

**REGULAR MEETING OF THE COUNCIL
OF THE CITY OF BIRMINGHAM**

December 30, 2008, at 9:30 A.M.

The Council of the City of Birmingham met in the Council Chambers of the City Hall of Birmingham on December 30, 2008 at 9:30 a.m., in regular meeting.

The meeting was opened with prayer by Apostle Joseph Hamilton, Pastor of New Zion Bible Way Church, Birmingham.

The Pledge of Allegiance was led by Councilmember Roderick Royal.

Present on Roll Call:	Council President	Smitherman
	Councilmembers	Abbott
		Austin
		Hoyt
		Montgomery
		Parker
		Royal
		Witherspoon

Absent:	Duncan
---------	--------

Mayor Larry Langford announced that City Hall will be closed January 1-2, 2009.

Mayor Langford spoke on the outcome of the PapaJohns.com Bowl held December 29, 2008. Mayor Langford expounded on the pre-activities held December 28, 2009 and how ESPN really promoted the City. Mayor plans to meet with ESPN about keeping the game in Birmingham.

Mayor Langford spoke on an editorial relative to the future of Birmingham in 2009. Mayor Langford invited the Council to view a DVD presentation to be viewed by members of the Civil Rights Institute and George McMillan relative to upcoming presidential inauguration.

DEC 30 2008

Mayor Langford recognized Jack Fields, H.B. Brantley, and Andrea Faught of the Birmingham-Jefferson County Civic Center who presented the Council with an overview of the BJCC Strategic Expansion Plan. Mr. Fields presented each Councilmember with a CD of the project, and a copy of qualification request for architects for the project.

The following resolutions and ordinances designated as Consent Agenda items were introduced by the Presiding Officer:

The following resolution which was introduced and read at the regular meeting on Tuesday, November 25, 2008 at 9:30 o'clock a.m., for a public hearing on Tuesday, December 30, 2008 at 9:30 o'clock a.m., was called by the Presiding Officer, and made a part of the Consent Agenda:

**Case No. SUB 2008-00066
RESOLUTION NO. 1674-08**

WHEREAS, there has been exhibited to this Council a duly acknowledged Declaration of Vacation executed by N. David Edwards, being the owner(s), and the reading in part as follows:

KNOW ALL MEN BY THESE PRESENT, that the undersigned, N. David Edwards, owner(s) of all lands abutting the portion of public way or ways hereinafter declared vacated, do hereby declare vacated and divested out of the public the portion or portions of unopened public way or ways described as follows, to-wit:

A PORTION OF WASHINGTON AVENUE AS SHOWN ON "SYX-MOXLEY ADDITION TO DOLOMITE." RECORDED IN PLATBOOK 3. PAGE 35, OFFICE OF THE JUDGE OF PROBATE, JEFFERSON COUNTY, ALABAMA.

A PARCEL OF LAND SITUATED IN THE SOUTHEAST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 16, TOWNSHIP 18 SOUTH, RANGE 4 WEST, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO WIT:

COMMENCE AT THE NW CORNER OF LOT 7, BLOCK 5, SYX-MOXLEY ADDITION TO DOLOMITE, AS RECORDED IN PLATBOOK 3, PAGE 35, OFFICE OF THE JUDGE OF PROBATE, JEFFERSON COUNTY, ALABAMA, SAID CORNER MONUMENTED VIA A FOUND 5/8" REBAR, SAID CORNER ALSO BEING LOCATED ON THE EAST LINE OF WASHINGTON AVENUE, A 20' UNOPENED RIGHT-OF-WAY AS SHOWN ON AFORESAID SYX-MOXLEY ADDITION TO DOLOMITE; THENCE RUN SOUTHEASTERLY ALONG THE WEST LINE OF AFORESAID LOT 7 AND THE EAST LINE OF AFORESAID WASHINGTON AVENUE, A DISTANCE OF 1.00' FEET TO A SET 5/8" CAPPED REBAR(LANDMARK CA-0584-LS), SAID POINT BEING THE **POINT OF BEGINNING**; THENCE CONTINUE ALONG THE WEST LINE OF SAID LOT 7 AND THE EAST LINE OF WASHINGTON AVENUE A DISTANCE OF 59.00' FEET TO A SET 5/8" CAPPED REBAR(LANDMARK CA-0584-LS); THENCE TURN AN ANGLE TO THE RIGHT 90°00'00" AND RUN IN A SOUTHWESTERLY DIRECTION A DISTANCE OF 20.00' FEET TO A POINT ON THE WEST LINE OF AFORESAID

DEC 30 2008

WASHINGTON AVENUE, SAID POINT MONUMENTED VIA A SET 5/8" CAPPED REBAR(LANDMARK CA-0584-LS); THENCE TURN AN ANGLE TO THE RIGHT 90°00'00" AND RUN IN A NORTHWESTERLY DIRECTION ALONG THE WEST LINE OF AFORESAID WASHINGTON AVENUE A DISTANCE OF 59.00' FEET TO A POINT MONUMENTED VIA A SET 5/8" CAPPED REBAR(LANDMARK CA-0584-LS); THENCE LEAVING THE WEST LINE OF AFORESAID WASHINGTON AVENUE, TURN AN ANGLE TO THE RIGHT 90°00'00" AND RUN IN A NORTHEASTERLY DIRECTION A DISTANCE OF 20.00' FEET TO THE POINT OF BEGINNING.

The vacation hereinabove declared shall be subject to such conditions and reservations for the benefit of the owners or operators of public utilities or installations in said way or ways as the governing body of the City of Birmingham may see fit to specify in a resolution of assent.

The said owner does further declare that after the vacation hereinabove declared, convenient means of ingress and egress to and from their respective properties will be afforded to all other property owners by the remaining public ways dedicated to the public for public way purposes, and,

WHEREAS, it has been made to appear to this Council that said declarant is the owner of all the land abutting on the portion or portions of public way or ways declared vacated by said Declaration of Vacation and that after the vacation of the said portion or portions of said public way or ways convenient means of ingress and egress to and from their property will be afforded to all other property owners by the remaining public grounds dedicated to the public for public way purposes; and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Birmingham as follows:

1. After hearing all parties and considering all information presented, the assent of this Council be, and hereby is given and granted to the vacation of the portion, or portions, of public way or ways declared vacated in the above quoted Declaration of Vacation, subject to the conditions and reservations hereinafter set out, and further, this Council finds that all other property owners will have convenient means of ingress and egress to and from their property by the remaining public grounds dedicated to the public for public way purposes and that it is in the best interest of the public that the above described public way or ways or portions thereof be vacated.

2. That the foregoing assent be and is hereby given upon condition that any entity, including the City of Birmingham, which may now own or rightfully maintain any public utility, facility, line or installation, including any open or closed storm or sanitary sewer, in any portion of any public way hereinabove mentioned, shall have a right and easement to continue to maintain same in its present location therein and to repair, cleanse, improve and reconstruct the same and to have convenient storm water drainage and sanitary sewer means thereto and there from for said purposes, and that there be and is hereby reserved and excluded from the said foregoing assent any assent of this Council to the vacation, annulment or impairment of the right, easement or privilege

DEC 30 2008

of any such entity to continue to own, maintain, repair, cleanse, improve, reconstruct and have convenient means of ingress and egress to and from such utility, facility, line or installation.

3. The foregoing provisions for maintenance and for ingress and egress shall mean, among other things and without limitation, that in case any building or edifice shall be constructed or placed in any portion of any of said vacated ways, it shall be constructed, placed or arranged therein so as to avoid damage to any presently existing concealed or unconcealed or patent or latent public utility, facility, line or installation in any such public way and so as to afford ways and means of ingress and egress to and from such utility, facility, line or installation for purpose of reconstruction, repair, cleansing or improvement of service of same, substantially equal to and as convenient as presently existing ways and means of ingress and egress thereto and therefrom such purposes, or such as shall be approved in writing by the owner or operator of such utility, facility, line or installation.

4. This resolution shall be effective only upon the payment of the right-of-way fee within sixty (60) days of the date of this resolution, the recording in the Office of the Judge of Probate of Jefferson County, Alabama, of a map or plat approved by the City Engineer and the Birmingham Planning Commission showing the vacated portion or portions of public way or ways as described above and the boundary lines of the abutting property resulting from the vacation, and notice of the governing body's action being published once in a newspaper in the county no later than 14 days after its adoption.

BE IT FURTHER RESOLVED that under the provisions of Act 785 of 1982 the right-of-way vacation fee has been set at \$1,064.97.

The following resolution which was introduced and read at the regular meeting on Tuesday, November 25, 2008 at 9:30 o'clock a.m., for a public hearing on Tuesday, December 30, 2008 at 9:30 o'clock a.m., was called by the Presiding Officer, and made a part of the Consent Agenda:

**Case No. SUB 2008-00102
RESOLUTION NO. 1675-08**

WHEREAS, there has been exhibited to this Council a duly acknowledged Declaration of Vacation executed by Bertha M. Box, by and through Edmond W. Box, Jr., attorney in fact for Bertha M. Box, and Wachovia Bank, National Association, being the owner(s), and the reading in part as follows:

KNOW ALL MEN BY THESE PRESENT, that the undersigned, Bertha M. Box, by and through Edmond W. Box, Jr., attorney in fact for Bertha M. Box, and Wachovia Bank, National Association, owner(s) of all lands abutting the portion of public way or ways hereinafter declared vacated, do(es) hereby declare vacated and divested out of the public the portion or portions of unopened public way or ways described as follows, to-wit:

DEC 30 2008

Commence at the northerly road right of way of 1st Avenue North and the southwesterly road right of way of 65th Street North; thence North 43°21'24" West along the southwesterly road right of way of 65th Street North, a distance of 151.08 feet to the point of beginning of the alley to be vacated; thence South 46°47'24" West, a distance of 149.90 feet; thence North 43°12'36" West, a distance of 15.00 feet; thence North 46°47'24" East, a distance of 149.74 feet to said road right of way and a curve to the right, of which the radius point lies South 45°43'46" West, a radial distance of 934.75 feet; thence southeasterly along the arc of said road right of way, through a central angle of 00°55'10", a distance of 15.00 feet to the point of beginning.

The vacation hereinabove declared shall be subject to such conditions and reservations for the benefit of the owners or operators of public utilities or installations in said way or ways as the governing body of the City of Birmingham may see fit to specify in a resolution of assent.

The said owner does further declare that after the vacation hereinabove declared, convenient means of ingress and egress to and from their respective properties will be afforded to all other property owners by the remaining public ways dedicated to the public for public way purposes, and,

WHEREAS, it has been made to appear to this Council that said declarant is the owner of all the land abutting on the portion or portions of public way or ways declared vacated by said Declaration of Vacation and that after the vacation of the said portion or portions of said public way or ways convenient means of ingress and egress to and from their property will be afforded to all other property owners by the remaining public grounds dedicated to the public for public way purposes; and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Birmingham as follows:

1. After hearing all parties and considering all information presented, the assent of this Council be, and hereby is given and granted to the vacation of the portion, or portions, of public way or ways declared vacated in the above quoted Declaration of Vacation, subject to the conditions and reservations hereinafter set out, and further, this Council finds that all other property owners will have convenient means of ingress and egress to and from their property by the remaining public grounds dedicated to the public for public way purposes and that it is in the best interest of the public that the above described public way or ways or portions thereof be vacated.

2. That the foregoing assent be and is hereby given upon condition that any entity, including the City of Birmingham, which may now own or rightfully maintain any public utility, facility, line or installation, including any open or closed storm or sanitary sewer, in any portion of any public way hereinabove mentioned, shall have a right and easement to continue to maintain same in its present location therein and to repair, cleanse, improve and reconstruct the same and to

DEC 30 2008

have convenient storm water drainage and sanitary sewer means thereto and there from for said purposes, and that there be and is hereby reserved and excluded from the said foregoing assent any assent of this Council to the vacation, annulment or impairment of the right, easement or privilege of any such entity to continue to own, maintain, repair, cleanse, improve, reconstruct and have convenient means of ingress and egress to and from such utility, facility, line or installation.

3. The foregoing provisions for maintenance and for ingress and egress shall mean, among other things and without limitation, that in case any building or edifice shall be constructed or placed in any portion of any of said vacated ways, it shall be constructed, placed or arranged therein so as to avoid damage to any presently existing concealed or unconcealed or patent or latent public utility, facility, line or installation in any such public way and so as to afford ways and means of ingress and egress to and from such utility, facility, line or installation for purpose of reconstruction, repair, cleansing or improvement of service of same, substantially equal to and as convenient as presently existing ways and means of ingress and egress thereto and therefrom such purposes, or such as shall be approved in writing by the owner or operator of such utility, facility, line or installation.

4. This resolution shall be effective only upon the payment of the right-of-way fee within sixty (60) days of the date of this resolution, the recording in the Office of the Judge of Probate of Jefferson County, Alabama, of a map or plat approved by the City Engineer and the Birmingham Planning Commission showing the vacated portion or portions of public way or ways as described above and the boundary lines of the abutting property resulting from the vacation, and notice of the governing body's action being published once in a newspaper in the county no later than 14 days after its adoption.

BE IT FURTHER RESOLVED that under the provisions of Act 785 of 1982 the right-of-way vacation fee has been set at \$2,570.21.

RESOLUTION NO. 1676-08

BE IT RESOLVED by the Council of the City of Birmingham, Alabama that the following assessments as levied by the City are in error and are hereby canceled:

Account #86544 221 14th Ct W – 22-27-4-11-21.000 the assessment of \$225.-account was submitted to the county in error in 2003...

Account #87151 3400 Blk Willard Ave –29-30-1-26-12.001 assessment amount of \$540.00 – Jefferson County Tax Record was incorrect in 2003, per tax office.

Account 87123 – 4224 George Ave SW – 29-30-2-16-10 assessment amount of \$134.10 – wrong parcel cited in 2003.

DEC 30 2008

Account # 85322 - 1838 Hatfield Lane 12-19-4-14-24.000 assessment amount of \$585.00 – submitted to the county in error.

Account #87799 - 324 3rd Avenue North – 22-35-3-39-03 assessment amount of \$185.30 – pending appeal investigation. Disputes claim

ORDINANCE NO. 08-245

WHEREAS, pursuant to Chapter 48 of Title 11 of the Code of Alabama (1975), the City of Birmingham (the City) is authorized to sell property to foreclose upon liens in favor of the City for unpaid municipal improvement assessments and to acquire such property at the sale; and

WHEREAS, on or about May 05, 2005, the City acquired the property described below (the Property) at its sale of such Property upon the failure of the property owner to pay a municipal improvement assessment; and

WHEREAS, the right to redeem the Property from such sales has expired; and

WHEREAS, Section 3-1-4(c) of the General Code of the City of Birmingham of 1980, as amended, authorizes the Director of Finance to investigate the circumstances resulting in the conveyance of the Property to the City and to recommend to the City Council a purchase of the Property for a consideration not less than the amount of the original assessments, plus costs, fees and interest thereon at the rate of six percent (6%) per annum; and

WHEREAS, Janie M. Brown, has requested to purchase the City’s interest in the Property and the Director of Finance has investigated the circumstances resulting in the conveyance of the Property to the City and recommends that Janie M. Brown be allowed to purchase the Property for the amount of \$1,779.69, which represents the total amount of the original assessments plus costs, fees and interest thereon at the rate of six percent (6%) per annum.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Birmingham that the Mayor be and hereby is authorized to execute, on behalf of the City of Birmingham, a quitclaim deed and redemption deed conveying the Property to the designated grantee upon payment of the amount of \$1,779.69 to the City within ninety (90) days of City Council approval.

NAME OF GRANTEE	PROPERTY DESCRIPTION	AMOUNT
Janie M. Brown	4921 Hillman Drive Blk 4 Lot 1 Hillman Gardens Survey MB 1007 PG 0082 P.I.D. # 30-25-1-9-41 as Recorded in the Office of the Judge of Probate, Jefferson County Account # 4984	\$1,779.69

DEC 30 2008

BE IT FURTHER ORDAINED that in the judgment of said Council the Property is not needed for public or municipal purposes.

ORDINANCE NO. 08-246

Be It Ordained by the Council of the City of Birmingham, Alabama, that the Mayor be authorized to enter into two easement agreements whereby Alabama Power Company is allowed to enter upon property owned by the City of Birmingham and operated by Ruffner Mountain Nature Center to install, operate and maintain certain electrical facilities as shown on Alabama Power Company Plan Nos. 61100-00-01578 and 6100-00-01588 which are on file in the Office of the City Engineer, in providing electrical service to the Nature Center's new Visitor Center.

RESOLUTION NO. 1677-09

BE IT RESOLVED by the Council of the City of Birmingham that the Sales Tax Assessment as levied **Fred Shain, the person responsible for the collection and remittance of the tax, doing business (DBA) as Goodies Icecream** by the Finance Department, dated **11/24/2008**, for the period of **8/2004-9/2008** in the amount of **\$87,384.60** for Sales Tax is deemed correct and is made final.

RESOLUTION NO. 1678-08

BE IT RESOLVED by the Council of the City of Birmingham that the Sales Tax Assessment as levied **Sally Beauty Holdings Inc and Gary Winterhalter, the person responsible for the collection and remittance of the tax, doing business (DBA) as Sally Beauty Supply #3572** by the Finance Department, dated **November 21, 2008**, for the period of **1/2008-11/2008** in the amount of **\$16,500.00** for Sales Tax is deemed correct and is made final.

RESOLUTION NO. 1679-08

BE IT RESOLVED by the Council of the City of Birmingham that the Sales Tax Assessment as levied **Richie Williams Lloyd, the person responsible for the collection and remittance of the tax, doing business (DBA) as Urban Vibes** by the Finance Department, dated **November 24, 2008**, for the period of **12/2005-02/2008** in the amount of **\$48,645.00** for Sales Tax is deemed correct and is made final.

DEC 30 2008

RESOLUTION NO. 1680-08

BE IT RESOLVED by the Council of the City of Birmingham that the Sales Tax Assessment as levied **LAKEVIEW BISTRO INC AND PAUL CASEY, the person responsible for the collection and remittance of the tax, doing business (DBA) as THE ROCK HOUSE RESTAURANT** by the Finance Department, dated **11/25/08**, for the period of **09/2006; 12/2006; 01/2007-02/2007; 10/2007-11/2007; 05/2008; 09/2008-10/2008** in the amount of **\$4,361.28** for Sales Tax is deemed correct and is made final.

RESOLUTION NO. 1681-08

BE IT RESOLVED by the Council of the City of Birmingham, Alabama, that the lump sum bid of Fourteen Thousand One Hundred Sixty-One Dollars and 95/100 (**\$14,161.95**), submitted by **SOUND SOLUTIONS**, 81 Hamric Drive, Oxford, AL 36203 (NOT IN CITY), **for installation of sound system at the SOUTHERN MUSEUM OF FLIGHT**, 4343 73rd Street North, Birmingham, AL 35206; received by the Department of Planning, Engineering and Permits on November 20, 2008, be and the same is hereby accepted, this being the lowest bid submitted, meeting specifications. The project will be funded under **001_085_01200.534-021 [approp. YR08]**. The contract to be awarded is let in compliance with Title 39, Code of Alabama, 1975, as amended, and all other applicable provisions of law.

BE IT FURTHER RESOLVED that the Mayor be, and he is hereby authorized to enter into a contract with Sound Solutions, in accordance with said bid, providing that the total contract not exceed the appropriation.

SUB2008-00102

RESOLUTION NO. 1682-08

BE IT RESOLVED by the City Council of the City of Birmingham, Alabama, that the assent of this body be, and the same hereby is, given to the dedication of the streets, alleys and public grounds as shown on this plat or map of Wachovia Resurvey, which said plat or map is certified to have been made by, Jeff D. Arrington, a registered land surveyor, at the instance of Wachovia Bank, National Association and Bertha M. Box, owners, and has been exhibited to this Council, said plat or map being further identified by a recital of the approval of this Council signed by, Paula R. Smith, City Clerk, of even date herewith. But this shall not be construed as an assumption of dominion by the City over any street, alley, or public grounds shown on said plat or map or impose liability upon the City for the upkeep of same.

RESOLUTION NO. 1683-08

BE IT RESOLVED by the City Council of the City of Birmingham that payment to Art Services International, Alexandria, VA, in the amount of \$65,000.00 (\$45,000.00 exhibition fee and

DEC 30 2008

\$20,000.00 transportation) for the exhibition of “FASHIONING KIMONO: Art Deco and Modernism in Japan” exhibit to be displayed July 31 – October 10, 2010, for the Birmingham Museum of Art, be and the same hereby is approved, this being the only source of supply.

RESOLUTION NO. 1684-08

BE IT RESOLVED by the Council of the City of Birmingham that the Director of Finance be and is hereby authorized to make the following refunds:

SALES TAX

ID# 101395	ALTEC INDUSTRIES INC ATTN: KATHY SMITH 210 INVERNESS CENTER DR BIRMINGHAM, AL 35242	\$3,726.43
ID# 104564	J F DAY CO INC ATTN: GREGORY T DUNN 2820 6 TH AVE SO BIRMINGHAM, AL 35233	\$3,591.53
ID# 156922	SUNGARD BUSINESS SYSTEM AND HOOVER CITY ATTN: RHONDA SULLIVAN 104 INVERNESS CENTER PL BIRMINGHAM, AL 35242	\$29,367.80
ID# 172084	SUNGARD BUSINESS SYSTEMS AND HOOVER ATTN: RHONDA SULLIVAN 105 INVERNESS CTR PLACE BIRMINGHAM, AL 35242	\$89,239.32
ID# 186812	CHANDABEN MANHER PATEL SALES TAX – APEC LODGE 1900 33 RD AVE NO BIRMINGHAM, AL 35207	\$10,592.38

SELLERS USE TAX

ID# 195644	IRON PLANET SF GLORY CHIANG STE 102 4695 CHABOT DRIVE PLEASANTON, CA 94588	\$1,333.20
------------	---	------------

DEC 30 2008

ID# 184502 BFS DIVERSIFIED PRODUCTS LLC
ATTN: KENNETH TAYLOR JR
C/O PRICEWATERHOUSE COOPER
300 NORTH MERIDIAN STREET
INDIANAPOLIS, IN 46204 \$3,149.04

ID# 200994 MONOLITH CORPORATION
ATTN: SUSAN FARELL
5275 CAPITAL BLVD
RALEIGH, NC 27616 \$1,173.92

BUSINESS LICENSE

ID# 193714 DELOITTE TAX LLP
ATTN: SEAN LAY
SUITE 2400
420 NORTH 20TH STREET
BIRMINGHAM, AL 35203 \$4,767.00

CONSUMER USE TAX

ID# 163119 FOX TELEVISION STATIONS OF BHAM
ATTN: ANGELA ALLEN
1720 VALLEY VIEW DRIVE
BIRMINGHAM, AL 35209 \$1,021.03

OCCUPATIONAL TAX

ID# 100434 SIMON WILLIAMSON CLINIC PA
ATTN: KIM PERRIN
832 PRINCETON AVE S W
BIRMINGHAM, AL 35211 \$2,999.18

TOTAL ***\$150,960.83***

The resolutions and ordinances introduced as consent agenda matters were read by the Deputy City Clerk, all public hearings having been announced, and unanimous consent having been previously granted, Councilmember Smitherman moved their adoption which motion was seconded by Councilmember Montgomery, and upon the roll being called, the vote was as follows:

Ayes: Abbott, Austin, Hoyt, Montgomery, Parker, Royal, Witherspoon, Smitherman
Nays: None

The vote was then announced by the Deputy City Clerk, whereupon the Presiding Officer declared said resolutions and ordinances adopted.

DEC 30 2008

The following resolution was introduced by Councilmember Hoyt:

RESOLUTION NO. 1685-08

WHEREAS, the Council is periodically called upon to support public events that are organized and coordinated by local organizations for the purpose of projecting a positive image and goodwill in the City; establishing rapport with the public and core constituents; gathering knowledge about community interests and issues; as well as showing appreciation to those participants who benefit from various projects and programs; and

WHEREAS, recently, the Council received an invitation from the Sickle Cell Disease Association declaring the Sickle Cell Gala known as “Showtime at the Apollo-Birmingham Style 2009 that is being held January 31, 2009 at the Sheraton Birmingham Hotel’s Grand Ballroom, 6:00 p.m. – 10:00 p.m. is a valuable and worthy event; and

WHEREAS, the Council has reviewed and considered relevant factors concerning this event and has determined that it serves a public purpose; and

WHEREAS, the Council finds that participation and representation at this worthy event is in the best interest of its citizens; and

BE IT RESOLVED that the Council of the City of Birmingham finds that the above-mentioned and similar events are determined to be public purposes that promote goodwill and serve a public purpose. Therefore, we request that City of Birmingham funds be used to pay for this event.

ADOPTED this Thirtieth day of December, Two Thousand and Eight.

The resolution was read by the Deputy City Clerk, whereupon Councilmember Hoyt made a motion that unanimous consent be granted to adopt said resolution, which motion was seconded by Councilmember Smitherman, and upon the roll being called, the vote was as follows:

Ayes: Abbott, Austin, Hoyt, Montgomery, Parker, Royal, Witherspoon, Smitherman
Nays: None

The vote was then announced by the Deputy City Clerk, whereupon the Presiding Officer declared the motion to give unanimous consent for adoption of said resolution adopted.

Whereupon Councilmember Hoyt made a motion that said resolution be adopted, which motion was seconded by Councilmember Smitherman, and upon the roll being called, the vote was as follows:

Ayes: Abbott, Austin, Hoyt, Montgomery, Parker, Royal, Witherspoon, Smitherman
Nays: None

The vote was then announced by the Deputy City Clerk, whereupon the Presiding Officer

DEC 30 2008

declared said resolution adopted.

Councilmember Royal absented himself.

Councilmember Montgomery absented himself.

The following ordinance which was introduced and read at the regular meeting on Tuesday, October 28, 2008 at 9:30 o'clock a.m., for a public hearing on Tuesday, December 30, 2008 at 9:30 o'clock a.m., was called by the Presiding Officer, who stated that this is the time and place for all persons interested in said ordinance to be heard in relation to the changes proposed by said ordinance:

“An Ordinance “TO FURTHER AMEND THE ZONING DISTRICT MAP OF THE CITY OF BIRMINGHAM” (Case No. **ZAC2008-00144**) to change zone district boundaries from A-1, Agricultural District to B-2, General Business District and M-1, Light Industrial District, filed by **Michael Windham**, applicant, representing the owner, Birmingham East District of U.M.C., for property located at 5710 Amber Hills Road, and situated in the NW ¼ of Section 10, Township 17-S, Range 1-West, and the **hearing** of all interested parties.”

The ordinance was read by the Deputy City Clerk and all interested parties who desired to be heard in relation thereto having been heard and considered, Councilmember Smitherman made a motion which motion was seconded by Councilmember Abbott, that the ordinance be adopted as amended as follows:

Case No. ZAC2008-00144
ORDINANCE NO. 1868-G

BE IT ORDAINED by the Council of the City of Birmingham as follows:

Section 1. That the Zoning District Map of the City of Birmingham as described in Section 2., “Zone Districts and Boundaries” of Title I of the Zoning Ordinance of the City of Birmingham, (Ord. 90-130 as amended) be, and said Zone Map hereby is, amended by rezoning or redistricting the parcels of land hereinafter in this section described, so as to change such parcels from one class of districts to another class of districts as follows, to wit:

FROM: A-1, AGRICULTURAL DISTRICT

TO: “Q”B-2, “QUALIFIED” GENERAL BUSINESS DISTRICT
M-1, LIGHT INDUSTRIAL DISTRICT

Located on a portion of the property at 5710 Amber Hills Road, and situated in the NW¼ of Section 10, Township 17-S, Range 1-West (35210), being more particularly described as follows:

DEC 30 2008

Parcels 1-5 as identified on submitted site plan marked as "ZAC2008-00144, Zoning Advisory Committee, October 2008; being a part of the following legal description:

SE 1/4 OF NW 1/4 LESS AND EXCEPT ROAD R/W SECT 10 TWSP 17S RANGE 1W.

FROM: A-1, AGRICULTURAL DISTRICT

TO: "Q" M-1, "QUALIFIED" LIGHT INDUSTRIAL DISTRICT

Also located on a portion of the property at 5710 Amber Hills Road, and situated in the NW¼ of Section 10, Township 17-S, Range 1-West (35210), being more particularly described as follows:

Parcels 6-13 as identified on submitted site plan marked as "ZAC2008-00144, Zoning Advisory Committee, October 2008; and also being a part of the following legal description:

SE 1/4 OF NW 1/4 LESS AND EXCEPT ROAD R/W SECT 10 TWSP 17S RANGE 1W.

Q Conditions:

1. *Submission to and the approval of the Department of Planning, Engineering and Permits, of a site development plan, to include, but not be limited to, the location and height of all structures; parking; ingress and egress; landscaping; location, size and number of all signs; storm water drainage; buffering and screening; exterior lighting; and the location and screening of all solid waste containers. All on and off site improvements shall be developed and maintained in strict conformance with the approved site development plan. All landscaping, as per the approved landscaping plan, shall be installed prior to the occupancy of the development and shall be maintained in no less condition than as originally installed. Any amendments, additions, deletions, alterations or changes to any of the above listed standards of the approved site development plan shall require the approval of an amendment to the approved site development plan by the staff of the Department of Planning, Engineering and Permits.*
2. *Site development plan must also include a 20 feet landscaped buffer (within the proposed 35 feet building setback) along the eastern border of the property adjacent to existing single family homes. Said landscaped buffer must include Leyland Cypress trees or similar plantings in order provide adequate screening in both height and density.*
3. *Outside storage is not permitted.*

Section 2. This ordinance shall become effective when published as required by law.

and upon the roll being called the vote was as follows:

DEC 30 2008

Ayes: Abbott, Austin, Parker, Witherspoon, Smitherman
Nays: Hoyt

The vote was then announced by the Deputy City Clerk, whereupon the Presiding Officer declared the ordinance adopted as amended.

The following resolution was introduced by Councilmember Smitherman:

RESOLUTION NO. 1686-08

WHEREAS, four (4) Certificates of Public Necessity and Convenience have been issued by the Council of the City of Birmingham to Executive Service Unlimited, LLC, 1301 Brighton Road, Birmingham, AL 35228, to operate a limousine service, and

WHEREAS, the required liability insurance policy covering said limousine service has expired; and

WHEREAS, said permit holder was notified of a public hearing to be held Tuesday, December 30, 2008 to consider the revocation of said permit; and

WHEREAS, said permit holder has not filed the required liability insurance coverage in compliance with Sections 12-16-61 of the General City Code, 1980, as amended; now therefore

BE IT RESOLVED by the Council of the City of Birmingham that the four (4) Certificates of Public Necessity and Convenience heretofore issued by the Council of the City of Birmingham to Executive Service Unlimited, LLC, 1301 Brighton Road, Birmingham, AL 35228, to operate a limousine service be and the same are hereby revoked and canceled.

The resolution was read by the City Clerk, whereupon Councilmember Smitherman moved its adoption which motion was seconded by Councilmember Witherspoon, and upon the roll being called the vote was as follows:

Ayes: Abbott, Bell, Hoyt, Parker, Witherspoon, Smitherman
Nays: None

The vote was then announced by the City Clerk, whereupon the Presiding Officer declared the resolution adopted.

Councilmember Royal returned and took his seat as a Councilmember.

Councilmember Montgomery returned and took his seat as a Councilmember.

DEC 30 2008

The following resolution was introduced by Councilmember Abbott:

The resolution was read by the Deputy City Clerk, whereupon Councilmember Abbott moved its adoption which motion was seconded by Councilmember Smitherman.

Whereupon Councilmember Smitherman made a motion to lay the item on the table but the motion failed for the lack of a second.

Whereupon Councilmember Witherspoon made a motion which was seconded by Councilmember Smitherman to defer the resolution for one (1) week, and upon the roll being called the vote was as follows:

Ayes: Parker, Witherspoon, Smitherman
Nays: Abbott, Austin, Hoyt, Montgomery, Royal

The vote was then announced by the Deputy City Clerk, whereupon the Presiding Officer declared the motion to defer the resolution for one (1) week NOT adopted.

Whereupon the Presiding Officer called for a vote on the original motion to adopt the resolution and upon the roll being called, the vote was as follows:

Ayes: Abbott, Austin, Hoyt, Montgomery, Parker, Royal, Smitherman
Nays: None
Abstained: Witherspoon

The vote was then announced by the Deputy City Clerk, whereupon the Presiding Officer declared the resolution adopted.

Bessie Sherman who requested to speak did not appear.

Willie Jenkins, 4008 - 29th Street North appeared relative to expressing condolences to the Means Family and the Gardner Family, best wishes to the Thomas Family, to announce the upcoming performance of the Men of Praise, and to give Councilmember Austin a welcoming gift and express support and encouragement.

Mary L. Wingate, 3511 - 40th Street North appeared relative to the Finley Avenue Flyover, to speak on the stopping of trains in the District 4 area, and to report on her meeting with business owners in the area which are affected by the trains on the tracks.

Maralyn Mosley, 1208 - 17th Street S.W. appeared relative to requesting that the Council do more investigation when making appointments. Mrs. Mosley also spoke on an incident that occurred when she recently rode the bus and it broke down, and to encourage the Council to give the BJCTA funds to purchase new buses.

DEC 30 2008

Vivian Miles, 1617 - 5th Avenue North, Apt. 403 appeared relative to the location of the Christmas wreaths that did not include Freedom Manor, the City's cleaning of the streets and park across the street from where she lives, but not on their side of the street.

Audrette Morris, 313 North 74th Street appeared relative to asking that police be stationed at the Oporto-Madrid and 5th Avenue area when the children get off of the school bus, the Eastlake Texaco station and the shootings that have been occurring in her neighborhood.

Councilmember Montgomery absented himself and did not return to the meeting.

Councilmember Witherspoon absented herself and did not return to the meeting.

THE FOLLOWING MATTERS WERE REFERRED TO COMMITTEE:

Councilmember Parker made a motion which motion was seconded by Councilmember Witherspoon and adopted, that "An Ordinance 'TO FURTHER AMEND THE GENERAL FUND BUDGET' by transferring \$83,965.00 of Fund 001 General Fund from Non Departmental – DART, \$679,428.00 from BJCTA-Extended Fixed Route, \$14,499.00 from BJCTA-Highway 31 Express Route, \$286,650.00 from BJCTA – Paratransit, \$57,537.00 from BJCTA – DART Latenite and Weekend, \$178,330.00 from BJCTA – Titusville/Westend, \$453,287.00 from BJCTA-Saturday Service, \$25,233.00 from BJCTA – Holiday Service and appropriating \$1,778,929.00 to BJCTA – Paratransit Equipment and Acquisition," be referred to the Transportation and Communication Committee.

Councilmember Parker made a motion which motion was seconded by Councilmember Witherspoon and adopted, that "A Resolution approving the contract with **Birmingham-Jefferson County Transit Authority**, in an amount not to exceed \$1,778,929.00, for the period January 1, 2009 to December 31, 2009, to be used exclusively for the purchase of new buses and equipment to be used to provide paratransit services, and authorizing the Mayor to execute the contract," be referred to the Transportation and Communication Committee.

THE FOLLOWING MATTER WAS INTRODUCED, READ AND DEFERRED:

Councilmember Witherspoon made a motion which motion was seconded by Councilmember Abbott and adopted, that "A Resolution determining that the Birmingham celebration of **the Barack Obama Presidential Inauguration Celebration** to be held at the Boutwell Auditorium Tuesday, January 20, 2009, serves a public purpose that promotes goodwill and serves a public interest, approving the appointment of **McMillan and Associates**, Birmingham, in an amount not to exceed \$50,000.00, to provide event management for the Birmingham celebration of the Barack Obama Presidential Inauguration, and authorizing the Mayor to execute the appointment letter," be deferred to the regular meeting on Tuesday, January 6, 2009 at 9:30 o'clock a.m.

DEC 30 2008

ALL OTHER MATTERS WENT OVER

Upon motion by the Presiding Officer, the Council adjourned at 12:40 P.M.

Approved: May 5, 2009.

Carole Smitherman /s/
PRESIDENT OF THE COUNCIL

Carole Smitherman /s/
Printed Name

Lee Frazier /s/
DEPUTY CITY CLERK

Lee Frazier /s/
Printed Name

APPROVED AS TO FORM:

Lawrence Cooper /s/
CITY ATTORNEY

Lawrence Cooper /s/
Printed Name