

**MEETING MINUTES  
FEBRUARY 7, 2017**

The members of the City Council of the City of Phenix City, Alabama met in a regularly scheduled meeting at 9:00 a.m., Tuesday, February 7, 2017 in the Council Chambers located within the Public Safety Building at 1111 Broad Street, Phenix City, Alabama. Upon roll call the following members were present: Councilmember Arthur L. Day, Councilmember Johnnie Robinson, Councilmember Steve Bailey, Councilmember Griff Gordy, and Mayor Eddie N. Lowe. Also present were City Manager Wallace B. Hunter, City Attorney James P. Graham, and City Clerk Charlotte Goodrich.

Reverend Steve Pace of Summerville Baptist Church led the invocation.

Councilmember Griff Gordy led the Pledge of Allegiance to the Flag of the United States.

City Manager Wallace Hunter and Human Resources Director Stephanie Chastain presented Certificates of Appreciation to the following employees for Years of Dedicated Service: Christopher Hall, Kelli Watson, Mickeal Hanson, and Joey Williams.

Mayor Lowe presented a proclamation recognizing International Childhood Cancer Day.

**PROCLAMATION**

Miss Phenix City Maddie Gathings came forward to accept the Proclamation.

Mayor Lowe presented a proclamation recognizing Career Technical Education Week.

**PROCLAMATION**

Jason Sasser came forward to accept the Proclamation.

Mayor Lowe presented a proclamation recognizing 2-1-1 Day.

**PROCLAMATION**

President of United Way Scott Ferguson and Manager of United Way Candace Poole came forward to accept the Proclamation.

Mayor Lowe presented for approval the minutes of the January 17, 2017 work session meeting and the January 18, 2017 council meeting. Councilmember Day moved to approve the minutes, which motion was seconded by Councilmember Gordy. Upon said motion being put to

a vote, the following vote was recorded: YEAS: Councilmembers Day, Robinson, Bailey, Gordy and Mayor Lowe. NAYS: None. ABSTAINS: None. The motion thus passed.

Mayor Lowe presented for approval the minutes of the January 19, 2017 State of the City Address meeting. Councilmember Gordy moved to approve the minutes, which motion was seconded by Councilmember Bailey. Upon said motion being put to a vote, the following vote was recorded: YEAS: Councilmembers Day, Bailey, Gordy and Mayor Lowe. NAYS: None. ABSTAINS: Councilmember Robinson. The motion thus passed.

Mayor Lowe stated there was no unfinished business to address at this time.

Mayor Lowe next declared that now was the time and place for a public hearing regarding the Proposed Illicit Discharge Detection and Elimination Program Plan. (Introduced January 4, 2017) Anyone wishing to address council regarding this matter should come forward now. Neither hearing nor seeing anyone come forward to address council, Mayor Lowe declared the public hearing closed.

Mayor Lowe presented a resolution in reference to the Proposed Illicit Discharge Detection and Elimination Program Plan. (Introduced January 4, 2017)

**RESOLUTION NO. 2017-25**

Councilmember Day moved to approve the resolution, which motion was seconded by Councilmember Gordy. Upon said motion being put to a vote, the following vote was recorded: YEAS: Councilmembers Day, Robinson, Gordy and Mayor Lowe. NAYS: Councilmember Bailey. ABSTAINS: None. The motion thus passed.

Mayor Lowe next declared that now was the time and place for a public hearing regarding the Proposed Storm Water Management Program Plan. (Introduced January 4, 2017) Anyone wishing to address council regarding this matter should come forward now. Neither hearing nor seeing anyone come forward to address council, Mayor Lowe declared the public hearing closed.

Mayor Lowe presented a resolution in reference to the Proposed Storm Water Management Program Plan. (Introduced January 4, 2017)

## **RESOLUTION NO. 2017-26**

Councilmember Day moved to approve the resolution, which motion was seconded by Councilmember Gordy. Upon said motion being put to a vote, the following vote was recorded: YEAS: Councilmembers Day, Robinson, Gordy and Mayor Lowe. NAYS: Councilmember Bailey. ABSTAINS: None. The motion thus passed.

Mayor Lowe next declared that now was the time and place for a public hearing and second reading of the Proposed Ordinance amending the Code of Ordinances of the City of Phenix City adding Chapter 10 ½ Storm Water Management to regulate the discharges and connections to storm sewer system within the corporate limits of the City of Phenix City. (First Reading January 4, 2017) Anyone wishing to address council regarding this matter should come forward now. Mr. Stafford came forward to address council. Mr. Stafford inquired how he will be able to alleviate some of the storm water issues in order to keep his existing business running properly. Mayor Lowe explained how the City is a Class 5 Municipality and has to be in compliance. Mayor Lowe also went over three ways businesses can obtain permits to stay in compliance and how there is a six month timeframe for businesses to get everything in order. City Manager Wallace Hunter stated that it was stated in the January 17, 2017 minutes that there was no target on certain businesses but the minutes showed all businesses will be affected. Mr. Hunter also stated that everything will be directed through ADEM. Councilmember Bailey commented on the process of the storm water issue and how he hopes that all businesses can come under performance of the ordinance so that everyone can continue to do business.

Mayor Lowe presented a public hearing and second reading of Proposed Ordinance amending the Code of Ordinances of the City of Phenix City adding Chapter 10 ½ Storm Water Management, to regulate the discharges and connections to storm water system within the corporate limits of the City of Phenix City. (Introduced January 4, 2017)

## **ORDINANCE NO. 2017-01**

Councilmember Robinson moved to approve the ordinance, which motion was seconded by Councilmember Day. Upon said motion being put to a vote, the following vote was recorded: YEAS: Councilmembers Day, Robinson, Gordy and Mayor Lowe. NAYS: Councilmember Bailey. ABSTAINS: None. The motion thus passed.

Mayor Lowe presented a resolution in reference to accepting the dedication of land, right of ways, and easements dedicated by the "Lot 8, Huntington Hills Subdivision, Phase 1 & Adjoining Property" located in Section 29, Township 18 North, Range 30 East, Lee County, Alabama, property owners Christopher T. Barefoot, Wanda Shaw Barefoot and James E. Shaw.

**RESOLUTION NO. 2017-27**

Councilmember Gordy moved to approve the resolution, which motion was seconded by Councilmember Day. Upon said motion being put to a vote, the following vote was recorded: YEAS: Councilmembers Day, Robinson, Bailey, Gordy and Mayor Lowe. NAYS: None. ABSTAINS: None. The motion thus passed.

Mayor Lowe presented a resolution in reference to authorizing the Mayor, City Manager, and Fire and Rescue Services Chief Kris Kennedy as authorizing official to enter into an agreement with Columbus Fire and Emergency Medical Services and the Georgia Search and Rescue Task Force to provide members for a Multi-Hazard, Multi-Jurisdictional, Multi-Discipline Team.

**RESOLUTION NO. 2017-28**

Councilmember Gordy moved to approve the resolution, which motion was seconded by Councilmember Robinson. Upon said motion being put to a vote, the following vote was recorded: YEAS: Councilmembers Day, Robinson, Bailey, Gordy and Mayor Lowe. NAYS: None. ABSTAINS: None. The motion thus passed.

Mayor Lowe presented a resolution in reference to rescinding Resolution No. 2016-367, Change Order No. 1 for the Utility Replacement Project in the amount of \$90,100.

**RESOLUTION NO. 2017-29**

Councilmember Day moved to approve the resolution, which motion was seconded by Councilmember Bailey. Upon said motion being put to a vote, the following vote was recorded: YEAS: Councilmembers Day, Robinson, Bailey, Gordy and Mayor Lowe. NAYS: None. ABSTAINS: None. The motion thus passed.

Mayor Lowe presented a resolution in reference to renewing the tax structure of the City of Phenix City, Alabama for the tax year beginning October 1, 2017.

**RESOLUTION NO. 2017-30**

Councilmember Gordy moved to approve the resolution, which motion was seconded by Councilmember Day. Upon said motion being put to a vote, the following vote was recorded: YEAS: Councilmembers Day, Robinson, Bailey, Gordy and Mayor Lowe. NAYS: None. ABSTAINS: None. The motion thus passed.

Mayor Lowe presented a resolution in reference to entering into a contract with Chris Janson to perform at the Amphitheater March 10, 2017 in the amount of \$35,000.

**RESOLUTION NO. 2017-31**

Councilmember Gordy moved to approve the resolution, which motion was seconded by Councilmember Bailey. Upon said motion being put to a vote, the following vote was recorded: YEAS: Councilmembers Day, Robinson, Bailey, Gordy, and Mayor Lowe. NAYS: None. ABSTAINS: None. The motion thus passed.

Mayor Lowe presented a resolution in reference to requesting the Alabama Legislature to adopt a local act calling for a referendum for an elected school board.

**RESOLUTION NO. 2017-32**

Councilmember Day moved to approve the resolution, which motion was seconded by Councilmember Robinson. Upon said motion being put to a vote, the following vote was recorded: YEAS: Councilmembers Day, Robinson, Bailey, Gordy, and Mayor Lowe. NAYS: None. ABSTAINS: None. The motion thus passed.

Mayor Lowe presented a resolution in reference to requesting the Alabama Legislature to adopt a local act amending the City Charter.

**RESOLUTION NO. 2017-33**

Councilmember Robinson moved to approve the resolution, which motion was seconded by Councilmember Day. Upon said motion being put to a vote, the following vote was recorded: YEAS: Councilmembers Day, Robinson, Bailey, Gordy, and Mayor Lowe. NAYS: None. ABSTAINS: None. The motion thus passed.

Mayor Lowe presented seven (7) resolutions in reference to awarding bids for demolition and removal of structures located at:

- 1.) 1908 4<sup>th</sup> Avenue – Miles Excavating - \$1,630.00

**RESOLUTION NO. 2017-34**

- 2.) 1029 4<sup>th</sup> Street South – Miles Excavating - \$975.00

**RESOLUTION NO. 2017-35**

- 3.) 1031 4<sup>th</sup> Street South – Miles Excavating - \$975.00

**RESOLUTION NO. 2017-36**

- 4.) 1033 4<sup>th</sup> Street South – Miles Excavating - \$975.00

**RESOLUTION NO. 2017-37**

- 5.) 1035 4<sup>th</sup> Street South – Miles Excavating - \$975.00

**RESOLUTION NO. 2017-38**

- 6.) 1037 4<sup>th</sup> Street South – Miles Excavating - \$975.00

**RESOLUTION NO. 2017-39**

- 7.) 1001 16<sup>th</sup> Street – J&J Land Development, Inc. - \$1,997.00

**RESOLUTION NO. 2017-40**

Councilmember Gordy moved to approve the resolutions, which motion was seconded by Councilmember Day. Upon said motion being put to a vote, the following vote was recorded: YEAS: Councilmembers Day, Robinson, Bailey, Gordy, and Mayor Lowe. NAYS: None. ABSTAINS: None. The motion thus passed.

Mayor Lowe presented a resolution in reference to declaring five vehicles as surplus to be sold as scrap.

**RESOLUTION NO. 2017-41**

Councilmember Day moved to approve the resolution, which motion was seconded by Councilmember Gordy. Upon said motion being put to a vote, the following vote was recorded: YEAS: Councilmembers Day, Robinson, Bailey, Gordy, and Mayor Lowe. NAYS: None. ABSTAINS: None. The motion thus passed.

Mayor Lowe presented a resolution in reference to declaring personal property as surplus to disposed of at the city landfill.

**RESOLUTION NO. 2017-42**

Councilmember Gordy moved to approve the resolution, which motion was seconded by Councilmember Robinson. Upon said motion being put to a vote, the following vote was recorded: YEAS: Councilmembers Day, Robinson, Bailey, Gordy, and Mayor Lowe. NAYS: None. ABSTAINS: None. The motion thus passed.

Mayor Lowe presented a resolution in reference to accepting a quote from Wayne Tice Electric for the replacement of the main power source switch gear breaker in the Public Safety Building in the amount of \$41,220.00.

**RESOLUTION NO. 2017-43**

Councilmember Robinson moved to approve the resolution, which motion was seconded by Councilmember Bailey. Upon said motion being put to a vote, the following vote was recorded: YEAS: Councilmembers Day, Robinson, Bailey, Gordy, and Mayor Lowe. NAYS: None. ABSTAINS: None. The motion thus passed.

Mayor Lowe presented a resolution in reference to accepting a proposal from Thompson Tractor Company, Inc. in the amount of \$15,220 for preventive maintenance services for the city's generators.

**RESOLUTION NO. 2017-44**

Councilmember Gordy moved to approve the resolution, which motion was seconded by Councilmember Day. Upon said motion being put to a vote, the following vote was recorded:

YEAS: Councilmembers Day, Robinson, Bailey, Gordy, and Mayor Lowe. NAYS: None.  
ABSTAINS: None. The motion thus passed.

Mayor Lowe presented a resolution in reference to entering into an agreement with Constantine Engineering, Inc. in the amount of \$9,300 to smoke test 6600 linear feet of sanitary sewer main.

**RESOLUTION NO. 2017-45**

Councilmember Day moved to approve the resolution, which motion was seconded by Councilmember Gordy. Upon said motion being put to a vote, the following vote was recorded:  
YEAS: Councilmembers Day, Robinson, Bailey, Gordy, and Mayor Lowe. NAYS: None.  
ABSTAINS: None. The motion thus passed.

Mayor Lowe presented a resolution in reference to authorizing the Mayor and City Manager to renew the Flow Monitoring View Operation Agreement with ADS Environmental Services, LLC in an amount not to exceed \$5,407.66.

**RESOLUTION NO. 2017-46**

Councilmember Day moved to approve the resolution, which motion was seconded by Councilmember Robinson. Upon said motion being put to a vote, the following vote was recorded: YEAS: Councilmembers Day, Robinson, Bailey, Gordy, and Mayor Lowe. NAYS: None. ABSTAINS: None. The motion thus passed.

Mayor Lowe next declared that now was the time and place for a public hearing regarding an ordinance to rezone 12.43 acres of property located at 67 Downing Drive from an M-2 Zone to a C-2 Zone, City of Phenix City, Owner. Anyone wishing to address council regarding this matter should come forward now. Neither hearing nor seeing anyone come forward to address council, Mayor Lowe declared the public hearing closed.

Mayor Lowe presented an ordinance to rezone 12.43 acres of property located at 67 Downing Drive from an M-2 Zone to a C-2 Zone, City of Phenix City, Owner. (First Reading – January 4, 2017)

**ORDINANCE NO. 2017-02**

Councilmember Gordy moved to approve the resolution, which motion was seconded by Councilmember Robinson. Upon said motion being put to a vote, the following vote was recorded: YEAS: Councilmembers Day, Robinson, Bailey, Gordy and Mayor Lowe. NAYS: ABSTAINS: None. The motion thus passed.

Mayor Lowe presented two (2) openings on the Zoning Adjustment and Appeals Board for the positions of Richard Coreno and Hoyt Gamble. Mayor Lowe called for a motion to reappoint Richard Coreno and Hoyt Gamble to the Zoning Adjustment and Appeals Board. Councilmember Day moved to reappoint Richard Coreno and Hoyt Gamble, which motion was seconded by Councilmember Gordy. Upon said motion being put to a vote, the following vote was recorded: YEAS: Councilmembers Day, Robinson, Bailey, Gordy, and Mayor Lowe. NAYS: None. ABSTAINS: None. The motion thus carried.

Mayor Lowe presented for first reading an application for an On Premise Beer License, On Premise Whiskey/Wine License, and a Dancing with a Live Band License submitted by John Meszaros for Grovers Bar LLC dba Grovers Bar located at 1004 25<sup>th</sup> Avenue, Phenix City, Alabama. Councilmember Day moved to Suspend the Rules, which motion was seconded by Councilmember Gordy. Upon said motion being put to a vote, the following vote was recorded: YEAS: Councilmembers Day, Robinson, Bailey, Gordy, and Mayor Lowe. NAYS: None. ABSTAIN: None. The motion carried. Councilmember Gordy moved for approval, which motion was seconded by Councilmember Robinson. Upon said motion being put to a vote, the following vote was recorded: YEAS: Councilmembers Day, Robinson, Bailey, Gordy, and Mayor Lowe. NAYS: None. ABSTAIN: None. The motion thus carried.

Mayor Lowe presented Itemized Statement of Expense from City Attorney Jimmy Graham in the amount of \$16.26. Councilmember Day moved to approve the expense, which motion was seconded by Councilmember Robinson. Upon said motion being put to a vote, the following vote was recorded: YEAS: Councilmembers Day, Robinson, Bailey, Gordy, and Mayor Lowe. NAYS: None. ABSTAINS: None. The motion thus carried.

City Attorney Jimmy Graham presented eight (8) separate claims. The first claim filed by Mr. Barney Williams of 8 Brentwood Drive who stated that on January 3, 2017 his home flooded due to failure of the retention drainage system causing major damage to his home and personal property. The second claim filed by Mr. Cecil J. Barber, II stated that the City is responsible for damages to his home and personal property resulting from an incident that occurred at 31 Lexington Circle on January 2, 2017. The third claim filed by Mr. George Bennett stated that the City is responsible for damages to his vehicle resulting from an incident that occurred at the Burger King parking lot located at 1135 East 280 Bypass due to flooding. The fourth claim filed by Ms. Benella Booker stated that the City is responsible for damages to her home and personal property resulting from an incident that occurred at 1514 Jackson Drive due to flooding on January 2, 2017. The fifth claim filed by Catarang Properties, LLC stated that the City is responsible for damages resulting from an incident that occurred at 29 Lexington Circle due to flooding on January 2, 2017. The sixth claim filed by Mr. Glen Davis, Jr. stated that the City is responsible for damages to his yard and privacy fence resulting from an incident that occurred at 3313 Hummingbird Court due to flooding on January 2, 2017. The seventh claim filed by Ms. April Lampley stated that the City is responsible for damages to her home and personal property resulting from an incident that occurred at 1404 Jackson Drive due to flooding on January 1, 2017. The eighth claim filed by Mr. Erol Sobutay stated that the City is responsible for damages to his front and backyard resulting from an incident that occurred at 2106 24<sup>th</sup> Street due to flooding. City Attorney stated that the Director from the Public Works Department provided a memorandum and records showing that over 8 inches of rain fell from December 31, 2016 through January 2, 2017. City Attorney Graham further stated that on January 2, 2017 approximately 4 inches of rain fell in a two hour period. City Attorney Graham advised this portion of the total rainfall is considered to be a 100 year storm event and by Alabama Law is considered an Act of God. City Attorney Graham's recommendation is to deny all eight claims. City Attorney Graham read two cases the Alabama Supreme Court ruled on Kennedy vs City of Montgomery dealing with draining and creeks where it states that the city has no duty to provide

and maintain proper drainage to prevent flood damage of the properties as this is discretionary of the governing body however; occasional clean and periodic maintenance of a creek does not constitute assumption of the duty to maintain that creek all the time. Mr. Graham read case Birmingham versus Jackson that states a Municipality cannot be held liable for damages caused by an overflow by extraordinary rain events, meaning when so much water gets in the storm water and sewer system it can cause the manhole cover to pop off causing a possible flood. Councilmember Robinson moved to take the city attorney's recommendation to deny the claims, which motion was seconded by Councilmember Gordy. Upon said motion being put to a vote, the following vote was recorded: YEAS: Councilmembers Day, Robinson, Bailey, Gordy, and Mayor Lowe. NAYS: None. ABSTAINS: None. The motion thus carried.

City Attorney Jimmy Graham presented a claim filed by Vernita Edmonds. City Attorney advised that Vernita Edmonds alleges that the city is responsible for damages to the front headlight area of her vehicle stating that the wind blew a city temporary sign into her car causing damage to the right front corner of her vehicle. City Attorney Graham stated that he spoke with the City Engineer of Public Works and after research of his own he discovered that this is considered as an Act of God. City Attorney's Graham's recommendation is to deny the claim. Councilmember Day moved to take the city attorney's recommendation to deny the claim, which motion was seconded by Councilmember Gordy. Upon said motion being put to a vote, the following vote was recorded: YEAS: Councilmembers Day, Robinson, Bailey, Gordy, and Mayor Lowe. NAYS: None. ABSTAIN: None. The motion thus carried.

City Attorney Jimmy Graham presented a claim filed by Mr. Gregory A. Proft. City Attorney advised that Gregory Proft alleges that the city is responsible for damaging two of his tires when he drove over an asphalt cut on US Highway 80 on January 16, 2017. City Attorney Jimmy Graham stated that the city received notice at 7:20 p.m. on the date in question and the cut was hit at 7:40 p.m. City Attorney Graham stated that Alabama law states that if prior notice is given the city will be held liable. City Attorney Graham asked council if they could give the City Manager Wallace Hunter and himself authority to negotiate the matter with Mr. Gregory A.

Proft. Councilmember Gordy moved to take the City Attorney's recommendation to negotiate the claim with the City Manager, which motion was seconded by Councilmember Day. Upon said motion being put to a vote, the following vote was recorded. YEAS: Councilmembers Day, Robinson, Bailey, Gordy, and Mayor Lowe. NAYS: None. ABSTAIN: None. The motion thus carried.

City Attorney Jimmy Graham presented a claim filed by Kenneth and Brenda Coley. Jimmy Graham advised the claim alleges that the city is responsible for the damages to their tire, wheel and car due to driving over a pot hole on US Highway 80 on January 16, 2017. City Attorney Graham stated that the Coley's hit the pothole around 6:30 p.m. and there was no prior notice given. City Attorney Graham further stated that per State Law if no notice is given, the City is not liable. City Attorney Graham further stated the Coley's did not state a location, no pictures were given to indicate the location, and there were only two estimates turned in and the requirement is three estimates. City Attorney Graham recommended denying the claim. Councilmember Day moved to take the City Attorney's recommendation to deny the claim, which motion was seconded by Councilmember Gordy. Upon said motion being put to a vote, the following vote was recorded. YEAS: Councilmembers Day, Robinson, Bailey, Gordy and Mayor Lowe. NAYS: None. ABSTAIN: None. The motion thus carried.

Mayor Lowe presented a resolution in reference to requesting the Alabama Legislative Delegation to oppose any amendments to Act 859 of the 1969 Alabama State Legislature.

**RESOLUTION NO. 2017-47**

Councilmember Robinson moved to approve the resolution, which motion was seconded by Councilmember Day. Upon said motion being put to a vote, the following vote was recorded: YEAS: Councilmembers Day, Robinson, Bailey, Gordy, and Mayor Lowe. NAYS: None. ABSTAINS: None. The motion thus passed.

City Manager Wallace Hunter thanked everyone for doing a good job.

Councilmember Day thanked everyone for attending the luncheon on February 2, 2017. Mr. Day also thanked Charlotte Goodrich and LeighAnn Horne for all of their hard work helping with the event.

Chief Kris Kennedy spoke on the MDA program that was started back in 2005 by City Manager Wallace Hunter. Chief Kennedy also stated that MDA has had a partnership with the Fire Department for 60 plus years and how it supports a good cause. The Fire Department has won several Golden Axe Awards for collecting the most funds for a population their size.

Acting Utilities Director Steve Smith spoke on the WWTP being awarded a 2015 award.

Mayor Lowe thanked department heads for their hard work and dedication.

Mayor Lowe thanked CTV for donating their time and resources for the recording of the city's council meetings.

There being no further business to come before council, the meeting adjourned until February 22, 2017 at 9:00 a.m.