

COUNCIL CHAMBER - CITY HALL - GADSDEN, ALABAMA  
AUGUST 27, 2019 - 11:00 A.M.

The City Council met on August 27, 2019, in regular session.

The meeting was called to order at 11:00 a.m. by Council President Toles. On roll call by the City Clerk, Iva Nelson, the following council members answered present: Toles, Williams, Back, Wilson, Cannon and Reed. Councilman Worthy was absent, due to attending the Job Fair. The clerk stated a quorum was present and the meeting was open for business. Mayor Guyton, Heath Williamson, Lee Roberts and Captain Entrekin were also present.

The invocation was given by Brian Harbison.

The minutes of the Education/Recreation Committee, work session and council meeting held on August 20, 2019, were approved by unanimous vote.

Payment of the HTE System accounts for the week of August 16-22, 2019 were ratified by unanimous vote.

#193844-193986	General	\$1,081,053.59
----------------	---------	----------------

Mayor Guyton read a proclamation proclaiming September 2019 as “Gynecologic Cancer Awareness Month” and presented it to Carol Scott. Ms. Scott joined with Brenda Parrish in encouraging men and women to be screened.

UNFINISHED BUSINESS

Councilman Wilson stated the need to revisit a resolution approving issuance of an alcoholic beverage license for Queen Mama Food Mart, Inc., located at 725 Tuscaloosa Avenue. A public hearing was conducted on August 13, but the council took no action concerning the resolution. Councilman Wilson made a motion to substitute the following resolution disapproving issuance the license, which motion was seconded by Councilman Cannon and unanimously carried:

RESOLUTION NO. R-321-19

DISAPPROVING ISSUANCE OF  
ALCOHOLIC BEVERAGE LICENSE

(Disapproving Alcoholic Beverage License - Queen Mama Food Mart, Inc. - Queen Mama Food Mart - 725 Tuscaloosa Avenue - Retail Beer and Table Wine License, off premises only - Reason for denial: Failure of applicant(s) to disclose prior conviction)

Councilman Wilson moved to adopt the resolution, which motion was seconded by Councilman Cannon and unanimously adopted.

PUBLIC HEARINGS

President Toles stated this was the time and place as advertised to conduct the following public hearings:

(1) The floor was opened to allow anyone to speak in opposition to or in favor of an ordinance amending City Code Sections 130-493 and 130-497, Article XIII, regarding guidelines for mobile food vehicles. No one spoke. President Toles stated the ordinance had been presented today for the first reading, and the Council will vote on it next week.

(2) The floor was opened to allow anyone to speak in opposition to or in favor of an ordinance approving the rezoning of property at 404, 408, and 410 North 24<sup>th</sup> Street from R-1, One-Family Residence District, to B-2, General Business District. The Planning Commission recommended approval. Bo Shirley (Nealco owner) spoke in favor, stating that he wishes to expand his business, which is running out of space. The following ordinance was introduced in writing for consideration:

ORDINANCE NO. O-26-19

REZONING 404, 408 & 410 NORTH 24<sup>TH</sup> STREET

(Approving Rezoning - 404, 408 & 410 North 24<sup>th</sup> Street - From R-1, One-Family Residence District, to B-2, General Business District - Requested by Joel "Bo" Shirley - To be used to expand an existing business located on adjacent property - Note: Mr. Shirley will proceed with request for annulment of existing right-of-way to facilitate construction of new building)

Councilman Cannon moved to suspend the rules to immediately consider the ordinance at its first reading. The motion was seconded by Councilman Reed and approved by the following vote:

AYES: Toles, Williams, Back, Wilson, Cannon, Reed

NAYS: None

Councilman Cannon moved to adopt the ordinance, which motion was seconded by Councilman Reed and unanimously adopted.

(3) The floor was opened to allow anyone to speak in opposition to or in favor of an ordinance approving the rezoning of property on Valley Street and Reservoir Street from R-1, One-Family Residence District, to B-1, Neighborhood Business District. The Planning Commission recommended approval. Attorney Richard Rhea spoke on behalf of the applicant, Wilford Billups, stating that he was not able to be present due to attending a funeral. President Toles stated the ordinance had been presented today for the first reading, and the Council will vote on it next week.

(4) The floor was opened to allow anyone to speak for or in opposition to a resolution ordering the abatement of nuisances on property at 411 Allen Street in District 1, HIL Enterprises, LLC, c/o Walt Higgins and Joann Higgins, and Kayte Landers being the last known owners. Brian Harbison, Building Inspector, stated the owner recently obtained a demolition permit and recommended a 30-day extension. Councilwoman Toles moved to table the resolution for 30 days, which motion was seconded by Councilman Cannon and unanimously carried.

(5) The floor was opened to allow anyone to speak for or in opposition to a resolution ordering the abatement of nuisances on property at 1344 Stillman Avenue, Neely Brooke Williams and the State of Alabama being the last known owners. Brian Harbison, Building Inspector, stated no improvements have been made since procedures began in January 2019, and recommended abatement. In response to Councilman Wilson's inquiry, Mr. Harbison said the planned course of abatement is rehabilitation. The following resolution was introduced in writing for consideration:

RESOLUTION NO. R-322-19

ORDERING ABATEMENT OF NUISANCE

(Ordering Abatement of Nuisance - 1344 Stillman Avenue - District 2 - Neely Brooke Williams; State of Alabama)

Councilman Williams moved to adopt the resolution as introduced, which motion was seconded by Councilman Back and unanimously adopted.

(6) The floor was opened to allow anyone to speak for or in opposition to a resolution ordering the abatement of nuisances on property at 1012 Tidmore Bend Road, the State of Alabama, subject to the rights of redemption of Pauline Ballenger, Guardian Ad Litem for Pauline Ballenger, Jacob Millican, Esq., and Pauline Balenger, c/o Gary Humphrey, being the last known owners. January Millican, representing Jacob Millican, stated that a notice dated for January 2019 was received at their home address in July. She stated interior damage is hindering sale of the property and asked the council for more time. Gary Humphrey stated that this was his mother's property and it needs to be demolished because of destruction caused by drug addicts, rodent infestation, and multiple dogs and cats living in the structure. Brian Harbison, Building Inspector, stated no improvements have been made since procedures began in January 2019, that the house is not secure, and recommended abatement. In response to President Toles' inquiry, he stated notifications are sent to the last known address of the owner. The following resolution was introduced in writing for consideration:

RESOLUTION NO. R-323-19

ORDERING ABATEMENT OF NUISANCE

(Ordering Abatement of Nuisance - 1012 Tidmore Bend Road - District 2 - State of Alabama, subject to the rights of redemption of Pauline Ballenger; Guardian Ad Litem for Pauline Ballenger, Jacob Millican, Esq; Pauline Balenger, c/o Gary Humphrey)

Councilman Williams moved to adopt the resolution as introduced, which motion was seconded by Councilman Back and unanimously adopted.

(7) The floor was opened to allow anyone to speak for or in opposition to a resolution ordering the abatement of nuisances on property at 962 Bretwood Drive, State of Alabama, subject to rights of redemption of the Estate of Mattie Coleman where Jacob Millican, Esq., is the Personal Representative of the Estate, being the last known owner. January Millican, representing Jacob Millican, stated he was recently appointed personal representative of the estate of Mattie Coleman, and that he is in the process of redeeming the property from the state. She stated that they have not visited the property but knew that it needed repairs, and that Jacob Millican had not received notice of abatement proceedings. Brian Harbison, Building Inspector, stated no improvements have been made since procedures began in January 2019, and recommended abatement. In response to Councilman Back's inquiry, Mr. Harbison said it is debatable whether or not the house is viable. Councilman Back expressed regret that the condition of houses is not addressed much earlier and the Council is forced to make decisions to demolish. The following resolution was introduced in writing for consideration:

RESOLUTION NO. R-324-19

ORDERING ABATEMENT OF NUISANCE

(Ordering Abatement of Nuisance - 962 Bretwood Drive - District 3 - State of Alabama, subject to rights of redemption of the Estate of Mattie Coleman where Jacob Millican, Esq., is the Personal Representative of the Estate)

Councilman Wilson moved to adopt the resolution as introduced, which motion was seconded by Councilman Back and unanimously adopted.

(8) The floor was opened to allow anyone to speak for or in opposition to a resolution ordering the abatement of nuisances on property at 1904 Adams Street in District 5, Jose C. Vides, certain mortgage in favor of Etowah Steel Workers Credit Union in the name of Glenda Wells, and Terry Wells being the last known owners. Jose Vidas, with Angela Allenstein serving as a Spanish language interpreter, stated that he was unaware of the damage when he purchased the property in December 2018. He stated that he has purchased \$30,000 in materials for repairs that he should be able to complete within two months. Brian Harbison, Building Inspector, stated procedures began in April 2019, and this case involves a partially burned structure. He stated a few improvements were made to the rear of exterior several months ago and he's had no contact from the owner. Councilman Wilson expressed willingness to give 30 days and Councilman Cannon advised Mr. Vidas to work on the exterior first. Councilman Wilson moved to table the resolution for 30 days, which motion was seconded by Councilman Back and unanimously carried.

(9) The floor was opened to allow anyone to speak for or in opposition to a resolution approving the issuance of an alcoholic beverage license for Heavenly Blessing, LLC, d/b/a Barney's Roadhouse at 4405 Journey Place. Lee Roberts, City Attorney, said he had hoped to verify information with the applicant, who is not present. He said Melanie Roach Kilgo, with the same address, is principal for this corporation, as well as the one for Lola's on the River and formerly Lola & Runts. Mr. Roberts stated there is a history for non-payment of sales taxes. Payments are being made for the former restaurant, but no sales tax has been remitted for the current restaurant in seven quarters. Mr. Roberts recommended that the license be denied, unless these matters are resolved. Councilman Wilson pointed out sales tax is collected daily from customers. He moved to table the resolution for 7 days, to allow time for the City Attorney to prepare a resolution denying issuance of the license. The motion was seconded by Councilman Back and unanimously carried.

RESOLUTIONS PRESENTED FOR CONSIDERATION:

(1) The following resolution was introduced in writing for consideration:

RESOLUTION NO. R-325-19

AWARDING BID NO. 3411

(Awarding Bid No. 3411 - Body Armor Concealable Ballistic Vest - Gulf States Distributors, Inc. - \$975.00 per vest)

Councilman Reed moved to adopt the resolution as introduced, which motion was seconded by Councilman Wilson and unanimously adopted.

(2) The following resolution was introduced in writing for consideration:

RESOLUTION NO. R-326-19

AUTHORIZING AGREEMENT WITH  
AXON ENTERPRISE, INC.

(Authorizing Agreement - Axon Enterprise, Inc. - Equipment and data management service to provide for 108 police body cameras - Term of 5 years - Total cost of \$427,101.00)

Councilman Reed moved to adopt the resolution as introduced, which motion was seconded by Councilman Cannon and unanimously adopted.

(3) The following resolution was introduced in writing for consideration:

RESOLUTION NO. R-327-19

AUTHORIZING ACQUISITION OF  
PERMANENT EASEMENT FOR RIGHT-OF-WAY

(Authorizing Acquisition of Easement for Right-of-Way - B & L Holdings, Inc. - For improvements to intersection at East Chestnut Street and George Wallace Drive)

Councilman Williams moved to adopt the resolution as introduced, which motion was seconded by Councilman Cannon and unanimously adopted.

(4) The following resolution was introduced in writing for consideration:

RESOLUTION NO. R-328-19

AUTHORIZING ACCEPTANCE OF PROPOSALS  
FROM S&ME, INC.

(Authorizing acceptance of proposal - S&ME, Inc. - \$23,300.00 - Asbestos Abatement Consulting Services for the former Sears and DHR Building at 741 Forrest Avenue)

Councilman Cannon moved to adopt the resolution as introduced, which motion was seconded by Councilman Wilson and unanimously adopted.

NEW BUSINESS

(1) Councilman Williams introduced the following resolution in writing for consideration:

RESOLUTION NO. R-329-19

ESTABLISHING TRANSPORTATION PLAN  
REGARDING REBUILD ALABAMA ACT

(Establishing annual transportation plan - To comply with Rebuild Alabama Act, which provided for additional 10-cent gas tax - Regarding use of funds allocated to City)

President Toles received unanimous consent to immediately consider the resolution as an item of new business. Councilman Williams moved to adopt the resolution, which motion was seconded by Councilman Back and unanimously adopted.

(2) Councilman Back introduced the following resolution in writing for consideration:

RESOLUTION NO. R-330-19

AWARDING BID NO. 3413

(Awarding Bid No. 3413 - Robotic Scanning Total Station and Equipment - Navigation Electronics, Inc. - \$62,517.17)

President Toles received unanimous consent to immediately consider the resolution as an item of new business. Councilman Back moved to adopt the resolution, which motion was seconded by Councilman Cannon and unanimously adopted.

(3) Councilman Cannon introduced the following resolution in writing for consideration:

RESOLUTION NO. R-331-19

AUTHORIZING PARTICIPATION IN  
SENIOR NUTRITION PROGRAM AND GRANT

(Authorizing grant application and agreement - East Alabama Regional Planning and Development Commission, Area Agency on Aging - \$118,681.00 - To continue Senior Nutrition Program at Carver Community Center and Elliott Community Center - 10-1-19 through 9-30-20)

President Toles received unanimous consent to immediately consider the resolution as an item of new business. Councilman Cannon moved to adopt the resolution, which motion was seconded by Councilman Reed and unanimously adopted.

### DEPARTMENT REPORTS

Shane Ellison, Mayor's Administrative Assistant, announced six awards received by the City and other local businesses at the annual Main Street Alabama event. He commended City Engineer Heath Williamson's work with The Venue design, winner of the Adaptive Reuse Award. The City and Downtown Gadsden, Inc. also won an Excellence in Public/Private Partnership award for rooftop lighting on Broad Street.

### MAYOR AND COUNCIL REMARKS

Several Council members commented on The Venue's recognition and commended the Mayor for his vision. Councilman Williams congratulated Curlie DeRamus and the other Main Street Alabama winners.

The Council joined in encouraging the public to maintain their properties and keep them up to code. Concern was expressed that vacant houses and absentee owners who don't care lead to demolitions.

Councilman Williams encouraged citizens to contact their Federal legislators concerning Federal Communications Commission Order 621, which puts Channel 99 and wi-fi in City buildings at risk. He urged business owners to reach out for assistance in understanding good practices. Councilman Williams commented on the community's great support of last week's football game between Etowah and Gadsden City High.

Councilman Back commented on listening to new ideas, such as a proposal presented to achieve continuous water flow over Nocalula Falls, which is being studied. He said police response is being made to speeding on Rainbow Drive and Country Club Drive. Councilman Back referred to calls concerning coyote problems, noting information is being presented to the Mayor's office. He also commented on today's action to purchase new engineering equipment, which will increase productivity in surveying.

Councilman Wilson acknowledged Fire Department employees Tony Calvert and Matt Long and said he looks forward to working on issues with them. He urged citizens to not drink and drive, especially during the upcoming holiday.

Councilman Reed offered to provide contact information to assist with coyote problems. He expressed appreciation to Bo Shirley, who is expanding his business.

President Toles announced changes in the garbage collection schedule due to the Labor Day Holiday next Monday.

There being no further business to come before the Council, the meeting was duly adjourned.

---

Iva Nelson, City Clerk (8-27-2019)

\*\*\*\*\*