

CULLMAN CITY COUNCIL MEETING ON SEPTEMBER 14, 2020 IN THE LUCILLE N. GALIN AUDITORIUM

Council President Jenny Folsom called the Cullman City Council Meeting to order at 7:01 o'clock p.m. on Monday, September 14, 2020. Police Chief Kenny Culpepper led the Pledge of Allegiance and presented the invocation.

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

Council President Jenny Folsom asked the Council to consider the minutes from August 31, 2020. President Pro Tem Cook made a motion to suspend the rules to consider the minutes. Council Member Moss 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 President Pro Tem Cook: Aye. Council President Folsom: Aye. Council Member Moss: Aye. Council Member Hollingsworth: Aye. President Pro Tem Cook made a motion to approve the minutes from August 31, 2020 as written. Council Member Page 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 President Pro Tem Cook: Aye. Council President Folsom: Aye. Council Member Moss: Aye. Council Member Hollingsworth: Aye.

ADDITIONS/DELETIONS TO AGENDA – None.

REPORTS OF STANDING COMMITTEES

1. Public Safety (Fire, Police, etc.) - Chairman Andy Page – No report.
2. Utilities (Water, Sewer, etc.) - Chairman David Moss thanked Chick-Fil-A for providing sandwiches for everyone attending tonight's meeting.
3. Public Works (Street, Sanitation, etc.) - Chairman Johnny Cook – No report.
4. Tourism (Parks & Recreation, Airport, etc.) - Chairman Clint Hollingsworth presented a resolution to nine-year-old Kane Ward who was named the 2020 World Wake Association Junior Boys' World Champion. Also, Chairman Hollingsworth announced Oktoberfest will be held October 2nd and 3rd, 2020.
5. General Government (Finance, Economic Development, etc.) - Chairwoman Jenny Folsom shared the 2020 fiscal year ends September 30th and the budget is being prepared for fiscal year 2021.

REPORT FROM THE MAYOR

Mayor Jacobs mentioned that on the 19th anniversary of the attacks on the World Trade Towers in New York, members of the police and fire departments stood in front of the display of blue lights at Depot Park in remembrance of 9/11.

COMMENTS FROM ANYONE NOT ON THE AGENDA – None.

PUBLIC HEARINGS

Council President Folsom called the public hearing to order at 7:14 p.m. for Ordinance No. 2020-43 to rezone Ellsworth Subdivision from AG-1 Agriculture District to R-2 Residential District. With no one wishing to speak regarding the ordinance, Council President Folsom closed the public hearing at 7:15 p.m.

Council President Folsom called the public hearing to order at 7:15 p.m. for Ordinance No. 2020-44 to rezone Shadowbrook Subdivision from AG-1 Agriculture District to R-2 Residential District. With no one wishing to speak regarding the ordinance, Council President Folsom closed the public hearing at 7:16 p.m.

REQUESTS, PETITIONS, APPLICATIONS, COMPLAINTS, APPEALS, AND OTHER

President Pro Tem Cook made a motion to grant a special event request from Paul Cox to hold a parade of vehicles on Saturday, September 26, 2020 beginning at 1:00 p.m. traveling from Buffalo Wild Wings to 157 Walmart. Council Member Moss seconded the motion and the motion was approved by a voice vote. Ayes: All. Nays: None.

President Pro Tem Cook made a motion to grant a special event request from Cullman Parks and Rec for the Annual Oktoberfest at Depot Park and Festhalle on Friday and Saturday, October 2-3, 2020. Council Member Hollingsworth seconded the motion and the motion was approved by a voice vote. Ayes: All. Nays: None.

Council Member Moss made a motion to grant a special event request from Sue Turner for the Annual Life Chain value of human life prayer vigil on Cullman City sidewalks along Hwy 31 and Hwy 278 from noon until 2:30 p.m. on Saturday, October 10, 2020. Council Member Hollingsworth seconded the motion and the motion was approved by a voice vote. Ayes: All. Nays: None.

Council Member Hollingsworth made a motion to grant a special event request from Kayla Thorsby of Awakening the Bride Upper Room Revival Center to hold a prayer walk from Logan Street SW to the Health Department on October 31, 2020 beginning at 10:00 a.m. Council Member Page seconded the motion and the motion was approved by a voice vote. Ayes: All. Nays: None.

Council Member Hollingsworth made a motion to grant a special event request from Mattie West of Genesis Performing Arts to hold a fundraising 5k run beginning at Depot Park on October 31, 2020 beginning at 8:00 a.m. Council Member Moss seconded the motion and the motion was approved by a voice vote. Ayes: All. Nays: None.

Council Member Hollingsworth made a motion to grant a special event request from Stan Smith of Cullman Elks Lodge to hold a Veterans Day Celebration at Cullman Regional Airport on November 6 -7, 2020. Council Member Moss seconded the motion and the motion was approved by a voice vote. Ayes: All. Nays: None.

Council Member Page made a motion to grant a special event request from Sonya Talley of to hold a Christmas Love Car Show fundraiser benefitting Cullman Caring for Kids at Depot Park on November 14, 2020. Council Member Hollingsworth seconded the motion and the motion was approved by a voice vote. Ayes: All. Nays: None.

RESOLUTIONS, ORDINANCES, ORDERS & OTHER BUSINESS

Council President Folsom held the second reading of Ordinance No. 2020-41 to amend regulations for small cell technology facilities. Council President Pro Tem Cook made a motion to adopt the following Ordinance No. 2020-41:

ORDINANCE NUMBER 2020-41

TO AMEND ORDINANCE NO. 2020-25 REGULATIONS FOR SMALL CELL TECHNOLOGY FACILITIES IN THE CITY OF CULLMAN, ALABAMA

WHEREAS, the City Council needs to amend its Small Cell Technology Ordinance; and

WHEREAS, The City Council of the City of Cullman, Alabama seeks to facilitate the availability of reliable, personal wireless communication services for its citizens and the public by permitting the placement of Small Cell Technology Facilities and associated Support Structures along the Rights-Of-Way, public property, and on private properties in the City; and

WHEREAS, the installation, expansion, and maintenance of Small Cell Technology Facilities and associated Structures on or along the Rights-Of-Way and on private properties might have significant impact upon: (1) the aesthetic values and historical character of the City; (2) safe use and passage on or along the Rights-of-Way by the public; and (3) properties and property values in the City in areas where such Structures are placed; and

WHEREAS, the Federal Telecommunications Act of 1996 (the "Act") and regulations promulgated with respect to the Act by the Federal Communications Commission ("FCC) authorize local governments to enact responsible regulations for the placement, expansion, height, and maintenance of Small Cell Technologies Facilities and associated Support Structures; and

WHEREAS, as provided in this Ordinance Number 2020-41, the City seeks to mandate, where feasible, the colocation of Small Cell Technology Facilities on existing poles and other Support Structures as opposed to installation of new Structures; and

WHEREAS, the above-noted colocation and other provisions of this Ordinance are intended to be consistent with the Act and its associated regulation; and

WHEREAS, the adoption of the regulations, procedures, and requirements in this Ordinance will permit Applicants and Providers to enhance the provision of personal wireless service and protect the public welfare, health, safety and interests of the City's citizens.

THEREFORE, BE IT ORDAINED, BY THE MAYOR AND CITY COUNCIL OF THE CITY OF CULLMAN, ALABAMA AS FOLLOWS: Ordinance 2020-25 is hereby amended by striking the following Sections in its entirety and replacing said Sections with the following amended language:

This ordinance for the purpose as herein stated as follows:

ARTICLE I. SMALL CELL TECHNOLOGY FACILITIES

Section 1. Definitions. The following definitions shall apply in the interpretation of this Ordinance:

- A. *Abandonment* or *Abandons* means that, following the placement of Small Cell Technologies Facilities (and associated Accessory Equipment) or Support Structures in the City pursuant to a permit issued to a Provider or an Applicant, any of the following has occurred: (a) for any reason the Facilities cease to be used to transmit signals, data, or messages or otherwise be used for their intended purposes for a period of ninety (90) days; (b) the City revokes the permit for placement and use of those Facilities due to nonpayment of applicable fees, the failure of the Provider or Applicant to comply with conditions in the permit or in this Ordinance concerning them, or other valid reason; or (c) the Provider or Applicant fails to perform any of its responsibilities, obligations and requirements in this ordinance or in a permit that relate to the installation, construction, maintenance, use or operation of the Facilities, Accessory Equipment or Support Structures, and that breach remains uncured for a period of sixty (60) days after the City provides written notice of the breach to the Provider or Applicant.

- B. *Accessory Equipment* means any equipment other than an antenna that is used in conjunction with Small Cell Technology Facility arrangements. This equipment may be attached to or detached from a Small Cell Technology Wireless Support Structure, and includes, but is not limited to, cabinets, optical converters, power amplifiers, radios, DWDM and CWDM multiplexers, microcells, radio units, fiber optic and coaxial cables, wires, meters, pedestals, power switches, and related equipment on or in the immediate vicinity of a Support Structure.
- C. *Antenna* means communications equipment that transmits and receives electromagnetic radio signals, is attached to a Small Cell Technology Wireless Support Structure and is used to communicate wireless service.
- D. *Applicant*, whether singular or plural, means a personal wireless service provider, an entity that is authorized by a personal wireless service provider to apply for or receive a permit to install, construct, modify or maintain a Small Cell Technology Facility and related Accessory Equipment or Support Structure in the City, or an entity certificated by the Alabama Public Service Commission to provide telecommunication service.
- E. *Application* means a formal request submitted to the City for a permit to install, construct, modify or maintain a Small Cell Technology Facility and related Accessory Equipment or Support Structure.
- F. *City* means the City of Cullman, Alabama.
- G. *City Council* means the City Council of the City of Cullman, Alabama.
- H. *Mayor* means the person elected by the City as the Mayor of the City. The Mayor includes any employee of the City or other person designated by that Mayor to perform the responsibilities of this Ordinance.
- I. *Colocation* means the placement or installation of a new Small Cell Wireless Technology Facility or related Accessory Equipment on an existing pole or other Support Structure that is owned, controlled or leased by a utility, the City or other person or entity.
- J. *Personal Wireless Service Provider* or *Provider* means an entity that provides personal wireless communication services to the public or citizens of the City on a commercial basis and is authorized by the FCC to provide those services.
- K. *Private Property* means real property located within the corporate limits of the City that does not lie within the Right-of-Way.
- L. *Public Property* – property owned by the City of Cullman or Utility formed or authorized by the City Council of the City of Cullman, i.e. (Utility Board of the City of Cullman, Cullman-Jefferson Gas District, Industrial Development Board of the City of Cullman, Cullman Park and Recreation Board et al)
- M. *Provider* - see Personal Wireless Service Provider.
- N. *Right-Of-Way* or *Rights-Of-Way*, whether singular or plural, means the surface and space in, upon, above, along, across, over and below any public streets, avenues, highways, roads, courts, lanes, alleys, boulevards, ways, sidewalks and bicycle lanes, including all public utility easements and public service easements within those places, as the same now or may hereafter exist, that are within the City’s corporate boundaries and under the jurisdiction of the City. This term shall not include county, State, or federal Rights-of-Way or any property owned by any person or entity other than the City.
- O. *Small Cell Technology Facility(ies)* or *Facilities*, whether singular or plural, means and includes the following types of Structures: (a) antenna; and (b) associated Accessory Equipment. Photographs and illustrations of the types, relative dimensions and scale of these Facilities that are currently contemplated by this ordinance are attached as Exhibit A to the permanent record of this ordinance that is maintained by the City Clerk.
- P. *Small Cell Technology Wireless Support Structure, Support Structure* or *Structure*, whether singular or plural, means a freestanding structure designed or used to support, or capable of supporting, Small Cell Technology Facilities, including, but not limited to, utility poles, street light poles, traffic signal structures, rooftops, attics, or other enclosed or open areas of a building or accessory structure, a sign, or a flag pole. These terms do not include any decorative and architecturally significant street light poles that are inappropriate for use as a Support Structure as determined by the Mayor.
- Q. *Stealth Technology* means one or more methods of concealing or minimizing the visual impact of a Small Cell Technology Facility (and associated Accessory Equipment) and Support Structure by incorporating features or design elements which either totally or partially conceal such Facilities or Equipment. The use of these design elements is intended to produce the result of having said Facilities and associated Structures blend into the surrounding environment and/or disguise, shield, hide or create the appearance that the Facilities architectural component of the Support Structure. Photographs and illustrations of examples of the types of Stealth Technology that may be used when buildings are utilized as Support Structures and other applications of Stealth Technology that are currently contemplated are attached as Exhibit B to the permanent record of the ordinance that is maintained by the City Clerk.

Section 2. Permit Required to Place Small Cell Technology Facilities in Rights-Of-Way.

- A. Provider or Applicant must obtain a permit from the City before placing, installing, or constructing any Small Cell Technology Facility (and associated Accessory Equipment) on any Support Structure that is located on the Right-Of-Way, or substantially modifying the position or characteristics of any such existing Facility thereon.
- B. The Mayor will review and administratively process any request for a permit to determine whether, in the exercise of the Mayor's reasonable discretion, it should be issued for the location and in the manner requested by the Applicant. In this process, the burden is on the Provider or Applicant to demonstrate that the placement of the proposed Small Cell Technology Facility and associated Accessory equipment or Support Structure on the Right-of-Way is the minimal physical installation which will achieve the goal of enhancing the provision of personal wireless service when considering all pertinent factors discussed in the provision immediately below. Except as set forth in this section this permitting process will be administrative and not require the approval of any City Board or City Official other than the Mayor. The factors,

requirements and guidelines that the Mayor may consider and will apply when determining whether to issue a permit for placement of Small Cell Technology Facilities and associated Structure on the Right-Of-Way include, but are not limited to, the following:

1. Aesthetic Requirements set forth in a Design manual that are (i) reasonable, in that they are technically feasible and reasonably directed to avoiding or remedying out of character deployments; (ii) no more burdensome than those applied to other types of infrastructure deployments; and (iii) objective and published in advance. An objective aesthetic criteria is a standard that is clearly defined and ascertainable;
2. Colocation. An applicant seeking to set a new pole for a small wireless facility in the right of way must certify that there are no available colocation opportunities that are commercially reasonable and technically feasible to achieve the applicant's service objective;
3. The Accessory Equipment shall, if reasonably possible be placed at least ten (10) feet above the ground;
4. To the extent technically feasible, the color of Antenna and Accessory Equipment shall be compatible with that of the Support Structure;
5. The Facility (including the Accessory Equipment) shall not be illuminated;
6. Whether the proposed installation complies with generally applicable public safety codes;
7. Whether the proposed installation may interfere with vehicular traffic, passage of pedestrians, or other use of Right-of-way by the public; and
8. If the proposed installation will disturb conditions on the right-of-way, whether the Applicant can demonstrate its ability and financial resources to restore the subject area to its pre-existing condition following installation

C. Application Process.

1. At a minimum, each application for a permit shall contain all of the following:
 - a. Engineering drawings depicting the type of Facilities, Support Structure, and means and points at which such Facilities and associated Accessory Equipment will be attached to a Support Structure;
 - b. Map(s) designating with specificity the location(s) of the requested Facilities;
 - c. If the Facilities will be located on a Support Structure on the Right-Of- Way that is owned by any entity other than the City or the Applicant, a copy of any license, lease, agreement or other documentation evidencing that the owner of that Support Structure authorizes the Facilities to be attached thereto or agrees in principle to authorize that attachment, provided that, if a representation is made to the City that the attachment has been authorized in principle by the owner of the Support Structure but the Applicant subsequently fails to furnish the City documentation that finalizes any such agreement, the City may refuse to issue the requested permit until that documentation is provided, or, if the City issues the requested permit before receiving such final documentation, the subject permit may be revoked and any license to use that part of the Right-Of-Way be rescinded.
 - d. If the Applicant requests permission to place Facilities on a new Support Structure, the substantiation therefor required by Section 2, Paragraph B-7 of this ordinance.
 - e. An application shall not be deemed complete until the Applicant has submitted all documents, information, forms and fees specifically enumerated in this Ordinance that pertain to the location, construction, or configuration of the Facilities or Support Structures at the requested location(s). Within ten (10) calendar days after an application for permit is submitted, the City shall notify the Applicant in writing if any additional information is needed to complete that application or supplemental information is required to process the request. If the City does not notify the Applicant in writing that the application is incomplete within ten (10) days following its receipt, the application is deemed complete.
2. Time for Processing Application. Unless another date is specified in a written agreement between the City and the Applicant, the City will have the following time periods to make its final decision to approve or disapprove an application for a permit contemplated in this ordinance and advise the Applicant in writing of that determination:
 - a. Sixty (60) calendar days from the date an application for a permit is filed with respect to a request to co-locate Facilities on an existing Support Structure; and
 - b. Ninety (90) calendar days from the date an application for a permit is filed with respect to a request to attach Facilities to a new Support Structure.
3. Reconsideration/Appeal. Any Applicant that desires reconsideration of an administrative decision by the Mayor to deny a request for a permit to place a Facility or Support Structure on the Right-Of-Way may seek review, modification or reversal of that decision by the City Council by submitting a request for reconsideration with the City Clerk within ten (10) calendar days following the Mayor's decision. That request for reconsideration will be considered by the City Council at a regular Council meeting that will be conducted as soon as practical after the request for reconsideration is made. If no request of reconsideration is submitted, the decision of the Mayor will be final. Additionally, the Applicant, within ten (10) days following a decision by the City Council to deny either a) a request for reconsideration or b) a decision by City Council to not approve the placement of a new Support Structure on the Right-of-Way, may appeal either of those decisions by the City Council to the Circuit Court of Cullman County, Alabama or as applicable. If no appeal of those decisions of the City Council is made, those will be deemed final.

D. Additional Requirements. Any Provider or Applicant to whom a permit is issued and that places Facilities and associated Support Structures on the Right-Of-Way also shall comply with the following requirements as long as those Facilities and Support Structures are on or under the Right-of-Way:

1. Prior to installing the Facilities or Support Structures, the Applicant shall provide the City a certificate(s) of insurance evidencing that it has obtained and will maintain the following types of insurance in connection with its operations on or use of the Right-Of-Way; renewal or said coverage shall be provided at each renewal period naming the City of Cullman as an additional insured.
 - a. General Liability Coverage insuring the risk of claims for damages to persons or property arising from or related to the installation, construction, maintenance, operation or any use of the Facility or Support Structure placed on or along the Right-of-Way by the Applicant (or any of their contractors) with minimum limits of \$1,000,000 per occurrence; and
 - b. Workers Compensation Insurance as required by statute. The General Liability coverage shall list the City of Cullman, Alabama as an additional insured, and may be provided through a combination of a primary and umbrella policies. All insurance policies shall be furnished by insurers who are reasonably acceptable to the City and authorized to transact business in the State of Alabama. On an annual basis following initial installation, the Applicant also shall furnish the City a Certificate indicating that the above-noted coverage remains and will remain in effect. The City shall allow the applicant to provide a certificate of self-insurance in lieu of these provisions and must affirm adequate financial security on the part of the self-insured entity.
2. All Facilities and associated Support Structures shall be installed, erected, maintained and operated in compliance with applicable federal and state laws and regulations, including, but not limited to, regulations of the FCC.
3. Following the installation of any Facilities and associated Support Structures, the Provider or Applicant, upon reasonable request and for good cause, shall furnish the Mayor a written certification from a licensed professional engineer in the State of Alabama stating that those Structures have been inspected and are being maintained, operated and used in compliance with all applicable laws and regulations, including those of the FCC that pertain to the transmission of wireless communication signals. For purposes of this provision, "good cause" shall mean circumstances have arisen that indicate the Facilities and associated Support Structures have been damaged, are not functioning in compliance with applicable laws and regulations, or otherwise pose a hazard to the public. If those Support Structures should fail at any time to comply with applicable laws and regulation, the Provider or Applicant, at either of their expense, shall cause those Structures to be brought into compliance with said laws and regulations within fifteen (15) days of the date of any written notice to them from the Mayor of non-compliance, or cease all personal wireless service operations related to those Structures until the Applicant or Provider comes into full compliance with said laws and regulations.
4. The Facilities and associated support structures must at all times be maintained in good and safe condition.
5. Each Applicant or Provider that applies for a permit to place Facilities (including the Accessory Equipment) and Support Structures on the Right-Of- Way and installs and utilizes those Structures shall defend, indemnify and hold the City and its employees or officials, harmless from all demands, losses, expenses (including attorney's fees and court costs), claims for personal injury or property damage, judgments or liabilities of any type that may be asserted or claimed against the City (or its employees or officials) by any third person, firm or entity that arise out of or relate in any manner to the following: 1) the installation, construction, maintenance, use or operation of the permitted Facilities, Accessory Equipment or any Support Structure on or about the Right- Of-Way; and 2) the failure of the Provider or Applicant to perform any of their respective responsibilities, obligations, and permit requirements in this ordinance. Notwithstanding the foregoing, the Provider or Applicant shall not be obligated to indemnify the City for claims resulting from the sole negligence or willful acts of the City (or its representatives).

E. Permit and License Fees. The Applicant for a permit to place Facilities and associated Support Structures on the Right-of-Way shall pay the following types of fees that are enumerated in the City's officially adopted Fee Structure Ordinance, as amended:

1. A permit application and review fee to be paid when an application is submitted;
2. A permit issuance fee for each Support Structure on the Right-of-Way contemplated for attachment; and
3. An annual license fee per each Support Structure on the Right-of-Way pertaining to the ongoing use of public property.

F. Removal, Relocation or Modification of Small Wireless Facility in the Right-of-Way.

1. Ninety (90) Day Notice to Remove, Relocate or Modify. Whenever the City reasonably determines that the relocation is needed as described below, then within ninety (90) days following written notice from the City, the Applicant shall, at its own expense, protect, support, temporarily or permanently disconnect, remove, relocate, change or alter the position of any small wireless Facilities within the Rights-Of-Way whenever the City has determined that such removal, relocation, change or alteration, is reasonably necessary for (excluding beautification-only projects), as follows:
 - a. the construction, repair, maintenance, or installation of any City improvement in or upon, or the operations of the City in or upon, the Rights-Of-Way; and/or
 - b. if required for the construction, completion, repair, relocation, or maintenance of a City improvement or project in or upon, or the operations of the City in or upon, the Rights-Of-Way; and/or
 - c. because the small cell Facility or its related equipment is interfering with or adversely affecting proper operation of any City-owned light poles, traffic signals, or other equipment in the Public Way; and/or
 - d. to protect or preserve the public health or safety.
 - e. In any such case, the City shall use its best efforts to afford Applicant a reasonably equivalent alternate

location. If Applicant shall fail to relocate any Equipment as requested by the City within a reasonable time under the circumstances in accordance with the foregoing provision, the City shall be entitled to relocate the Equipment at Applicant's sole cost and expense, without further notice to Applicant. If, at any time during the Term for which the permit is granted, the City determines that utility Facilities will be placed underground in an area including any City-owned Facilities upon which Applicant has installed Equipment, Applicant and the City will cooperate in good faith on the design and installation, at Applicant's costs, of suitable replacement of Applicant's Facilities, including decorative streetlight poles; and Applicant agrees that if reasonably required by the Mayor or his designee or upon final appeal by the City of Cullman Design Review Board in order to ensure appropriately even and level lighting within a previously unlighted area, additional Facilities, which may include decorative streetlight poles beyond or more numerous than those required for Applicant's Facilities, shall be installed. Applicant agrees that decorative streetlight poles may be required by the City in the future in the place of initially-installed standard-design streetlight poles, in which replacement of the Applicant's Facilities and Equipment on decorative streetlights that were initially installed standard-design streetlight poles shall be solely at Applicant's cost. Further, Applicant agrees that in such instances and at such time as replacement poles are installed, the City may reasonably require that the configuration and/or location of ground furniture (which references any equipment on the ground that is needed to supply power or backhaul services to the small cell Facility) and/or pole-mounted equipment or equipment cages be changed (such as changing from pole-mounted equipment cages to ground furniture), in the discretion of the City.

2. Emergency Removal or Relocation of Facilities. The City retains the Right and privilege to cut or move any small wireless Facility or related structure located within the Rights-of-Way of the City, as the City may determine to be necessary, appropriate or useful in response to any public health or safety emergency. If circumstances permit, the City shall notify the Applicant and provide the Applicant an opportunity to move its own Facilities, if possible, prior to cutting electrical service or removing a Facility and shall notify the wireless Provider after cutting or removing a small wireless Facility.

Section 3. Placement of Small Cell Technology Facilities on Private Property.

- A. A Provider or Applicant must obtain a permit from the City before placing, installing, or constructing any Small Cell Technology Facility (and associated Accessory Equipment) on any Support Structure that is located on private property, or substantially modifying the position or characteristics of any such existing Facility thereon.
- B. The Mayor will review and administratively process any request for a permit to determine whether, in the exercise of the Mayor's reasonable discretion, it should be issued for the location and in the manner requested. Except as set forth in this section, this permitting process will not require the approval of any City Board or City official other than the Mayor. The factors, guidelines and requirements that the Mayor may consider and will apply when determining whether to issue a permit for placement of Facilities and any associated Accessory Equipment or Support Structure on private property include, but are not limited to, the following:

1. The factors and requirements set forth in Section 2 of this Ordinance Number 2020-25;
2. Colocation. The guidelines in Section 2 of this Ordinance Number 2020-25 to utilize existing poles and Support Structures for the placement of Facilities and Accessory Equipment are also applicable when considering whether to permit the installation of those Facilities and Support Structures on private property, provided that City Council approval is not required before a permit is issued to place a new pole or other Support Structure on private property if that action is appropriate.
3. The Provider or Applicant shall use Stealth Technology when installing the Facilities and associated Accessory Equipment on any building or accessory to that building that is located on private property. Further, Stealth Technology should be used when placing Facilities on other types of Support Structures on private property unless the Applicant can reasonably demonstrate that, given the nature of the requested application, the use of such Technology is (a) unnecessary; or (b) impractical.
4. If Facilities are placed on an existing or new building or accessory to that building, the following dimensional regulations shall apply:
 - a. Facade-mounted antennas shall not extend above the face of any wall or exterior surface of the building.
 - b. Roof-mounted antennas and Accessory Equipment may be permitted on buildings in accordance with the following table:

Height of Building	Maximum Height of Facility Above Highest Point of Roof	Required Setback from the Edge of the Roof of the Building
Up to 15 feet	8 feet, including antenna	1 foot for every foot height of equipment
15-35 feet	10 feet, including antenna	1 foot for every foot height of equipment
More than 35 feet	12 feet, including antenna	1 foot for every foot height of equipment

- c. The antenna component of the Facilities shall be limited to a maximum height of three (3) feet and a maximum width of two (2) feet; provided that authorization to install antenna up to six (6) feet in height may be permitted if a showing of the technological need for such equipment is made and other requirements of this Section are met.
- d. Accessory Equipment must be located in an equipment cabinet, equipment room in an existing building or

in an unmanned equipment building. If the equipment building is freestanding, it shall conform to the City of Cullman Ordinance with respect to building setbacks, that building shall not exceed 400 square feet, and its overall height shall be limited to 15 feet (if located on the ground) measured from the finished grade. Further, if an equipment building or cabinet is located in a residential zone, or the nearest adjoining property is in a residential zone, that building or cabinet shall be surrounded by landscaping to provide a screen of the same height as the building or cabinet.

5. Application Process. Except as provided in paragraphs a and b immediately below, the same application process that is set forth in Section 2 will be utilized when processing any request for a permit to place Facilities or Support Structures on private property, except that:
 - a. City Council approval to install a new Support Structure on private property is not a condition for a permit to place Facilities thereon; and
 - b. If the Facilities are located on private property that is not owned or exclusively used by the Applicant, instead of providing the documentation contemplated in Section 2(c)(1)(c), the Applicant shall present a license, lease, agreement or other documentation indicating that owner of said property authorizes the Applicant the Rights to place the Facilities thereon and access thereto, or that such owner agrees in principle to grant the Applicant those Rights; provided that, if a representation is made to the City that the owner of private property has agreed in principle to grant those Rights but the Applicant subsequently fails to furnish the City documentation that finalizes any such agreement, the City may refuse to issue the requested permit until the documentation is provided, or, if the City issues the requested permit before receiving such final documentation, the subject permit and license may be revoked.
6. Additional Requirements. Any Provider or Applicant to whom a permit is issued and that places Facilities and associated Support Structures on private property also shall comply with the following requirements as long as those Facilities and Support Structures are located thereon:
 - a. All Facilities and Support Structures shall be installed, erected, and maintained in compliance with applicable federal and state laws and regulations, including, but not limited to, regulations of the FCC.
 - b. The Facilities and associated Support Structures on private property must at all times be maintained in good and safe condition.

C. Permit and License Fees. The Provider or Applicant for a permit to place Facilities and associated Support Structures on private property shall pay the following types of fees that are enumerated in the City's officially adopted Fee Structure Ordinance as amended:

1. a permit application and review fee to be paid when an application is submitted; and,
2. a permit issuance fee per each Support Structure on private property contemplated for attachment.

Section 4. Abandonment of Facilities on Right-of-Way. If a Provider or Applicant abandons any Facility (including the Accessory Equipment) or an associated Support Structure (collectively "Facilities" for purposes of this Section) that is located on the Right-Of-Way, the following rights and obligations shall exist. The City may require the Provider or Applicant, at their expense, to remove and reclaim the abandoned Facilities within sixty (60) days from the date of written notice of Abandonment given by the City to them and to reasonably restore the condition of the property at which the Facilities are located to that existing before they were installed. If the Provider or Applicant fails to remove and reclaim its abandoned Facilities within such 60-day period and the Facilities are located on the Right-Of-Way, the City shall have the rights to:

1. remove them and charge its expense of any such removal operation to the account of the Provider or Applicant,
2. purchase all abandoned Facilities at the subject location from the Provider or Applicant in consideration for \$1.00,
3. at the City's discretion, either resell the abandoned Facilities to a third party or dispose and salvage them; provided that the proceeds of any resale of abandoned Facilities by the City to a third party shall be credited to the account of the Applicant or Provider that used those Facilities before the abandonment, and
4. charge any expense incurred by the City to restore the Right-of-Way to the account of the Provider or Applicant.

Section 5. Colocation. To promote the public interest that is served by co-locating Facilities and associated Accessory Equipment on existing Support Structures and thereby mitigating the installation of additional Support Structures throughout the City, no person or entity (including any Provider, Applicant, utility, or franchisee) that utilizes an existing Support Structure that is located on Right- of-Way or on private property in the City and has space available thereon may deny a Provider or Applicant the Right to use or access an existing Support Structure for purposes of attaching Facilities permitted by this ordinance without sound operational, technological or other good reason.

Section 6. Non-Applicability. The placement of an antenna(s), Facilities or equipment related to the following types of wireless communication services are exempt from regulation under this ordinance:

- A. Amateur radio service that is licensed by the FCC if the Facilities related thereto are not used or licensed for any commercial purpose; and
- B. Facilities used by any federal, state or local government or agency to provide safety or emergency services.

Section 7. Repealer. All Ordinances or parts of ordinances heretofore adopted by the City Council of the City of Cullman, Alabama that are inconsistent with the provisions of this Ordinance are hereby expressly repealed.

Section 8. Severability. If any part, section or subdivision of this ordinance shall be held unconstitutional or invalid for any reason, such holding shall not be construed to invalidate or impair the remainder of this ordinance, which shall continue in full force and effect notwithstanding such holding.

Section 9. Effective Date. This ordinance shall become effective immediately upon adoption, posting, and publication as

provided by Alabama law.

DONE, ORDERED, APPROVED and ADOPTED this the 14th day of September, 2020.

/s/ Jenny Folsom, City Council President

ATTESTED BY:

/s/ Wesley M. Moore, City Clerk

APPROVED BY THE MAYOR this the 14th day of September, 2020.

/s/ Woody Jacobs, Mayor

Council Member Page seconded the motion, and the ordinance was adopted by a roll call vote. Mr. Wesley Moore polled the Council Members: Council Member Page: Aye. Council President Pro Tem Cook: Aye. Council President Folsom: Aye. Council Member Moss: Aye. Council Member Hollingsworth: Aye.

Council President Folsom held the first reading of Ordinance No. 2020-43 to rezone Ellsworth Subdivision from AG-1 to R-2. Council President Pro Tem Cook made a motion to suspend the rules to consider Ordinance No. 2020-43 to rezone Ellsworth Subdivision from AG-1 to R-2. 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 President Pro Tem Johnny Cook: Aye. Council President Folsom: Aye. Council Member Moss: Aye. Council Member Hollingsworth: Aye. Council President Pro Tem Cook made a motion to adopt the following Ordinance No. 2020-43.

ORDINANCE NO. 2020 – 43

AMENDING ORDINANCE NO. 2004-03 AND THE ZONING MAP OF THE CITY OF CULLMAN, ALABAMA, TO RE-ZONE CERTAIN PARCELS OF PROPERTY AS SET FORTH HEREIN

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

1. Under the authority of Chapter 52, Articles 1 through 4, Section 11-52-1 through Section 11-52-84, Code of Alabama 1975, as amended, and specifically Sections 11-52-77 and at the request of property owner, Gregory S. Windham, the following describe the tract or parcel of land, to-wit:

Legal Description:

A tract of situated in the Southeast Quarter of the Northwest Quarter of Section 28, Township 10 South, Range 3 West, Cullman County, Alabama and being more particularly described as follows:

BEGINNING at a 9" wooden post marking the Southeast corner of Southeast Quarter of the Northwest Quarter of Section 28, Township 10 South, Range 3 West, Cullman County, Alabama thence run N 89°21'56" W along the south line of said quarter-quarter section for a distance of 501.42 feet to a Sain rebar and cap (CA 0279); thence leaving said south line run N 03°48'27" W for a distance of 98.86 feet to a Sain rebar and cap (CA 0279); thence run N 13°19'44" W for a distance of 156.35 feet to a Sain rebar and cap (CA 0279); thence run N 32°18'28" W for a distance of 310.64 feet to a Sain rebar and cap (CA 0279); thence run N 00°41'52" E for a distance of 274.15 feet to a Sain rebar and cap (CA 0279); thence run N 68°10'58" E for a distance of 169.15 feet to a Sain rebar and cap (CA 0279); thence run N 02°56'38" W for a distance of 93.98 to a Sain rebar and cap (CA 0279); thence run N 16°19'23" E for a distance of 103.16 feet to a Sain rebar and cap (CA 0279); thence run N 31°33'22" E for a distance of 24.39 feet to a Sain rebar and cap (CA 0279); thence run N 13°00'51" E for a distance of 54.09 feet to a Sain rebar and cap; thence run N 31°33'22" E for a distance of 190.90 feet to a Sain rebar and cap; thence run N 45°22'56" E for a distance of 71.98' feet to a Sain rebar and cap, said point lying on the North line of the Southeast Quarter of the Northwest Quarter of Section 28; thence run S 88°55'20" E along said north line for a distance of 363.02 feet to a Sain rebar and cap marking the Northeast corner of the Southeast Quarter of the Northwest Quarter of Section 28; thence run S 00°35'02" W along the East line of said quarter-quarter section for a distance of 1328.69 feet to the POINT OF BEGINNING; said parcel containing 772,365 S.F. (17.73 Acres) more or less.

within the city limits of Cullman, Alabama, and lying and being in Cullman County, State of Alabama, designated as AG-1 Agriculture District on the Zoning Map of the City of Cullman, Alabama, under Ordinances No. 2004-03 and as may be reflected in any comprehensive master plan for the City of Cullman, Alabama, be, and is hereby changed from AG-1 Agricultural District to R-2 Residential District.

2. That this ordinance be published at least once a week for two consecutive weeks in advance of its final passage in a newspaper with general circulation within the City of Cullman, Alabama, the first publication of said notice and ordinance being verbatim and the second publication either verbatim or synopsis, with the last publication being at least 15 days prior to the date set for public hearing and passage of said ordinance.

3. That a public hearing be held relative to the passage of this ordinance on the 14th day of September, 2020 at 7:00 o'clock p.m., at which time interested parties and citizens shall have the opportunity to be heard concerning said ordinance and any changes relating thereto.

4. That all notices as required by law be given by the City Clerk concerning said public hearing, and in addition thereto, a certified letter be sent by the Clerk to all contiguous property owners at their last known addresses as shown by the tax records for the City of Cullman, Alabama.

5. That upon final passage of this ordinance, all zoning maps, master comprehensive plans or any other documents of the City of Cullman, Alabama, in conflict with this ordinance are hereby changed and amended to reflect the changes and amendments herein.

6. Should any part or portion of this ordinance be held invalid, unenforceable or unconstitutional, for whatever reason, by a court of competent jurisdiction, such ruling shall not affect any other part or portion of this ordinance.

7. This ordinance shall take effect and be in force from and after its passage or adoption as required by law, including notice, publication and public hearing, all in accordance with Section 11-52-1, et seq., Code of Alabama 1975, as amended.

ADOPTED BY THE CITY COUNCIL, this the 14th day of September, 2020.

/s/Jenny Folsom, City Council President

ATTEST:

/s/Wesley Moore, City Clerk

APPROVED BY THE MAYOR, this the 14th day of September, 2020.

/s/Woody Jacobs, Mayor

Council Member Hollingsworth seconded the motion and the motion was approved by roll call vote. Mr. Wesley Moore polled the Council Members: Council Member Page: Aye. Council President Pro Tem Johnny Cook: Aye. Council President Folsom: Aye. Council Member Moss: Aye. Council Member Hollingsworth: Aye.

Council President Folsom held the first reading of Ordinance No. 2020-44 to rezone Shadowbrook Subdivision from AG-1 to R-2. Council President Pro Tem Cook made a motion to suspend the rules to consider Ordinance No. 2020-44 to rezone Shadowbrook Subdivision from AG-1 to R-2. 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 President Pro Tem Johnny Cook: Aye. Council President Folsom: Aye. Council Member Moss: Aye. Council Member Hollingsworth: Aye. Council Member Page made a motion to adopt the following Ordinance No. 2020-44:

ORDINANCE NO. 2020 – 44

AMENDING ORDINANCE NO. 2004-03 AND THE ZONING MAP OF THE CITY OF CULLMAN, ALABAMA, TO RE-ZONE CERTAIN PARCELS OF PROPERTY AS SET FORTH HEREIN

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

Under the authority of Chapter 52, Articles 1 through 4, Section 11-52-1 through Section 11-52-84, Code of Alabama 1975, as amended, and specifically Sections 11-52-77 and at the request of property owner, Minuteman Construction, the following describe the tract or parcel of land, to-wit:

Address: 495 County Road 702, Cullman, AL 35055
Parcel: 17-06-23-0-001-005.003 PPIN: 39368

From the southwest corner of the southeast quarter of the northeast quarter, go north along the west boundary of said forty 1335 feet to a point in the south bank of Ryan Creek; thence an interior angle of 58 degrees 30 minutes go in an easterly directly along the south bank of said Ryan Creek a distance of 105 feet to a point; thence go southeasterly 1368 feet to a point on the northeasterly right of way a paved county road; thence northwesterly along said right of way a distance of 315 back to the point of beginning. Lying and being in the southeast quarter of the northeast quarter of Section 23, Township 10 South, Range 3 West, and the northeast quarter of the southeast quarter of Section 23, Township 10 South, Range 3 West.

Parcel: 17-06-23-0-001-005.004 PPIN: 23752

Also, all that part of the southeast quarter of the northeast quarter and the northeast quarter of the southeast quarter of Section 23, Township 10 South, Range 3 West, and more particularly described as beginning at the southwest corner of the southeast quarter of the northeast quarter of said Section 23; thence South 55 degrees 24 minutes 08 seconds east 310.37 feet to the true point of beginning of the property herein described; thence from said true point of beginning North 6 degrees 40 minutes 02 seconds west 1429.42 feet to a point on the south bank of a creek; thence south 60 degrees 38 minutes 31 seconds east along said south bank 104.68 feet; thence north 52 degrees 50 minutes 06 seconds east along said bank of creek 100.00 feet; thence south 2 degrees 40 minutes 05 seconds east 1448.30 feet to a point on the north right of way a County Road; thence north 76 degrees 07 minutes 22 seconds west along said north right of way 74.56 feet to the true point of beginning.

within the city limits of Cullman, Alabama, and lying and being in Cullman County, State of Alabama, designated as AG-1 Agriculture District on the Zoning Map of the City of Cullman, Alabama, under Ordinances No. 2004-03 and as may be reflected in any comprehensive master plan for the City of Cullman, Alabama, be, and is hereby changed from AG-1 Agricultural District to R-2 Residential District.

2. That this ordinance be published at least once a week for two consecutive weeks in advance of its final passage in a newspaper with general circulation within the City of Cullman, Alabama, the first publication of said notice and ordinance being verbatim and the second publication either verbatim or synopsis, with the last publication being at least 15 days prior to the date set for public hearing and passage of said ordinance.

3. That a public hearing be held relative to the passage of this ordinance on the 14th day of September, 2020 at 7:00 o'clock p.m., at which time interested parties and citizens shall have the opportunity to be heard concerning said ordinance and any changes relating thereto.

4. That all notices as required by law be given by the City Clerk concerning said public hearing, and in addition thereto, a certified letter be sent by the Clerk to all contiguous property owners at their last known addresses as shown by the tax records for the City of Cullman, Alabama.

5. That upon final passage of this ordinance, all zoning maps, master comprehensive plans or any other documents of the City of Cullman, Alabama, in conflict with this ordinance are hereby changed and amended to reflect the changes and amendments herein.

6. Should any part or portion of this ordinance be held invalid, unenforceable or unconstitutional, for whatever reason, by a court of competent jurisdiction, such ruling shall not affect any other part or portion of this ordinance.

7. This ordinance shall take effect and be in force from and after its passage or adoption as required by law, including notice, publication and public hearing, all in accordance with Section 11-52-1, et seq., Code of Alabama 1975, as amended.

ADOPTED BY THE CITY COUNCIL, this the 14th day of September, 2020.

/s/Jenny Folsom, City Council President

ATTEST:

/s/Wesley Moore, City Clerk

APPROVED BY THE MAYOR, this the 14th day of September, 2020.

/s/Woody Jacobs, Mayor

Council Member Moss seconded the motion and the motion was approved by roll call vote. Mr. Wesley Moore polled the Council Members: Council Member Page: Aye. Council President Pro Tem Johnny Cook: Aye. Council President Folsom: Aye. Council Member Moss: Aye. Council Member Hollingsworth: Aye.

Council President Pro Tem Cook made a motion to adopt the following resolution:

RESOLUTION NO. 2020-134
TO EXTEND BIDS R-01812 FOR LAY HOT MIX AND R-01813 FOR HOT AND COLD MIX

WHEREAS, the Cullman City Council on August 12, 2019 awarded bids R-01812 for lay hot mix and R-01813 for cold mix and hot mix to the lowest responsible bidder, Good Hope Contracting, with the option to extend the contract period up to 3 years;

WHEREAS, the Cullman City Council on September 14, 2020 voted to extend these bids for one additional year based on the recommendation of Street Superintendent Scott Talley;

WHEREAS, the recommendation from the Street Superintendent Scott Talley is to extend the current bids with Good Hope Contracting until August 12, 2021;

WHEREAS, the Cullman City Council has determined it would serve a public purpose to extend bids R-01812 and R-01813 with Good Hope Contracting until August 12, 2021;

THEREFORE, BE IT RESOLVED by the Cullman City Council that bids R-01812 for lay hot mix and R-01813 for cold mix and hot mix, previously awarded to Good Hope Contracting, are hereby extended until August 12, 2021.

ADOPTED BY THE CITY COUNCIL this the 14th day of September, 2020.

/s/Jenny Folsom, City Council President

ATTEST:

/s/Wesley Moore, City Clerk

APPROVED BY THE MAYOR, this the 14th day of September, 2020.

/s/Woody Jacobs, Mayor

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

BOARD APPOINTMENTS - None

Council President Folsom asked for a motion to adjourn. Council Member Andy Page made the motion to adjourn. Council Member Hollingsworth seconded the motion and the meeting was adjourned at 7:24 p.m. by a voice vote. Ayes: All. Nays: None.