PRE-MEETING AGENDA
MOUNTAIN BROOK CITY COUNCIL

CITY HALL PRE-COUNCIL ROOM (A106)
56 CHURCH STREET
MOUNTAIN BROOK, AL 35213

FEBRUARY 24, 2020, 6:15 P.M.

1. Overtime Policies-Steve Boone (See attached information. This item may be added to the formal agenda.)

2. Green equipment purchase and MOU with American Green Zone Alliance (AGZA) for Overton Park-Shanda Williams (See attached information. These items may be added to the formal agenda.)

3. Street Light request behind Vogue Cleaners located at 2816 Cahaba Road in Mountain Brook Village-Officer Ro Burrow and Sam Gaston (See attached information.)

4. Executive Session
**Time and attendance policies**

- The City has never formally adopted time and attendance policies with respect to overtime.
- Consequently, departments have implemented departmental policies (some formal, most informal).
- In many instances, policies are inconsistent across departments and sometimes not applied consistently within departments over time.
- The City has reviewed its time and attendance policies and has implemented or considered the following:

<table>
<thead>
<tr>
<th>City Policy</th>
<th>Fair Labor Standards Act</th>
</tr>
</thead>
<tbody>
<tr>
<td>Police sergeants and fire lieutenants changed from exempt to non-exempt</td>
<td>Still somewhat inconclusive but case law over the past decade suggests first responder duties comingle with administrative duties obviates the administrative exemption.</td>
</tr>
<tr>
<td>Dispatch supervisor changed from exempt to non-exempt</td>
<td>Legal review concluded this position is exempt, however, City decided to treat as non-exempt in the interest of conservatism.</td>
</tr>
<tr>
<td>Firefighter 26-day work period set at 192-hours for overtime purposes</td>
<td>FLSA 26-day work period is 197-hours.</td>
</tr>
<tr>
<td>Law enforcement 14-day work period set at 80-hours for overtime purposes</td>
<td>FLSA 14-day work period is 86-hours.</td>
</tr>
<tr>
<td>Paid time off shall not be included in the total hours to be compared to the work period base for overtime calculation purposes except for 1) firefighters, and 2) public safety and other events that require immediate action to protect health, safety and welfare of the public and public property.</td>
<td>FLSA on-premises rule provides no exceptions. Overtime is not due until after an employee has physically worked beyond the applicable work period base.</td>
</tr>
</tbody>
</table>

The Fire Department has been excluded from the provisions of the FLSA on-premises rule because 1) total overtime is less than 1% of the total salary costs and 2) the potential overtime reduction from the policy change is only about $5,000/year.

The proposed policies are more employee friendly 1) than provided in the FLSA and 2) most other area cities polled.
<table>
<thead>
<tr>
<th>City</th>
<th>FLSA On Premises Rule</th>
<th>Firework Period</th>
<th>Police Work Period</th>
<th>FYE 9/30/2018 Police Overtime</th>
<th>Percentage of Total Police Salaries</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mtn Brook</td>
<td>No</td>
<td>26-days, 192-hours</td>
<td>14-days, 80-hours</td>
<td>$353,758 (2018)</td>
<td>$4,534,338 (7.8%)</td>
</tr>
<tr>
<td>Trussville</td>
<td>Yes</td>
<td>26-days, 197-hours</td>
<td>14-days, 86-hours</td>
<td>$461,254 (2019)</td>
<td>$4,705,107 (9.8%)</td>
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<tr>
<td>Pelham</td>
<td>Yes</td>
<td>28-days/212-hours</td>
<td>14-days, 86-hours</td>
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<tr>
<td>Hoover</td>
<td>Yes</td>
<td>26-days, 192-hours</td>
<td>5-days, 40-hours</td>
<td>$1,226,036</td>
<td>$12,909,450 (9.5%)</td>
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<tr>
<td>Homewood</td>
<td>Yes</td>
<td>26-days, 192-hours</td>
<td>28-days, 171-hours</td>
<td>$350,000</td>
<td>$7.3 million (4.8%)</td>
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<tr>
<td>Auburn</td>
<td>No</td>
<td>27-days, 204-hours</td>
<td>8-days, 48-hours</td>
<td>$1,693,029</td>
<td>$9,053,633 (18.7%)</td>
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<tr>
<td>Vestavia Hills</td>
<td>Yes#</td>
<td>27-days, 216-hours</td>
<td>14-days, 86.67-hours</td>
<td>$60,000</td>
<td>$5,956,573 (1%)</td>
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</tbody>
</table>

# "As interpreted by Vestavia Hills"
RESOLUTION NO. 2020-

WHEREAS the City Council formally adopted its "Internal Control Policies and Procedures" upon its adoption of Resolution No. 2019-049 (April 8, 2019); and

WHEREAS the City Council wishes to amend such policies and procedures with respect to overtime; now, therefore,

BE IT RESOLVED by the City Council of the City of Mountain Brook that the City Council hereby amends Sec. 8.4 of the "Internal Control Policies and Procedures" by adding Sec. 8.4.2 "Overtime policies", in the form as attached hereto as Exhibit A (said section shall be appended to the previously adopted "Internal Control Policies and Procedures"); and

BE IT FURTHER RESOLVED by the City Council of the City of Mountain Brook that the City Council delegates authority to the Finance Director and/or City Manager to implement editorial, procedural and workflow revisions to said internal control policies and procedures as conditions change or otherwise determined warranted to improve and further enhance such controls and workflow.

ADOPTED: This 24th day of February, 2020.

____________________
Council President

APPROVED: This 24th day of February, 2020.

____________________
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 February 24, 2020, as same appears in the minutes of record of said meeting.

____________________
City Clerk
### 8.4.2 Overtime policies:

Overtime is governed by the Fair Labor Standards Act (FLSA) administered by the U.S. Department of Labor. The City's overtime policies are generally intended to adhere (at a minimum) to the provisions of the FLSA with some (more liberal) exceptions as more fully described below. Deviations from the policies expressed herein below must be approved in writing by the City Manager.

#### 1. Exempt employees.

(Under the FLSA, exempt employees are not due overtime. In those instances where the City has authorized limited overtime for certain exempt personnel, such action does not change the underlying exempt nature of the position. The City may discontinue such practice at any time at its sole discretion. The City Manager shall authorize any changes to overtime compensation policies and practices with respect to exempt positions).

- **a.** Certain Mountain Brook exempt employees (generally department heads and deputy or assistant department heads) are not compensated for overtime. Consistent with the FLSA, such employees may adjust their schedule as work responsibilities permit to balance work and personal time.

- **b.** Certain other Mountain Brook exempt employees (generally, but not limited to\(^\text{(a)}\), Police Lieutenants) may be compensated for overtime generally for attendance at departmental staff/roll-call meetings, after-hours public meetings and other assigned duties outside of the normal schedule. The nature of work for which straight-time overtime shall be granted for such exempt employees shall be determined by the City on a case-by-case basis. Such overtime may be either:
  - i) Paid at the employee’s regular hourly rate of pay (“straight-time”) or
  - ii) Credited to the employee’s accumulated leave time (one-hour banked for one-hour worked) as compensatory time (“comp time”) where it shall be accumulated. As provided in the “City of Mountain Brook Employee Handbook” (Sec. III. E. 5.), when carried as comp time, such accumulations shall be limited to 80-hours. Once the 80-hour comp time limit is reached, all future straight-time overtime shall be paid as worked.

\(^{(a)}\) Fire Battalion Chiefs may be credited with straight-time compensatory time for attendance at mandatory command staff meetings occurring on scheduled off days.

#### 2. On-premises policies with respect to overtime calculation.

(Note: Under the FLSA, the baseline or threshold for overtime for a 26-day work period (fire) is 197-hours and for a 14-day work period (law enforcement) is 86-hours. The City has intentionally established lower thresholds for fire and law enforcement overtime calculation purposes for these two public safety work periods. The City may, at its sole discretion, alter these baselines not to exceed those prescribed under the FLSA.)
a. The City has adopted by reference the FLSA on-premises rule whereby overtime is not due until after an employee has physically worked more than the applicable work period baseline (e.g., 40-hour weekly (Tuesday through Monday) for all except public safety employees, 192-hours over a 26-day work period for certified firefighters and 80-hours biweekly for APOST certified law enforcement personnel) except as provided herein below:

1) When afterhours work is required due to a public safety emergency or event or when a situation or event occurs that threatens public property, health, safety or welfare.

i. When an employee is called in early, asked to work over or called into work on an off-day as a result of a situation as described above, overtime shall be calculated on a daily/shift basis. In such instances, overtime shall commence for any hours worked outside of the normal shift without regard to paid time off during the specific work period.

2) If an employee is called into work as a result of a situation as described above, all time worked shall be considered overtime and compensated at either a) the rate of 1-1/2 times their regular hourly rate of pay or credited to the employee's comp time leave balance (1-1/2 hours for each overtime hour) at the non-exempt employee's discretion or b) straight time (paid or banked at the employee's discretion) for exempt employees who have been authorized for straight time overtime compensation.

3) If an employee is scheduled off by way of compensable paid time off (e.g., comp time or vacation, etc.) and is called into work as a result of a public safety emergency, the paid time off may be credited back to the employee's accumulated leave time balance. When such paid time off is credited back to the employee's leave balance, overtime shall be paid or banked at the appropriate hourly rate of compensation after the employee has worked over the normal (daily) shift. Should the employee desire that the scheduled off time hours not be credited back to the employee's leave balance, time worked shall be paid (or banked) at the employee's regular (straight-time) hourly rate of pay.

4) Hours worked on a recognized holiday shall generally result in 8 hours straight-time pay or comp/holiday time for the holiday and straight time overtime for the hours worked (with a 2-hour minimum for callback) EXCEPT when such work is due to a public safety emergency AND the employee is not scheduled to work on the recognized...
**holiday.** In those rare instances, the employee shall be compensated 8 hours straight-time pay or comp time for the holiday and 1-1/2 (or straight time if an approved exempt employee) overtime for the hours worked on the recognized holiday called-in to work.

Note: The policies outlined in subsections 1) through 4) above exceed the provisions specified in the FLSA. In practice, a non-exempt employee likely will receive both 1-1/2 overtime and straight time overtime within the same work period or biweekly payroll depending on the paid time off hours taken.

5) **On-premises policy exception.** Notwithstanding the policies described above regarding public safety emergency and similar events, Fire Department personnel are hereby authorized to treat paid time off within a 26-day/192-hour work period the same as time worked when determining overtime for all non-exempt and approved exempt employees subject to the following limitation:

   Barring a public safety emergency or other qualifying event as described herein above, overtime paid at 1-1/2 times the employee’s hourly rate of pay shall not exceed paid time off within the work period. Overtime hours that exceed the paid time off hours within a work period shall be paid at the employee’s regular hourly rate of pay or the employee may request that said excess paid time off hours be credited back to their applicable leave balance.

b. Departmental policies may allow the payment of paid time off during work periods where an employee’s total time exceeds the work period base. However, in such instances any time that exceeds the applicable work period base shall be paid at straight time (except for overtime worked as a result of a public safety emergency or other event that threatens public property, health safety and welfare as described above). Allowing an employee to be paid for accumulated leave time (e.g., vacation and sick) is:

1) Generally prohibited during the employee’s probationary period [Note: Probationary employees are encouraged to bank overtime (i.e., compensatory time) so they may be compensated for absences during their probationary period] and

2) Discouraged especially in instances where an employee’s accumulated leave balances are less than should be reasonably expected based on the employee’s tenure with the City
American Green Zone Alliance (AGZA)
Green Zone Certification Memorandum of Understanding

This Memorandum of Understanding (MOU) made between the City of Mountain Brook, Alabama and The American Green Zone Alliance (AGZA), summarizes the certification program specifics and the roles and responsibilities of the parties for the City of Mountain Brook, Alabama and AGZA Green Zone Certification.

Program Summary:
Reductions in air pollution emissions will be achieved through “verified” implementation of commercial battery electric grounds maintenance equipment on the designated properties listed on this MOU managed by the City of Mountain Brook, Alabama. City of Mountain Brook, Alabama with AGZA support will verify the replacement of gasoline-powered mowers, trimmers, blowers, edgers, and saws with battery powered options and AGZA Green Zone Certify the following property.

- Overton Park, 3020 Overtone Road, Mountain Brook Alabama

This project will greatly reduce ground ozone emissions, noise, solid and toxic waste associated with the use and maintenance of internal combustion grounds maintenance equipment. Additionally, any nearby schools will help students, teachers, staff, facilities workers, and park visitors enjoy healthier, quieter indoor and outdoor environments.

Project Responsibilities:

City of Mountain Brook, Alabama:
- Provide AGZA addresses location of designated Green Zone properties.
- Identify MB Green Zone liaison
- Adhere to the minimal requirements for AGZA Green Zone Certification status. The minimal certification requirements will be the complete elimination of two-stroke internal combustion equipment for “routine” maintenance in the Green Zone areas. Gas allowances include heavy chainsaw workloads, and seasonal workloads when necessary.
- Inform AGZA in writing within 30 days should Mountain Brook decide to dissolve Green Zone Certification

American Green Zone Alliance:
- Take gas fleet inventory. (with Quiet Communities)
- Generate environmental impact report. (with quiet communities)
- Verify with City of Mountain Brook, Alabama charging and storage facilities.
- Verify with City of Mountain Brook, Alabama battery-electric operation of crew.
- AGZA Green Zone Certification of properties.
- Listing on AGZA’s Green Zone Directory.
Executed by:

American Green Zone Alliance, Corp

______________________________________
Dan Mabe
President

City of Mountain Brook

______________________________________
Name
Title

Date
### Quotation

**Quote # : 150182**

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**Bill To:**
MOUNTAIN BROOK PARK AND REC  
3690 BETHUNE DRIVE  
MOUNTAIN BROOK, AL 35223

**Ship To:**  
MOUNTAIN BROOK PARK AND REC  
3690 BETHUNE DRIVE  
MOUNTAIN BROOK, AL 35223

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**Subtotal:** $8,689.69  
**Tax:** $0.00  
**Misc Charges:** $0.00  
**Misc Tax:** $0.00  
**Handling:** $0.00  
**Total:** $8,689.69
QUOTE - Thank you for giving us the opportunity to provide you with a quote on the equipment that you are interested in purchasing. The equipment will be assembled & serviced. The owners manual will be supplied when you pick up your equipment. The warranty registration will be filed at no additional cost. Instruction on proper maintenance & operation will also be provided at no additional cost. Quote will be honored for 30 days. Advanced Mower has been providing quality sales & service since 1981.
Mr. Gaston,

My name is April Kirby and I am the Store Manager of The Impeccable Pig Boutique in Mountain Brook, and I would like to take a moment to speak to you about some safety concerns I have around our parking area.

I spoke to our property manager, Mr. Ricky Bromberg, about the possibility of putting in a light in our parking area in order to make the nighttime walk to and from our cars safer. He didn't think this was a big enough concern to the other tenants in our building, and didn't think it wouldn't be possible.

I, however, am very concerned about how dark it is to walk around our building and through the parking lot, since there are no utility lights and I employ an all female staff. We have recently had an escalated amount of incidents in our store where we have received obscene phone calls from a man at a blocked number and a couple of incidents with a client that we have had to ban from the store for bringing in a firearm.

We do not feel safe walking to our cars at night due to the absence of lights in our parking area. I am requesting that the City of Mountain Brook put a light on utility pole #I-399821 so that not only my employees, but the employees of the businesses around us (Vogue Cleaners, Ousler Sandwiches and Ibera Bank), can feel safe walking to our parking areas. They have also expressed their concern for employee and client safety since there is little to no light in the parking areas.

I thank you for taking the time out of your day to read my concerns and I hope that this is a project we can all work on together to see accomplished.

Have a blessed day!

Thanks,
April Kirby SM
The Impeccable Pig Birmingham
205-874-7008
Lighting Services NESC® Lease Agreement (Governmental)

Customer Legal Name: City of Mountain Brook  
Service Address: CAHABA RD, BIRMINGHAM AL 35213  
Mailing Address: P.O. Box 130009, Birmingham, AL 35213  
Email: Gastons@mtnbrook.org  

**Light in alley near Vogue Cleaners**  
County: Jefferson  

**Light in alley near Vogue Cleaners**  
County: Jefferson  

<table>
<thead>
<tr>
<th>Equipment</th>
<th>Qty</th>
<th>Wattage</th>
<th>Type</th>
<th>Description</th>
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<th>M/UM</th>
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<tbody>
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<td>LED</td>
<td>LED Cobra - 4000k - gray - 8500 to 14000 Lumens</td>
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<td>$12.02</td>
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**Project Notes:** To install light on existing secondary pole beside Vogue Cleaners

Initial Term: 36 months  
Prepaid Amount: $ 0.00

*The Regulated Charge is subject to change at any time as dictated by the Alabama Public Service Commission. The amount shown is an estimate based on the Unmetered Outdoor Lighting (ODL) rate in effect at time of Agreement proposal; actual charges may vary.

Customer agrees to lease the Equipment referenced above from Alabama Power Company on the attached terms and conditions and authorizes all actions noted above.

<table>
<thead>
<tr>
<th>Customer Authorized Signature</th>
<th>Date</th>
<th>Alabama Power Company</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sign Here</td>
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<td>Print Title</td>
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APC Internal Use Only - APC Reference Number (if applicable):
TERMS and CONDITIONS (NESC Governmental)

1. **Lighting Equipment Lease.** This Lease Agreement ("Agreement") states the agreed terms and conditions upon which Alabama Power Company ("APC") will: (i) lease to "Customer" (identified on Page 1) the "Equipment" referenced on Page 1 for use at the stated "Service Address" (the "Premises"); and (ii) provide electric service to operate the Equipment. The "Equipment" includes all poles, bases, wiring, conduit, fixtures, controls, and related items necessary to provide lighting service through the listed fixtures, unless expressly noted otherwise in "Project Notes." Customer acknowledges that regulatory change during the Agreement may require APC to modify or replace some Equipment.

2. **Intent and Title.** This Agreement is not a sale of the Equipment to the Customer. Customer expressly acknowledges that APC retains title to the Equipment and agrees that this Agreement only gives Customer the right to use the Equipment during the Agreement term, so long as Customer complies with all terms and conditions. Customer acknowledges that the Equipment, although attached to real property, always will remain the exclusive personal property of APC and that APC may remove the Equipment when this Agreement ends. Customer authorizes APC, without further consent or action, to file any UCC financing statement or security agreement relating to the Equipment and agrees that APC may record those documents. APC makes no representation or warranty regarding treatment of this transaction by the Internal Revenue Service or the status of this Agreement under any federal or state tax law; Customer enters into this Agreement in sole reliance upon Customer's own advisors.

3. **Term.** The initial Agreement term is stated on Page 1, calculated from the date of the first monthly bill. After the initial term, this Agreement automatically renews on a month-to-month basis until terminated by either party by providing written notice of intent to terminate to the other party at least 30 days before the desired termination date. APC's address for notice is P.O. Box 2641, Birmingham, Alabama 35203; Customer's mailing address is noted on Page 1.

4. **Payment.** APC will invoice Customer per the terms stated on Page 1, subject to any change in the electric service charge dictated by the Alabama Public Service Commission. Customer agrees to pay the amount billed by the due date (20 days after billing date). Applicable taxes included in the Equipment price are subject to change at any time. If a balance is outstanding past the due date, Customer agrees to pay the greater of 1.5% of the unpaid balance or $2.00 and acknowledges that APC may require Customer to pay a deposit of up to two times the Estimated Monthly Charge in order to continue service. If applicable, Customer must provide a copy of its Alabama sales tax exemption certificate.

5. **Premises Activity.** Customer grants a license and right of access to APC, and its contractors and representatives, to enter the Premises with vehicles and equipment to: (i) install and connect the Equipment and, if applicable, remove or disconnect existing equipment (collectively, the "Installation"); (ii) inspect, maintain, repair, or remove the Equipment; (iii) provide electric service for the Equipment; or (iv) conduct any other Agreement-related activity (items (i)–(iv) collectively, the "APC Activity"). Customer will not cause or permit any obstruction that may interfere with APC's access to the Equipment. Customer represents that the individual signing this Agreement on its behalf has authority to do so and that it has express authority from all Premises owners (and any other party with rights in the Premises) to enter into this Agreement and to authorize the APC Activity. Customer is solely responsible for safety of the Premises and agrees that APC has no obligation to ensure the safety of the Premises or persons or property entering onto Customer's Premises.

6. **Installation.** Customer represents that: (i) the Premises' final grade will vary no more than 6 inches from the grade existing at the time of Installation; and (ii) if applicable and required for proper Installation, Premises property lines will be clearly marked before Installation.

7. **Equipment Term may require APC's permission for الرابط في صفحة 2 من 2.