

**CULLMAN CITY COUNCIL MEETING ON OCTOBER 25, 2021
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, October 25, 2021. Fire Chief Brian Bradberry 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 Attorney Roy Williams and City Clerk Wesley Moore.

Council President Jenny Folsom asked the Council to consider the minutes from October 11, 2021. Council President Pro Tem Cook made a motion to suspend the rules to consider the minutes. Council Member Page 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. Council President Pro Tem Cook made a motion to approve the minutes from October 11, 2021, as written. Council Member Moss 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

REPORTS OF STANDING COMMITTEES

1. Public Safety (Fire, Police, etc.) - Chairman Andy Page – No report.
2. Utilities (Water, Sewer, etc.) - Chairman David Moss – No report.
3. Public Works (Street, Sanitation, etc.) - Chairman Johnny Cook shared that Saturday, November 13th the Sanitation department will be accepting household hazardous waste at Heritage Park from 8:00 am until 12:00 pm or until the collection capacity is reached.
4. Tourism (Parks & Recreation, Airport, etc.) Chairman Clint Hollingsworth - No report.
5. General Government (Finance, Economic Development, etc.) - Chairwoman Jenny Folsom – No report.

REPORT FROM THE MAYOR

Mayor Jacobs reported there are several paving projects going on throughout the city and urges everyone to drive in these areas with an abundance of caution.

Mayor Jacobs and council members presented Cullman City Schools Superintendent, Dr. Kalhoff with a \$600,000 check for capital improvements within the school system. This check is the first installment of the City's 10-year, \$6,000,000 commitment toward helping the city schools in their capital improvement needs. Dr. Kalhoff shared the school system's current capital improvement plans; partnership with Wallace State Community College for workforce exploration and career tech program to alignment with workforce needs; and test score performance in the top 15 systems in all categories of the Alabama Comprehensive Assessment Program.

COMMENTS FROM ANYONE NOT ON THE AGENDA – None.

PUBLIC HEARINGS – None.

REQUESTS, PETITIONS, APPLICATIONS, COMPLAINTS

Council President Pro Tem Cook made a motion to approve a special event request from Keith Varden for Christmas Open House in the Warehouse District on November 12th, 13th, and 14th. 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 approve a special event request from Andy Palys of Cullman County Wranglers Club for a trunk or treat in Depot Park on Friday, October 29th, 2021 from 5:30 p.m. until 8:30 p.m. Council Member Hollingsworth seconded the motion and the motion was approved by a voice vote. Ayes: All. Nays: None.

RESOLUTIONS, ORDINANCES, ORDERS, AND OTHER BUSINESS

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

RESOLUTION NO. 2022-03

TO ENTER AGREEMENT WITH MXI ENVIRONMENTAL SERVICES, LLC FOR THE DISPOSAL OF HOUSEHOLD HAZARDOUS WASTE MATERIALS

WHEREAS, the Cullman City Council has determined that it would serve a public purpose to enter into an agreement with MXI Environmental Services, LLC for the disposal of household hazardous waste materials.

NOW THEREFORE BE IT RESOLVED by the Cullman City Council in the State of Alabama that the Mayor is hereby authorized to enter into an agreement with MXI Environmental Services, LLC

ADOPTED BY THE CITY COUNCIL this the 25th day of October, 2021.

/s/ Jenny Folsom, City Council President

ATTEST:

/s/Wesley Moore, City Clerk

APPROVED BY THE MAYOR this the 25th day of October, 2021.

/s/Woody Jacobs, Mayor

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

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

RESOLUTION NO. 2022-04

TO ENTER INTO CONTRACT WITH ST. JOHN & ASSOCIATES, INC.

WHEREAS, the Cullman City Council has determined that it would serve a public purpose to enter into contract with St. John and Associates, Inc. for professional, design, and engineering services related to site design for construction of streetscape improvements along 2nd Avenue NE from Arnold Street NE to Clark Street NE for project TAPAA-TA22(903).

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, Inc. for professional, design, and engineering services related to site design for construction of streetscape improvements along 2nd Avenue NE from Arnold Street NE to Clark Street NE.

ADOPTED BY THE CITY COUNCIL this the 25th day of October, 2021.

/s/ Jenny Folsom, City Council President

ATTEST:

/s/Wesley Moore, City Clerk

APPROVED BY THE MAYOR this the 25th day of October, 2021.

/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 Moss made a motion to adopt the following resolution:

RESOLUTION NO. 2022-05

TO ENTER INTO CONTRACT WITH ST. JOHN & ASSOCIATES, INC.

WHEREAS, the Cullman City Council has determined that it would serve a public purpose to enter into contract with St. John and Associates, Inc. for professional, design, and engineering services related to Sewer Collection Improvements Program, Phase I, for Screen Refurbishment at the South Pump Station.

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, Inc. for professional, design, and engineering services related to Sewer Collection Improvements Program, Phase I, for Screen Refurbishment at the South Pump Station.

ADOPTED BY THE CITY COUNCIL this the 25th day of October, 2021.

/s/ Jenny Folsom, City Council President

ATTEST:

/s/Wesley Moore, City Clerk

APPROVED BY THE MAYOR this the 25th day of October, 2021.

/s/Woody Jacobs, Mayor

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

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

RESOLUTION NO. 2022-06

TO APPROVE AMENDMENT NO. 002 FOR COHEN, CARNAGGIO, & REYNOLDS, INC.

WHEREAS, the Cullman City Council awarded the bid to Cohen, Carnaggio & Reynolds, Inc., for exterior and interior design, architectural, and structural engineering services related to the Cullman Civic Center Complex project.

WHEREAS, the City of Cullman wishes to approve Amendment No. 002 to increase the overall scope of the Cullman Civic Center Complex project.

THEREFORE, BE IT RESOLVED by the Cullman City Council that the Mayor is authorized to execute Amendment No. 002 to increase the overall scope of the Cullman Civic Center Complex project.

ADOPTED BY THE CITY COUNCIL this the 25th day of October, 2021.

/s/ Jenny Folsom, City Council President

ATTEST:

/s/Wesley Moore, City Clerk

APPROVED BY THE MAYOR this the 25th day of October, 2021.

/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 Hollingsworth made a motion to adopt the following resolution:

RESOLUTION NO. 2022-07

TO AWARD BID FOR CREW CAB FLATBED TRUCK

WHEREAS, bids (R-01864) were opened on October 21, 2021 at 2:00 p.m. for a crew cab flatbed truck for the City of Cullman,

WHEREAS, the following bids were opened:

Eckenrod Ford	Cullman, AL	\$43,503.00
Bill Smith GMC	Cullman, AL	No Bid
Mitch Smith Chevrolet	Cullman, AL	No Bid

WHEREAS, the low bidder for a crew cab flatbed truck was Eckenrod Ford; and

WHEREAS, the Cullman City Council has evaluated the bids received and has determined that Eckenrod Ford, is the lowest responsible bidder.

BE IT RESOLVED by the Cullman City Council that the bid for a crew cab flatbed truck be awarded to Eckenrod Ford.

ADOPTED BY THE CITY COUNCIL this the 25th day of October, 2021.

/s/ Jenny Folsom, City Council President

ATTEST:

/s/Wesley Moore, City Clerk

APPROVED BY THE MAYOR this the 25th day of October, 2021.

/s/Woody Jacobs, Mayor

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

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

RESOLUTION NO. 2022-08

TO AWARD BID FOR BLACK AND GRAY PIPE OF VARIOUS SIZES TO BEAR CONCRETE PRODUCTS

WHEREAS, bids (R-01862) were opened on October 22, 2021 at 2:00 p.m. for black and gray pipe for the City of Cullman,

WHEREAS, the low bidder for black and gray pipe is Bear Concrete Products; and

WHEREAS, the Cullman City Council has evaluated the bids received and has determined that Bear Concrete Products, is the lowest responsible bidder.

BE IT RESOLVED by the Cullman City Council that the bid for black and gray pipe be awarded to Bear Concrete Products.

ADOPTED BY THE CITY COUNCIL this the 25th day of October, 2021.

/s/ Jenny Folsom, City Council President

ATTEST:

/s/Wesley Moore, City Clerk

APPROVED BY THE MAYOR this the 25th day of October, 2021.

/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:

**CITY OF CULLMAN
RESOLUTION NO. 2022-09**

TO AMEND THE CULLMAN FIRE AND RESCUE FLSA WORK CYCLE POLICY

BE IT HEREBY RESOLVED, by the City Council of Cullman that the Council, hereby amends Resolution No. 2021-145 with the following revised and attached Cullman Fire Rescue FLSA Work Cycle Policy reflecting the 26-day cycle.

ADOPTED BY THE CITY COUNCIL this the 25th day of October, 2021.

/s/ Jenny Folsom, City Council President

ATTEST:

/s/Wesley Moore, City Clerk

APPROVED BY THE MAYOR this the 25th day of October, 2021.

/s/Woody Jacobs, Mayor

CULLMAN FIRE RESCUE

FLSA 26 Day Cycle

10/19/2021

Scope: The Fair Labor Standards Act (FLSA) is a very definitive document with respect to how organizations provide pay and compensation to employees. This policy is designed to provide information and guidance to all employees regarding how Cullman Fire Rescue (CFR) meets/will meet the standard in operational practice as well as record keeping mechanisms for reporting compliance to the act.

Exempt and Non-Exempt Employees: The FLSA allows for certain positions to be held exempt from the payment of overtime and other positions to be held non-exempt from the payment of overtime. Cullman Fire Rescue has defined the posture of all positions with respect to this status. These are listed below.

Executive Exempt Status:

- Fire Chief
- Deputy Fire Chief
- Division Chief
- Battalion Chief

Non-Exempt Status

- Firefighter
- Fire Engineer
- Fire Lieutenant
- Administrative Assistant

Work Cycle Defined: Cullman Fire Rescue works a 26-day cycle under the 7 K exemption defined for fire departments within the FLSA. Under this cycle, shift personnel are due overtime for all hours worked over 197 hours. However, CFR personnel working regular shifts will not work more than 192 hours in a 26-day cycle as established. Two shifts are scheduled to work nine (9) 24-hour shifts in a cycle (216 hours) and one shift is scheduled to work eight (8) 24 hours shifts in a cycle (192 hours). The two shifts scheduled to work 216 hours will each receive a Kelly day during this cycle which offsets the hours back to the 192 hours worked. As long as Kelly days are taken within established guidelines (not out of cycle for the unit), and shifts are worked on a regular basis, all shift personnel (including swing-positions) will not exceed the hours as defined by the 26-day cycle.

Varied Unit Cycles: If the entire department worked from a single 26-day cycle, then all Kelly days would occur at the same time (Homewood, Vestavia, Hoover, for example operate this way). This would mean that the swing-positions (normally fewer senior members) would all be on-duty at the same time and more senior members would be off on Kelly day. This could impact operations as well as impact leave time opportunities (swing-positions get pegged when staffing is short). The department will move to two cycles: Engine 18 and Engine 1 and/or Rescue 1 will be on cycle #1 (Kelly days the same) and Engine 3 and Rescue 2/Ladder 1 will be on cycle #2 (Kelly days the same). The cycles are one day apart. The dates for the cycles will be provided each calendar year for each unit for record keeping purposes.

A one-time adjustment in the FLSA work cycle length will have to be made for personnel being transferred from one cycle to the other (one-time cycle changes to get in sync with the other 26-day cycle -see below). This adjustment will be based on the day/hour table for 7K exemptions within the FLSA and will be recorded on the time card.

Employee moving from Cycle #1 to Cycle #2: Work Cycle = 27 Days (overtime paid after 204 Hrs.)

Employee moving from Cycle #2 to Cycle #1: Work Cycle = 25 Days (overtime paid after 189 Hrs.)

Summary: Working from a single FLSA cycle would be easier to manage (record keeping), but would make taking leave time more difficult when the swing-position are pegged. Working from two cycles will be more difficult to manage (record keeping), but will give more flexibility in taking leave time during Kelly days when swing-position are pegged.

Overtime: The FLSA provides that departments that use the 26-day cycle can wait until the end of the cycle to “ring up” the total hours to see if overtime has been earned. In our situation, overtime would be earned if the employee has worked more than 192 hours in the cycle. This would significantly delay employees getting paid for earned overtime. Our current practice is to pay overtime as it is earned (next payday after earning OT), and to pay it at the time and one-half rate for non-exempt employees. This will remain our practice.

On-Premise Rule: The FLSA states that any leave time taken during the 26-day cycle can be balanced against whether hours worked above 192 hours will be paid at the time and one-half rate or the straight time rate. This is known as the on-premise rule. Our practice has been to use the on-premise rule in OT calculations. This will remain our practice.

Five Hour variation: Under the FLSA 26 day cycle, OT is called for after an employee has worked 197 hours. Our normal cycle is 192 hours worked in the period. We will not use this 5-hour variation.

Overtime at the appropriate rate will be paid for employees that work past a shift, that are called in for active duty to maintain minimum staffing, and other miscellaneous situations/incidents where staffing is needed to complete our mission and employees have to work more hours than their normal work experience in conjunction with the above On-Premise Rule.

Schedule Changes/Adjustments: Occasionally, the department will require an employee to attend a training class which is held on a different schedule than the normal 24 hours on-duty and 48 hours off-duty (for example a 40-hour certification course at the AFC). This schedule change by its very nature will change the number of hours worked for the employee. The FLSA allows for time adjustments to be made to balance the hours worked during the work cycle. However, the time adjustments brought about by the schedule changes must be made within the same 26-day cycle so that the total hours worked do not exceed 192 hours. This will be the practice of our department.

Employees that request/volunteer to attend training classes do not fall under the FLSA requirements with respect to OT or time adjustments. Therefore, compensation/time balance for hours worked beyond the normal cycle is not mandatory. However, one of our established core values is education; therefore, our department will balance time for those approved for training in the same FLSA cycle as well.

Required Record Keeping: The FLSA is fairly clear on its requirements for the keeping of records as they relate to work hours, etc. The FLSA requirements govern records that the fire department maintains as well as the payroll department. Cullman Fire Rescue will have in place, and maintain, a record keeping system that meets the requirements of the FLSA.

The primary instrument for adequately keeping employee time records for the fire department will be the employee time cards that each supervisor completes at the end of each shift. The card has been revised to include required relevant information which relates to the 26-day cycle and the hours worked in each cycle. To be effective, supervisors must follow the below process:

- < Employee leave-time and hours worked must be logged on the day that they actually occur. In other words, if an employee works a 24-hour shift, then 24 hours should show in the square for that particular day. If an employee is attending a 40-hour certification class, then there should be 8 hours showing for each of the five days in attendance. Also, if an employee worked overtime for 2 hours, then 2 hours overtime should be listed on the day that it was earned. If a time adjustment was made due to a schedule change, then this amount of time should be shown as well in the appropriate date square. We must account for each hour worked and the date on which it was worked. The FLSA does not allow exceptions to this fact. This information will be logged before the supervisor leaves the shift to go off duty.
- < The begin date and the end date of the 26-day cycles must be listed on the card in the space provided. These dates will be provided to each unit.
- < At the end of each 26 day cycle the hours worked during the cycle must be totaled by the supervisor and entered in the appropriate space. Kelly days, Time Adjustments (time given off to balance hours) and leave time will not be calculated as time worked. If the employee has worked overtime during the cycle, then this will reflect with an hourly total exceeding 192 hours. The employee should have already been paid for the overtime or at least have an overtime card already in process to be paid for the time. It would be advisable to check with the employee to confirm this or check the computerized leave time system to see that OT has been listed for the employee on the appropriate date.
- < After the 26-day cycle has been totaled, the supervisor and employee should review the hours and the employee place his/her initials in the appropriate space if he/she concurs. If there is a discrepancy, the Shift Commander should be involved.
- < At the end of the year, the Shift Commanders will sign the card of their subordinates and turn the card in to the office for historical records purposes.

Shift Commanders will perform a visual audit of the time cards at least on a quarterly basis to make sure that information is being entered in the prescribed fashion to meet the FLSA requirements.

Shift Time Calculation Information

Shift personnel can earn pay based on 103.38 hours bi-weekly (every 14 days). This is the hours (103.38) that is used to calculate the FF base pay per hour. It is also the hourly rate that is used to calculate overtime and holiday time pay.

Example: A firefighter earns \$1,570.34 per payday. If we divide this amount by 103.38 hours we get the hourly rate of \$15.19 This figure is reflected on the current pay matrix.

How does this pay situation relate to the Fire Department's 26-day FLSA work cycle? If we divide the pay period hours (103.38) by 14, we will get the hours that shift personnel are paid for each day. If we then multiply the daily hours paid by the 26 days in our cycle, we can get how many hours shift personnel would be paid in a 26-day period.

Example: 103.38 hours per payday divided by 14 days in the pay period equals 7.385 hours that would be paid each day. 7.385 hours per day times 26 days in our FLSA cycle equals 192.01 hours. This is the exact number of hours that our work cycle is based on.

Therefore, shift personnel are working 192 hours in our FLSA cycle and are being paid for 192 hours in our FLSA work cycle. Based on this information, when changes are made between shifts (transfers, etc.), the only critical factor that has to be reviewed is that each person must work at least 192 hours (26-day cycle), or if their hours exceed 192 hours that a time adjustment due to the schedule change (staffing permitting) be made to reduce the hours to 192.

FLSA CYCLES FOR PLACING NEW HIRES AND DAYS-TO-SHIFT TRANSFERS

Days in Period	Hours (rounded)	Days in Period	Hours (rounded)
7	52	18	133
8	59	19	140
9	66	20	148
10	74	21	155
11	81	22	162
12	89	23	170
13	96	24	177

14	103	25	185
15	111	26	192
16	118	27	199
17	126	28	207

Note: Time adjustment or OT must be used to keep the hours from exceeding those listed for each work period.

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

Council President Jenny Folsom held the second reading of Ordinance No. 2021-52 to rezone property owned by Shelby Hankey located at 101 Main Avenue from R-4 Residential District to CBD Central Business District which received a favorable recommendation from the Planning Commission. Council President Pro Tem Cook made a motion to adopt Ordinance No. 2021-02.

ORDINANCE NO. 2021 – 52

AMENDING THE CURRENT ZONING ORDINANCE AND 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:

SECTION 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 owners, James and Shelbie Hankey, the following describe the tract or parcel of land, to-wit:

Property Address: 101 Main Ave SW

Parcel: 17-05-16-1-012-001.000

PPIN: 10271

Legal Description: Lots numbered One (1) and Two (2) as shown on the recorded plat of Musgrove’s Addition to Cullman, Alabama, said above mentioned plat being recorded in the office of the Judge of Probate of Cullman County, Alabama in Book 10 page 362.

Less and Except that parcel as conveyed to City of Cullman in Deed Book 689 page 802, described as follows: A tract or parcel of land containing 0.25 acres of land and being a part of Lot 2 of Block 2 of Musgrove’s Addition to the City of Cullman, as recorded in Map Book 10, page 362 in the Office of the Judge of Probate of Cullman County, Alabama and being more particularly described as follows:

Begin at the Southwest corner of Lot 2 Block 2 of said Musgrove’s Addition to the City of Cullman, having an Alabama State Plane, West Zone, NAD 83 Coordinate value of N1519542.85’, E 2165498.45’, and run South 89 degrees 33 minutes 02 seconds East; (Bearing based on Alabama State Plane, West Zone, NAD 83 GRID), along the South line of said lot 2, a distance of 200.00 feet to a found capped corner (Conn-17831), marking the Southeast corner of said Lot 2 and being on the Westerly right of way of Main Avenue Southwest; thence North 00 degrees 27 minutes 20 seconds East, along said Westerly right of way line, a distance of 53.16 feet to a set rebar (Conn-17831), thence North 88 degrees 46 minutes 14 seconds West, a distance of 95.87 feet to a set rebar, thence South 78 degrees 54 minutes 09 seconds West, a distance of 14.29 feet to a set rebar; thence North 82 degrees 59 minutes 10 seconds West, a distance of 90.68 feet to a set rebar on the West line of said Lot 2; a distance of 61.98 feet to the point of beginning.

Description taken from survey of Joseph E. Conn, III, AL. Reg. No. 17831, dated 6/6/2019.

within the city limits of Cullman, Alabama, and lying and being in Cullman County, State of Alabama, designated as R-4 Residential 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 R-4 Residential District to CBD Central Business District.

SECTION 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.

SECTION 3. That a public hearing be held relative to the passage of this ordinance on the 11th day of October, 2021 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.

SECTION 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.

SECTION 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.

SECTION 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.

SECTION 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 25th day of October, 2021.

/s/ Jenny Folsom, City Council President

ATTEST:

/s/Wesley Moore, City Clerk

APPROVED BY THE MAYOR this the 25th day of October, 2021.

/s/Woody Jacobs, Mayor

Council Member Hollingsworth seconded the motion to approve the Ordinance, and the motion was approved by a roll call vote. Mr. Wesley Moore polled the Council Members: Council Member Page: Aye. Council President Folsom: Aye. Council Member Moss: Aye. Council Member Hollingsworth: Aye.

Council President Jenny Folsom held the second reading of Ordinance No. 2022-01 to annex property owned by Sherry Rutherford located at 1240 County Road 1422 as R-1 Residential District which received a favorable recommendation from the Planning Commission. Council Member Moss made a motion to adopt Ordinance No. 2022-01.

ORDINANCE NO. 2022-01

TO ANNEX CERTAIN PROPERTIES INTO THE CITY LIMITS OF THE CITY OF CULLMAN, ALABAMA

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

SECTION 1. The City Council of the City of Cullman finds that the following property owner, **SHERRY L RUTHERFORD**, has petitioned the City under the provisions of Section 11-42-21 of the Code of Alabama, 1975, as amended, that the following described property, owned by the petitioner, be annexed into the City of Cullman:

PPIN: 7158. Parcel No.: 09-06-24-0-000-017.000. Property Address: 1240 County Road 1422.

Legal Description: All that part of the Southeast Quarter of the Southwest Quarter of Section 24, Township 9 South, Range 3 West, and more particularly described as: Beginning at the point of intersection of the center line of Apple Grove Road (sometimes called Pleasant Grove Road) with the east line of said forty (said point being South 1 degree, 02 minutes, 17 seconds West and 627.73 feet from the Northeast Corner of said forty); thence South 59 degrees 34 minutes 42 seconds West along the center line 248.23 feet to the point of intersection with a point 50 feet outside of U.S. Geological Survey Datum Place 750 feet above mean sea level; thence Southeasterly along said 50 foot line to its point of intersection with the East line of said forty; thence North 1 degree 02 minutes 17 seconds East 572.27 feet to the true point of beginning, and containing 1.4 acres, more or less.

ALSO: Beginning at the Northeast corner of the Southeast Quarter of the Southwest Quarter of Section 24, Township 9 South, Range 3 West; thence South 1 degree, 02 Minutes 17 seconds West along the East line of said forty 823.74 feet to the true point of beginning; thence from the true point of beginning continue South 1 degree 02 minutes 17 seconds East 156.26 feet; thence North 77 degrees 47 minutes 22 seconds East 23.61 feet; thence North 7 degrees, 37 minutes 48 seconds West 152.59 feet to the point of beginning, being a part of the SW Quarter of the SE Quarter of Section 24, Township 9 South, Range 3 West.

ALSO: A part of the Southwest Quarter of the Southeast Quarter of Section 24, Township 9 South, Range 3 West, Cullman County, Alabama, being more particularly described as commencing at the Northwest corner of said Southwest Quarter of the Southeast Quarter, thence S00°56'20"W a distance of 627.73 feet to a railroad spike found in County Road number 1422, the point of beginning. Then from the point of beginning, S02°13'46"E a distance of 193.75 feet to an iron set (this and all irons referred to as "set" are 5/8 inch diameter rebar with a yellow plastic cap stamped Allen 31826). Then S09°30'50"E a distance of 152.43 feet to an iron set. Then S78°02'49"W a distance of 16.20 feet to a 5/8 diameter rebar. Then N07°33'15"W a distance of 152.80 feet to a 5/8 diameter bent rebar. Then N00°56'20"E a distance of 195.84 feet to the point of beginning and containing 0.07 acres, more or less.

TO BE ZONED AS R-1 RESIDENTIAL DISTRICT.

SECTION 2. That the Council has before it a map showing the relationship of the property proposed to be annexed to the corporate limits of the City of Cullman, and that said map is on file in the office of the City Clerk along with an acknowledgment by the property owners that they want it to be annexed into the City of Cullman.

SECTION 3. That the City of Cullman does hereby annex as a part of its corporate limits the above described tracts or parcels of land as **R-1 Residential District**.

SECTION 4. That a copy of this ordinance after its adoption, which ordinance includes a description of the property annexed to the City of Cullman, be filed in the office of the Judge of Probate of Cullman County, Alabama, the county in which the municipality is located.

SECTION 5. That this ordinance shall take effect upon its passage and publication as required by law.

ADOPTED BY THE CITY COUNCIL this the 25th day of October, 2021.

Council Member Hollingsworth seconded the motion to approve the Ordinance, and the motion was approved by a roll call vote. Mr. Wesley Moore polled the Council Members: Council Member Page: Aye. Council President Folsom: Aye. Council Member Moss: Aye. Council Member Hollingsworth: Aye.

Council President Jenny Folsom held the second reading of Ordinance No. 2022-02 to annex properties owned by G.A.P. Properties, LLC, located on County Road 770 as R-4 Residential District which received a favorable recommendation from the Planning Commission. Council Member Page made a motion to adopt Ordinance No. 2022-02.

ORDINANCE NO. 2022-02

TO ANNEX CERTAIN PROPERTIES INTO THE CITY LIMITS OF THE CITY OF CULLMAN, ALABAMA

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

SECTION 1. The City Council of the City of Cullman finds that the following property owner, **G.A.P. Properties, LLC**, has petitioned the City under the provisions of Section 11-42-21 of the Code of Alabama, 1975, as amended, that the following described property, owned by the petitioner, be annexed into the City of Cullman:

Property Address: County Road 770

Legal Description: Commencing at the purported N.E. corner of the N.W. ¼ of the S.W. ¼ of Section 2, T-10-S, R-3-W; thence South 89 degrees 52 minutes 10 seconds East, a distance of 429.00 feet; thence South 00 degrees 07 minutes 39 seconds West, a distance of 480.55 feet to a 5/8 inch rebar at the Point of Beginning; thence continue Southerly along said line, a distance of 160.18 feet to a ½ inch rebar, Cap # CA-0078; thence North 89 degrees 51 minutes 57 seconds West, a distance of 316.31 feet to a Magnetic Nail in the center of a County Road; thence continue Westerly along said line, a distance of 283.79 feet to a ½ inch rebar, Cap # CA-0078; thence South 46 degrees 36 minutes 06 seconds East, a distance of 233.64 feet to a ½ inch rebar Cap # CA-0078; thence North 89 degrees 51 minutes 57 seconds West, a distance of 329.50 feet to a ½ rebar, Cap # CA-0078; thence continue Westerly along said line, a distance of 329.50 feet to a 5/8 inch rebar; thence North 00 degrees 05 minutes 05 seconds East, a distance of 160.13 feet to a 5/8 inch rebar; thence North 00 degrees 07 minutes 39 seconds East, a distance of 160.11 feet to a 5/8 inch rebar; thence South 89 degrees 52 minutes 10 seconds East, a distance of 668.49 feet to a Magnetic Nail in the center of a County Road; thence continue Easterly along said line, a distance of 420.61 feet to the Point of Beginning. Property being in Cullman County, Alabama and containing 6.11 acres, more or less.

TO BE ZONED AS R-4 RESIDENTIAL DISTRICT.

SECTION 2. That the Council has before it a map showing the relationship of the property proposed to be annexed to the corporate limits of the City of Cullman, and that said map is on file in the office of the City Clerk along with an acknowledgment by the property owners that they want it to be annexed into the City of Cullman.

SECTION 3. That the City of Cullman does hereby annex as a part of its corporate limits the above described tracts or parcels of land as **R-4 Residential District**.

SECTION 4. That a copy of this ordinance after its adoption, which ordinance includes a description of the property annexed to the City of Cullman, be filed in the office of the Judge of Probate of Cullman County, Alabama, the county in which the municipality is located.

SECTION 5. That this ordinance shall take effect upon its passage and publication as required by law.

ADOPTED BY THE CITY COUNCIL this the 25th day of October, 2021.

/s/ Jenny Folsom, City Council President

ATTEST:

/s/Wesley Moore, City Clerk

APPROVED BY THE MAYOR this the 25th day of October, 2021.

Council Member Moss seconded the motion to approve the Ordinance, and the motion was approved by a roll call vote. Mr. Wesley Moore polled the Council Members: Council Member Page: Aye. Council President Folsom: Aye. Council Member Moss: Aye. Council Member Hollingsworth: Aye.

Council President Jenny Folsom held the first reading of Ordinance No. 2022-04 to adopt Emily's Law regarding dangerous or vicious animals. Council President Pro Tem Cook made a motion to suspend the rules to consider Ordinance No. 2022-04 to adopt Emily's Law regarding dangerous or vicious animals. 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 Page made a motion to adopt Ordinance No. 2022-04.

ORDINANCE NO. 2022-04
TO ADOPT EMILY'S LAW REGARDING DANGEROUS OR VICIOUS ANIMALS

WHEREAS, this Ordinance shall be established in order to comply with the requirements, procedural steps and penalties set forth by Act NO. 2018-182 passed by the Alabama Legislature, also known as Emily's Law; and

WHEREAS, this Ordinance adopting Emily's Law shall become the new formal process for the City of Cullman when dealing with dangerous animals; and

WHEREAS, the City of Cullman has previously, under City Ordinance No. 1371, established offenses against the against the City of Cullman including as declared by laws of the State of Alabama;

BE IT ORDAINED by the City Council of the City of Cullman, Alabama, as follows:

Section I. Purpose.

The purpose of this Ordinance is to modify, amend or delete portions of the current Chapter Eight (8) dealing with animals of the Code of Ordinances of the City of Cullman, in order to follow the laws of the State of Alabama.

Section II. Definitions.

1. Chapter 8, Article I General, Section 1(a), *Dangerous/vicious animal* is hereby deleted in its entirety and replaced with the following:

Dangerous/ vicious animal is defined as:

(1) An animal that attacks, bites or inflicts severe injury to human beings, pets, companion animals, or livestock."

(2) The owner of any animal accused of being vicious is entitled to introduce evidence to the Court that the animal was provoked or that the animal's actions at the time of the alleged attack, bite or injury were justified. In regards to dogs specifically, no animal may be declared vicious based solely on the breed of said animal.

2. Chapter 8, Article I General, Section 1(a), is hereby amended to add *Physical injury* to read as follows:

Physical Injury means an injury as defined in Section 13A-1—2(12), Code of Alabama 1975.

3. Chapter 8, Article I General, Section 1(a), *Potentially dangerous animal* is hereby deleted in its entirety and replaced with the following:

Potentially dangerous animal means any animal that:

(1) Unprovoked, bites a human or domestic animal, either on public or private property;

(2) Unprovoked, chases or approaches a person or domestic animal upon the streets, sidewalks, or any public or private property in a menacing fashion or apparent attitude of attack;

(3) Is known to have a propensity, tendency, or disposition to attack unprovoked or to cause injury or otherwise to threaten the safety of humans or domestic animals on any public or private property; or

(4) After notice to appear has been delivered, upon the determination of the Court on the date to be heard, the animal has been declared potentially dangerous by the Municipal Court Judge, as provided for in this chapter.

4. Chapter 8, Article I General, Section 1(a), is hereby amended to add *Proper enclosure* of a dangerous animal and read as follows:

Proper enclosure for the confinement of an animal that has been declared dangerous means one that is suitable to prevent the entry of the general public and that does all of the following:

a. Is capable of being locked with a key or combination lock when the animal is within the structure.

- b. Has secure sides and a secure top attached at all sides. All four sides of the fence or pen must be sunk at least two feet into the ground or the fence or pen must be built over a concrete pad to prevent the animal from digging out.
- c. Provides adequate ventilation and protection from the elements.
- d. Exhibits a sign conspicuously posted upon the pen or the structure containing the following: "Dangerous Animal — No Trespassing."
- e. The enclosure shall be constructed to allow the animal to stand normally and without restriction and shall be not less than four times the length of the animal and two times the width of the dog.
- f. The enclosure shall be locked at all times while the animal is inside the enclosure.
- g. The enclosure follows all building requirements of the City of Cullman
- h. Any law enforcement officer, animal control officer, or other duly designated agent or employee of the city shall be permitted the right to inspect the enclosure in which any potentially dangerous or dangerous/vicious animals are kept at any time.

5. Chapter 8, Article I General, Section 1(a), is hereby amended to add *Serious physical injury* to read as follows:

Serious physical injury means an injury as defined in Section 13A-1-2, Code of Alabama 1975.

6. Chapter 8, Article V, Dangerous and Viscous Animals, Section 198 *Procedure for determination, classification* is hereby deleted in its entirety and amended to read as follows:

Section 1 (a)(1) When a person claims that an animal is dangerous, the person shall make a sworn statement before a city magistrate setting forth the name of the animal owner, if known, the location where the animal is being kept in the city or county, and the reason he or she believes the animal to be dangerous.

(2) The sworn statement shall be delivered to an animal control officer who shall complete a dangerous animal investigation, provided however, when the sworn statement claims that an animal has caused serious physical injury or death to a person, the duties of the animal control officer, including but not limited to the dangerous animal investigation, shall be carried out by a law enforcement officer.

(b) An animal control officer is authorized to initiate a dangerous animal investigation in cases where a complaint has been made pursuant to subsection (a) and a person has been bitten, received physical injury or serious physical injury, or has died.

(c)(1) In the event a dangerous animal investigation leads an animal control officer to believe the allegation is founded, all of the following shall occur:

a. The animal control officer shall file a summons for the owner of the dog, if known, with the municipal court.

b. The animal in question shall be impounded at the county pound as described in Section 3-7A-7, Code of Alabama 1975, or municipality may enter into an agreement with an animal shelter or licensed veterinarian to impound the dog; provided, however, the owner of the animal shall be provided the opportunity to choose a veterinarian of his or her choosing to impound the animal in lieu of the county pound or animal shelter. If the animal is impounded with a veterinarian chosen by the owner of the dog, the owner of the animal shall be liable for paying to the veterinarian the cost and expenses incurred in impounding, feeding, and providing veterinary care or treatment for the dog. If the municipality impounds the dog, the owner of the animal shall be liable to the municipality for the costs and expenses incurred in impounding, feeding, and providing veterinary care or treatment for the dog.

c. The animal control officer shall send a copy of the investigation report to the county attorney, municipal attorney, or municipal prosecutor.

(2) In lieu of the investigation, the owner of the alleged dangerous animal may consent to the animal being humanely euthanized.

(d) In the event the dangerous animal investigation leads the animal control officer to believe the allegation is unfounded, the animal control officer shall advise the complainant of his or her findings and the animal control officer shall submit the results of the investigation to his or her supervisor.

(e) A copy of all investigations made pursuant to this section shall be kept on file in the police records repository.

(f) The municipal attorney, or municipal prosecutor shall be authorized to file a petition in the district court or municipal court to declare dangerous the animal that caused physical injury, serious physical injury, or death to a person in the jurisdiction of the county or municipality. The owner of the dog, if known, shall be served with a copy of the petition.

(g) An animal that is the subject of a dangerous animal investigation may not be relocated and ownership may not be transferred pending the outcome of the investigation and hearing to determine whether to declare the animal to be dangerous.

(h) The court hearing shall be held as soon as practicable. At the hearing, the municipal attorney, or municipal prosecutor shall present evidence that the animal is dangerous. To declare the animal dangerous the court shall find by reasonable satisfaction that the animal bit, attacked, or caused physical injury, serious physical injury, or death to a person without justification.

(1) If the court determines that the animal is dangerous and has caused serious physical injury or death to a person, the court shall order the animal to be humanely euthanized by a licensed veterinarian or an authorized animal control official.

(2) If the court determines that the animal is dangerous, but has not caused serious physical injury or death to a person, the court shall determine whether the animal has a propensity to cause future serious physical injury or death. If the court determines by reasonable satisfaction that the animal has such a propensity, the court may order the animal to be humanely euthanized by a licensed veterinarian or an authorized animal control officer or the court may order the animal be returned to its owner pursuant to all of the following conditions:

a. The animal shall be held in impound until the owner complies with all orders of the court, but if the owner fails to comply with all orders of the court within 30 days of the court's order, the animal shall be humanely euthanized.

b. The dangerous animal shall be microchipped.

c. The owner of the dangerous animal shall provide a copy of the certificate of the current rabies vaccination of the dog.

- d. *The dangerous animal shall be spayed or neutered.*
- e. *The owner of the dangerous animal shall be required to pay all expenses involved with the investigation, pickup, and impoundment, and any court costs or fees related to the hearing to determine whether the animal is dangerous.*
- f. *The owner of the dangerous animal shall be required to pay an annual dangerous animal registration fee of one hundred dollars (\$100) to the municipality for an animal deemed dangerous by a court or pay a penalty of one hundred dollars (\$100) to the municipality for non-registration within two weeks.*
- g. (1). *The owner shall be required to obtain a surety bond of at least one hundred thousand dollars (\$100,000) and shall provide proof to the court and animal control office*
2. *The surety bond required shall provide coverage for animal bites, injuries, or death caused by the dog.*
3. *The owner shall provide proof of the surety bond each time the annual dangerous animal registration fee is paid.*
- h. *The owner of the dangerous animal shall provide proof to the court that he or she has constructed a proper enclosure of a dangerous dog.*
- (i.) *The owner shall notify the proper law enforcement agency immediately of becoming aware that a potentially dangerous or dangerous/vicious animal is loose or missing or if such animal has wounded a human being or other animal.*
- (j) *The pleading and practice in all cases to petition the court to declare an animal to be dangerous under this section shall be in accordance with the Alabama Rules of Civil Procedure and rules of the courts governing municipal courts in this state unless otherwise specified by this act. Any judicial determination in municipal court that an animal is dangerous may be appealed to the circuit court pursuant to the requirements of the Alabama Rules of Civil Procedure and the order of the circuit court shall be final.*
- (k) *It shall be presumed that an animal is not a dangerous animal pursuant to this act if the animal was on property owned by the owner of the animal when the event subject to a claim under this act occurred or if the victim was trespassing on any property when the event subject to a claim under this act occurred.*

Section 2(a) If an animal that has previously been declared by a court to be dangerous, when unjustified, attacks and causes serious physical injury or death to a person, the owner of the animal shall be guilty of a Class B felony.

(b) If an animal that has not been declared by a court to be dangerous, when unjustified, attacks and causes serious physical injury or death to a person, and the owner of the animal had prior knowledge of the dangerous propensities of the dog, yet demonstrated a reckless disregard of the propensities under the circumstances, the owner of the animal shall be guilty of a Class C felony.

(c) If an animal that has previously been declared by a court to be dangerous, when unjustified, attacks and causes physical injury to a person, the owner of the animal shall be guilty of a Class A misdemeanor.

(d) If an animal that has not been declared by a court to be dangerous, when unjustified, attacks and causes physical injury to a person, and the owner of the animal had prior knowledge of the dangerous propensities of the dog, yet demonstrated a reckless disregard of the propensities under the circumstances, the owner of the animal shall be guilty of a Class B misdemeanor.

(e) In addition to any fines imposed by the court, a person guilty of violating subsection (a), (b), (c), or (d) shall pay all expenses, including, but not limited to, shelter, food, veterinary expenses for boarding, and veterinary expenses necessitated by impoundment of the animal medical expenses incurred by a victim from an attack by a dangerous dog, and other expenses required for the destruction of the dog.

(f)(1) When an animal declared to be dangerous is outside and not contained in the proper enclosure of a dangerous dog, the owner of the dangerous animal shall be present and shall restrain the dangerous animal with a secure collar and leash.

(2) An owner of an animal declared to be dangerous who violates subdivision (1) shall be guilty of a Class C misdemeanor, except that a second or subsequent adjudication or conviction is a Class B misdemeanor.

(g) An owner of an animal that is the subject of a dangerous animal investigation who refuses to surrender the animal to an animal control officer or law enforcement officer, upon the request of the animal control officer or law enforcement officer, shall be guilty of a Class C misdemeanor.

(h) Any person who knowingly makes a false report to an animal control officer or law enforcement officer that an animal is dangerous is guilty of a Class C misdemeanor.

7. Chapter 8, Article V, Dangerous and Viscous Animals, Section Sec. 8-199. - *Impoundment upon determination; release of animal during proceeding*, is hereby deleted in its entirety.
8. Chapter 8, Article V, Dangerous and Viscous Animals, Sections Sec. 8-203-208, are hereby deleted in their entirety.
9. Chapter 8, Article V, Dangerous and Viscous Animals Sections, Sec. 8-211, *Additional penalties*, is hereby amended to read as follows:

In addition to all other penalties provided for violations of this chapter, any person found guilty of violating this chapter may be ordered to pay restitution to the person who has been harmed or whose property has been harmed by the potentially dangerous or dangerous/vicious animal.

Section III. Governing Law.

Any conflicting or ambiguous section or definition, between this chapter, Chapter 8, and Act No. 2018-182 (Emily's Law), shall be governed and determined under the laws of the State of Alabama.

Section IV. Severability Clause.

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 for any reason 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 have been invalid.

Section V. Effective Date.

This Ordinance shall be effective following its passage, approval, and publication as required by law.

ADOPTED BY THE CITY COUNCIL this the 25th day of October, 2021.

/s/ Jenny Folsom, City Council President

ATTEST:

/s/Wesley Moore, City Clerk

APPROVED BY THE MAYOR this the 25th day of October, 2021.

/s/Woody Jacobs, Mayor

Council Member Hollingsworth seconded the motion to approve the Ordinance, and the motion was approved by a roll call vote. Mr. Wesley Moore polled the Council Members: Council Member Page: Aye. Council President Folsom: Aye. Council Member Moss: Aye. Council Member Hollingsworth: Aye.

BOARD APPOINTMENTS – None.

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