

City Hall
Fayette, Alabama
September 13, 2016

A regular meeting of the City Council of the City of Fayette met at 5:00 o'clock, p.m. on September 13, 2016, 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 Police Chief Danny Jenkins, Fire Chief Tony Ellis, City Attorney Dale Lawrence, City Clerk Dawn Clapp and City Engineer Dewayne Roby.

The opening prayer was given by Mr. Brannen Perry.

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

GUEST APPEARING BEFORE COUNCIL

1. FAYE MEHERG – Fayette County Aging Program

Mrs. Faye Meherg asked for the Council to remember the Fayette County Aging Program during the budgeting process. She presented a report to the Council showing that 105 senior citizens within the City were served by the aging program each day. This number represents 50% of the total number of senior citizens served in Fayette County.

APPROVAL OF MINUTES

Councilmember Cowart moved the minutes of the canvass of the election returns held on August 30, 2016, and the minutes of the regular meeting held on August 30, 2016, be approved. Upon the motion being seconded by Councilmember McCraw, the same were unanimously approved.

PARADE PERMIT

Mayor Nelson presented to the Council a request for permit for the FCHS Homecoming Parade to be held on September 23, 2016. Councilmember Cowart moved the permit be granted. Upon the motion being seconded by Councilmember Wilson, the same was unanimously approved.

PARADE PERMIT

Mayor Nelson presented to the Council a request for permit for the Frog Level Festival to be held on September 30, 2016 and October 1, 2016. Councilmember Wilson moved the permit be granted. Upon the motion being seconded by Councilmember McCraw, the same was unanimously approved.

RESOLUTION 2016-19

Mayor Nelson presented Resolution 2016-19 to the Council for their consideration. Resolution 2016-19 is as follows:

RESOLUTION 2016-19 A RESOLUTION APPROVING AND GRANTING CERTAIN TAX ABATEMENTS FOR A NEW PROJECT

This Resolution is made this 13th day of September, 2016, (the Effective Date) by the **CITY OF FAYETTE** (the "Granting Authority"), to grant a tax abatement for **PHIFER, INC.** (the "Company".)

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

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

WHEREAS, the Company has requested that the abatement of state and local non-educational ad valorem taxes (if applicable) be extended for a period of **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 **\$10,085,000.00;** 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 provisions of the Tax Abatement Agreement;

NOW THEREFORE, be it resolved by the Granting Authority that,

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

Section 2. The Mayor and City Clerk of the City of Fayette, the Granting Authority, are hereby authorized to execute on behalf of the City 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 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.

THE CITY OF FAYETTE

By: _____
Its Mayor

Attest:

By: _____
Its City Clerk

Councilmember Wilson moved the Council adopt Resolution 2016-19. Upon the motion being seconded by Councilmember McCraw, the same was unanimously adopted.

POLICE DEPARTMENT REPORT

Police Chief Danny Jenkins presented the police report for the month of August 2016. The report for August was as follows: 44 incidents investigated; 18 accidents; 62 traffic citations; and 51 arrests.

PARADE PERMIT

Mayor Nelson presented to the Council a request for permit for the Fayette County High School Fifth Quarter to be held on September 23rd. This matter was tabled at the Council meeting on August 30, 2016. Councilmember Cowart moved that the request be granted. Upon the motion being seconded by Councilmember Hardin, the same was unanimously approved.

FIRE DEPARTMENT REPORT

Fire Chief Tony Ellis presented the fire report for the month of August 2016. The Fire Department received 17 calls.

SHOP SUPERINTENDENT/MECHANIC HIRED

Mayor Nelson reported Mr. Curtis Moore was hired as City Mechanic and City Shop Superintendent.

AMENDMENT TO ALCOHOL ORDINANCE CONCERNING
COMMERCIAL EVENT CENTERS

The proposed ordinance amending the City's alcohol ordinance to allow customers, guests and invitees of a licensed commercial event center to bring in their own alcoholic beverages was reviewed with the Council by the City Attorney. The City Attorney stated that the fees and licensing procedure for a commercial event center were similar to the requirements for a restaurant alcohol license. Councilman Wilson expressed concern that commercial event centers were only allowed in a B-3 zoning district and not in B-2 and B-1 zoning districts.

ORDINANCE 2016-05

Mayor Nelson presented Ordinance 2016-05 to the Council for their consideration. Ordinance 2016-05 is as follows:

**ORDINANCE NO. 2016-05
AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF FAYETTE
TO ADD CHAPTER 3A, ALCOHOLIC BEVERAGES**

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

SECTION 1. That Section 3A-3, *Definitions*, of Division 1, *Generally*, of Article I, *Alcoholic Beverage Control of Chapter 3A, Alcoholic Beverages* of the Code of Ordinances of the City of Fayette, be and the same is amended to include the following definitions~~hereby stricken in its entirety and the following substituted therefor~~, viz:

“Sec. 3A-3. Definitions.

.....

~~Whenever used in this article, the definitions set forth in the Code of Ala. 1975, § 28-3-1 are hereby adopted by reference, and made a part hereof as if fully set forth herein. In addition thereto, the following terms shall have the meanings herein specifically ascribed to them:~~

~~Whenever used in this article, the definitions set forth in the Code of Ala. 1975, § 28-3-1 are hereby adopted by reference, and made a part hereof as if fully set forth herein. In addition thereto, the following terms shall have the meanings herein specifically ascribed to them:~~

~~a. — *Alcoholic beverages*: Any alcoholic, spirituous, vinous, fermented or other alcoholic beverage, or combination of liquors and mixed liquor, a part of which is spirituous, vinous, fermented or otherwise alcoholic, and all drinks or drinkable liquids, preparations or mixtures intended for beverage purposes, which contain one-half of one (0.5) percent or more alcohol by volume, and shall include liquor, beer, and wine, both fortified and table wine.~~

~~b. — *Association*: A partnership, limited partnership, limited liability company (LLC), or any form of unincorporated enterprise.~~

~~c. — *Bartender/server*: An employee of a retail alcoholic beverage licensee who is directly involved with the opening, mixing, dispensing, serving, or final sale of alcoholic beverages to a customer of the licensed establishment.~~

~~d. — *Beer, or malt or brewed beverages*: Any beer, lager beer, ale, porter, malt or brewed beverage, or similar fermented malt liquor containing one-half of one (0.5) percent or more of alcohol by volume.
Board: The Alabama Alcoholic Beverage Control Board.~~

~~e. — *Business owner*: A person or persons issued a privilege license by the City to conduct routine business.~~

~~f. — *Child development facility*: Any child development program or club that promotes extended educational services that is funded partially or completely by federal, state, or local government revenue (i.e., Head Start Programs, Boys & Girls Club, etc.). The definition of "child development facility" shall also include any day care center licensed by the Alabama Department of Human Resources.~~

~~g. — Church: An entire house or structure set apart primarily for use for purposes of public worship, and whose sanctuary is tax exempt under the laws of this state, and in which religious services are held and with which a clergyman is associated, and the entire structure is kept for that use and not put to any other use inconsistent therewith.~~

~~h. — City alcoholic license fee: A fee charged by the City to a person who has been granted approval by the state alcoholic beverage control board for the privilege of selling alcoholic beverage within the City limits as herein enumerated and defined.~~

~~i. — Commercial Event Center: A reputable place licensed as a commercial event center, operated by a responsible person of good reputation, that operates to provide a facility available for rent for activities such as meetings, family and school reunions, birthdays, weddings and receptions and which meets the following requirements:~~

~~(1) The commercial event center licensee must have a written rental agreement with the customer detailing (1) the type of activity, (2) the date, time and expected length of the activity (3) the name, address, driver's license number and phone numbers of the customer and the person or persons in charge of the activity.~~

~~(2) The commercial event center licensee must notify the City by submitting the written rental agreement to the City and receive written proof of receipt of notification from the City of receipt before any customers, invitees and guest are allowed to bring alcoholic beverages onto the premises.~~

~~(3) The commercial event center licensee is prohibited from allowing any customers, invitees and guest to bring alcoholic beverages onto the premises if the said licensee has not obtained written proof of receipt of notification from the City.~~

~~(4) The commercial event center licensee is prohibited from sponsoring any events or activities at the commercial event center.~~

~~(5) The commercial event center licensee and any customer, invitee or guest at the facility are prohibited from charging admission or any type of fee for admission to the facility or to charge a fee for remaining in the facility.~~

~~Commercial Event Center activity: an activity to be held a commercial event center pursuant to a written rental agreement where customers, invitees and guest are allowed to bring alcoholic beverages onto the premises.~~

~~Commercial Event Center license fee: A fee charged by the City to a person who has been granted approval by the City Council for the privilege of operating a commercial event center where the customers, invitees and guest are allowed to bring alcoholic beverages onto the premises.~~

~~Fixed place of business: Any place where any alcoholic beverage, wine or beer is kept or stored for sale or delivery. Also, any place that has a commercial event center license issued by the City requiring consent and approval of the City Council.~~

~~Grocery store: A retail establishment whose primary function is the sale of packaged or unprepared food and grocery items for consumption off the premises and whose annual gross sales of alcoholic beverages do not exceed ten percent of its total gross sales and whose floor space is at least 8,000 square feet.~~

~~License: A retail alcoholic beverage license or any other license issued by the state alcoholic beverage control board requiring consent and approval of the City Council. Also, a commercial event center license issued by the City requiring consent and approval of the City Council.~~

~~Licensee: Any person licensed by the City Council for the privilege of engaging in a business involved in the sale of alcohol. Also, any person licensed by the City Council for the privilege of operating a commercial event center.~~

~~Manager: An employee of a retail alcoholic beverage licensee or commercial event center licensee, who is given the responsibility and authority by the licensee to direct the operation of the licensed establishment, either solely or in conjunction with other similarly designated employees, by directing the activities of other employees of the licensed establishment. Such direction could include, but not be limited to, such responsibilities as assignment of employee tasks, scheduling of employee hours, evaluation of employee performance, and employee hiring or discipline.~~

~~Person in charge (PIC) - A person, whether owner, partner, officer, or employee of the alcoholic beverage licensee or the commercial event center licensee, who is designated by the licensee as a responsible party for the licensee in ensuring compliance with the law and regulations of the Code of Alabama, state alcoholic beverage control board, and the ordinances of the City as apply to the operation~~

of a business having retail sales of alcoholic beverages or a commercial vent center license.”

SECTION 2. That Division 1, *Generally*, of Article I, *Alcoholic Beverage Control* of Chapter 3A, *Alcoholic Beverages* of the Code of Ordinances of the City of Fayette, be and the same is hereby amended to add the following section, viz:

“Sec. 3A-4.2 Location of commercial event center – zoning district and near church or school.

(a) In addition to all other regulations and restrictions, a commercial event center is only authorized in the B-3 (central business district) zoning district.

(b) No commercial event center license shall be issued on any premises located in a R-1, R-2, R-3, R-4, RMH-1, B-1, B-2, M-1, M-2 or P-1 zoning district.

(c) In addition to all other regulations and restrictions, no facility shall be licensed as a commercial event center where the facility or property is less than 100 feet from any church, public or private elementary, intermediate, middle or junior high, high school or child development facility. The aforesaid distance restriction in this subsection shall not apply in the following enumerated cases:

(1) Where the facility or property is separated from the church, school, or child development facility by a street or highway having four or more traffic lanes.

(2) Where the church, school, or child development facility was established after the licensed premises began operation and said operation has not been abandoned or discontinued for a period of 12 months; or

(d) The provisions set forth in §3A-4 paragraphs (d), (e) and (f) shall also apply to this section.”

SECTION 3. That Paragraph (b) of Section 3A-6, *Offenses in Public* of Division 1, *Generally*, of Article I, *Alcoholic Beverage Control* of Chapter 3A, *Alcoholic Beverages* of the Code of Ordinances of the City of Fayette, be and the same is hereby stricken in its entirety and the following substituted therefor, viz:

“Sec. 3A-6. Offenses in public.

Paragraph (b)

.....

(b) It shall be unlawful for a business licensed by the City, whether or not the business is licensed to sell or furnish alcohol to allow patrons, customers, invitees or guest to bring alcoholic beverages into or onto the licensed premises unless the premises is a properly licensed commercial event center that has complied with all rules and regulations of this chapter.”

SECTION 4. That Paragraph (c) of Section 3A-6, *Offenses in Public* of Division 1, *Generally*, of Article I, *Alcoholic Beverage Control* of Chapter 3A, *Alcoholic Beverages* of the Code of Ordinances of the City of Fayette, be and the same is hereby stricken in its entirety and the following substituted therefor, viz:

“Sec. 3A-6. Offenses in public.

Paragraph (c)

.....

(c) It shall be unlawful for patrons, customers, invitees or guests to bring alcoholic beverages onto premises licensed to do business by the City, whether or not the business is licensed to sell or furnish alcohol unless the premises is a properly licensed commercial event center that has complied with all rules and regulations of this chapter.”

SECTION 5. That Division 1, *Generally*, of Article I, *Alcoholic Beverage Control* of Chapter 3A, *Alcoholic Beverages* of the Code of Ordinances of the City of Fayette, be and the same is hereby amended to include the following section, viz:

“Sec. 3A-7.1. Furnish, Give or Provide to visibly intoxicated persons.

It shall be unlawful for any person, customer, invitee or guest at a commercial event center to furnish, give or provide, any liquor, wine or beer to any person visibly intoxicated.”

SECTION 6. That Division 1, *Generally*, of Article I, *Alcoholic Beverage Control* of Chapter 3A, *Alcoholic Beverages* of the Code of Ordinances of the City of Fayette, be and the same is hereby amended to include the following section:

“Sec. 3A-9.1 Authorized hours of commercial event center.

It shall be unlawful for any person, having a license for commercial event center, to allow any liquor, wine, or beer, on the licensed premises between the hours of 12:00 a.m. and 8:00 a.m. on Monday, Tuesday, Wednesday, Thursday, Friday and Saturday of any week.

It shall be unlawful for any person, having a license for a commercial event center to allow any liquor, wine or beer, on the licensed premises between the hours of 12:00 a.m. on Sunday of any week and the reopening of the licensed premises on the following Monday subject to the above paragraph.”

SECTION 7. That Division 1, *Generally*, of Article I, *Alcoholic Beverage Control* of Chapter 3A, *Alcoholic Beverages* of the Code of Ordinances of the City of Fayette, be and the same is hereby amended to include the following section, viz:

“Sec. 3A-10.1. Regulation of conduct in commercial event centers.

It shall be unlawful for any person, firm or corporation or the officers, members, agents, servants or persons in charge thereof at any commercial event center to permit, allow, conduct or condone any of acts or activities as set forth in Section 3A-10.”

SECTION 8. That Division 2, *License*, of Article I, *Alcoholic Beverage Control* of Chapter 3A, *Alcoholic Beverages* of the Code of Ordinances of the City of Fayette, be and the same is hereby amended to include the following section, viz:

“Sec. 3A-73.2. Application for commercial event center license; deposit.

Each applicant seeking the consent and approval of the City Council for a commercial event license shall make application to the City Council as required in this article. Said application shall be upon an appropriate form supplied by the City Clerk, or duly authorized representative, and shall be signed and verified by oath or affirmation by the licensee, if a natural person, or in the case of a partnership, association or unincorporated enterprise, by a partner, limited liability company (LLC) or managing member thereof, or in the case of a corporation, by an executive officer thereof. The applicant shall deposit with the City Clerk the required application fee that includes the background check with the Alabama Bureau of Investigation and the amount of publication costs to be incurred hereunder upon filing the application. Each application must be accompanied by a copy of all forms and required documents including the deed or lease to the premises and the articles of incorporation, organization or partnership if a business entity. Also, the licensee must provide background checks conducted by the Alabama Bureau of Investigation (ABI) and the Federal Bureau of Investigation (FBI). In no case will the City of Fayette accept and/or consider any application without all required documentation except that the City Council may consider an application and grant an commercial event license without the said FBI background check to an applicant who: (1) possesses a current alcohol license in the State of Alabama; or, (2) to an applicant whose ABI background check provides sufficient information about the applicant and the ABI background check does not contain items or raise questions about his or her character, reputation or criminal record that would be addressed by the FBI background check.

The City Council, in its discretion, may wait until receipt of the FBI background check before considering whether to grant a license to an applicant.

If a license is granted to an applicant without the FBI background check, the City Council reserves the right to revoke the said license upon receipt of the FBI background check should the Council determine in its discretion that the license should be revoked due to matters revealed in the said background check. A license granted to an applicant without the FBI background check shall be made subject to the Council’s right to revoke. Also, the applicant must present the FBI background to the City within twelve months of the grant of the license. If the applicant does not present the said FBI background check to the City within twelve months then the applicant’s license may be revoked.”

SECTION 9. That Division 2, *License*, of Article I, *Alcoholic Beverage Control* of Chapter 3A, *Alcoholic Beverages* of the Code of Ordinances of the City of Fayette, be and the same is hereby amended to include the following section:

“Sec. 3A-79.1 Commercial event center license fees and requirements.

(a) Each person licensed by the City, who shall engage in operating a commercial event center, prior to engaging in such business shall pay to the City, for the privilege of so engaging in business, an annual privilege business license fee and further license fees as established below:

(1) *Commercial event center*. Each person licensed by the City to operate a commercial event

center shall pay to the City an annual license fee of \$500.00. The following shall apply to the applicant for this license:

- a. Submit the required filing fee (\$300.00).
- b. Receive approval from the City Council.
- c. Pay the required license fee to City. (\$500.00)
- d. public liability insurance in the amount of \$100,000.00 or more.”

SECTION 10. EFFECTIVE DATE. This Ordinance shall become effective upon its passage and publication as provided by law.

ADOPTED at a meeting of the City Council of the City of Fayette, Alabama on this _____ day of September 2016.

Mayor

Attest:

City Clerk

Councilmember Cowart moved that the Council give unanimous consent to consider Ordinance 2016-05. Upon the motion being seconded by Councilmember Hardin, the following vote was taken:

AYES: Councilmembers Hardin and Cowart
NAYES: Councilmembers McCraw, Wilson and Brand

Mayor Nelson stated that unanimous consent was not received in order to consider and vote on Ordinance 2016-05 at this meeting.

APPROVAL OF FINANCIAL STATEMENT

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

APPROVAL OF PARK & RECREATION FINANCIAL STATEMENT

Councilmember Wilson moved that 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 reported for the month of August, the City received \$207,353.00 in non-designated sales tax. This was \$3,800.00 more than received last year. She reported the ½¢ sales tax for the hospital generated \$34,112.00. She stated the City received \$7,234.00 in alcohol taxes. This was \$1,700.00 less than received last year.

REPORT OF COUNCILMEMBER HARDIN

Councilmember Hardin asked about the gas pumps at the Airport. City Engineer Dewayne Roby reported the pumps have been repaired and are working.

Councilmember Hardin reported the new mosquito spraying machine was now in service.

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.

Mayor

Attest:

City Clerk