The City Council of the City of Auburn, Alabama met in regular session on Tuesday, December 18, 2012 at 7:01 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 Ron Anders, Jr., Brent Beard, Arthur L. Dowdell, Sr., Gene Dulaney, Robin Kelley, Bob Norman, Dick Phelan, and Mayor Bill Ham, Jr. Also present was City Manager Charles M. Duggan, Jr.

Absent: Councilperson 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. He asked that we continue to keep Councilperson Tom Worden in our thoughts and prayers as he recuperates at home.

4. **MINUTES**. December 4, 2012.

Councilperson Dowdell moved that the minutes be approved.
Councilperson Beard 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 Auburn School Board superintendent Dr. Karen DeLano made a presentation to the Council regarding the State of Auburn City Schools. He said the Council will hear more on this subject at future meetings, Also, nominations were made for appointments to the Planning Commission and the Auburn Cemeteries Advisory Board. He said the appointments will be made at the proper time on the agenda.

5. **MAYOR'S COMMUNICATIONS (cont).**

b. Announcements.

Mayor Ham thanked Councilperson Ron Anders, Jr. for the great job he and his volunteers did as hosts of the 2012 Super 6 Championships. He said this year featured the largest crowd ever to witness a Super 6 event.

Councilperson Anders thanked the entire community including all the City volunteers and law enforcement personnel for making the 2012 Super 6 Championship such a success.

6. **AUBURN UNIVERSITY COMMUNICATIONS**.

SGA Director of City Relations Clay Phillips was not in attendance.

7. **CITIZENS' COMMUNICATIONS.**

None.

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

City Manager Duggan introduced to the Council two new Department Heads: Library Director Chris Warren who replaced long time librarian Margie Huffman and Water Resource Management Director Eric Carson who replaced former Director Laura Koon.

a. Alcoholic Beverage Licenses. Torok Enterprises, Inc. dba/Nottolini's Italian Cuisine. 1660 South College Street (former Santa Fe Cattle Company). 020 – Restaurant Retail Liquor License. Consideration.

City Manager Duggan said Torok Enterprises, Inc. dba/Nottolini's Italian Cuisine is seeking approval for an 020 – Restaurant Retail Liquor alcoholic beverage license for property located at 1660 South College Street (former Santa Fe Cattle Company) in the Comprehensive Development District (CDD) zoning district, which permits the restaurant (commercial and entertainment) use. He noted that this is a new business that does not currently have an alcoholic beverage license.

8. **CITY MANAGER'S COMMUNICATIONS (cont).**

Councilperson Beard moved that the request be granted.
Councilperson Anders seconded the motion and all members voted aye.
Mayor Ham declared the motion carried.

b. Announcement of Board Vacancy, Board of Education. One Vacancy. Resignation. Unexpired Term Ends May 15, 2015. Appointment at the January 22, 2013 Meeting.

City Manager Duggan announced that one vacancy exists on the Board of Education due to the resignation of Errol Howard who is moving out of the City. He noted that the appointment will be made at the January 22, 2013 meeting.

9. ORDINANCES.

a. Zoning Ordinance. War Eagle Trail, LLC. Christian Elliott, Capstone Real Estate Investments, LLC (Authorized Representative). Apply the Planned Development District (PDD) designation. Approximately 19.256 acres currently zoned Comprehensive Development District (CDD). Property located at 1131 South College Street (Eagles South Apartments). Planning Commission Recommendation. Public Hearing Required. Unanimous Consent Necessary.

City Manager Duggan stated that Christian Elliott is requesting to apply the Planned Development District (PDD) designation to approximately 19.256 acres currently zoned Comprehensive Development District (CDD). He said the property is located at 1131 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.

9. **ORDINANCES (cont).**

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 Kelley 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: Kelley, Norman, Phelan, Anders, Beard, Dowdell, Dulaney, and Mayor Ham. Voting nay: None.
Mayor Ham declared the Ordinance adopted.
ORDINANCE NO. 2800

b. City of Auburn Code. Amendment. Replace Chapter 4 (Animals and Fowl). Unanimous Consent Necessary.

City Manager Duggan stated that this Ordinance replaces Chapter 4 (Animals and Fowl) of the Code of the City of Auburn. He noted that the ordinance will include provisions for the care of animals, animal hoarding, threatening or menacing animals, and owner liability for damage. Further, the ordinance will repeal current dog licensing requirements.

Councilperson Kelley introduced the Ordinance.
City Manager Duggan read the Ordinance by Title.
Councilperson Kelley 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.

Councilperson Norman objected.

Mayor Ham declared unanimous consent not granted. The second reading of the ordinance will be on January 8, 2013.

9. **ORDINANCES (cont).**

c. Windstream KDL, Inc. Franchise Agreement. Non-Exclusive Use of Public Rights-of-Way. Telecommunications Ordinance. Public Hearing Required. Unanimous Consent Necessary.

City Manager Duggan stated this Ordinance establishes a non-exclusive right-of way use agreement between the city and Windstream KDL, Inc (licensee). He noted that the licensee will use the City's public rights-of-way for placement of components of its telecommunications system for a period of five years with automatic renewal of five years under certain conditions.

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 Kelley 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, Anders, Beard, Dowdell, Dulaney, Kelley, Norman, and Mayor Ham. Voting nay: none.
Mayor Ham declared the Ordinance adopted.
ORDINANCE NO. 2801

10. **RESOLUTIONS**.

a. Industrial Development Board. Tax Abatement. Matrix Wire, LLC. Dba/Matrix Wire, Inc. 1955 McMillan Street. Assign Tax Abatement Dated February 2006.

City Manager Duggan said this Resolution authorizes the assignment of a tax abatement from Matrix Wire, Inc. to Matrix Wire, LLC. He noted that the original abatement was granted to Sommer Metalcraft on October 7, 2003; however, in February 2006, Sommer Metalcaraft transferred all of its assets to Matrix Wire, Inc. Matrix Wire, Inc. is now transferring the assets to Matrix Wire, LLC.

10. **RESOLUTIONS (cont)**.

Mr. Duggan noted that City Council approval is required in order to use the remainder of the existing tax abatement to be transferred to Matrix Wire, LLC.

Councilperson Kelley moved that the resolution be adopted.
Councilperson Beard seconded the motion and all members voted aye.
Mayor Pro Tem Phelan declared the resolution adopted.
RESOLUTION NO. 12-241

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

(1) 150 Magnolia Investments, LLC. Sean Foote, SR & F Architects (Authorized Representative). Property Located at 150 East Magnolia Avenue. Commercial and Entertainment Use-Lounge (1716 Beer Garden) in the Urban Core (UC) Zoning District with an overlay of the College Edge Overlay District (CEOD). Amendment.

City Manager Duggan stated that Sean Foote of SR & F Architects is requesting amended conditional use approval for a commercial and entertainment use-lounge ("1716 Beer Garden") located in the Urban Core (UC) zoning district with an overlay of the College Edge Overlay District (CEOD). He noted that the property is located at 150 East Magnolia Avenue. 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 Dulaney seconded the motion and all members voted aye.
Mayor Ham declared the resolution adopted.
RESOLUTION NO. 12-242

10. **RESOLUTIONS (cont)**.

(2) Conner Brothers Development. NTI Investments, LLC (Authorized Representative). Property Located at 2393 East University Drive. Road Service Use-convenience store with a fueling station and restaurant-(Mapco Express) in the Comprehensive Development District (CDD) Zoning District. Amendment.

City Manager Duggan stated that NIT Investments, LLC is requesting amended conditional use approval for a road service use-convenience store with a fueling station and restaurant (Mapco Express) located in the Comprehensive Development District (CDD) zoning district. He noted that the property is located at 2393 East University 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 recommended approval of the request at its December 13, 2012 meeting by a vote of 8 for and 1 against.

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 Dowdell seconded the motion and all members voted aye.
Mayor Ham declared the resolution adopted.
RESOLUTION NO. 12-243

(3) Allbrook and Woodley Hayley. Nathaniel Holloway (Authorized Representative). Property Located at 123 East Veterans Boulevard. Commercial and Entertainment Use-funeral home (Auburn Memorial Funeral Home) in the Comprehensive Development District (CDD) Zoning District.

City Manager Duggan stated that Nathaniel Holloway is requesting conditional use approval for a commercial and entertainment use-funeral home (Auburn Memorial Funeral Home) located in the Comprehensive Development District (CDD) zoning district. He noted that the property is located at 123 East Veterans Boulevard. 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.

10. **RESOLUTIONS (cont)**.

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 Kelley seconded the motion and all members voted aye.
Mayor Ham declared the resolution adopted.
RESOLUTION NO. 12-244

(4) 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).

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. 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.

Several Council members had comments about the advisability of constructing another multiple family development. They were concerned that this development will be occupied at the expense of current housing.

Planning Director Cotten stated that the City is conducting a housing market study during early January 2013 and he will bring the data from the study to the Council for its review.

Councilperson Dowdell commented that the development will be built for the student population and not for minority citizens to occupy.

City Manager Duggan stated that the options before the Council are approval, approval with conditions, table, or table to a date certain.

Mayor Ham moved that the Resolution be tabled to January 22, 2013.
Councilperson Kelley seconded the motion and all members voted aye.
Mayor Ham declared the resolution tabled.

c. Public Works Design and Construction Manaual (PWDCM). Amendments.

City Manager Duggan stated that this Resolution approves and adopts changes to the Public Works Design and Construction Manual which provides the technical standards required for developments with the City.

Councilperson Kelley moved that the resolution be adopted.
Councilperson Dowdell seconded the motion and all members voted aye.
Mayor Ham declared the resolution adopted.
RESOLUTION NO. 12-245

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

(1) Information Technology Department.

(a) En Pointe Technologies. WebSense Software Subscription Renewal w/Additional 300 Seats. Three Year Contract. $44,147. Contract.

City Manager Duggan stated that this Resolution authorizes the City Manager to execute a contract with En Pointe Technologies renewing the WebSense software subscription for three years along with the addition of three hundred seats in the amount of $44,147.

10. **RESOLUTIONS (cont)**.

Councilperson Dowdell moved that the resolution be adopted.
Councilperson Kelley seconded the motion and all members voted aye.
Mayor Ham declared the resolution adopted.
RESOLUTION NO. 12-246

(b) SHI International Corp. Enterprise Agreement w/ Microsoft Corporation . Three Years. $134,963.25/ Year and $19,391.90 Third Year True-Up Cost for Previous Enterprise Agreement.

City Manager Duggan stated that this Resolution authorizes the City Manager to enter into a three-year Enterprise Agreement with Microsoft Corporation at a cost of $134,963.25 per year as well as approve payment of $19,391.90 for the third year true-up cost of the City's previous Enterprise Agreement.

Councilperson Kelley moved that the resolution be adopted.
Councilperson Anders seconded the motion and all members voted aye.
Mayor Ham declared the resolution adopted.
RESOLUTION NO. 12-247

(c) Venture Technologies. SmartNet Renewal License for Network Maintenance w/Cisco Systems. $59,553.26. Contract.

City Manager Duggan stated that this Resolution authorizes the City Manager to execute a one-year, hardware/software SmartNet renewal license for network maintenance with Cisco Systems with Venture Technologies at a cost of $59,553.26.

Councilperson Kelley moved that the resolution be adopted.
Councilperson Anders seconded the motion and all members voted aye.
Mayor Ham declared the resolution adopted.
RESOLUTION NO. 12-248

(2) Finance Department. Lee County Humane Society. Loan Agreement. $172,250.

City Manager Duggan stated that this Resolution authorizes the Mayor and City Manager to execute an agreement with the Lee County Humane Society,

10. **RESOLUTIONS (cont)**.

Inc. by which the City will lend $175,250 to the Humane Society for a period of 10 years at a fixed interest rate of 3.50%. He noted that the loan proceeds will be used to permanently finance the construction of an addition to the existing shelter facility.

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. 12-249

(3) Public Safety Department. North America Fire Equipment Company. Purchase Vehicle Extrication Equipment. $37,057. Contract.

City Manager Duggan stated that this Resolution authorizes the City Manager to execute a contract with North America Fire Equipment Company for the purchase of vehicle extrication equipment for the Public Safety Department – Fire Division at a cost of $37,057.

Councilperson Kelley moved that the resolution be adopted.
Councilperson Beard seconded the motion and all members voted aye.
Mayor Ham declared the resolution adopted.
RESOLUTION NO. 12-250

e. Sidewalk Easements. Hamilton Road Sidewalk Project. Acceptance.

(1) Cornerstone United Methodist Church. 2123 Hamilton Road.

City Manager Duggan stated that this Resolution accepts a sidewalk easement at 2123 Hamilton Road from Cornerstone United Methodist Church for the Hamilton Road Sidewalk Project.

Councilperson Norman moved that the resolution be adopted.
Councilperson Beard seconded the motion and all members voted aye.
Mayor Ham declared the resolution adopted.
RESOLUTION NO. 12-251

10. **RESOLUTIONS (cont)**.

(2) Moores Mill Homeowners Association. Northeast Corner of Moores Mill Road and Hamilton Road.

City Manager Duggan stated that this Resolution accepts a sidewalk easement at the northeast corner of Moores Mill Road and Hamilton Road from the Moores Mill Homeowners Association for the Hamilton Road Sidewalk Project.

Councilperson Norman moved that the resolution be adopted.
Councilperson Anders seconded the motion and all members voted aye.
Mayor Ham declared the resolution adopted.
RESOLUTION NO. 12-252

f. Drainage and Utility Easement and Rights of Way. Industrial Development Board. Auburn Technology Park West, Redivision of Lot B and Redivision of Lot A1-1. Property Located at the Terminus of Innovation Drive. Acceptance.

City Manager Duggan stated that this Resolution accepts various drainage and utility easements and rights-of-way, as shown on the plat, Auburn Technology Park West, Redivision of Lot B and Redivision of Lot A1-1, located at the terminus of Innovation Drive.

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. 12-253

g. Boards and Commissions. Appointments.

(1) Planning Commission. One Vacancy. Unexpired Term Ends July 31, 2016. Mayor Nominates-Council Approves.

City Manager Duggan stated that the recommendation Mayor Ham at the Committee of the Whole meeting is the appointment of Marcus S. Marshall to an unexpired term on the Planning Commission for a term to expire July 31, 2016.

10. **RESOLUTIONS (cont)**.

Councilperson Dowdell moved that the Resolution be adopted.
Councilperson Kelley seconded the motion and all members voted aye.
Mayor Ham declared the Resolution adopted.
RESOLUTION NO. 12-254

(2) Auburn Cemeteries Advisory Board. Two Positions.
Four Year Terms Expire December 31, 20916.

City Manager Duggan stated that the recommendation of the Committee of the Whole is the re-appointment of Candy Masters and Wes Williams to four year terms on the Auburn Cemeteries Advisory Board to expire December 31, 2016.

Councilperson Kelley moved that the Resolution be adopted.
Councilperson Anders seconded the motion and all members voted aye.
Mayor Ham declared the Resolution adopted.
RESOLUTION NO. 12-255

11. **OTHER BUSINESS**.

None.

Mayor Ham asked for comments from Council.

Mayor Ham wished everyone a Merry Christmas and a Happy New Year.

12. **ADJOURNMENT.**

Councilperson Kelley moved for adjournment.
Councilperson Dowdell seconded the motion and all members voted aye.
Mayor Ham declared the meeting adjourned 7:39 PM.

_____
Mayor

ATTEST:

_____
City Manager