

MINUTES OF THE REGULAR MEETING
OF THE CITY COUNCIL OF HUNTSVILLE, ALABAMA,
HELD THURSDAY, OCTOBER 10, 2013

The Honorable Council of the City of Huntsville, Alabama, met in regular session on Thursday, October 10, 2013, at 6 p.m., in the Council Chambers of the Municipal Building, there being present:

President:	Russell
Councilpersons:	Culver, Olshefski, Showers, Kling
Mayor:	Battle
City Administrator:	Reynolds/Hamilton
City Attorney:	Joffrion
City Clerk-Treasurer:	Hagood

President Russell called the meeting to order.

Mr. Tim Tyson of the Huntsville Baha'i Center led the invocation; President Russell led the pledge of allegiance.

The minutes of the Regular Meeting of the Council on September 26, 2013, and a Special Session of the Council on October 4, 2013, were approved as submitted.

President Russell stated that the next item on the agenda was Resolutions and Special Recognitions. He recognized Mayor Battle.

Mayor Battle asked Ms. Trudy Odle of the Greengate School to come forward, stating that he had a presentation concerning Dyslexia Awareness Month.

Ms. Odle and one of her students came to the podium.

Mayor Battle stated to Ms. Odle that he had a proclamation

from the City of Huntsville declaring the month of October as Dyslexia Awareness Month. He continued that many persons did not realize there was a school in the city that dealt with this. He stated that Greengate School provided such a service, and that they worked one-on-one with the students, and then were able to mainstream them back into the regular school system. He asked Ms. Odle to comment on this.

Ms. Odle stated that Greengate School had been in the city for 12 years and was one of 12 schools in the nation with an Orton-Gillingham accredited instructional program that was specialized for students with dyslexia. She continued that it was quite a gem for Huntsville to have this school, noting that at this time they had 38 students. She stated that they also had a testing center, a summer camp, and outreach tutoring, and that there were students who came from a 60-mile radius to attend their school.

Ms. Odle stated that she would like to introduce Elaine Atha, who was an 8th grader at the school and president of the Student Council. She stated that she was a fine example of the type student they had at Greengate, noting that they had just left Robotics Club to attend this meeting.

Elaine Atha stated that dyslexia was often looked upon as a difficulty, but that, in reality, she believed it had helped her, noting that if she had not had it, she would have failed school. She stated that she felt she was blessed to have dyslexia, and that she was so lucky that Greengate was in the

city.

Mayor Battle stated that many persons did not realize that students who had dyslexia and worked through it were usually the higher aptitude students, noting that they had to learn to work around a problem and they learned how to do this and therefore could be better students. He congratulated Elaine and congratulated Greengate School, noting that the city could put a spotlight on a school that was part of its quality of life. He thanked them for what they did.

Mayor Battle asked Chief Howard McFarlen and Fire Marshal Joe Jordan of Huntsville Fire & Rescue to come forward.

Mayor Battle stated that he had a proclamation declaring the month of October as Fire Prevention Month. He asked Chief McFarlen to introduce the fire prevention officers.

Chief McFarlen stated that he had with him Fire Marshal Joe Jordan and Assistant Fire Marshal George Daigle. He expressed appreciation for the recognition. He stated that fire prevention was something that everyone participated in, that persons could make their homes safer and their businesses safer. He stated that the personnel at Huntsville Fire & Rescue worked every day of the year trying to make persons in the city safer. He stated that in looking at the statistics, he felt they had done pretty well with this. He thanked everyone in the Fire Department who had worked so hard, noting that during the week they had conducted several tours, for school children and others, talking to them about fire safety.

He stated that he would ask Chief Jordan to comment on this and stated he believed he would tell them this was paying off for them.

Fire Marshall Jordan stated that it certainly was paying off. He stated that the theme for the year was preventing kitchen fires. He stated that he would like to say that in the prior 14 months, the city of Huntsville had suffered only one fire fatality, noting that these were pretty good statistics for a city the size of Huntsville. He stated that they had had a lot of media coverage for this event and that they had handed out a large volume of fire prevention materials and had given out thousands of the fire department play houses. He stated that this had been a very successful event and thanked the Council for its support.

Assistant Fire Marshall Daigle stated that stopping kitchen fires was one of the most important things they could do, noting that the major causes of these were unattended cooking and excessive alcohol consumption. He stated that if persons had fire extinguishers in their homes, they should check them and make sure they were working, and if they did not have one, they should purchase one

Mayor Battle presented the proclamation declaring the month of October as Fire Prevention Month to Chief McFarlen.

Mayor Battle asked Chief Lewis Morris of the Police Department to come forward for the presentation of Employee Incentive Awards. He asked that Captain JesHenry Malone come

forward also, as well as an employee to be honored at this time. He stated that the Employee Incentive Awards program was something they did in the City, noting that this was a great thing because it let the employees be part of the process of decision-making in the City by pointing out how things could be done more efficiently and money could be saved.

Chief Morris stated that it was always an honor to be able to come up and present his employees with an award and recognize them publicly for doing outstanding jobs. He stated that they empowered their employees to make decisions and if the employees saw things that could be done better, they were encouraged to take action on them.

Chief Morris stated that they had three employees to be recognized at this time, noting that they would receive a monetary award under the City's program, and noting that this was always a good motivation for persons to be more efficient. He stated that there were also plaques to be presented.

Chief Morris stated that Captain Malone was their Support Services Commander, and that he had recognized the initiative these employees had shown, and he would introduce them and tell a little more about what they had done.

Captain Malone stated that one of the responsibilities they had in the Police Department to maintain their accreditation was to maintain a warehouse for surplus property and condemned items. He stated that as such, typically, once items had been condemned, they would either be buried or

burned. He stated that the employees who worked in this particular section of the Police Department had brought to him a recycling initiative, and he had looked it over with them, and then these employees had decided to go to the warehouse and separate all the items they had that were condemned, and that, further, they separated them into plastics, metal, and paper. He stated that these were then taken to the recycling institutions, and that as a result, they had brought back \$2,361.66 to the taxpayers of the city.

Captain Malone stated that these three employees were Dorothy Hargrove, whom he noted was not able to be present at this time; Melanie Hutchison, who was present; and Herschell Hardy, their Inmate Labor Supervisor.

A presentation was made to Ms. Hudson.

Mayor Battle thanked the police officers and Ms. Hutchison for all they did for the City.

Mayor Battle recognized Mr. Stan Miller and Ms. Jacquelyn Shipe of the International Services Council.

Mr. Miller appeared before the Council, stating that he was president of the International Services Council of Alabama and that he was honored to be present at this time to present the Thomas Pickens Gates Award. He stated that Mr. Gates was a native of Madison, Alabama, and a charter member of the Huntsville Downtown Rotary Club. He stated that in 1939, he had attended Rotary International's convention in Cuba, which had ignited his interest in the global community. He continued

that he had been stationed as a U.S. Army field director in England during World War II and had returned as an active member of Rotary's International Committee. He stated that in 1965, he had led an initiative for local residents in Huntsville to entertain foreign nationals who were being trained at Redstone Arsenal, and that he had become involved with the Young Leaders Program, under the sponsorship of the United States Department of State. He stated that he had then approached the Mayors of Huntsville and Madison and the County Commission with a request to establish an organization to serve as the official interface for international visitors in Huntsville and Madison County, which he noted had given birth to the International Services Council of Alabama, which he noted was now celebrating its 48th anniversary.

Mr. Miller stated that annually the International Services Council of Alabama presented its highest award in memory of Thomas Pickens Gates, noting that past honorees had included Frances Gates Moore, Mr. Gates' daughter, who was present at this time; former Madison County Commissioner, Mike Gillespie; and Congressman Robert Aderholt.

Mr. Miller stated that this year the International Services Council had selected another visionary leader whose commitment to the growth of Huntsville and its people, coupled with his accessibility and foresight, had resulted in his exemplary citizen diplomacy. He stated that the Council appreciated Mayor Tommy Battle's attributes of listening and

encouraging, his foresight, his ability to be persuasive, and his stewardship in this area. He stated that like Thomas Pickens Gates, Tommy Battle was an astute businessman. He continued that his global lens and influence had resulted in the International Services Council's relocation from the Madison County Courthouse to the Humphreys Rogers House in June of the current year. He stated that as a result of this, Huntsville had the appropriate venue to welcome and host international delegations. He stated that Mayor Battle's leadership had led to Huntsville's rightful designation as the "Gateway to Alabama" for international visitors.

Mr. Miller stated that on behalf of the Board of Directors, the staff, and the diplomatic corps of volunteers of the International Services Council of Alabama, he was honored to present the prestigious 2013 Thomas Pickens Gates award to Mayor Tommy Battle.

Mayor Battle stated that he would like to say thank you to this group, noting that he believed there were many other persons who deserved this much more than he did, because they did the heavy lifting every day, and he just got to talk. He stated that he had had the opportunity to speak to persons from all over the world, and it had been very enjoyable. He continued that he had brought in the City attorney to talk to some of the groups, and that he had amazed them with what the laws of America were and how these compared to their countries' laws. He stated that it was always fun to learn about someone

else and to be inclusive and bring these persons in.

President Russell congratulated Mayor Battle for the award by the International Services Council.

Councilman Showers read and introduced a resolution congratulating the Xi Omicron Chapter of Omega Psi Phi Fraternity, Inc., on their Omega Psi Phi Alabama Statewide meeting, to be held at the Holiday Inn Downtown on October 18-20, 2013, as follows:

(RESOLUTION NO. 13-776)

Councilman Showers moved for approval of the foregoing resolution, which motion was duly seconded by Councilman Culver and was unanimously adopted.

Councilman Showers stated that he would be presenting the resolution at the upcoming event, on behalf of the Council and the Mayor.

President Russell stated that he looked forward to being in attendance with Councilman Showers at this event.

Councilman Showers read and introduced a resolution recognizing contributions to Scouting in the community, to be presented at a surprise luncheon to be held on Saturday, October 12, 2013, as follows:

(RESOLUTION NO. 13-777)

Councilman Showers moved for approval of the foregoing resolution, which motion was duly seconded by Councilman Kling and was unanimously adopted.

Councilman Showers stated that he would present the

resolution at the event.

President Russell read and introduced a resolution congratulating Mr. George Barnes upon his retirement, after 40 years as owner of the Huntsville franchise of Snelling Professional Services, as follows:

(RESOLUTION NO. 13-778)

President Russell moved for approval of the foregoing resolution, which motion was duly seconded by Councilman Showers and was unanimously adopted.

President Russell stated that item 15.e on the agenda had been deleted. He stated further that the Council would hold its reorganization and elect officers at the end of this meeting.

President Russell stated that the next item on the agenda was Business with Outside Legal Representation.

President Russell stated that the next item on the agenda was the Council decision on the personnel hearing for Mr. Karl Kennemore, Parks and Recreation, which had been held on September 12, 2013.

Councilman Showers stated that he would be moving to overturn the finding of the Personnel Committee in this matter and to modify the action, based on the inconsistencies that all of the Council members had heard and the way in which the Department, as well as the Personnel Office, had handled this matter. He stated that this matter should never have come before the Council. He stated that Mr. Kennemore, who had been

in an acting position, had been passed over by promoting a person from a Grade 7 to a Grade 13 and placing that person in such position, and that Mr. Kennemore had been the most qualified person, the most experienced person, for that position. He continued that he wanted to give Mr. Kennemore the opportunity to resume his position as the programmer at Cavalry Hill.

Councilman Showers moved that the finding of the Personnel Committee in this matter be overturned and that Mr. Kennemore be allowed the opportunity to resume his position as the programmer at Cavalry Hill.

Said motion was duly seconded by Councilman Culver.

President Russell asked Councilman Showers if his motion was to modify the action of the Personnel Committee by overturning the decision and placing Mr. Kennemore in the position, for the reasons he had stated.

Councilman Showers replied in the affirmative, stating that he believed the record would bear out that Mr. Kennemore had been one of the four finalists for this position, and that he had taken the opportunity, per the Policy Manual, to address, by grieving, the final decision of the Personnel Committee. He stated that the other three persons involved in this matter had had the same latitude, that they could have class-acted with Mr. Kennemore to grieve the decision by the Personnel Committee, but that these persons had not done so and that they had forfeited their opportunity to do so. He stated

that Mr. Kennemore had spent money on this, that he had obtained an attorney, and that he had come back and asked the Council to hear this matter. He continued that this was why the Council was here at this time, to overturn the initial recommendation of the Personnel Committee and to acknowledge that Mr. Kennemore was the most qualified, based on his experience, and all the data the Council had been given, showing inconsistencies and vindictiveness, which was through the way Personnel had handled it and the way the Department had handled it.

Councilman Showers reiterated that this matter should never have come before the Council. He stated that the idea of filing a grievance was to get relief and that this was the relief they wanted to provide to Mr. Kennemore, based on the data and information that had been provided them in the original hearing. He stated that he wanted to overturn this and modify it by giving Mr. Kennemore the opportunity to serve in a permanent position as programmer at Cavalry Hill Fellowship Center.

President Russell asked Mr. Joffrion to advise the Council and the Chair as to what the Employee Manual set out as the Council's duty in a situation such as this.

Mr. Joffrion stated that the Council had several options available to them, noting that they could certainly uphold the decision of the Personnel Committee; they could overturn it; or they could modify it, either in whole or in part. He stated

that the motion Councilman Showers had made sought to modify this by overturning the decision of the Personnel Committee and basically vacating the promotion that had been made. He stated that with all due respect to Councilman Showers and Councilman Culver, whom he noted had seconded the motion, he would state that it was not the authority of the Council to place someone into a position simply because a grievance had been filed.

Mr. Joffrion stated that the relief Mr. Kennemore had sought, and the relief to which he might be entitled, would be to vacate the promotion. He continued that then the Department could reopen the process and go back through a selection process on this. He stated that the Council really did not have the authority to place Mr. Kennemore in the position.

Councilman Kling stated that what he wanted to say was not in any way directed toward Mr. Joffrion, but that he did want to note that the Council had had an attorney who had been present at Mr. Kennemore's hearing and asked if this attorney would be the one the Council should ask questions of concerning this matter.

President Russell stated that Mr. Dennis Riley had been the Council's attorney on this matter and stated that he had communicated with Mr. Riley concerning this matter and he had given him the same advice as Mr. Joffrion had just given.

Councilman Kling asked if Mr. Riley was present at the meeting at this time.

President Russell replied in the negative, stating that he had not been able to be present.

Councilman Culver asked if Mr. Joffrion was recommending that the Council not do what had been set out in Councilman Showers' motion or if he was stating that as a Council they could not do so.

Mr. Joffrion stated that he was saying that the Council could not do this. He stated that even if Councilman Showers' motion were adopted, the part of the motion that would vacate the promotion that had been made would be effective, but that the second part, to place Mr. Kennemore into the position, would not be effective, that it would be void because the Council did not have the authority to do this. He stated that that was an administrative decision for the Department to make, under the Administration, and not for the Council to make.

Mr. Joffrion stated that if the Council placed Mr. Kennemore in this position, that would affect every other employee in the city who might have had access to this promotion, and then such persons would file a grievance. He stated that the body that was ultimately responsible for determining such grievance was the City Council, but that the Council would have already made a decision that was contrary to the possible relief to which another employee might be entitled. He stated that this really would be a due process deprivation for any other employees in the process if the Council were to place a person in a position. He stated that

this was why the limit of the Council's authority was to just vacate a position in the event of a promotional by-passing situation.

Councilman Culver stated that it was his understanding that the other employees who wished to grieve this process had been entitled to the same opportunity, and they had failed to act on it, and at this time their time limit had expired. He asked Mr. Joffrion if it was correct that this time limit had expired.

Mr. Joffrion stated that it would have expired as to this particular grievance, but noted that that did not mean that by virtue of the fact that such employees had not grieved a promotional by-passing in this instance, Mr. Kennemore would be entitled to be placed into the position. He stated that all the Council could do would be to vacate the promotion and ask the Department to restart the process, noting that then anyone who was qualified would be eligible to apply for this promotion, regardless of whether such person had filed a grievance initially or not.

Councilman Kling stated that it appeared that one employee had gone the extra mile and filed a grievance, whether he had a pro bono lawyer or had had to pay for this out of his pocket, and the other employees had not done anything concerning this matter. He continued that it appeared to him that it came down to Employee A, who was in the position, or Employee B, who had filed the grievance, and that the others were now kind of on

the sidelines. He asked if this would not be between these two employees at this time.

Mr. Joffrion replied in the negative, stating that it was still an administrative decision for the department head to make, when the process was reopened, to determine who was most qualified. He continued that it was not the Council's decision to make such determination.

Councilman Kling stated that from what he had heard, it appeared that two Council members felt the Department had not handled the procedure in the correct way, and they were taking action. He asked if Councilman Showers and Councilman Culver had the prerogative to put up a change since they did not feel the process had worked right the first time and it basically would be sent back to the same persons.

Mr. Joffrion stated that the Council would be sending it back to the Department. He continued that they could certainly request that the Department entrust this responsibility to someone else within the Department, or at least enlist the assistance of the Human Resources Department in going through this process, to assure that it would be fair and equitable. He stated that he did not believe this responsibility would be entrusted to the same person who had originally made the decision. He continued that he believed the department head had already acknowledged this.

Councilman Kling asked if the Council were to make some sort of a motion or take some sort of an action on this, they

could, as part of this motion, state that if the matter did go back, it would go back to Human Resources, or something like that, rather than to the Department.

Mr. Joffrion stated that the Council could request that Human Resources assist in this, but that the decision had to be made by the department head. He stated that he knew Human Resources would be happy to assist in this matter and that the Department would welcome such assistance, but that Human Resources could not take control of the process.

Councilman Olshefski stated that he supported overturning this matter, but noted he felt that not all the affected employees would be required to grieve because the one who had gotten the job would have no reason to grieve it.

Councilman Showers stated that they were overturning the entire decision because it was flawed. He stated that, No. 1, they were overturning the findings of the Personnel Committee, noting that the Council had a right to do this. He continued that the records clearly showed that Personnel, on the day they received the paperwork from the department head, had not handled this matter correctly. He continued that if they had handled it correctly, it would not be before the Council at this time, that the Council would not have had to listen to this grievance if this had been handled correctly. He stated that he did not believe there was any Council member that had not been able to clearly see the inconsistencies in this matter, from Human Resources to the Department to the Personnel

Committee. He reiterated that they had taken an employee from a Grade 7 to a Grade 13 for this position and then had said that this person was more experienced than the employee with a Grade 10 who was in this actual position and doing this work and was qualified. He stated that the department head had had an opportunity to fix it and had not fixed it and that Personnel had had an opportunity to fix it.

Councilman Showers stated that the reason they had a Policy Manual was that they would have an opportunity to right an error. He stated that an error had certainly been made. He stated that if the Council simply said to open the position, the results would not be any different. He stated that there was nowhere in the world of work where a grievance would be filed by an individual who had been wronged, and they would win and then the position would be opened back up.

Councilman Showers reiterated that the other persons who had not received this position could have done the same thing Mr. Kennemore had done, that they could have filed a grievance, a class-action grievance, but they had not done so. He continued that he could not understand why they were now saying it would be wrong to go back and let Mr. Kennemore have this position since he was the only one who had filed a grievance.

Councilman Showers stated that Mr. Kennemore had spent money on this and had gone to all kinds of means to get to the Council to have the decision of the Committee overturned. He stated that because the persons in the Department who should

have done their jobs on this had not done so, the Council wanted to do it at this time. He continued that the Council had the right to do this. He stated that there was nowhere in any manual that it said the Council could not make this decision.

Councilman Showers asked if Mr. Byron Thomas, Director of Human Resources, was present at the meeting.

President Russell replied in the negative.

Councilman Showers stated that the Human Resources Department made the policy and that from the beginning of this, that department had told Mr. Kennemore he needed to grieve the supervisor, whereas the policy book clearly said that when a supervisor was in conflict with an employee, the department head was the person who was responsible. He stated that that had been an error and that there had been several errors in this particular grievance. He stated that the Personnel Department, the department head, and the Personnel Committee had all failed to do their jobs, and that this was the reason the Council was overturning this.

Councilman Showers stated that he believed if there were three votes on the Council, the Council could do what it chose to do in this matter. He stated that he did not want to hurt anyone's feelings on this, but reiterated that the other employees would not have this same opportunity because they had forfeited their opportunity when they had not filed a class action. He stated that he could not understand raising the

fact that the person who had gotten the position had not filed a grievance because anyone could see that there would be no reason for that person to file, because that person had gotten the job.

Councilman Showers stated that the Council was saying that that person should not have gotten this job, noting that this was a person with a Grade 7 and no experience, while Mr. Kennemore was a Grade 10 and was already doing the work.

Councilman Showers reiterated that this matter should not have come before the Council, noting that if persons had done their job, it could have been cleared up at the Department level or at the Personnel level. He stated that there had been errors all the way through this matter, and that many of the persons who had participated in this had acknowledged that, but yet at this time they were wanting to penalize Mr. Kennemore twice. He stated that he had grieved this matter but the other persons had failed to grieve and had forfeited their right to do so.

Councilman Showers stated that there was nowhere he knew of where a grievance would be filed, in whatever world one would want to make it in, and the person won, and they would go back and open a position because of other persons who had not gotten the position. He stated that the other three persons who had not gotten this position could have filed a class action and that that would have been grounds to open the position back up, but that this had not happened.

Councilman Showers stated that he believed the Council had the authority to fill this position.

President Russell stated that he certainly appreciated Councilman Showers' passion for his position. He stated that he believed the Council was all in agreement that the Personnel Committee's decision should be overturned and the position vacated, and that he certainly supported that, but he could not support promoting a specific individual and putting such person in the position. He stated that he would support sending the matter back and asking that they conduct new interviews for the position, with the understanding that they would have assistance from the Human Resources Department. He stated that he felt the debate for the Council at this time was to decide whether or not the Council was going to promote Mr. Kennemore, according to Councilman Showers' motion.

Councilman Showers called for the question.

Said motion was duly seconded by Councilman Culver.

President Russell called for the vote on the above motion, and the following vote resulted:

AYES: Culver, Showers

NAYS: Olshefski, Kling, Russell

President Russell stated that the motion had failed.

Councilman Kling stated that he believed the Council members all agreed that the matter had not been handled properly. He stated that he really wished the attorney who had been present for the Council at the hearing for Mr. Kennemore

had been able to be in attendance at this meeting because he felt he was the person to whom the Council should be addressing questions. He stated that he was attempting to find a way they could legally get to something along the lines of Councilman Showers' motion. He stated that one person had gone to the effort and the expense of filing a grievance in this matter, and that, also, it appeared that that person had been best qualified for the position. He questioned if the Council sent this back to the department, how they would know they would not get the exact same result again. He stated that he believed it would be counterproductive to end up right back where they had started on this matter.

President Russell stated that this was certainly a concern of all the members of the Council, but that hopefully if this were sent back and interviews were conducted, Human Resources would be involved, and they would handle this in a fair process that would not have to be grieved. He stated that he felt all five of the Council members believed it had not been a fair process previously, but that he also felt this could be corrected and a fair process could be given to the employees. He stated that this was his personal opinion and that, obviously, the other Council members could have different opinions. He stated that he believed the City could do this.

Councilman Kling asked how the Council would know that this matter would go through the Personnel Department process rather than going back and being handled in the same manner it

had been handled previously.

President Russell stated that the Council, as a body, could ask that Human Resources provide their assistance in this matter. He stated that he was uncertain as to whether the Council could direct them to do this but he felt they would agree if the Council were to ask.

Mr. Joffrion stated that he had spoken with Mr. Thomas about this issue and that he was very much willing to participate and assist, to have someone from Human Resources sit in on interviews and assist as needed in this matter, to point out anything that might not be conducted appropriately or correctly and to guide them through the process. He continued that the Department was willing to receive this assistance, that there was not any confusion or resistance to this.

Mr. Joffrion stated that he would also ask the Council to remember that the Personnel Committee did not decide who was most qualified for a position, that the grievance was for the purpose of determining whether or not the process was fair. He continued that although the Personnel Committee had made a decision the Council was going to reverse, the Council's focus was on the process and the fact that there were errors and flaws in the process. He stated that there was nothing to suggest that the person who was actually hired was not qualified for the position, as well, that it might be that both persons were qualified, and that the Department had to make the determination as to who was the most qualified. He stated that

Mr. Kennemore was not the only person affected in this matter, that there had been someone promoted to a position who was deemed to be qualified, and that their rights were affected as well in this process.

Mr. Joffrion stated that it was still his advice to the Council, from a general policy standpoint, not speaking specifically about Mr. Kennemore or anyone else, that in a promotional by-passing grievance, the scope of the relief they could offer would be to vacate the process if they deemed that the process was flawed.

Councilman Kling asked if perhaps they might be able to have someone, such as the President of the Council, sit in on this process, as a non-verbal observer or something such as that, to assure they did not get back into the situation they were in at this time with this matter.

Mr. Joffrion replied in the negative. He stated that as the ultimate decision makers in any grievance, this matter might very well come back before the Council, but that it might not. He stated that the Council could not participate in the process and then be the ultimate decision maker as to whether or not it was a fair process.

Councilman Kling stated that he understood Mr. Joffrion was advising them they could not take out Person "A" and put in Person "B," because that would open up a grievance, lawsuits, et cetera. He asked if this were correct.

Mr. Joffrion stated that that was part of the reason.

Councilman Showers stated to Mr. Joffrion that he had indicated that the very persons who had mishandled this grievance from the beginning, this matter would go back to them. He stated that if this matter had been handled correctly from Point A, the Council would not be discussing the matter at this time. He continued that, however, at this time Mr. Joffrion was recommending that the Council send this matter back to the same persons who had erred on it from the beginning.

Mr. Joffrion stated that it would be to the same department, not necessarily to the same person.

Councilman Showers stated that Mr. Joffrion had said "the Personnel Department." He continued that the Personnel Department had received the original grievance and they had mishandled that document. He stated that they had also misdirected Mr. Kennemore, that they had told him to file against his supervisor, while their own policy said that when there was a conflict between an employee and a supervisor, it should go to the department head. He stated that this was in the Policy Manual. He asked Mr. Joffrion if he was correct on this and if Mr. Joffrion was aware of this.

Mr. Joffrion stated that the Personnel Department had done what it was supposed to do, that they had advised the employee that if he felt like he had a grievance, to file it, and that he had done so.

Councilman Showers stated that they had told the employee

to file it wrongly. He stated that the Policy Manual said that an employee did not file against a supervisor and that the person who had grieved this employee was his supervisor. He continued that the Policy Manual said that when a supervisor was the person that was being grieved, then the department head was the person with whom the grievance was filed. He stated that, however, Human Resources had advised Mr. Kennemore to file against the supervisor, not the department head.

Councilman Showers stated to Mr. Joffrion that if he had any confidence in the Personnel Department that they would do anything differently the second time than they had done the first time, he could certainly do what Mr. Joffrion was advising.

Councilman Showers asked President Russell if they could make another motion: to place Mr. Kennemore back into the acting position for a time certain. He continued that Mr. Kennemore had been serving in this position until the decision had been made, and that the Council was saying at this time they were overturning that decision.

Councilman Showers asked Mr. Joffrion if he was saying that at this time the City Council, with three votes of the Council, did not have the right to make this motion.

Mr. Joffrion stated that the Council had the right to vacate the promotion.

Councilman Showers stated that he was not asking about the vacation. He asked if the Council had a right to make the

promotion that had been discussed.

Mr. Joffrion replied in the negative.

Councilman Showers asked where this could be found in the policy manual.

Mr. Joffrion stated that promotional decisions were a matter of the Administration, not the Council, that it was not the Council's purview or authority to make a promotional decision.

Councilman Showers asked what the policy said concerning the Council overturning the matter.

Mr. Joffrion stated that the Council was determining that there was a flaw in the promotional process, so they would do the process over again. He stated that that was the appropriate procedure, through resolution.

Councilman Showers inquired as to why they would injure a person who had filed a grievance, had paid out money and come before the Council to let them hear it, and the Council had seen all the irregularities, inconsistencies, vindictiveness. He continued that this individual had been a Grade 10 and a Grade 7 had been promoted to a 13. He stated that this was not right and that the Council was saying at this time that they were going to overturn this, and that Mr. Joffrion was saying to him that with three votes of the Council, they did not have the authority to appoint this person into this position. He stated that anywhere else where a person filed a grievance and they won, they would not go back and say that they should open

it up to all the persons who had not had an opportunity. He stated that in this case, these other persons had had the opportunity to grieve, through a class action, and that that would have opened the whole thing back up.

Mr. Joffrion stated that these persons would not have had the opportunity to grieve Mr. Kennemore's promotion. He stated that if the Council placed Mr. Kennemore in this position, there were at least three other persons who had applied for this position who might feel they were more qualified than Mr. Kennemore.

Councilman Showers stated that these persons had had the opportunity to grieve.

Mr. Joffrion stated that that was incorrect, that they had had an opportunity to grieve the promotion of the other person.

Councilman Showers stated to President Russell that he believed Mr. Joffrion was being naive, that he was saying this would not be fair. He stated that at the same time Mr. Kennemore had filed a grievance, the other three persons could have also filed a grievance.

President Russell stated that Mr. Joffrion was trying his best to give the Council legal advice, that he was not being naive.

Councilman Showers reiterated that the other three persons had had the opportunity to file a grievance at the same time Mr. Kennemore had filed his grievance and they had chosen not to.

Mr. Joffrion stated to Councilman Showers that he did not believe he had heard what he had said. He reiterated that if Mr. Kennemore were placed into this position, the other employees would not have had an opportunity to grieve his promotion. He continued that if they felt they were more qualified than Mr. Kennemore, then the Council would have already closed out any possibility for them to file a grievance.

Councilman Showers stated that that was not what he was saying.

Mr. Joffrion stated that if the Council placed Mr. Kennemore in this position, that would be exactly what they were saying.

Councilman Showers stated that he was saying that before the decision was made, the other three employees had had the opportunity to file a grievance, just as Mr. Kennemore had, but they had not done so, and they had forfeited that opportunity. He asked why, if Mr. Kennemore was the only one of the four who had filed a grievance, he would be punished at this time.

Councilman Showers stated to Councilman Kling that he was aware that in the past the Council had had class-action grievances, and they had entertained them. He stated that this could have happened in this particular case, and then they would not have to say they should go back and open it up, that it could have been opened up at that time.

Councilman Kling stated that he somewhat shared

Councilman Showers' frustration with this whole thing, that it had come up, and now the Council was being advised they could not correct it, et cetera. He continued that, at the same time, he certainly wanted to do what was legal in this matter and make sure they were doing the right thing. He stated that he believed they had gotten to the point where this issue had gotten a little raw.

Councilman Kling reiterated that he felt Mr. Riley needed to be the one to whom the Council should be directing their questions.

Councilman Kling moved to postpone the decision on this matter until the next Regular Council Meeting where Mr. Dennis Riley could be present.

Councilman Kling's motion failed for lack of a second.

Councilman Culver stated that it appeared the Council was not getting anywhere with this matter at this time and stated that if they did have to send the matter back to the Department, his suggestion would be to have the City's EEOC Officer involved in the process, and that without regard to what the outcome might be, they would get Mr. Kennemore back to status quo as related to whatever costs he had incurred, et cetera. He stated that he was not making this as a motion but just as a statement for the record as to what he would like to see happen with this matter if the Council were not successful at this time in getting Mr. Kennemore into the acting position he deserved.

President Russell stated to Mr. Kling that if he wanted to hold this matter and talk to Mr. Riley, that would be fine. He continued that, however, he had spoken with Mr. Riley, like he normally did for hearings, and had come up with motions that Mr. Riley had agreed with and motions he had not agreed with. He stated that he had also checked them through the Personnel Policies and Procedures. He stated that it was certainly possible to hold this matter, but he did not feel there would be any different information provided, that Mr. Riley would be advising them exactly what Mr. Joffrion had advised them, that he had told him the exact same thing.

Councilman Kling stated that he would just feel more comfortable with holding it, noting that it was a small world and that the City Attorney's office had an employee that had handled this matter, and now the Council would be getting their advice from this same department. He stated that he just felt that separation would be better in this matter.

President Russell stated that it would be fine to hold the matter. He continued that, however, at this time they were just talking policies and procedures and that Mr. Joffrion could certainly advise them on that. He stated further that he had received specific advice on the Kennemore hearing from Mr. Riley and that he had just not thought to get all the other Council members on the phone when they had talked about it. He continued that if that was the way the Council wanted to do business from this time forward, he certainly would do that.

Councilman Kling asked if it was normal procedure that they would have their attorney present for this matter.

President Russell stated that it was not a normal procedure, that he had required the attorney to be present when a Council member had specifically asked him to do so, but this was not the normal procedure, noting that, obviously, they would be paying for that person to be at the entire Council meeting.

Councilman Kling stated that he understood that was why they tried to put such items at the beginning of the agenda.

President Russell stated that he was certainly willing to have Mr. Riley attend a Council meeting, noting that Mr. Riley might or might not be able to attend the next Council meeting. He stated that they could do this if that was what the Council wished to do, but that he personally did not think that would make a difference, that persons were going to vote the way they wanted to vote.

Councilman Culver stated, concerning attorneys, that he believed Mr. Joffrion was equally as qualified. He continued that he was aware that was not what was being questioned.

President Russell stated that he was not questioning Mr. Joffrion's judgment at all, that he was just saying he had talked to the outside attorney who had represented the Council on this matter.

Councilman Culver stated that he believed that most likely any attorney would recommend that, although he believed the

Council had the discretion to make a decision by way of a three/two vote. He stated that whether this decision would be upheld in a lawsuit or not, he strongly felt that, as a legislative body, the Council did have this authority when something legitimately came before the body. He stated that they could not go out and find matters, but that when something came to them, he certainly shared Councilman Showers' view that the Council did have that discretion, by way of a majority vote, although they did not have the three votes at this time.

President Russell stated that the Council had not voted on this matter so he could not say if they had three votes or not. He stated that the vote they had taken previously was on the call for the question.

Councilman Kling moved to postpone consideration of the matter until the next Regular Council Meeting when Mr. Dennis Riley could be present.

Said motion was duly seconded by Councilman Showers.

Councilman Culver stated that he would not be in attendance at the next Regular Meeting of the Council, noting that he was going to be out of town.

Councilman Kling moved to amend the above motion to the next Regular Council Meeting where all five members of the Council would be in attendance and Mr. Dennis Riley could be present.

Councilman Olshefski stated that he understood all the Council members were agreeing to overturn the decision of the

Personnel Committee and asked what the Council was voting on at this time.

President Russell stated that the Council would be voting to postpone a decision on this matter, and that what they were trying to determine was when the next Council meeting would be that all five members of the Council would be present. He stated that at this time, he did not know when that date would be. He stated that the Council meetings in November would be moved to November 7 and November 21 and asked if November 7 would be agreeable with all the Council members.

The Council members replied in the affirmative.

President Russell asked Councilman Kling to restate his motion.

Councilman Kling withdrew his motion as set out above, and Councilman Showers withdrew his second.

Councilman Kling moved to postpone consideration of this matter until the Regular Meeting of the Council on the proposed date of November 7, 2013.

Said motion was duly seconded by Councilman Showers.

President Russell called for the vote on the above motion, and it was unanimously approved.

President Russell stated that the next item on the agenda was Public Hearings to be Held.

President Russell stated that it was the time and place in the meeting for a public hearing on a resolution authorizing the City Clerk-Treasurer to assess the cost of the cutting and

removing of grass and weeds against certain properties.

President Russell asked Mr. Ken Benion, Director of Community Development, for an explanation of the above resolution.

Mr. Benion stated that the resolution identified 39 properties that were in violation of the City's grass and weed ordinance and that the properties were identified on Attachment A by the owner and location. He stated that the owners had received written notification, by regular mail, that they were in violation of this ordinance and had been given 14 days to correct the violation. He stated that all owners had failed to respond and that Community Development had issued work orders to cut these properties, at a total cost of \$8,830.50 and an average cost of \$226.43. He stated that Attachment A also identified the date and cost of cutting the properties.

Mr. Benion stated that the owners had received written request, by regular mail, for payment and had failed to respond, so that at this time he was requesting that property assessments be placed on these properties in order to collect these costs. He stated that the owners had been notified of this proposed action and could wish to speak at this time.

President Russell asked if there was anyone in the audience who would like to address the Council on this particular issue.

There was no response.

President Russell stated that the public hearing was closed.

President Russell read and introduced a resolution authorizing the City Clerk-Treasurer to assess the cost of the cutting and removing of grass and weeds against certain properties, as follows:

(RESOLUTION NO. 13-779)

President Russell moved for approval of the foregoing resolution, which motion was duly seconded by Councilman Kling and was unanimously adopted.

President Russell stated that the next item on the agenda was Public Hearings to be Set.

President Russell read and introduced a resolution to set a public hearing on an ordinance rezoning property lying on the west side of U.S. Highway 231 South and north of English Drive from Residence 1-A District to Office District, as follows:

(RESOLUTION NO. 13-780)

President Russell moved for approval of the foregoing resolution, which motion was duly seconded by Councilman Showers and was unanimously adopted.

President Russell read and introduced Ordinance No. 13-781, rezoning property lying on the west side of U.S. Highway 231 South and north of English Drive from Residence 1-A District to Office District.

President Russell read and introduced a resolution to set a public hearing on an ordinance rezoning property lying on the

east side of Williams & Broad Drive and north of Dug Hill Road to Residence 1 District, as follows:

(RESOLUTION NO. 13-782)

President Russell moved for approval of the foregoing resolution, which motion was duly seconded by Councilman Showers and was unanimously adopted.

President Russell read and introduced Ordinance No. 13-783, rezoning property lying on the east side of Williams & Broad Drive and north of Dug Hill Road to Residence 1 District.

President Russell read and introduced a resolution to set a public hearing on an ordinance rezoning property lying on the south side of U.S. Highway 72 West and on the west side of Burgreen Road from Highway Business C-4 District to Commercial Recreation C-5 District, as follows:

(RESOLUTION NO. 13-784)

President Russell moved for approval of the foregoing resolution, which motion was duly seconded by Councilman Showers and was unanimously adopted.

President Russell read and introduced Ordinance No. 785, rezoning property lying on the south side of U.S. Highway 72 West and on the west side of Burgreen Road from Highway Business C-4 District to Commercial Recreation C-5 District.

President Russell stated that the next item on the agenda was Communications from the Public. He stated that persons would have three minutes to address the Council on any issue

they might desire.

Mr. Rusty Loiselle, 12004 Hearthstone Circle, appeared before the Council, stating that he was with Help the Homeless Veterans and Citizens. He stated that at the prior Council meeting, he had appeared before the Council inquiring about the closing of tent city and asking the Mayor and the Council to do whatever it took to keep that area under I-565 open, and that he had been told in no uncertain terms that this was State-owned property and was run by the DOT, which had total jurisdiction over it. He stated that with that being said, his group had spent the next week getting everybody out of there as much as possible, noting that they had had a few stragglers. He stated that they had gotten these persons out of there and had taken them to undisclosed areas.

Mr. Loiselle stated that on the following Saturday, he had gone to where tent city had been just to see if any stragglers were still there, and that to his surprise, there were approximately 10 persons setting up tents. He stated that he had asked them what was going on, and they had told him that First Stop had told them they could stay there. He stated that he had advised them that that was impossible because they did not have jurisdiction over the area. He stated that then the persons had replied that two churches had given them a lot of money and that First Stop had told them they could stay if they signed contracts with them. He stated that First Stop got persons to sign contracts because they made money off of them.

He stated that he had told the persons at the former tent city not to get real comfortable because DOT had the area and that he could almost guarantee they would not let them stay there.

Mr. Loiselles stated that, with that being said, there was still not one porta-potty at that area, even after they had gotten that big influx of money.

Mr. Loiselles stated that the person who had started this whole thing about closing down tent city lived across the street, on City property, cut down City trees, sold wood by the truck load, for \$150 per load. He stated that he was curious as to how this person kept doing this and everyone turned a blind eye. He stated that he had told the Police about this, that he had told them one could see the stumps right next to the shack he had built, that there were large stumps where he had cut down huge trees and there were stacks of wood there, ready to go into the truck. He stated that this person had uprooted approximately 40 persons out of tent city, and he stood there unscathed, and he just could not understand how he did this.

Mr. Loiselles stated that two weeks prior, they had pulled together a meeting of a lot of the leaders of many organizations around the city to determine how they had gotten into this problem, how they could fix it, and if there were any other alternatives, et cetera. He stated that his organization had done a lot of research on different cities' homeless shelters, the Title V program, and they had wanted to submit

this to Mayor Battle, and they had just pretty much been told to put their ideas together and give them to other persons and they would give them to Mayor Battle.

President Russell stated that Mr. Loiselles's time was up and asked if he needed another minute.

Mr. Loiselles replied in the affirmative.

Mr. Loiselles stated that they had not wanted to give Mayor Battle a watered-down version of their ideas so he had submitted to him at this meeting a folder with a lot of their ideas in it, although not all of them.

Ms. Tara Bunyan, 1222 Kingsway Road, SE, appeared before the Council, stating that she had been present at the prior Council meeting, on September 26, where there had been a resolution passed that Huntsville would be recognized as a compassionate action city. She stated that she was certainly thrilled to hear about that.

Ms. Bunyan stated that with that "compassionate action city" designation in mind, she would like to also address some of the concerns that Mr. Loiselles had just mentioned, as far as the homeless in the city. She stated that she agreed with a lot of persons about this situation, that they did not want to encourage the homeless to maintain that status by making things comfortable for them, but stated that she did not feel that was synonymous with denying these persons basic human hygiene, such as having a porta-potty to use. She stated that it appeared to her that having these would be a benefit not just to the

homeless but also to the city itself. She stated that she assumed this was the reason for the threatened closure of tent city and asked if this was correct.

Ms. Bunyan stated that at least tent city was not in a location that would upset residential neighborhoods and that she felt having the homeless in one location would certainly be better than having persons all over town, where the hygiene concerns would certainly be more widespread rather than contained in one area.

Ms. Bunyan stated that two weeks prior, she had met some private citizens who drove to the city once a month from Mississippi to serve a hot meal to the Huntsville homeless. She stated that she had found it quite interesting that persons from Mississippi would come to the city to feed the city's homeless, that perhaps they did not have enough in their own state.

Ms. Bunyan stated that in the middle of the cemetery, by Derrick Street, there was a porta-potty, and she asked who in the cemetery would need a porta-potty.

Ms. Bunion stated that she had been discussing this situation with a client of hers from San Antonio and that this person had told her about a place there called "Haven for Hope" that was actually begun by private citizens, with private funding. She stated that she believed some of the facilities in the city tried to do the best they could with the money they had, as far as serving meals and providing basic shelter, but

that this did not necessarily provide persons with the means to get out of their homeless situation. She stated that she was an outsider looking in, but it appeared to her that it was a very disjointed effort, and that she felt they could do better than that, especially a city that had been designated as a "compassionate action city."

Ms. Bunyan stated that all the homeless in the city were not candidates for that, that some of them were homeless because they chose to be, and that, also, there were some who were homeless that actually had jobs and were in that position through no fault of their own.

President Russell advised Ms. Bunyan that her time was up and asked if she needed an additional minute.

Ms. Bunyan replied in the affirmative.

Ms. Bunyan stated that she believed this type of program was way down the road for Huntsville but that the journey of 100 miles began with one step. She continued that she believed the first step, which would be a small one but a big one in terms of human dignity, would be porta-potties. She stated that from what she understood, this would cost less per month than what it would take to mow one of the lawns that had been discussed.

Mr. Bobby Hayden appeared before the Council, expressing appreciation to the Council, the Administration, and the citizens for a wonderful evening with the Birmingham Heritage Band, noting that this band consisted of persons who had played

music all over the world behind some of the biggest names in the entertainment business. He thanked the City for helping the parties who had put on this show. He stated that he would like to pass out something to the Council expressing his appreciation for what they had done in this regard.

Ms. Jackie Reed, Jack Coleman Drive, appeared before the Council, expressing appreciation for being allowed to speak at this time.

Ms. Reed stated that someone had told her that the City Council meeting of the prior week had been re-run the prior evening. She stated that she wasn't certain if this was true, but that if it was, she wanted to thank them for this. She stated that, however, she did not see on Channel 42 the dates for many of the meetings in the city.

Ms. Reed stated that one matter she wanted to comment on was the proposed new Walmart store. She stated she believed that at the prior meeting they had discussed that they were going to hire someone to do a traffic study and pay them approximately \$50,000. She continued that, however, she had read in the newspaper that there would be someone from UAH handling this. She asked that they explain what was going on with this matter. She stated that she had been trying to get them to do a traffic study since May, and they had not done so, and that she felt it was a little bit late to do it at this time.

Ms. Reed asked the Council to hold a work session on the

development in the downtown area, across from the Federal Courthouse. She asked where they held the meetings when they made the deals that were being made. She stated that the deal was near on a \$30 million apartment/retail project in the downtown area. She stated that she wanted to see some paperwork concerning this, and that she wanted to know what was going on, when they gave up another piece of property, what it appraised for, what they were going to give the developer, and how much the taxpayers were going to get out of it.

Ms. Reed stated that she would just like to know about some of these issues before they were brought before the Council and they agreed with what the developers wanted to do. She stated that she wanted to know what the taxpayers were going to get out of them, that they should lay the money on the table and say that they had this much money and this was what they were going to do.

Ms. Reed stated that there was an item on the agenda where Maple Hill, Inc., would be giving to the City 7.7 acres along McClung Avenue, plus \$1.325 million for a perpetual care fund for future maintenance. She stated that that was a great deal and she was certainly in favor of it. She stated that she believed this was a good thing for the City and that it would be well taken care of, and she asked the Council to approve this.

President Russell stated that Ms. Reed's time was up and asked if she needed an additional minute.

Ms. Reed replied in the affirmative.

Ms. Reed stated that she was concerned about the Housing Authority, noting that they could not keep putting the same persons back on this Board when so many people all over the city were screaming that they should stop it. She stated that the Housing Authority had okayed 80 new housing units. She stated that she was aware the Council did not have anything to do with this, but noted that they did put persons on these boards, so that they were still behind some of it.

Ms. Reed stated that she was concerned about the \$1.2 million for constructing generals' houses. She stated that one of the Council members had told her the City had not put one penny in those houses.

Ms. Reed stated she would like for the Council to clarify when they held their developer meetings and to also explain about the generals' houses, as to how much the City had paid, if anything.

President Russell stated that Ms. Reed had brought up several issues: The Walmart traffic study, the generals' houses, and when meetings with developers were held.

Councilman Kling stated that he felt a good statement had been made by the Council at the prior Council meeting, that based on the concerns that had been raised at the meeting they had had with residents of the neighborhood, Mayor Battle had said they could look into doing a second traffic study for this area. He stated that the neighborhood had done a search and

had come back with VRPA Technologies out on the West Coast, and that the Council at the last meeting had gone along with this and passed a resolution that it was their intent to enter into a contract with this company. He stated that they had run into a time factor problem because VRPA did not have an Alabama license, and that it appeared it would be upward of a two-month process for them to get a license in order to be able to do this study.

Councilman Kling stated that then one of the residents of the neighborhood had come up with a very good idea, that she had done some research and had found out that they had Dr. Michael Anderson, who could do a traffic study review, in their own back yard, and that she had made contact with him, and he was willing to do this.

Councilman Kling stated that he had then contacted the Mayor concerning this, and he had agreed they could do this. He continued that there was the bonus in this of getting it done somewhat quicker because there were concerns that Walmart could get a permit when they wanted to. He stated that this survey would cost approximately one-fifth of what the cost with the other company would have been. He stated that Dr. Anderson had been selected by the neighborhood and that from what he understood, he had a very good reputation. He stated that he was glad they were being able to respond to the concerns of this neighborhood, noting that he felt they had some very valid concerns on this matter. He continued that Dr. Anderson was

completely independent.

Councilman Kling stated that because the agreement with Dr. Anderson was less than \$7500, Mayor Battle had the authority to go ahead and execute the agreement and get this started.

President Russell asked Mayor Battle if he could address Ms. Reed's other questions.

Mayor Battle stated that he did not personally hold meetings with developers, that the City had a Planning Department that was working with the developer, Charlie Sealy, on the property at Holmes and Jefferson. He stated that they had put out an RFP and that Mr. Sealy had won that process. He stated that the Planning Department had been working with him, putting together an agreement, and that this agreement was pretty close to coming to fruition, and that once they had an agreement that was agreed upon by both sides, it would be presented to the Council, so that the Council could weigh in on it.

Mayor Battle stated that the agreement called for residential living to be provided in that area, plus retail, and that the developer would build their own parking deck. He stated that they had looked at how they could do this and do it fairly.

Mayor Battle stated that he believed this would be a great development in the downtown area. He stated that they had done one on the east side; one on the south side, with Twickenham;

and now they would be doing one on the north side. He stated this showed that the downtown area was alive and continuing to grow.

Mayor Battle asked Mr. Joffrion if it was correct that they were approximately two to four weeks away from having the final on this agreement.

Mr. Joffrion replied in the affirmative.

Mayor Battle stated that they did not show agreements while they were in the works because that would not be the final agreement, that they waited until they had the final agreement.

Mayor Battle asked Mr. Joffrion if he would like to address the matter concerning the generals' houses.

Mr. Joffrion stated that the money that was appropriated by the Council in the EUL project, the \$2.5 million, was being transferred to the Federal Building Authority, and that the Federal Building Authority would be contracting with a company to build two general officers' houses, valued at roughly \$1.2 million, and then the balance of the \$2.5 million would be used to improve Goss Road, for better access to the Arsenal.

Councilman Kling asked if there had been some State funding they had received, State road money or something, that if the City was going to do the State roads, the State was going to put in the money for the generals' houses.

Mr. Joffrion asked Councilman Kling if he was referring to some of the earlier general officers' housing.

Councilman Kling replied in the affirmative.

Mr. Joffrion stated that that was correct.

Councilman Kling asked if this was City money that was being put into the construction of the generals' houses at this time.

Mr. Joffrion stated that this would be part of the \$2.5 million that the City of Huntsville was transferring to the Federal Building Authority, and that the Federal Building Authority would contract for the construction of those two houses.

Councilman Kling apologized to Ms. Reed, stating that the information concerning this that he had given her previously was incorrect.

Mayor Battle stated that four years prior, when the City had signed the Redstone Gateway Agreement, it had been agreed that the City would provide \$2.5 million to the Federal Building Authority to use at their discretion. He continued that at that time, he did not believe there had been discussion about generals' houses, but that this was where the Building Authority had decided would be the best place to spend this money, plus for Goss Road.

Mr. Westley Plemons appeared before the Council, stating that his business was located at 2124 Cecil Ashburn Drive. He stated that after listening to what had occurred previously in the meeting, perhaps the thing he wanted to talk about was not as important as the others had been, but that he felt it was

important.

Mr. Plemons stated that he was an independent businessman, that he had retired from the U.S. Army and from Civil Service and had spent 6 years at Boeing. He stated that three years prior, he and his wife had opened up a business from scratch, and that it had taken every penny they had to open the business. He stated that over the period of three years, they had built a good, solid business, which was struggling, along with 90 percent of small businesses in the city. He stated that all the City had to do was look at their sales receipts for the last six months or the last year, noting that they were not getting them like they had been simply because businesses were struggling.

Mr. Plemons stated that if the public were aware of what he paid in taxes to do business in the city, they would be astounded. He stated that he would bet they were not aware that he paid personal property tax on everything in his business every year, that he paid privilege tax and license tax, both to the State and to the City. He stated that they did this because it was right, that if they made money, they paid taxes, because that was the way it was supposed to be.

Mr. Plemons stated that one of the things that had stuck in his craw over the last three years was the way the signage provisions for small businesses had been written. He stated that this had not been written specifically for small businesses, that it had been written for big businesses and for

large entities that could afford large signage. He stated that over a period of three years, he had done about every kind of advertisement one could think of, with the exception of television. He stated that some of this advertisement had been good, but a lot of it had been bad.

Mr. Plemons stated that he had a sign that he would like to show to the Council, and he displayed it, stating that it was what was called a "bandit" sign. He continued that these were the small signs that persons saw stuck up, many times 1,000 of them at one time. He stated that while some called it a "bandit" sign, he called it a "money" sign. He stated that in his entity, he had 1250 square feet, and that he ran a good business. He stated that his location was off the road and was not well seen. He stated that when he had first opened his door and had a grand opening, he had had the Chamber of Commerce assist him in opening and stated that they had done a great job.

Mr. Plemons stated that at that time, he had looked up and there had been a gentleman standing in the door with both his signs in his hand, and he had said, "You can't do this; it's against policy." He stated that he had then gone out and picked up the signs and brought them in.

Mr. Plemons stated that after that time, he had found out how the system worked. He stated that traditionally small businesses were denied the right to advertise when they had a sale or they wanted to put something out there for the public.

He stated that the persons who managed the inspection, whom he noted had been more than fair to him, had advised him that he could not do this.

President Russell stated to Mr. Plemons that his time was up and asked if he needed an additional minute.

Mr. Plemons replied in the affirmative.

Mr. Plemons stated that he closed his business at 5 o'clock, and he put the sign out, and then at 9 o'clock on the following morning, when he opened, he brought it in. He stated that this happened five days a week. He continued that on Friday night, he put it out, and it stayed out all weekend.

Mr. Plemons referred to his sign and asked why the sign was unsightly during the week but was sightly on the weekend. He asked why it was not the same. He stated that he had a friend who was an entrepreneur, with a really good restaurant in Southeast Huntsville, and he had just wanted to put up a sign above an existing sign and had been denied on this. He stated that the City had to help small businesses survive this economy and that they could do this by easing up on the sign restrictions. He stated that his little sign had kept him in business, because when he had asked persons how they knew of his location, they had advised him they had seen his little sign.

Mr. Plemons asked the Council to look into this and see how they could modify this in order to assist small businesses, noting that these businesses paid taxes to the City.

President Russell stated that the Council certainly needed to look into this matter and that he would reach out to the Planning Department to see if they could determine what was going on.

Councilman Olshefski stated that the Planning Department was well aware of this matter, that he had been chasing it for three years, and that he was certainly looking forward to some help with this.

President Russell stated that the next item on the agenda was Board Appointments to be Voted On.

Councilman Showers read and introduced a resolution to appoint Bob Baudendistel to the Beautification Board, for a term to expire October 1, 2014, as follows:

(RESOLUTION NO. 13-786)

Councilman Showers moved for approval of the foregoing resolution, which motion was duly seconded by Councilman Kling and was unanimously adopted.

Councilman Showers read and introduced a resolution to appoint Lyle Voyles to the Housing Board of Adjustments and Appeals, for a term to expire August 22, 2014, as follows:

(RESOLUTION NO. 13-787)

Councilman Showers moved for approval of the foregoing resolution, which motion was duly seconded by Councilman Kling and was unanimously adopted.

Councilman Kling read and introduced a resolution to reappoint Elbert Peters to the City Tree Commission, for a term

to expire October 8, 2015, as follows:

(RESOLUTION NO. 13-788)

Councilman Kling moved for approval of the foregoing resolution, which motion was duly seconded by Councilman Culver and was unanimously adopted.

Councilman Showers read and introduced a resolution to reappoint Burt Webster to the City Tree Commission, for a term to expire October 8, 2015, as follows:

(RESOLUTION NO. 13-789)

Councilman Showers moved for approval of the foregoing resolution, which motion was duly seconded by Councilman Kling and was unanimously adopted.

President Russell stated that the next item on the agenda was Board Appointment Nominations.

Councilman Showers nominated Dr. Gregory Smith for reappointment to the Educational Building Authority of the City of Huntsville-A&M University, for a term to expire November 12, 2019.

Councilman Showers nominated Collins Alexander for reappointment to the Educational Building Authority of the City of Huntsville-Oakwood University, for a term to expire November 12, 2017.

Councilman Kling nominated James H. Richardson for reappointment to the Educational Building Authority of the City of Huntsville-Randolph School, for a term to expire November 12, 2019.

Councilman Kling nominated Levoy Smartt for appointment to the Educational Building of the City of Huntsville-APT, for a term to expire November 13, 2019.

Councilman Kling nominated William Sammons for reappointment to the Huntsville Ice Skating Complex Board of Control, for a term to expire November 20, 2016.

President Russell stated that the next item on the agenda was Approval of Expenditures.

Councilman Kling read and introduced a resolution authorizing expenditures for payment, as follows:

(RESOLUTION NO. 13-790)

Councilman Kling moved for approval of the foregoing resolution, which motion was duly seconded by President Russell and was unanimously adopted.

Councilman Kling recognized Mr. Randy Taylor, Director of Finance, for the Finance Committee report.

Mr. Taylor stated that he had a sales tax report, noting that this was the only update he could provide for September. He stated that the August sales, collected in September, were 5.5 percent higher than for the same month in the prior year. He stated that the year-to-date figure was now up to 1.9 percent. He stated that the budget for the prior year was 3 percent and that they had dropped to 1.6 percent in August, and that this moved them somewhat higher, closer to their budget goal.

Mr. Taylor stated that sales tax was the only big number

they were waiting on in order to finish out the year. He stated that it did not seem right to be at October 10 and having to wait a month before they would know how their year did, but that that was the way it was, that September sales taxes were not paid to the City until late October, so they would not know officially how the year had ended until that time. He stated that all the revenue they had lost, so to speak, in August, they had gained in September. He stated that this figure could move around at the rate of one-half million a month, up and down. He stated that all the other figures were pretty well stable, that there were no surprises there. He continued that they were expecting the shortfall in sales tax to be offset by the other revenues of the City.

Mr. Taylor stated that he would also like to provide an update on the City's borrowing process, noting that he had mentioned this to the Council for the first time, specifically, in the prior meeting. He stated that, of course, this was included in the Capital Plan the Council had adopted and that it had been discussed a few times. He stated that the City had a very small portion included in this planned borrowing, that it was between \$24 million and \$27 million. He stated that the Huntsville City School System, however, would have a larger component, and that this would complete their capital financing for the significant Capital Plan they had been working on for several years. He stated that the Board had asked them, as they had done in the past, to issue this additional debt that

the school tax would repay. He stated that they were making plans for this.

Mr. Taylor stated that they had had a rating agency call, with Moody's Investors Service, on Tuesday of the current week, and that this had gone very well, that the City had provided them with the information they needed. He stated that they had hosted Standard & Poor's in the community on the prior day for a brief period. He stated that rather than doing a phone call or their visiting in New York, as they had done previously, these were persons who were new to the City's team, and they had wanted the opportunity to see the city. He stated that they had had a good visit with them, and that they were, of course, providing them additional figures, as well. He stated that within the next few weeks, they would expect to have ratings from these agencies and continue to move forward on the issue.

President Russell stated that the next item on the agenda was Communications from the Mayor.

Mayor Battle announced the following reappointment: Ken Creel to the City Tree Commission, for a two-year term, effective October 8, 2013, and to expire October 8, 2015.

Mayor Battle reminded persons about the Maple Hill Cemetery Stroll, noting that there would be more than 200 years of history that would come alive on Sunday, October 13, from 2:00 to 4:30 p.m. He urged persons to attend this, noting that they would be able to see many historical reenactments of City

of Huntsville characters and notable persons. He stated that this was a good walk back through the history of the city.

Mayor Battle stated that Huntsville Animal Services would be at Starbucks, 800 Airport Road, from 10 a.m. to 2 p.m. on Sunday, October 13, with adorable puppies available for adoption. He stated that this was a special event with a special adoption fee of \$80, on this date only. He urged persons to go out and get a puppy, noting that everyone needed one. He challenged the Council members to go and get one. He stated that persons could save a life and adopt a shelter puppy. He stated that the adoption fee included rabies vaccination, spay and neuter, and a license tag. He continued that spay and neuter was very important, noting that five years prior when he had come into office, one of the worst reports one got was a report on the number of animals that came into the shelter and were not adopted out and were euthanized. He stated that back at that time, they were bringing in 10,000 animals per year, but that at this time, because of their spay and neuter efforts, they were pulling in approximately 7500 animals.

Mayor Battle stated that the prior weekend, he had attended the Alabama A&M Homecoming and that he regretted it had not been a victorious homecoming, but that, however, it certainly had been a good homecoming, that there had been a lot of tailgating going on, as well as other festivities.

Mayor Battle stated that he had also attended the

Huntsville Community Watch meeting, where Mr. Rex Reynolds had been honored for his service. He stated that Mr. Reynolds was just starting his 34th year with the City and that they were sad that he was going to be leaving the City for other employment. He stated that he had thought Mr. Reynolds would be with them until January, but he was going to have to leave earlier. He stated that he certainly appreciated Mr. Reynolds' years he had given to the City, that he had done a wonderful job and he would be missed.

Mayor Battle stated that as they were saying goodbye to one person, they were saying hello to someone else, noting that Mr. John Hamilton would be filling Mr. Reynolds' position. He stated that he had already been on the job and going from department to department, learning faces and names. He stated that there had been a great starting process with Mr. Hamilton, and he welcomed him to the City.

President Russell stated that the next item on the agenda was Communications from Council Members.

Councilman Showers stated that on Saturday morning at 11:30 a.m., there would be a march by the Johnson High School alumni to save and keep the name of "Johnson High School." He stated that the march would start at City Hall and would end at the Board of Education.

Councilman Showers stated that on Monday, October 14, at 6 p.m., there would be an open house at the Showers Center and tours would be conducted and refreshments would be served. He

stated that this would also include a tour of the new outside facilities.

Councilman Showers stated that on the prior day, Mayor Battle, Councilman Culver, and himself had helped to break ground for the new police precinct to be located next to the Fire Department on North Parkway. He stated that when this was completed, North Huntsville would be a better place in which to live.

Councilman Showers stated that he would like to address some concerns he had about the school system. He stated that he felt he would be remiss if he did not comment on the controversy pertaining to the demise of Johnson High School. He stated that, as many persons were aware, the Council approved millions of dollars each year for the Huntsville City School System, and that in addition to this support for the school system, persons individually supported the school system as parents of Johnson High School graduates, noting that he had had five children who graduated from Johnson High School. He stated that he was proud of the education his children had received at Johnson and equally proud of the fact that they had all gone on to be productive citizens of the Huntsville community.

Councilman Showers stated that as the representative of District 1, the district in which Johnson High School was located, he had received many calls from concerned citizens who felt their opinions and voices were not being heard pertaining

to the continuation of the legacy of J.O. Johnson High School by putting its name on the new school facility to be constructed in the north part of the city.

Councilman Showers stated that the appointment of a non-representative committee of the Johnson High School district to make recommendations pertaining to the continuation of the name of "J.O. Johnson High School" on the new facility to be constructed in Northwest Huntsville was unacceptable.

Councilman Showers stated that he wanted the Council and the good citizens of Huntsville to know that the families of Johnson High School were certainly in favor of and would be proud of the name of "Johnson" to continue to grace the new educational facility being constructed in Northwest Huntsville.

Councilman Showers stated that in order for the District 1 community to feel totally included in the decision-making process, he would like to take this opportunity to request that the Superintendent of City Schools have a community meeting, open to all, to address the concerns of citizens of District 1 pertaining to the naming of Johnson High School.

Councilman Olshefski stated to Mr. Cox that it was great to see him at the meeting and that he appreciated what he represented for the city and the country. He stated that also he was pleased to have the Chamber of Commerce representatives at the meeting and stated that he appreciated all they did in economic development for the city. He continued that he also appreciated Lyle Voyles being present and appreciated the

support he gave to the Chaffee community.

Councilman Showers welcomed Alice Sams to the meeting, noting that she was the local president of the NAACP. He stated that the past State president, Rev. Shanklin, was also present, and he welcomed him. He continued that they also had present the governmental affairs representative of the Ministerial Fellowship, Dr. Johnson. He stated that he certainly appreciated these persons being in attendance at the meeting.

President Russell stated that he did a lot of walking in the downtown area and that he always went by this historical marker concerning Andrew Jackson, noting that he had camped his army at the corner of Lincoln and Holmes after he had done a 32-mile straight march from Fayetteville, Tennessee, to Huntsville, and then on to the Battle of Horseshoe Bend. He stated that the 200th anniversary of his camping his army at this location was on the following day. He stated that this was interesting history, whether one was for the War of 1812 or not.

President Russell stated that he had received many e-mails concerning how parking at the library would be affected when the road would be extended, but noted that the end product would be that the library would have two more spaces than it had at this time. He stated that this might not be enough spaces, that they might have to find additional parking at some time. He stated that the e-mails he had received indicated

that persons believed the City would be taking away parking spaces from the library, but that, in fact, they would be adding parking spaces.

Mayor Battle stated he had another presentation he would like to make, noting that they had two persons who had now served the City for 25 years. He recognized Councilman Kling and Councilman Showers and presented 25-year pins to them and expressed appreciation for their service.

Councilman Kling stated that it had certainly been a privilege to serve on the Council and that he hoped he would be able to continue to serve for some time. He stated that at the prior meeting, there had been a very important neighborhood issue that he had been dealing with, and the Council had taken steps to provide assistance to the neighborhood, and that although it had not worked out exactly the way they had wanted it to, a member of the neighborhood had come up with another very good idea, which he noted was accepted. He continued that Mayor Battle had facilitated this and had been able to get the process under way.

Councilman Kling stated that there was a lot of good that went on in the community, that there was a lot of good in the city. He stated that Huntsville was a phenomenally great city and he was proud and honored to be a part of it.

President Russell congratulated Councilman Kling on his 25 years of service.

Councilman Showers stated that it was a delight to be a

servant of all the people, noting that for 25 years he had tried to address the wishes, the needs, and the concerns of the citizens of Huntsville. He stated that he had certainly enjoyed the 25 years he had served as the District 1 Council representative. He stated that the fire station on the north end of the Parkway was where the city limits had ended when he had commenced serving on the Council in 1988, and that beyond that point, there were no traffic lights. He stated that they had not had sidewalks, they had not had caution lights, and they had not had persons who were representative of District 1 serving on any of the major boards downtown.

Councilman Showers stated that there had been a forum in this building, and at that time a question had been asked of a person who served the city as to why they did not have the chemistry of persons serving on boards and authorities, and that his reply had been, "They haven't asked." He stated that he was not serving on the Council at that time, that he was just in attendance at this forum. He continued that when he had been elected, he had said that no administrator in the City would ever be able to say that they were not representative of all of Huntsville because Huntsville had not asked. He stated that if one would look at the records, persons who lived in District 1, both white and black, all served on the boards and authorities at this time.

Councilman Showers stated that in 1988, he had gone to Boston for the National League of Cities meeting, and that

while there, he had attended a workshop that dealt with "No Smoking," and that he had come back to the city with that, and that Ernest Kaufmann, Jim Putnam, Jimmy Wall, and Bill Kling were on the Council, and that Ernest Kaufmann, Jimmy Wall, and Jim Putnam had said that if he did that, he would be committing political suicide. He stated that persons might remember that when it came time to vote on this, there were all these persons in their thousand-dollar suits sitting across the front of the Chambers who were in opposition to the smoking ordinance. He stated that he was delighted that at this time, the Huntsville model was being used all over the country, in terms of making sure that citizens could be around longer because of the City's no-smoking ordinance.

Councilman Showers stated that in 1988, there had been an effort to put a landfill in North Huntsville, at the very site where Toyota was located at this time. He stated that all the good citizens of District 1 had come to a meeting and had all stood up and said no to this, and that at this time there was Toyota at that location, and the landfill was at some other site.

Councilman Showers stated that in 1989, there was a building on Blue Springs Road, dilapidated, burned, an eyesore, and a decision had been made. He stated that he had been blessed and fortunate that his children could attend the YMCA, but that there were hundreds of children who had had to stand at the fence. He stated that this was when they had an outdoor

swimming pool, and that he could see these children standing with their fingers in the fence, wondering why they could not go in and swim. He stated that he had not been thinking about being an elected official at that time, but that he had known that that was not right. He stated that when he had been elected, the Council at that time had gotten the money to build the Showers Center. He stated that he had not asked anyone to put his name on that building, that his fellow Council members had made that recommendation, and it had been approved.

Councilman Showers stated that at this time, he wanted to say thank you to the citizens in District 1 and in Huntsville for allowing him to serve them. He stated that he wanted everyone to hear him well as he closed, and he stated that he was not finished yet.

President Russell congratulated Councilman Showers on his 25 years of service.

President Russell stated that the next item on the agenda was Unfinished Business Items for Action.

Councilman Culver moved for approval of Ordinance No. 13-731, amending Chapter 3, Article II, of the Code of Ordinances, by adding Section 3-28, Providence Entertainment District, which ordinance was introduced at the September 26, 2013, Regular Council Meeting, as follows:

(ORDINANCE NO. 13-731)

Said motion was duly seconded by Councilman Kling.

Councilman Culver moved to amend the above ordinance,

Subsection (3) (d) (1), to reflect the hours of the district to be on Wednesday and Thursday from 4 p.m. until 10 p.m. and on Sunday from 4 p.m. until 10 p.m.

Said motion was duly seconded by Councilman Showers.

Councilman Culver stated that the portion of the ordinance pertaining to the hours of operation on Friday would remain the same, from 4 p.m. until 11 p.m., and Saturday would remain the same, from 11 a.m. until 11 p.m.

President Russell asked if there was anyone present from the Planning Department or the Legal Department to discuss this matter.

Mr. Joffrion asked President Russell what his question was relating to this matter.

President Russell asked Mr. Joffrion if it was correct that this ordinance had not gone through the Planning Commission but had just come straight to the Council, and that they could do with it whatever they so chose.

Mr. Joffrion replied in the affirmative.

President Russell asked Councilman Culver to state the reasons he wanted to amend the ordinance, so the public would be aware of this.

Councilman Culver stated that he had held a town hall meeting with the residents in Providence, and the hours on Wednesday and Thursday from 4 p.m. to 10 p.m. were more agreeable with them, and likewise with Sunday from 4 p.m. until 10 p.m. He stated that they were fine with the Friday night

and Saturday night hours.

President Russell called for the vote on Councilman Culver's motion to amend Ordinance No. 13-731, and it was unanimously approved.

President Russell called for the vote on Ordinance No. 13-731, as amended, and it was unanimously adopted.

President Russell moved for approval of Ordinance No. 13-734, annexing land lying on the west side of U.S. Highway 431 South and north of Sutton Road, which ordinance was introduced at the September 26, 2013, Regular Council Meeting, as follows:

(ORDINANCE NO. 13-734)

Said motion was duly seconded by Councilman Showers.

President Russell asked Ms. Marie Bostick, Manager of Planning Administration, for an explanation of the above ordinance.

Ms. Bostick stated that this was 1.33 acres of land located on Highway 431 in the Hampton Cove community and indicated the location on a displayed map. She stated that there were two existing businesses on the property, Sherwin-Williams and Dollar General, and that they were annexing for City services, specifically sanitary sewer.

President Russell called for the vote on the above ordinance, and it was unanimously adopted.

President Russell stated that the next item on the agenda was New Business Items for Introduction.

President Russell read and introduced Ordinance No. 13-791, amending Ordinance No. 89-79, Classification and Salary Plan.

President Russell read and introduced Ordinance No. 13-792, amending Budget Ordinance No. 13-630, by modifying the authorized strength of various departments.

President Russell stated that the next item on the agenda was New Business Items for Consideration or Action. He reiterated that item 15.e had been deleted from the agenda.

President Russell moved for approval of a request for authorization to fill vacancies as needed for Public Safety Dispatcher position, Grade 11, Fire & Rescue, which motion was duly seconded by Councilman Kling, and was unanimously approved.

President Russell read and introduced a resolution authorizing the Mayor to enter into agreements with the low bidders meeting specifications as outlined in the attached Summary of Bids for Acceptance, as follows:

(RESOLUTION NO. 13-793)

President Russell moved for approval of the foregoing resolution, which motion was duly seconded by Councilman Kling and was unanimously adopted.

President Russell read and introduced a resolution authorizing the Mayor to execute an agreement between the City of Huntsville and Family Services Center, Inc., for Housing Counseling Program, as follows:

(RESOLUTION NO. 13-794)

President Russell moved for approval of the foregoing resolution, which motion was duly seconded by Councilman Kling and was unanimously adopted.

President Russell read and introduced a resolution authorizing the Mayor to enter into an agreement between the City of Huntsville and Gateway Mortgage, as a Participating Lender for the Downpayment Assistance Program, as follows:

(RESOLUTION NO. 13-795)

President Russell moved for approval of the foregoing resolution, which motion was duly seconded by Councilman Kling and was unanimously adopted.

President Russell read and introduced a resolution authorizing the Mayor to execute Modification No. 4 to the agreement between the City of Huntsville and Family Services Center, Inc., as adopted by Resolution No. 09-1133, amending the terms as described in the agreement to reflect the inclusion of Program Income and increasing the number of houses rehabilitated by the Neighborhood Stabilization Program, as follows:

(RESOLUTION NO. 13-796)

President Russell moved for approval of the foregoing resolution, which motion was duly seconded by Councilman Kling and was unanimously adopted.

President Russell read and introduced a resolution authorizing the Mayor to execute Modification No. 1 to the

agreement between the City of Huntsville and Family Services Center, Inc., as adopted by Resolution No. 12-908, amending the terms as described in the agreement by adding additional service components to the program description in order to further meet the needs of the homeless within the community, and amending the time of performance, as follows:

(RESOLUTION NO. 13-797)

President Russell moved for approval of the foregoing resolution, which motion was duly seconded by Councilman Kling and was unanimously adopted.

President Russell read and introduced a resolution authorizing the Mayor to enter into an agreement between the City of Huntsville and Community Action Partnership of Huntsville/Madison and Limestone Counties, Inc., awarding CDBG funds for the operation of the 2013-2014 Weatherization/Rehabilitation Assistance Program (WRAP), as follows:

(RESOLUTION NO. 13-798)

President Russell moved for approval of the foregoing resolution, which motion was duly seconded by Councilman Kling and was unanimously adopted.

President Russell read and introduced a resolution authorizing the Mayor to enter into an agreement between the City of Huntsville and the Alabama Department of Economic and Community Affairs, Law Enforcement Traffic Safety Division, for the 2013-2014 Madison-Morgan County Strategic Counterdrug Team

(STAC) grant, as follows:

(RESOLUTION NO. 13-799)

President Russell moved for approval of the foregoing resolution, which motion was duly seconded by Councilman Kling and was unanimously adopted.

President Russell read and introduced a resolution authorizing the Mayor to amend the contract with Reed Contracting Services, Inc., for Redstone Gateway, Package 1F-1, Redstone Gateway Extension, Market Street, and Overlook Road Relocation, Project No. 65-11-SP22, by Change Order No. 5, as follows:

(RESOLUTION NO. 13-800)

President Russell moved for approval of the foregoing resolution, which motion was duly seconded by Councilman Kling and was unanimously adopted.

President Russell read and introduced a resolution authorizing the Mayor to enter into an agreement with ICA Engineering, Inc., for Engineering Design Services for Old Highway 20-Phase III from Norfolk Southern Railroad to west of Segers Road, Project No. 65-13-RD06, as follows:

(RESOLUTION NO. 13-801)

President Russell moved for approval of the foregoing resolution, which motion was duly seconded by Councilman Kling and was unanimously adopted.

President Russell read and introduced a resolution authorizing the Mayor to amend the contract with Vision

Landscapes, Inc., for Redstone Gateway Extension, Market Street, and Overlook Road Relocation-Package 1F-4, Landscape, Irrigation and Hardscape, Project No. 65-11-SP22, by Change Order No. 2, as follows:

(RESOLUTION NO. 13-802)

President Russell moved for approval of the foregoing resolution, which motion was duly seconded by Councilman Kling and was unanimously adopted.

President Russell read and introduced a resolution authorizing the Mayor to enter into an agreement with Garver, L.L.C., to subdivide lots along Mark C. Smith Drive between Explorer Boulevard and Discovery Drive for development within Cummings Research Park, Project No. 65-13-SP48, as follows:

(RESOLUTION NO. 13-803)

President Russell moved for approval of the foregoing resolution, which motion was duly seconded by Councilman Kling and was unanimously adopted.

President Russell read and introduced a resolution authorizing the Mayor to modify the agreement with Garver, L.L.C., for Engineering Services for 2013 Flow Monitoring Program, Annual Operations, Maintenance, Data Analysis & Reporting, Project No. 65-13-SP41, by Modification No. 1, as follows:

(RESOLUTION NO. 13-804)

President Russell moved for approval of the foregoing resolution, which motion was duly seconded by Councilman Kling

and was unanimously adopted.

President Russell read and introduced a resolution authorizing the Mayor to enter into an agreement with the Alabama Department of Transportation for the Installation and/or Maintenance of Traffic Control Signals at the Intersections of Site 1-US-431(SR-1) at CR-242 (Sutton Road) and Site 4-US-431 (SR-1) at CR-250 (Old Big Cove Road), as follows:

(RESOLUTION NO. 13-805)

President Russell moved for approval of the foregoing resolution, which motion was duly seconded by Councilman Kling and was unanimously adopted.

President Russell moved for approval of a request for approval to advertise and fill one (1) regular full time position of Attorney III, Grade 19, and to fill the position at a higher step within the grade if necessary, which motion was duly seconded by Councilman Kling and was unanimously approved.

President Russell read and introduced a resolution authorizing the Clerk-Treasurer to invoke BancorpSouth Letter of Credit No. 362000788828 for Legendwood Phase III Subdivision, as follows:

(RESOLUTION NO. 13-806)

President Russell moved for approval of the foregoing resolution, which motion was duly seconded by Councilman Kling and was unanimously adopted.

President Russell read and introduced a resolution

authorizing the Mayor to execute Modification No. 2 to the Annexation and Development Agreement between the City of Huntsville and LW Redstone, LLC, adopted and approved by Resolution No. 10-208, as follows:

(RESOLUTION NO. 13-807)

President Russell moved for approval of the foregoing resolution, which motion was duly seconded by Councilman Kling and was unanimously adopted.

President Russell read and introduced a resolution authorizing the Mayor to execute Modification No. 8 to the Supplemental Development Agreement TIF5, Series 2012-B between the City of Huntsville and LW Redstone, LLC, as follows:

(RESOLUTION NO. 13-808)

President Russell moved for approval of the foregoing resolution, which motion was duly seconded by Councilman Kling and was unanimously adopted.

President Russell moved for approval of a request for authorization to advertise and fill the position of Deputy Director of Natural Resources and Environmental Management, Grade 19, at a higher than minimum salary if necessary, which motion was duly seconded by Councilman Kling and was unanimously approved.

President Russell read and introduced a resolution authorizing the Mayor to execute First Amendment to the Agreement between the City of Huntsville and Chamber of Commerce of Huntsville/Madison County, adopted and approved by

Resolution No. 13-755, as follows:

(RESOLUTION NO. 13-809)

President Russell moved for approval of the foregoing resolution, which motion was duly seconded by Councilman Kling and was unanimously adopted.

President Russell read and introduced a resolution authorizing the Mayor to accept a grant from the Alabama Department of Public Health, as follows:

(RESOLUTION NO. 13-810)

President Russell moved for approval of the foregoing resolution, which motion was duly seconded by Councilman Kling and was unanimously adopted.

President Russell read and introduced an ordinance amending Budget Ordinance No. 13-630 by changing funding for various departments and funds, as follows:

(ORDINANCE NO. 13-811)

President Russell moved for approval of the foregoing ordinance, which motion was duly seconded by Councilman Showers.

President Russell asked Mr. Randy Taylor for an explanation of the above ordinance.

Mr. Taylor stated that there were three items included in this action, one being to amend the Chamber of Commerce Special Appropriation Budget by \$153,000, to reimburse the Chamber for economic development costs they had incurred in connection with joint projects for the City. He stated that it also included

an appropriation for EarlyWorks Museums, in the amount of \$545,000, to add this to their budget; and also to make a \$5,000 transfer within the Landscape Management Department.

Mr. Taylor stated that he believed the Mayor wished to comment on this item.

Mayor Battle stated that they had present in the audience two representatives from EarlyWorks. He continued that approximately 15 years prior he had been on the EarlyWorks Board and that his first meeting had been very exciting, and they had talked about many things, and then it had been brought up that they still had their debt. He stated that they had asked what debt and had been advised by the director that they had had \$1.2 million worth of debt for many years. He stated that while he had served on the EarlyWorks Board, they had been able to work this amount down to \$700,000, and that since that time the Board had been able to take this debt down to \$545,000, through a lot of work.

Mayor Battle stated that the Board had certainly done a great job in reducing that debt, and that at this time the city was going to fulfill its obligation to leave EarlyWorks debt free so they would not be in a position that they had to worry day-to-day about how to pay off their debt. He continued that they would just have to worry about how to pay their bills and that they had been doing a good job on that. He continued that this would relieve them of one obligation that had been in place since the inception of EarlyWorks.

President Russell called for the vote on the above ordinance, and it was unanimously adopted.

President Russell read and introduced an ordinance to amend Budget Ordinance No. 13-630 by re-establishing the balance of Fiscal Year 2013 revenue budgets and expenditure appropriations, as follows:

(ORDINANCE NO. 13-812)

President Russell moved for approval of the foregoing ordinance, which motion was duly seconded by Councilman Showers.

President Russell asked Mr. Taylor for an explanation of the above ordinance.

Mr. Taylor stated that this was an item the Council generally dealt with at the first Council meeting of every fiscal year. He stated that there were four or five funds that they would be amending in this action if it were adopted. He stated that the Council members would recall that they had a lot of money appropriated in various funds for different kinds of capital projects. He continued that these projects sometimes took more than one fiscal year, and sometimes more than two, for completion.

Mr. Taylor stated that on September 30 of each year, all the budgets for the City expired, and the City could no longer spend any money on these projects until the Council re-established spending authority for the projects. He stated that the most common example of this, and the largest number

that was in the request, would be for a road project the City had perhaps commenced in August and had appropriated \$2 million for it, and they had gotten started and spent only \$100,000. He continued that the money had now expired, and the Council needed to re-appropriate the \$1.9 million to keep the project moving. He stated that that was what all the carry-forward items represented, noting they called them "carry-forwards," or project funding from the previous year. He stated that they were all funded from the money that had been appropriated in the past year but had not been spent.

Councilman Kling asked if there was a specific project for "Finance Department-Balance of Prior Year Capital Appropriation, \$2 million."

Mr. Taylor replied in the affirmative, stating that they had had a project on the radar screen for a long time that the Council had appropriated the money for, and that it was the replacement of their 35-year-old finance system, and possibly payroll, possibly some systems that would interact with that. He stated that they had a system that had originally operated on a mainframe computer, if one could recall what those were. He stated that it had moved over to newer technology, but it still looked like something that operated on a mainframe. He continued that it did not support the needs of the City. He stated that this had been in the City's plans for a long time, that they had just not actually awarded the contract. He stated that they expected to do that within the next 45 to 60

days. He stated that the Council would, of course, award it.

Councilman Kling stated that he would like to see if there was a way they could come up with approximately \$22,000 that was needed by the Art Museum, noting that they had had some electrical problems. He stated that he understood the City's Facilities Department had been over to try to see if they could assist with this. He stated that he felt the Art Museum had good community outreach and worked hard to raise money instead of just waiting for the City to appropriate money to them all the time.

Councilman Kling asked Mr. Rex Reynolds if he was aware if anything further was going on concerning this matter.

Mr. Reynolds stated that Mr. Easter had taken his Facilities persons over to assist with this, and that he believed they had corrected the problem and had done that within their existing budget. He continued that he had not received any additional request for any allocation.

Councilman Showers stated there were two members of EarlyWorks that they had just made all the accolades concerning present in the audience, James "Tony" Smith and Bart Williams, and asked them to stand and be recognized. He stated to them that he certainly appreciated what they did, that serving in the manner they had served spoke volumes.

President Russell called for the vote on Ordinance No. 13-812, and it was unanimously adopted.

President Russell read and introduced a resolution

authorizing the Mayor to enter into a Property Transfer Agreement between the City of Huntsville and Maple Hill, Inc., as follows:

(RESOLUTION NO. 13-813)

President Russell moved for approval of the foregoing resolution, which motion was duly seconded by Councilman Showers.

President Russell asked Mr. Joffrion for an explanation of the above resolution.

Mr. Joffrion stated that the above agreement contemplated the transfer of ownership of the 7.7 acres that was now a private cemetery, bordered on three sides by Maple Hill Cemetery. He stated that most, if not all, of the lots within the cemetery had been sold. He stated that there was a \$1.325 million perpetual care fund that had accumulated in a trust fund and stated that as a condition of this transfer, the current owner was obligated to get court approval to dissolve the trust so that the funds could be transferred to the City for use in maintaining that part of the cemetery in perpetuity. He stated that if they were not able to do that, the transfer would not go through, and the current owners would maintain ownership.

Mr. Joffrion stated that this was really a win-win for everyone, noting that it allowed for the 7.7 acres to be maintained at the same standards as the remainder of the cemetery. He stated that the \$1.3 million pot of money was a

good sum of money and would defray the cost of maintaining the cemetery.

President Russell asked Mr. Joffrion if it was correct that there had been no changes to this since the Council's prior work session.

Mr. Joffrion stated that there were none that he was aware of.

President Russell stated that this was an item the Council had previously discussed in a public meeting.

Councilman Kling asked if it was correct that the money that would be transferred over would not go into the City's General Fund but into a perpetual care fund for the cemetery.

Mr. Joffrion stated that that was correct.

President Russell called for the vote on Resolution No. 13-813, and it was unanimously adopted.

President Russell read and introduced a resolution to change the first regular City Council meeting in November 2013 to November 7, 2013; the second regular meeting in November 2013 to November 21, 2013; the first regular meeting in December 2013 to December 5, 2013; and the second regular meeting in December 2013 to December 19, 2013, as follows:

(RESOLUTION NO. 13-814)

President Russell moved for approval of the foregoing resolution, which motion was duly seconded by Councilman Showers.

President Russell stated that the meeting dates were being

changed because of the upcoming holidays.

Councilman Kling stated that he believed they had had a situation come up the prior year where a citizen had come to a meeting on the wrong day, having come on the second Thursday rather than the first Thursday, and asked if they might could handle this matter by just changing the second meeting dates of each month rather than changing both meeting dates, which he noted would mean they would be meeting on the second Thursday and then the third Thursday for two consecutive months.

President Russell stated that persons felt that one week between meetings did not allow enough time to get all the paperwork done and set the agenda, so that they would like to keep two weeks between the meetings. He stated that they would advertise this the best they could on AL.com and The Huntsville Times, as well as Channel 42 and the website. He stated that he could not promise that everyone would get the message but they certainly would do their best.

President Russell called for the vote on the above resolution, and it was unanimously adopted.

President Russell stated that the next item on the agenda was Non-Roster Communications from the Public.

Ms. Jackie Reed again appeared before the Council, stating that she had been coming to the Council meetings approximately 34 years and she had seen many Councilpersons come and go, that she had seen a lot, learned a lot, and talked a lot.

Ms. Reed stated that she wanted to thank whoever was

painting the white lines on the streets, noting that they were bright and white and persons could see to get around in the city.

Ms. Reed stated that she had tried to cut through the old Council Court property to get to her doctor's office and that it was one big conglomeration, that the buildings were built in the street and that she just had to shut her eyes when she went through there. She stated that she hoped this was a good thing they had done, but that she just could not see it. She stated that she certainly hoped it would bring in every dollar the City wanted it to, but that she believed it was going to cause a large traffic problem.

Ms. Reed stated that she did have one big issue she wanted to bring up at this time, being "No chickens in the city." She stated that on the following Wednesday evening there would be a hearing on this matter, at 5 p.m., and she urged persons to attend this meeting. She stated that she would be going to the country the upcoming weekend, and she would be able to see all the chickens she cared about, and that they could trust she was not going to bring any back with her.

Ms. Reed thanked the NAACP for getting involved in the Johnson High School situation. She stated that she believed Dr. Wardynski cared about this situation. She stated that the only school in the city that she had not had a problem with changing the name was named after Dr. James Dawson. She stated that Dr. Dawson had been an outstanding leader and that she

felt to name a school after him had been the right thing to do. She stated that, otherwise, she felt they should not be renaming the schools, that they could put the names on the gymnasiums or the libraries.

Ms. Reed urged persons to participate in the march that Johnson High School would be holding on the following Saturday.

Mr. Jerry Cox, 4029 Telstar Circle, appeared before the Council, stating that he had had a couple of issues, but that he had been able to resolve these with the department head prior to the meeting, so that he would not need to bring them before the Council.

Mr. Cox stated that when he spoke before the Council, he always honored the soldiers who had been killed in the war. He continued that, however, he could not do that at this time. He stated that his source for this information was Public Television and the ABC Sunday News, which usually gave him the names and addresses, et cetera, of the soldiers who had been killed that week, noting that they did this when the Pentagon announced these names. He stated that he guessed the Pentagon personnel who did this were on furlough, because they had not given out the names the prior week. He stated that, however, there were soldiers being brought back after being killed in the war. He stated that the sad thing, and the thing that made him mad and that he hoped made every citizen in the city mad, was that the government could not give the benefits to the families of those soldiers who had been killed in the war

because Congress would not appropriate money to run the government, that Congress had shut down the government in the middle of a war. He stated that persons should remember that soldiers were being killed at this time in the war in Afghanistan.

Mr. Cox stated that he had seen in the newspaper on this date that the City's distinguished Congressman, Mo Brooks, had said, "These are relatively inconsequential items." He stated that when they could not pay the family of a soldier who had died in the war, that was not an inconsequential item. He continued that Mr. Brooks had said that he would not vote to move the debt ceiling and stated that persons should consider what was going to happen to Huntsville when the debt ceiling was not moved.

President Russell asked if there was anyone else in the audience who would like to address the Council at this time.

There was no response.

President Russell stated that the Council would now move into the organizational portion of the meeting.

President Russell declared all offices of the Council to be vacant and yielded the Chair to Mr. Hagood, City Clerk-Treasurer, to preside over the election of the President of the Council.

Mr. Hagood stated that the floor was open for nominations for President of the Council.

Councilman Showers nominated Councilman Russell for

President of the Council.

Councilman Kling moved that nominations be closed, which motion was duly seconded by Councilman Showers, and was unanimously approved.

Mr. Hagood stated that nominations for the office of President of the Council were closed.

Mr. Hagood called for the vote on Councilman Russell as President of the Council, and the following vote resulted:

AYES: Culver, Olshefski, Kling, Showers, Russell
NAYS: None

Mr. Hagood stated that Councilman Russell had been elected President of the City Council for the upcoming year and yielded the Chair to him.

President Russell expressed appreciation for the honor of having been elected President of the Council and thanked the Council members for their confidence in him.

President Russell stated that the floor was open for nominations for President Pro Tem of the Council.

Councilman Kling nominated Councilman Showers for President Pro Tem of the Council.

President Russell moved that nominations be closed, which motion was duly seconded by Councilman Culver, and was unanimously approved.

President Russell called for the vote on Councilman Showers as President Pro Tem of the Council, and the following vote resulted:

AYES: Culver, Olshefski, Kling, Showers, Russell

NAYS: None

President Russell stated that Councilman Showers had been elected President Pro Tem of the Council.

President Russell stated that the floor was open for nominations for the office of Third Presiding Officer of the Council.

Councilman Showers nominated Councilman Kling for Third Presiding Officer of the Council.

President Russell moved that nominations be closed, which motion was duly seconded by Councilman Showers, and was unanimously approved.

President Russell called for the vote on Councilman Kling as Third Presiding Officer of the Council, and the following vote resulted:

AYES: Culver, Olshefski, Kling, Showers, Russell

NAYS: None

President Russell stated that Councilman Kling had been elected as Third Presiding Officer of the Council.

President Russell stated that the Council normally elected three committee positions at this time. He continued that these were for the City of Huntsville Planning Commission, the Research Park Board, and the Historic Preservation Commission.

President Russell stated that a member of the Council shall be elected by the Council to serve as its representative to the City of Huntsville Planning Commission; the same member

shall serve as the Council's representative to the Metropolitan Planning Organization.

Councilman Kling nominated Councilman Olshefski to serve as the Council's representative to the City of Huntsville Planning Commission and to serve as the Council's representative to the Metropolitan Planning Organization.

President Russell moved that nominations be closed, which motion was duly seconded by Councilman Kling, and was unanimously approved.

President Russell stated that Councilman Olshefski would be the Council's representative to the Planning Commission and to the Metropolitan Planning Organization.

President Russell stated that a member of the Council shall be elected by the Council to serve as its representative to the Research Park Board.

Councilman Kling nominated Councilman Culver to serve as the Council's representative to the Research Park Board.

President Russell moved that nominations be closed, which motion was duly seconded by Councilman Kling, and was unanimously approved.

President Russell stated that Councilman Culver would serve as the Council's representative to the Research Park Board.

President Russell stated that a member of the Council shall be elected by the Council to serve as its representative to the Historic Preservation Commission.

Councilman Kling nominated President Russell to serve as the Council's representative to the Historic Preservation Commission.

Councilman Showers moved that nominations be closed, which motion was duly seconded by Councilman Kling, and was unanimously approved.

President Russell stated that he would serve as the Council representative to the Historic Preservation Commission.

President Russell stated that he would make the other appointments and assignments to be made, as listed on the agenda, at the next Regular Meeting of the Council.

President Russell stated that on the following Thursday the Council would be holding a work session, and that more than likely there would be two personnel hearings held prior to the work session. He stated that the work session would concern North Huntsville development. He stated that this would be announced per their public policy practice.

Upon motion, duly seconded, it was voted to adjourn.

PRESIDENT OF THE CITY COUNCIL

ATTEST:

CITY CLERK-TREASURER

