendleton stated that he believes that the City, under Mayor Irons' leadership is going in the wrong direction. Councilmember Pendleton also stated that it is now apparent that he did not know about the dealings with UNA. Councilmember Pendleton also stated that he is galled that the City would consider selling the former Florence Golf & Country Club property to Communists. Councilmember Pendleton stated that before you take your country back, you will have to take your city back. Councilmember Pendleton stated that the City of Florence may be dealing with people of Communist China. Councilmember Pendleton stated that he would not even think about negotiating with a foreign country in the back yard of our vital interest. Councilmember Pendleton also stated that he is saying "No!" Councilmember Pendleton's documents follow, to wit:

Councilmember Jordan congratulated Brad Holmes for being rehired to the Florence Police Department. Councilmember Jordan also wished Ms. Agnes Glasscock a happy 95<sup>th</sup> birthday.

Councilmember Jordan thanked President Barnhart for calling a meeting to discuss solid waste disposal. Councilmember Jordan stated that he is still in support of a transfer station.

Councilmember Jordan also thanked D. F. U. and the First Friday's committee for their hard work and for the revitalization that is taking place in the downtown area.

President Barnhart stated that this is his personal opinion but he is adamantly opposed to dealing with the communists.

Councilmember Graham presented the closing prayer.

There being no further business the meeting was adjourned.

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ATTEST:

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CITY CLERK