The City Council of the City of Auburn, Alabama met in regular session on Tuesday, January 22, 2013 at 7:11 PM in the Council Chamber of the Auburn Public Safety Building at 141 North Ross Street.

1. **CALL TO ORDER**. Mayor Bill Ham, Jr.

Mayor Ham called the meeting to order.

2. **ROLL CALL**.

Present: Councilpersons Brent Beard, Arthur L. Dowdell, Sr., Gene Dulaney, Dick Phelan, and Mayor Bill Ham, Jr. Also present was City Manager Charles M. Duggan, Jr.

Absent: Councilperson Ron Anders, Jr., Robin Kelley, Bob Norman, and Tom Worden.

3. **PLEDGE OF ALLEGIANCE/MOMENT OF SILENCE**.

Mayor Ham invited all present to stand and join the Council in reciting the Pledge of Allegiance to the U. S. Flag and in observing a moment of silence after the Pledge.

4. **MINUTES**. January 8, 2013.

Councilperson Beard moved that the minutes be approved.
Councilperson Phelan seconded the motion and all members voted aye.
Mayor Ham declared the minutes approved.

5. **MAYOR'S COMMUNICATIONS**. Mayor Ham.

a. Committee of the Whole.

Mayor Ham stated that at the Committee of the Whole meeting previously held, the City Council approved the minutes from the previous Committee of the Whole meeting. Mayor Ham noted that nominations were made for an appointment to the Board of Education. He said the appointment will be made at the proper time on the agenda.

b. Announcements.

None.

6. **AUBURN UNIVERSITY COMMUNICATIONS**.

SGA Director of City Relations Clay Phillips said students are back for the Spring Semester. He announced that the Toomer Oaks project is on-going. After survey results have been reviewed, the committee will have a recommendation for the administration regarding the trees.

Mayor Ham welcomed all students back to Auburn.

7. **CITIZENS' COMMUNICATIONS.**

Mr. Terry Meeks, 907 Terrace Acres Drive, spoke on behalf of him and his neighbors regarding the proposed ordinance to limit parking during certain hours on Terrace Acres Drive. He said Auburn High School student parking on the street has been an ongoing problem. As soon as parking was restricted on Flowers Street, the students began parking on Terrace Acres Drive. He said the proposed ordinance should correct the problem. He asked that the Council act favorably on the proposed ordinance.

8. **CITY MANAGER'S COMMUNICATIONS.** City Manager Duggan.

City Manager Duggan announced that on Wednesday, January 23, 2013, the Roger L. Brookshire 36th Memorial Service will be held at 8:45 AM at Memorial Park Cemetery. He noted that Auburn Fire Division firefighters will lead a procession from Fire Station 1 to the cemetery for a remembrance service after which will follow a reception at Fire Station 1. He noted that the late firefighter Brookshire died in the line of duty on January 23, 1977.

a. Announcement of Board Vacancy. Board of Zoning Adjustment.
One Vacancy. Resignation. Unexpired Term Ends January 20, 2014.
Appointment at the February 19, 2013 Meeting.

City Manager Duggan announced that one vacancy exists on the Board of Zoning Adjustment. The incumbent was moved from a supernumerary position and appointed a regular member of the BZA on January 8, 2013. He noted that the appointment will be made at the February 19, 2013 meeting.

9. <u>ORDINANCES.</u>

a. Zoning Ordinance. Planning Commission Recommendations. Public Hearings Required. Unanimous Consent Necessary.

(1) Brantley Land, LLC. Keith Maxwell (Authorized Representative.

(a) Rezone Approximately 0.470 from Rural (R) to Comprehensive Development District (CDD). Property located on the west side of South College Street, north of Beehive Road.

City Manager Duggan stated that Keith Maxwell is requesting to rezone approximately 0.470 acres from Rural (R) to Comprehensive Development District (CDD). He said the property is located on the west side of South College Street, north of Beehive Road. The Planning Commission unanimously recommended approval of the request at its December 13, 2012 meeting. Mr. Duggan said a public hearing is required.

Mayor Ham opened the public hearing.

There being no comments from the audience, Mayor Ham declared the public hearing closed.

Councilperson Phelan introduced the Ordinance.
City Manager Duggan read the Ordinance by Title.
Councilperson Phelan moved that unanimous consent be granted to consider the Ordinance.
Councilperson Beard seconded the motion.

Mayor Ham asked if there was an objection to the Ordinance being considered on its first reading.

Hearing no objection from the Council, Mayor Ham declared unanimous consent granted and the Ordinance ready for adoption.

Upon roll call vote, the following Council members voted aye: Phelan, Beard, Dowdell, Dulaney, and Mayor Ham. Voting nay: None.
Mayor Ham declared the Ordinance adopted.
ORDINANCE NO. <u>2804</u>

9. **ORDINANCES (cont).**

(b) Apply Planned Development District (PDD) designation to approximately 22.297 acres currently zoned Comprehensive Development District (CDD). Property Located at 3810 South College Street.

City Manager Duggan stated that Keith Maxwell is requesting to apply the Planned Development District (PDD) designation to approximately 22.297 acres currently zoned Comprehensive Development District (CDD). He said the property is located at 3810 South College Street. The Planning Commission unanimously recommended approval of the request at its December 13, 2012 meeting. Mr. Duggan said a public hearing is required.

Mayor Ham opened the public hearing.

There being no comments from the audience, Mayor Ham declared the public hearing closed.

Councilperson Dulaney introduced the Ordinance.
City Manager Duggan read the Ordinance by Title.
Councilperson Dulaney moved that unanimous consent be granted to consider the Ordinance.
Councilperson Beard seconded the motion.

Mayor Ham asked if there was an objection to the Ordinance being considered on its first reading.

Hearing no objection from the Council, Mayor Ham declared unanimous consent granted and the Ordinance ready for adoption.

Upon roll call vote, the following Council members voted aye: Beard, Dowdell, Dulaney, Phelan, and Mayor Ham. Voting nay: None.
Mayor Ham declared the Ordinance adopted.
ORDINANCE NO. 2805

9. **ORDINANCES (cont).**

(2) Auburndan, Inc. Wes Thrash (Authorized Representative). Amend Ordinance No. 2520 that amended the Planned Development District (PDD) designation on approximately 144.73 acres to add approximately 16.78 acres to Tivoli (formerly Tuscany Village) PDD, increase number of units, and change uses from multi-family and commercial to single family. Property located south of the Louise Kreher Forest Ecology Preserve, east of Auburn University E. W. Shell Fisheries Center, and north of Asheton Park Subdivision.

City Manager Duggan stated that Wes Thrash is requesting to amend Ordinance No. 2520 that amended the Planned Development District (PDD designation on approximately 144.73 acres to add approximately 16.78 acres to the Tivoli (formerly Tuscany village) PDD, increase the number of units, and change uses from multi-family and commercial to single family. He said the property is located south of the Louise Kreher Forest Ecology Preserve, east of Auburn University E. W. Shell Fisheries Center, and north of Asheton Park Subdivision. The Planning Commission unanimously recommended approval of the request at its December 13, 2012 meeting. Mr. Duggan said a public hearing is required.

Mayor Ham opened the public hearing.

There being no comments from the audience, Mayor Ham declared the public hearing closed.

Councilperson Dowdell introduced the Ordinance.
City Manager Duggan read the Ordinance by Title.
Councilperson Dowdell moved that unanimous consent be granted to consider the Ordinance.
Councilperson Dulaney seconded the motion.

Mayor Ham asked if there was an objection to the Ordinance being considered on its first reading.

Hearing no objection from the Council, Mayor Ham declared unanimous consent granted and the Ordinance ready for adoption.

9. **ORDINANCES (cont).**

Upon roll call vote, the following Council members voted aye: Dulaney, Phelan, Beard, Dowdell, and Mayor Ham. Voting nay: None.
Mayor Ham declared the Ordinance adopted.
ORDINANCE NO. 2806

b. Auburn City Code. Amendments. Unanimous Consent Necessary.

(1) Chapter 3 (Alcoholic Beverages), Section 3-32, 3-33, and 3-73. Revise Method of Remittance and Due Date of Liquor Tax and Application of Late Fees.

City Manager Duggan stated that this Ordinance amends Chapter 3 (Alcoholic Beverages), Sections 3-32, 3-33, and 3-73 of the City of Auburn Code to change the method of remittance and due date of the liquor tax and the application of late fees.

Councilperson Beard introduced the Ordinance.
City Manager Duggan read the Ordinance by Title.
Councilperson Beard moved that unanimous consent be granted to consider the Ordinance.
Councilperson Dowdell seconded the motion.

Mayor Ham asked if there was an objection to the Ordinance being considered on its first reading.

Hearing no objection from the Council, Mayor Ham declared unanimous consent granted and the Ordinance ready for adoption.

Upon roll call vote, the following Council members voted aye: Phelan, Beard, Dowdell, Dulaney, and Mayor Ham. Voting nay: None.
Mayor Ham declared the Ordinance adopted.
ORDINANCE NO. 2807

(2) Chapter 22 (Traffic), Article II (Parking). Restricted Parking Zones. Selected Areas on Terrace Acres Drive and Terrace Acres Circle.

9. **ORDINANCES (cont).**

City Manager Duggan stated that this Ordinance amends Chapter 22 (Traffic), Article II (Parking), of the City of Auburn Code to restrict parking in certain areas on Terrace Acres Drive and Terrace Acres Circle in the vicinity of Auburn High School during the hours of 7:30 am and 9:30 am.

Councilperson Dulaney introduced the Ordinance.
City Manager Duggan read the Ordinance by Title.
Councilperson Dulaney moved that unanimous consent be granted to consider the Ordinance.
Councilperson Dowdell seconded the motion.

Mayor Ham asked if there was an objection to the Ordinance being considered on its first reading.

Hearing no objection from the Council, Mayor Ham declared unanimous consent granted and the Ordinance ready for adoption.

Upon roll call vote, the following Council members voted aye: Beard, Dowdell, Dulaney, Phelan, and Mayor Ham. Voting nay: None.
Mayor Ham declared the Ordinance adopted.
ORDINANCE NO. 2808

10. **RESOLUTIONS**.

a. Conditional Use Approvals. Planning Commission Recommendations. Public Hearings Required.

(1) West Alabama Bank & Trust. Brandon Barrett, Barrett Development Group (Authorized Representative). Property Located at 319 Bragg Avenue. Performance Residential Development-Multiple Family Development (319 Bragg Avenue Multiple Family Development) in the Redevelopment District (RDD) zoning district.

City Manager Duggan stated that Brandon Barrett is requesting conditional use approval for a performance residential development-multiple family development (316 Bragg Avenue Multiple Family Development) located in the Redevelopment District (RDD) zoning district. He noted that the property is located at 316 Bragg Avenue.

10. **RESOLUTIONS (cont)**.

Mr. Duggan noted that Section 803 of the Zoning Ordinance establishes procedures for the review of conditional uses, including a public hearing conducted by the City Council. He noted that the Planning Commission unanimously recommended approval of the request at its December 13, 2012 meeting.

Mr. Duggan stated that the request originally appeared on the December 18, 2012 agenda, at which time a public hearing was held. However, the request was tabled pending the completion of a market study of existing and future student rental housing conditions.

Councilperson Dowdell commented on the project as it concerns housing in Ward 1. He said his main concern is that the housing be made available for minority tenants. He described several instances where apartment complexes were constructed permanently displacing minority tenants. He asked if anyone will be allowed to move into the complex or if the project is for students only.

Mr. Brett Basquin, an engineer with the Foresite Group, assured the Council that the proposed project would be an equal-housing opportunity housing project.

Councilperson Dulaney asked about the marketing study.

Planning Director Forrest Cotten stated that the marketing study is not yet complete; however, the consultant indicated that a project in this area is feasible because this location is within walking distance to the Auburn University campus.

Councilperson Dowdell said he has concerns because students will be the main tenants.

Mayor Ham said any housing project within one mile of the Auburn University campus is a good project because it will be convenient for students and workers, whoever wants to avail himself of the housing opportunity.

Councilperson Dulaney moved that the Resolution be adopted.
Councilperson Phelan seconded the motion and all members voted aye.
Mayor Ham declared the resolution adopted.
RESOLUTION NO. 13-11

10. **RESOLUTIONS (cont)**.

(2) Brantley Land, LLC. Keith Maxwell, Pro 17 Engineering, LLC (Authorized Representative). Property Located at 3810 South College Street. Multiple Uses (Brantley Crossing) in the Comprehensive Development District (CDD) zoning district with an overlay of the Planned Development District (PDD) designation.

City Manager Duggan stated Keith Maxwell is requesting conditional use approval for multiple uses (Brantley Crossing) in the Comprehensive Development District (CDD) zoning district with an overlay of the Planned Development District (PDD) designation. He noted that the property is located at 3810 South College Street. Mr. Duggan noted that Section 803 of the Zoning Ordinance establishes procedures for the review of conditional uses, including a public hearing conducted by the City Council. He noted that the Planning Commission unanimously recommended approval of the request at its December 13, 2012 meeting.

Mayor Ham opened the public hearing.

There being no comments from the audience, Mayor Ham declared the public hearing closed.

Councilperson Dowdell moved that the resolution be adopted.
Councilperson Beard seconded the motion and all members voted aye.
Mayor Ham declared the resolution adopted.
RESOLUTION NO. 13-12

(3) Auburndan, Inc. Wes Thrash, Foresite Group, Inc. (Authorized Representative). Property Located at 200 Tivoli Village Drive. Outdoor Recreation Use (Tivoli Amenity Lot) in the Development District Housing (DDH) zoning district with an overlay of the Planned Development District (PDD) designation.

City Manager Duggan stated Wes Thrash is requesting conditional use approval for an outdoor recreation use-amenity center including a swimming pool (Tivoli Amenity Lot) located in the Development District Housing (DDH) zoning district with an overlay of the Planned Development District (PDD) designation.

10. **RESOLUTIONS (cont)**.

He noted that the property is located at 200 Tivoli Village Drive. Mr. Duggan noted that Section 803 of the Zoning Ordinance establishes procedures for the review of conditional uses, including a public hearing conducted by the City Council. He noted that the Planning Commission unanimously recommended approval of the request at its December 13, 2012 meeting.

Mayor Ham opened the public hearing.

There being no comments from the audience, Mayor Ham declared the public hearing closed.

Councilperson Dulaney moved that the resolution be adopted.
Councilperson Phelan seconded the motion and all members voted aye.
Mayor Ham declared the resolution adopted.
RESOLUTION NO. 13-13

(4) Phillips Family Partnership, LTD. Claude Payne (Authorized Representative). Property Located at 2328 South College Street, Suite 12. Commercial and Entertainment Use-tobacco shop (Havana Dreamin) in the Comprehensive Development District (CDD) zoning district.

City Manager Duggan stated Claude Payne is requesting conditional use approval for a commercial and entertainment use-tobacco shop (Havana Dreamin) located in the Comprehensive Development District (CDD) zoning district. He noted that the property is located at 2328 South College Street, Suite 12. Mr. Duggan noted that Section 803 of the Zoning Ordinance establishes procedures for the review of conditional uses, including a public hearing conducted by the City Council. He noted that the Planning Commission unanimously recommended approval of the request at its January 10, 2013 meeting.

Mayor Ham opened the public hearing.

There being no comments from the audience, Mayor Ham declared the public closed.

10. **RESOLUTIONS (cont)**.

Councilperson Dowdell moved that the resolution be adopted.
Councilperson Dulaney seconded the motion and all members voted aye.
Mayor Ham declared the resolution adopted.
RESOLUTION NO. 13-14

b. Infrastructure Development Agreement. Brantley Land, LLC (Brantley Crossing Shopping Center). Property Located at 3810 South College Street.

City Manager Duggan said this Resolution adopts a development agreement with Brantley Land, LLC for the Brantley Crossing Shopping Center. He said an Executive Summary highlighting the agreement's content is enclosed for Council's review and is attached to the original minutes.

Councilperson Dowdell moved that the Resolution be adopted.
Councilperson Beard seconded the motion and all members voted aye.
Mayor Ham declared the Resolution adopted.
RESOLUTION NO. 13-15

c. Industrial Development Board.

(1) Daewon America, Inc. 155 Alabama Street. Auburn Industrial Park. Concur with Package of Incentives. Revolving Loan Fund.

City Manager Duggan said this Resolution is for the concurrence with a proposed package of incentives to be provided by the Industrial Development Board to locate Daewon America, Inc. in the Auburn Industrial Park. This project will result in an overall capital investment of approximately $9.2 million and approximately 50 new jobs.

Councilperson Beard moved that the Resolution be adopted.
Councilperson Dowdell seconded the motion and all members voted aye.
Mayor Ham declared the Resolution adopted.
RESOLUTION NO. 13-16

10. **RESOLUTIONS (cont)**.

(2) SiO2 Medical Products, Inc., 350 Enterprise Drive and Capitol Medical Devices, Inc., 2250 Riley Street. Amend Tax Abatement Application to reflect correct physical address of equipment. Auburn Technology Park South, 350 Enterprise Drive.

City Manager Duggan said this Resolution authorizes an address correction in the amended abatement application approved by the council on December 4, 2012 for SIO2 Medical Products, Inc. and Capital Medical Devices, Inc. The companies modified the abatement to reflect two physical locations of equipment to be located at 2250 Riley Street in Auburn Technology Park West and 358 Enterprise Drive in Auburn Technology Park South.

Councilperson Dulaney moved that the Resolution be adopted.
Councilperson Dowdell seconded the motion and all members voted aye.
Mayor Ham declared the Resolution adopted.
RESOLUTION NO. 13-17

(3) Kirkland Development Company. Concur with Property Swap for Construction of Auburn Technology Parkway from Cox Road to Riley Street. Resolution No. 12-190. West Veterans Boulevard and Thistle Lane Connection to Auburn Technology Park West.

City Manager Duggan said this Resolution authorizes concurrence with a proposed property swap by the Industrial Development Board with Kirkland Development Company in connections with the Agreement between the City of Auburn and Kirkland Development Company regarding right-of-way acquisition for the construction of Auburn Technology Parkway (Resolution No. 12-190, adopted October 2, 2012).

Councilperson Dowdell moved that the Resolution be adopted.
Councilperson Beard seconded the motion and all members voted aye.
Mayor Ham declared the Resolution adopted.
RESOLUTION NO. 13-18

(4) Auburn City Board of Education. 1715 Pumphrey Avenue. Concur with legal proceedings to seek quiet title of parcel for Expansion of Bus Depot and Lease a Portion of Lot 4, Shug Jordan Commercial Park to Board of Education.

10. **RESOLUTIONS (cont)**.

City Manager Duggan said this Resolution authorizes concurrence to enter into legal proceedings to quiet the title of a parcel of property and to lease property owned by the Industrial Development Board. The Industrial Development Board desires to legally seek quiet title so that the property conveyance as contemplated in Resolution No. 06-203 and Resolution No. 06-204 can be facilitated. Further, concurrence is requested to lease a portion of Lot 4 in the Shug Jordan Commercial Park to the Auburn City Board of Education for the expansion of a bus depot located at 1715 Pumphrey Avenue.

Councilperson Beard moved that the Resolution be adopted.
Councilperson Dulaney seconded the motion and all members voted aye.
Mayor Ham declared the Resolution adopted.
RESOLUTION NO. 13-19

d. Contracts. Authorize Mayor and/or City Manager to Sign.

(1) Economic Development Department. Community Development Division. Housing Rehabilitation Loan Program, Group Fourteen. House Located at 606 Spencer Avenue. R and D Enterprise. $15,795.

City Manager Duggan stated that this Resolution authorizes the Mayor and City Manager to execute a contract with R and D Enterprise, the lowest responsible bidder, for the housing rehabilitation project located at 606 Spencer Avenue in the amount of $15,795. He noted that this is a Community Development Block Grant, Housing Rehabilitation Loan Program Project – Group Fourteen and consists of one house.

Councilperson Dowdell moved that the resolution be adopted.
Councilperson Dulaney seconded the motion and all members voted aye.
Mayor Ham declared the resolution adopted.
RESOLUTION NO. 13-20

(2) Public Works Department. D & J Enterprises. Construction of South College Street (SR-147), and College Street (CR-40) with Shug Jordan Parkway (SR-267) and East University Drive (SR-147) Intersection Improvements Program. $909,307.

10. **RESOLUTIONS (cont)**.

City Manager Duggan stated that this Resolution authorizes the City Manager to execute a contract with the lowest responsible bidder, D & J Enterprises, Inc., in the amount of $909,307 for the cost of labor, equipment, and material necessary to complete construction of the South College Street (SR-147) and College Street (CR-40) with Shug Jordan Parkway (SR-267) and East University Drive Intersection Improvements Project.

Councilperson Dowdell moved that the resolution be adopted.
Councilperson Dulaney seconded the motion and all members voted aye.
Mayor Ham declared the resolution adopted.
RESOLUTION NO. 13-21

e. Drainage and Utility Easements and Rights-of-Way. Acceptance and Vacation.

(1) PASS, LLC. East Lake Subdivision, Phase 3. Property Located east of East Lake Subdivision, Phase 1 and south of Moores Mill Road. Drainage and Utility Easements and Rights-of-Way. Acceptance.

City Manager Duggan stated that this Resolution accepts various drainage and utility easements and rights of way, as shown on the plat, East Lake Subdivision, Phase 3, located east of East Lake Subdivision, Phase 1 and south of Moore Mill Road.

Councilperson Beard moved that the resolution be adopted.
Councilperson Dulaney seconded the motion and all members voted aye.
Mayor Ham declared the resolution adopted.
RESOLUTION NO. 13-22

(2) Tung Shi and Li Jen Huang. Property Located at 930 Sanders Street. Authorize Execution of Quit Claim Deed. Vacation of Easement.

City Manager Duggan stated that this Resolution assents to the vacation of an easement located at 930 Sanders Street and authorizes the Mayor and City Manager to execute a quit claim deed relinquishing the easement property to Tung Shi and Li Jen Huang.

10. **RESOLUTIONS (cont)**.

Councilperson Phelan moved that the resolution be adopted.
Councilperson Beard seconded the motion and all members voted aye.
Mayor Ham declared the resolution adopted.
RESOLUTION NO. 13-23

f. Board of Education. One Vacancy. Resignation. Unexpired Term Ends May 31, 2015.

City Manager Duggan stated that the recommendation of the Committee of the Whole meeting is the appointment of Melanie Chambless to an unexpired term on the Board of Education to expire May 31, 2015.

Councilperson Dowdell moved that the Resolution be adopted.
Councilperson Beard seconded the motion and all members voted aye.
Mayor Ham declared the Resolution adopted.
RESOLUTION NO. 13-24

11. **OTHER BUSINESS**.

None.

Mayor Ham asked for comments from Council.

There were no comments from Council.

12. **ADJOURNMENT.**

Councilperson Beard moved that the meeting be adjourned.
Councilperson Dowdell seconded the motion and all members voted aye.
Mayor Ham declared the meeting adjourned 8:45 PM.

_____
Mayor

ATTEST:

_____
City Manager