

March 18, 2013

The Mayor and Council of the City of Calera met on March 18, 2013 at 6:30 p.m. at Calera City Hall with the following present:

Mayor: Jon G. Graham

Council Members: Ernest Montgomery, Alan Watts, David Bradshaw, Chris Bunn, Philip Busby, Bobby Joe Phillips

Department Heads: Roy Hadaway, Finance Director
Sean Kendrick, Fire Chief
Chris Pappas, City Engineer
Mike Wood, Building Official
Matt Worthen, IT Services Manager
Doug Smedley, Sewer Operations Director
Seth Gandy, Parks and Recreation Director

Guests: Randy and Rebecca Krueger, Bill Davis, Christine Boatwright, Sandy Parks, Fred Hoskins, Mollie Brown, Calvin Morgan, Thomas Wilson, Mike Bullard and Jasper Levio

Randy Krueger called the meeting to order and opened with a Word of Prayer and the Pledge of Allegiance.

Council Member Phillips made a motion to approve and dispense with the reading of the following minutes:

Regular Meeting – March 4, 2013
Work Session – March 4, 2013

Council Member Bradshaw seconded said motion which was carried unanimously.

REPORTS OF DEPARTMENT HEADS:

Mike Wood, Building Official requested approval to replace the roof at the Calera Presbyterian Church. (Quote Attached)

Council Member Watts requested Mr. Wood bring two detailed quotes including warranty information to the April 1, 2013 meeting until then the request is tabled.

Sean Kendrick, Fire Chief requested approval to purchase Extrication Equipment. (Quote Attached)

Council Member Bunn made a motion to approve the purchase of the Extrication Equipment not to exceed \$15,500.00. Council Member Busby seconded said motion which was carried unanimously.

Seth Gandy, Parks and Recreation Director requested approval to register for the National IPA for the competitive bidding process.

Council Member Watts made a motion authorizing Mr. Gandy to register for the National IPA for the competitive bidding process. Council Member Phillips seconded said motion which was carried unanimously.

COUNCIL MEMBER REPORTS:

Council Member Montgomery thanked the department heads for the job they do for the City.

Council Member Watts thanked the citizens for attending the Public Hearing as the Council would like the input of the citizens.

Council Member Bradshaw requested guests invite their neighbors and friends to the next Public Hearing as the Council would like the input of the citizens concerning the proposed Sales Tax Increase.

MAYOR REPORT:

No Mayor Report

OLD BUSINESS:

No Old Business

NEW BUSINESS:

PUBLIC HEARING

This portion of the meeting was conducted as a public hearing concerning Ordinance 2013-06:

The following citizens were present to question the proposed sales tax increase: Fred Hoskins, Mollie Brown, Calvin Morgan, Ramona Glass, Randy Krueger, Thomas Wilson, James Means and Mike Bullard.

Fred Hoskins questioned why now and what would be increase be used for?

Mayor Graham advised the administration is proposing the one cent sales tax increase in order for the City of Calera to fill its minimum personnel staffing requirements and to complete essential capital projects that will enhance the health and well-being of its citizens, and to bring about continued economic growth for our city.

The minimum personnel staffing will include hiring ten additional firemen, four additional police officers and two additional park employees.

The essential capital projects include the park complex located on Highway 20 and matching funds for the I-65 Exit 231 Bridge project.

Mollie Brown questioned how long it will take to put back enough money to have the matching funds needed for the I-65 Exit 231 Bridge project. Mr. Hadaway advised if necessary the City could issue a bond.

Calvin Morgan had these three questions: Is Shelby County has committed any funding to the I-65 Exit 231 Bridge Project, will this just be a City and State Project, and how will the city post

and recruit for the personnel staffing. Mr. Hadaway explained funding process. The city will post all open positions on the website. When hiring firemen and police officers the city tries to hire certified personnel which are already trained for these positions.

Ramona Glass stated she has brought developers to look at property in our city and the bridge and traffic follow at the I-65 Exit 231 Bridge hinders future development.

Randy Krueger stated his concern is since we are currently one cent below our surrounding cities, would this have an impact on recruiting business.

James Means questioned if the tax increase will be comparable to the surrounding cities. Does the city have a commitment from ALDOT to complete the I-65 Exit 231 Bridge Project? Our surrounding cities are currently charge 9% Sales Tax. The city will ask ALDOT to commit to a time frame on the I-65 Exit 231 Bridge Project if we are submitting matching money.

Thomas Wilson stated he is concerned with the officers taking home their vehicles. Mayor Graham explained the officer is on call and this cuts down on response time.

Mike Bullard stated he would like to see an action plan and time line if available. Mayor Graham stated he would have the information placed on the city website.

Council Member Montgomery asked Mr. Hadaway was it possible to set aside money for both projects. Mr. Hadaway stated it would be possible.

Council Member Watts stated the I-65 Exit 231 Bridge is holding up development on the north end of town. Once this project is completed, development and sales tax both should increase.

Council Member Bradshaw requested Mr. Hadaway explain how the city has a cash surplus and how this is being spent. Mr. Hadaway explained we have refinanced all of the current bonds available to cut our interest rates. This resulted in a net savings of over \$11,000.00 per month. The City has placed 10% of the budget in reserve. The city is only using the reserve funds for emergencies.

ORDINANCE 2013-06

An Ordinance amending Article II of the Ordinance Code of the City of Calera, Alabama, and amending City of Calera Ordinance No. 2004-25 pertaining to the levy and collection of Sales and Use Taxes:

Be it ordained by the City Council of the City of Calera, Alabama, that Ordinance No. 2004-25 is hereby amended to read as follows:

ARTICLE II. SALES AND USE TAXES

Sec. 5-20. Sales Tax - Levy In City.

There is hereby levied, in addition to all other taxes of every kind now imposed by law, and there 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:

(1) 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 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 or debts or stocks, nor sale or sales of material and supplies to any person for use in fulfilling a contract for the painting, repairing or reconditioning of vessels, barges, ships and other watercraft of over fifty (50) tons burden), an amount equal to four percent (4%) 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 a retailer on the gross sales of the business.

(2) 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, 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 or every kind and description within the city, an amount equal to four percent (4%) of the gross receipts of any such business.

(3) 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 four percent (4%) 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 therefor, 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.

(4) 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, semitrailer or house trailer, an amount equal to one percent (1%) of the gross proceeds of sale of said automotive vehicle or truck trailer, semitrailer or house trailer, provided where a person subject to the tax provided for in this subsection withdraws from his stock in trade any automotive vehicle or truck trailer, semitrailer 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 two dollars fifty cents (\$2.50) per year or part thereof during which such automotive vehicle, truck trailer, semitrailer 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 (12) succeeding months or part thereof during which such automotive vehicle, truck trailer, semitrailer or house trailer shall remain the property of such person.

Where any used automotive vehicle or truck trailer, semitrailer 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.

(5) 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 therefor 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 four percent (4%) of the gross proceeds of the sale thereof. Provided, however, the four percent (4%) 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.

(6) 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 therefor, there is hereby levied a tax equal to four percent (4%) of the cost of such food, food products and beverages sold through such machines, which cost for the purpose of this subsection shall be the gross proceeds of sales of such business.

Sec. 5-21. Same - Levy In Police Jurisdiction.

Upon every person, firm or corporation engaged in the doing of any act, or who shall do any act, or continuing in the doing of any 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, of which or upon which a privilege or license tax is in this article 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 article 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 article extend and apply to all the area within the police jurisdiction of the city.

Sec. 5-22. Same - State Statutes Applicable.

The taxes levied by sections 5-20 and 5-21 shall be subject to all definitions, exceptions, exemptions, proceedings, requirements, rules, regulations, provisions, 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.

Sec. 5-23. Use Tax - Levy.

(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 of more than fifty (50) tons burden) purchased at retail on or after the effective date of this article for storage, use or other consumption in the city, except as provided in paragraphs (b), (c), and (d), at the rate of four percent (4%) 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 article at the rate of four percent (4%) of the sales price of any such machine within the corporate limits of the city; 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 therefor 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 are customarily so used.

(c) An excise tax is hereby imposed on the storage, use or other consumption in the city of any automotive vehicle or truck trailer, semitrailer or house trailer purchased at retail on or after the effective date of this article for storage, use or other consumption in the city at the rate of one percent (1%) of the sales price of such automotive vehicle, truck trailer, semitrailer, or house trailer within the corporate limits of said city. Where any used automotive vehicle, truck trailer, semitrailer or house trailer is taken in trade, or in a series of trades, as credit or part payment of 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 therefor 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 article, for the storage, use or other consumption in the city at the rate of four percent (4%) 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 four percent (4%) 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 paragraphs (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.

Sec. 5-24. Same - State Statutes Applicable.

The taxes levied by section 5-23 shall be subject to all definitions, exceptions, exemptions, proceedings, requirements, rules, regulations, provisions, 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.

Sec. 5-25. Article Cumulative.

This article shall not be construed to repeal any of the provisions of the general license code of the city, but shall be held to be cumulative, and the amounts of the taxes herein levied shall be in addition to the amounts of all other license taxes imposed by the city by its general license code.

This Ordinance and Amendment shall become effective on June 1, 2013.

Mayor Graham advised Norfolk Southern Railroad requested the crossing located at Hawthorn Drive – DOT # 727 402T be closed.

Council Member Bunn made a motion to deny the request to close the Hawthorn Drive – DOT#727 402T Railroad Crossing. Council Member Phillips seconded said motion which was carried unanimously.

The Clerk will forward a copy of the minutes to Norfolk Southern Railroad.

NATIONAL DONATE LIFE MONTH PROCLAMATION

CITY OF CALERA, Alabama PROCLAMATION

WHEREAS, one of the most meaningful gifts that a human being can bestow upon another is the gift of life; and

WHEREAS, approximately 25,787* candidates on the nation's organ transplant waiting list received a life-saving or life-enhancing organ transplant in 2012; of those 350* received an organ transplant in Alabama; and

WHEREAS, a new patient is added to the national waiting list for an organ transplant every 18* minutes; and

WHEREAS, nearly 117,000* men, women and children are currently on the national waiting list for organ transplantations, of which approximately 3,800* are on Alabama's list; and

WHEREAS, 5,459* candidates on the national waiting list died waiting for an organ transplant which did not come in time; of those 190* were on Alabama's waiting list.

WHEREAS, the Alabama Organ Center is the non-profit, independent organ recovery organization dedicated to the recovery of high quality organs and tissues for transplantation therapy; and

WHEREAS, CITY OF CALERA, Alabama supports the Alabama Organ Center's life-saving mission;

NOW, THEREFORE, I, Jon G. Graham, Mayor of the City of Calera, Alabama, do hereby proclaim April 2013 as

DONATE LIFE MONTH

In CITY OF CALERA, Alabama we honor all who have given the gift of life, we focus our efforts on the extreme need for organ and tissue donors, and we encourage residents to designate their donation decision and share the decision to donate with family members.

Council Member Montgomery made a motion to proclaim April 2013 as Donate Life Month. Council Member Busby seconded said motion which was carried unanimously.

On this, the 18th day of March, 2013.

Honorable Jon G. Graham, Mayor

Mayor Graham introduced the following Resolution:

RESOLUTION NO. R-2013-02

BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF CALERA, AL

A RESOLUTION OPPOSING THE PASSAGE BY THE ALABAMA LEGISLATURE OF COMPANION BILLS HB257 AND SB217 AND ANY OTHER SIMILAR LEGISLATION.

WHEREAS, HB257 by Representative Barry Moore has been introduced into the Alabama House of Representatives during the 2013 Regular Session currently convened; and

WHEREAS, SB217 by Senator Vivian Figures has been introduced into the Alabama Senate during the 2013 Regular Session currently convened; and

WHEREAS, both bills are designed to amend the Constitution of Alabama of 1901 to prohibit the imposition of a business license tax by a county or municipality on the rental of residential real estate on a per unit basis unless the tax was imposed before January 1, 2013; and

WHEREAS, the proposed legislation is a constitutional amendment that places in our **state's** foundational governing document a further restriction on local authority for municipal and county governments; and

WHEREAS, municipal and county governments already have limited options to raise sufficient revenues to meet the needs of local jurisdictions to provide key services including police protection, fire protection, water, sewer, sanitation, education and many others; and

WHEREAS, this proposed legislation further limits the options available to local governments to fund essential services; and

WHEREAS, this proposal is vague in its wording and could impact a variety of municipal and county governments as well as other institutions that have responsibility to finance bonded indebtedness; and

WHEREAS, taxation on a per unit basis is absolutely essential to local governments which have a significant number of residential rental properties, many of which are owned by absentee landowners; and

WHEREAS, municipal officials need the flexibility to develop business license fees and requirements based on local needs and conditions; and

WHEREAS, negatively impacting and altering current practice by placing the proposed restrictions in the Alabama Constitution is both overreaching and unwise;

NOW, THEREFORE, BE IT RESOLVED by the City of Calera Alabama, that the Council submits to the Alabama Legislature its official statement of opposition to the passage of HB257, SB217, and any other similar legislation as an unwelcome intrusion on the authority of local governments in Alabama to structure and levy business license fees based on local needs and conditions; and

BE IT FURTHER RESOLVED that the City of Calera, Alabama, formally requests its legislative delegation to ardently oppose any legislation attempting to effect such amendment and to vote against any such legislation.

READ, APPROVED, AND ADOPTED this 18th day of March, 2013.

Council Member Phillips moved that Resolution No. R-2013-02 be

adopted. Council Member Bradshaw seconded said motion and upon vote, the

results were as follows:

AYES: Montgomery, Watts, Bradshaw, Graham, Bunn, Busby, Phillips

NAYS: None

Mayor Graham declared Resolution No. R-2013-02 adopted.

Adopted this 18th day of March, 2013.

Jon G. Graham, Mayor

ATTEST:

Connie B. Payton, City Clerk

GUESTS:

Council Member Phillips made a motion to adjourn the meeting at 7:34 p.m.

Approved this 1st day of April, 2013.

Jon G. Graham, Mayor

ATTEST:

Connie B. Payton, City Clerk