

STATE OF ALABAMA)  
 )  
FRANKLIN COUNTY )

CITY OF RED BAY

MINUTES OF A REGULAR MEETING OF THE CITY COUNCIL  
June 18, 2007

The City Council of Red Bay met in a regular meeting on Monday June 18, 2007 at 7:00 p.m. The meeting was held in the Red Bay Senior Citizens Building, 115 5<sup>th</sup> Ave SE, Red Bay, AL 35582.

Present and presiding was Mayor Jeff Reid. Council Members present were Bobby Nelson, Rayford Seahorn, Pat Hammock, Ann Wilkins and Ricky Holland.

Linda B. Holcomb, City Clerk, was present and recording.

Also present were Fire Chief Bud Strickland, Police Chief Pat Creel and City Attorney Brian Hamilton.

Rev. Ronnie Reese of Bethel Church of God led the Invocation.

Ann Wilkins led the Allegiance to the Flag.

Fire Chief Bud Strickland informed the Council that the Red Bay Volunteer Fire Department had been awarded a \$1,000.00 (one thousand dollar) grant from the Alabama Forestry Commission. The grant will be used to purchase equipment.

Bobby Nelson made a motion to adopt Ordinance #07-06-04B, an ordinance relating to regulation and removal or repair of unsafe buildings or structures. The motion was seconded by Ann Wilkins, unanimously passed. Attachment A

Mayor Jeff Reid introduced Ordinance #07-06-04A, a burn ordinance. He asked the Council to review the ordinance it will be presented for adoption at the next regular scheduled meeting.

Mayor Jeff Reid introduced Resolution #07-06-18, a resolution declaring a police car as surplus property, and read the resolution in it's entirety. Rayford Seahorn made a motion to suspend the rules to give immediate consideration to the resolution at hand, seconded by Ricky Holland. The roll call vote was as follows: Bobby Nelson "yeas", Rayford Seahorn "yeas", Pat Hammock "yeas", Ann Wilkins "yeas", and Ricky Holland "yeas". Ricky Holland made a motion to adopt the resolution, seconded by Rayford Seahorn. The roll call vote was as follows: Bobby Nelson "yeas", Rayford Seahorn "yeas", Pat Hammock "yeas", Ann Wilkins "yeas", and Ricky Holland "yeas". Attachment B

Pat Hammock made a motion to employ Dennie Robinson as a part-time sewer operator, seconded by Rayford Seahorn, unanimously passed.

Pat Hammock made a motion to employ Joseph Page for a street laborer and to train as a sewer operator. Bobby Nelson seconded the motion, unanimously passed.

Mayor Jeff Reid presented a letter to the Council from the State of Alabama Department of Corrections stating that beginning October 1, 2007 there will be a \$10.00 mandatory fee per day per inmate for inmate labor. The letter requested a voluntary fee be paid by the City until October 1, 2007. Upon the recommendation of Mayor Reid Rayford Seahorn made a motion not to pay a fee until October 1, 2007, seconded by Ricky Holland, unanimously passed.

Bobby Nelson made a motion to purchase a 36 month warranty from Warrior Tractor and Equipment, Athens, AL for the 2006 John Deere backhoe (SN T0310SG960251) purchased in August 2006 at a cost of \$1,552.50 (one thousand five hundred and fifty-two dollars 50/100). The motion was seconded by Rayford Seahorn, unanimously passed.

Bobby Nelson made a motion to grant a roadblock request for cancer patient Alice Emerson to be held November 3, 2007. Pat Hammock seconded the motion. Unanimously passed.

Bobby Nelson made a motion to grant a roadblock request for the Red Bay Youth Cheerleaders to be held December 1, 2007. Pat Hammock seconded the motion. Unanimously passed.

Mayor Jeff Reid announced the next regular scheduled council meeting will be Monday, July 2, 2007, 7:00 p.m., in the Red Bay Senior Citizen Building.

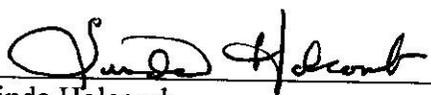
Pat Hammock made a motion to approve the bills, seconded by Ricky Holland, unanimously passed.

Pat Hammock made a motion to approve the minutes of the last regular meeting held June 4, 2007, seconded by Ricky Holland. Voting for were Bobby Nelson, Pat Hammock, Ann Wilkins and Ricky Holland, Rayford Seahorn abstained.

Bobby Nelson made a motion to adjourn, seconded by Pat Hammock, unanimously passed.

The time of adjournment was 7:20 p.m.

  
\_\_\_\_\_  
Jeff Reid  
Mayor  
City of Red Bay

  
\_\_\_\_\_  
Linda Holcomb  
City Clerk  
City of Red Bay

**ORDINANCE NO. 07-06-04B**

**AN ORDINANCE TO REPEAL ORDINANCE #05-08-01 IN ITS ENTIRETY, AND TO ADOPT A NEW ORDINANCE RELATING TO REGULATION AND REMOVAL OR REPAIR OF UNSAFE BUILDINGS OR STRUCTURES.**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF RED BAY, ALABAMA, AS FOLLOWS:**

**1. Authority for Ordinance: This Ordinance is enacted pursuant to authority granted in Sections 11-53B-1 through Section 11-53B-16 of the Code of Alabama, 1975, as same has been or may be amended or superseded ("State Law:").**

**Section 1. Notice from appropriate city official; failure to comply**

Whenever the appropriate city official as defined herein shall find that any building, structure, part of building or structure, party wall, or foundation situated in the city is unsafe to the extent that it is a public nuisance, the official shall give the person or persons, firm, association, or corporation who is the record owner, notice to remedy the unsafe condition of the building or structure by certified or registered mail to the owner's last known address and to the owner at the address of the property. A copy of all notices, orders, and other communications required by this ordinance to be given to the owner of the property, or to the owner of an interest in the property, or to the person last assessing the property for state taxes, also shall be given to all mortgagees of record by certified mail or registered mail to the address set forth in the mortgage, or if no address for the mortgagee is set forth in the mortgage, to the address determined to be the correct address by the person responsible for the notice or other communication. The term "appropriate city official" shall mean any building official or deputy and any other municipal official or city employee designated by the mayor or other chief executive officer of the municipality as the person to exercise the authority and perform the duties delegated by this ordinance to "appropriate city official".

The notice shall set forth in detail the basis for the appropriate city official's finding and shall direct the owner to take either of the following actions:

- (1) In the case where repair is required, accomplish the specified repairs or improvements within 45 days of the date of the notice or if the same cannot be repaired within that time to provide the appropriate city official with a work plan to accomplish the repairs, which plan shall be submitted within 45 days of the making of the notice and shall be subject to the city's approval.
- (2) In the case where demolition is required, demolish the structure within 45 days of the notice.

The notice shall also state that in the event the owner does not comply within the time specified therein, the repairs or demolition shall be accomplished by the municipality and the cost thereof assessed against the property.

The mailing of the notice, properly addressed and postage prepaid, shall constitute notice as required herein. Notice of the order, or a copy thereof, shall, within three days of the date of mailing, also be posted at or within three feet of an entrance to the building or structure, provided that if there is no entrance the notice may be posted at any location upon the building or structure.

If the owner of any property cited hereunder fails to comply with the notice prescribed, the municipality may take either of the following actions:

- (1) In the case where repair is required, repair the building at the expense of the municipality and assess the expenses of the repair on the land on which the building stands or to which it is attached.
- (2) In the case where demolition is required, demolish the building at the expense of the municipality and assess the expenses of the demolition on the land on which the building stands or to which it is attached. The term "assessment" as used in this ordinance shall refer to the cost of repair or demolition as provided herein.

## **Section 2. Hearing; appeal:**

Within 30 days from the date the notice is given, any person, firm, or corporation having an interest in the building or structure may file a written request for a hearing before the governing body of the city, together with that person's objections to the finding by the city official that the building or structure is unsafe to the extent of becoming a public nuisance. The filing of the request shall hold in abeyance any action on the finding of the city official until determination thereon is made by the governing body.

Upon holding the hearing, which shall be held not less than five nor more than 30 days after the request, or in the event no hearing is timely requested, after the expiration of 30 days from the date the notice is given, the governing body of the municipality shall determine whether or not the building or structure is unsafe to the extent that it is a public nuisance.

In the event that it is determined by the governing body that the building or structure is unsafe to the extent that it is a public nuisance, the governing body shall order the building or structure to be repaired or demolished, as the case may be. The repairs or demolition may be accomplished by the municipality by contract for the repairs or demolition. The municipality shall have authority to sell or otherwise dispose of salvaged materials resulting from any demolition hereunder.

Any person aggrieved by the decision of the governing body at the hearing may, within

10 days thereafter, appeal to the circuit court upon filing with the clerk of the court notice of the appeal and bond for security of costs in the form and amount to be approved by the circuit clerk. Upon filing of the notice of appeal and approval of the bond, the clerk of the court shall serve a copy of the notice of appeal on the clerk of the city and the appeal shall be docketed in the court, and shall be a preferred case therein.

The clerk of the city shall, upon receiving the notice, file with the clerk of the court a copy of the findings and determination of the governing body in proceedings and trials shall be held without jury upon the determination of the governing body that the building or structure is unsafe to the extent that it is a public nuisance.

### **Section 3. Fixing of Costs:**

Upon demolition or repair of the building or structure, the appropriate city official shall make a report to the governing body of the costs thereof, and the governing body shall adopt a resolution fixing the costs which it finds were reasonably incurred in the demolition or repair and assessing the same against the property; provided, however, the proceeds of any moneys received from the sale of salvaged materials from the building or structure shall be used or applied against the cost of the demolition; and provided further, that any person, firm, or corporation having an interest in the property may be heard at the meeting as to any objection he or she may have to the fixing of such costs or the amounts thereof. The clerk of the municipality shall give notice of the meeting at which the fixing of the costs is to be considered by first-class mail to all entities having an interest in the property whose address and interest is determined from the tax assessor's records on the property or as otherwise known to the clerk. The fixing of the costs by the governing body shall constitute an assessment against the lot or lots, parcel or parcels of land upon which the building or structure was located, and as made and confirmed shall constitute a lien on the property for the amount of the assessment ("the final assessment"). The lien shall be superior to all other liens on the property except liens for taxes, and except for mortgages recorded prior to the creation of the lien for the assessment, and shall continue in force until paid. A certified copy of the resolution fixing the final assessment shall also be recorded in the office of the judge of probate of the county.

### **Section 4. Assessment of costs:**

The City shall have the power to assess the costs authorized herein against any lot or lots, parcel or parcels of land purchased by the State of Alabama at any sale for the nonpayment of taxes, and where such an assessment is made against the lot or lots, parcel or parcels of land, a subsequent redemption thereof by any person authorized to redeem, or sale thereof by the state, shall not operate or discharge, or in manner affect the lien of the city for the assessment, but any redemptioner or purchaser at any sale by the state of any lot or lots, parcel or parcels of land upon which an assessment has been levied, whether prior to or subsequent to a sale by the state for the nonpayment of taxes, shall take the same subject to the assessment.

### **Section 5. Payment of Costs:**

The City, in ordering any repair or demolition, the cost of which or any part thereof is to be assessed against any property in accordance with this ordinance, may provide that the same shall be paid in cash within 30 days after the final assessment; provided, however, that if the assessed amount is greater than ten thousand dollars (\$10,000), the property owner may, at his or election, to be expressed by notifying the municipal official charged with the duty of collecting the assessments in writing within 30 days after the final assessment is determined, pay the final assessment in 10 equal annual installments, which shall bear interest at a rate not exceeding 12 percent per annum. Interest shall begin to accrue upon the expiration of 30 days from the date on which the final assessment is set by the governing body and the interest shall be due and payable at the time and place the assessment is due and payable.

Any person who elects to make installment payments may pay the outstanding balance of the final assessment together with all accrued interest thereon at any time during the installment payment schedule. The first installment shall be payable within 30 days after the final assessment is determined, and all installments thereof shall be payable at the City Clerk's office. Upon full payment of the final assessments and accrued interest thereon, the municipality shall record a satisfaction of the lien in the office of the judge of probate.

### **Section 6. Failure to make payment:**

If the property owner fails to pay the assessment lien within 30 days, or having elected to make installment payments, fails to make any installment payment when due, the whole assessment lien shall immediately become due and payable, and the officer designated by the City to collect the assessment shall proceed to sell the property against which the assessment lien is made to the highest bidder for cash, but in no event less than the amount of the lien plus interest thru the date of the default. Prior to the sale, notice shall be given by publication once a week for three consecutive weeks in a newspaper published in the municipality or of general circulation therein, setting forth the date and time of the sale and the purpose for which the same is made, together with a description of the property to be sold. If the officer shall fail to advertise and sell any property on which the payments are past due, any taxpayer of the issuing municipality shall have the right to apply for a writ of mandamus requiring the official to take such action to any court of competent jurisdiction, and the court shall, on proof, issue and enforce the writ.

### **Section 7. Sale of property upon default:**

- (a) Any property owner, notwithstanding his or her default, may pay the assessment lien with interest and all costs if tendered before a sale of the property.
- (b) The cost of any notice and sale resulting from a default on paying as assessment shall constitute a charge against the property to be sold and shall be

retained out of the proceeds of the sale.

- (c) The officer making the sale shall execute a deed to the purchaser, which shall convey all rights, title, and interest which the party against whose property the assessment was made had or held in the property at the date of making the assessment or on the date of making the sale. Any surplus arising from the sale shall be paid to the city clerk/treasurer to be kept as a separate fund by the city clerk/treasurer for the owner upon the responsibility of his or her official bond. The municipality may, by its agents, purchase real estate sold as provided under this ordinance and, in the event of the purchase, the deed for the same shall be made to the municipality.
- (d) No mistake in the notice of sale in the description of the property or in the name of the owner shall vitiate the assessment or the lien and if for any reason, the sale made by the municipality is ineffectual to pass title, it shall operate as an assignment of the lien, and, upon the request of the purchaser, supplementary proceedings of the same general character as required in this ordinance may be had to correct the errors in the proceedings for his or her benefit or the lien so assigned to him or her may be enforced by civil action.

#### **Section 8. Redemption of the Property:**

- (a) Any real property heretofore or hereafter sold for the satisfaction of an assessment lien imposed thereon by the City Council may be redeemed by the former owner, or his or her assigns, or other persons authorized to redeem property sold for taxes by the state, within two years from the date of the sale by depositing with the officer designated by the City Council to collect the assessments the amount of money for which the lands were sold, with interest thereon at the rate of 12 percent per annum from the date of the sale through the date of the payment.
- (b) In addition to any other requirements set forth in this ordinance, the proposed redemptioner must pay or tender the purchases or his transferee all insurance premiums paid or owed by the purchaser with accrued interest on the payments computed from the date the premiums were paid at 12 percent per annum through the date of payment.
- (c) In addition to any other requirements set forth in this section, the proposed redemptioner must pay or tender to the purchaser or his transferee the value of all permanent improvements made on the property determined in accordance with this ordinance. As used herein "permanent improvements" shall include, but not be limited to, all repairs, improvements, and equipment attached to the property as fixtures. The proposed redemptioner shall make written demand upon the purchaser of a statement of the value of all permanent improvements made on the property since the assessment sale. In response to written demand made pursuant to this section, the purchaser shall within 10 days from the date

of the demand, furnish the proposed redemptioner with the amount claimed as the value of the permanent improvements, and within 10 days after receipt of the response, the proposed redemptioner either shall accept the value so stated by the purchaser, or disagreeing therewith, shall appoint a referee to ascertain the value of the permanent improvements. The proposed redemptioner shall in writing (i) notify the purchaser of his or her disagreement as to the value; and (ii) inform the purchaser of the name of the referee appointed by him or her. Within 10 days after the receipt of notice, the purchaser shall appoint a referee to ascertain the value of the permanent improvements and advise the proposed redemptioner of the name of the appointee. The two referees shall, within 10 days after the purchaser has appointed his or her referee, meet and confer upon the award to be made by them. If they cannot agree, the referees shall at once appoint an umpire, and the award by a majority of the body shall be made within 10 days after the appointment of the umpire and shall be final between the parties.

- (d) If the proposed redemptioner fails or refuses to nominate a referee as provided in subsection (c), he or she shall pay the value put upon the improvements by the purchaser. If the purchaser refuses or fails to appoint a referee, as provided in subsection (c), the purchaser shall forfeit his or her claim to compensation for the improvements. The failure of the referees or either of them to act or to appoint an umpire shall not operate to impair or forfeit the right of either the proposed redemptioner or the purchaser in the premises. In the event of failure without fault of the parties to affect an award, the appropriate court shall proceed to ascertain the true value of the permanent improvements and enforce the redemption accordingly.
- (e) In addition to all other payments provided hereunder, the proposed redemptioner shall also pay interest to the purchaser on the value of all permanent improvements computed from the date the improvements were made at the rate of 12 percent per annum through the date of the payment.

#### **Section 9 . Extension of redemption.**

The fixed two-year period of redemption allowed by Section 8 for the redemption of any property heretofore or hereafter sold for the satisfaction of any assessment lien may be extended to a date 60 days after the date of the certificate of warning to redeem provided for in Section 10, but in no event for a longer period than six years from the date of such sale.

#### **Section 10. Certificate of warning to redeem.**

At any time after an assessment sale deed has been recorded in the office of the judge of probate in which the property therein described lies and after expiration of the fixed two-year period of redemption allowed by Section 8, any person may apply to the judge of probate for the certificate of warning to redeem, which references the recorded

volume and page number of the deed to be recorded in the real estate records, in substantially the following form: "I hereby certify that on or prior to the date of this certificate, I mailed a certified copy of the deed here recorded, together with notice that the same is here recorded, and a warning to redeem to each of the one or more persons other than the grantee in said deed, to whom the property therein described was last finally assessed for ad valorem taxation at the address of each such person as shown by said ad valorem tax assessment records. This \_\_\_ day of \_\_\_\_\_, 2\_\_\_, Judge of Probate, Franklin County, Alabama."

#### **Section 11. Application for entry of certificate.**

At the time of application for entry of the certificate of warning to redeem, the applicant shall deliver to the judge of probate three certified copies of the recorded deed and shall pay the judge of probate a fee of one dollar (\$1). Copies of the deed need not include any certificate of acknowledgment. The applicant shall also deliver to the judge of probate a certified copy of the ad valorem tax assessment records of the county containing the name of the person or persons other than the grantee in the deed to whom the property described in the deed was last finally assessed for ad valorem taxation, together with the address for each person as shown by the tax assessment records, or an affidavit that there is no one else. The judge of probate shall promptly mail to each person at such address one of the aforesaid certified copies of the deed, together with an attached warning to redeem in substantially for the following form: "Take notice that there is recorded in my office in Deed Book \_\_\_ at page \_\_\_ a deed of which the attached is a correct copy. You are warned that unless you, or those claiming under you, take prompt steps to redeem from those claiming under the deed, all rights of redemption may be lost. This \_\_\_ day of \_\_\_\_\_, 2\_\_\_, Judge of Probate, Franklin County, Alabama."

Promptly upon or after mailing the notice or notices and certified copy or copies of the deed, it shall be the duty of the judge of probate to record in the real estate records the signed and dated certificate of warning substantially as prescribed by Section 10. At the expiration of 60 days after the date of the certificate all rights to redeem from the sale shown by the deed shall cease and desist.

#### **Section 12. Redemption effected.**

Redemption may be effected after expiration of the fixed two-year period of redemption allowed or provided by Section 8 and before the extended period of redemption has expired in the same manner and at the same redemption price as is provided in Section 8; provided, that if the judge of probate has made the certificate of warning to redeem as provided in Section, said redemption price shall be increased by one dollar (\$1).

#### **Section 13. Emergency action**

Notwithstanding any other provisions of this ordinance, the City of Red Bay, Alabama shall have authority to enact, and authorize the appropriate city official to initiate

immediate repair or demolition of a building structure when, in the opinion of the official so designated, such emergency action is required due to imminent danger of structural collapse endangering adjoining property, the public right of way, or human life or health. The cost of the emergency action shall be fixed by the City Council and shall be assessed as provided in this ordinance.

**Section 14. Effect of Resolutions and Account Reports Confirmed Before Enactment of Ordinance.**

All resolutions authorizing abatement or removal of nuisances enacted prior to the passage of this Ordinance under the authority of any other act, are hereby given full force and effect, and the City may proceed to have said nuisances removed or abated as provided under said authority.

All account reports previously confirmed prior to the enactment of this Ordinance are hereby given full force and effect, and the City may proceed to collect these special assessments in the same manner as provided by prior Ordinances.

**Section 15. Repeal of Conflicting Ordinances**

All Ordinances or parts of Ordinances in conflict with this Ordinance, or inconsistent with the provisions of this Ordinance, are hereby repealed to the extent necessary to give this Ordinance full force and effect.

**Section 16. Separability**

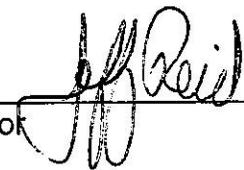
Should any section or provision of this Ordinance be declared invalid or unconstitutional by any court of competent jurisdiction, such declaration shall not affect the validity of the Ordinance as a whole or any part thereof which is not specifically declared to be invalid or unconstitutional.

THIS ORDINANCE SHALL TAKE AFFECT AS PROVIDED BY LAW AFTER PASSAGE, APPROVAL, AND PUBLICATION.

ADOPTED THIS 18 DAY OF June, 2007.

APPROVED THIS 18 DAY OF June, 2007.

Attest:

\_\_\_\_\_  
Mayor 

City Clerk

Quinda B Holcomb

Council

Council

Rayford Holcomb

Council

Ann Wilkins

Council

Ricky Holland

Council

**RESOLUTION NO. 07-06-18**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RED BAY, ALABAMA, DECLARING A 2000 Chevrolet Impala 1WF19 SN#2G1WF55K1Y9113501 TO BE SURPLUS CITY PROPERTY AND AUTHORIZING THE SALE THEREOF**

WHEREAS, the City of Red Bay finds itself in possession of surplus City Property that is appropriate to sell, now therefore, be it

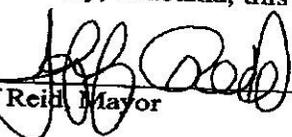
RESOLVED, by the City Council of the City of Red Bay, Alabama, as follows:

Section 1. The item listed below as surplus and is declared surplus.

**2000 Chevrolet Impala 1WF19  
SN#2G1WF55K1Y9113501**

Section 2. The aforementioned surplus property shall be disposed of by a sale in a manner determined by the Mayor of Red Bay to be most advantageous to the City, including private but not limited to private negotiated sale, sale by receipt of sealed bids or public or internet auction.

PASSED by the City Council of the City of Red Bay, Alabama, this 18th day of June, 2007.

  
\_\_\_\_\_  
Jeff Reid, Mayor

Attest:

  
\_\_\_\_\_  
Linda Holcomb, City Clerk

