

City Hall  
Fayette, Alabama  
December 8, 2015

A regular meeting of the City Council of the City of Fayette met at 5:00 o'clock, p.m. on December 8, 2015, in the Council Chambers of the City Hall.

Upon roll call the following were found to be present: Mayor Ray Nelson, Council members Linda McCraw, Mike Hardin, Jason Cowart, Cedric Wilson and David Brand. Also present were City Clerk Dawn Clapp, Police Chief Danny Jenkins, Fire Chief Tony Ellis, City Attorney Dale Lawrence and City Engineer Dewayne Roby.

The opening prayer was given by Mr. Rick McCabe.

Mayor Nelson announced a quorum was present and the meeting was open for the transaction of business.

#### GUEST APPEARING BEFORE COUNCIL

##### A. Mrs. Jane Cotton – Fayette Medical Center Auxiliary

Mrs. Jane Cotton spoke to the Council on behalf of the Fayette Medical Center Auxiliary about their Emergency Preparedness event on February 13, 2016, at the Fayette Civic Center. The Fayette Medical Center Auxiliary is requesting that Temple Avenue be closed in front of the Civic Center down to Fayette First Baptist Church.

#### PARADE PERMIT

Mayor Nelson presented to the Council a request for parade permit for the Fayette Medical Center Auxiliary Event to be held on February 13, 2016. Councilmember Cowart moved the permit be granted. Upon the motion being seconded by Councilmember Brand, the same was unanimously approved.

##### B. Mr. Chuck Langley – Joey Day Project

Mr. Chuck Langley spoke to the Council concerning the Joey Day Project. Mr. Langley stated that Joey Day is a county-wide project. Last year the project served 260 children and spent over \$17,000.00 on the children. He stated there are several who help every year including Fayette County DHR, Circuit Clerk Samantha Howard, Mr. Kevin Killingsworth and Mr. Mark Brown.

#### PROJECT UPDATE

Mr. Heath Reed of Goodwyn, Mills and Cawood, updated the Council on the projects for which his firm was providing engineering and design services.

Waste Water Treatment Project: Mr. Reed stated the final inspection was held on November 9, 2015. A few punch list items were noted at the final inspection and most have been addressed. A follow up inspection will be held to make sure that all items are satisfactorily completed.

T.A.P Project on the East side of Temple Avenue: Mr. Reed stated all plans and construction documents have been approved by ALDOT. Project was sent from ALDOT to FHWA for authorization on October 23, 2015. Project will be advertised as soon as authorization is received from FHWA.

T.A.P Project on the West side of Temple Avenue: Mr. Reed reported the design is 80% complete. A public involvement meeting will be scheduled in early January to get input from residents and business owners within project area.

Airport Project: Mr. Reed reported field work and aerial survey have been completed. Final ALP will take 9-12 months to complete including the Federal AGIS review.

Airport Easement: The Pre-application was submitted in November. The City should receive notice from ALDOT in early 2016 if the project is approved. The aviation easement will need to be in place before the project will be authorized. Goodwyn, Mills and Cawood have

completed a revised easement based on FAA guidelines and the easement can now be forwarded to the land owner for review.

CDBG grant has been approved. Mr. Reed reported the CDBG grant funds are in place. ARC grand funding will be approved in early 2016. The letter of grant conditions for the CDBG grant has been sent to the City. Terry Acuff will begin soliciting proposals for engineering this month. Design of the project should begin in January 2016. Construction will begin in the summer of 2016.

#### POLICE DEPARTMENT REPORT

Police Chief Danny Jenkins presented the police report for the month of November 2015. The report was as follows: 39 incidents investigated; 8 accidents; 58 traffic citations; and 35 arrests.

#### RESOLUTION 2015-14

Mayor Nelson presented Resolution 2015-14 to the Council for their consideration. Resolution 2015-14 is as follows:

### **RESOLUTION 2015-14 A RESOLUTION CONCERNING THE POLICIES AND PROCEDURES FOR THE CITY OF FAYETTE POLICE DEPARTMENT.**

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*BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FAYETTE, ALABAMA*, as follows:

1. That the following policy and procedure is hereby added to the City of Fayette Police Department Policies and Procedures:

#### **POLICY AND PROCEDURE NO. 026 BODY-WORN CAMERA POLICY**

#### **I. BACKGROUND, SCOPE AND PURPOSE**

A. Body-worn cameras are an effective law enforcement tool that can reduce violent confrontations and complaints against officers. Body-worn cameras provide additional documentation of police-public encounters and may be an important tool for collecting evidence and maintaining public trust.

B. This policy is intended to provide officers with instructions on when and how to use body-worn cameras.

C. The Department has adopted the use of body-worn cameras to accomplish several objectives, including:

1. Body-worn cameras allow for accurate documentation of police-public contacts, arrests, and critical incidents. They also serve to enhance the accuracy of officer reports and testimony.
2. Audio and video recordings enhance the Department's ability to review probable cause for arrest, officer and suspect interaction, and evidence for investigative and prosecutorial purposes and to provide additional information for officer evaluation and training.
3. Body-worn cameras may also be useful in documenting crime and accident scenes or other events that include the confiscation and documentation of evidence or contraband.

D. The Department recognizes that video images cannot always show the full story nor do video images capture an entire scene. The use of body-worn cameras does not reduce the requirement to provide thorough written documentation of an incident. Persons reviewing recordings must also be cautious before conclusions are reached about what the recordings show.

#### **II. OVERVIEW**

A. The body-worn cameras should be utilized to (1) collect evidence that can be used in the prosecution of criminal offenses, (2) record contacts with the public in order to secure unbiased evidence in connection with investigations, (3) allow for supervisory review to ensure that

department policies and procedures are followed, and (4) capture footage that would be helpful for training.

### **III. DEFINITIONS**

A. Body-worn cameras are camera systems designed to be worn by police officers to capture digital multimedia evidence.

B. Digital Multimedia Evidence or DME consists of all digital recordings, to include but not limited to audio, video, photographs, and their associated metadata. Metadata includes any digital identifiers that are captured as part of the actual recording, such as date/time, GPS coordinates, labeling, etc.

### **IV. LEGAL ISSUES**

A. Body-worn camera equipment and all data, images, video and metadata captured, recorded, or otherwise produced by the equipment is the property of the City. The personal use of all information recording by body-worn cameras shall only be pursuant to the prior written approval of the chief.

B. Use of body-worn cameras for any purpose other than in accordance with this policy is prohibited.

C. All data, images, video and metadata captured by body-worn cameras are subject to state statutes and City policies regarding retention of records.

### **V. PROCEDURES**

A. Prior to using a body-worn camera, officers shall receive Department-approved training on its proper operation and care and the Department's policy with respect to the use of the body-worn camera. Additional training shall be provided at periodic intervals to ensure the continued effective use of the equipment, proper calibration and performance, and to incorporate changes, updates, or other revisions in policies or equipment.

B. Body-worn cameras and equipment should be used with reasonable care to ensure proper functioning. Equipment malfunctions shall be brought to the attention of the officer's supervisor as soon as possible so that a replacement unit may be assigned. Officers shall inspect and test body-worn cameras prior to each shift to verify proper functioning, and shall notify their supervisor of any problems.

C. In the event that a body-worn camera is lost, upon discovery the officer shall immediately notify his/her supervisor.

D. Officers shall wear body-worn cameras at, or above the midline of their torso and in position designed to produce an effective audio and video recordings.

E. Officers shall not use personally-owned body-worn cameras while on duty.

F. Officers assigned a body-worn camera may use the camera at approved off-duty employment, but only in connection with their Department duties. If used for this purpose, the officer shall download all DME during their next regularly assigned on-duty shift.

### **VI. OPERATION OF BODY-WORN CAMERAS**

A. Except as otherwise provided in this policy, officers shall activate body-worn cameras to record all contacts with citizens in the performance of official duties.

B. Officers have no obligation to stop recording in response to a citizen's request if the recording is pursuant to an investigation, arrest, lawful search, or the circumstances clearly dictate that continued recording is necessary. However, officers should evaluate the situation and when appropriate, honor the citizen's request. The request to turn the camera off should be recorded, as well as the officer's response.

C. Deactivation of the body-worn camera shall occur when:

1. The event has concluded;
2. Victim and/or witness contact has concluded;
3. All persons stopped have been released;

4. Once an arrestee has been placed into a vehicle to be transported to a detention facility. However, the officer transporting the arrestee to the detention facility shall keep the officer's body-worn camera activated until custody of the individual is transferred to the detention facility.

D. If an officer fails to activate a body-worn camera, or fails to record the entire contact, the officer shall document the reasons for doing so.

E. Non-Department personnel shall not be allowed to review the recordings unless pursuant to a court order.

F. Officers shall not be required to activate body-worn cameras when engaged in conversations with individuals with whom the officer is in a privileged relationship (e.g., spouse, attorney, police peer counselor, labor representative, minister, etc.).

G. Officers shall not edit, alter, erase, duplicate or copy in any manner body-worn camera images and information without the prior written approval of the Police Chief or the Chief's designee.

H. Officers shall not share, or otherwise distribute in any manner body-worn camera images and information without the prior written approval of the Police Chief and Mayor.

I. Officers shall be allowed to review the recordings from their officer-worn body cameras at any time. To help ensure accuracy and consistency, officers are encouraged to review recording prior to preparing reports. If the officer is giving a formal statement about the use of force or if the officer is the subject of a disciplinary investigation, the officer shall (1) have the option of reviewing the recordings in the presence of the officer's attorney or labor representative; and (2) have the right to review recordings from other body-worn cameras capturing the officer's image or voice during the underlying incident.

J. Body-worn cameras shall not be used to record:

1. Communications with other police personnel.

2. Encounters with undercover officers or informants.

3. When an officer is on break or is otherwise engaged in personal activities.

4. In any location where individuals have a reasonable expectation of privacy, such as a restroom, locker room, or break room.

5. When an officer would be recording a patient during a medical or psychological evaluation by a clinician or similar professional, or during treatment. When recording in hospitals or other medical facilities, officers shall be careful to avoid recording persons other than the suspect.

6. Communications made in a psychiatric facility, unless responding to a call involving a suspect who is thought to be present in the facility.

## **VII. HANDLING OF DIGITAL MULTIMEDIA EVIDENCE**

A. All files from body-worn cameras shall be securely downloaded no later than the end of the officer's shift. Each file shall contain information related to the date, body-worn camera identifier, and assigned officer.

B. All files from body-worn cameras shall be securely stored in accordance with state records retention laws and for no longer than useful for purposes of training, or for use in an investigation or prosecution (including appeals), or for use in resolving a claim, pending litigation, or disciplinary investigation. In capital punishment prosecutions, files shall be kept until the alleged offender is no longer under control of a criminal justice agency.

C. It is not the intent of the Department to review DME for the purpose of general performance review, for routine preparation of performance reports or evaluation, or to discover policy violations. Supervisors may access DME for administrative investigations. D. Requests for deletion of portions of a recording from a body-worn camera (e.g., in the event of a privileged or personal recording) must be submitted in writing to the chief in accordance with state records retention laws.

E. Recordings from body-worn cameras may be shown for training purposes upon completion of a criminal case. All such use shall be pursuant to the written authority of the chief. Officers shall be provided with at least thirty days' notice if recordings intended for use for training purposes were either made by them or captured their image or voice.

### **VIII. RETENTION AND DESTRUCTION OF DIGITAL MULTIMEDIA EVIDENCE**

A. The retention and destruction of DME shall be pursuant to state public records retention laws.

B. All stored DME is subject to release in accordance with the state public records retention laws. Officers shall be provided with at least one week's notice of any public requests made to review DME from their body-worn cameras.

### **IX. VIOLATION OF POLICY**

A. Willful Violations of BWC policies will result in disciplinary actions to include: Verbal Warning with a BWC Policy review, Written Warning, Suspension, or Termination.

B. Unauthorized release or allowing the unauthorized release of any digital multimedia evidence will result in termination.

***ADOPTED AND APPROVED*** by the City Council of the City of Fayette, Alabama, on this 8th day of December, 2015.

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Mayor

ATTEST:

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City Clerk

Councilmember Hardin moved that the Council adopt Resolution 2015-14. Upon the motion being seconded by Councilmember Brand, the same was unanimously approved.

### **FIRE DEPARTMENT REPORT**

Fire Chief Tony Ellis presented the fire report for the month of November 2015. The Fire Department received two fire calls and 18 total calls.

### **FAYETTE FABRICATION**

Mayor Nelson announced that Fayette Fabrication had obtained a new contract with a new customer and they will be adding eight new jobs.

### **RESOLUTION 2015-16**

Mayor Nelson presented Resolution 2015-16 to the Council for their consideration. Resolution 2015-16 is as follows:

### **RESOLUTION 2015-16 A RESOLUTION GRANTING A TAX ABATEMENT TO FAYETE FABRICATION, LLLP**

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This Resolution is made this 8th day of December, 2015, by the **CITY OF FAYETTE** (the Granting Authority), to grant a tax abatement to **FAYETTE FABRICATION, LLLP** (the Company),

**WHEREAS**, the Company has announced plans for a (check one):

new project or **XX** major addition to their existing facility (the Project), located within the jurisdiction of the Granting Authority; and

**WHEREAS**, pursuant to the Tax Incentive Reform Act of 1992 (Section 40-9B-1 et seq., Code of Alabama 1975) (the Act) the Company has requested from the Granting Authority an Abatement of (check all that apply):

**XX** all state and local noneducational property taxes,

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**XX** all construction related transaction taxes, except those local construction related transaction taxes levied for educational purposes or for capital improvements for education, and/or

all mortgage and recording taxes; and

**WHEREAS**, the Company has requested that the abatement of state and local noneducational property taxes (if applicable) be extended for a period of ten (10) years, in accordance with the Act; and

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

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

**WHEREAS**, the construction of the project will involve a capital investment of \$415,000.00; and

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

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

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

Section 1. Approval is hereby given to the application of the Company and abatement is hereby granted of (check all that apply):

**XX** All state and local noneducational property taxes

**XX** All construction related transaction taxes, except those local construction related transaction taxes levied for educational purposes or for capital improvements for education, and/or

All mortgage and recording taxes

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As the same may apply to the fullest extent permitted by the Act. The period of abatement for the noneducational property taxes (if applicable) shall extend for a period of ten (10) years measured as provided in Section 40-9B-3(a)(12) of the Act.

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

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

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

**IN WITNESS WHEREOF**, the Fayette City Council has caused this Resolution to be executed in its name and on its behalf by its Mayor on this the 8th day of December, 2015.

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Mayor Ray Nelson

ATTEST:

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City Clerk Dawn Clapp

Councilmember Wilson moved that the Council adopt Resolution 2015-16. Upon the motion being seconded by Councilmember McCraw, the same was unanimously approved.

RESOLUTION 2015-15

Mayor Nelson presented Resolution 2015-15 to the Council for their consideration. Resolution 2015-15 is as follows:

**RESOLUTION 2015-15  
RESOLUTION PROVIDING FOR THE PARTICIPATION OF  
THE CITY OF FAYETTE IN THE "SALES TAX HOLIDAY"**

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**WHEREAS**, during its 2012 Regular Session, the Alabama Legislature enacted Act No. 2012-256, effective April 26, 2012, which provides an exemption of the state sales and use tax for certain severe weather preparedness supplies during the first full weekend in July of 2012 and the last full weekend of February in subsequent years; and

**WHEREAS**, Act No. 2012-256 authorizes the City Council to provide for an exemption of city sales and use taxes for purchases of items covered by the Act during the same time period in which the state sales and use tax exemption is in place, provided a resolution to that effect is adopted; and

**WHEREAS**, the Fayette City Council has affirmatively voted to grant the exemption of City sales and use taxes on purchases covered by Act No. 2012-256 during the last full weekend of February 2016 beginning at 12:01 a.m. on Friday, February 26, 2016 and ending at twelve midnight on Sunday, February 28, 2016, the first full weekend of February in 2016; and

**WHEREFORE BE IT RESOLVED BY THE FAYETTE CITY COUNCIL** that it does hereby provide for an exemption of the City sales and use tax on purchases of items covered by Act No. 2012-256 beginning at 12:01 a.m. on Friday, February 26, 2016 and ending at twelve midnight on Sunday, February 28, 2016.

**BE IT FURTHER RESOLVED** that a copy of this resolution be spread upon the minutes of the December 8, 2015, meeting of the Fayette City Council, and be immediately forwarded to the Alabama Department of Revenue in compliance with Code of Alabama, § 11-51-210 (e).

**IN WITNESS WHEREOF**, the Fayette City Council has caused this Resolution to be executed in its name and on its behalf by its Mayor on this the 8th day of December, 2015.

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Mayor Ray Nelson

ATTEST:

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City Clerk Dawn Clapp

Councilmember Cowart moved that the Council adopt Resolution 2015-15. Upon the motion being seconded by Councilmember Brand, the same was unanimously approved.

APPROVAL OF FINANCIAL STATEMENT

Councilmember Cowart moved the City's financial statement be approved. Upon the motion being seconded by Councilmember McCraw, the same was unanimously approved.

APPROVAL OF PARK & RECREATION FINANCIAL STATEMENT

Councilmember McCraw moved the Park & Recreation financial statement be approved. Upon the motion being seconded by Councilmember Cowart, the same was unanimously approved.

REPORT OF CITY CLERK

City Clerk Dawn Clapp gave the sales tax and alcohol tax report. She reported the City received \$239,373.00 in sales tax (\$33,513.00 hospital tax), which was an increase of \$8,449.00 compared to last year. Also, the City received \$8,449.00 in alcohol taxes which was an increase of \$986.00 over the previous year.

REPORT OF COUNCILMEMBER HARDIN

Councilmember Mike Hardin stated the new brush truck will be delivered next week.

REPORT OF MAYOR

Mayor Nelson stated that Forrest Deal is going to be appearing in the movie “Coat of Many Colors” based on the life of Dolly Parton. The movie will air on NBC during prime time.

Mayor Nelson said that on the anniversary of Pearl Harbor, he wanted to thank all of the veterans for their service.

Mayor Nelson reported that Mark Vice of Fayette Drain and Sewer was on the front cover of “Pumper” a national plumbing magazine that reaches 25,000 people.

COUNCIL MEETING ON DECEMBER 22, 2015

Mayor Nelson stated that the Council Meeting scheduled on December 22, 2015, will be held at Noon at the Fayette Civic Center.

ADJOURNMENT

There being no further business to come before the Council, upon the motion to adjourn being made by Councilmember Wilson and seconded by Councilmember Cowart, the same was unanimously approved.

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Mayor

Attest:

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City Clerk