

The City Council of the City of Tuskegee met in special session on Thursday, December 14, 2017 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 Lawrence F. Haygood, Jr.
2. **INVOCATION.** Iverson Gandy, Jr.
3. **PLEDGE OF ALLEGIANCE.** Repeated in Unison.
4. **ROLL CALL.** Fartima B. Clark, City Clerk.

PRESENT

Mayor Lawrence F. Haygood, Jr.
Mayor Pro-Tempore Annie M. Brown
Council Member Frank Christopher Lee, II
Council Member Ala Whitehead
Council Member Shirley W. Curry

All Members of the Council were present for the meeting.

5. **APPROVAL OF AGENDA.**

Motion was made by Council Member Whitehead to accept and approve the agenda with the following additions: add executive session, 12B) Resolution appointing City Manager and 12C) Resolution for Sarah Head, deceased. Council Member Curry seconded the motion and all members voted aye. Mayor Haygood declared the motion carried.

6. **APPROVAL OF MINUTES.** (November 21, 2017, November 28, 2017 & November 30, 2017)

A. Minutes for November 21, 2017:

Motion was made by Council Member Lee to accept and approve the minutes for November 21, 2017 as circulated with any necessary changes and/or corrections. Mayor Pro-Tempore Brown seconded the motion and all members voted aye. Mayor Haygood declared the motion carried.

B. Minutes for November 28, 2017:

Motion was made by Council Member Whitehead to accept and approve the minutes for November 28, 2017 as circulated with any necessary changes and/or corrections. Mayor Pro-Tempore Brown seconded the motion and all members voted aye. Mayor Haygood declared the motion carried.

C. Minutes for November 30, 2017:

Motion was made by Council Member Whitehead to accept and approve the minutes for November 30, 2017 as circulated with any necessary changes and/or corrections. Council Member Curry seconded the motion and all members voted aye. Mayor Haygood declared the motion carried.

7. **CITIZEN'S COMMUNICATIONS:**

1. Dr. Elaine C. Harrington RE: Recognition to ALL eligible voters who went to the polls to cast their votes; T-100 Statement of Resolve and allowing signs to be placed in resident yards throughout the City in Support of T-100
2. Marian Garmon RE: Trash & Garbage coming into the City / Parking on the side of road on Bibb St.

3. Melvin Adams RE: Clean City Committee/ Concerned about the dumping of garbage/trash from other surrounding areas
4. Ms. Nash RE: Dumping of garbage/trash by pesticide vehicles in her neighborhood

8. **MAYOR'S COMMUNICATIONS.** Mayor Lawrence F. Haygood, Jr.

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

9. **TU SGA /OTHER AGENCIES, ETC. COMMUNICATIONS.**

Other Agencies: Jacqueline Carlisle reported on Senator Corey Booker, Terri Sewell & Hank Johnson

10. **CITY MANAGER'S COMMUNICATIONS.** Bernard Houston, Acting City Manager.

6:30 PM Public Hearing: Planning Commission's Recommendation to turn Colvert Street back to the cul-de-sac.

6:30 PM Motion was made by Mayor Pro-Tempore Brown for Council to start the public hearing regarding Planning Commission's Recommendation to turn Colvert Street back to the cul-de-sac. Council Member Lee seconded the motion and all members voted aye. Mayor Haygood declared the motion carried.

Citizens speaking in favor of Planning Commission's Recommendation to turn Colvert Street back to the cul-de-sac:

1. Judith Baldwin
2. Shirley Jackson

Citizens speaking against the Planning Commission's Recommendation to turn Colvert Street back to the cul-de-sac:

1. Gwen Little
2. Felicia Slater
3. Mae Doris Williams
4. Tamara Lee
5. Frank Lee, Sr.

6:52 PM Motion was made by Council Member Whitehead for Council to end the public hearing regarding the transfer of the Alcoholic Beverage License for Tuskegee Food Mart. Council Member Lee seconded the motion and all members voted aye. Mayor Haygood declared the motion carried.

6:45 PM Public Hearing: Transfer of Alcoholic Beverage License for Tuskegee Food Mart.

6:52 PM Motion was made by Mayor Pro-Tempore Brown for Council to start the public hearing regarding the transfer of the Alcoholic Beverage License for Tuskegee Food Mart. Council Member Whitehead seconded the motion and all members voted aye. Mayor Haygood declared the motion carried.

Citizens speaking in favor of transfer of Alcoholic Beverage License for Tuskegee Food Mart:

NONE

Citizens speaking against the transfer of the Alcoholic Beverage License for Tuskegee Food Mart:

NONE

6:53 PM Motion was made by Council Member Whitehead for Council to end the public hearing regarding the transfer of the Alcoholic Beverage License for Tuskegee Food Mart. Mayor Pro-Tempore Brown seconded the motion and all members voted aye. Mayor Haygood declared the motion carried.

EXECUTIVE SESSION:

6:54 PM Motion was made by Mayor Pro-Tempore Brown for council to enter executive session. Council Member Curry seconded the motion and all members voted aye. Mayor Haygood declared the motion carried.

7:26 PM Motion was made by Council Member Whitehead for council to end the executive session. Council Member Curry seconded the motion and all members voted aye. Mayor Haygood declared the motion carried.

...CONT'D...CITY MANAGER'S COMMUNICATIONS: (Bernard Houston, Acting City Manager).

- A. Council Updates / Concerns.
- B. Street Maintenance Report.
- C. Financial Report. (Frankie L. Williams)

Motion was made by Council Member Lee to receive the Financial Report as circulated and presented by Ms. Frankie L. Williams, Finance Director. Mayor Pro-Tempore Brown seconded the motion and all members voted aye. Mayor Haygood declared the motion carried.

- D. Head Start Report: (Dr. Nannette Phillips)
 - 1. Executive Director's Report (Nov. 2017)
 - 2. Revenue & Expenditures Report including Credit Card Report. (Nov. 2017)
 - 3. Monthly Summary of Meals and Snacks Provided through USDA (Nov. 2017)
 - 4. Enrollment Report and Attendance Report. (Nov. 2017)

Motion was made by Council Member Whitehead for Council to receive the Head Start Report as presented by Dr. Nannette Phillips, Head Start Director. Mayor Pro-Tempore Brown seconded the motion and all members voted aye. Mayor Haygood declared the motion carried.

- E. Planning Commission's Recommendation to change Colvert Street back to the cul-de-sac.

Motion was made by Council Member Lee to approve the planning commission's recommendation to turn Colvert Street back to the cul-de-sac. Council Member Whitehead seconded the motion and on call for the question the following was recorded:

Voting Aye

Frank Christopher Lee
Ala Whitehead

Voting Naye

Mayor Lawrence Haygood, Jr.
Annie L. Brown
Shirley W. Curry

Mayor Haygood declared the motion to accept the planning commission's recommendation to change Colvert Street back to the cul-de-sac was **"rejected"**.

- F. Alcoholic Beverage License transfer for Tuskegee Food Mart.

Motion was made by Council Member Whitehead for Council to “**approve**” the transfer of the Alcoholic Beverage License for Tuskegee Food Mart. Mayor Pro-Tempore Brown seconded the motion and all members voted aye. Mayor Haygood declared the motion carried.

- G. FY2018 Transportation Alternative Program (TAP) Grant Application: Landscape & Pedestrian Improvements along Patterson Street.

- H. One-time Cost of Living Adjustment. (City Employees)

Motion was made by Council Lee to approve the one time C.O.L.A. (cost of living adjustment) for City employees in the amount of \$125.00. Mayor Pro-Tempore Brown seconded the motion and all members voted aye. Mayor Haygood declared the motion carried.

- I. Announcements:

- Christmas Parade will be held on Friday, December 15, 2017 at 1:00 PM

11. **ORDINANCES:**

- A. *Ordinance No. 2018-1. Restating the Occupational Tax Ordinance.*

Motion was made by Council Member Curry for Council to accept and adopt ordinance number 2018-1 restating the Occupational Tax Ordinance. Mayor Pro-Tempore Brown seconded the motion and all members voted aye. Mayor Haygood declared the motion carried.

**ORDINANCE NO.2018-1
RESTATING THE OCCUPATION LICENSE IN TUSKEGEE, ALABAMA
OCCUPATION LICENSE**

DIVISION 1. Generally

BE IT ORDAINED by the City Council of the City of Tuskegee, Alabama as follows:

Section 1. Definitions and Use of Phrases.

The following words, when used in this article, shall have the meanings ascribed to them, except where the context clearly indicated or requires a different meaning:

“**Employee**” shall mean any person engaging in or following any trade, occupation or profession within the meaning of that term as defined in this section.

“**Employer**” shall mean any person, business, firm, corporation, partnership, association, or any other kind of organization that employs any person in any trade, occupation or profession in the city within the meaning of that term as defined in this section.

“**Gross receipts**” and “compensation” shall have the same meaning and both words will mean the total gross amount of all salaries, wages, commissions, bonuses or other compensation of any kind, or any other considerations having monetary value, which a person receives from or is entitled to receive from or to be given credit for by his employer for any work done or personal services rendered in any trade occupation or profession, including any kind of deductions before take-home pay is received. The words "gross receipts" and "compensation" shall not mean amounts paid to traveling salesmen or other workers as allowance or reimbursement for traveling or other expenses incurred in the business of the employer, except to the extent of the excess of such amounts over such expenses actually incurred and accounted for by the employee to the employer.

“License” shall mean any person required to file a return to pay a license fee under this article.

“Person” shall mean any natural person. Whenever the word "person" is used in any clause prescribing and imposing a penalty in the nature of a fine or imprisonment, the word as applied to a partnership or other form of unincorporated enterprise shall mean the partners or members thereof and as applied to corporations shall mean the officers and directors thereof.

“Trade, occupation, and profession” shall mean the doing of any kind of work, the rendering of any kind of personal services, or the holding of any kind of position or job within the city by any kind of position or job within the city by any clerk, laborer, tradesman, manager, official or other employee, including any nonresident or the city who is employed by any employer as defined in this section, where the relationship between the individual performing the services and the person for whom such services are rendered is, as to those services, the legal relationship of employer and employee, including also a partner of a firm or an officer of a firm or corporation if such partner or officer receives a salary for his personal services rendered in the business of such firm or corporation.

But they shall not mean or include domestic servants employed in private homes, ministers, priests, and other duly ordained ministers or a recognized religious sect, where their activities are carried on in the performance of their religious duties or businesses, professions or occupations for which license fees are required to be paid under any other ordinance or any person who is an employer within the meaning of this section. "Trade, occupation, and profession" shall also mean the holding of any kind of office or position; either by election or appointment or employee rendering services within the city.

“Herein,” “hereby,” “hereunder,” “hereof,” and other equivalent words refer to this ordinance as an entirety and not solely to the particular portion thereof in which any such word is used. The definitions set forth in section 1 hereof shall be deemed applicable whether the words defined are herein used in the singular or the plural. Wherever used herein any pronoun or pronouns shall be deemed to include both singular and plural and to cover all genders.

Section 2. License fees required.

It shall be unlawful for any reason to engage in or follow any trade, occupation or profession as defined in section 1 herein within the city without paying license fees for the privilege of engaging in or following such trade, occupation or profession, which license fees shall be measured by three percent of the gross receipts per calendar year of each such person, for such trade, occupation or profession.

Section 3. Compensation earned within the and without city.

In cases in which compensation is earned as a result of work done or services performed both within and without the city, license fees required under this article shall be computed by determining upon the oath of the employer, or, if required by the city revenue officer, upon the oath of the employee, that percentage of the compensation earned from the proportion of the work which was done or performed within the city.

Section 4. Employers to Withhold.

(a) Every employer making payment of compensation to an employee shall deduct and withhold from the compensation an occupational license tax calculated under section 2 of this Ordinance. Amounts withheld shall be paid to the City in accordance with this section.

(b) Each employer shall deduct from the pay due any employee the amount of the license tax measured by the compensation due each employee beginning on January 1 of each year.

(1) The payments required to be made on account of the deduction by employers shall be made to the City Clerk for the periods ending on or before the 25th day of the month next following the period, except for the month of December when the return will be due 31 days after the period. Employers whose monthly payments are less than Two Thousand Dollars (\$2,000.00) may file returns quarterly for the periods ending March 31, June 30, September 30, and December 31 with returns due on the 25th day

after the end of each quarterly period ending March 31, June 30, September 30, and 31 days after quarterly period ending December 31.

(2) Employers on quarterly filing whose quarterly payment is more than Two Thousand Dollars (\$2,000.00) will revert to monthly payments beginning with the next monthly payment due and will remain on monthly filing for all subsequent periods or until written justification is furnished to the city revenue officer to obtain approval to return to quarterly filing.

(c) Every employer who fails to withhold or pay to the City any sums required by this Ordinance to be withheld and paid shall be personally and individually liable to the City for any sum or sums withheld or required to be withheld in accordance with the provisions of this section.

(d) The City shall have a lien upon all property of any employer who fails to withhold or pay over to the City sums required to be withheld under this section. If the employer withholds, but fails to pay the amounts withheld to the City, the lien shall commence as of the date the amounts withheld were required to be paid to the City. If the employer fails to withhold, the lien shall commence at the time the liability of the employer is assessed by the City.

(e) Every employer required to deduct and withhold tax under this section shall annually on or before February 28 of each year complete and file on a form furnished or approved by the City a reconciliation of the occupational license tax withheld where compensation is paid or payable to employees. Either copies of federal forms W-2 and W-3, transmittal of wage and tax statements, or a detailed employee listing with the required equivalent information, as determined by the City, shall be submitted.

(f) Every employer shall furnish each employee a statement on or before January 31 of each year showing the amount of compensation and occupational license tax deducted by the employer from the compensation paid to the employee for payment to the City during the preceding calendar year.

(g) An employer shall be liable for the payment of the tax required to be deducted and withheld under this section.

(h) The president, vice president, secretary, treasurer, or any other person holding an equivalent corporate office of any business 'entity subject to this section shall be personally and individually liable, both jointly and severally, for any tax required to be withheld from compensation paid or payable to one or more employees of the business entity, and neither the corporate dissolution or withdrawal of the business entity from the City, nor the cessation of holding any corporate office, shall discharge that liability; provided the personal and individual liability shall apply to each and every person holding the corporate office at the time the tax becomes or became obligated. No person shall be personally and individually liable under this subsection unless such person had authority to collect, truthfully account for, or pay over the tax imposed by this Ordinance at the time the taxes imposed by this Ordinance become or became due.

(i) Notwithstanding subsections (g) and (h) of this section, every employee receiving compensation in the City subject to the tax imposed under section 2 of this Ordinance shall be personally liable for any amount due. In all cases where the employer does not withhold the tax levied under this Ordinance from the employee, such employee or employees shall be responsible for filing with the City each quarter in the same manner as if they were the employer.

(j) When an employee can establish at the end of any calendar year that he has paid, either personally or through withholdings by his employer, license fee in excess of the license fee levied under section 2, herein the employee shall adjust the next monthly return and refund any withholding in excess of the license fee levied. Any employee that pays license fees in excess of the license fee levied under section 2, herein shall adjust his her next monthly payment due for any excess of any license fee levied, on a form acceptable to the City Clerk on or before the fifteenth day of April, immediately following the end of the calendar year which such excess license fees were paid.

Section 5. Penalties

(a) A business entity subject to tax on employee wages and compensation shall be subject to a penalty equal to five percent (5%) of the tax due for each calendar month or fraction thereof if the business entity:

- (1) Fails to file any return or report on or before the due date prescribed for filing or as extended by the City; or
- (2) Fails to pay the tax computed on the return or report on or before the due date prescribed for payment.

The total penalty levied pursuant to this subsection shall not exceed twenty-five percent (25%) of the total tax due; however, the penalty shall not be less than Twenty-Five Dollars (\$25.00).

(b) Every employer who fails to file a return or pay the tax on or before the time prescribed under section 4 of this Ordinance shall be subject to a penalty in an amount equal to five percent (5%) of the tax due for each calendar month or fraction thereof. The total penalty levied pursuant to this subsection shall not exceed twenty-five percent (25%) of the total tax due; however, the penalty shall not be less than Twenty-Five Dollars (\$25).

(c) In addition to the penalties prescribed in this section, any business entity or employer shall pay, as part of the tax, an amount equal to twelve percent (12%) per annum simple interest on the tax shown due, but not previously paid, from the time the tax was due until the tax is paid to the City. A fraction of a month is counted as an entire month.

(d) Every tax imposed by this Ordinance, and all increases, interest, and penalties thereon, shall become, from the time the tax is due and payable, a personal debt of the taxpayer to the City.

(e) The City may enforce the collection of the occupational tax due under section 4 of this Ordinance and any fees, penalties, and interest as provided in subsections (a), (b), (c), and (d) of this section by civil action in a court of appropriate jurisdiction. To the extent authorized by law, the City shall be entitled to recover all court costs and reasonable attorney fees incurred by it in enforcing any provision of this Ordinance.

(f) In addition to the penalties prescribed in this section, any business entity or employer who willfully fails to make a return or willfully makes a false return, or who willfully fails to pay taxes owed or collected, with the intent to evade payment of the tax or amount collected, or any part thereof, shall be guilty of a Class A misdemeanor.

(g) Any person who willfully aids or assists in, or procures, counsels, or advises the preparation or presentation under, or in connection with, any matter arising under this Ordinance of a return, affidavit, claim, or other document, which is fraudulent or is false as to any material matter, whether or not the falsity or fraud is with the knowledge or consent of the person authorized or required to present the return, affidavit, claim, or document, shall be guilty of a Class A misdemeanor.

(h) A return for the purpose of this section shall mean and include any return, declaration, or form prescribed by the City and required to be filed with the City by the provisions of this Ordinance, or by the rules of the City or by written request for information to the business entity by the City.

Section 6. Duties of the city revenue officer.

It shall be the duty of the city revenue officer to collect and receive all license fees imposed by this article and to keep records showing the amounts received from each employer or person.

Section 7. Investigative powers of the city revenue officer.

The city revenue officer or any agent or employee designed by said city revenue officer is hereby authorized to examine the books, papers and records of any employer or supposed employer or of any licensee in order to determine the accuracy of any return of claim for refund made, or if no return was made, to ascertain the amount of license fees due under this article by such examination. Each such employer or supposed employer of licensee or supposed licensee shall give to the city revenue officer or to his duly authorized agent or employee the means, facilities and opportunity for the making of such examination and investigation. The city revenue officer is hereby authorized to examine any person under oath concerning any gross receipts which were or should have been shown in a return and to this end, said city revenue officer may compel the production of books, papers, records and the attendance of all persons before him whether as parties or witnesses, whom he believes to have

knowledge of such gross receipts or compensation, to the extent that any officer empowered to administer oaths in this state is permitted to make investigation.

Section 8. Regulations may be promulgated.

The governing body of the city may by resolution, prescribe, adopt, promulgate and enforce regulations to any matter or thing pertaining to the administration and enforcement of the provisions for the reexamination and correction of returns as to which any overpayment or underpayment is claimed or found to have been made, and the regulations so promulgated shall be binding upon all licensees and employers.

Section 9. Information to be confidential.

Notwithstanding any ordinances to the contrary, any information gained by the city revenue officer or any other official or agent or employee of the city as a result of any returns, investigations, hearings or verifications required or authorized by this article, shall be confidential, except for official purposes or in accordance with a proper judicial order, or the conviction, be punished as prescribed in section 1-9 of the Code of Ordinances of the City of Tuskegee, Alabama.

Section 10. Use of license fees.

All money derived from license fees under the provisions of this article shall be paid to the city and placed to the credit of the general fund of the city and shall be used and expended as directed by the governing body of the city.

Sections 12 - 20 Reserved.

DIVISION 2. RULES AND REGULATIONS

Section 21. Effective period of license regulations.

Division 1 of this article imposing license fees upon person employed by others will be in effect on and after the date of its effectiveness pursuant to section 30 hereof, as to gross receipts or compensation earned or due on and after that date; provided, however, that nothing herein shall be deemed to permit any period during which the license fee provided in Ordinance #2010-4 shall be ineffective prior to the effective date hereof. Payroll deductions must thereafter be made against all salaries of any kind or any other compensation having monetary value which a person receives from or is due from his employer for any work done or personal services rendered.

Section 22. Employers to complete form.

All employers shall fill out a questionnaire form obtainable at the office of the city revenue officer.

Section 23. Persons affected.

(a) All persons doing any kind of work or rendering any kind of personal services for others in the city where the relationship between the individual performing the services and the person for whom the services are rendered is, as to those services, the legal relationship of employer and employee are subject to the provisions of Division 1 herein.

(b) The legal relationship between employer and employee exists when the person for whom the work is done:

- (1) Retains and exercises the right to direct the manner in which it shall be done, as well as the result to be accomplished, or
- (2) Retains the right to direct not only what should be done but how it shall be done, or

- (3) Exercises any authority with respect to the manner or conduct of the work being performed or to hire or discharge the one performing the work.

The mode of payment is merely a circumstance to be considered in determining the question whether the relationship between employer and employee exists, but it is not decisive of that question. The relationship of an employer and employee exists where the person doing the work is subject to orders and control of the person for whom the work is done.

(c) As distinguished from an employee, an individual contractor is one who has contracted to work according to his own methods and without being subject to the control of the person for whom the work is done except as to the result to be accomplished. If a person for whom work is done does not control the details of his operations or have the right to exercise control thereof, the person doing the work is an independent contractor and is not subject to the provisions of Division 1 herein.

Section 24. Officers of firms or corporations.

(a) A partner of a firm or an officer of a firm or corporation shall pay the tax imposed under Division 1 if he receives a salary for his personal services rendered in the business or such firm or corporation.

(b) The amount of such tax shall be measured by three percent of the gross amount of such salary received by such partner or officer per calendar year.

(c) If a partner of a firm or an officer of a corporation has a drawing account, the tax shall not be computed upon the amount withdrawn by him unless such withdrawals shall be credited to him as a salary. In the event any withdrawals are credited as a part of a partner's share in the net profits, the tax shall not be computed and paid upon such withdrawals.

Section 25. Officials of government agencies, etc.

All persons holding any kind of office or position either by election or appointment as a federal, state, county or city official or employee where the services of such official or employee are rendered within the city are liable for the tax.

Section 26. Nonresidents and person who perform only part of their services within city.

(a) All nonresidents of the city employed by others and who perform services within the city are subject to the provisions of Division 1 herein.

(b) Any person employed by another who performs only a part of his services within the city is required to pay the tax measured by the proportion of the total compensation he receives for services rendered within the city. In such cases the percentage of compensation earned from the proportion of the work done or performed within the city shall be estimated by the employer. The employer shall submit to the city revenue officer when filing a return for such employee a certificate stating to the best of his knowledge and belief that percentage of the services which the employee rendered within the city, and the amount of the tax computed upon that percentage.

Section 27. Submission of questions.

Any license payer or employer desiring a specific ruling should submit all of the facts involved, in writing, together with a concise statement of the subject matter of the ruling sought, to the city revenue officer. The ruling of the city revenue officer may be appealed to the governing body for final determination. Because of the numerous questions which may arise, it is believed advisable to follow this procedure. If the person affected will submit such

questions in writing, misunderstandings can be avoided and the cooperation of all to this end will be highly appreciated.

Section 28. Conflicting ordinances repealed.

All ordinances or parts of ordinances conflicting with this ordinance, to the extent of any such conflict, are hereby repealed. All previous ordinances or parts of ordinances that have heretofore imposed a license fee of the kind provided in this ordinance, including, without limitation, Ordinance Nos. 93-8, 94-1, 98-5, 2005-6, 2009-2 and 2010-4, are hereby repealed effective on the effective date hereof.

Section 29. Severability.

If any section, clause, provision or portion of this ordinance shall be declared invalid or unconstitutional by any court of competent jurisdiction, such holding shall not affect any other section, clause, provision or portion of this ordinance which is not, in or of itself, invalid or unconstitutional.

Section 30. Effective date.

This ordinance shall become effective upon its passage and publication as required by law.

Sections 31 – 40. Reserved.

ADOPTED and APPROVED this the 14th day of December, 2017.

CITY OF TUSKEGEE, ALABAMA

By: /s/ Annie L. Brown
Annie L. Brown, Council President

ATTEST:

/s/ Fartima D. Clark
Fartima D. Clark, City Clerk/Treasurer

Delivered to and approved by the Mayor on this the 14th day of December, 2017.

/s/ Lawrence F. Haygood, Jr.
Lawrence F. Haygood, Jr., Mayor

B. Ordinance No. 2018-2. Restating the Sales & Use Tax Ordinance.

Motion was made by Council Member Curry for Council to accept and adopt ordinance number 2018-2 restating the Sales & Use Tax Ordinance. Council Member Lee seconded the motion and all members voted aye. Mayor Haygood declared the motion carried.

**ORDINANCE NO. 2018-2
RESTATING THE SALES AND USE TAXES FOR THE CITY OF TUSKEGEE, ALABAMA**

PURSUANT TO THE PROVISIONS OF CODE OF ALABAMA 1975, SECTIONS 11-51-200 THROUGH 11-51-207, THIS ORDINANCE AMENDS ORDINANCE #90-6 AND ITS PREVIOUS AMENDMENTS LEVYING A PRIVILEGE, LICENSE OR EXCISE TAX AGAINST PERSONS, FIRMS, OR CORPORATIONS STORING, USING, OR OTHERWISE CONSUMING OR ENGAGED IN THE BUSINESS OF SELLING AT RETAIL TANGIBLE PERSONAL PROPERTY OR CONDUCTING PLACES OF AMUSEMENT IN THE CITY OF TUSKEGEE, ALABAMA, AND

ITS POLICE JURISDICTION; PROVIDES FOR PENALTIES FOR THE VIOLATION OF THIS ORDINANCE.

Pursuant to the provisions of Code of Alabama 1975, Sections 11-51-200 through 11-51-207, be it ordained by the City Council of the City of Tuskegee (herein called the "City"), in the State of Alabama, as follows:

Section 1. There is hereby levied, in addition to all other taxes of every kind now imposed by law, and shall be collected as herein provided, a privilege or license tax against the person on account of the business activities and in the amount to be determined by the application of rates against gross sales, or gross receipts, as the case may be, as follows:

(a) Upon every person, firm, or corporation, (including the State of Alabama, the University of Alabama, Auburn University and all other institutions of higher learning in the state, whether such institutions be denominational, state, county or municipal institutions, and any association or other agency or instrumentality of such institutions) engaged or continuing within the City of Tuskegee in the business of selling at retail any tangible personal property whatsoever, including merchandise and commodities of every kind and character, (not including, however, bonds or other evidences of debts or stocks, nor sale or sales of material and supplies to any person for use in fulfilling a contract for the painting, repair, or reconditioning of vessels, barges, ships and other watercraft and commercial fishing vessels of over five (5) tons load displacement as registered with the U. S. Coast Guard and licensed by the State of Alabama Department of Conservation and Natural Resources), an amount equal to **five per cent (5%)** of the gross proceeds of sales of the business except where a different amount is expressly provided herein. Provided, however, that any person engaging or continuing in business as a retailer and wholesaler or jobber shall pay the tax required on the gross proceeds of retail sales of such business at the rates specified, when his books are kept so as to show separately the gross proceeds of sales of each business, and when his books are not so kept he shall pay the tax as retailer on the gross sales of the business.

(b) Upon every person, firm or corporation engaged or continuing within the City, in the business of conducting, or operating, places of amusement or entertainment, billiard and pool rooms, bowling alleys, amusement devices, musical devices, theaters, opera houses, moving picture shows, vaudevilles, amusement parks, athletic contests, including wrestling matches, prize fights, boxing and wrestling exhibitions, football and baseball games, (including athletic contests, conducted by or under the auspices of any educational institution within the City, or any athletic association thereof, or other association whether such institution or association be a denominational, a state, or county, or a municipal institution or association or a state, county, or City school, or other institution, association or school), skating rinks, race tracks, golf courses, or any other place at which any exhibition, display, amusement or entertainment is offered to the public or place or places where an admission fee is charged, including public bathing places, public dance halls of every kind and description within the City, an amount equal to **five per cent (5%)** of the gross receipts of any such business. Provided, however, notwithstanding any language to the contrary in the prior portion of this subsection, the tax provisions so specified shall not apply to any athletic event conducted by a public or private primary or secondary school. The tax amount, which would have been collected pursuant to this subsection, shall continue to be collected by said public or private primary or secondary school but shall be retained by the school which collected it and shall be used by said school for school purposes.

(c) Upon every person, firm or corporation engaged or continuing within the City in the business of selling at retail machines used in mining, quarrying, compounding, processing, and manufacturing of tangible personal property, an amount equal to **one per cent (1%)** of the gross proceeds of the sale of such machines; provided, that the term "machines," as herein used, shall include machinery which is used for mining, quarrying, compounding, processing, or manufacturing tangible personal property, and the parts of such machines, attachments and replacements therefore which are made or manufactured for use on or in the operation of such machines and which are necessary to the operation of such machines and are customarily so used.

(d) Upon every person, firm or corporation engaged or continuing within the City in the business of selling at retail any automotive vehicle or truck trailer, semi-trailer, house trailer or mobile home set-up materials

and supplies including but not limited to steps, blocks, anchoring, cable pipes and any other materials pertaining thereto an amount equal to **one per cent (1%)** of the gross proceeds of sale of said automotive vehicle, truck trailer, semi-trailer, house trailer or mobile home set-up materials and supplies provided, however, where a person subject to the tax provided for in this subsection withdraws from his stock in trade any automotive vehicle or truck trailer, semi-trailer or house trailer for use by him or by his employee or agent in the operation of such business, there shall be paid, in lieu of the tax levied herein, a fee of **.83 per cent (.83%)** per year or part thereof during which such automotive vehicle, truck trailer, semi-trailer or house trailer shall remain the property of such person. Each such year or part thereof shall begin with the day or anniversary date, as the case may be, of such withdrawal and shall run for the twelve succeeding months or part thereof during which such automotive vehicle, truck trailer, or house trailer shall remain the property of such person.

Where any used automotive vehicle or truck trailer, semi-trailer or house trailer is taken in trade or in a series of trades, as a credit or part payment on the sale of a new or used vehicle, the tax levied herein shall be paid on the net difference, that is, the price of the new or used vehicle sold less the credit for the used vehicle taken in trade.

(e) Upon every person, firm or corporation engaged or continuing within the City in the business of selling at retail any machine, machinery or equipment which is used in planting, cultivating and harvesting farm products, or used in connection with the production of agricultural produce or products, livestock or poultry on farms, and the parts of such machines, machinery or equipment, attachments and replacements therefore which are made or manufactured for use on or in the operation of such machine, machinery or equipment, and which are necessary to and customarily used in the operation of such machine, machinery or equipment, an amount equal to **.75 per cent (.75%)** of the gross proceeds of the sale thereof. Provided, however, the **.75 per cent (.75%)** herein prescribed with respect to parts, attachments, and replacements shall not apply to any automotive vehicle or trailer designed primarily for public highway use, except farm trailers used primarily in the production and harvesting of agricultural commodities.

Where any used machine, machinery or equipment which is used in planting, cultivating, and harvesting farm products, or used in connection with the production of agricultural produce or products, livestock and poultry on farms is taken in trade or in a series of trades as a credit or part payment on a sale of a new or used machine, machinery or equipment, the tax levied herein shall be paid on the net difference, that is, the price of the new or used machine, machinery or equipment sold, less the credit for the used machine, machinery or equipment taken in trade.

(f) Upon every person, firm or corporation engaged or continuing within the City in the business of selling through coin-operated dispensing machines, food and food products for human consumption, not including beverages other than coffee, milk, milk products and substitutes therefore, there is hereby levied a tax equal to **five per cent (5%)** of the retail selling price of such food, food products and beverages sold through such machines.

Section 2. Levy of the Tax in Police Jurisdiction. Upon every person, firm or corporation engaged in the doing of an act, or who shall do an act, or continuing in the doing of an act, or engaged in the operation of any business, or who shall engage in the operation of any business, within the police jurisdiction of the City but beyond the corporate limits of said City for which or upon which a privilege or license tax is in this ordinance levied or required within the corporate limits of the City, there is hereby levied, in addition to all other taxes of every kind now imposed by law or by municipal ordinance, to be collected as herein provided for the privilege or license taxes herein levied within the corporate limits of the City a privilege or license tax equal to one-half of that provided, levied or required in this ordinance for the doing of such act, or the engaging or continuing therein, or the engaging or continuing in the operation of such business within the corporate limits of the City. Provided further, that except for the amount of the privilege or license tax herein levied within the police jurisdiction of said City but without the corporate limits thereof, all the provisions of this ordinance extend and apply to all the area within the police jurisdiction of the City.

Section 3. Provisions of State Sales Tax Statutes Applicable to this Ordinance and Taxes herein levied. This ordinance and the taxes levied herein shall be subject to all definitions, exceptions, exemptions, proceedings, requirements, provisions, rules and regulations promulgated under the Alabama Administrative Procedure Act, direct pay permit and drive-out certificate procedures, statute of limitation, discounts, penalties, fines, punishments, and deductions that are applicable to the taxes levied by the State Sales Tax statutes, except where inapplicable or where herein otherwise provided, including all provisions of the State Sales Tax statutes for enforcement and collection of taxes.

Section 4. (a) An excise tax is hereby imposed on the storage, use or other consumption in the City, of tangible personal property (not including materials and supplies bought for use in fulfilling a contract for the painting, repairing, or reconditioning of vessels, barges, ships and other watercraft and commercial fishing vessels of over five (5) tons load displacement as registered with the U. S. Coast Guard and licensed by the State of Alabama Department of Conservation and Natural Resources) purchased at retail on or after the effective date of this ordinance for storage, use or other consumption in the City, except as provided in subsections (b), (c), and (d), at the rate of **five per cent (5%)** of the sales price of such property within the corporate limits of said City.

(b) An excise tax is hereby imposed on the storage, use or other consumption in the City, of any machines used in mining, quarrying, compounding, processing, and manufacturing of tangible personal property purchased at retail on or after the effective date of this ordinance at the rate of **one per cent (1%)** of the sales price of any such machine; provided, that the term "machine" as herein used, shall include machinery which is used for mining, quarrying, compounding, processing, or manufacturing tangible personal property, and the parts of such machines, attachments and replacements therefore, which are made or manufactured for use on or in the operation of such machines and which are necessary to the operation of such machines and are customarily so used.

(c) An excise tax is hereby imposed on the storage, use or other consumption in the City on any automotive vehicle or truck trailer, semi-trailer, house trailer or mobile home set-up materials and supplies including but not limited to steps, blocks, anchoring, cable pipes and any other materials pertaining thereto purchased at retail on or after the effective date of this ordinance for storage, use or other consumption in the City at the rate of **one per cent (1%)** of the sales price of such automotive vehicle, truck trailer, semi-trailer, house trailer or mobile home set-up materials and supplies within the corporate limits of said City. Where any used automotive vehicle or truck trailer, semi-trailer or house trailer is taken in trade or in a series of trades, as a credit or part payment on the sale of a new or used vehicle, the tax levied herein shall be paid on the net difference, that is, the price of the new or used vehicle sold less the credit for the used vehicle taken in trade.

(d) An excise tax is hereby levied and imposed on the storage, use or other consumption in the City of any machine, machinery or equipment which is used in planting, cultivating and harvesting farm products, or used in connection with the production of agricultural produce or products, livestock or poultry on farms, and the parts of such machines, machinery or equipment, attachments and replacements therefore which are made or manufactured for use on or in the operation of such machine, machinery or equipment, and which are necessary to and customarily used in the operation of such machine, machinery or equipment, which is purchased at retail after the effective date of this ordinance, for the storage, use or other consumption in the City at the rate of **.75 per cent (.75%)** of the sales price of such property within the corporate limits of said City, regardless of whether the retailer is or is not engaged in the business in this City. Provided, however, the **.75 per cent (.75 %)** rate herein prescribed with respect to parts, attachments, and replacements shall not apply to any automotive vehicle or trailer designed primarily for public highway use, except farm trailers used primarily in the production and harvesting of agricultural commodities. Where any used machine, machinery or equipment which is used in planting, cultivating, and harvesting farm products, or used in connection with the production of agricultural produce or products, livestock and poultry on farms is taken in trade or in a series of trades as a credit or part payment on a sale of a new or used machine, machinery or equipment, the tax levied herein shall be paid on the

net difference, that is, the price of the new or used machine, machinery or equipment sold, less the credit for the used machine, machinery or equipment taken in trade.

(e) An excise tax is hereby imposed on tangible personal property at one-half the rates specified in subsections (a), (b), (c), and (d) of this section on the storage, use or other consumption of such tangible personal property outside the corporate limits of the City, but within the police jurisdiction.

Section 5. Provisions of State Use Tax Statutes Applicable to this Ordinance and Taxes Herein Levied. This ordinance and the taxes levied herein shall be subject to all definitions, exceptions, exemptions, proceedings, requirements, provisions, rules and regulations promulgated under the Alabama Administrative Procedure Act, direct pay permit and drive-out certificate procedures, statute of limitation, discounts, penalties, fines, punishments, and deductions that are applicable to the taxes levied by the State Use Tax statutes, except where inapplicable or where herein otherwise provided, including all provisions of the State Use Tax statutes for enforcement and collection of taxes.

Section 6. Use of Proceeds. The proceeds from the tax herein levied remaining after payment of the costs of collecting said tax, including all charges of the administration for such collection and paid over to and received by the City shall be distributed to the City of Tuskegee.

Section 7. Severability. Each and every provision of this ordinance is hereby declared to be an independent provision and the holding of any provision hereof to be void and invalid for any reason shall not affect any other provision hereof, and it is hereby declared that the other provisions of this ordinance would have been enacted regardless of any provision which might have been held invalid.

Section 8. Repeal of Previous Ordinances. The tax levied and assessed by this ordinance is levied and assessed in lieu of the tax levied by prior City sales and/or use tax ordinances. Prior City of Tuskegee sales and/or use tax ordinances are hereby rescinded and repealed as of the effective date of this Ordinance; provided, however, that any tax due under any prior City sales and/or use tax ordinance shall continue to be due and payable until paid in full in accordance with the provisions of such prior ordinance.

Section 9. Effective Date. This ordinance shall become effective on the first day of January, 2018, and the first payment of taxes hereunder shall be due and payable on the twentieth (20th) day of _____, 2018.

ADOPTED AND APPROVED this 14th day of December, 2017.

CITY OF TUSKEGEE, ALABAMA

By: /s/ Annie L. Brown
Annie L. Brown, Council President

ATTEST:

/s/ Fartima B. Clark
Fartima B. Clark, City Clerk/Treasurer

Delivered to and approved by the Mayor on this the 14th day of December, 2017.

/s/ Lawrence F. Haygood, Jr.
Lawrence F. Haygood, Jr., Mayor

12. **RESOLUTIONS:**

- A. Resolution No. 2018-11. Authorizing Goodwyn Mills & Cawood, Inc. to make an application to the Alabama Dept. of Transportation for Landscape and Pedestrian Improvements on Patterson Street.

Motion was made by Council Member Whitehead for Council to accept and approve resolution number 2018-11 as stated authorizing Goodwyn Mills & Cawood, Inc. to make an application to the Alabama Dept. of Transportation for Landscape and Pedestrian Improvements on Patterson Street. Council Member Curry seconded the motion and all members voted aye. Mayor Haygood declared the motion carried.

RESOLUTION NO. 2018-11

A Resolution Authorizing Goodwyn, Mills & Cawood, Inc. to make an Application to the Alabama Department of Transportation for Patterson Street Pedestrian Improvements

WHEREAS, the City of Tuskegee is eligible to request financial assistance through the Alabama Department of Transportation's Transportation Alternatives Program for pedestrian improvements, and

WHEREAS, the City of Tuskegee has determined that Goodwyn, Mills & Cawood, Inc. has the staff and expertise to prepare the City of Tuskegee's Grant Application, and

NOW THEREFORE, BE IT RESOLVED, by the City Council of the City of Tuskegee, as follows:

1. The City of Tuskegee shall submit an application for financial assistance to the Alabama Department of Transportation in the amount of \$232,012.50; and
2. The City of Tuskegee commits to provide a cash match in the amount of \$76,672.50 to include a 20% match of \$46,402.50 and \$30,270.00 for engineering design services to complete the proposed activities; and
3. The Mayor is hereby authorized and directed to execute all required application documents on behalf of the City of Tuskegee; and is authorized to take other necessary actions as may be required to implement the project with all due speed in the event of funding approval.

ADOPTED AND APPROVED by the City Council of the City of Tuskegee, Alabama, this 14th day of December, 2017,

CITY OF TUSKEGEE, ALABAMA

/s/ Lawrence F. Haygood, Jr.

Lawrence F. Haygood, Jr., Mayor

ATTEST:

/s/ Fartima B. Clark

Fartima B. Clark, City Clerk

- B. Resolution No. 2018-12. Appointing a City Manager for the City of Tuskegee.

Motion was made by Mayor Pro-Tempore Brown to accept and approve resolution number 2018-12 as stated appointing Bernard Houston as the City Manager pending satisfactory results from the background check. Council Member Curry seconded the motion and all members voted aye. Mayor Haygood declared the motion carried.

RESOLUTION NO. 2018-12
A Resolution Appointing A City Manager for the City of Tuskegee

WHEREAS, due to a vacancy in the position of City Manager of the City of Tuskegee, the City Council of the City of Tuskegee appointed a Temporary Acting City Manager on November 30, 2017 by adopting Resolution 2018-10 and;

WHEREAS, the City Council has now selected a candidate to become the permanent City Manager of the City of Tuskegee in compliance with Section 11-43A-28 of the Code of Alabama 1975 as amended;

NOW THEREFORE BE IT RESOLVED, that the City Council of the City of Tuskegee appoints **BERNARD HOUSTON** as the City Manager of the City of Tuskegee, at a salary of Eighty-Five Thousand and 00/100 Dollars (\$85,000.00) per year, effective immediately and pending satisfactory results from the background check.

ADOPTED AND APPROVED by the City Council of the City of Tuskegee, Alabama at its duly called Special Meeting on the 14th day of December, 2017.

CITY OF TUSKEGEE, ALABAMA

/s/ Lawrence F. Haygood, Jr.

Lawrence F. Haygood, Jr., Mayor

ATTEST:

/s/ Fartima B. Clark

Fartima B. Clark, City Clerk

C. Resolution No. 2018-13. Celebrating and Remembering the Life of Sarah Sparks Head, deceased.

Motion was made by Council Member Curry for Council to accept and approve resolution number 2018-13 as stated celebrating and remembering the life of Sarah Sparks Head, deceased. Mayor Pro-Tempore Brown seconded the motion and all members voted aye. Mayor Haygood declared the motion carried.

RESOLUTION NO. 2018-13
Celebrating & Remembering the Life of Sarah Ann Sparks Head

WHEREAS, in life, we experience a great multitude of trials and triumphs. The greatest triumph may be that love lasts forever.

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 Sarah Ann Sparks Head; 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, as Mayor and on behalf of the City Council of the City of Tuskegee, we recognize a life well lived. Sarah was a graduate of Henry County High School in McDonough, Georgia and attended Bethune Cookman College in Daytona Beach, Florida. She was employed with the Atlanta Housing Authority for over twenty years. On relocating to Tuskegee with her husband Dr. Otis Head Atlanta's loss was Tuskegee's gain. Mrs. Head put her energy into various projects in the community from serving on the DHR Board, the Church of the Highlands Outreach Ministry, and the Board of the Alabama Rural Ministry to the local Bridge Builders Program. There were not enough hours in the day for Sarah Head; and

WHEREAS, it is our sincere hope, that joyful memories, mercy and grace will rule your thoughts and rest within your family in the weeks and months to come. We pray that comfort and peace will reign. And ask that all pause and remember Sarah Ann Sparks Head and her many good deeds on this day.

NOW, THEREFORE BE IT PROCLAIMED 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 Sarah Ann Sparks Head and express sympathy to her husband, Reverend Dr. Otis Head; her children, Hafeezah, Jerika, Ammar and Jotis, her grandchildren, Brittney, Zoia, Jaliyah, Zaliyah, Tiana, Amaya, Janell, Jotis Jr., and Zani; her sister Sandra and her five brothers, Ricky (Jennifer), Charlie, Norris, Christopher and Daryle; two sisters-in-law, Wanda (Ulysses), Paula (Chris); one brother in law Travis (Ann) and, a host of nephews and nieces and her extended family and many friends; and

BE IT FURTHER PROCLAIMED, that the City Clerk is hereby authorized and directed to spread this Proclamation and transmit a duly authenticated copy to the family of Sarah Sparks Head.

In witness I have hereunto set my hands and caused this seal to be affixed this 14th day of December, 2017.

/s/ Lawrence F. Haygood, Jr.
Lawrence F. Haygood, Mayor

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

Atty. Davis stated that he had no public report.

14. **CITIZENS COMMUNICATIONS (1 minute each):** NONE.

15. **OTHER BUSINESS.**

16. **ADJOURNMENT.**

There being no further matters to come before the Council at this time, Council Member Curry moved to adjourn at 8:00 PM. Mayor Haygood declared the meeting adjourned.

CITY OF TUSKEGEE, ALABAMA

Lawrence F. Haygood, Jr., Mayor

ATTEST:

Fartima B. Clark, City Clerk