

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

July 8, 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 July 8, 2008 at 9:30 a.m., in regular meeting.

The meeting was opened with prayer by Councilmember William Bell.

The Pledge of Allegiance was led by Councilmember Maxine Herring Parker.

Present on Roll Call:	Council President	Smitherman
	Councilmembers	Abbott (Arrived as herein indicated)
		Bell
		Duncan(Arrived as herein indicated)
		Hoyt
		Parker
		Royal
		Witherspoon

Absent:	Montgomery
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Mayor Langford discussed the demolition of houses in the Ensley / Pratt City area.

Mayor Langford discussed the Municipal Complex to be constructed in the Titusville area consisting of a new jail and Public Works Facility.

Councilmember Abbott arrived and took her seat as a Councilmember.

Mayor Langford showed a DVD to the Council regarding the weekend shooting that occurred at Banana Joe's.

Councilmember Parker made a motion which was seconded by Councilmember Witherspoon and adopted to suspend the rules for Presentations and Speakers.

JULY 8, 2008

Councilmember Smitherman absented herself.

In the absence of the Council President, President Pro Tempore Witherspoon presided over the meeting.

Councilmember Witherspoon recognized Butch Henderson of World Changers who is housing 400 students at Wenonah High School that assisting in the building of homes within the community.

Councilmember Smitherman returned and took her seat as Council President.

Councilmember Bell recognized James Little of the Five Points South Merchants Group who spoke about the incident that occurred this past weekend at Banana Joe's.

Councilmember Hoyt absented himself.

Reverend Herman Henderson, 440 7th Avenue Wylam, requested to speak but did not appear.

Councilmember Hoyt returned and took his seat as a Councilmember.

Minister Dwayne Thompson appeared relative to the violence in Birmingham.

Willie Jenkins, 4008 – 29th Street appeared relative to Oak Street Baptist Church and community business.

Daniel Felder, 3944 – 11th Avenue North, appeared relative to violence in the neighborhood.

Lee Clayton, requested to speak but declined to speak today.

Elmira Elmore, 1573 Pearson Ave, SW appeared relative to her neighbor repairing his automobiles in his yard, her neighborhood, and zoning violations.

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

JULY 8, 2008

RESOLUTION NO. 810-08

WHEREAS, the Council of the City of Birmingham, on the **24th day of July, 2007**, by Resolution No. **1203-07**, determined that the building(s) or structure(s) located at **916 52nd Street North**, in the City of Birmingham is unsafe and a public nuisance and directed its demolition; and,

WHEREAS, the owner or agent of said property, **William Frost**, has filed application for a permit to perform the necessary and required repairs to abate such nuisance and is requesting a stay in the Council's demolition order and requests authorization to conduct such repairs; however, applicant had **One (1)** other repair permit which was voided due to lack of substantial repairs; and,

WHEREAS, Section 103.6.2 of the Technical Code of the City of Birmingham, 2005, requires that an applicant for a building permit shall secure the building(s) or structure(s) and remove the weeds and trash from the premises within **ten (10) days** and make substantial repairs to the building(s) or structure(s) within **thirty (30) days** from the date the permit is issued or the permit is invalid; and,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Birmingham that a permit may be issued to **William Frost** to conduct necessary and required repairs at **916 52nd Street North**, and that the demolition directed pursuant to Resolution No. **1203-07** shall be delayed so long as a valid building permit is in effect;

BE IT FURTHER RESOLVED that if said permit is not obtained within **seven (7) days** from the date of this resolution or if the permit becomes invalid, the demolition as directed in Resolution No. **1203-07** shall proceed.

CON2007-00017

RESOLUTION NO. 811-08

WHEREAS, the Council of the City of Birmingham, on the **25th day of September, 2007**, by Resolution No. **1538-07**, determined that the building(s) or structure(s) located at **108 Thomas Circle**, in the City of Birmingham is unsafe and a public nuisance and directed its demolition; and,

WHEREAS, the owner or agent of said property, **Precision Pipeline & Construction LLC**, has filed application for a permit to perform the necessary and required repairs to abate such nuisance and is requesting a stay in the Council's demolition order and requests authorization to conduct such repairs; however, applicant had **No** other repair permits, and,

JULY 8, 2008

WHEREAS, Section 103.6.2 of the Technical Code of the City of Birmingham, 2005, requires that an applicant for a building permit shall secure the building(s) or structure(s) and remove the weeds and trash from the premises within **ten (10) days** and make substantial repairs to the building(s) or structure(s) within **thirty (30) days** from the date the permit is issued or the permit is invalid; and,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Birmingham that a permit may be issued to **Precision Pipeline & Construction LLC** to conduct necessary and required repairs at **108 Thomas Circle**, and that the demolition directed pursuant to Resolution No. **1538-07** shall be delayed so long as a valid building permit is in effect;

BE IT FURTHER RESOLVED that if said permit is not obtained within **seven (7) days** from the date of this resolution or if the permit becomes invalid, the demolition as directed in Resolution No. **1538-07** shall proceed.

CON2006-00147

RESOLUTION NO. 812-08

BE IT RESOLVED by the Council of the City of Birmingham that proper notice having been given to

Brenda Axle (Assessed Owner)

Rosa G Lampkin (Apparent Owner)

the person or persons, firm, association or corporation last assessing the below described property for state taxes, and mortgagee of said property and that on this date the City Council will determine whether or not the building or structure located at

949 3rd Street West

in the City of Birmingham, more particularly described as:

S 50 FT LOTS 5 THRU 8 BLK 54 MAP OF SMITHFIELD (NORTH) AS RECORDED IN MAP BOOK 0001, MAP PAGE 0149 IN THE OFFICE OF THE JUDGE OF PROBATE OF JEFFERSON COUNTY, ALABAMA (22-34-2-12-6). LOT SIZE 50' X 200'

is unsafe to the extent that it is a public nuisance.

BE IT FURTHER RESOLVED by said Council that upon holding such hearing, it is hereby determined by the Council of the City of Birmingham that the building or structure

JULY 8, 2008

herein described is unsafe to the extent that it is a public nuisance and the Director of Planning, Engineering and Permits is hereby directed to cause such building or structure to be demolished.

CON2006-00025

RESOLUTION NO. 813-08

BE IT RESOLVED by the Council of the City of Birmingham that proper notice having been given to

Kim Parker (Assessed Owner)

Terrell T Guy (Apparent Owner)

ABN AMRO Mortgage Group, Inc. (Grantee)

the person or persons, firm, association or corporation last assessing the below described property for state taxes, and mortgagee of said property and that on this date the City Council will determine whether or not the building or structure located at

917 6th Way, Pratt City & Carport

in the City of Birmingham, more particularly described as:

LOT 6 BLK 27 ENSLEY LAND CO ADD TO PRATT CITY AS RECORDED IN MAP BOOK 0003, MAP PAGE 0101 IN THE OFFICE OF THE JUDGE OF PROBATE OF JEFFERSON COUNTY, ALABAMA (22-29-3-30-6). LOT SIZE 25' X 138.5'

is unsafe to the extent that it is a public nuisance.

BE IT FURTHER RESOLVED by said Council that upon holding such hearing, it is hereby determined by the Council of the City of Birmingham that the building or structure herein described is unsafe to the extent that it is a public nuisance and the Director of Planning, Engineering and Permits is hereby directed to cause such building or structure to be demolished.

CON2005-00184

RESOLUTION NO. 814-08

BE IT RESOLVED by the Council of the City of Birmingham, Alabama, that the lump sum bid of Five Thousand Nine Hundred Eighty Dollars and no/100 (**\$5,980.00**),

JULY 8, 2008

submitted by **BIRMINGHAM WATER WORKS BOARD**, 3600 First Avenue North, Birmingham, AL 35283, **for the installation of one (1) new fire hydrant at 5TH AVENUE SOUTH FIRE STATION 10/22**, Birmingham, AL; received by the Department of Planning, Engineering and Permits on June 27, 2008, be and the same is hereby accepted, this being the lowest bid submitted, meeting specifications. The project will be funded under **General Fund [01-2612; 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 Birmingham Water Works Board, in accordance with said bid, providing that the total contract not exceed the appropriation.

RESOLUTION NO. 815-08

BE IT RESOLVED by the Council of the City of Birmingham that the employee expense accounts of the following be and the same is hereby approved for payment:

Deontrenese Guin, Administrative Assistant, City Council Department, Las Vegas, NV, \$2,774.98, May 18 – 22, 2008, to attend International Council of Shopping Centers Conference.

Venetria McKinnon, Committee Assistant, City Council Department, Las Vegas, NV, \$2,992.28, May 18 – 22, 2008, to attend International Council of Shopping Centers Conference.

RESOLUTION NO. 816-08

BE IT RESOLVED by the Council of the City of Birmingham that the employee expense accounts of the following be and the same is hereby approved for payment:

Gregory Coleman, Police Officer, Police Department, Washington, D.C., \$1,251.58, May 13 – 16, 2008, to attend 2008 Slain Police Officers Memorial.

Chrystal Foster, Police Officer, Police Department, Meridian, MS, \$32.00, June 01 – 06, 2008, to attend Interview and Interrogation Training.

William Herndon, Police Officer, Police Department, Meridian, MS, \$36.00, April 27 – May 1, 2008, to attend Regional Counterdrug Training Academy: Survival Spanish for Uniformed Interdiction.

Michael W. Martin, Fire Battalion Chief, Fire Department, Mobile, AL, \$869.66, May 21 – 23, 2008, to attend the 2008 Alabama Mississippi Hurricane Conference.

JULY 8, 2008

Darryl Thomas, Police Officer, Police Department, Florence, AL, \$502.32, May 20 – 23, 2008, to attend a basic latent print workshop training course.

Tom Tiffin, Grants Administrator, Community Development, Pittsburgh, PA, \$1,762.29, June 17 – 21, 2008, to attend National Community Development Association 2008 Annual Conference.

Regina L. Williams, Senior Correctional Supervisor, Police Department, Sacramento, CA, \$667.00, May 3 – 9, 2008, to attend the American Jail Association Conference and Jail Expo.

The resolutions 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 Parker, and upon the roll being called, the vote was as follows:

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

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

Councilmember Duncan arrived and assumed her seat as a Councilmember.

The following resolution which was introduced and read at the regular meeting on Tuesday, May 27, 2008 at 9:30 o'clock a.m., for a public hearing on Tuesday, July 8, 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 resolution:

Case No. SUB 2008-00053
RESOLUTION NO. 817-08

WHEREAS, there has been exhibited to this Council a duly acknowledged Declaration of Vacation executed by the Birmingham Jefferson Convention Complex, being the owner(s), and the reading in part as follows:

KNOW ALL MEN BY THESE PRESENT, that the undersigned, Birmingham Jefferson Convention Complex, 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:

AIRSPACE

JULY 8, 2008

A parcel of land situated in the Southwest one-quarter of Section 25, Township 17 South, Range 3 West, Jefferson County, Alabama, the centerline of which is described as follows:

Commence at the Southwest corner of Lot 1 of the Civic Center Addition Resurvey, as recorded in Map Book 166, Page 77, in the Office of the Judge of Probate, Jefferson County, Alabama, said point also being on the intersection of the Northerly right of way line of 9th Avenue North and the Easterly right of way line Richard Arrington Jr. Boulevard; thence leaving said Northerly right of way line run in a Northwesterly direction along the Westerly line of said Lot 1 and said Easterly right of way line for a distance of 250.39 feet to the POINT OF BEGINNING of a centerline of a 20 foot wide Airspace easement being 10 feet each side of, parallel to, and abutting to the following described centerline; thence leaving said Westerly line and said Easterly right of way line, turn a deflection angle to the left of 90 degrees 00 minutes 26 seconds and run in a Southwesterly direction for a distance of 80.00 feet to the end of said easement.

The above description is intended to be for skywalk connecting the Sheraton Hotel and the Birmingham Jefferson Civic Center which lies between elevation 604.00 feet and 624.00 feet above mean sea level. Said easement also being approximately 16 feet 8 inches above Richard Arrington Jr. Boulevard North.

A parcel of land situated in the Southwest quarter of Section 25, Township 17 South, Range 3 West, Jefferson County, Alabama, and being more particularly described as follows:

Commence at the Southeast corner of Block 4 of the Civic Center Urban Renewal Area, as recorded in Map Book 106, Page 97, in the Office of the Judge of Probate, Jefferson County, Alabama, said point also being on the intersection of the Northerly right of way line of 9th Avenue North and the Westerly right of way line Richard Arrington Jr. Boulevard; thence leaving said Northerly right of way line run in a Northwesterly direction along the Easterly line of said Block 4 and said Westerly right of way line for a distance of 205.49 feet to the POINT OF BEGINNING; thence continue along the last described course for a distance of 28.23 feet to a point on a tangent curve turning to the right, said curve having a radius of 320.08 feet, a central angle of 02 degrees 06 minutes 24 seconds, and a chord distance of 11.77 feet; thence run in a Northwesterly direction along the arc of said curve for a distance of 11.77 feet; thence leaving said curve and said Easterly line and said Westerly right of way line turn a deflection angle to the right from chord of 88 degrees 55 minutes 14 seconds and run in a Northeasterly direction for a distance of 9.78 feet; thence turn a deflection angle to the right of 90 degrees 01 minutes 34 seconds and run in a Southeasterly direction for a distance of 40.00 feet; thence turn a deflection angle to the right of 89 degrees 58 minutes 26 seconds and run in a Southwesterly direction for a distance of 10.00 feet to the POINT OF BEGINNING. Said parcel contains 399 square feet or 0.01 acres more or less.

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.

JULY 8, 2008

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 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

JULY 8, 2008

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 waived.

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

Ayes: Abbott, Bell, Duncan, Hoyt, Parker, Royal, Witherspoon, Smitherman

Nays: None

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

Councilmember Royal absented himself.

NOTE: "An Ordinance amending Section 2-2-7 of the City Code entitled Order of business, Subsection (5) which reference "Requests form the public" also known as the Speakers List shall be changed to reflect that all persons addressing specific agenda items not designated as a Pubic Hearing shall be granted three (3) minutes to speak following the Council Presentations" was read by the Deputy City Clerk, whereupon the Presiding Officer laid the ordinance on the table.

The following ordinance which was first introduced at the regular meeting on Tuesday, June 24, 2008 at 9:30 o'clock a.m., and which was deferred to the regular meeting on Tuesday, July 8, 2008 at 9:30 o'clock a.m., was taken off the table called by the Presiding Officer:

JULY 8, 2008

ORDINANCE NO. 08-138

BE IT RESOLVED that the City Council desires to amend Section, 2-2-7 of the City Code, entitled *Order of business, Subsection (5)* which reference "*Requests from the public*" also known as the Speakers List shall be changed to reflect that all persons addressing specific agenda items not designated as a Public Hearing, shall be granted three (3) minutes to speak following Council Presentations; and

BE IT FURTHER RESOLVED that persons addressing issues of general concern shall be granted three (3) minutes to speak immediately before Old and New Business. Speakers must sign the Speaker's List by 9:30 a.m. and cannot address the Council at two consecutive Council Meetings.

ADOPTED this Twenty-Fourth day of June, Two Thousand and Eight.

The ordinance was read by the Deputy City Clerk, and unanimous consent for its immediate consideration being granted, Councilmember Hoyt moved its adoption which motion was seconded by Councilmember Smitherman, and upon the roll being called the vote was as follows:

Ayes: Abbott, Bell, Duncan, Hoyt, Parker, Witherspoon, Smitherman

Nays: None

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

Councilmember Royal returned and took his seat as a Councilmember.

The following ordinance was introduced by Councilmember Witherspoon:

"An Ordinance authorizing the Mayor to execute a Video Service Franchise Agreement with **BellSouth Telecommunications, Inc. d/b/a AT&T Alabama** for the purpose of providing video services to citizens of the city in the rights-of-way within the City under the terms and conditions of the Video Service Franchise Agreement for a period of ten (10) years during which AT&T shall pay video service fee of five percent (5%) of the gross revenues as defined therein as well as public educational and governmental access within service areas all under the terms and conditions of the Video Service Franchise Agreement."

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

JULY 8, 2008

Ayes: Bell, Duncan, Hoyt, Parker, Royal, Witherspoon, Smitherman
Nays: None
Abstained: Abbott

The vote was then announced by the Deputy City Clerk, whereupon the Presiding Officer declared the ordinance held over one (1) week until Tuesday, July 15, 2008 due to the ordinance not receiving unanimous consent and this being an ordinance of permanent operation.

Councilmember Abbott absented herself.

Whereupon Councilmember Hoyt made a motion which motion was seconded by Councilmember Witherspoon and adopted that the “Ordinance authorizing the Mayor to execute a Video Service Franchise Agreement with **BellSouth Telecommunications, Inc. d/b/a AT&T Alabama** for the purpose of providing video services to citizens of the city in the rights-of-way within the City under the terms and conditions of the Video Service Franchise Agreement for a period of ten (10) years during which AT&T shall pay video service fee of five percent (5%) of the gross revenues as defined therein as well as public educational and governmental access within service areas all under the terms and conditions of the Video Service Franchise Agreement” be reconsidered.

The following ordinance was introduced by Councilmember Hoyt:

A FRANCHISE ORDINANCE AUTHORIZING, AND GRANTING TO
AT&T THE RIGHT TO USE THE RIGHTS-OF-WAY OF THE CITY OF
BIRMINGHAM TO PROVIDE VIDEO SERVICES THROUGH ITS WIRELINE, WHICH
INCLUDES COPPER AND FIBER OPTIC FACILITIES, TO THE
CITIZENS OF THE CITY OF BIRMINGHAM UNDER THE TERMS OF A VIDEO
SERVICE FRANCHISE AGREEMENT AND APPROVING THE APPLICATION OF
AT&T TO PROVIDE SUCH VIDEO SERVICES

ORDINANCE NO. 08-139

WHEREAS, AT&T has represented that it wants to make available wireline video service (“video service”) to the citizens of Birmingham by modifying its wireline (including copper and fiber optic), Internet Protocol (“IP”) enabled broadband platform of voice, data and video services (“IP Video Network”), and will consider the needs of Birmingham citizens in determining the services it will offer; and

WHEREAS, AT&T has represented that it will continue to provide responsive customer service and expand its programming diversity; and

JULY 8, 2008

WHEREAS, AT&T has represented that during the video service agreement term it will increase the channel capacity of the video portion of its wireline IP video Network, and consider additional video communications services and technological advancements when indicated by future needs of the Birmingham community taking into account the costs of such advancements and services; and

WHEREAS, AT&T has agreed to furnish said services according to the terms provided herein, including terms regarding occupation of the public rights of way; and

WHEREAS, the City desires that its citizens be provided with the opportunity for the new and advanced video services available through AT&T's wireline IP video Network;

NOW THEREFORE, THE COUNCIL OF THE CITY OF BIRMINGHAM ("City"), does hereby ordain that the Mayor is hereby authorized to enter into a Video Service Franchise Agreement between the City and BellSouth Telecommunications, Inc. d/b/a AT&T Alabama, a Georgia corporation ("AT&T"), and further authorizing and granting a franchise to AT&T for the purposes of providing video services to citizens of the City in the rights-of-way within the City, under the terms and conditions of the Video Service Franchise Agreement; the acceptance of AT&T which is evidenced by the execution of said agreement, and approval of the application of AT&T for delivery of such video services are evidenced by the action of the City Council in approving and granting a franchise for video services under the terms of the Video Service Franchise Agreement, which shall be for a period of ten (10) years, during which AT&T shall pay a video service fee of five percent (5%) of the gross revenues, as defined therein, as well as public, educational and governmental access within services areas, all under the terms and conditions of the Video Service Franchise Agreement, a copy of which is attached hereto; and further authorizing the Deputy City Clerk to publish a copy of this franchise ordinance and attached Video Service Franchise Agreement as provided in the City Code, at the cost of AT&T. This ordinance will become effective upon publication or as required by law.

The ordinance was read by the Deputy City Clerk, and unanimous consent for its immediate consideration being granted, Councilmember Hoyt moved its adoption which motion was seconded by Councilmember Smitherman, and upon the roll being called the vote was as follows:

Ayes: Bell, Duncan, Hoyt, Parker, Royal, Witherspoon, Smitherman

Nays: None

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

Councilmember Abbott returned and took her seat as a Councilmember.

JULY 8, 2008

The following resolution which was first introduced at the regular meeting on Tuesday, July 1, 2008, at 9:30 o'clock a.m., and which was deferred to the regular meeting on Tuesday, July 8, 2008 at 9:30 o'clock a.m., was called by the Presiding Officer:

RESOLUTION NO. 818-09

BE IT RESOLVED by the City Council of the City of Birmingham, Alabama, that the mayor be and is hereby authorized to negotiate and execute on behalf of the City a contract with Blue Cross Blue Shield of Alabama to provide for payment by the City an amount not exceeding \$305.00 (Three hundred and five and No/100 Dollars) per month for single medical insurance and \$17.00 (Seventeen and No/100 Dollars) for single dental coverage and \$800.00 (Eight hundred and No/100 Dollars) per month for family medical insurance and \$48.00 (Forty-eight and No/100 Dollars) for family dental coverage. This authorization shall be effective July 1, 2008 and continuing until changed by the City Council.

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

Ayes: Bell, Duncan, Parker, Royal, Witherspoon, Smitherman

Nays: Abbott, Hoyt

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

The following resolution was introduced by Councilmember Abbott:

RESOLUTION NO. 819-08

WHEREAS, the City has been vested with the power and authority to create and develop "urban renewal projects" and "redevelopment projects" pursuant to Chapter 2 and Chapter 3 of Title 24, Code of Alabama (1975); and

WHEREAS, on September 11, 1979, the Council of the City of Birmingham, by Resolution No. 1108-79, adopted and approved the "Community Renewal Plan for the City of Birmingham" in accordance with Chapter 52 of Title 11 of the Code of Alabama (1975) and Chapter 2 and Chapter 3 of Title 24, Code of Alabama (1975) (hereinafter the "Community Renewal Plan"); and

WHEREAS, the Community Renewal Plan identified certain neighborhoods and communities throughout the City of Birmingham which contained blight or blighting factors, and which were in need of renewal and redevelopment; and

JULY 8, 2008

WHEREAS, on October 30, 2001, by Resolution No. 2713-01, the Council of the City of Birmingham approved and adopted an urban renewal and redevelopment plan for the Roebuck/Parkway East area of the City of Birmingham entitled “Roebuck/Parkway East Urban Renewal and Urban Redevelopment Plan”, which plan was amended pursuant to Resolution No. 433-02, adopted by the Council of the City of Birmingham on March 26, 2002 (as amended, the “Roebuck/Parkway East Plan”); and

WHEREAS, the Roebuck/Parkway East Plan was adopted in furtherance and in implementation of the Community Renewal Plan; and

WHEREAS, the Roebuck/Parkway East Plan describes a project area (the “Project Area”) which has been determined to be an area containing blight and/or blighting factors and influences; and

WHEREAS, pursuant to Chapters 2 and 3 of Title 24, Code of Alabama (1975) and the Roebuck/Parkway East Plan, the City is authorized to acquire and dispose of property located within the Project Area and to enter into contracts with redevelopers to develop all or any part of the Project Area in accordance with the requirements of the Roebuck/Parkway East Plan; and

WHEREAS, Section 24-2-6 of the Code of Alabama (1975) authorizes the City to make land in a redevelopment project available for use by private enterprise at its “use value,” which represents the value at which the City determines such land should be made available in order that it may be redeveloped for the purposes specified in the Roebuck/Parkway East Plan; and

WHEREAS, Section 24-3-1 of the Code of Alabama (1975) mandates that the City, to the greatest extent it determines to be feasible in carrying out the provisions of the urban renewal law, shall afford maximum opportunity to the rehabilitation or redevelopment of areas by private enterprise; and

WHEREAS, the City enthusiastically supports and encourages economic development within the City in order to develop a solid and diverse local economy, to increase employment opportunities in the City, to broaden the City’s tax base, to increase revenues and to provide necessary and improved services to the citizens of the City, thereby improving the quality of life of its citizens; and

WHEREAS, Amendment No. 772 to the Constitution of Alabama (1901) (Section 94.01(a)(3) of the Recompiled Constitution of Alabama and hereinafter referred to as “Amendment No. 772”), authorizes the City to lend its credit to or grant public funds and things of value in aid of or to any corporation or other business entity for the purpose of promoting the economic development of the City; and

WHEREAS, Roebuck Imported Cars, LLC d/b/a Brannon Honda, an Alabama limited liability company (“Brannon”), owns and operates a Honda dealership (the “Honda

JULY 8, 2008

Dealership”) located at 300 Gadsden Highway, Birmingham (the “Dealership Site”), which currently employs approximately 58 people and generates over \$45 million annually from sales of new and used cars, service and parts; and

WHEREAS, Brannon is undertaking a project to upgrade and renovate its existing facilities located at the Dealership Site and to expand its operations onto other properties located in the Project Area, as described in this Agreement; and

WHEREAS, Brannon’s project (the “Project”) involves (i) an extensive upgrade to the Dealership Site at an estimated cost of \$3,400,000, plus an additional investment of \$400,000 for furniture, a new telephone system, a security system, and a car wash (the “Dealership Project”), (ii) the acquisition of real property located at 9216 Brookhurst Drive (the “Brookhurst Drive Property”) at a cost of \$270,000, on which an existing structure will be demolished in order to create space for additional parking (the “Brookhurst Drive Project”), (iii) the demolition of a building on property Brannon has acquired at 323 Gadsden Highway, on which Brannon will develop a state-of-the-art Honda Express Service Center at a cost of approximately \$230,000 (the “Service Center Project”) (the properties located at 9216 Brookhurst Drive and 323 Gadsden Highway are sometimes referred to herein collectively as the “Redevelopment Property” and together with the Dealership Site as the “Project Site”) and (iv) certain landscaping work, including installing new topsoil and sod, planting trees and shrubs and installing an irrigation system at an estimated cost of \$36,500; and

WHEREAS, the Project, when completed, is expected to result in the creation of an estimated 32 new jobs and is expected to generate an estimated \$17 million in new sales; and WHEREAS, the City has agreed to provide financial assistance to the Project through payment to Brannon of an amount not to exceed \$400,000 as assistance for the capital cost of the land acquisition of the Redevelopment Property (the “City Assistance”), which sum shall be payable through an initial lump sum payment of \$260,000, with the remaining \$140,000 to be paid through annual installments from future sales tax revenues generated from Brannon’s operations at the Project Site; and

WHEREAS, the City has determined that the acquisition, redevelopment and revitalization of the Redevelopment Property in connection with the Project will reduce or eliminate blight or blighting factors in the Project Area and will further and implement the purposes and objectives of the Roebuck/Parkway East Plan and, accordingly, are public uses, are for public purposes, are in the public interest, are consistent with Chapters 2 and 3 of Title 24, Code of Alabama (1975), and will further benefit the public by promoting economic growth and development in the City; and

WHEREAS, the City further finds that the public benefits sought to be achieved and the public purposes to be served by the proposed City Assistance for the Project in accordance with this Agreement are (i) the promotion of local economic development, (ii) the stimulation of the local economy, (iii) the retention and expansion of local businesses, (iv) increasing the number of employment opportunities in the City, (v) increasing the City’s

JULY 8, 2008

tax base, which will result in additional tax revenues for the City, and (vi) the elimination of blight and blighting factors in the Project Area in furtherance of the objectives of the Roebuck/Parkway East Plan and of the City's economic development goals; and

WHEREAS, the City accordingly finds that providing financial assistance for the Project is consistent with and in furtherance of the objectives of Amendment No. 772 and that the expenditure of such public funds for the purposes described herein will serve a valid and sufficient public purpose, notwithstanding any incidental benefit accruing to any private entity or entities; and

WHEREAS, as a result of the City's inducements in the form of the City Assistance, Brannon has decided to retain and expand its business operations in the City and to undertake the Project; and

WHEREAS, the City finds that it is necessary, proper and in the public interest, in accordance with Amendment No. 772, that the City should enter into an agreement with Brannon (the "Redevelopment Agreement") pursuant to the City will provide the City Assistance in connection with the Project; and

WHEREAS, as required under Amendment No. 772, at least seven days prior to the public meeting at which this Resolution was adopted, the City published notice in The Birmingham News, the newspaper having the largest circulation in the City of Birmingham, concerning the proposed action of the Birmingham City Council to approve the Redevelopment Agreement with Brannon; and

WHEREAS, for purposes of the Amendment No. 772, Roebuck Imported Cars, LLC d/b/a Brannon Honda is the business entity to whom or for whose benefit the City proposes to lend its credit or grant public funds or things of value.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Birmingham that the Mayor be and hereby is authorized to execute, for and as the act of said City, a Redevelopment Agreement with Roebuck Imported Cars, LLC d/b/a Brannon Honda, in substantially the same form as on file in the Office of the City Clerk, under which the City will provide up to Four Hundred Thousand and No/100 Dollars (\$400,000.00) to Brannon for land acquisition in connection with the Project, with the City's incentives to be paid through an initial payment of Two Hundred Sixty Thousand and No/100 Dollars (\$260,000.00), and with the remaining One Hundred Forty Thousand and No/100 Dollars (\$140,000.00) to be paid from future sales tax revenues generated by Brannon's activities at the Project Site, all as provided in the Redevelopment Agreement.

BE IT FURTHER RESOLVED, that in case any one or more of the provisions contained in this Resolution shall be held invalid, illegal or unenforceable for any reason, the invalidity, illegality or unenforceability shall not affect any other provision hereof and this Resolution shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

JULY 8, 2008

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

Ayes: Abbott, Bell, Duncan, Hoyt, Parker, Royal, Witherspoon, Smitherman

Nays: None

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

The following resolution was introduced by Councilmember Hoyt:

RESOLUTION NO. 820-08

WHEREAS, the United States Department of Justice through the Bureau of Justice Assistance, is offering \$174,927.00 through the 2008 Justice Assistance Grant (JAG) Program to Birmingham Police Department and Jefferson County Sheriff Department.

WHEREAS, the Mayor and Council of the City of Birmingham agree to accept funding from the 2008 JAG Program in the amount of \$174,927, which amount represents 100% of the total program. The City of Birmingham agrees to provide \$78,500.00 to Jefferson County Sheriff and Birmingham Police Department will retain \$96,427.00.

BE IT RESOLVED by the Council of the City of Birmingham, Alabama, that the Mayor is authorized to accept funds from the Bureau of Justice Assistance on behalf of the City; and to further authorized the Director of Finance to process expenditure of such funds in accords with program guidelines.

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

Ayes: Abbott, Bell, Duncan, Hoyt, Parker, Royal, Witherspoon, Smitherman

Nays: None

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

The following resolution was introduced by Councilmember Hoyt:

RESOLUTION NO. 821-08

WHEREAS, the Council is periodically called upon to support public events that are

JULY 8, 2008

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 declared The Omega Psi Phi 75th Grand Conclave that is being held July 9-18, 2008 at the Birmingham Sheraton Hotel 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 in an amount not to exceed \$25,000.00, CCN 2716 Professional Services fiscal year 2008-2009, budget be used to pay for this event.

ADOPTED this Eighth day of July, Two Thousand and Eight.

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

Ayes: Bell, Duncan, Hoyt, Parker, Royal, Witherspoon, Smitherman
Nays: Abbott

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

Councilmember Hoyt made a motion which motion was seconded by Councilmember Witherspoon and adopted to recess the meeting in order for the Council to go into Executive Session.

The meeting recessed at 11:45 o'clock a.m. until the call of the Chair.

The meeting reconvened at 1:30 o'clock p.m.

Present on Roll Call:	Council President	Smitherman
	Councilmembers	Abbott
		Duncan
		Hoyt (Arrived as herein indicated)

JULY 8, 2008

Parker
Royal
Witherspoon

Absent:

Bell
Montgomery

Councilmember Hoyt arrived and assumed his seat as a Councilmember.

THE FOLLOWING MATTERS WERE INTRODUCED, READ AND DEFERRED:

Councilmember Witherspoon made a motion which was seconded by Councilmember Hoyt that, "A Resolution resolving that prior to agenda submission all items must be reviewed by one of the Council's standing committees," be deferred to the regular meeting, Tuesday, July 22, 2008, at 9:30 o'clock a.m. and upon the roll being called the vote was as follows:

Ayes: Abbott, Bell, Duncan, Hoyt, Parker, Witherspoon, Smitherman
Nays: Royal

The vote was announced by the Deputy City Clerk whereupon the Presiding Officer declared the motion to defer the resolution adopted.

Councilmember Smitherman made a motion which was seconded by Councilmember Duncan that, "A Resolution allowing the Council to limit presentations and commendations to the second and fourth Tuesday of each month and event presentations shall be made during the Committee of the Whole meeting, which is held on the third Thursday of each month at 2:00 p.m.," be deferred to the regular meeting, Tuesday, July 22, 2008, at 9:30 o'clock a.m. and upon the roll being called the vote was as follows:

Ayes: Abbott, Bell, Duncan, Hoyt, Parker, Witherspoon, Smitherman
Nays: Royal

The vote was announced by the Deputy City Clerk whereupon the Presiding Officer declared the motion to defer the resolution adopted.

Councilmember Smitherman made a motion which was seconded by Councilmember Duncan that, "A Resolution declaring that all Council presentations and commendations are made on the first Tuesday of each month during the regular public meeting of the City Council," be deferred to the regular meeting, Tuesday, July 22, 2008, at 9:30 o'clock a.m., and upon the roll being called the vote was as follows:

Ayes: Abbott, Bell, Duncan, Hoyt, Parker, Witherspoon, Smitherman
Nays: Royal

JULY 8, 2008

The vote was announced by the Deputy City Clerk whereupon the Presiding Officer declared the motion to defer the resolution adopted.

Councilmember Witherspoon made a motion which was seconded by Councilmember Abbott and adopted that, "An Ordinance "TO FURTHER AMEND THE GENERAL FUND BUDGET" for the fiscal year ending June 30, 2009, as presented by the Mayor on May 20, 2008 with amendments," be deferred to the regular meeting, Tuesday, July 15, 2008, at 9:30 o'clock a.m.

Councilmember Witherspoon made a motion which was seconded by Councilmember Abbott and adopted that, "An Ordinance "TO ADOPT THE GENERAL BOND DEBT RESERVE FUND BUDGET" for the fiscal year ending June 30, 2009, as presented by the Mayor on May 20, 2008," be deferred to the regular meeting, Tuesday, July 15, 2008, at 9:30 o'clock a.m.

Councilmember Witherspoon made a motion which was seconded by Councilmember Abbott and adopted that, "An Ordinance "TO ADOPT THE HIGHWAY IMPROVEMENT FUND BUDGET FOR THE FISCAL YEAR ENDING JUNE 30, 2009," as presented by the Mayor on May 20, 2008," be deferred to the regular meeting, Tuesday, July 15, 2008, at 9:30 o'clock a.m.

Councilmember Witherspoon made a motion which was seconded by Councilmember Abbott and adopted that, "An Ordinance "TO ADOPT THE CORRECTIONS FUND BUDGET FOR THE FISCAL YEAR ENDING JUNE 30, 2008," as presented by the Mayor on May 20, 2008," be deferred to the regular meeting, Tuesday, July 15, 2008, at 9:30 o'clock a.m.

Councilmember Witherspoon made a motion which was seconded by Councilmember Abbott and adopted that, "An Ordinance "TO ADOPT THE DEBT SERVICE FUND BUDGET FOR THE FISCAL YEAR ENDING JUNE 30, 2008," as presented by the Mayor on May 20, 2008," be deferred to the regular meeting, Tuesday, July 15, 2008, at 9:30 o'clock a.m.

Councilmember Witherspoon made a motion which was seconded by Councilmember Abbott and adopted that, "An Ordinance "TO ADOPT THE COMMUNITY DEVELOPMENT BLOCK GRANT FUND BUDGET FOR THE FISCAL YEAR ENDING JUNE 30, 2009," as presented by the Mayor on May 20, 2008," be deferred to the regular meeting, Tuesday, July 15, 2008, at 9:30 o'clock a.m.

Councilmember Witherspoon made a motion which was seconded by Councilmember Abbott and adopted that, "An Ordinance "TO AMEND THE GENERAL FUND BUDGET FOR THE FISCAL YEAR ENDING JUNE 30, 2008," by transferring \$193,115.79 from Non-Departmental Venture Capital and appropriating \$193,115.79 for Unclassified Personnel increase one percent (1%)," be deferred to the regular meeting, Tuesday, July 15,

JULY 8, 2008

2008, at 9:30 o'clock a.m.

Councilmember Witherspoon made a motion which was seconded by Councilmember Abbott and adopted that, "An Ordinance "TO AMEND THE GENERAL FUND BUDGET FOR THE FISCAL YEAR ENDING JUNE 30, 2008," by transferring \$2,291,422.56 from Non-Departmental Venture Capital and appropriating \$2,291,422.56 for the benefit package one percent (1%)," be deferred to the regular meeting, Tuesday, July 15, 2008, at 9:30 o'clock a.m.

Councilmember Witherspoon made a motion which was seconded by Councilmember Abbott and adopted that, "An Ordinance "TO AMEND THE COMMUNITY DEVELOPMENT BLOCK GRANT FUND BUDGET FOR THE FISCAL YEAR ENDING JUNE 30, 2009" by transferring \$27,863.07 from Contingency and appropriating \$27,863.07 for the benefit package," be deferred to the regular meeting, Tuesday, July 15, 2008, at 9:30 o'clock a.m.

Councilmember Witherspoon made a motion which was seconded by Councilmember Abbott and adopted that, "An Ordinance "TO AMEND THE BIRMINGHAM WATER WORKS PROCEEDS-CITY FUND BUDGET" for the fiscal year ending June 30, 2009, as presented by the Mayor on May 30, 2008 with amendments," be deferred to the regular meeting, Tuesday, July 15, 2008, at 9:30 o'clock a.m.

Councilmember Witherspoon made a motion which was seconded by Councilmember Abbott and adopted that, "An Ordinance "TO ADOPT THE FUEL TAX FUND BUDGET FOR THE FISCAL YEAR ENDING JUNE 30, 2009," as presented by the Mayor on May 20, 2008", be deferred to the regular meeting, Tuesday, July 15, 2008, at 9:30 o'clock a.m.

Councilmember Witherspoon made a motion which was seconded by Councilmember Abbott and adopted that, "An Ordinance "TO ADOPT THE ECONOMIC DEVELOPEMNT FUND GUDGET FOR THE FISCAL YEAR ENDING JUNE 30, 2009," as presented by the Mayor on May 20 2008", be deferred to the regular meeting, Tuesday, July 15, 2008, at 9:30 o'clock a.m.

Councilmember Witherspoon made a motion which was seconded by Councilmember Abbott and adopted that, "A Resolution authorizing the Mayor to provide for the Schedule of salaries entitled "Standard Salary Schedule, City of Birmingham, One Per Cent" consisting inclusively of pages 1-7 effective June 21, 2008, and for the payment of salary continuation (longevity) payments and establishing rules and regulations for such payments," be deferred to the regular meeting, Tuesday, July 15, 2008, at 9:30 o'clock a.m.

Councilmember Witherspoon made a motion which was seconded by Councilmember Abbott and adopted that, "A Resolution authorizing the Mayor to provide for the Schedule of Salaries entitled "Standard Salary Schedule, City of Birmingham, Unclassified, "One Percent" Cost of Living Allowance and a "One Percent" Wage Adjustment effective June 21, 2008," be deferred to the regular meeting, Tuesday, July 15, 2008, at 9:30 o'clock a.m.

JULY 8, 2008

ALL OTHER MATTERS WENT OVER

Upon motion by the Presiding Officer, the Council adjourned at 1:35 o'clock p.m.

Approved: October 7, 2008.

Carole Smitherman/s/
PRESIDENT OF THE COUNCIL

Carole Smitherman
Printed Name

Lee Frazier/s/
DEPUTY CITY CLERK

Lee Frazier
Printed Name

APPROVED AS TO FORM:

Lawrence Cooper/s/
CITY ATTORNEY

Lawrence Cooper
Printed Name

NOTE: The following matters were withdrawn:

An Ordinance creating the City of Birmingham Economic Development Stimulus Loan Program.

A Resolution revoking the Certificates of Public Necessity and Convenience to operate a limousine service issued to Need-A-Ride, 436 13th Street, Pleasant Grove, Alabama.