

CULLMAN CITY COUNCIL MEETING ON MARCH 26th, 2018 IN THE LUCILLE N. GALIN AUDITORIUM

Council President Garlan Gudger called the Cullman City Council Meeting to order at 7:04 o'clock p.m. on Monday, March 26th, 2018. Fire Chief Edward Reinhardt presented the invocation.

A roll call by Mr. Wesley Moore reflected the following: Present - Council Member Andy Page, Council Member Clint Hollingsworth, Council President Pro Tem Jenny Folsom, and Council President Garlan Gudger. Absent: Council Member Johnny Cook. Also, present were City Attorney Roy Williams and City Clerk Wesley Moore.

Council President Garlan Gudger asked the Council to consider the minutes from March 5th, 2018. Council Member Folsom made a motion to suspend the rules to consider the minutes. Council Member Hollingsworth seconded the motion to suspend the rules, and the motion was approved by a roll call vote. Mr. Wesley Moore polled the Council Members: Council Member Page: Aye. Council Member Cook: Absent. Council President Gudger: Aye. Council President Pro-Tem Folsom: Aye. Council Member Hollingsworth: Aye. Council Member Folsom made a motion to approve the minutes from March 5th, 2018 as written. Council Member Hollingsworth seconded the motion to approve the minutes, and the motion was approved by a roll call vote. Mr. Wesley Moore polled the Council Members: Council Member Page: Aye. Council Member Cook: Absent. Council President Gudger: Aye. Council President Pro-Tem Folsom: Aye. Council Member Hollingsworth: Aye.

ADDITIONS/DELETIONS TO AGENDA - None.

REPORTS OF STANDING COMMITTEES

1. Public Safety Committee - Chairman Andy Page - No report.
2. Utilities Committee - Chairman Garlan Gudger - No report.
3. Public Works Committee - Chairman Johnny Cook - No report.
4. Tourism Committee - Chairman Clint Hollingsworth - No report.
5. General Government Committee - Chairwoman Jenny Folsom - No report.

REPORT FROM THE MAYOR

Mayor Woody Jacobs stated that the City of Cullman and its citizens experienced extensive damage during to the 2018 Hail Storm. He thanked the city employees for an outstanding job keeping everyone safe during the severe weather. Council President Gudger encouraged citizens to use local contractors for their storm damage repairs.

COMMENTS FROM ANYONE NOT ON THE AGENDA

Garry Marchmann announced his campaign for reelection as Cullman County Commissioner and requested for Cullman's support. Tammy Brown announced her campaign for reelection as Cullman County Probate Judge and requested for Cullman's support. Alex Chaney announced his campaign for election as House Representative District 12 and requested for Cullman's support. Melvin Hastings announced his campaign for election as Cullman County Circuit Judge and requested for Cullman's support. Corey Harbison announced his campaign for reelection as House Representative District 12 and requested for Cullman's support.

PUBLIC HEARINGS

Council President Gudger opened a public hearing on March 26th, 2018 at 7:10 p.m. for Resolution No. 2018-30 to approve a 772 project agreement with AGCOR Steel, LLC. There were no public comments for or against the resolution, and Council President Gudger closed the public hearing at 7:12 p.m.

Council Member Folsom made a motion to enter executive session at the request of City Attorney Roy Williams to discuss commerce and trade related the 772 project agreement for approximately 30 minutes. Council Member Page seconded the motion to enter executive session, and the motion was approved by a voice vote. Ayes: All. Nays: None. Council President Gudger reconvened the meeting at 7:34 p.m. and stated that no action was taken in executive session.

PETITIONS, APPLICATIONS, COMPLAINTS, APPEALS & COMMUNICATIONS

Council Member Folsom made a motion to approve the request from Rachel Bryant of Karma in Cullman for a special event permit to hold a suicide awareness and prevention walk on September 9th, 2018 from 3:00 p.m. to 6:00 p.m. in Depot Park. Council Member Page seconded the motion to approve the request, and the motion was approved by a voice vote. Ayes: All. Nays: None.

RESOLUTIONS, ORDINANCES, ORDERS & OTHER BUSINESS

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

RESOLUTION NO. 2018 – 31

TO AWARD BID FOR VARIOUS TYPES OF CONCRETE

WHEREAS, bids were opened on March 20th, 2018 at 2:00 p.m. for various types of concrete for the City of Cullman,

WHEREAS, the following bids were opened from:

(DCA) Ready Mix USA, LLC Cullman, AL

Kirkpatrick Concrete, Inc. Cullman, AL
Morgan County Concrete, Inc. Hartselle, AL

WHEREAS, the recommendation from Street Superintendent Scott Talley is to award the bid for various types of concrete to (DCA) Ready Mix USA, LLC, the lowest responsible bidder.

BE IT RESOLVED by the Cullman City Council that the bid for various types of concrete is hereby awarded to (DCA) Ready Mix USA, LLC, the lowest responsible bidder.

ADOPTED BY THE CITY COUNCIL this the 26th day of March, 2018.

/s/ Garlan E. Gudger, Jr. - President of the City Council

ATTEST:

/s/ Wesley M. Moore - City Clerk

APPROVED BY THE MAYOR this the 26th day of March, 2018.

/s/ Woody Jacobs - Mayor

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

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

**RESOLUTION NO. 2018 – 32
TO AWARD BID FOR VARIOUS TYPES OF ROCK**

WHEREAS, bids were opened on March 20th, 2018 at 2:00 p.m. for various types of rock for the City of Cullman,

WHEREAS, the following bids were opened:

		FOR PICKUP	FOR DELIVERY
C.A. Langford Company, Inc.	Guntersville, AL	\$ 840,285	\$ 1,466,985
Good Hope Contracting Co., Inc.	Cullman, AL	\$ 779,130	\$ 1,162,930
Whitaker Corporation (Madison Materials)	Guntersville, AL	\$ 750,140	\$ 1,155,340
Vulcan Materials Company, Inc.	Birmingham, AL	\$ 1,012,350	\$ 1,417,550

WHEREAS, the recommendation from Street Superintendent Scott Talley is to award the bid for various types of rock to Good Hope Contracting Co., Inc., the bidder located in Cullman.

BE IT RESOLVED by the Cullman City Council that the bid for various types of rock be hereby awarded to Good Hope Contracting Co., Inc., the bidder located in Cullman.

ADOPTED BY THE CITY COUNCIL this the 26th day of March, 2018.

/s/ Garlan E. Gudger, Jr. - President of the City Council

ATTEST:

/s/ Wesley M. Moore - City Clerk

APPROVED BY THE MAYOR this the 26th day of March, 2018.

/s/ Woody Jacobs - Mayor

Council Member Hollingsworth seconded the motion to approve, and the motion was approved by a voice vote. Ayes: All. Nays: None.

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

**RESOLUTION NO. 2018 – 33
TO ADOPT THE MUNICIPAL WATER POLLUTION PREVENTION RESOLUTION**

WHEREAS, the Cullman City Council has determined that it would serve a public purpose to adopt the Municipal Water Pollution Prevention Resolution;

BE IT RESOLVED, that the City of Cullman, Alabama, informs the Department of Environmental Management that the following actions were taken by the Cullman City Council:

1. Reviewed the MWPP Annual Report which is attached to this resolution.
2. Set forth the following actions and schedule necessary to maintain effluent requirements contained in the NPDES Permit, and to prevent the bypass and overflow of raw sewage within the collection system or at the treatment plant:
 - (a) Continue Five-Year Planning for Wastewater.
 - (b) Continue currently Planned Projects.
 - (c) Continue Smoke Testing.
 - (d) Continue Video Inspection.

BE IT FURTHER RESOLVED, that upon the completion of the execution of this Agreement by all Parties, that a copy of such Agreement shall be kept on file by the City Clerk.

ADOPTED BY THE CITY COUNCIL this the 26th day of March, 2018.

/s/ Garlan E. Gudger, Jr. - President of the City Council

ATTEST:

/s/ Wesley M. Moore - City Clerk

APPROVED BY THE MAYOR this the 26th day of March, 2018.

/s/ Woody Jacobs - Mayor

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

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

RESOLUTION NO. 2018 - 34

This Resolution is made this 26th day of March, 2018 (the Effective Date) by the City of Cullman, Alabama (the Granting Authority), to grant a tax abatement for REHAU Automotive, L.L.C. (the Company).

WHEREAS, the Company has announced plans for a major addition to their existing facility (the Project), located within the jurisdiction of the Granting Authority; and

WHEREAS, pursuant to the Tax Incentive Reform Act of 1992 (Section 40-9B-1 et seq., Code of Alabama 1975) (the Act), the Company has requested from the Granting Authority an Abatement of all state and local non-educational ad valorem taxes, all construction related transaction taxes, except those construction related transaction taxes levied for educational purposes or for capital improvements for education, and/or all mortgage and recording taxes; and

WHEREAS, the Company has requested that the abatement of state and local non-educational ad valorem taxes (if applicable) be extended for a period of 10 years, in accordance with the Act; and

WHEREAS, the Granting Authority has considered the request of the Company and the completed application (copy attached) filed with the Granting Authority by the Company, in connection with its request; and

WHEREAS, the Granting Authority has found the information contained in the Company's application to be sufficient to permit the Granting Authority to make a reasonable cost/benefit analysis of the proposed project and to determine the economic benefits to the community; and

WHEREAS, the construction of the project will involve capital investment of \$10,403,780; and

WHEREAS, the Company is duly qualified to do business in the State of Alabama, and has powers to enter into, and to perform or observe the agreements and covenants on its part contained in the Tax Abatement Agreement; and

WHEREAS, the Granting Authority represents and warrants to the Company that it has power under that constitution and laws of the State of Alabama (including particularly the provisions of the Act) to carry out provisions of the Tax Abatement Agreement;

NOW THEREFORE, be it resolved by the Granting Authority as follows:

Section 1. Approval is hereby given to the application of the Company and abatement is hereby granted of all state and local non-educational ad valorem taxes, all construction related transaction taxes, except those construction related transaction taxes levied for educational purposes or for capital improvements for education, and/or all mortgage and recording taxes as the same may apply to the fullest extent permitted by the Act. The period of abatement for the non-educational ad valorem taxes (if applicable) shall extend for a period of 10 years measured as provided in Section 40-9B-3(h) of the Act.

Section 2. The governing body of the Granting Authority is authorized to enter into an abatement agreement with the Company to provide for the abatement granted in Section 1.

Section 3. A certified copy of this resolution, with the application and abatement agreement, shall be forwarded to the Company to deliver to the appropriate local taxing authorities (if applicable) and to the Alabama Department of Revenue in accordance with the Act.

Section 4. The governing body of the Granting Authority is authorized to take any and all actions necessary or desirable to accomplish the purpose of the foregoing of this resolution.

I hereby certify that the foregoing was duly adopted by the City of Cullman, Alabama of Alabama at a meeting held on the 26th day of March, 2018.

ADOPTED BY THE CITY COUNCIL this the 26th day of March, 2018.

/s/ Garlan E. Gudger, Jr. - President of the City Council

ATTEST:

/s/ Wesley M. Moore - City Clerk

APPROVED BY THE MAYOR this the 26th day of March, 2018.

/s/ Woody Jacobs - Mayor

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

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

RESOLUTION NO. 2018 – 35

TO AUTHORIZE CHANGE ORDER NO. 1 FOR THE CREEL COMPANY, INC.

WHEREAS, the Cullman City Council awarded the bid for the UV Replacement at the Wastewater Treatment Plant to The Creel Company, Inc. in the amount of \$2,015,545.00;

WHEREAS, Goodwyn, Mills & Cawood has recommended that Change Order No. 1 be approved which will increase the total cost of the project by \$96,655.00;

THEREFORE, BE IT RESOLVED by the Cullman City Council that the Mayor is authorized to execute Change Order No. 1 which will increase the total cost of the contract with The Creel Company, Inc. to \$2,112,200.00.

ADOPTED BY THE CITY COUNCIL this the 26th day of March, 2018.

/s/ Garlan E. Gudger, Jr. - President of the City Council

ATTEST:

/s/ Wesley M. Moore - City Clerk

APPROVED BY THE MAYOR this the 26th day of March, 2018.

/s/ Woody Jacobs - Mayor

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

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

RESOLUTION NO. 2018 - 36

TO ENTER INTO CONTRACT WITH ST. JOHN & ASSOCIATES

WHEREAS, the Cullman City Council has determined that it would serve a public purpose to enter into contract with St. John and Associates for professional services related to the City of Cullman's Sanitary Sewer System;

NOW THEREFORE BE IT RESOLVED by the Cullman City Council in the State of Alabama that the Mayor is hereby authorized to enter into a contract with St. John & Associates for professional services related to the City of Cullman's Sanitary Sewer System.

ADOPTED BY THE CITY COUNCIL this the 26th day of March, 2018.

/s/ Garlan E. Gudger, Jr. - President of the City Council

ATTEST:

/s/ Wesley M. Moore - City Clerk

APPROVED BY THE MAYOR this the 26th day of March, 2018.

/s/ Woody Jacobs - Mayor

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

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

RESOLUTION NO. 2018 - 37

TO AUTHORIZE PURCHASES AND REPAIRS TO RECOVER FROM THE 2018 HAIL STORM

WHEREAS, the Cullman City Council has determined that it would serve a public purpose to authorize the Mayor to purchase vehicles and equipment from the State of Alabama's bid list to replace vehicles and equipment damaged from the 2018 Hail Storm;

BE IT RESOLVED by the Cullman City Council that Mayor Woody Jacobs is hereby authorized to purchase vehicles and equipment from the State of Alabama's bid list to replace vehicles and equipment damaged from the 2018 Hail Storm.

BE IT FURTHER RESOLVED that the Cullman City Council approves the budget amendments to make the necessary purchases and repairs from the 2018 Hail Storm Damages.

ADOPTED BY THE CITY COUNCIL this the 26th day of March, 2018.

/s/ Garland E. Gudger, Jr. - President of the City Council

ATTEST:

/s/ Wesley M. Moore - City Clerk

APPROVED BY THE MAYOR this the 26th day of March, 2018.

/s/ Woody Jacobs - Mayor

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

Council President Gudger asked for the City Council and Mayor to consider Board Appointments: None.

Council Member Folsom made a motion to adopt the following resolution pending the approval of the City Attorney and contingent the approval of Cullman County and the City of Good Hope:

RESOLUTION NO. 2018 – 30

BE IT RESOLVED by the City Council (the “Council”) of THE CITY OF CULLMAN, ALABAMA (the “City”), as follows:

Section 1. The Council does hereby find, declare, and ascertain as follows:

- (a) The City enthusiastically supports and encourages economic development within the City in order to develop a solid and diverse local economy, to increase employment opportunities in the City, to broaden the City’s tax base, to increase revenues, and to provide necessary and improved services to the citizens of the City, thereby improving the quality of life of its citizens; and
- (b) Amendment No. 772 to the Constitution of Alabama (1901) (Section 94.01 of the Recompiled Constitution of Alabama and hereinafter referred to as “Amendment No. 772”) authorizes the City to lend its credit to or grant public funds and things of value in aid of or to any business entity for the purpose of promoting the economic development of the City; and
- (c) Academy, Ltd., a Texas limited liability company (“Academy”), is a premier sports, outdoor and recreation lifestyle retailer operating its stores under the trade name Academy Sports Outdoors with stores in Alabama, Arkansas, Florida, Georgia, Illinois, Indiana, Kansas, Kentucky, Louisiana, Mississippi, Missouri, North Carolina, Oklahoma, South Carolina, Tennessee and Texas; and
- (d) Academy desires to acquire certain parcels of real property aggregating approximately 8.06 acres located at the southwest corner of the intersection of Lee Avenue and Private Drive within the corporate limits of the City (the “Project Site”); and
- (e) Academy intends to incur a capital investment of approximately \$8,000,000 to develop and construct upon the Project Site an approximately 62,943 square foot retail store (the “Project”) to be operated as an Academy Sports Outdoors; and
- (f) Academy’s development, construction, and implementation of the Project are expected to result in the creation of approximately 100 new jobs and the generation of approximately \$12,000,000 of annual sales, which will generate annual sales tax revenue to the City of approximately \$270,000, in addition to new sales tax revenue dedicated for educational purposes or for capital improvements for education, new business license revenue, new sales and use tax revenue from construction materials, and increased ad valorem tax revenue to the City; and
- (g) The development, construction, and implementation of the Project on the Project Site is in the best interest of the City and will serve a public purpose and further enhance the public benefit and welfare by, among other things: (i) promoting local economic development and stimulating the local economy; (ii) increasing employment opportunities in the City; (iii) increasing the City’s tax base, resulting in additional tax revenues for the City, (iv) promoting the development of new business enterprises and retail business in the City; and (v) eliminating blight and blighting factors through the productive re-use of vacant and under-utilized property, all of which inure to the economic health of the City and constitute important public benefits to the City and its citizens; and
- (h) It is necessary, proper, and in the public interest, in accordance with Amendment No. 772, that the City should enter into a Development Agreement (the “Development Agreement”) with Academy pursuant to which Academy will undertake the Project on the Project Site and the City will, among other items, (i) provide to Academy up to Eight Hundred Thousand and No/100 Dollars (\$800,000.00), payable in eight (8) annual installments equal to the lesser of One Hundred Ten Thousand and No/100 Dollars (\$110,000.00) or fifty percent (50%) of actual Project Sales Tax Revenue (as such term is defined in the Development Agreement) for the applicable year and (ii) provide certain public infrastructure improvements, all as more particularly set forth in the Development Agreement; and
- (i) As required under Amendment No. 772, the City published notice in the March 19, 2017, edition of *The Cullman Times* concerning the proposed action of the Council to approve the Development Agreement; and
- (j) Providing the financial and infrastructure assistance for the Project as described in the Development Agreement is consistent with and in furtherance of the objectives of Amendment No. 772 and the expenditure of such public funds for the purposes described herein will serve a valid and sufficient public purpose, notwithstanding any incidental benefit accruing to any private entity or entities; and
- (k) As a result of the City’s inducements, Academy has decided to undertake the Project on the Project Site.

Section 2. The Mayor is hereby authorized and directed, along with the City Clerk, to execute the Development Agreement, in substantially the form attached hereto, containing such changes, modifications, or clarifications as the Mayor shall deem necessary, desirable, or appropriate

Section 3. The Mayor is hereby authorized and directed, along with the City Clerk, to take all actions as may be necessary, including the negotiation and execution of all additional agreements, notices, certificates, or other documents, in furtherance of the intent of the Development Agreement, including without limitation all transactions anticipated, provided for, or made necessary by the Development Agreement.

Section 4. The Council hereby determines that the expenditure of public funds for the purposes specified within the Development Agreement will serve a valid and sufficient public purpose, notwithstanding any incidental benefit accruing to any private entity or entities.

Section 5. The various provisions of this Resolution are hereby declared to be severable. In the event any provision hereof shall be held invalid, illegal, or unenforceable for any reason, the invalidity, illegality, or unenforceability shall not affect any other provision hereof and this Resolution shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.

ADOPTED BY THE CITY COUNCIL this the 26th day of March, 2018.

/s/ Garlan E. Gudger, Jr. - President of the City Council

ATTEST:

/s/ Wesley M. Moore - City Clerk

APPROVED BY THE MAYOR this the 26th day of March, 2018.

/s/ Woody Jacobs - Mayor

Council Member Page seconded the motion pending the approval of the City Attorney and contingent the approval of Cullman County and the City of Good Hope, and the motion was approved by a voice vote. Ayes: All. Nays: None.

Council President Gudger asked for a motion to adjourn. Council Member Page made a motion to adjourn. Council Member Hollingsworth seconded the motion, and the meeting was adjourned at 8:02 p.m. by a voice vote. Ayes: All. Nays: None.