

City Hall
Fayette, Alabama
July 13, 2021

A regular meeting of the City Council of the City of Fayette met at 5:00 o'clock, p.m. on July 13, 2021, in the Council Chambers of the City Hall.

Upon roll call the following were found to be present: Mayor Rod Northam, Councilmembers Virettia L. Whiteside, Eddy Campbell, Tommy Williams, Aliska Hughes-Monroe and Jerry Nichols. Also present were City Clerk Dawn Clapp, Police Chief Danny Jenkins, Fire Chief Shannon Taylor and City Attorney Dale Lawrence.

The opening prayer was given by Assistant Pastor Tim Oliver of Olive Branch Church.

The Pledge of Allegiance was led by Ms. Hannah Oliver.

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

APPROVAL OF MINUTES

Councilmember Nichols moved the minutes of the regular meeting held on June 22, 2021, be approved. Upon the motion being seconded by Councilmember Hughes-Monroe, it was unanimously approved.

Councilmember Whiteside moved the minutes of the work session held on June 29, 2021, be approved. Upon the motion being seconded by Councilmember Nichols, it was unanimously approved.

POLICE DEPARTMENT REPORT

Police Chief Danny Jenkins presented the police report for the month of June 2021. The report was as follows: 45 incidents investigated; 15 accidents; 172 traffic citations; 71 traffic warnings and 90 arrests.

Chief Jenkins reported on the enforcement of the window tint laws. He stated it is now a primary violation so a driver can be stopped solely for a window tint violation. Chief Jenkins said the Police Department issues a lot of equipment violation tickets but window tint violations do not fall into the category of equipment violations. He said the Police Department has received complaints about loud mufflers. Chief Jenkins also reported utility trailers are required to have tags.

Chief Jenkins reported a traffic study was conducted on Temple Avenue S (near the Kingdom Hall) and it reflected a 24.1% violation rate which results in an enforcement rating of low.

Chief Jenkins reported a traffic study was conducted on 3rd Avenue NE and it reflected a violation rate of 28.2% which results in an enforcement rating of low.

Chief Jenkins also reported a traffic study had been conducted on 3rd Street NW near Peaceful Rest Baptist Church.

HIRING OF POLICE OFFICER

Police Chief Danny Jenkins reported City employee Russell Oswalt had applied for the position of police officer. Mr. Oswalt is currently employed by the City as a firefighter. Chief Jenkins said Mr. Oswalt's hiring would be conditioned upon his successful completion of several requirements required by APOST. Once Mr. Oswalt meets those requirements, he can then be scheduled for the police academy.

Police Chief Danny Jenkins recommended Mr. Russell Oswalt be hired as a police officer provided he successfully completed the APOST requirements. Mayor Northam stated upon receiving the consent of the Council, he would hire Mr. Oswalt as a police officer and his hiring would be conditioned on successfully completing the APOST requirements. Councilmember Nichols moved the Council consent to the Mayor hiring Mr. Russell Oswalt as a police officer based on the recommendation of Police Chief Jenkins. Upon the motion being seconded by Councilmember Hughes-Monroe, the same was unanimously approved.

FIRE DEPARTMENT REPORT

Fire Chief Taylor presented the fire report for the month of June 2021. The Fire Department received 22 calls.

Fire Chief Taylor requested he be allowed to proceed with the posting of a firefighter position. Councilmember Whiteside moved Fire Chief Taylor proceed with posting a firefighter position. Upon the motion being seconded by Councilmember Williams, the same was unanimously approved.

ABATEMENT OF WEED AND GRASS NUISANCES

Fire Chief Taylor reported to the Council on the progress of the abatement of grass and weed nuisances. He stated he was down to five nuisance abatements.

ORDINANCE 2021-03

Mayor Northam presented Ordinance 2021-03 to the Council for their consideration. Ordinance 2021-03 is as follows:

ORDINANCE NO. 2021-03

AN ORDINANCE AMENDING §10-36, *PRIVILEGE TAX – RETAIL SALES OF TANGIBLE PERSONAL PROPERTY, RATES, EXCLUSIONS WITHIN CITY* AND §10-43, *EXCISE TAX ON TANGIBLE PERSONAL PROPERTY* OF ARTICLE IV. *PRIVILEGE AND EXCISE TAXES* OF CHAPTER 10. *LICENSES AND TAXATION*

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

SECTION 1. That Section 10-36, *Privilege tax – Retail sales of tangible personal property, rates, exclusions, within city* of ARTICLE IV. *Privilege and Excise Taxes* of CHAPTER 10. *LICENSES AND TAXATION* of the CODE OF ORDINANCES OF THE CITY OF FAYETTE, ALABAMA is hereby amended by striking such section in its entirety and substituting the following therefor:

§ 10-36. Privilege tax – Retail sales of tangible personal property, rates, exclusions, within city.
A tax is levied upon every person, firm or corporation, (including the State of Alabama, the University of Alabama, Auburn University and all other institutions of higher learning in the state, whether such institutions be denominational, state, county or municipal institutions and any association or other agency or instrumentality of such institutions) engaged, or continuing within the City of Fayette in business of selling at retail any tangible personal property whatsoever, including merchandise and commodities of every kind and character, (not including, however, bonds, or other evidences or debts or stocks, nor sale or sales of material and supplies to any person for use in fulfilling a contract for the painting, repair or reconditioning of vessels, barges, ships and other watercrafts of over fifty (50) tons burden), and amount equal to three and one-half (3½) percent of the gross proceeds of sales of the business except where a different amount is expressly provided herein; provided, however, that any person engaging or continuing in business as a retailer and wholesaler or jobber shall pay the tax required on the gross proceeds of retail sales of such business at the rates specified, when his books are kept so as to show separately the gross proceeds of sales of each business, and when his books are not so kept, he shall pay the tax as retailer on the gross sales of the business.

SECTION 2. That Section 10-43, *Excise tax on tangible personal property* of ARTICLE IV. *Privilege and Excise Taxes* of CHAPTER 10 *LICENSES AND TAXATION* of the CODE OF ORDINANCES OF THE CITY OF FAYETTE, ALABAMA is hereby amended by striking such section in its entirety and substituting the following therefor:

§ 10-43. Excise tax on tangible personal property.
An excise tax is hereby imposed on the storage, use or other consumption in the city of tangible personal property (not including materials and supplies bought for use in fulfilling a contract for the painting, repairing, or reconditioning of vessels, barges, ships and other watercraft of more than fifty (50) tons burden) purchased at retail on or after the effective date of this article, for storage, use or other consumption in the city, except as provided in the subsections hereinafter, at the rate of three and one-half (3½) percent of the sales price of such property within the corporate limits of said city.

SECTION 3. The three and one-half (3½) percent tax levied and imposed in § 10-36 and § 10-43 shall be allocated as follows:

1. Three percent (3%) shall be allocated to the City's general fund;
2. One-half percent (½%) shall be allocated to aid the Fayette Medical Center. These funds shall be restricted and used only for capital improvements at the Fayette Medical Center.

SECTION 4. The Chairman of the Fayette County Hospital Board and the Fayette Medical Center Administrator or their designees shall appear at the Council's first regular meeting in September of each

year to inform the Council of the capital improvement project(s) they desire to use the restricted funds for at the Fayette Medical Center. The Council shall then approve or reject the use of the restricted funds for the requested capital improvement project. If approved the Council will authorize the appropriation of the restricted funds for the said capital improvement project. If rejected, another capital improvement project shall be submitted to the Council for consideration.

Once the capital improvement project is completed, the Fayette County Hospital Board or the Fayette Medical Center shall provide a report detailing how the said restricted capital improvement funds were expended.

SECTION 5. Sunset provision. The three and one-half (3½) percent tax levied and imposed in § 10-36 and § 10-43 shall revert to three (3%) percent on **October 1, 2024** unless the said three and one-half (3½) percent rate is renewed by the Council through adoption of an ordinance providing for the three and one-half (3½) percent rate to continue and remain in effect.

SECTION 6. All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

SECTION 7. This ordinance shall be effective as of October 1, 2021.

Adopted this the 13th day of July, 2021.

Mayor

ATTEST:

City Clerk

Councilmember Nichols moved the Council adopt Ordinance 2021-03. Upon the motion being seconded by Councilmember Whiteside, it was unanimously approved.

EASEMENT TO TOMBIGBEE ELECTRIC

Mayor Northam presented an easement to the Council for their consideration. He stated Tombigbee Electric Cooperative, Inc., had requested the City grant it an easement at the old industrial park for it to place a hub for the broadband internet it was bringing to the Fayette area. Councilmember Whiteside moved that the Council authorize the Mayor to execute the easement to Tombigbee Electric Cooperative, Inc., for the broadband hub. Upon the motion being seconded by Councilmember Nichols, the same was unanimously approved.

REPORT OF PLANNING COMMISSION

Mayor Northam reported on a rezoning request that had come before the Planning Commission. The rezoning request was made by Mrs. Pam Jenkins to rezone the property at 2358 Second Avenue NE from M-1, Manufacturing District to R-1, Residential District. Mayor Northam stated the Planning Commission recommended granting the rezoning request.

MOTION TO SET REZONING HEARING

Councilmember Campbell moved to set a public hearing concerning the rezoning of the property located at 2358 Second Avenue NE on August 24, 2021 at which the Council will consider the adoption of the ordinance set forth below. Upon the motion being seconded by Councilmember Nichols, the same was unanimously approved. The notice and ordinance are as follows:

STATE OF ALABAMA)	IN THE CITY COUNCIL OF THE
	:	CITY OF FAYETTE, ALABAMA
FAYETTE COUNTY)	

NOTICE OF PUBLIC HEARING

As mandated by the provisions of Section 11-52-70, et seq, *1975 Code of Alabama*, notice is hereby given that the City Council of the City of Fayette, Alabama, will consider the adoption of an

ordinance amending the Zoning Ordinance of the City of Fayette, Alabama, adopted July 15, 1996, with reference to the zoning map on such date, such proposed ordinance being fully set forth below.

The proposed ordinance will be considered by the City Council at a public hearing to be held at City Hall in the City of Fayette, Alabama, on the 24th day of August, 2021, at 5:00 o'clock, p.m., at the said time and place all persons will have the right and are invited to be present and to be heard either for or against the adoption of said Amendment.

This the 13th day of July, 2021.

City Clerk

**ORDINANCE NO. 2021-_____
AN ORDINANCE TO AMEND CITY ORDINANCE ENTITLED "ZONING ORDINANCE OF THE CITY OF FAYETTE, ALABAMA", ADOPTED AND APPROVED BY THE CITY COUNCIL ON JULY 15, 1996, REFERRED TO AND IDENTIFIED IN SECTION 11, SHORT TITLE OF SAID ZONING ORDINANCE AS THE "ZONING ORDINANCE OF THE CITY OF FAYETTE, ALABAMA".**

THE PUBLIC WELFARE REQUIRING IT, and under authority granted by Section 11-52-77, 1975 Code of Alabama, Be It Ordained by the City Council of the City of Fayette, Alabama, as follows:

1. The Zoning Map of the City of Fayette, Alabama, adopted and approved by the City Council on July 15, 1996, is hereby altered, changed, amended and modified as follows:

That the zoning classification of the following described land be reclassified from a M-1 Manufacturing District to a R-1 Residential District, viz:

PARCEL I:

Tract No. 1: A lot or parcel of land containing .533 acres, more or less, lying along the North side of NW ¼ of SE ¼, Section 29, Township 15 South, Range 12 West, being more particularly described as follows: Begin at a point on the North line of said 40 acres, which point is the Northeast corner of tract heretofore conveyed to James H. Gullett; thence run South along East line of said James H. Gullett lot a distance of 100 feet; thence run East and parallel to the North line of said 40 acres a distance of 225 feet; thence run North to a point on the North line of said 40 acres 240 feet East of point of beginning; thence run West along the North line of said 40 acres a distance of 240 feet to the point of beginning.

Tract No. 2: A lot or parcel of land containing .459 of an acre, more or less, lying in the South part of SW ¼ of NE ¼, Section 29, Township 15 South, Range 12 West, being more particularly described as follows: Begin at an iron pin on the East edge of Evans Drive (also known as Evans Road) just after said Evans Drive turns North, which iron pin is 15 feet North of and 40 feet East of the Northeast corner of the tract or parcel of land heretofore conveyed by the Grantors herein to James H. Gullett. From this point of beginning, thence North along the East edge of said Evans Drive for a distance of 100 feet; thence run East and parallel with the South line of said 40 acres for a distance of 200 feet; thence South and parallel to the East edge of said Evans Drive for a distance of 100 feet; thence run West and parallel with the South line of said 40 acres and 15 feet North of the South line of said 40 acres for a distance of 200 feet to the point of beginning. Situated, lying and being within the City of Fayette, Fayette County, Alabama.

PARCEL II:

Tract No. 1: A lot or parcel of land lying in the SW ¼ of NE ¼ and NW ¼ of SE ¼ of Section 29, Township 15 South, Range 12 West, being more particularly described as follows: Begin at the Southwest corner of the Poe lot, which point of beginning is on the

East edge of Evans Road and is 200 feet from the point it turns North; thence run East along the South line of said Poe lot for a distance of 200 feet to the Southeast corner thereof; thence continue to run East and parallel with the South line of Stamps Road to the East line of SW ¼ of NE ¼; thence run South along the East line of said 40 acres to the Southeast corner thereof; thence South along the East line of NW ¼ of SE ¼ for a distance of 100 feet; thence run West and parallel to the North line of NW ¼ of SE ¼ to the Southeast corner of Grantee's present lot; thence run North along the East end of Grantee's lot for a distance of 215 feet to the Northeast corner thereof; thence run West along the North line of Grantee's present lot for a distance of 200 feet to the East edge of Evans Road; thence run North along the East edge of Evans Road for a distance of 100 feet to the point of beginning.

Tract No. 2: A strip of land 15 feet wide North and South and 200 feet long East and West lying between the two lots presently owned by the Grantees.

Tract No. 3: A lot or parcel of land lying in the SW ¼ of NE ¼ of Section 29, Township 15 South, Range 12 West, being more particularly described as follows: Begin at the Southeast corner of V.F.W. lot which point is on the North edge of Evans Road; thence run East along the North edge of Evans Road for a distance of 160 feet to the point where said road turns and runs North; thence run North along the West edge of said Evans Road for a distance of 385 feet; thence run West and parallel to the South line of Stamps Road for a distance of 160 feet; thence run South and parallel with Evans Road for a distance of 285 feet to the Northeast corner of V.F.W. lot; thence run South along the East end of V.F.W. lot for a distance of 100 feet to the point of beginning.

PARCEL III:

A small lot lying in the SW ¼ of NE ¼, Section 29, Township 15 South, Range 12 West, being more particularly described as follows: Begin at the point where Evans Road turns and runs North and run along the West edge of said Evans Road for a distance of 85 feet; thence run West for a distance of 150 feet which is the point of beginning; thence run West for a distance of 10 feet; thence run South and parallel to Evans Road for a distance of 85 feet; thence run East for a distance of 10 feet to the Southwest corner of the Plyler lot; thence run North along the West end of the Plyler lot a distance of 85 feet.

LESS AND EXCEPT FROM ALL OF THE ABOVE DESCRIBED PARCELS AND TRACTS ANY PORTION OF THE ABOVE DESCRIBED PROPERTY PREVIOUSLY CONVEYED BY PAMELA F. JENKINS AND BOBBY JENKINS, including but not limited to, the deed from Pamela F. Jenkins and Bobby Jenkins to Charles H. Harris and Mary Harris, dated March 31, 2013 and recorded in Deed Book 2013 at page 2203 and the deed from Pam Jenkins to Tonya Michelle Brand and Shawn Christopher Harris, dated February 18, 2016 and recorded in Deed Book 2016 at page 552.

2. All ordinances or parts of ordinances that conflict with this act are hereby repealed.

This Ordinance shall take effect and be in force from and after the date of its publication.

DONE this the _____ day of August, 2021.

ATTEST:

Clerk, City of Fayette

Mayor, City of Fayette

APPOINTMENT TO INDUSTRIAL DEVELOPMENT BOARD

Mayor Northam asked the Council whether they were ready to consider Mr. Milborn Savage's appointment to the Industrial Development Board. Councilmember Nichols moved that Mr. Milborn Savage be appointed to the Industrial Development Board. Upon the motion being seconded by Councilmember Hughes-Monroe, the same was unanimously approved.

PARADE PERMIT

Mayor Northam presented to the Council a request for a parade permit for a community event to be held at the park in the Fayette Housing Authority on August 14, 2021. Councilmember Hughes-Monroe moved the permit be granted. Upon the motion being seconded by Councilmember Nichols, it was unanimously approved

COVID LEAVE PAY POLICY

Mayor Northam asked the Council whether they want to extend the Covid Leave policy or end it. After a general discussion, it was the consensus of the Council to end the policy.

APPROVAL OF FINANCIAL STATEMENT

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

APPROVAL OF MUNICIPAL COURT FINANCIAL STATEMENT

Councilmember Whiteside moved the Municipal Court financial statement be approved. Upon the motion being seconded by Councilmember Campbell, the same was unanimously approved.

APPROVAL OF PARK & RECREATION FINANCIAL STATEMENT

Councilmember Campbell moved the Park & Recreation financial statement be approved. Upon the motion being seconded by Councilmember Hughes-Monroe, the same was unanimously approved.

REPORT OF MAYOR

Mayor Northam stated 8,681 Covid vaccinations (1 or 2 shots) had been administered in Fayette County. He stated 4,277 people have received both shots.

Mayor Northam stated there are two new businesses in Fayette. The new businesses are Friends Janitorial and Sign Gypsies.

Mayor Northam stated Fayette County's unemployment rate for May was 2.5%.

Mayor Northam reported the City has two new employees. Mr. Mikel Simmons was hired as a wastewater operator and Ms. Nikki Dove was hired as a clerk/receptionist.

Mayor Northam said the Council needed to start setting up committees to implement the City's Strategic Plan. He announced a Work Session would be held on July 29th concerning implementing the City's strategic plan.

Mayor Northam stated the *Back to School Sales Tax Holiday* is July 16th – July 18th.

Mayor Northam said those entities that are providing jumping house, petting zoos, etc. for the "Event on Main" would need to have insurance.

Mayor Northam reported he would be sending a letter to Attorney General Steve Marshall concerning the opioid litigation.

REPORT OF CITY CLERK

City Clerk Dawn Clapp reported for the month of June, the City received \$261,115.00 in non-designated sales tax and the ½¢ sales tax for the hospital generated \$42,179.00 for a combined total of \$303,294.00. She reported the City received \$3,329.00 in alcohol taxes. She also reported the City received \$21,550.00 in online sales tax.

Ms. Clapp reported the total alcohol tax collected from October 2000 to June 2021 was \$71,420.00. The total alcohol tax collected from October 2019 to June 2020 was \$68,139.00.

She also reported the City had received \$507,618.00 from the American Rescue Plan.

REPORT OF COUNCILMEMBER HUGHES-MONROE

Councilmember Hughes-Monroe stated registration for Toy Bowl football would be through July 30, 2021, and that soccer registration would begin on July 19, 2021.

Councilmember Hughes-Monroe reported the last day for the Aquatic Center is August 8, 2021.

REPORT OF COUNCILMEMBER NICHOLS

Councilmember Nichols thanked Fire Chief Taylor for his work on the grass and weed abatements.

ADJOURNMENT

There being no further business to come before the Council, upon the motion to adjourn being made by Councilmember Nichols and seconded by Councilmember Whiteside, it was unanimously approved.

Mayor

Attest:

City Clerk