

MINUTES OF A REGULAR MEETING OF
THE MAYOR AND CITY COUNCIL OF
HAMILTON, ALABAMA

July 7, 2009

A regular meeting of the Mayor and City Council of Hamilton, Alabama was held on July 7, 2009 at 6:00 p.m. in the Auditorium of Hamilton City Hall. Mayor Holliday called the meeting to order and welcomed all guests. McDavid Franks led the Pledge of Allegiance and gave the invocation. Those present were:

Mayor:	Bobby Holliday
City Council:	McDavid Franks Scotty Sanderson Annette Sherrill April Steele Paul Stidham
City Clerk:	Jan Williams
Guests:	Watha Williams Tami Williams Bill Tyra Earl Yates Jewel Yates Sandy Loden Dale Reece Richard Gann Susan Rice Mark Loden Robyn Zills Scott Hunt Shannon Nichols Don Gann

The first order of business was a motion by McDavid Franks that the Minutes from the last meeting be approved. Scotty Sanderson seconded the motion which passed unanimously.

Scotty Sanderson made a motion to approve the Accounts Payable Bills with one exception. Annette Sherrill seconded the motion. All voted "Yes".

McDavid Franks made a motion for immediate consideration of Ordinance 2009-7 as to the Hamilton Cemetery and Hamilton Cemetery, Inc. Annette Sherrill seconded the motion and all voted in favor.

ORDINANCE 2009-7

ORDINANCE AS TO THE HAMILTON CEMETERY AND
HAMILTON CEMETERY, INC.

Be it ordained by the Mayor and City Council of Hamilton, Alabama that Hamilton Cemetery, Inc. and its duly elected officers and Board of Directors are granted exclusive control of the sale of plots in the City of Hamilton Cemetery. Any person, corporation, partnership, limited partnership or other entity must, before burying or attempting to bury anyone in the Hamilton Cemetery shall first pay Hugh Frederick, President, or Jan Williams, Treasurer, or their successors in office, at least \$250.00 per plot. The violation of the foregoing by anyone or any firm shall be punished by a fine of not more than \$500.00 and/or up to 30 days in jail. All funds received for the sale of grave plots shall be paid over to Jan Williams, Clerk of the City Council. The said funds shall be used for the beautification, care and upkeep of the Hamilton Cemetery. The Clerk of the City Council of Hamilton shall promptly publish a copy of this Ordinance in the Journal Record once a week for three consecutive weeks and shall also send a copy of the same to each funeral home in Marion County, Alabama.

Duly adopted this July 7, 2009.

Mayor

Attest:

City Clerk

Paul Stidham motioned to approve Ordinance 2009-7 and McDavid Franks seconded the motion which passed unanimously.

The next item on the agenda was a recommendation to add employees under the Employees' Retirement Systems of Alabama who meet the following conditions as listed in their policy as follows: "For other than temporary employees those employees that work 20 or more hours, or

work at least one-half time in a salaried position are eligible for enrollment and coverage by the State Retirement System with proportionate credit.” This action by the Board of Control which requires the enrollment of all (excluding temporary) part time employees of agencies which participate in the Employees’ Retirement System of Alabama simply provides uniform treatment of all such personnel and is in conformity with Federal guidelines. After discussion McDavid Franks made a motion to cut part time employees hours to less than 20. Paul Stidham seconded the motion. All voted “Yes”.

McDavid Franks made a motion for immediate consideration of Ordinance 2009-8 to adopt the City of Hamilton Building Code. Paul Stidham seconded the motion and voting was as follows: Ayes: McDavid Franks, Annette Sherrill, and Paul Stidham. Nays: Scotty Sanderson and April Steele. Without unanimous consent Ordinance 2009-8 could not be considered at this meeting.

Due to the previous ordinance not receiving unanimous consent for consideration the next item on the agenda Ordinance 2009-9 requiring building permits and the setting of fees for said permits was tabled.

Annette Sherrill made a motion for immediate consideration of Ordinance 2009-10, creating a Planning Commission. April Steele seconded the motion and all voted in favor.

STATE OF ALABAMA)

CITY OF HAMILTON)

ORDINANCE NO. 2009-10

CITY OF HAMILTON PLANNING COMMISSION

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

SECTION 1. DEFINITIONS. Unless the context clearly indicates a different meaning, the following words and phrases, wherever used in this article, shall have the meanings respectively ascribed to them in this section:

Generally. Any words or phrases used in this article and not herein defined which are defined in Code of Ala. 1975, § 11-52-1, shall have the meanings ascribed to them by such section of the Code of Alabama.

City means the City of Hamilton, Alabama, a municipal corporation.

Corporate Limits means the corporate limits of the City of Hamilton.

Mayor means the chief executive of the City, whether the official designation of his/her office be mayor, city manager or otherwise.

Council means the chief legislative body of the City.

SECTION 2. CREATION OF PLANNING COMMISSION. There is hereby created a municipal planning commission which is hereby authorized and empowered to make, adopt, amend, extend, add to, or carry out a municipal plan as provided for by Code of Ala. 1975, § 11-52-1, et seq., which shall hereafter be known as the "Hamilton Planning Commission".

SECTION 3. COMPOSITION, QUALIFICATIONS, APPOINTMENT, TERMS OF OFFICE, COMPENSATION AND REMOVAL OF MEMBERS, VACANCIES. The commission shall consist of nine members: The mayor, or his or her designee, one of the administrative officials of the municipality selected by the mayor, a member of the council to be selected by it as a member ex officio and six persons who shall be appointed by the mayor, if the mayor is an elective officer. In the event the mayor designates a person to sit in his or her place on the municipal planning commission, the person so appointed shall serve during the term of the mayor, unless the original appointment shall be limited to a term certain of not less than 12 months at time of appointment.

All members of the commission shall serve without compensation, and the appointed members shall hold no other municipal office, except, that one of the appointed members may be a member of the zoning board of adjustment or appeals.

The terms of ex officio members shall correspond to their respective official tenures, except that the term of the administrative official selected by the mayor shall terminate with the term of the mayor selecting the member. The term of each appointed member shall be six years or until the successor takes office, except that the respective terms of five of the members first appointed shall be one, two, three, four, and five years.

Members other than the member selected by the council may, after a public hearing, be removed by the mayor for inefficiency, neglect of duty or malfeasance in office. The council may for like cause remove the member or members selected by it. The mayor or council, as the case may be, shall file a written statement of reasons for such removal.

Vacancies occurring otherwise than through the expiration of term shall be filled for the unexpired term by the mayor in the case of members selected or appointed by him or her, by the council in the case of the member, or other members selected by it and by the appointing power designated by the council in municipalities in which the mayor is not an elective officer.

SECTION 4. CHAIRMAN AND OTHER OFFICERS, MEETINGS, ADOPTION OF RULES OF PROCEDURE, MAINTENANCE OF RECORD OF RESOLUTIONS, TRANSACTIONS. The commission shall elect its chairman from among the appointed members and create and fill such other of its offices as it may determine. The term of office of the chairman shall be one year, with eligibility for reelection. The commission shall hold at least one regular meeting in each month. It shall adopt rules for transaction of business and shall keep a record of its resolutions, transactions, findings and determinations, which record shall be a public record.

SECTION 5. APPOINTMENT OF EMPLOYEES, CONTRACTS AND EXPENDITURE OF FUNDS. The commission may appoint such employees as it may deem necessary for its work, whose appointment, promotion, demotion and removal shall be subject to the same provisions of law as govern other corresponding civil employees of the municipality. The commission may also contract with city planners, engineers, architects, and other consultants for such services as it may require.

The expenditures of the commission, exclusive of gifts, shall be within the amounts appropriated for the purpose by the council, which shall provide the funds, equipment and accommodations necessary for the commission's work.

SECTION 6. POWERS AND DUTIES GENERALLY. In general, the commission shall have such powers as may be necessary to enable it to fulfill its functions, promote municipal planning or carry out the purposes of Code of Ala. 1975, § 11-52-1, et seq. The commission shall have power to promote public interest in and understanding of the master plan and to that end may publish and distribute copies of the plan or of any report and may employ such other means of publicity and education as it may determine.

Members of the commission, when duly authorized by the commission, may attend municipal planning conferences or meetings of municipal planning institutes or hearings upon pending municipal planning legislation, and the commission may, by resolution, spread upon its minutes, pay the reasonable traveling expenses incident to such attendance. The commission

shall, from time to time, recommend to the appropriate public officials programs for public structures and improvements and for the financing thereof.

It shall be part of the duties of the commission to consult and advise with public officials and agencies, public utility companies, civic, educational, professional and other organizations and with citizens with relation to the protecting or carrying out of the plan. The commission shall have the right to accept and use gifts for the exercise of its functions.

All public officials shall, upon request, furnish to the commission within a reasonable time such available information as it may require for its work. The commission, its members, officers and employees, in the performance of their functions, may enter upon any land and make examinations and surveys and place and maintain necessary monuments and marks thereon.

SECTION 7. POWERS AS TO ZONING. The commission shall have all powers heretofore granted by law to the zoning commission of the municipality and, from and after the creation of a planning commission in such municipality, all powers and records of the zoning commission shall be transferred to the planning commission; provided, that, in the event that the existing zoning commission shall be nearing the completion of its zoning plan, the council may, by resolution, postpone the said transfer of the zoning commission's powers until the completion of such zoning plan, but such postponement shall not exceed a period of six months.

SECTION 8. ADOPTION OF MASTER PLAN FOR DEVELOPMENT. It shall be the function and duty of the commission to make and adopt a master plan for the physical development of the municipality, including any areas outside of its boundaries which, in the commission's judgment, bear relation to the planning of such municipality. Such plan, with the accompanying maps, plats, charts and descriptive matter shall show the commission's recommendations for the development of said territory, including, among other things, the general location, character and extent of streets, viaducts, subways, bridges, waterways, waterfronts, boulevards, parkways, playgrounds, square, parks, aviation fields and other public ways, grounds and open spaces, the general location of public buildings and other public property, the general location and extent of public utilities and terminals, whether publicly or privately owned or operated, for water, light, sanitation, transportation, communication, power and other purposes, the removal, relocation, widening, narrowing, vacating, abandonment, change

of use or extension of any of the foregoing ways, grounds, open spaces, buildings, property, utilities or terminals; as well as a zoning plan for the control of the height area, bulk, location, and use of buildings and premises.

As the work of making the whole master plan progresses, the commission may from time to time adopt and publish a part or parts thereof, any such part to cover one or more major sections or divisions of the municipality or one or more of the aforesaid or other functional matters to be included in the plan. The commission may from time to time amend, extend or add to the plan.

SECTION 9. CONDUCTING SURVEYS AND STUDIES FOR THE PURPOSE OF MASTER PLAN. In the preparation of such plans the commission shall make careful and comprehensive surveys and studies of present conditions and future growth of the municipality and with due regard to its relation to neighboring territory.

The plan shall be made with the general purpose of guiding and accomplishing a coordinated, adjusted and harmonious development of the municipality and its environs which will, in accordance with present and future needs, best promote health, safety, morals, order, convenience, prosperity and general welfare as well as efficiency and economy in the process of development, including, among other things, adequate provision for traffic, the promotion of safety from fire and other dangers, adequate provision for light and air, the promotion of the healthful and convenient distribution of population, the promotion of good civic design and arrangement, wise and efficient expenditure of public funds and the adequate provision of public utilities and other public requirements.

SECTION 10. PROCEDURE FOR ADOPTION. The commission may adopt the plan as a whole by a single resolution or may by successive resolutions adopt successive parts of the plan, said parts corresponding with major geographical sections or divisions of the municipality or with functional subdivisions of the subject matter of the plan and may adopt any amendment or extension thereof of addition thereto.

Before the adoption of the plan or any such part, amendment, extension or addition, the commission shall hold at least one public hearing thereon, notice of the time and place of which shall be given by one publication in a newspaper of general circulation in the municipality and in the official gazette, if any, of the municipality; provided, that the planning commission may dispense with such public hearing prior

to the approval or disapproval of a plan when the municipal governing body to whom the plan will be submitted will be required to hold a public hearing, and give notice thereof before the plan can be adopted by such municipality.

The adoption of the plan or of any such part or amendment or extension or addition shall be by resolution of the commission carried by the affirmative votes of not less than six members of the commission. The resolution shall refer expressly to the maps and descriptive and other matters intended by the commission to form the whole or part of the plan, and the action taken shall be recorded on the map and plan and descriptive matter by the identifying signature of the chairman or secretary of the commission. An attested copy of the plan or part thereof shall be certified to the governing body and to the county probate judge.

SECTION 11. PROPOSED CONSTRUCTION OF STREETS, PUBLIC BUILDINGS AND UTILITIES. Whenever the commission shall have adopted the master plan of the municipality or of one or more major sections or districts thereof, no street, square, park or other public way, ground or open space or public building or structure of public utility, whether publicly or privately owned, shall be constructed or authorized in the municipality or in such planned section and district until the location, character and extent thereof shall have been submitted to and approved by the commission; provided that in case of disapproval the commission shall communicate its reasons to the council, which shall have the power to overrule such disapproval by a recorded vote of not less than two thirds of its entire membership; provided further, that if the public way, ground, space, building, structure or utility is one the charter provisions governing same, fall within the province of the municipal council, then the submission by the planning commission shall be to the board, commission or body having such jurisdiction and the planning commission's disapproval may be overruled by said board, commission or body by a vote of not less than two thirds of its membership. The failure of the commission to act within 60 days from and after the date of official submission to the commission shall be deemed approval.

SECTION 12. SEVERABILITY. 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, shall not affect any other provision hereof, and it is hereby declared that the other provisions of this ordinance would have been enacted regardless of any provisions which might be held invalid.

ADOPTED AND APPROVED, this the _____ day of _____,
2009.

JOSEPH ROBERT HOLLIDAY, JR., MAYOR

ATTEST:

JAN WILLIAMS - CITY CLERK

SEAL

Paul Stidham motioned to approve Ordinance 2009-10 and McDavid Franks seconded the motion. Voting was as follows: Ayes: McDavid Franks, Scotty Sanderson, Annette Sherrill, April Steele and Paul Stidham. Nays: None.

Paul Stidham made a motion for immediate consideration of Ordinance 2009-11 correcting the deeds on the City of Hamilton's Weston Water Tank. McDavid Franks seconded the motion and all voted in favor.

STATE OF ALABAMA)
)
COUNTY OF MARION)

WARRANTY DEED

KNOW ALL MEN BY THESE PRESENTS: That for and in consideration of the sum of Ten (\$10.00) Dollars, and other good and valuable consideration, to the undersigned Grantor, City of Hamilton, a municipal corporation, in hand paid by R & G, LLC, an Alabama Limited Liability Company, Grantee herein, the receipt of which is acknowledged, the undersigned, City of Hamilton, a municipal corporation, ("Grantor"), does grant, bargain, sell and convey unto R & G, LLC, an Alabama Limited Liability Company, ("Grantee"), the following described real estate, situated in Marion County, Alabama, to-wit:

Commencing at the Northeast corner of the NE ¼ of SW ¼ of Section 29, Township 10 South, Range 14 West, Marion County, Alabama; thence run Southerly along the East line of said NE ¼ of SW ¼ a distance of 60.00 feet to the point of beginning. FROM SAID POINT OF BEGINNING continue Southerly along the Easterly line of said NE ¼ of SW ¼ a distance of 60.00 feet; thence run Westerly parallel to the North line of NE ¼ of SW ¼ a distance of 60.00 feet; thence run Northerly parallel to the East line of NE ¼ of SW ¼ a distance of 60.00 feet; thence run Easterly parallel to the North line of said NE ¼ of SW ¼ a distance of 60.00 to the point of beginning.

TO HAVE AND TO HOLD the same unto the said Grantee, its successors and assigns, forever. And the undersigned Grantor does for herself and her heirs, executors, and administrators, covenant with the said Grantee, its successors and assigns, that the undersigned Grantor is lawfully seized in fee simple of the said premises; that the said premises are free from all encumbrances; that the undersigned Grantor has a good right to sell and convey the said property; that the undersigned Grantor will and her heirs, executors, and administrators shall warrant and defend the title to said premises unto the said Grantee, its successors and assigns, forever, against the lawful claims of all persons, whomsoever.

IN WITNESS WHEREOF, the undersigned Grantor has hereunto set her hand and seal this ____ day of August, 2009.

By: _____
Its Mayor

ATTEST:

City Clerk

STATE OF ALABAMA)
)
COUNTY OF MARION)

I, the undersigned Notary Public in and for said County, in said State, hereby certify that Joseph Robert Holliday, Jr., and Jan Williams, whose names are signed to the foregoing conveyance as Mayor and City Clerk, and who are known to me, acknowledged before me on this day, that, being informed of the contents of this conveyance, they executed the same voluntarily and in said official capacity, on the day the same bears date.

Given under my hand and seal this ____day of August, 2009.

[SEAL]

NOTARY PUBLIC
My Commission Expires: _____

STATE OF ALABAMA)
COUNTY OF MARION)

WARRANTY DEED

KNOW ALL MEN BY THESE PRESENTS: That for and in consideration of the sum of Ten (\$10.00) Dollars, and other good and valuable consideration, to the undersigned Grantor, **R & G, LLC**, an Alabama Limited Liability Company, in hand paid by **City of Hamilton**, a municipal corporation, Grantee herein, the receipt of which is acknowledged, the undersigned, **R & G, LLC**, an Alabama Limited Liability Company, ("Grantor"), does grant, bargain, sell and convey unto **City of Hamilton**, a municipal corporation, ("Grantee"), the following described real estate, situated in Marion County, Alabama, to-wit:

A parcel of land located in the NW ¼ of the SE ¼ of Section 29, Township 10 South, Range 14 West, Marion County, Alabama, being more particularly described as follows:

Commence at the northeast corner of said NW ¼ of the SE ¼; thence run N 89°22'55"W, along the north boundary line thereof, a distance of 1230.86 feet; thence run S 01°11'00"E a distance of 88.73 feet to the POINT OF BEGINNING, being a fence corner; thence run S 01°11'00"E a distance of 39.42 feet to a fence corner; thence run S 88°48'52"W a distance of 50.20 feet to a fence corner; thence run N 01°11'08"W a distance of 39.75 feet to a fence corner; thence run N 89°11'07"E a distance of 50.20 feet to the POINT OF BEGINNING; said parcel containing 0.05 acres, more or less.

ALSO, an Easement of 30 feet for the purpose of ingress and egress to the above described tract, said Easement being 15 feet either side of the centerline of an existing gravel drive

TO HAVE AND TO HOLD the same unto the said Grantee, its successors and assigns, forever. And the undersigned Grantor does for herself and her heirs, executors, and administrators, covenant with the said Grantee, its successors and assigns, that the undersigned Grantor is lawfully seized in fee simple of the said premises; that the said premises are free from all encumbrances; that the undersigned Grantor has a good right to sell and convey the said property; that the undersigned Grantor will and her heirs, executors, and administrators shall warrant and defend the title to said premises unto the said Grantee, its successors and assigns, forever, against the lawful claims of all persons, whomsoever.

IN WITNESS WHEREOF, the undersigned Grantor has hereunto set her hand and seal this ____ day of August, 2009.

By: _____ [SEAL]
R & G, LLC, by its _____

STATE OF ALABAMA)
)
COUNTY OF MARION)

I, the undersigned Notary Public in and for said County, in said State, hereby certify that **Steve Rogers**, whose name is signed to the foregoing conveyance, and who is known to me, acknowledged before me on this day, that, being informed of the contents of this conveyance, he executed the same voluntarily on the day the same bears date.

Given under my hand and seal this ____ day of August, 2009.

[SEAL]

NOTARY PUBLIC
My Commission Expires: _____

McDavid Franks motioned to approve Ordinance 2009-11 and Paul Stidham seconded the motion which passed without opposition.

Annette Sherrill made a motion for immediate consideration of Ordinance 2009-12 approving warrant form for the payment of the USDA Fulton Bridge Water and Sewer Project. McDavid Franks seconded the motion which passed unanimously.
(to be typed)

McDavid Franks motioned to approve Ordinance 2009-12 and Annette Sherrill seconded the motion. All voted "Yes".

The next item on the agenda was a recommendation to approve a computer contract with John Boyett (Hamilton B.A.S.E.) for \$7,898.00 Scotty Sanderson made a motion to approve the contract and Annette Sherrill seconded the motion. All voted in favor.

Annette Sherrill made a motion to accept a right-of-way deed from James Loden and make Loden Lane a city street. Scotty Sanderson seconded the motion and voting was as follows: Ayes: McDavid Franks, Scotty Sanderson, Annette Sherrill, April Steele, and Paul Stidham. Nays: None.

McDavid Franks made a motion to hire Tommy Lynn Miller at an hourly rate of \$11.40 (Grade 3 new hire) for the Street Department. Paul Stidham seconded the motion and voting was as follows: Ayes: McDavid Franks and Paul Stidham. Nays: Scotty Sanderson, Annette Sherrill, and April Stidham. Motion failed.

Mayor Holliday reminded everyone that the 2009 Sales Tax Holliday begins at 12:01 a.m. on August 7, 2009 and ends at 12 midnight on August 9, 2009. The City of Hamilton will once again be participating.

There being no further business, April Steele made a motion that the meeting be adjourned. Scotty Sanderson seconded the motion, following a unanimous consent in favor Mayor Holliday declared the meeting adjourned.

Mayor

City Clerk

Council:
