

MOUNTAIN BROOK CITY COUNCIL**PRE-MEETING DISCUSSION****MAY 27, 2014**

The City Council of the City of Mountain Brook, Alabama met in public session in the Pre-council Room (A106) of City Hall at 6:00 p.m. on Tuesday, the 27th day of May, 2014. The Council President called the meeting to order and the roll was called with the following results:

Present: Virginia C. Smith, Council President
Amy G. Carter, Council President Pro Tempore
Jack D. Carl
William S. Pritchard, III
Jesse S. Vogtle, Jr.
Lawrence T. Oden, Mayor

Also present were City Attorney Whit Colvin and City Clerk Steven Boone.

1. AGENDA

1. Cam's Corner for Overton Park – Shanda Williams, Parks and Recreation Superintendent (Appendix 1).
2. Shanda Williams presented information regarding the restroom for Brookwood Forest Elementary playing field (Appendix 2).
3. Sue Debrecht, Library Director, distributed examples of the new Library's Children Card and explained how they would be used.
4. Steve Shaw gave an overview of the new state law on expungement which will go into effect July 7, 2014 (Appendix 3).
5. Steve Stine, City Attorney, presented an International Residential Code (IRC) amendment to allow waivers by the Building Inspections Superintendent. (Appendix 4 - Resolution No. 2014-061 was added to the formal agenda.)
6. Whit Colvin presented revisions to the Noise Ordinance (Appendix 5). This matter will be considered on June 23, 2014 to allow time for a sample of affected businesses to be notified about the change.
7. Whit Colvin explained the dedication of an additional right-of-way relative to The Manning Condo project location on Cahaba Road. (Appendix 6 - Motion 2014-066 was added to the formal agenda.)

Upon conclusion of the City Council's review of the other formal [7 p.m.] agenda issues, Council President Smith stated that this meeting is adjourned.



Steven Boone, City Clerk

Cam's Corner

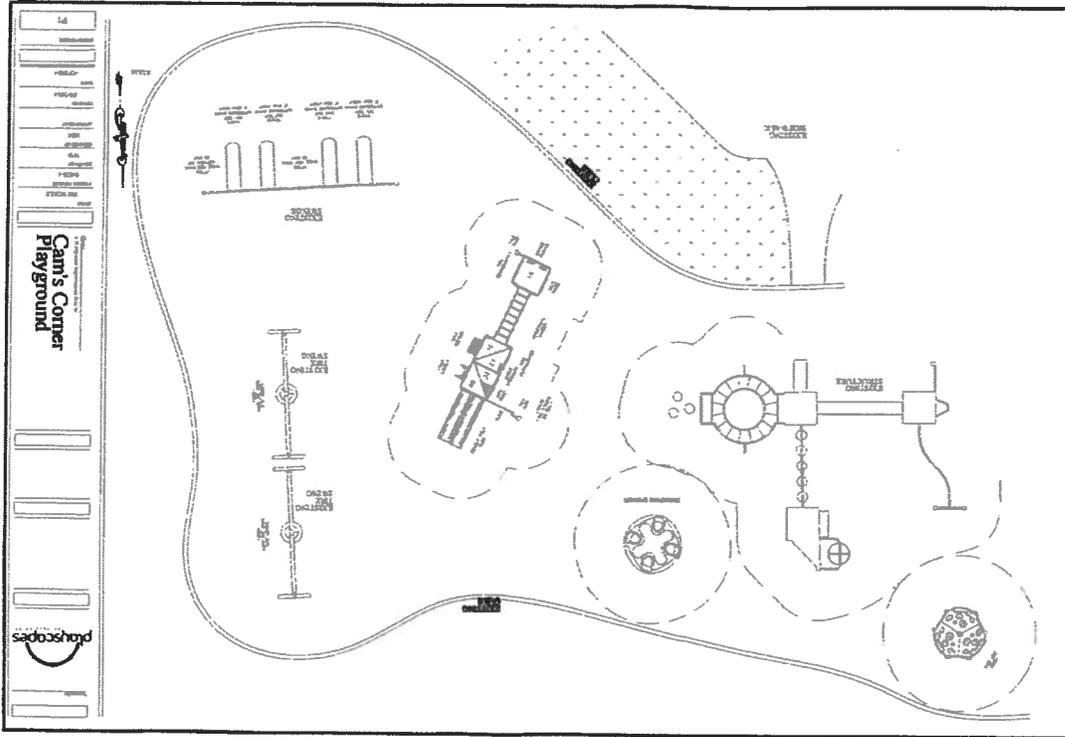
The Heide Family is heading up a memorial project for three year old Cam Cole that passed away suddenly last fall. They will be at the Council Meeting to present the project themselves and answer questions. The following is an overview.

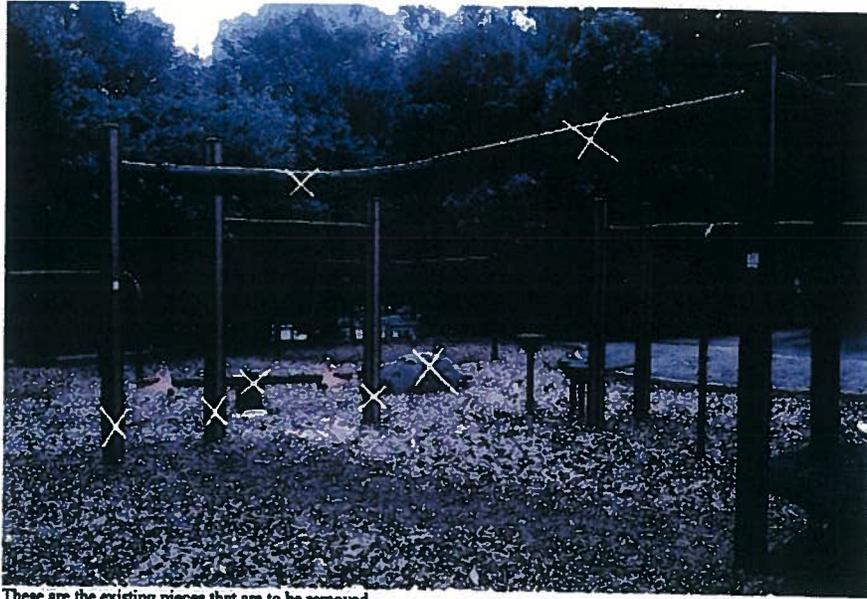
They want to change out some of the older, unused play equipment at Overton Park and replace it with a fire truck playset, a dome climber, and a modern merry-go-round. If enough funds are raised, they want to also add a drinking fountain near the playground. They want to place a sign and name this area Cam's Corner. They have worked with Nimrod Long and the makers of the playground equipment that is already installed at Overton to make sure the new equipment coordinates with the existing pieces.

All of this project will be funded by donations except for the mulch under the playground. They would like to donate the money to the city and have the city oversee the installation. The Park and Recreation Department will remove the existing pieces and provide the mulch that goes under the equipment for safety. The entire project is expected to be under \$50,000.

They are hoping to have a grand opening/memorial service in September around Cam's birthday.

This project was presented at the last Park Board meeting and was given their approval.





These are the existing pieces that are to be removed.

APPENDIX I

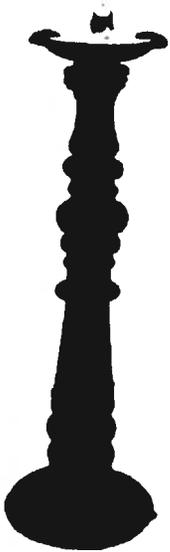




APPENDIX I



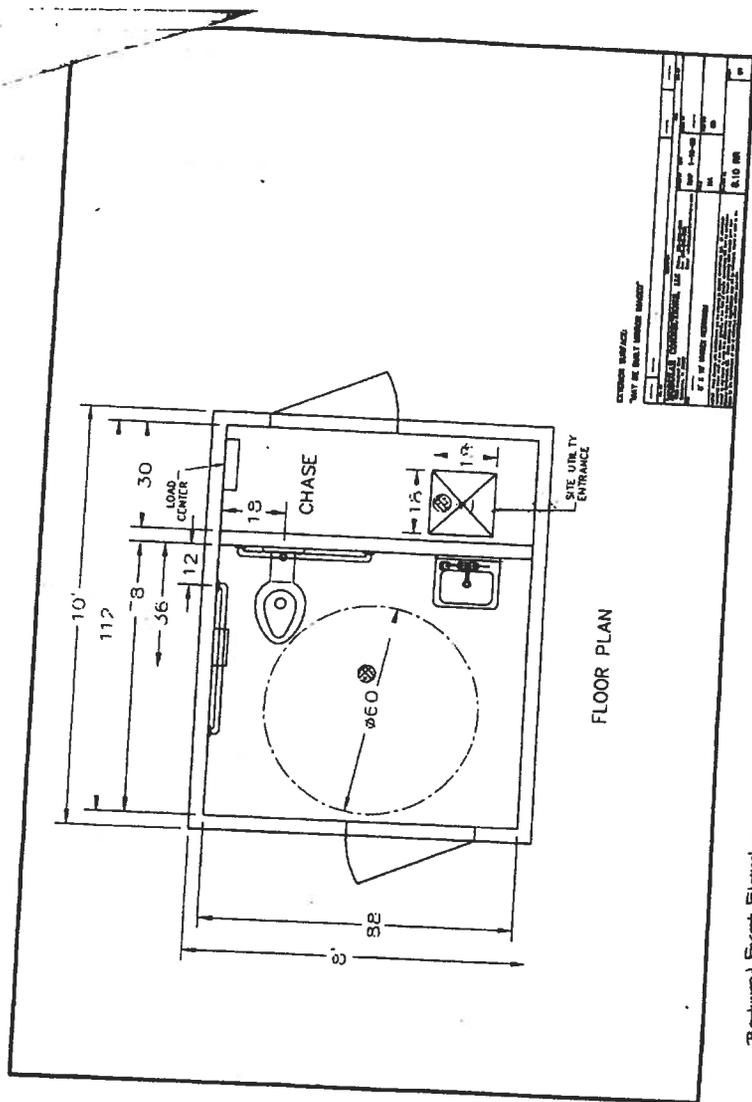
This is the same water fountain that is at Jemison Park and Mountain Brook Elementary.



APPENDIX 1

Handwritten note: "Handwritten note: 'I will be presenting this information to the Planning Commission on June 2, 2014.'"

Handwritten note: "Brookwood Forest Elementary Restroom"



Brookwood Forest Elementary Restroom

This is the update on the modular restroom that has been budgeted to be placed at one of the elementary schools. This restroom will be identical to the one at Overton Park.

The Park Board agreed to place it at Brookwood Forest Elementary. I met with Tommy Prewitt and Danny Baughn and we agreed on a location near the entrance to the field. We also have a secondary location picked out about half way down the field. Tommy then presented it to Dicky Barlow and got his approval. Tommy asked that the corner of the fence be moved so the restroom can be placed as far back as it can be. Pictures have been provided to show these locations.

I am in the process of having the underground power lines located that run from the electrical box to the light poles. The location of these lines will be a big factor in the placement of the restroom and septic tank. Once we have these located and determine that there is clearance for the restroom and septic tank, we will do perc tests.

I will be presenting this information to the Planning Commission on June 2, 2014.

4/14/2014

Google Maps

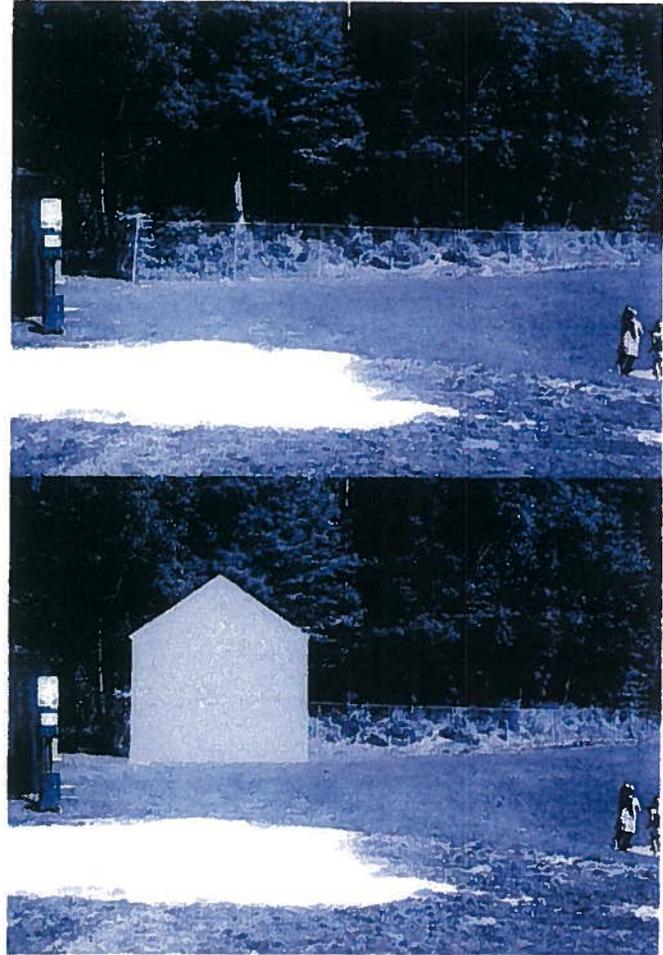


Brookwood Forest Elementary
3701 South Brookwood Rd

- ⊗ Proposed site for 8' x 10' Modular Restroom building with septic tank
- ⊠ Alternate site if first site does not work.

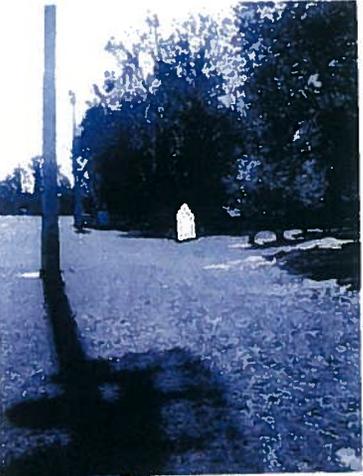
<https://www.google.com/maps/@33.4818808,-86.7188457,112m/data=!3m1!1e3>

3/1



Brookwood Forest Elementary
3701 South Brookwood Rd

We are looking at removing/moving back the chain link fence. We want to place the building as far back as we can without damaging any trees. The septic tank would then be placed in front of the building. The septic tank would be installed to the fence.



Brookwood Forest Elementary
3701 South Brookwood Rd
Alternate Site : about the middle of field

**EXPUNGEMENT LAW UPDATE
MOUNTAIN BROOK CITY COUNCIL
MAY 27, 2014**

Stephen W. Shaw
Redden, Mills, Clark & Shaw, LLP
505 20th Street North, Suite 940
Birmingham, Alabama 35203
205-322-0457
sws@rmclaw.com

Issues for Consideration

- Policy of City**
- Recommendation of Municipal Court
 - Discretion of Prosecutor
 - Victim Consideration
- Time Involved**
- (1) Clerk's Office
 - Compiling Certified Copies
 - Implementing Order and Record
 - (2) Law Enforcement
 - Implementing Order
 - (3) Prosecutor
 - Review Petition
 - Notifying Victims
 - Responding to Petition
 - Preparation for Hearing
 - Presentation of Evidence
 - Court Attendance
 - Filings Under Seal
- Expenses**
- Reallocation of time
 - Need for additional staff
 - Expenses for Judge
 - Expenses for Prosecutor
- Income**
- Administrative Fee \$50.00 (paid with filing in Circuit Court)
 - Records Costs
 1. \$5.00 for 1 to 20 pages, and .50 cents for each additional page
 2. Certified copies \$5.00. This is exclusive of any other copy fee.
 3. Paper record search: \$20.00

- 4. Archival Record Search (closed cases): \$25.00
- Consideration of additional costs
- Restitution
- Local Administrative fees

Consideration of Additional Local Requirements

- Fees
- Community Service
- Rehabilitation Programs

Additional Request for Future Legislation or Administrative Needs

Overview of Expungement Law, Act 2014-292; Exhibit 1

Effective July 7, 2014

Applies only to charges and not convictions

Applies to municipalities as well as to state prosecutions

Applies to misdemeanors, violations, traffic violations, municipal ordinances and certain felonies.

Is not a matter of right

1. Section 1 (page 5) - Misdemeanor charges and not convictions

Filed in Circuit Court of Jefferson County

Petition may be filed when:

- A. Charges are dismissed with prejudice.
- B. When charges have been no billed by grand jury.
- C. When the person was found not guilty.
- D. When charges are dismissed without prejudice but more than two years have passed (subject to other restrictions).

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2. Section 2 (page 2) - Felony Charges except for violent offenses. Violent offenses under Ala. Code §12-25-32 are attached as Exhibit 2.

Petition may be filed when:

- A. Charges are dismissed with prejudice.
- B. Charges have been no billed by a grand jury.
- C. The person has been found not guilty of the charge.
- D. Successful completion of drug court program or other similar programs after one year from successful completion.
- E. Charge was dismissed without prejudice more than five years ago.
- F. Ninety days have passed from the date of dismissal with prejudice and charges have not been refiled.

3. Section 3 (page 3) - Contents of Petition

- A. A petition filed under the Act would include a sworn statement that the person has satisfied the requirements of the Act and whether they have previously applied for an expungement.
- B. Petition shall include a certified copy of arrest, disposition or case action summary and certified official criminal record from Alabama Criminal Justice Information Center. The nature of the criminal charges are to be included and law enforcement agencies involved.
- C. Serve prosecutor, law enforcement agency and clerk of court. District Attorney (Prosecutor) is to make reasonable efforts to notify victim.

-3-

D. District Attorney has forty-five days to file written objection or waived.

4. Section 4 (page 4) - Court Costs and Fees

In addition to costs of court or docket fee, an administrative fee of \$300.00 shall be paid. (6) "Fifty dollars, (\$50.00) to the general fund of the county where the arresting law enforcement agency is located if the arrest was made by the sheriff's office to be used for law enforcement purposes, or, if the arrest was made by another law enforcement agency, to the municipality or other entity or state agency funding the law enforcement activity."

5. Section 5 (page 6) - Hearing/Trial

If prosecuting authority or victim files an objection the Circuit Court will set a hearing date. The statute lists the considerations to be followed by the Circuit Court. The Alabama Rules of Evidence apply. Leave of court has to be obtained for taking of witness testimony.

"There is no right to expungement" and the request may be "denied at the sole discretion of the court." The Court shall grant the petition and if it is reasonable satisfied from the evidence that the petitioner has complied with and satisfied the requirements of the Act.

6. Section 6 (page 8) - Enforcement of Order

If the petition is granted, the Court shall order the expungement of "all records in the custody of the court and any records in the custody of any other agency or official,

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including law enforcement records, except”

(b) "After the expungement of records... the proceedings regarding the charge shall be deemed never to have occurred." (page 9) "Except as provided in this act, the court and other agencies shall reply to any inquire that no record exist on the matter."

7. Section 7 (page 10) - Upon receipt of the order, a criminal justice agency in possession of records shall forward the records to the Alabama Criminal Justice Information Center.

8. Section 8 (page 10) - Once the records are expunged the records should be forwarded to the Alabama Criminal Justice Information Center for archiving.

9. Section 9 (page 11) - The term "record" includes

- A. Arrest records
- B. Booking or arrest photographs of the petitioner
- C. Index references such as the State Judicial Information System or any other governmental index references for public records search (Alacourt)
- D. Other data, whether in documentary or electronic form, related to the arrest or charge.

10. Section 10 (page 11) - Law enforcement agency or prosecutor may maintain an investigative file.

11. Section 11 (page 11) - Order of expungement may include identifying factors

21. Section 21 (page 15 and 16) - Effective ninety days from approval by the Governor which occurred on April 7, 2014.

of the petitioner.

12. Section 12 (page 12) - No order of expungement may be granted unless restitution, fines and court costs are paid.

13. Section 13 (page 12) - Administrative Office of Court will provide annual reports to Legislature.

14. Section 14 (page 12) - The Act does not apply to Alabama Securities Exchange Commission.

15. Section 15 (page 13) - Firearms

Does not allow possession of a firearm unless a pardon and restoration of a civil rights has been received.

16. Section 16 (page 13) - Prohibition on revealing certain information after expungement is granted.

17. Section 17 (page 14) - The decision to expunge may be reversed if the petition was based on false pretenses.

18. Section 18 (page 14) - Applicants for law enforcement shall disclose expunged records and law enforcement may have access to archived records.

19. Section 19 (page 15) - Alabama Criminal Justice Information Center Commission shall adopt rules for submission of data.

20. Section 20 (page 15) - The bill has a purpose of increased expenditure of local funds.

ACT #2014-292

1 SB108
2 160982-2
3 By Senator Bedford
4 RFD: Judiciary
5 First Read: 14-JAN-14
6 PFD: 01/13/2014



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SB108

1 (3) When the person has been found not guilty of the
2 charge.
3 (4) When the charge was dismissed without prejudice
4 more than two years ago, has not been refiled, and the person
5 has not been convicted of any other felony or misdemeanor
6 crime, any violation, or any traffic violation, excluding
7 minor traffic violations, during the previous two years.
8 (b) The circuit court shall have exclusive
9 jurisdiction of a petition filed under subsection (a).
10 Section 2. (a) A person who has been charged with a
11 felony offense, except a violent offense as defined in Section
12 12-25-32(14), Code of Alabama 1975, may file a petition in the
13 criminal division of the circuit court in the county in which
14 the charges were filed, to expunge records relating to the
15 charge in any of the following circumstances:
16 (1) When the charge is dismissed with prejudice.
17 (2) When the charge has been no billed by a grand
18 jury.
19 (3) When the person has been found not guilty of the
20 charge.
21 (4)a. The charge was dismissed after successful
22 completion of a drug court program, mental health court
23 program, diversion program, veteran's court, or any
24 court-approved deferred prosecution program after one year
25 from successful completion of the program.

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APPENDIX 3

SB108

1 SB108
2
3
4 **ENROLLED.** An Act,
5 To authorize a person to petition a court to have
6 the record of certain felony or misdemeanor offenses,
7 violations, traffic violations, or municipal ordinance
8 violations expunged in certain instances; and in connection
9 therewith would have as its purpose or effect the requirement
10 of a new or increased expenditure of local funds within the
11 meaning of Amendment 621 of the Constitution of Alabama of
12 1901, now appearing as Section 111.05 of the Official
13 Recompilation of the Constitution of Alabama of 1901, as
14 amended.
15 **BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:**
16 Section 1. (a) A person who has been charged with a
17 misdemeanor criminal offense, a violation, a traffic
18 violation, or a municipal ordinance violation may file a
19 petition in the criminal division of the circuit court in the
20 county in which the charges were filed, to expunge records
21 relating to the charge in any of the following circumstances:
22 (1) When the charge is dismissed with prejudice.
23 (2) When the charge has been no billed by a grand
24 jury.

Page 1

SB108

1 b. Expungement may be a court-ordered condition of a
2 program listed in paragraph a.
3 (5) The charge was dismissed without prejudice more
4 than five years ago, has not been refiled, and the person has
5 not been convicted of any other felony or misdemeanor crime,
6 any violation, or any traffic violation, excluding minor
7 traffic violations, during the previous five years.
8 (6) Ninety days have passed from the date of
9 dismissal with prejudice, no-bill, acquittal, or nolle
10 prosequi and the charge has not been refiled.
11 (b) The circuit court shall have exclusive
12 jurisdiction of a petition filed under subsection (a).
13 Section 3. (a) A petition filed under this act shall
14 include a sworn statement made by the person seeking
15 expungement under the penalty of perjury stating that the
16 person has satisfied the requirements set out in this act and
17 whether he or she has previously applied for an expungement in
18 any jurisdiction and whether an expungement has been
19 previously granted.
20 (b) The petitioner shall include a certified record
21 of arrest, disposition, or the case action summary from the
22 appropriate agency for the court record the petitioner asks
23 to have expunged as well as a certified official criminal
24 record obtained from the Alabama Criminal Justice Information
25 Center. In addition to setting forth grounds for the court to

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1 consider, the petitioner shall specify what criminal charges
2 from the record are to be considered, further specify the
3 agency or department that made the arrest and any agency or
4 department where the petitioner was booked or was incarcerated
5 or detained pursuant to the arrest or charge sought to be
6 expunged.

7 (c) A petitioner shall serve the district attorney,
8 the law enforcement agency, and clerk of court of the
9 jurisdiction for which the records are sought to be expunged,
10 a copy of the petition, and the sworn affidavit. The district
11 attorney shall review the petition and may make reasonable
12 efforts to notify the victim if the petition has been filed
13 seeking an expungement under circumstances enumerated in
14 paragraph a. of subdivision (4) of Section 2 involving a
15 victim that is not a governmental entity. The district
16 attorney and the victim shall have a period of 45 days to file
17 a written objection to the granting of the petition or the
18 district attorney shall be deemed to have waived the right to
19 object. The district attorney shall serve the petitioner or
20 the petitioner's counsel a copy of the written objection.

21 Section 4. (a) In addition to any cost of court or
22 docket fee for filing the petition in circuit court, an
23 administrative filing fee of three hundred dollars (\$300)
24 shall be paid at the time the petition is filed and is a
25 condition precedent to any ruling of the court pursuant to

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1 period of time, which shall be paid in full, prior to any
2 order granting an expungement.

3 (c) If a petitioner seeks expungement of an arrest
4 record and the court in the original case made a clear and
5 unequivocal judicial finding on the record that the arrest had
6 no foundation of probable cause, the court, in the expungement
7 proceeding, shall waive all docket fees and court costs,
8 except for the filing fee in subsection (a).

9 Section 5. (a) If the prosecuting authority or
10 victim files an objection to the granting of a petition under
11 this act, the court having jurisdiction over the matter shall
12 set a date for a hearing no sooner than 14 days from the
13 filing of the objection. The court shall notify the
14 prosecuting authority and the petitioner of the hearing date.
15 In the discretion of the court, the court shall consider the
16 following factors:

- 17 (1) Nature and seriousness of the offense committed.
- 18 (2) Circumstances under which the offense occurred.
- 19 (3) Date of the offense.
- 20 (4) Age of the person when the offense was
21 committed.
- 22 (5) Whether the offense was an isolated or repeated
23 incident.
- 24 (6) Other conditions which may have contributed to
25 the offense.

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1 this act. The administrative filing fee shall not be waived by
2 the court and shall be distributed as follows:

- 3 (1) Seventy-five dollars (\$75) to the State Judicial
4 Administrative Fund.
- 5 (2) Twenty-five dollars (\$25) to the Alabama
6 Department of Forensic Sciences.
- 7 (3) Fifty dollars (\$50) to the district attorney's
8 office.
- 9 (4) Fifty dollars (\$50) to the clerk's office of the
10 circuit court having jurisdiction over the matter, for the use
11 and benefit of the circuit court clerk.
- 12 (5) Fifty dollars (\$50) to the Public Safety Fund.
- 13 (6) Fifty dollars (\$50) to the general fund of the
14 county where the arresting law enforcement agency is located
15 if the arrest was made by the sheriff's office to be used for
16 law enforcement purposes, or, if the arrest was made by
17 another law enforcement agency, to the municipality or other
18 entity or state agency funding the law enforcement activity.

19 (b) Notwithstanding subsection (a), a person seeking
20 relief under this act may apply for indigent status by
21 completing an Affidavit of Substantial Hardship and Order
22 which shall be submitted with the petition. If the court finds
23 the petitioner is indigent, the court may set forth a payment
24 plan for the petitioner to satisfy the filing fee over a

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1 (7) An available probation or parole record, report,
2 or recommendation.

3 (8) Whether the offense was dismissed or nolle
4 prosequi as part of a negotiated plea agreement and the
5 petitioner plead guilty to another related or lesser offense.

6 (9) Evidence of rehabilitation, including good
7 conduct in prison or jail, in the community, counseling or
8 psychiatric treatment received, acquisition of additional
9 academic or vocational schooling, successful business or
10 employment history, and the recommendation of his or her
11 supervisors or other persons in the community.

12 (10) Any other matter the court deems relevant,
13 which may include, but is not limited to, a prior expungement
14 of the petitioner's records.

15 (b) A hearing under subsection (a) shall be
16 conducted in a manner prescribed by the trial judge and shall
17 include oral argument and review of relevant documentation in
18 support of, or in objection to, the granting of the petition.
19 The Alabama Rules of Evidence shall apply to the hearing.
20 Leave of the court shall be obtained for the taking of witness
21 testimony relating to any disputed fact.

22 (c) There is no right to the expungement of any
23 criminal record, and any request for expungement of a criminal
24 record may be denied at the sole discretion of the court. The
25 court shall grant the petition if it is reasonably satisfied

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APPENDIX 3

§§108

§§108

1 from the evidence that the petitioner has complied with and
 2 satisfied the requirements of this act. The court shall have
 3 discretion over the number of cases that may be expunged
 4 pursuant to this act after the first case is expunged. The
 5 ruling of the court shall be subject to certiorari review and
 6 shall not be reversed absent a showing of an abuse of
 7 discretion.

8 (d) If no objection to a petition is filed by the
 9 prosecuting authority or victim, the court having jurisdiction
 10 over the matter may rule on the merits of the petition without
 11 setting the matter for hearing. In such cases, the court shall
 12 grant the petition if it is reasonably satisfied from the
 13 evidence that the petitioner has complied with and satisfied
 14 the requirements of this act. The court shall have discretion
 15 over the number of cases that may be expunged pursuant to this
 16 act after the first case is expunged.

17 Section 6. (a) Except as provided in Section 10,
 18 upon the granting of a petition pursuant to this act, the
 19 court, pursuant to Section 9, shall order the expungement of
 20 all records in the custody of the court and any records in the
 21 custody of any other agency or official, including law
 22 enforcement records, except privileged presentence or
 23 postsentence investigation reports produced by the Alabama
 24 Board of Pardons and Paroles and its officers, records,
 25 documents, databases, and files of the district attorney and

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1 Section 7. (e) Upon receipt of the order of
 2 expungement, a criminal justice agency in possession of
 3 records subject to the order shall immediately forward the
 4 records to the Alabama Criminal Justice Information Center.
 5 The center shall digitally archive the records in a manner
 6 prescribed by the Alabama Criminal Justice Information Center
 7 Commission and designate the records as protected
 8 notwithstanding any other provisions of this act. Such records
 9 may not be used for any non-criminal justice purpose and may
 10 only be made available to criminal justice agencies upon
 11 acknowledgement of an investigation or other criminal matter
 12 involving the person related to the expungement. Any expunged
 13 records that were added to a federal database shall be
 14 requested to be removed and not made available within any
 15 interstate criminal database.

16 (b) Records expunged under this act may not be
 17 transmitted to the Federal Bureau of Investigation national
 18 criminal records repository. Any record subject to be expunged
 19 under this act and transmitted to the Federal Bureau of
 20 Investigation prior to the expungement of such record shall be
 21 requested for withdrawal within the national system by the
 22 Alabama Criminal Justice Information Center.

23 Section 8. Once the records are expunged pursuant to
 24 this act, the records shall be forwarded to the Alabama
 25 Criminal Justice Information Center in a manner prescribed by

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§§109

§§109

1 the Office of Prosecution Services. On the effective date of
 2 this act and for 18 months thereafter, every agency with
 3 records relating to the arrest, charge, or other matters
 4 arising out of the arrest or charge that is ordered to expunge
 5 the records shall certify to the court within 180 days of the
 6 entry of the expungement order that the required expungement
 7 action has been completed.

8 (b) After the expungement of records pursuant to
 9 subsection (a), the proceedings regarding the charge shall be
 10 deemed never to have occurred. Except as provided in this act,
 11 the court and other agencies shall reply to any inquiry that
 12 no record exists on the matter. The petitioner whose record
 13 was expunged shall not have to disclose the fact of the record
 14 or any matter relating thereto on an application for
 15 employment, credit, or other type of application. However, the
 16 petitioner whose record was expunged shall have the duty to
 17 disclose the fact of the record and any matter relating
 18 thereto to any government regulatory or licensing agency, any
 19 utility and its agents and affiliates, or any bank or other
 20 financial institution. In these circumstances, the government
 21 regulatory or licensing agency, utility and its agents and
 22 affiliates, or the bank or other financial institution shall
 23 have the right to inspect the expunged records after filing
 24 notice with the court.

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1 the Alabama Criminal Justice Information Center Commission for
 2 purposes of archiving, and the records shall be stored in a
 3 manner prescribed by the Alabama Criminal Justice Information
 4 Center Commission. The records shall be retained by the
 5 Alabama Criminal Justice Information Center indefinitely.

6 Section 9. For purposes of this act, the term record
 7 includes, but is not limited to, all of the following:

- 8 (1) Arrest records.
- 9 (2) Booking or arrest photographs of the petitioner.
- 10 (3) Index references such as the State Judicial
 11 Information System or any other governmental index references
 12 for public records search.
- 13 (4) Other data, whether in documentary or electronic
 14 form, relating to the arrest or charge.

15 Section 10. Nothing in this act shall prohibit a law
 16 enforcement agency or official, district attorney or a
 17 prosecuting authority, the Alabama Department of Forensic
 18 Sciences, or the Department of Human Resources from
 19 maintaining an investigative file, report, case file, or log
 20 which may include any evidence, biological evidence,
 21 photographs, exhibits, or information in documentary or
 22 electronic form.

23 Section 11. An order of expungement, pursuant to
 24 this act may include, but is not limited to, the petitioner's
 25 true name, all aliases, current physical address, data of

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§§12

§§14

1 birth, Social Security number, or any other vital identifier
2 sufficient to notify the record keeper of the records to be
3 expunged.

4 Section 12. No order of expungement shall be granted
5 unless all terms and conditions, including court ordered
6 restitution, are satisfied and paid in full, including
7 interest, to any victim, or the Alabama Crime Victim's
8 Compensation Commission, as well as court costs, fines, or
9 statutory fees ordered by the sentencing court to have been
10 paid, absent a finding of indigency by the court.

11 Section 13. Upon request, the Administrative Office
12 of Courts shall provide an annual report to the Legislature
13 specifying the number of applicants requesting expungement,
14 the number of expungements granted, a list of the offenses
15 expunged, and a list of the offenses not expunged. The report
16 shall not include any case specific identifying information.

17 Section 14. Nothing in this act shall be applicable
18 to the Alabama Securities Commission, its statutes, rules,
19 regulations, policies, information repository, or records, nor
20 shall any expungement information, record, document, whether
21 printed, electronic, or otherwise, or file which is expunged
22 under this act be considered nondisclosable or nonreportable
23 to or by the Alabama Securities Commission. Any requirement
24 for licensing or registration which includes information that
25 has been otherwise expunged under this act shall remain

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1 liability absent unreasonable, wanton, willful, or intentional
2 conduct.

3 (c) In addition to any other immunity or other civil
4 protection or legal remedy available that an individual or
5 entity may rightfully claim, an agency, department, custodian
6 of records, corporation, business entity, or individual that
7 employs, hires, contracts with, or holds any business or
8 contractual relationship with an individual and is unaware of
9 the existence of a criminal record due to an expungement
10 pursuant to this act shall be immune from civil liability for
11 damages caused by the person, absent unreasonable, wanton,
12 willful, or intentional conduct.

13 Section 17. Upon determination by the court that a
14 petition for expungement was filed under false pretenses and
15 was granted, the order of expungement shall be reversed and
16 the criminal history record shall be restored to reflect the
17 original charges.

18 Section 18. Notwithstanding any other provision of
19 this act, an applicant for a position in law enforcement or
20 corrections or a law enforcement or correctional officer shall
21 disclose and produce any expunged record pursuant to this act
22 or any other state law to the Alabama Peace Officers'
23 Standards and Training Commission, and the commission shall
24 have access to any expunged records sealed or archived
25 pursuant to this act for purposes of certification and

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APPENDIX 3

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1 reportable as required by the Alabama Securities Commission,
2 applicable federal law, or adopted rules and regulations or as
3 required by any securities-related self-regulatory
4 organization rules, policies, or procedures.

5 Section 15. An expungement order shall not entitle
6 an individual to ship, transport, possess, or receive a
7 firearm. Any person whose record of conviction is expunged
8 pursuant to this act may have his or her right to ship,
9 transport, possess, or receive a firearm restored by a
10 Certificate of Pardon with Restoration of Civil and Political
11 Rights from the Alabama Board of Pardons and Paroles.

12 Section 16. (a) Notwithstanding any other provision
13 of this act, an individual who knows an expungement order was
14 granted pursuant to this act and who intentionally and
15 maliciously divulges, makes known, reveals, gives access to,
16 makes public, uses, or otherwise discloses the contents of an
17 expunged file without a court order, or pursuant to a
18 provision of this act, shall be guilty of a Class B
19 misdemeanor.

20 (b) In addition to any other immunity or other civil
21 protection or legal remedy available that an individual or
22 entity may rightfully claim, an agency, department, custodian
23 of records, corporation, business entity, or individual that
24 makes public or disseminates a record that has been judicially
25 expunged pursuant to this act shall be immune from civil

Page 13

1 regulation of persons as correctional and law enforcement
2 officers.

3 Section 19. The Alabama Criminal Justice Information
4 Center Commission shall adopt rules for the submission of data
5 from criminal justice agencies necessary to complete the
6 criminal history record within the state criminal history
7 repository. Data within the repository shall include all
8 records allowed by federal regulation of state repositories.

9 Section 20. Although this bill would have as its
10 purpose or effect the requirement of a new or increased
11 expenditure of local funds, the bill is excluded from further
12 requirements and application under Amendment 621, now
13 appearing as Section 111.05 of the Official Recompilation of
14 the Constitution of Alabama of 1901, as amended, because the
15 bill defines a new crime or amends the definition of an
16 existing crime.

17 Section 21. This act shall become effective 90 days
18 following its passage and approval by the Governor, or its
19 otherwise becoming law.

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88108

President and Presiding Officer of the Senate

Speaker of the House of Representatives

SB108 Senate 23-JAN-14 I hereby certify that the within Act originated in and passed the Senate, as amended.

Senate 01-APR-14 I hereby certify that the within Act originated in and passed the Senate, as amended by Conference Committee Report.

Patrick Harris Secretary

House of Representatives Passed: 20-MAR-14, as amended

House of Representatives Passed: 01-APR-2014, as amended by Conference Committee Report.

APPROVED April 7, 2014

TIME 5:15 P.M.

By: Senator Bedford Robert Bentley GOVERNOR

Alabama Secretary Of State Act Num. 2014-292 Bill Num. ... 5-168

Rev'd 04/08/14 09:15amSLF

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- (4) FELONY OFFENSE. A noncapital felony offense. (5) LETHAL VOLUNTARY STANDARDS. The voluntary sentencing standards effective on October 1, 2006. (6) NONVIOLENT OFFENSE. All offenses which are not violent offenses. (7) NONVIOLENT OFFENSE. Any offender who does not qualify as a violent offender pursuant to subdivision (13). (8) OFFENSE. A person convicted of a noncapital felony offense. (9) RELEASE AUTHORITY. Any public official, agency, or other entity authorized by law to release a sentenced offender from incarceration or other conditions of a sentence. (10) RISK ASSESSMENT. An instrument designed to assess an offender's relative risk for reoffending. (11) TRIALS-OR-SENTENCING STANDARDS. The sentencing standards that are scheduled to become effective October 1, 2020. (12) UNDER SUPERVISION. All offenders under the supervision of any criminal justice agency or program including, but not limited to, any of the following entities: a. The Alabama Department of Corrections. b. State or county probation offices. c. Community corrections programs pursuant to Alabama Community Corrections Act. d. Jails. e. State or local law enforcement agencies. f. Any court. (13) VIOLENT OFFENSE. A violent offender is an offender who has been convicted of a violent offense, or who is determined by the trial court judge or a release authority to have demonstrated a propensity for violence, aggression, or weapons related behavior based on the criminal history or behavior of the offender while under supervision of any criminal justice system agency or entity. (14) VIOLENT OFFENSE. For the purposes of this article, a violent offense includes each of the following offenses, or any substantially similar offense to those listed in this subdivision created after June 20, 2003: 1. Capital murder pursuant to Section 13A-6-2 and 13A-6-40. 2. Murder pursuant to Section 13A-6-2. 3. Manslaughter pursuant to Section 13A-6-3. 4. Criminally negligent homicide pursuant to Section 13A-6-4. 5. Assault I pursuant to Section 13A-6-20. 6. Assault II pursuant to Section 13A-6-21. 7. Compelling street gang membership pursuant to Section 13A-6-26. 8. Kidnapping I pursuant to Section 13A-6-43.

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APPENDIX 3

HOUSE ACTION REPORT OF STANDING COMMITTEE This bill having been referred by the House to its standing committee on [blank] was acted upon by such committee in session, and returned therefrom to the House with the recommendation that it be passed, with amendments. This is a copy of [blank] [blank] Chairman

SENATE ACTION I hereby certify that the Resolution as required in Section C of Act No. 81-889 as amended is attached to the Bill, SB 108. PATRICK HARRIS, Secretary

Table with columns for SPONSOR, CO-SPONSORS, and line numbers 19-35.

- 9. Kidnapping II pursuant to Section 13A-6-44. 10. Rape I pursuant to Section 13A-6-61. 11. Rape II pursuant to Section 13A-6-62. 12. Sodomy I pursuant to Section 13A-6-68. 13. Sodomy II pursuant to Section 13A-6-64. 14. Sexual torture pursuant to Section 13A-6-65.1. 15. Sexual abuse I pursuant to Section 13A-6-66. 16. Enticing a child to enter a vehicle for immoral purposes pursuant to Section 13A-6-69. 17. Stalking pursuant to Section 13A-6-90. 18. Aggravated stalking pursuant to Section 13A-6-91. 19. Soliciting a child by computer pursuant to Section 13A-6-110. 20. Domestic violence I pursuant to Section 13A-6-130. 21. Domestic violence II pursuant to Section 13A-6-131. 22. Burglary I pursuant to Section 13A-7-6. 23. Burglary II pursuant to Section 13A-7-6. 24. Burglary III pursuant to Section 13A-7-7. 25. Arson I pursuant to Section 13A-7-41. 26. Criminal possession of explosives pursuant to Section 13A-7-44. 27. Extortion I pursuant to Section 13A-8-14. 28. Robbery I pursuant to Section 13A-8-41. 29. Robbery II pursuant to Section 13A-8-42. 30. Robbery III pursuant to Section 13A-8-43. 31. Pharmacy robbery pursuant to Section 13A-8-61. 32. Terrorist threats pursuant to Section 13A-10-16. 33. Escape I pursuant to Section 13A-10-51. 34. Promoting prison contraband I pursuant to Section 13A-10-36, involving a deadly weapon or dangerous instrument. 35. Intimidating a witness pursuant to Section 13A-10-123. 36. Intimidating a juror pursuant to Section 13A-10-127. 37. Trespass pursuant to Section 13A-11-2. 38. Discharging a weapon into an occupied building, dwelling, automobile, etc, pursuant to Section 13A-11-61. 39. Promoting prostitution I pursuant to Section 13A-12-111. 40. Production of obscene matter involving a minor pursuant to Section 13A-12-197. 41. Trafficking pursuant to Section 13A-12-231. 42. Child abuse pursuant to Section 26-15-3. 43. Elder abuse pursuant to Section 38-9-7. 44. Terrorism pursuant to Section 13A-10-152. 45. Hindering prosecution for terrorism pursuant to Section 13A-10-154. 46. Any substantially similar offense for which an Alabama offender has been convicted under prior Alabama law or the law of any other state, the District of Columbia, the United States, or any of the territories of the United States.

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§ 13-25-33 COURTS § 13-25-33

b. The basis for defining these offenses as violent is that each offense meets at least one of the following criteria:

- 1. Has as an element, the use, attempted use, or threatened use of a deadly weapon or dangerous instrument or physical force against the person of another.
- 2. Involves a substantial risk of physical injury against the person of another.
- 3. Is a nonconsensual sex offense.
- 4. Is particularly reprehensible.

c. Any attempt, conspiracy, or solicitation to commit a violent offense shall be considered a violent offense for the purposes of this article.

d. Any criminal offense which meets the criteria provided in paragraph b. enacted after 2003.

History: Acts 2003, No. 03-354; Acts 2008, No. 02-743, § 1, May 22, 2008; Acts 2012, No. 13-473, § 1, May 16, 2012.

2003 amendments. The 2003 amendment, effective May 22, 2008, in (b), substituted "offense on October 1, 2003" for "that became effective on October 1, 2003" in the first sentence and substituted "were based on" for "shall be based on" in the second sentence and substituted "are scheduled to become effective October 1, 2011" for "became effective October 1, 2003" in the first sentence of (10).

2012 amendments. The 2012 amendment added (6); redesignated former (6) through (10) as (7) through (11) in the first sentence of (11). Deleted "voluntary proceeding" "sentencing standards" and substituted "October 1, 2003" for

"October 1, 2011" deleted "unless the offender enters the dwelling without a weapon or other dangerous instrument and does not use or threaten to use a weapon or dangerous instrument against another person during the commission of the offense" at the end of (14a.22; deleted "subsection (a) or" following "pursuant to" in (14b.22; deleted "if the intent is to commit a violent offense" at the end of (14c.24; and added (14d).

Editor's notes. The Code Commission, in subdivision (2)(b.2), substituted "program" for "programs"; and deleted "of 1991" following "corrections act" in subdivisions (2)(c.2) and (1)(i). to correct the language in Acts 2003, No. 03-354.

NOTES TO DECISIONS

Violent offenses.

Covert error in ruling that as an inmate's first degree robbery conviction was defined as a "violent offense" by Ala. Code § 13A-11-70 and 13-25-33, he could not be a "nonviolent convicted offender," and thus, was not entitled to sentence reconsideration under Ala. Code § 15A-20-1. The court was obliged to consider all relevant facts presented to it in determining the inmate's status as a violent or non-violent offender. Holt v. State, -- So. 3d --, 2006 Ala. Crim. App. LEXIS 268 (Crim. App. Dec. 23, 2006), op. withdrawn, substituted op., 800 So. 3d 798, 2006 Ala. Crim. App. LEXIS 59 (Crim. App. 2006).

Because committing a "violent offense" as defined in Ala. Code § 13A-11-70 under 13-

25-33 was not the equivalent of being a "violent offender" under Ala. Code § 13A-2-1, the trial court incorrectly concluded that defendant was not eligible for resentencing. Calhoun v. State, -- So. 3d --, 2006 Ala. Crim. App. LEXIS 40 (May 1, 2006).

This court had no jurisdiction to reassess defendant under Ala. Code § 15-25-64.(a) as defendant had been convicted of first-degree robbery, which was a violent offense under Ala. Code § 13-25-33(1)(a.22; the Alabama legislature was aware of the term "nonviolent convicted offender" as it had used the term in Ala. Code § 13A-2-1, but it did not use the term when it enacted § 15-25-64.(a). Lee v. State, -- So. 3d --, 2011 Ala. Crim. App. LEXIS 4 (Feb. 4, 2011).

§ 13-25-33. Duties of commission.

To achieve the goals recognized by the Legislature in Chapter 25 and Section 13-25-31, the commission shall:

Pra - Council Agenda -Item 5 - International Residential Code

Except as provided in Ordinance No. 1876, the City adopted the International Residential Code, 2012 Edition (IRC), in September 2012. Certain provisions in the IRC mandate that, when openings in existing one and two family residential structures are replaced, the owner must use windows, doors and other materials that satisfy the most current energy efficiency guidelines that are used for new structures.

To address these matters, an amendment to Chapter 109 of the City Code is proposed to make fenestration replacement provisions in the IRC inapplicable to the repair, renovation alteration or reconstruction of existing residences. In the proposed ordinance, new language will be added to Subsection (f) to Section 109-32 of the Code to effect these changes; this new language is highlighted in Bold in the attachment.

(c) Section R112 (Board of Appeals) of the International Residential Code is hereby repealed and replaced with the following:

"Section R112 Board of Appeals. Appeals regarding the application of the adopted building and fire codes may be presented to the city manager for consideration. The city manager may elect to render a decision on such appeal or remand the appeal to the board of zoning adjustment. In cases where the appeal is heard by the city manager and a decision is rendered, the appellant, if not satisfied with the decision, may then appeal to the board of zoning adjustment.

The board of zoning adjustment of the City of Mountain Brook, Alabama, as said board is prescribed by Section 11-52-80 Code of Alabama (1975), as amended, shall constitute a board of adjustments and appeals under this code."

(d) Section R113.4 of the International Residential Code is hereby repealed and replaced with the following:

"R113.4 Violation penalties. Any person who violates a provision of this code or fails to comply with any of the requirements thereof or who erects, constructs, alters or repairs a building or structure in violation of the approved construction documents or directive of the building official, or of a permit or certificate issued under the provisions of this code, shall be subject to penalties as prescribed by law.

In instances where a person commences work prior to making application for a required permit, all applicable permit fees shall be doubled. Once notified in writing by the building official of the city that a report or building permit application must be submitted, such person must submit such report within ten (10) days. Persons who fail to make such report within the time period required shall be subject to additional penalties as provided under Sec. 1-6.1 of the city code and by § 13A-10-4 of the Code of Alabama."

(e) Section P2904.1 of the International Residential Code shall be hereby amended by adding the following provision:

"P2904.1.2 Sprinkler Exemption. Any homeowner may, upon application to the City, request an exemption to the sprinkler requirement of P2904.1.1 and such exemption shall be granted upon the following:

- a. The applicant must either confer with the Fire Marshal or his or her designee about the benefits of installing a residential fire sprinkler system or review presentation materials developed by the Fire Marshal concerning sprinkler systems; and

APPENDIX 4

1

3

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 109 OF THE CITY CODE

BE IT ORDAINED by the City Council of the City of Mountain Brook that Chapter 109, Article II - Building Code, Division I of the Code of the City of Mountain Brook, Alabama ("City Code") shall be amended as follows:

Section 1. Section 109-32 of the City Code shall be amended by adding subsection (f) so that the entire Section 109-32, as amended, shall be as follows:

Sec. 109-32. Same--Amendments

The building code adopted by section 109-31 is amended as follows:

(a) Section R108.2 of the International Residential Code is hereby repealed and replaced with the following:

"R108.2 Schedule of permit fees. On buildings, structures, electrical, gas, mechanical, and plumbing systems or alterations requiring a permit, a fee or fees as set forth in City Code Section 14-1 shall be paid at the time of filing application, in accordance with such fee schedule as shall be set from time to time by the city council. A list of such fees shall be kept on file in the city clerk's office."

(b) Section R110.1 of the International Residential Code is hereby repealed and replaced with the following:

"R110.1 Use and occupancy. No residential building or structure shall be used or occupied, and no change in the existing occupancy classification of a residential building or structure or portion thereof shall be made until the building official has issued a certificate of occupancy which has been signed by the building official and the city manager. No commercial building or structure shall be used or occupied, and no change in the existing occupancy classification of a commercial building or structure or portion thereof shall be made until the building official has issued a certificate of occupancy which has been signed by the building official, the fire official, and the city manager. A certificate of occupancy shall not be issued until after the city manager shall have determined that the building conforms to all provisions and regulations of the city with respect thereto, including its use under the zoning ordinances of the city. A certificate of occupancy (whether a temporary certificate of the regular certificate) issued without the signature of the building official, fire official (in the case of commercial buildings), and the city manager shall not be deemed to be a certificate of occupancy issued under this code or under the city's zoning ordinance."

2

b. The applicant must certify that he or she has met the requirements in subsection (a) above, and fully understands and acknowledges the risks of opting not to install a residential fire sprinkler system.

Exception:

- 1. No exemption shall be granted for any dwelling constructed less than 5 feet from the property line in accordance with Tabic R302.1 (1).
2. No exemption shall be granted for 2-family dwelling units."

"(f) The following provisions of the International Residential Code (IRC) are inapplicable with respect to the repair, renovation, alteration or reconstruction of existing buildings and structures that are within the scope of the IRC:

- a. Subsection N1102.3.6 (R402.3.6) Replacement fenestration in Chapter 11 - Energy Efficiency; and
b. Subsection AJ102.4 Replacement windows of Appendix J - Existing Buildings and Structures."

Section 2. This ordinance is cumulative in nature and is in addition to any power and authority which the City of Mountain Brook may have under any other ordinance or law.

Section 3. If any part, section or subdivision of this ordinance shall be held unconstitutional or invalid for any reason, such holding shall not be construed to invalidate or impair the remainder of this ordinance, which shall continue in full force and effect notwithstanding such holding.

Section 4. This section shall become effective immediately upon adoption and publication as provided by law.

ADOPTED: This day of , 2014.

Virginia C. Smith, Council President

APPROVED: This day of , 2014.

Lawrence T. Oden, Mayor

4

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 34 OF THE CITY CODE

BE IT ORDAINED by the City Council of the City of Mountain Brook that Chapter 34 of the Code of the City of Mountain Brook, Alabama ("City Code") shall be amended as follows:

Section 1. Section 34-7 of the City Code shall be amended by inserting two additional provisions as subsections (b) and (c) and by moving the former subsection (b) to subsection (d) so that the entire Section 34-7, as amended, shall be as follows:

Sec. 34-7. Noise.

- a) It shall be unlawful for any person to make, cause to be made or permit to be made, in or about a dwelling, church, hospital, public school, public building, public park, store, street or other public thoroughfare in the city, any noise, either by crying out, calling or shouting or by means of a whistle, siren, megaphone, bell, gong, drum, victrola, radio or other instrument or mechanical device, for the purpose of advertising any business or any article for sale or exchange or for the purpose of attracting attention or inviting the patronage of any person to any business whatsoever; or to make, cause or permit to be made in or about any of the aforesaid places any unnecessary or excessive noise, either by crying out, calling or shouting or by means of any instrument or mechanical device whatsoever.
- b) It shall be unlawful and a nuisance for any person to make, continue or cause to be made or continued any unreasonably loud or excessive noise which unreasonably annoys, disturbs, injures, endangers or interferes with the comfort, repose, health, peace or safety of others in the corporate limits of the City of Mountain Brook, Alabama. It shall also be unlawful and a nuisance for any person to permit any such noise to be made in or upon any house or premises owned, possessed, managed or controlled by such person.
- c) In addition to the general prohibition set forth above, the following acts or noises are declared to be in violation of this Code, provided however, that such enumeration shall not be deemed to be exhaustive or exclusive:

The operation or permitting the operation of any mechanically powered lawn equipment operated for commercial purposes within a Residential district, between the hours of 6:00 p.m. and 8:00 a.m. For the purposes of this subsection, lawn equipment includes, but is not limited to, leaf blowers, lawnmowers, tractors, stump grinders, chippers, string trimmers, clippers, edgers and any other mechanically powered garden tool, blower or device.

Deleted: loud,
Deleted: , disturbing, unnecessary

Deleted: designed or sold for commercial use or

d) Any person who shall violate any provision of this section shall, upon conviction thereof, be punished within the limits and as provided by section 1-2 of this Code.

Section 2. This ordinance is cumulative in nature and is in addition to any power and authority which the City of Mountain Brook may have under any other ordinance or law.

Section 3. If any part, section or subdivision of this ordinance shall be held unconstitutional or invalid for any reason, such holding shall not be construed to invalidate or impair the remainder of this ordinance, which shall continue in full force and effect notwithstanding such holding.

Section 4. This section shall become effective immediately upon adoption and publication as provided by law.

ADOPTED: This _____ day of _____, 2014.

Virginia C. Smith, Council President

APPROVED: This _____ day of _____, 2014.

Lawrence T. Oden, Mayor

CERTIFICATION

I, Steven Boone, City Clerk of the City of Mountain Brook, Alabama, hereby certify the above to be a true and correct copy of an ordinance adopted by the City Council of the City of Mountain Brook, Alabama at its meeting held on _____, 2014, as same appears in the minutes of record of said meeting, and published by posting copies thereof on _____, 2014, at the following public places, which copies remained posted for five (5) days as required by law.

City Hall, 56 Church Street
Gilchrist Pharmacy, 2850 Cahaba Road

Overton Park, 3020 Overton Road
The Invitation Place, 3150 Overton Road

Steven Boone, City Clerk

Deleted: 12"
Deleted: May

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Deleted: May
Deleted: 12
Deleted: May 13



CITY OF MOUNTAIN BROOK

Dana O. Hazen, AICP
 City Planner
 56 Church Street
 Mountain Brook, Alabama 35213
 Telephone: 205/802-3821
 Fax: 205.879.6913
 hazend@mtnbrook.org
 www.mtnbrook.org

MEMO

DATE: May 21, 2014

TO: Mayor, City Council
 City Manager
 City Attorney

FROM: Dana Hazen, City Planner

RE: The Manning – Right-of-Way Dedication

Attached is the proposed resurvey plat combining eight lots into one lot for The Manning development (zoning to Res-D approved by the Council on May 12, 2014).

As part of the proposed plat, additional right-of-way is proposed to be dedicated to the City, and is shown as the highlighted area along Cahaba Road at the north boundary of the subject property.

Before the Planning Commission hears this plat (June 2, 2014) it would be prudent for the council to offer some direction as to whether or not the City would be inclined to accept this additional right-of-way.

A representative for The Manning will be at council pre-meeting to explain the reasoning behind the right-of-way dedication and answer any questions the council might have.

No formal vote to accept the right-of-way is requested at this time; just direction as to how the P/C should proceed with the plat approval showing the dedication.

APPENDIX 6

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**MINUTES OF THE REGULAR MEETING OF THE
CITY COUNCIL OF THE CITY OF MOUNTAIN BROOK, ALABAMA
MAY 27, 2014**

The City Council of the City of Mountain Brook, Alabama met in public session in the City Hall Council Chamber at 7:00 p.m. on Tuesday, the 27th day of May, 2014. The Council President called the meeting to order and the roll was called with the following results:

Present: Virginia C. Smith, Council President
Amy G. Carter, Council President Pro Tempore
Jack D. Carl
William S. Pritchard, III
Jesse S. Vogtle, Jr.
Lawrence T. Oden, Mayor

Also present were City Attorney Whit Colvin and City Clerk Steven Boone.

The City Council President stated that a quorum was present and that the meeting was open for the transaction of business.

1. FAMILY PROMISE OF BIRMINGHAM

Richard Goldstein, 3932 Briar Oak Drive, addressed the Mayor and Council regarding the Family of Promise of Birmingham 14th Annual Fundraiser Reception and Silent Auction to be held July 17, 2014.

2. CONSENT AGENDA

Council President Smith announced that the following matters will be considered at one time on the consent agenda provided no one in attendance objects:

Approval of the minutes of the May 12, 2014 meeting of the City Council.

2014-059	Award the bid for the purchase of firefighter turnout gear.	Exhibit 1, Appendix 1
2014-060	Award the bid for the purchase of firefighter helmets.	Exhibit 2, Appendix 1
2014-061	Set a public hearing for June 23, 2014 to consider an ordinance amending Section 109-32 of the City Code (Residential Code) regarding the waiver of certain fenestration provisions.	Exhibit 3,
2014-062	Declare certain property [computers and peripheral equipment] surplus and authorize their sale at public auction.	Exhibit 4
2014-063	Authorize the execution of a professional services agreement between the City and Skipper Consulting, Inc. for the design of traffic signals for the intersection of Overton Road at Oakdale Drive and River Run Road (at Cahaba River Park).	Exhibit 5, Appendix 2

- | | | |
|----------------------------|---|--------------------------|
| 2014-064 | Set a public hearing for June 23, 2014 to consider an amendment to The Park at Overton Residential Infill District (RID) master development plan for the consolidation of two lots into one and limiting the development to eighteen (18) or fewer lots to allow for the future consolidation of lots (without Council approval). | Exhibit 6,
Appendix 3 |
| 2014-066
Motion | Accept the dedication of right-of-way (approximately 1,200 square feet) along Cahaba Road adjacent to "The Manning" condominium development (see also Resolution No. 2014-065). | Appendix 4 |

Thereupon, the foregoing minutes, resolutions, and motion were introduced by Council President Smith and their immediate adoption was moved by Council member Pritchard. The minutes, resolutions, and motion were then considered by the City Council. Council member Vogtle seconded the motion to adopt the foregoing minutes, resolutions, and motion. Then, upon the question being put and the roll called, the vote was recorded as follows:

Ayes: Virginia C. Smith, Council President
Amy G. Carter, Council President Pro Tempore
Jack D. Carl
William S. Pritchard III
Jesse S. Vogtle, Jr.

Nays: None

Council President Smith thereupon declared that said minutes, resolutions (nos. 2014-059 through 064) and motion (no. 2014-066) are adopted by a vote of 5—0.

3. PUBLIC HEARING: CONSIDERATION OF A REQUEST TO VACATE THE ALLEYWAY AT "THE MANNING" LOCATED AT 2400, 2404, 2408, 2418, 2420, 2422, AND 2424 CAHABA ROAD AND 2333 LANE CIRCLE (RESOLUTION NO. 2014-065, EXHIBIT 7, APPENDIX 5)

2014-065

Council President Smith introduced the resolution in writing and invited comments and questions from the audience. There being none, Council member Pritchard made a motion that all rules and regulations which, unless suspended, would prevent the immediate consideration and adoption of said resolution be suspended, and that unanimous consent to the immediate consideration of said resolution is given and that the reading of the resolution at length be waived. The motion was seconded by Council member Vogtle and was carried, as follows:

Ayes: Virginia Smith, Council President
Amy G. Carter, Council President Pro Tempore
Jack D. Carl
William S. Pritchard, III
Jesse S. Vogtle, Jr.

Nays: None

The President of the Council declared the motion carried by a vote of 5—0.

After said resolution had been considered in full by the Council, Council member Pritchard then moved for the adoption of said resolution. The motion was seconded by Council member Vogtle. Thereupon, Council President Smith called for vote with the following results:

Ayes: Virginia Smith, Council President
Amy G. Carter, Council President Pro Tempore
Jack D. Carl
William S. Pritchard, III
Jesse S. Vogtle, Jr.

Nays: None

The President of the Council declared that the resolution is hereby adopted by a vote of 5—0 and, as evidence thereof, she signed the same.

4. ANNOUNCEMENT REGARDING THE NEXT REGULAR MEETING OF THE CITY COUNCIL

Council President Smith announced that the next meeting of the Mountain Brook City Council will be held on Monday, June 9, 2014 at 7 p.m. in the Council Chamber of City Hall located at 56 Church Street, Mountain Brook, AL 35213. Please visit the City's web site (www.mtnbrook.org) for more information.

5. ADJOURNMENT

There being no further business to come before the City Council at this time, Council President Smith adjourned the meeting.


 Steven Boone, City Clerk

EXHIBIT 1

RESOLUTION NO. 2014-059

BE IT RESOLVED by the City Council of the City of Mountain Brook, Alabama, that the City Council hereby awards the bid for the purchase of 59 sets of firefighter turnout gear (coats and trousers) to Municipal Emergency Services (MES), being the low bidder.

BE IT FURTHER RESOLVED by the City Council of the City of Mountain Brook, Alabama, that the Mayor or City Manger are hereby authorized to issue a purchase order and to execute such other documents that may be determined necessary with respect to said purchase.

APPENDIX 1

EXHIBIT 2

RESOLUTION NO. 2014-060

BE IT RESOLVED by the City Council of the City of Mountain Brook, Alabama, that the City Council hereby awards the bid for the purchase of 59 firefighter helmets to Municipal Emergency Services (MES), being the best bid and having been determined to comply with the expressed specifications provided in the invitation to bid.

BE IT FURTHER RESOLVED by the City Council of the City of Mountain Brook, Alabama, that the Mayor or City Manger are hereby authorized to issue a purchase order and to execute such other documents that may be determined necessary with respect to said purchase.

APPENDIX 1

EXHIBIT 3

RESOLUTION NO. 2014-061

BE IT RESOLVED by the City Council of the City of Mountain Brook that, at the meeting of the City Council to be held on Monday, June 23, 2014, at 7:00 p.m., in the Council Chamber of the Mountain Brook City Hall, the City Council will hold a public hearing regarding the adoption of an ordinance amending Section 109-32 of the City Code.

BE IT FURTHER RESOLVED by the City Council of the City of Mountain Brook that the City Clerk be, and he hereby is, authorized and directed to cause to be published not fewer than fifteen (15) days prior to June 23, 2014, by posting in four (4) conspicuous places within the City of Mountain Brook, as follows: City Hall—56 Church Street, Gilchrist Drug Company—2805 Cahaba Road, The Invitation Place—3150 Overton Road, and Overton Park—3020 Overton Road, the following notice concerning both proposed actions in words and figures substantially as follows:

“PUBLIC HEARING

Notice is hereby given that at a regular meeting of the City Council of the City of Mountain Brook to be held on Monday, June 23, 2014, at 7:00 p.m., in the Council Chamber of the Mountain Brook City Hall, the City Council will hold a public hearing regarding a proposal that the City Council adopt an ordinance in words and figures substantially as follows:

‘ **ORDINANCE NO.** _____

AN ORDINANCE AMENDING CHAPTER 109 OF THE CITY CODE

BE IT ORDAINED by the City Council of the City of Mountain Brook that Chapter 109, Article II - Building Code, Division I of the Code of the City of Mountain Brook, Alabama (“City Code”) shall be amended as follows:

Section 1. Section 109-32 of the City Code shall be amended by adding subsection (f) so that the entire Section 109-32, as amended, shall be as follows:

Sec. 109-32. Same---Amendments

The building code adopted by section 109-31 is amended as follows:

- (a) Section R108.2 of the International Residential Code is hereby repealed and replaced with the following:

"R108.2 Schedule of permit fees. On buildings, structures, electrical, gas, mechanical, and plumbing systems or alterations requiring a permit, a fee or fees as set forth in City Code Section 14-1 shall be paid at the time of filing application, in accordance with such fee schedule as shall be set from time to time by the city council. A list of such fees shall be kept on file in the city clerk's office."

- (b) Section R110.1 of the International Residential Code is hereby repealed and replaced with the following:

"R110.1 Use and occupancy. No residential building or structure shall be used or occupied, and no change in the existing occupancy classification of a residential building or structure or portion thereof shall be made until the building official has issued a certificate of occupancy which has been signed by the building official and the city manager. No commercial building or structure shall be used or occupied, and no change in the existing occupancy classification of a commercial building or structure or portion thereof shall be made until the building official has issued a certificate of occupancy which has been signed by the building official, the fire official, and the city manager. A certificate of occupancy shall not be issued until after the city manager shall have determined that the building conforms to all

provisions and regulations of the city with respect thereto, including its use under the zoning ordinances of the city. A certificate of occupancy (whether a temporary certificate of the regular certificate) issued without the signature of the building official, fire official (in the case of commercial buildings), and the city manager shall not be deemed to be a certificate of occupancy issued under this code or under the city's zoning ordinance."

- (c) Section R112 (Board of Appeals) of the International Residential Code is hereby repealed and replaced with the following:

"Section R112 Board of Appeals. Appeals regarding the application of the adopted building and fire codes may be presented to the city manager for consideration. The city manager may elect to render a decision on such appeal or remand the appeal to the board of zoning adjustment. In cases where the appeal is heard by the city manager and a decision is rendered, the appellant, if not satisfied with the decision, may then appeal to the board of zoning adjustment.

The board of zoning adjustment of the City of Mountain Brook, Alabama, as said board is prescribed by Section 11-52-80 Code of Alabama (1975), as amended, shall constitute a board of adjustments and appeals under this code."

- (d) Section R113.4 of the International Residential Code is hereby repealed and replaced with the following:

"R113.4 Violation penalties. Any person who violates a provision of this code or fails to comply with any of the requirements thereof or who erects, constructs, alters or repairs a building or structure in violation of the approved construction documents or directive of the building official, or of a permit or certificate issued under the provisions of this code, shall be subject to penalties as prescribed by law.

In instances where a person commences work prior to making application for a required permit, all applicable permit fees shall be doubled. Once notified in writing by the building official of the city that a report or building permit application must be submitted, such person must submit such report within ten (10) days. Persons who fail to make such report within the time period required shall be subject to additional penalties as provided under Sec. 1-6.1 of the city code and by § 13A-10-4 of the Code of Alabama."

- (e) Section P2904.1 of the International Residential Code shall be hereby amended by adding the following provision:

"P2904.1.2 Sprinkler Exemption. Any homeowner may, upon application to the City, request an exemption to the sprinkler requirement of P2904.1.1 and such exemption shall be granted upon the following:

- a. The applicant must either confer with the Fire Marshal or his or her designee about the benefits of installing a residential fire sprinkler system or review presentation materials developed by the Fire Marshal concerning sprinkler systems; and
- b. The applicant must certify that he or she has met the requirements in subsection (a) above, and fully understands and acknowledges the risks of opting not to install a residential fire sprinkler system.

Exception:

1. No exemption shall be granted for any dwelling constructed less than 5 feet from the property line in accordance with Table R302.1 (1).
2. No exemption shall be granted for 2-family dwelling units."

“(f) The following provisions of the International Residential Code (IRC) are inapplicable with respect to the repair, renovation, alteration, reconstruction of or room additions to existing buildings and structures that are within the scope of the IRC:

a. Subsection N1102.3.6 (R402.3.6) Replacement fenestration in Chapter 11 - Energy Efficiency; and

b. Subsection AJ102.4 Replacement windows of Appendix J -Existing Buildings and Structures.”

Section 2. This ordinance is cumulative in nature and is in addition to any power and authority which the City of Mountain Brook may have under any other ordinance or law.

Section 3. If any part, section or subdivision of this ordinance shall be held unconstitutional or invalid for any reason, such holding shall not be construed to invalidate or impair the remainder of this ordinance, which shall continue in full force and effect notwithstanding such holding.

Section 4. This section shall become effective immediately upon adoption and publication as provided by law.’

At the aforesaid time and place, all interested parties will be heard in relation to the changes proposed by said ordinance.”

APPENDIX 2

EXHIBIT 4

RESOLUTION NO. 2014-062

WHEREAS, the City of Mountain Brook, Alabama, has certain items of personal property which are no longer needed for public or municipal purposes; and

WHEREAS, Section 11-43-56 of the Alabama Code of 1975 authorizes the municipal governing body to dispose of unneeded personal property.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Mountain Brook, as follows: It is hereby established and declared that the following property owned by the City of Mountain Brook, Alabama is not needed for public or municipal purposes and is hereby declared surplus property:

Item	Computer Brand	Model	Serial
1	HP	dc7700	2UA7330GDT
2	HP	dc7700	2UA7370GDW
3	HP	dc7700	MXL7260C4H
4	HP	xw4300	2UA5060CSW
5	HP	xw4300	2UA54607B8
6	HP	xw4300	2UA6281PJ8
7	HP	xw4300	2UA60307X5
8	HP	xw4300	2UA60307X9
9	HP	xw4300	2UA60307X8
10	HP	xw4300	2UA60307X4
11	HP	xw4300	2UA6321MQQ
12	HP	xw4300	2UA6281PK4
13	HP	xw4200	2UA5060CT2
14	HP	xw4200	2UA5060CSY
15	GATEWAY	E SERIES	32311159
16	HP SCANJET	4570c	CN29RTSL60
17	HP DESKJET PRO	8500A	CN1570QQYW

Item	Computer Brand	Model	Serial
18	HP SCANJET	8290	CN45NT0303
19	HP PSC	1610	MY56ND44BN
20	HP COLOR LASERJET	4600	JPBC38689
21	MURATEC 3-IN-1	MFX-1430	DA737590143015
22	SAMSUNG MONITOR	32" SCREEN	B4593CDQCQ5350F
23	DELL FLAT SCREEN	19" SCREEN	627U
24	PANASONIC	CF-30	9CKYA36983
25	PANASONIC	CF-30	9CKYA37016
26	PANASONIC	CF-30	9CKYA32674
27	PANASONIC	CF-30	9CKYA36901
28	PANASONIC	CF-30	9CKYA34201
29	PANASONIC	CF-30	9CKYA38900
30	PANASONIC	CF-30	9CKY.36887
31	PANASONIC	CF-30	9CKYA36994
32	PANASONIC	CF-30	9CKYA36999
33	PANASONIC	CF-30	9BKYA34141
34	PANASONIC	CF-30	9CKYA37012
35	PANASONIC	CF-30	9CKYA37009
36	PANASONIC	CF-30	9CKYA37019
37	PANASONIC	CF-30	9CKYA37087
38	PANASONIC	CF-30	9CKYA37007
39	PANASONIC	CF-30	9CKYA37017
40	PANASONIC	CF-30	9CKYA37032
41	PANASONIC	CF-30	9BKYA32476
42	PANASONIC	CF-30	9CKYA37046
43	PANASONIC	CF-30	9CKYA37913
44	PANASONIC	CF-30	9CKYA36917
45	PANASONIC	CF-30	9CKYA36909
46	PANASONIC	CF-30	9BKYA32485
47	PANASONIC	CF-30	9BKYA34229
48	HAVIS DOCKING STATIONS	D3-0060-SA	NONE
49	HAVIS DOCKING STATIONS	D3-0060-SA	NONE
50	HAVIS DOCKING STATIONS	D3-0060-SA	NONE
51	HAVIS DOCKING STATIONS	D3-0060-SA	NONE
52	HAVIS DOCKING STATIONS	D3-0060-SA	NONE
53	HAVIS DOCKING STATIONS	D3-0060-SA	NONE
54	HAVIS DOCKING STATIONS	D3-0060-SA	NONE
55	HAVIS DOCKING STATIONS	D3-0060-SA	NONE
56	HAVIS DOCKING STATIONS	D3-0060-SA	NONE

BE IT FURTHER RESOLVED by the City Council of the City of Mountain Brook, Alabama, that the City Manager is hereby authorized and directed to sell said property by way of public Internet auction. to the highest bidder and to otherwise dispose of such property that does not sell at said public auction.

EXHIBIT 5

RESOLUTION NO. 2014-063

BE IT RESOLVED by the City Council of the City of Mountain Brook, Alabama, that the City Council hereby authorizes the execution of a professional service agreement between the City and Skipper Consulting, Inc., in the form as attached hereto as Exhibit A subject to such minor modifications that may be determined necessary by the City Attorney, with respect to the traffic signal modification design for the intersection of Overton Road at Oakdale Drive/River Run Road.

APPENDIX 2

EXHIBIT 6

RESOLUTION NO. 2014-064

BE IT RESOLVED by the City Council of the City of Mountain Brook that, at the meeting of the City Council to be held on Monday, June 23, 2014, at 7:00 p.m., in the Council Chamber of the Mountain Brook City Hall located at 56 Church Street, Mountain Brook, Alabama 35213, the City Council will hold a public hearing regarding a proposal to amend the master development plan for The Park at Overton, as more fully described herein below, to allow the existing 18 or fewer lots within the subdivision.

BE IT FURTHER RESOLVED by the City Council of the City of Mountain Brook that the City Clerk be, and he hereby is, authorized and directed to cause to be published not fewer than twenty-two days prior to June 23, 2014, by posting in four (4) conspicuous places within the City of Mountain Brook, as follows: City Hall, 56 Church Street, Gilchrist Drug Company, 2805 Cahaba Road, Overton Park, 3020 Overton Road, and The Invitation Place, 3150 Overton Road, a notice in words and figures substantially as follows:

“ZONING NOTICE

Notice is hereby given that at a regular meeting of the City Council of the City of Mountain Brook to be held on Monday, June 23, 2014, at 7:00 p.m., in the Council Chamber of the Mountain Brook City Hall located at 56 Church Street, Mountain Brook, Alabama 35213, the City Council will hold a public hearing regarding a proposal that the City Council adopt an ordinance in words and figures substantially as follows:

‘ORDINANCE NO.

AN ORDINANCE TO AMEND THE MASTER DEVELOPMENT PLAN FOR THE PARK AT OVERTON, IN THE CITY OF MOUNTAIN BROOK, ALABAMA, TO ALLOW THE EXISTING 18 OR FEWER LOTS WITHIN THE SUBDIVISION.

WHEREAS, after due consideration, the City Council has determined that the master development plan for The Park at Overton should be permitted future resurveys within the subdivision that would result in the same or fewer lots.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Mountain Brook as follows:

1. Master Development Plan. The Master Development Plan and the materials submitted by the applicant, as required by Section 129-497 of the Mountain Brook City Code, are made a part hereof and are specifically incorporated herein by reference, said Plan and materials constituting regulatory standards for use of the affected Property, subject to modification only as provided for in Article XXVIII, Chapter 129 of the Mountain Brook City Code.

2. Description of Affected Property. The property that is the subject of the rezoning approved by this ordinance is described as follows:

LOTS 1-11, 12-A & 14-19 OF THE PARK AT OVERTON, AS RECORDED IN MAP BOOK 215, PAGE 60 IN THE OFFICE OF THE JUDGE OF PROBATE, JEFFERSON COUNTY, ALABAMA, BEING SITUATED IN SECTION 15, TOWNSHIP 18 SOUTH, RANGE 2 WEST, JEFFERSON COUNTY, ALABAMA.

3. Repealer. All ordinances or parts of ordinances heretofore adopted by the City Council of the City of Mountain Brook, Alabama that are inconsistent with the provisions of this ordinance are hereby expressly repealed.

4. **Severability.** If any part, section or subdivision of this ordinance shall be held unconstitutional or invalid for any reason, such holding shall not be construed to invalidate or impair the remainder of this ordinance, which shall continue in full force and effect notwithstanding such holding.

5. **Effective Date.** This ordinance shall become effective immediately upon adoption and publication as provided by law.'

At the aforesaid time and place, all interested parties will be heard in relation to the changes proposed by said ordinance."

BE IT FURTHER RESOLVED that the City Clerk be, and he hereby is, further authorized and directed to give written notice of the hearing to the owners of the property located in whole or in part within 500 feet from the boundaries of the property described in this resolution in the form and manner and within the time required by Act No. 1123 of the 1973 Regular Session of the Legislature of Alabama.

BE IT FURTHER RESOLVED that the City Clerk be, and hereby is, further authorized and directed to post the Notice herein above set out, which includes the proposed ordinance, in four conspicuous places within the City at least twenty-two (22) days prior to the public hearing set hereby.

APPENDIX 3

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EXHIBIT 7

Bk LR201415 Pg 822

RESOLUTION NO. 2014-065

RESOLUTION REGARDING THE VACATION OF ALLEYWAYS FOR PROPERTY TO BE USED IN CONJUNCTION WITH THE DEVELOPMENT OF "THE MANNING"

WHEREAS, Margi Ingram and Charles Ray Ingram are the owners of property in the City of Mountain Brook upon which The Manning is to be located;

WHEREAS, Margi Ingram and Charles Ray Ingram have proposed such property for redevelopment in accordance with Articles VII and XXV of the Mountain Brook Municipal Code; and rezoning to Residence-D was approved by the City Council on May 12, 2014.

WHEREAS, as part of such approved zoning application, the unimproved alleyway to the south of the Res-D property, which currently serves only the Res-D property in question, is to be replaced with a 10-foot wide utility easement to serve the Res-D property and those existing properties to the south and west;

WHEREAS, to that end, there has been submitted to the City Council of the City of Mountain Brook a duly acknowledged "Declaration for Vacation of Certain Alleyways," which is attached hereto and made a part hereof, executed by Margi Ingram, Charles Ray Ingram, and the City of Birmingham, a municipal corporation ("Declarants"), being the sole owners of all lands abutting the alleyways proposed to be vacated and as described below and identified on Exhibit A to the Declaration attached hereto:

The Alleys located to the south and east of Lots 1, 2, 3, 4, 5, 6, 7, and 8, Block 1, according to the Survey of South Highlands First Addition, as recorded in Map Book 7, Pages 105 and 106, in the Office of the Judge of Probate of Jefferson County, Alabama.

WHEREAS, the alleyways for which vacation is requested serve only the property owned by the Declarants, and no person or entity will be affected by the vacation of the Alleys.

WHEREAS, after full and due consideration of the Declaration requesting that the above described unimproved alleyways be vacated, it has been determined by the City Council that it would be in the public interest that the above described alleyways be vacated;

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

1. **Vacation.** Pursuant to ALA. CODE §23-4-20 (1975), subject to the conditions and reservations hereinafter set out, the Declaration for Vacation of Certain Alleyways is hereby granted and the Alleyways shall be vacated upon the filing of this Resolution with the Probate Court of Jefferson County, Alabama, and such filing shall operate as a declaration of vacation and shall divest all public rights and liabilities in the alleyways described above.
2. **Vacation Fee.** A vacation fee in the amount of \$114,031 is assessed by the City to be paid by Margi and Charles Ray Ingram, as the abutting landowner who will directly benefit from said vacation; provided however, that said fee may be contributed to the City through the dedication of right of way along Cahaba Road and other public improvements proposed as part of development of The Manning, as the value of such right of way to be dedicated is found and determined by the City Council to be sufficient consideration to satisfy the vacation fee hereby assessed.
3. **Utility Easements Reserved.** The foregoing assent be and is hereby given upon the condition that any entity, including the City of Mountain Brook, 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 the alleyways, 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 means of ingress and egress thereto and therefrom for said purposes, and that there be, and is hereby, reserved and excluded from the 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. Nothing in this reservation, however, shall prohibit the Declarants and any such entity so owning or maintaining any public utility, facility, line, or installation from relocating or otherwise modifying such rights and easements by agreement or mutual consent.
4. **Maintenance of Utility Facilities.** 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 the 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 for such purposes, or such as shall be approved in writing by the owner or operator of such utility, facility, line or installation.
5. **Publication.** The City Clerk is directed to publish this Resolution once in a newspaper in Jefferson County, Alabama no later than fourteen (14) days from the date of this resolution as required by Ala. Code §23-4-2 (1975).
6. **Severability.** If any part, section, or subdivision of this Resolution shall be held unconstitutional or invalid for any reason by a court of competent jurisdiction, such holding shall not be construed to invalidate or impair the remainder of this resolution, which shall continue in full force and effect notwithstanding such holding.
7. **Effective Date.** This Resolution shall become effective immediately upon its adoption and such publication, if any, as may be required by law.

APPENDIX 5



CITY OF MOUNTAIN BROOK FIRE DEPARTMENT

102 Tibbett Street, Mountain Brook, Alabama – 35213 Phone: (205) 802-3838, Fax: (205) 879-5919



INTEROFFICE MEMORANDUM

TO: Sam Gaston, City Manager
 FROM: Robert Ezekiel, Fire Chief *RWE*
 DATE: May 19, 2014
 SUBJECT: Firefighter Turnout Gear & Helmet Bids

In accordance with state bid laws, and City processes, bid specifications were developed for Firefighter Turnout Gear (coats and trousers) and fire helmets, and placed out for bids. A formal bid opening was held on May 14th. Four vendors offered bids for the turnout gear and two vendors offered bids for the fire helmets. The Bid information is below.

<u>Vendor</u>	<u>2014-059</u> <u>Turnout Gear</u>	<u>2014-060</u> <u>Helmets</u>
Emergency Equipment Professionals	\$2,031 Per set	No Bid
NAFECO	\$1,925 Per set	\$17,539.18
Municipal Emergency Services (MES)	\$1,800 Per set	\$18,445
Sunbelt Fire Apparatus & Equipment	\$1,978 Per set	No Bid

We have reviewed the returned bid documents and performed the analysis regarding each vendor's equipment versus our specifications. The bid from MES does meet required specifications for the turnout gear (low bid) and fire helmets. The fire helmet bid tendered by NAFECO was the low bid; however, there were exceptions to our specifications noted, and therefore we reject their low bid.

The department has budgeted \$124,000 for the turnout gear and fire helmets. The purchase of 59 sets of turnout gear is \$106,200 and the helmets are \$18,445 making a total of \$124,645 needed. This puts this purchase \$645 dollars over budget. We have negotiated with the low bidder, but MES has indicated that there is no more room for reductions in their pricing. Based on the other vendor's bids, we concur that MES has worked to get the price as low as possible.

It is our recommendation that the bid for turnout gear and fire helmets be awarded to MES. These items were the lowest bid meeting our specifications. We respectfully request that this be put before the City Council at the next Council meeting for their consideration and hopefully affirmation.

If you have further questions, as always, please feel free to inquire.

APPENDIX 1

PROFESSIONAL SERVICES AGREEMENT

Between The City of Mountain Brook and Skipper Consulting, Inc.

This Agreement is made by and between the City of Mountain Brook ("Client"), doing business at P.O. Box 130009, Mountain Brook, Alabama 35213-0009 and, Skipper Consulting, Inc. ("Consultant"), doing business at 3844 Vane Road, Suite 100, Birmingham, Alabama 35235.

Whereas as follows: Client requires professional traffic engineering services to perform a traffic signal modification design for the intersection of Overton Road at Oakdale Drive/River Run Road. The Consultant shall be authorized to start work on the services outlined in this agreement upon execution of this Agreement. The Client and Consultant agree this agreement, together with Exhibit A referred to herein, constitute the entire agreement between them relating to this assignment.

1. PROFESSIONAL SERVICES: The Consultant agrees to perform the following Services under this agreement:

SEE EXHIBIT "A"

2. CLIENT'S RESPONSIBILITIES: Client, at its expense, will provide the Consultant with all required site information, existing plans, reports, studies, project schedules and similar information that is contained in its files. The Consultant may rely on the information provided by the Client without verification.

The Client will designate a representative who shall have the authority to act on behalf of the Client for this project.

The Client shall participate with the Consultant by providing all information and criteria in a timely manner, review documents and make decisions on project alternatives to the extent necessary to allow the Consultant to perform the scope of work within established schedules.

3. COMPENSATION, BILLING, PAYMENT, AND PERFORMANCE SCHEDULE: Skipper Consulting Inc. would on behalf of the City of Mountain Brook, undertake the work outlined in Exhibit "A" for a fixed fee of \$4,600.00 as follows:

Table with 2 columns: Work Task, Fee. Row: Traffic Signal Modification Design, \$4,600.00

The CLIENT would be billed monthly based on the work completed during the billing period. Invoices are payable within 30 days from the receipt by the CLIENT, and such payment shall not be contingent or dependent upon any conditions or any action or undertaking of the CLIENT other than those conditions, if any, specifically set forth in this agreement.

If complications or other unforeseen factors cause a change in the scope of work outlined in Section 1 and/or Exhibit "A", the Consultant will notify the Client in writing of the changes and any adjustments to the fee required by such change. If the Client wishes to undertake tasks that are identified as being outside the proposed scope of services, the Consultant is prepared to amend this Agreement or submit a proposal for the additional work.

THE REMEDY OF EITHER PARTY IN THIS AGREEMENT IS LIMITED TO THE PERFORMANCE OR NON-PERFORMANCE IN ANY OF THE SERVICES UNDER THE CONDITIONS OF THIS AGREEMENT, OR THE WAIVER OF ANY BREACH OF ANY OF THE TERMS AND CONDITIONS OF THIS AGREEMENT, SHALL NOT BE CONSIDERED AS THEREAFTER WAIVING ANY SUCH TERMS AND CONDITIONS BUT THE SAME SHALL CONTINUE AND REMAIN IN FULL FORCE AND EFFECT AS IF NO SUCH FORFEITURE OR WAIVER HAD OCCURRED.

The invalidity of any portion of this agreement will not and shall not be deemed to affect the validity of any other provision. In the event that any provision of this agreement is held to be invalid, the parties agree that the remaining provisions shall be deemed to be in full force and effect.

Neither party to this agreement shall be liable to the other for any loss, cost, or damages, arising out from or resulting from, any failure to perform in accordance with the terms of this agreement where the cause of such failure shall include, but not limited to, acts of God, strikes, lockouts, or other industrial disturbances, wars, whether declared or undeclared, blockades, insurrections, riots, governmental action, explosions, fire, floods, or any other cause not within the reasonable control of either party.

Consultant shall secure and maintain such insurance as will protect him from claims under the workers' compensation acts and form claims for bodily injury, death, or property damage that may arise from the performance of his services under and pursuant to this agreement. Certificates of such coverage will be provided to Client upon request.

To the fullest extent permitted by law, the Client and Consultant agree that, except for claims of indemnification, the time period for claims under this agreement shall expire one year following completion of the project.

Client shall provide Consultant access to the project site necessary for the Consultant to provide the services outlined.

Reuse of any documents or other deliverables pertaining to the project by the Client other than for the project for which documents or deliverables were prepared without written verification by the Consultant shall be at the Client's risk.

No employee or agent of the Consultant shall have individual liability to the Client.

The persons signing this agreement warrant that they have the authority to sign on behalf of the Client and Consultant.

APPROVED FOR CLIENT

APPROVED FOR SKIPPER Consulting, Inc.

By: [Signature]

By: [Signature]

Printed Name: _____

Printed Name: Darrell B. Skipper

Title: _____

Title: President

Date: _____

Date: 5/19/14

APPENDIX 2

IF THE CITY REQUESTS PAYMENT FOR SERVICES RENDERED UNDER THIS AGREEMENT AND SUCH PAYMENT IS NOT MADE, THE CONSULTANT AGREES TO HAVE THE RIGHT TO STOP WORK ON THE ASSIGNMENT UNTIL SUCH PAYMENT IS MADE. ALL PAST DUE INVOICES SHALL ACCRUE INTEREST AT THE RATE OF 1.5% PER MONTH. THE CONSULTANT WILL NOT BE LIABLE FOR ANY DELAYS TO PROJECT SCHEDULES CAUSED BY SUCH STOPPAGE. FURTHERMORE, SHOULD THE CONSULTANT BE REQUIRED TO TAKE LEGAL ACTION INCLUDING, BUT NOT LIMITED TO, SUIT TO COLLECT FOR SERVICES, THE CLIENT SHALL BE RESPONSIBLE FOR ALL COSTS AND REASONABLE ATTORNEY FEES IN THE COLLECTION OF ALL AMOUNTS DUE FOR SERVICES RENDERED UNDER THIS AGREEMENT, OR ANY AMENDMENT HERETO.

This proposal has been prepared with the expressed understanding that the selection of our firm to perform these professional services is based upon the qualifications, experience and reputation of the staff of Skipper Consulting, Inc., and not solely upon the cost of the services proposed. We trust the fees outlined herein are acceptable and within your project budgetary plans. We look forward to commencement of the work and will be glad to address any questions regarding the technical scope and/or schedule of fees for this proposal. If the Client should request additional prices for the scope of work included herein from other consulting engineers, please consider our proposal withdrawn in order to comply with Alabama Administrative Code Chapter 330-X-14-.05(f).

4. STANDARD TERMS AND CONDITIONS

Services provided by the Consultant shall be performed based on standard professional practices established by the transportation engineering and planning profession and upon standards within the locality where the services are provided.

Consultant's relationship to Client shall at all times be that of an associate consultant, and at all times this relationship shall be governed by, and in strict accordance with, Client's contract with the consultant.

The Client shall, without limit, have final right of review and approval of all plans and specifications that shall be the essence of this agreement; however, review and approval shall not be withheld unreasonably.

The rights of each party under this agreement are personal to that party and may not be assigned or transferred to any other person, firm, corporation, or other entity without the prior, express, and written consent of the other party.

This agreement may be terminated by either party upon 10 days' written notice should the other party fail substantially to perform in accordance with its terms through no fault of the other. In the event of termination of this agreement, due to the fault of someone other than the Consultant, Consultant shall be paid for services performed to termination date, including reimbursements then due.

The Consultant agrees to furnish consulting services only, as may be required for any and all of Client's work. Consultant shall be responsible for coordination of his work with that of Client.

This agreement shall constitute the entire agreement between the parties and any prior understanding or representation of any kind preceding the date of this agreement shall not be binding upon either party except to the extent incorporated in this agreement.

Any modification of this agreement or additional obligation assumed by either party in connection with this agreement shall be binding only if placed in writing and signed by each party or an authorized representative of each party.

It is agreed that this agreement shall be governed by, construed, and enforced in accordance with the laws of the State of Alabama.

2014-063 4 of 4

ADDENDUM TO AGREEMENT BETWEEN THE CITY OF MOUNTAIN BROOK AND SKIPPER CONSULTING, INC. DATED MAY 27, 2014

THIS ADDENDUM ("the/this Addendum") to the principal agreement between the City of Mountain Brook, Alabama ("the City") and Skipper Consulting, Inc. ("the Contractor") dated May 27, 2014.

This Addendum is a part of the principal agreement, but supersedes and controls any conflicting or inconsistent terms or provisions in the principal agreement, particularly to the extent the conflicting or inconsistent terms or provisions purport either to (a) confer greater rights or remedies on the Contractor than are provided herein or under otherwise applicable law, or to (b) reduce, restrict, or eliminate rights or remedies that would be available to the City under otherwise applicable law. The addendum shall remain in full force and effect with respect to any amendment, extension, or supplement of or to the principal agreement, whether or not expressly acknowledged or incorporated therein. No agent, employee, or representative of the City is authorized to waive, modify, or suspend the operation of the Addendum or any of its terms or provisions without express approval of the Mountain Brook City Council.

1. Definitions. For purposes of this Addendum, the terms below have the following meanings:

- A. "The City" refers to and includes the City of Mountain Brook, Alabama, and its constituent departments, boards, and agencies.
B. "The (his) Agreement" refers to the principal contract, agreement, proposal, quotation, or other document that sets forth the basic terms and conditions under which the Contractor is engaged to provide goods, materials, or services to the City, including the payment or other consideration to be provided by the City in exchange therefor.
C. "The Contractor" refers to the person, firm, or other legal entity that enters into an agreement with the City to provide goods, materials, or services to the City, and includes vendors and suppliers providing goods, materials, and services to the City with or without a formal contract as well as the Contractor's vendors, suppliers, and subcontractors.

2. Arbitration; Mediation; Alternate Dispute Resolution. The City agrees to arbitrate disputes or to engage in alternate dispute resolution (ADR) if arbitration or ADR is required by the agreement as a means of resolving disagreements arising thereunder or is a precondition to the pursuit of other legal remedies, but only to the extent (1) the rights and remedies available under such arbitration rules or processes do not afford the Contractor greater relief (e.g., attorney's fees, damages, etc.) than would be available under otherwise applicable law, (2) the venue for the arbitration or mediation proceeding is in Jefferson County, Alabama, and (3) the costs of such proceedings (including the fees of the arbitrator or mediator) are divided evenly between the parties.

3. Attorney's Fees; Court Costs; Litigation Expenses. The City shall not be liable for attorney's fees, court costs, litigation expenses, and like charges except and to the extent such fees, costs,

Program prior to performing any work, or continuing to perform any ongoing work, and shall remain enrolled throughout the entire course of its performance hereunder, and shall attach to its affidavit the E-Verify Program for Employment Verification and Memorandum of Understanding and such other documentation as the Board may require to confirm Contractor's enrollment in the E-Verify Program. Contractor agrees not to knowingly allow any of its subcontractors, or any other party with whom it has a contract, to employ in the State of Alabama any illegal or undocumented aliens to perform any work in connection with the Project, and shall include in all of its contracts a provision substantially similar to this paragraph. If Contractor receives actual knowledge of the unauthorized status of one of its employees in the State of Alabama, it will remove that employee from the project, job site or premises of the City and shall comply with the Immigration Reform and Control Act of 1986, as amended by the Immigration Act of 1990, and the Beason-Hammon Alabama Taxpayer and Citizen Protection Act. Contractor shall require each of its subcontractors, or other parties with whom it has a contract, to act in a similar fashion. If Contractor violates any term of this provision, this Agreement will be subject to immediate termination by the City. To the fullest extent permitted by law, Contractor shall defend, indemnify and hold harmless the City from any and all losses, consequential damages, expenses (including, but not limited to, attorney's fees), claims, suits, liabilities, fines, penalties, and any other costs arising out of or in any way related to Contractor's failure to fulfill its obligations contained in this paragraph.

DATED this 27th day of May, 2014.

Skipper Consulting, Inc.

City of Mountain Brook, Alabama

By: [Signature] Its: President

By: [Signature] Its: Mayor

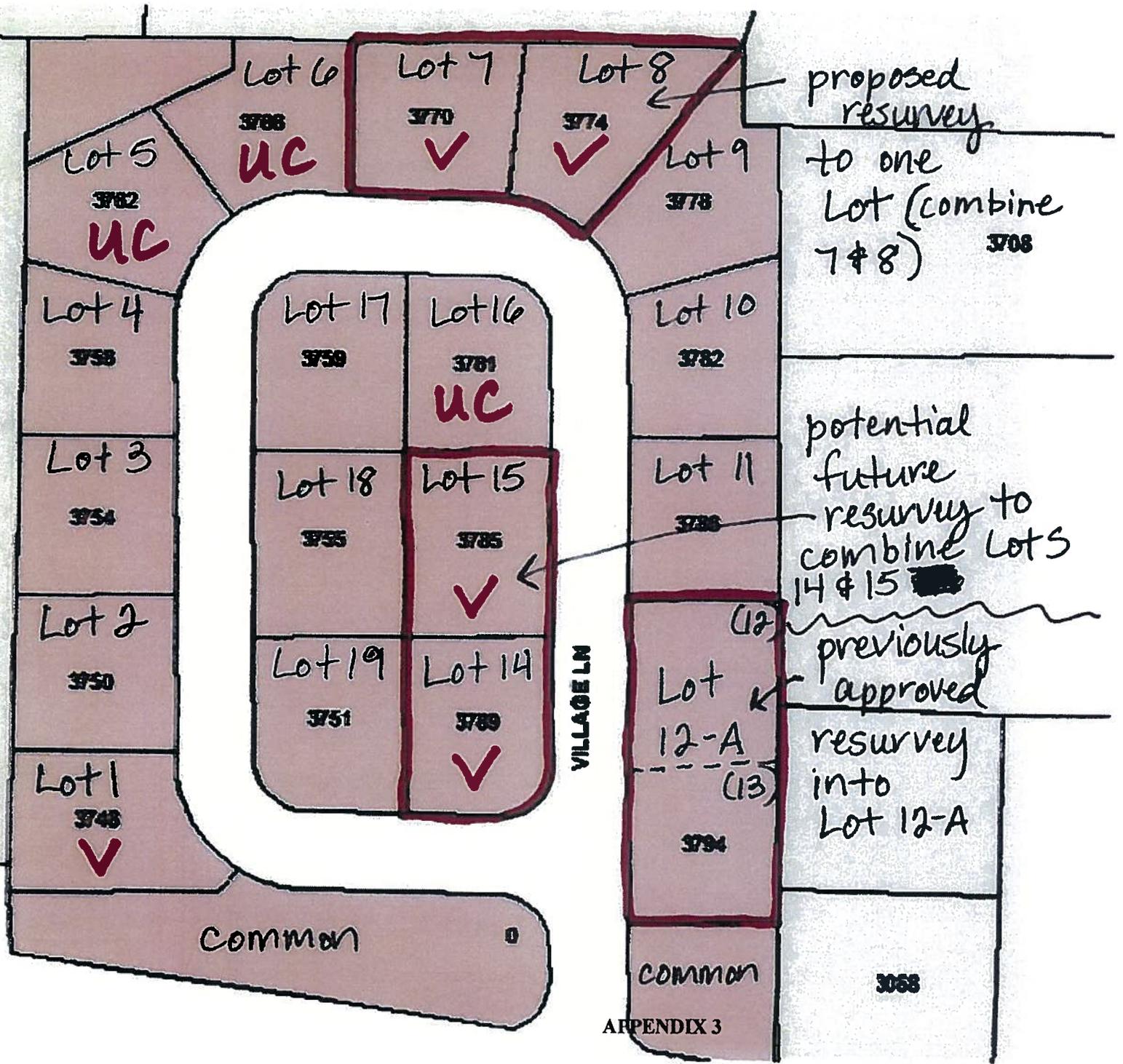
APPENDIX 2

and charges would be assessed against the City under applicable law in the absence of any contractual provision imposing or assigning liability therefor.

- 4. Late Payment Charges; Fees; Interest. The City shall not be liable for any late payment charges, interest, or fees on any delinquent bill for goods, materials, or services at a rate higher than two-thirds of one percent per month (eight percent per annum), but bills rendered to the City shall not be considered delinquent any earlier than thirty (30) days after rendition of a complete and accurate bill by the Contractor. Contested bills shall not be subject to late payment charges pending resolution of the dispute.
5. Indemnification; Hold-Harmless; Release; Waiver; Limitations of Liability or Remedies. The City shall not and does not indemnify, hold harmless, or release the Contractor or any other person, firm, or legal entity for, from, or with respect to any claim, cause of action, cost, charge, fee, expense, or liability whatsoever arising out of or relating to the subject matter of the agreement or the performance or nonperformance thereof; nor shall or does the City waive its right to assert or pursue any remedy or claim for relief of any kind that it may have against the Contractor or any other person, firm, or entity for any actual or alleged default or other breach of legal duty on the part of the Contractor or any person, firm, or entity in privity therewith or acting on Contractor's behalf. Any limitation or restriction regarding the type, nature, form, amount, or extent of any right, remedy, relief, or recovery that would otherwise be available to the City is expressly disavowed, excluded from the terms of the agreement, and void.
6. Choice of Law; Choice of Venue or Forum. The meaning, legal effect, and enforcement of terms and provisions of the agreement and the resolution of any disputes arising thereunder or relating thereto shall be governed by the laws of the State of Alabama except to the extent otherwise required by applicable conflict-of-law principles. The venue of any suit, action, or legal proceeding brought to enforce or secure relief by reason of any asserted breach of duty arising out of or relating to the performance or nonperformance of the agreement shall be Jefferson County, Alabama except to the extent otherwise required by applicable principles of law.
7. Construction of Addendum. Nothing in this Addendum shall be construed to create or impose any duty or liability on the City, to create a right or remedy in favor of the Contractor against the City, or to restrict or abrogate any right or remedy that is available to the City against the Contractor or any other person, firm, or entity under either the principal agreement or as a matter of law.
8. Alabama Immigration Law Compliance Contract. Contractor agrees that it will fully comply with the Immigration Reform and Control Act of 1986, as amended by the Immigration Act of 1990, and the Beason-Hammon Alabama Taxpayer and Citizen Protection Act, which makes it unlawful for an employer in Alabama to knowingly hire or continue to employ an alien who is or has become unauthorized with respect to such employment or to fail to comply with the I-9 requirements or fails to use E-Verify to verify the eligibility to legally work in the United States for all of its new hires who are employed to work in the State of Alabama. Without limiting the foregoing, Contractor shall not knowingly employ, hire for employment, or continue to employ an unauthorized alien, and shall have an officer or other managerial employee who is personally familiar with the Contractor's hiring practices to execute an affidavit to this effect on the form supplied by the Board and return the same to the City. Contractor shall also enroll in the E-Verify

J:\Minutes & Agendas\Council\2014\20140527 Minutes.doc

V = vacant
UC = under construction

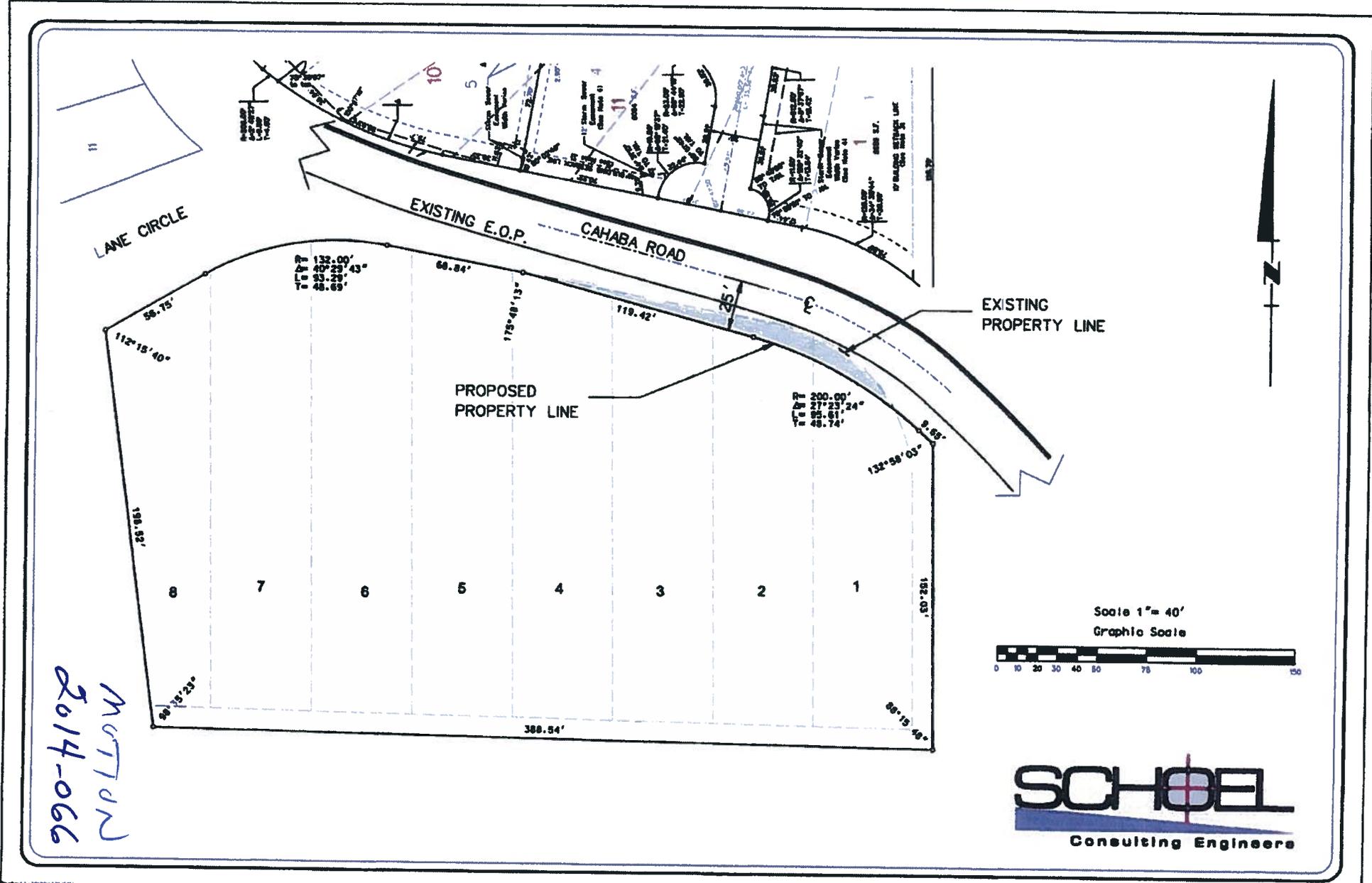


STON RD

2014-064

May 27, 2014

APPENDIX 3



APPENDIX 4

The Birmingham News

LEGAL AFFIDAVIT

CITY OF MOUNTAIN BROOK
P O BOX 130009
BIRMINGHAM, AL 35213

Sales Rep: Nancy Bridgman
251-219-5000

Billing Inquiries Please Call
251-219-5405

Account Number : 2001027

Ad Number: 0006092889

APPENDIX 5

Date	Position	DESCRIPTION	P. O. Number	Ad Size	Total Cost
05/18/14		MOUNTAIN BROOK CITY COUNCIL		5.00 x 9.0000	\$ 6,930.00

Cynthia White being sworn, says that she is bookkeeper of the Birmingham News which publishes a daily newspaper in the City of Birmingham and County of Jefferson, State of Alabama and attached notice appeared in the issue of

Birmingham News May 18, 2014

Cynthia White

sworn to and subscribed before me this 21st day of May, 2014

Brandi W. Cook

NOTARY PUBLIC

FOR QUESTIONS CONCERNING THIS AFFIDAVIT,
PLEASE CALL CYNTHIA WHITE AT (251) 219-5405.
YOU CAN PLACE A LEGAL NOTICE BY EMAIL OF FAX:
LEGALS@ACSAL.COM OR FAX# (251) 219-5037

**MOUNTAIN BROOK CITY COUNCIL
MOUNTAIN BROOK, ALABAMA**

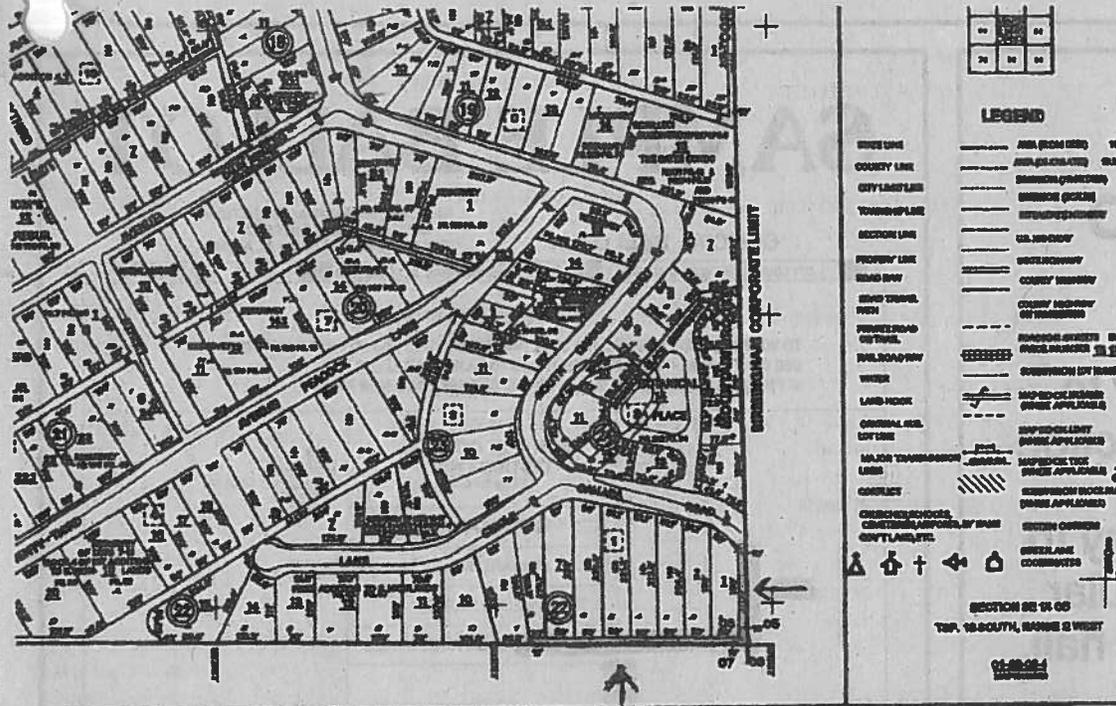
NOTICE OF PUBLIC HEARING (2014-044)

Notice is hereby given that, at its regular meeting on Tuesday, May 27, 2014, to be held at 7:00 p.m. at Mountain Brook City Hall, 56 Church Street, Mountain Brook, Alabama, 35213, the City Council of Mountain Brook, Alabama ("City Council") will consider the adoption of a resolution approving the Petition for Vacation of Certain Alleys filed by Margi Ingram and Charles Ray Ingram, for the vacation of those unimproved alleys (the "Alleys") as described herein below and identified on Exhibit A attached hereto:

The Alleys located to the south and east of Lots 1, 2, 3, 4, 5, 6, 7, and 8, Block 1, according to the Survey of South Highlands First Addition, as recorded in Map Book 7, Pages 105 and 106, in the Office of the Judge of Probate of Jefferson County, Alabama.

Margi and Charles Ray Ingram are the owners of Lots 1, 2, 3, 4, 5, 6, 7, and 8, Block 1, according to the Survey of South Highlands First Addition, as recorded in Map Book 7, Pages 105 and 106, in the Office of the Judge of Probate of Jefferson County, Alabama, all of which abut the adjacent unimproved Alleys located to the south and east of said Lots, as per Map Book 7, Pages 105 and 106, recorded in the Office of the Judge of Probate of Jefferson County, Alabama. No person or entity will be affected by the vacation of the Alleys.

At the time and place set forth above, the City Council will receive public comment with regard to the Petition for Vacation. Any citizen alleging to be affected by the proposed vacation may submit a written objection to the City Council prior to such hearing.



Questions regarding the matters that are the subject of this Notice may be directed to the undersigned in person or by telephone.

Dana Hazen
City Planner
City of Mountain Brook, Alabama
Mountain City Hall
56 Church Street
Mountain Brook, Alabama 35213
(205) 802-3821

Published by posting at the following locations:
City Hall, 56 Church Street
Gilchrist Pharmacy, 2805 Cahaba Road
Overton Park, 3020 Overton Park
The Invitation Place, 3150 Overton Road
Jefferson County Courthouse

EXHIBIT A

(Alleys to be vacated, located to the South and East of Lots 1-8 in the South Highlands Subdivision, shown here as highlighted)

MS-2008

Bham News: April 27, May 4, 11, 18, 2014

RESOLUTION NO. 2014-065

RESOLUTION REGARDING THE VACATION OF ALLEYS FOR PROPERTY TO BE USED IN CONJUNCTION WITH THE DEVELOPMENT OF "THE MANNING"

WHEREAS, Margi Ingram and Charles Ray Ingram are the owners of property in the City of Mountain Brook...

WHEREAS, Margi Ingram and Charles Ray Ingram have proposed such property for redevelopment in accordance with Articles VII and XXV of the Mountain Brook Municipal Code...

WHEREAS, as part of such approved zoning application, the proposed alleyway to the south of the Res-D property...

WHEREAS, to that end, there has been submitted to the City Council of the City of Mountain Brook a duly acknowledged Declaration for Vacation of Certain Alleys...

The Alleys located to the south and east of Lots 2, 3, 4, 5, 6, 7, and 8, Block 1, according to the Survey of South Highlands First Addition...

WHEREAS, the alleys ways for which vacation is requested serve only the property owned by the Declarants, and no person or entity will be affected by the vacation of the Alleys.

WHEREAS, after full and due consideration on the Declaration requesting that the above described unimproved alleys ways be vacated...

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MOUNTAIN BROOK, AS FOLLOWS:

1. Vacation. Pursuant to ALA. CODE §23-4-201 (1975), subject to the conditions and reservations hereinafter set out, the Declaration for Vacation of Certain Alleys ways is hereby granted...

2. Vacation Fee. A vacation fee in the amount of \$114.03 is assessed by the City to be paid by Margi and Charles Ray Ingram...

to the City through the dedication of right of way along Cahaba Road and other public improvements proposed as part of development of The Manning as a set aside of such right of way to be dedicated is found and determined by the City Council to be sufficient consideration to satisfy the vacation fee hereby assessed.

3. Utility Easements Reserved. The foregoing assent and is hereby given upon the condition that any utility, including the City of Mountain Brook, which may own or rightfully maintain any public utility, facility, line or installation, including any open or closed storm or sanitary sewer in any portion of the alleys ways, shall have a right and easement to continue to maintain same in its present location there and to repair, cleanse, improve, reconstruct and have convenient means of ingress and egress to and from such utility, facility, line or installation...

4. Maintenance of Utility Facilities. 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 unexcavated 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...

5. Publication. The City Clerk is directed to publish this Resolution on once in the Birmingham News, Alabama, later than fourteen (14) days from the date of this resolution as required by Ala. Code §23-4-2 (1975).

6. Severability. If any part, section, or subdivision of this Resolution shall be held unconstitutional or invalid for any reason by a court of competent jurisdiction, such holding shall not be construed to invalidate or impair the remainder of this resolution, which shall continue in full force and effect notwithstanding such holding.

7. Effective Date. This Resolution shall become effective immediately upon its adoption and such publication, if any, may be required by law.

ADOPTED: The 27th day of May, 2014. By: Virginia C. Smith, Council President

APPROVED: The 27th day of May, 2014. By: Lawrence T. Oden, Mayor

CERTIFICATION

I, Steven Boone, City Clerk of the City of Mountain Brook, Alabama, hereby certify the above to be a true and correct copy of a resolution adopted by the City Council of the City of Mountain Brook at its regular meeting held on May 27, 2014, as same appears in the minutes of record of said meeting.

I further certify that proper notice of the proposed vacation and consideration thereof was published in the Birmingham News on a week for four consecutive weeks prior to the consideration of this resolution, posted on a bulletin board at the County Courthouse, posted in four conspicuous places within the City of Mountain Brook, as follows: City Hall, 56 Church Street, Glens DuPont Company, 280 Cahaba Road, Overton Park, 3020 Overton Road, and the Invitation Place, 3150 Overton Road, served by U.S. Mail on all abutting owners and on all notices known to have facilities or equipment within the right-of-way of the street to be vacated.

By: Steven Boone, City Clerk

STATE OF ALABAMA) JEFFERSON COUNTY)

DECLARATION OF VACATION

(Alleys located to the South and East of Lots 1-8 in the South Highlands Subdivision)

KNOW ALL MEN BY THESE PRESENTS:

The undersigned, Margi Ingram and Charles Ray Ingram, collectively referred to herein as the "Ingrams", are the owners of Lots 1, 2, 3, 4, 5, 6, 7, and 8, Block 1, according to the Survey of South Highlands First Addition, as recorded in Map Book 7, Pages 105 and 106, in the Office of the Judge of Probate of Jefferson County, Alabama (the "Lots"). All of the Lots and the adjacent Alleys located to the South of the "South Alley" and East of the "East Alley" (collectively referred to herein as the "Alleys") of the Lots as per Map Book 7, Pages 105 and 106, recorded in the Office of the Judge of Probate of Jefferson County, Alabama, hereinafter declared vacated. The Alleys vacated by this Declaration are more particularly depicted on the attached Exhibit A.

The undersigned, the City of Birmingham, Alabama, a municipal corporation, referred to herein as "Birmingham", is the owner of the lands adjacent to the Alleys located to the south and to the east of the Alleys.

The Ingrams and Birmingham are collectively referred to herein as the "Owners".

The Owners do hereby declare, vacate and divest out of the public the Alleys.

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

The Ingrams declare that no encroachment within the ten foot (10') strip of land situated in the area occupied by the South Alley shall remain for the utilities in place at the time of the vacation hereinabove and for other utilities in general. And the Ingrams declare that said assent shall not be croached upon by the Ingrams in a manner that would hinder the possible extension of sanitary sewer and other utilities within said easement for the benefit of property owners located immediately to the west of the Alleys. The Ingrams have determined that there are no utilities located in the East Alley; accordingly, no easement for utilities shall remain with respect to the land situated within the East Alley after the vacation hereinabove declared.

The Owners do 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.

The Owners do further declare that after the vacation hereinabove declared, the title to the public way hereby vacated shall vest entirely and exclusively in Margi Ingram and Charles Ray Ingram.

This document may be executed in counterparts, all of which together shall constitute one document binding upon the parties hereto, notwithstanding that all parties are not signatories to the original or to this same counterpart. Signatures by facsimile and/or electronic mail shall be acceptable and binding upon the parties.

IN WITNESS WHEREOF, the undersigned has caused this instrument to be executed as of the 27th day of May, 2014.

OWNERS: By: Margi Ingram, Margi Ingram; By: Charles Ray Ingram, Charles Ray Ingram; City of Birmingham, Alabama, a municipal corporation; By: William A. Bell, Sr., Mayor.

ATTEST: By: Les Frazier, City Clerk

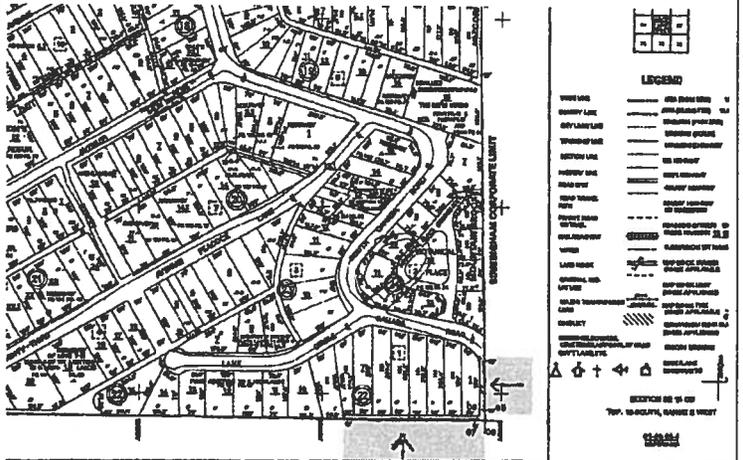


EXHIBIT A (Alleys to be vacated, located to the South and East of Lots 1-8 in the South Highlands Subdivision, shown here as highlighted)

Bham News June 8, 2014

APPENDIX 5