

The City Council of the City of Tuskegee met in regular session on Tuesday, September 13, 2016 at 6:00 P.M. in the L.M. Gregg Auditorium at the Municipal Complex located at 101 Fonville Street, Tuskegee, Alabama.

1. **CALL TO ORDER.** Mayor Johnny Ford.
2. **INVOCATION.** Lord's Prayer Repeated in Unison.
3. **PLEDGE OF ALLEGIANCE.** Repeated in Unison.
4. **ROLL CALL.** Fartima B. Clark, City Clerk.

PRESENT

Mayor Johnny Ford
Mayor Pro-Tempore Lawrence F. Haygood, Jr.
Council Member Georgette White Moon
Council Member Ala Whitehead
Council Member Frank Christopher Lee, II

All members of the Council were present for this meeting.

5. **APPROVAL OF AGENDA.**

Motion was made by Council Member Lee to accept and approve the agenda with the following additions: add an executive session; asking the city attorney to prepare an ordinance for 2% business license tax and dismissal of City employees. Council Member Whitehead seconded the motion and all members voted aye. On call for the question, the following was recorded:

VOTING AYE

Johnny Ford
Frank Christopher Lee, II
Ala Whitehead

VOTING NAY

Lawrence F. Haygood, Jr.
Georgette White

Mayor Ford declared the motion carried only adding executive session and asking atty. To prepare an ordinance for 2% business license tax

6. **APPROVAL OF MINUTES.** August 16, 2016 & August 30, 2016.

A. Minutes for August 16, 2016:

Motion was made by Council Member Lee to accept and approve the minutes as circulated with the necessary changes and corrections. Council Member Whitehead seconded the motion and all members voted aye. Mayor Ford declared the motion carried.

B. Minutes for August 30, 2016:

Motion was made by Council Member Whitehead to accept and approve the minutes as circulated with any necessary changes and corrections. Council Member Lee seconded the motion and all members voted aye. Mayor Ford declared the motion carried.

7. **CITIZEN'S COMMUNICATIONS:**

1. Norma Jackson RE: Occupational Tax for Recreation Dept.
2. Dr. Elaine C. Harrington RE: Assistance to Alice Provo
3. Leon E. Frazier RE: Thanks to City Clerk & City Manager for smooth election; Thanks to the knuckle-boom driver
4. Dyann Robinson RE: Lay-off of City Employees
5. Lawrence King RE: Proposal for repairs at Greenfork Park & Abbott Parks
6. David Henderson RE: Fitness Center Expansion/Deli in the old Calhoun Foods Building

8. **MAYOR'S COMMUNICATIONS.** Mayor Johnny Ford.

- A. City Council Work Session.
- B. Announcements.

9. **SGA /OTHER AGENCIES, ETC. COMMUNICATIONS.** NONE.

10. **CITY MANAGER'S COMMUNICATIONS.** James W. Harper, City Manager.

- A. Council Updates / Concerns.
- B. Street Maintenance Report.
- C. Financial Report. (Council's Report)
- D. Budget Hearing. (Set for September 27, 2016 at 5:30 PM)

Motion was made by Council Member Lee to set the FY2017 Budget Hearing for Tuesday, September 27, 2016 at 5:30 PM during the Work Session. Council Member Whitehead seconded the motion and all members voted aye. Mayor Ford declared the motion carried.

- E. Franchise Fee Agreement//Franchise Ordinance. (3%)

Motion was made by Mayor Pro-Tempore Haygood accept and approve the franchise agreement to be a part of Franchise Ordinance No. 2016-8 adopted on June 14, 2016. Council Member Whitehead seconded the motion and all members voted aye. Mayor Ford declared the motion carried.

- F. Rainy Day Fund Acct.: Request to withdraw funds for repairs

Motion was made by Council Member Moon to authorize the City Manager to withdraw Thirty Thousand and 00/100 Dollars (\$30,000.00) from the rainy day fund account for repairs on public works vehicles and equipment. Council Member Whitehead seconded the motion and all members voted aye. Mayor Ford declared the motion carried.

- G. Announcements.

11. **ORDINANCES:**

- A. Ordinance No. 2016-8. 3% Franchise Fee & Agreement. (Agreement approved)

Motion was made by Mayor Pro-Tempore Haygood accept and approve the franchise agreement to be a part of Franchise Ordinance No. 2016-8 adopted on June 14, 2016. Council Member Whitehead seconded the motion and all members voted aye. Mayor Ford declared the motion carried.

FRANCHISE AGREEMENT

The **FRANCHISE PAYMENT AGREEMENT** between the City of Tuskegee, Alabama, a municipal corporation under the laws of the State of Alabama (herein called "the City") and the Utilities Board of the City of

Tuskegee, a public corporation organized under the laws of the State of Alabama (herein called "the Utilities Board"),

RECITALS:

The Board is a public corporation organized by the City under the provisions of Act No. 175 adopted at the 1951 Regular Session of the Legislature of Alabama (now codified as Article 9 of Chapter 50 of Title 11 of the Code of Alabama 1975) by proceedings taken by the governing body of the City and a Certificate of Incorporation filed in the Office of the Judge of Probate of Macon County, Alabama. Pursuant to the provisions of the said Act No. 175 and its Certificate of Incorporation, the Board owns and operates an electric distribution system (herein referred to as "the electric system"); a water works plant and distribution system (herein called "the Water Works System"); and a sanitary sewer system (herein called "the Sewer System").

NOW, THEREFORE THIS FRANCHISE AGREEMENT

WITNESSETH:

For the aforesaid purpose and in consideration of the respective agreements herein contained, it is hereby agreed between the parties signatory hereto, each with the other, as follows:

Section 1. Contemporaneously with the delivery of this Agreement, the City has adopted an appropriate ordinance (herein called the "Franchise Ordinance") granting an exclusive franchise to the Utilities Board for the operation of the Systems in the corporate limits of the City for a period of thirty (30) years from the date hereof. The parties acknowledge that they must comply with the terms of the said Franchise Ordinance.

Section 2. In consideration of the grant of the franchise provided for in the Franchise Ordinance, and subject to the provisions of Section 3 of this Agreement, the Utilities Board will pay to the City, not later than the fifteenth (15th) day of each calendar month (herein called the "Monthly Payment Date"), beginning with the month of November, 2016 and continuing in each calendar month thereafter for so long as this Agreement shall remain in effect, *an amount equal to one-twelfth (1/12)* of three percent (3%) of the revenues derived by the Utilities Board from the operation of the Systems within the corporate limits of the City of Tuskegee during the immediately preceding calendar year and received by the Utilities Board in cash (such payments being herein called "Franchise Fees"). All Franchise Fees payable by the Utilities Board to the City hereunder shall be paid to the City Treasurer at the Tuskegee Municipal Complex in immediately available funds.

Section 3. Notwithstanding the foregoing, the obligations of the Utilities Board to pay Franchise Fees to the City hereunder shall be subject and subordinate to the obligation of the Utilities Board to make timely payment of all indebtedness or obligations of the Utilities Board incurred with respect to the Utilities Board's ownership, operation or improvement of the Systems (including, without limitation, the Utility Revenue Bonds, Series 2012 as well as any other indebtedness of the Utilities Board to any person or any financial institution) that may be outstanding at any time (collectively the "Outstanding Obligations"), except to the extent otherwise provided in the indenture(s) pursuant to which the Outstanding Obligations were issued. In the event that the Utilities Board shall not have sufficient moneys available to pay all or any portion of Franchise Fees that shall be due and payable on any Monthly Payment Date, then the unpaid amount of any Franchise Fees shall accrue and be payable cumulatively (but without interest) on the next Monthly Payment Date on which monies shall be available therefor.

Section 4. This Agreement shall remain in effect for so long as the franchise granted by the Franchise Ordinance (or any renewal or extension thereof) shall remain in effect.

Section 5. This Agreement shall in all respects be governed by and construed in accordance with the laws of the State of Alabama.

Section 6. This Agreement shall be binding upon, and shall inure to the benefit of, the City, the Utilities Board and their respective successors and assigns; and shall also be construed to be a contract for the benefit of the holders of any indebtedness of the Utilities Board.

Section 7. Severability. In the event that any provision hereof shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision thereof.

IN WITNESS WHEREOF, the parties hereto have caused this Franchise Payment Agreement to be duly executed and delivered by their respective officers thereunto duly authorized as of this the 13th day of September, 2016.

CITY OF TUSKEGEE



Johnny Ford, Mayor

ATTEST:

James W. Harper, City Manager

UTILITIES BOARD OF THE CITY OF TUSKEGEE

Chairman

ATTEST:

Secretary

ORDINANCE NO. 2016-8

AN ORDINANCE GRANTING AN EXCLUSIVE FRANCHISE FOR THE OPERATION OF ELECTRIC DISTRIBUTION, WATERWORKS AND SANITARY SEWER SYSTEMS AND APPURTENANT FACILITIES

BE IT ORDAINED BY the Mayor and City Council of the CITY OF TUSKEGEE (herein called the "City"), as follows:

Section 1. The City hereby grants to the Utilities Board of the City of Tuskegee (herein called the "Board"), its successors and assigns, the right, privilege, authority and franchise to acquire, construct, own, repair, maintain, enlarge, extend, improve, replace and operated an electric distribution system, a waterworks plant and distribution system, and a sanitary sewer system, as well as all appurtenant facilities (which are herein together called the "Systems") to serve the City and the surrounding territory and the inhabitants thereof and businesses and institutions situated therein, and to use the streets, avenues, alleys and public ways and places in the city for such purpose.

Section 2. The City hereby grants to the Board the right, privilege, authority and franchise at any time and from time to time during the period covered by this franchise, in consideration of the payment by the Board to the City of the fees specified in Section 8 hereof, to construct, repair, maintain, enlarge, extend, improve and replace its wires, substations, mains, pipes, conduits and facilities in, over, under, across or along any street, avenue, alley or public way or place in the City and to make all excavations necessary therefore, for the purpose of constructing, repairing, maintaining, improving, enlarging, extending, replacing or operating any or all of the Systems.

Section 3. The Board shall, and by accepting this franchise, agree that it will operate the Systems and keep the same in good repair and operating condition so as to provide adequate electric, water and sanitary sewer service to the City and its inhabitants, businesses and institutions at all times.

Section 4. The Board shall, and by accepting this franchise, agrees that it will, upon-making any excavation to the streets, avenues, alleys, public ways and places of the City in the exercise of this franchise, restore the surface and paving at the point of such excavation in the substantially the same condition as before the work was done, within reasonable time thereafter, and will save the City harmless from any liability arising out of any change in the condition of any street, avenue, alley, public way or place by the Board.

Section 5. The rights, privileges, authorities and franchise hereby granted shall continue in force and effect for a period of thirty (30) years from the effective date of this ordinance.

Section 6. The franchise herein granted shall be exclusive. The City hereby covenants and agrees not to grant any franchise for any electric distribution system, or any water system or sanitary sewer system to any person, firm or corporation other than the Board during the term of the franchise hereby granted, insofar as an exclusive franchise now is or may hereafter be authorized or permitted by law to a public corporation such as the Board.

Section 7. The City hereby consents and agrees that the franchise hereby granted may be covered by any mortgage, deed or indenture of trust executed by the Board for the purpose of securing the payment of the principal of and Interest on any bonds or other obligations (including any refunding bonds or refunding obligations) issued by the Board in order to acquire, construct, enlarge, extend, improve, replace, maintain, repair or operate the Systems, which the Board may hereafter acquire, and any such mortgage or deed or indenture of trust shall constitute, a lien on this franchise, and this franchise may be transferred or assigned in accordance with the provisions of any such mortgage or deed or indenture of trust; but this franchise shall not otherwise be transferred or assigned. The parties recognize that existing at the time of execution of the within Ordinance are the Utility Revenue Bonds, Series 2012 of the Utilities Board of the City of Tuskegee, issued by the Board in the principal amount of \$21,010,000, dated February 1, 2012 for a term of thirty (30) years, which, among other things, paid off the Series 1997 Bond of the Utilities Board of the City of Tuskegee.

Section 8. The franchise herein granted by the City to the Board is granted in consideration of the agreement on the part of the Board to pay to the City in monthly installments three percent (3%) of the gross revenues derived by the Board within the City limits from the operation of the Systems from the immediately preceding year. The said agreement of the Board shall be made pursuant to a Franchise Agreement (the "Franchise Agreement") that shall be in substantially the form presented to the Mayor and City Council of the City at which this ordinance is adopted (which form shall be attached to this ordinance as Exhibit 1 and which is hereby adopted in all respects as if set out in full herein), with such changes as the City Manager, acting with the advice of the City Attorney, shall determine to be necessary or desirable in order to consummate the transactions authorized by this ordinance; provided, however, that the determination of the definitive form of the Franchise Agreement by the City Manager shall be conclusively established by the execution of such document. The City Manager is hereby authorized and directed to execute and deliver the Franchise Agreement for and in the name and behalf of the City, and the City Clerk of the City is hereby authorized and directed to affix the official and corporate seal of the City to **the** Franchise Agreement and to attest the same.

Section 9. Severability. In the event that any provision hereof shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

Section 10. Ordinance to become effective. This ordinance shall become effective, upon passage and publication as required by law.

ADOPTED this the 14th day of June, 2016.

CITY OF TUSKEGEE, ALABAMA



Johnny Ford, Mayor

ATTEST:

James W. Harper, City Manager

Motion was made by Council Member Whitehead to ask the City Attorney to draft an ordinance for discussion on a 2% business license tax. Council Member Lee seconded the motion and all members voted aye. On the call for the question the following was recorded:

VOTING AYE

Johnny Ford
Frank Christopher Lee, II
Ala Whitehead

VOTING NAY

Lawrence F. Haygood, Jr.
Georgette White Moon

Mayor Ford declared the motion carried.

12. **RESOLUTIONS:**

- A. Resolution No. 2016-90. Celebrating & Remembering the life of Annie Kitt, deceased.

Motion was made by Council Member Whitehead to accept the resolution as stated celebrating and remembering the life of Annie Kitt, deceased. Mayor Pro-Tempore Haygood seconded the motion and all members voted aye. Mayor Ford declared the motion carried.

**RESOLUTION NO. 2016-90
Celebrating & Remembering the Life of Annie C. Kitt**

WHEREAS, of all beautiful things in life, the most beautiful, is character, and she who possesses a beautiful character is worthy of notice. A beautiful life is the fruit of a beautiful character. She, of whom we speak, is Annie C. Kitt; and with a lasting gratitude for her exemplary life, her tireless and unselfish labor among us; the good she did the inspiration we imbibed; we dedicate this hour; and

WHEREAS, Annie C. Kitt was born to the late Roosevelt, Jr. and Emma Lou Griffin Kitt. She was raised in Shorter, Macon County, Alabama later moving to Tuskegee. She received her education at Prairie Farms School and Riley College. Mrs. Kitt gave her heart to her nursing career. She was employed by East Alabama Home Health, Central Alabama Home Health and Salem Nursing Home for many years.

WHEREAS, she was known for her cakes and sweet potato cobbler that Herman and Rozell fought over and her green thumb with plants. She would travel the world to hear her grandson Parry sing or her grandson Demarre play football; and

WHEREAS, with her husband, Rozell Chappell, Sr. who preceded her in death raised four children. She was preceded in death by her parents, one son, Sheldon; one brother and two sisters. She leaves to cherish her memories her children who she loved: Herman (Pamela) Kitt, Vinita (Sid) Little, and Rozell (Jacqueline) Chappell, Jr. She also leaves four brothers and their families, two sisters and their families; seven grandchildren, five great-grandchildren including the apple of her eye – McKenzie Sullen, two aunts, one sister-in-law, one brother-in-law, and a host of nieces, nephews, cousins, other relatives and special friends; and

THEREFORE BE IT RESOLVED by me as the Mayor of the City of Tuskegee and on behalf of the City Council of the City of Tuskegee as follows: (1) that the above recitals are true and correct; (2) that we mourn the death of Annie C. Kitt and express sympathy to her family and host of other relatives and many friends; and

BE IT FURTHER RESOLVED, that the City Clerk is hereby authorized and directed to spread this Resolution and transmit a duly authenticated copy to the family of Annie C. Kitt.

In witness I have hereunto set my hands and caused this seal to be affixed.



Johnny Ford, Mayor

ATTEST:

Fartima B. Clark, City Clerk

B. Resolution No. 2016-91. Celebrating & Remembering the life of Dr. Wallace Capel, deceased. Motion was made by Mayor Pro-Tempore Haygood to approve the resolution as stated celebrating and remembering the life of Dr. Wallace Capel. Council Member Lee seconded the motion and all members voted aye. Mayor Ford declared the motion carried.

RESOLUTION NO. 2016-91

Celebrating & Remembering the Life of Dr. Wallace Capel, deceased

WHEREAS, of all beautiful things in life, the most beautiful, is character, and he who possesses a beautiful character is worthy of notice. A beautiful life is the fruit of a beautiful character. He, of whom we speak is Dr. Wallace Capel; and

WHEREAS, with a lasting gratitude for his exemplary life, his tireless and unselfish labor among us; the good he did, the things he taught and the inspiration we imbibed; we dedicate this hour;

WHEREAS, as Mayor and on behalf of the City Council of the City of Tuskegee, we recognize a life well lived; and

NOW, THEREFORE BE IT RESOLVED by me as the Mayor of the City of Tuskegee and the City Council of the City of Tuskegee as follows: (1) that the above recitals are true and correct; (2) that we mourn the death of Dr. Wallace Capel and express sympathy to his survivors; and

BE IT FURTHER RESOLVED, that the City Clerk is hereby authorized and directed to spread this Resolution and transmit a duly authenticated copy to the family of Dr. Wallace Capel.

In witness I have hereunto set my hands and caused this seal to be affixed this the 13th day of September, 2016.

CITY OF TUSKEGEE, ALABAMA



Johnny Ford, Mayor

ATTEST:

Fartima B. Clark, City Clerk

C. Resolution No. 2016-92. Celebrating and remembering the life of Lillie Bell Ellington, deceased. Motion was made by Council Member Whitehead to approve the resolution as stated celebrating and remembering the life of Lillie Bell Ellington, deceased. Mayor Pro-tempore Haygood seconded the motion and all members voted aye. Mayor Ford declared the motion carried.

RESOLUTION NO. 2016-92

Celebrating & Remembering the Life of Lillie Bell Ellington, deceased

WHEREAS, of all beautiful things in life, the most beautiful, is character, and she who possesses a beautiful character is worthy of notice. A beautiful life is the fruit of a beautiful character. She, of whom we speak is Lillie Bell Ellington; and

WHEREAS, with a lasting gratitude for her exemplary life, her tireless and unselfish labor among us; the good she did, the things she taught and the inspiration we imbibed; we dedicate this hour;

WHEREAS, as Mayor and on behalf of the City Council of the City of Tuskegee, we recognize a life well lived; and

NOW, THEREFORE BE IT RESOLVED by me as the Mayor of the City of Tuskegee and the City Council of the City of Tuskegee as follows: (1) that the above recitals are true and correct; (2) that we mourn the death of Lillie Bell Ellington and express sympathy to her survivors; and

BE IT FURTHER RESOLVED, that the City Clerk is hereby authorized and directed to spread this Resolution and transmit a duly authenticated copy to the family of Lillie Bell Ellington.

In witness I have hereunto set my hands and caused this seal to be affixed this the 13th day of September, 2016.

CITY OF TUSKEGEE, ALABAMA



Johnny Ford, Mayor

ATTEST:

Fartima B. Clark, City Clerk

D. Resolution No. 2016-93.Celebrating & Remembering the life of Col. William Gess, deceased.

Motion was made by Council Member Lee to approve the resolution as stated for celebrating and remembering the life of Col. Williams Gess, deceased. Mayor Pro-Tempore Haygood seconded the motion and all members voted aye. Mayor Ford declared the motion carried.

RESOLUTION NO. 2016-93

Celebrating & Remembering the Life of Col. William Gess, deceased

WHEREAS, of all beautiful things in life, the most beautiful, is character, and he who possesses a beautiful character is worthy of notice. A beautiful life is the fruit of a beautiful character. He, of whom we speak is Col. William Gess; and

WHEREAS, with a lasting gratitude for his exemplary life, his tireless and unselfish labor among us; the good he did, the things he taught and the inspiration we imbibed; we dedicate this hour;

WHEREAS, as Mayor and on behalf of the City Council of the City of Tuskegee, we recognize a life well lived; and

NOW, THEREFORE BE IT RESOLVED by me as the Mayor of the City of Tuskegee and the City Council of the City of Tuskegee as follows: (1) that the above recitals are true and correct; (2) that we mourn the death of Col. William Gess and express sympathy to his survivors; and

BE IT FURTHER RESOLVED, that the City Clerk is hereby authorized and directed to spread this Resolution and transmit a duly authenticated copy to the family of Col. William Gess.

In witness I have hereunto set my hands and caused this seal to be affixed this the 13th day of September, 2016.

CITY OF TUSKEGEE, ALABAMA



Johnny Ford, Mayor

ATTEST:

Fartima B. Clark, City Clerk

13. **CITY ATTORNEY'S REPORT.**

Attorney Gray stated that he has been in continuous communication with the City Manager when necessary and Dept. Heads as appropriate with respect to litigated matters and other matters of investigation. Of note, with respect to the case that is in Court, the Cox Case, Atty. Gray stated that he appeared in court on August 25th and the case was continued; and the Judge has not set a date for the class certification as of today. Atty. Gray state that he would provide advice to council in executive session.

Motion was made by Council Member Whitehead to accept and approve the City Attorney's report as presented. Council Member Lee seconded the motion and all members voted aye. Mayor Ford declared the motion carried.

14. **OTHER BUSINESS.**

Motion was made by Council Member Whitehead to suspend the rules to take immediate action on resolution 2016-83. Council Member Moon seconded the motion and all members voted aye. Mayor Ford declared the motion carried.

Motion was made by Council Member Moon to ask Atty. Gray to prepare a resolution rescinding resolution number 2016-83 allowing RDS to collect the Occupational Taxes for the City of Tuskegee. Council Member Lee seconded the motion and all members voted aye. Mayor Ford declared the motion carried.

EXECUTIVE SESSION:

7:23 PM Motion was made by Council Member Whitehead for Council to enter Executive Session. Council Member Lee seconded the motion and all members voted aye. Mayor Ford declared the motion carried.

7:43 PM Motion was made by Mayor Pro-Tempore Haygood for Council to end Executive Session. Mayor Ford seconded the motion and all members voted aye. Mayor Ford declared the motion carried.

There being no further matters to come before the Council at this time, Council Member Whitehead moved to adjourn at 7:45 PM. Mayor Ford declared the meeting adjourned.

CITY OF TUSKEGEE, ALABAMA

Johnny Ford, Mayor

ATTEST:

Fartima B. Clark, City Clerk