

STATE OF ALABAMA
COUNTY OF COVINGTON

ANDALUSIA, ALABAMA
FEBRUARY 14, 2006

REGULAR WORK SESSION MEETING

PRESENT:

Jerry B. Andrews, Mayor
Bridges D. Anderson, Councilman
Michael L. Jones, Jr., Councilman
Andy Alexander, Councilman
Don Cotton, Councilman
Terry Powell, Councilman
Tom Albritton, City Attorney

ABSENT:

None

The City Council of the City of Andalusia, Alabama met for a work session in room 340 at city hall for the purpose of planning and finalizing the agenda for the regular meeting.

The council heard from Benny Jo Sasser of the Andalusia Pilot Club concerning the club's Tennessee Walking Horse Show. Mrs. Sasser asked for the council to support the event by being a sponsor and invited the mayor to address the opening ceremonies.

The Council also heard a report from City of Andalusia Planning and Development Director Andy Wiggins on the progress of a review of the city's comprehensive plan. He discussed in depth several issues related to the review including zoning, subdivisions, and signage.

REGULAR COUNCIL MEETING

PRESENT:

Jerry B. Andrews, Mayor
Bridges D. Anderson, Councilman
Michael L. Jones, Jr., Councilman
Andy Alexander, Councilman
Don Cotton, Councilman
Terry Powell, Councilman
Tom Albritton, City Attorney

ABSENT:

None

Mayor Andrews presided and called the meeting to order after which Councilman Alexander led the invocation and the Pledge of Allegiance to the flag.

APPROVAL OF MINUTES:

Councilman Powell moved that the minutes from the previous council meeting of February 7, 2006, be approved. Councilman Jones seconded the motion, which was approved unanimously.

COUNCIL VACATES THE UNDEVELOPED LINGOLD STREET:

Mayor Andrews introduced a Petition for Vacation, Consent for Vacation, Declaration and Resolution 2006-04 closing Lingold Street for consideration as follows:

**PETITION FOR ASSENT TO VACATION OF LINGOLD STREET
IN LINGOLD ADDITION, A PART OF THE SW 1/4 OF SECTION 20,
TOWNSHIP 4 NORTH, RANGE 16 EAST IN THE CITY OF ANDALUSIA, ALABAMA**

WHEREAS, JAMES PAUL RILEY, JR. and wife, ANNETTA RILEY, being all the owners of land adjoined and abutting that certain portion of land lying in part of the SW 1/4 of Section 20, Township 4 North, Range 16 East in the City of Andalusia, Alabama known as Lingold Street; and

WHEREAS, Petitioners wish to vacate Lingold Street pursuant to Section 23-4-20 of the Code of Alabama, (1975, as amended); and,

WHEREAS, said Lingold Street to be vacated is within the limits of the City of Andalusia, Alabama; has never been used as a public street, and does not provide access to any other landowner.

NOW THEREFORE, JAMES PAUL RILEY, JR. and wife, **ANNETTA RILEY**, being the adjoining property owners on all sides of said Lingold Street, do hereby respectfully petition the City Council of the City of Andalusia, Alabama, to assent to the vacation of said Lingold Street and request that the said owners of the property abutting said Lingold Street be authorized to file and record with their Declaration of Vacation a certified copy of a resolution to this effect.

This the 3rd day of February, 2006.

/s/ James Paul Riley, Jr.

JAMES PAUL RILEY, JR.

/s/ Annetta Riley

ANNETTA RILEY

**CONSENT FOR VACATION OF LINGOLD STREET IN
LINGOLD ADDITION, A PART OF THE SW 1/4 OF SECTION 20,
TOWNSHIP 4 NORTH, RANGE 16 EAST IN THE CITY OF ANDALUSIA, ALABAMA**

We, JAMES PAUL RILEY, JR. and wife, ANNETTA RILEY, own all of the real estate abutting Lingold Street lying in Lingold Addition and a part of the SW 1/4 of Section 20, Township 4 North, Range 16 East to the City of Andalusia, as shown by map and plat thereof being recorded in the Office of the Judge of Probate of Covington County, Alabama in Plat Book 1, page 11. JAMES PAUL RILEY, JR. and wife, ANNETTA RILEY are petitioning the City of Andalusia to have said street vacated. We hereby consent to the City of Andalusia to have Lingold Street vacated.

Dated this the 3rd day of February, 2006.

/s/ Janice Wood

WITNESS

/s/ Janice Wood

WITNESS

/s/ James Paul Riley, Jr.

JAMES PAUL RILEY, JR.

/s/ Annetta Riley

ANNETTA RILEY

**CITY OF ANDALUSIA
ANDALUSIA, ALABAMA**

**A RESOLUTION TO VACATE THE UNDEVELOPED LINGOLD STREET IN
THE LINGOLD ADDITION OF THE CITY OF ANDALUSIA, ALABAMA**

RESOLUTION NO. 2006-04

WHEREAS, the sole owner of lands adjoined and abutting that certain portion of undeveloped street, 50 feet in width, which lies in Lingold Addition and a part of the SW ¼ of Section 20, Township 4 North, Range 16 East to the City of Andalusia, as shown by map and plat thereof being recorded in the Office of the Judge of Probate of Covington County, Alabama in Plat Book 1, page 11; and

WHEREAS, said undeveloped street to be vacated is within the limits of the City of Andalusia, Alabama, and

WHEREAS, the vacation of said undeveloped street shall not deprive any other property owner of any rights of ingress and regress.

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THEREFORE, BE IT RESOLVED by the City Council of the City of Andalusia, Alabama, that the vacation of undeveloped street referred to should be and the same is hereby vacated and this governing body is now assenting to the vacation of said street as described above and the owners of the property abutting said undeveloped street are hereby authorized to file and record with their declaration of vacation, a certified copy of this resolution.

BE IT FURTHER RESOLVED that the Mayor execute this resolution for and on behalf of the City of Andalusia, Alabama.

ADOPTED AND APPROVED this 14th day of February, 2006.

THE CITY OF ANDALUSIA, ALABAMA

By: _____
Jerry B. Andrews, Mayor

ATTEST:

John M. Thompson, City Clerk

**DECLARATION OF VACATION OF LINGOLD STREET IN
LINGOLD ADDITION, A PART OF THE SW 1/4 OF SECTION 20,
TOWNSHIP 4 NORTH, RANGE 16 EAST IN THE CITY OF ANDALUSIA, ALABAMA**

WHEREAS, JAMES PAUL RILEY, JR. and wife, **ANNETTA RILEY**, are the sole owners of land adjoined and abutting that certain portion of land surrounding Lingold Street in Lingold Addition to the City of Andalusia, Alabama.

WHEREAS, JAMES PAUL RILEY, JR. and wife, **ANNETTA RILEY**, owners of all the land abutting said Lingold Street desire to vacate said Lingold Street.

WHEREAS, said Lingold Street has never been opened; and no other land owners will be denied any access due to said vacation; and

WHEREAS, it is the best interest of the public that said Lingold Street be vacated.

NOW THEREFORE, the undersigned do hereby join in this written instrument declaring that the said Lingold Street is hereby vacated with the purpose of destroying the force and effect of the dedication of said described public road and for the further purpose of divesting all public rights therein, including any right which may have been acquired by prescription.

IN WITNESS WHEREOF, the Undersigned have hereunto set their hands and seal this the 14th day of February, 2006.

AUTHENTICATED BY:

TOWN OF ANDALUSIA, ALABAMA

CITY CLERK

BY: _____
MAYOR

I, the undersigned Officer in Charge of the records of the Town of ANDALUSIA, Alabama, hereby certify that the foregoing is a true and correct copy of the resolution now on file in my office as City Clerk.

BY: _____
CITY CLERK

Councilman Anderson moved to adopt Resolution No. 2006-04. Councilman Alexander seconded the motion, which passed unanimously.

COUNCIL VACATES PORTION OF SNEAD STREET:

Mayor Andrews introduced a declaration and Resolution 2006-05 to close a portion of Snead Street in Andalusia.

**DECLARATION OF CLOSING OF SNEAD STREET
IN THE RUSHTON & SNEAD SUBDIVISION**

WHEREAS, the undersigned is the owner of the lands abutting that of unpaved street 50 feet in width, which lies between and separates Lots, 2, 3 & 4 of Block D in the Rushton & Snead Subdivision, East Highlands, from Lot 5 of Block

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A of the J.W. Shreve addition, in Andalusia, Alabama according to the map and plat of said addition recorded in the Office of the Judge of Probate of Covington County, Alabama, in Plat Book 1, page 21.

WHEREAS, the undersigned owners of the lands abutting said unpaved street on both sides thereof desire to vacate that portion of said paved street which lies between and separates Lot 5 of Block A of the J.W. Shreve addition from Lots 1, 2, 3 & 4 of Block D of the Rushton & Snead Subdivision, East Highlands in Andalusia, Alabama according to the map and plat of said addition recorded in the Office of the Judge of Probate of Covington County, Alabama, in Plat Book 1, page 21.

PROPERTY OWNER

/s/ Virginia Carlock

Virginia Carlock

**CITY OF ANDALUSIA
ANDALUSIA, ALABAMA**

**A RESOLUTION TO VACATE A PORTION OF SNEAD STREET IN
THE RUSHTON & SNEAD SUBDIVISION OF THE CITY OF ANDALUSIA, ALABAMA**

RESOLUTION NO. 2006-05

WHEREAS, the sole owner of lands adjoined and abutting that certain portion of paved street, 50 feet in width, which lies between and separates Lots 2, 3, & 4 of Block D in the Rushton & Snead Subdivision, East Highlands, from Lot 5 of Block A of the J.W. Shreve addition, in Andalusia, Alabama according to the map and plat of said addition recorded in the Office of the Judge of Probate of Covington County, Alabama in Plat Book 1, page 21; and

WHEREAS, said portion of Snead Street to be vacated is within the limits of the City of Andalusia, Alabama, and

WHEREAS, the vacation of said portion of Snead Street shall not deprive any other property owner of any rights of ingress and regress.

THEREFORE, BE IT RESOLVED by the City Council of the City of Andalusia, Alabama, that the vacation of said portion of Snead Street referred to should be and the same is hereby vacated and this governing body is now assenting to the vacation of said street as described above and the owners of the property abutting said portion of Snead Street are hereby authorized to file and record with their declaration of vacation, a certified copy of this resolution.

BE IT FURTHER RESOLVED that the Mayor execute this resolution for and on behalf of the City of Andalusia, Alabama.

ADOPTED AND APPROVED this 14th day of February, 2006.

THE CITY OF ANDALUSIA, ALABAMA

By: _____
Jerry B. Andrews, Mayor

ATTEST:

John M. Thompson, City Clerk

Councilman Powell moved to adopt Resolution No. 2006-05. Councilman Jones seconded the motion which passed unanimously.

COUNCIL PURCHASES AD IN THE PROGRAM FOR THE PILOT CLUB'S TENNESSEE WALKING HORSE SHOW PROGRAM:

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Mayor Andrews announced that members of the Andalusia Pilot Club had asked the council to sponsor their upcoming Tennessee Walking Horse Show. He added that the event would take place during the weekend of March 10, 2006. Councilman Cotton moved that the council sponsor the Pilot Club's Tennessee Walking Horse Show by purchasing a program ad for \$300. He further moved that \$300 be appropriated from the contingency fund to pay for the ad. Councilman Powell seconded the motion, which passed unanimously.

COUNCIL ADOPTS RESOLUTION 2006-06 TO AMEND THE ARTICLES OF INCORPORATION OF THE UTILITIES BOARD OF THE CITY OF ANDALUSIA:

Mayor Andrews announced that during the workshop, the Utilities Board of the City of Andalusia presented the council with a resolution requesting that the council adopt Resolution 2006-06 amending the board's articles of incorporation.

RESOLUTION 2006-1

A RESOLUTION

WHEREAS, the City of Andalusia has previously authorized creation of The Utilities Board of the City of Andalusia (the "Board"); and,

WHEREAS, the Board recommends that its Articles of Incorporation be amended, so as to read as set forth in the *Amended and Restated Articles of Incorporation of the Utilities Board of the City of Andalusia* (the "Amended Articles") attached hereto.

NOW, THEREFORE, be it resolved by The Utilities Board of the City of Andalusia, that it does hereby recommend that the City Council of the City of Andalusia approve the Amended Articles.

The undersigned, being the Chairman of the Board of Directors of the Utilities Board of the City of Andalusia, does hereby certify that the foregoing is a true and correct copy of the *Amended and Restated Articles of Incorporation of The Utilities Board of the City of Andalusia* which were adopted by resolution of its the Board of Directors pursuant to *Alabama Code Section 11-50-312* on February 14, 2006.

Certified this 14th day of February, 2006

/s/ Richard E. Jones
By: _____
Richard E. Jones, Chairman

Attest:

/s/ Ashton Wells, Jr.

Ashton Wells, Jr., Vice-Chairman

**CITY OF ANDALUSIA
ANDALUSIA, ALABAMA**

A RESOLUTION AMENDING THE ARTICLES OF INCORPORATION OF THE UTILITIES BOARD OF THE CITY OF ANDALUSIA

RESOLUTION 2006 - 06

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WHEREAS, the City of Andalusia has previously authorized creation of The Utilities Board of the City of Andalusia (the “Board”); and,

WHEREAS, the Board has recommend that its Articles of Incorporation be amended, so as to read as set forth in the *Amended and Restated Articles of Incorporation of the Utilities Board of the City of Andalusia* (the “Amended Articles”) attached hereto; and,

WHEREAS, the City Council wishes to approve the Amended Articles.

NOW, THEREFORE, be it resolved by the City Council of the City of Andalusia, Alabama, that the Amended Articles are hereby approved.

RESOLVED AND DONE this 14th day of February, 2006.

CITY OF ANDALUSIA, ALABAMA

By: _____
Jerry B. Andrews, Mayor

ATTEST:

John M. Thompson, City Clerk

**AMENDED AND RESTATED
ARTICLES OF INCORPORATION
OF
THE UTILITIES BOARD OF THE CITY OF ANDALUSIA**

ARTICLE I

Incorporators

The names and residences of the original incorporators were as follows:

Max Mathews, 1790 Rosewood Lane, Andalusia, Alabama 36420
Richard E. Jones, 1730 Cedar Road, Andalusia, Alabama 36420
Ivan Bishop, 1415 Sunset Drive, Andalusia, Alabama 36420

Each of the above named individuals was, at the time of the original incorporation of the corporation, an elector and property holder of the City of Andalusia, Alabama. Permission to form this corporation has been heretofore granted by resolution duly adopted by the governing body of the City of Andalusia on to wit: *January 7, 2003*.

ARTICLE II

Corporate Name

The name of the corporation is: THE UTILITIES BOARD OF THE CITY OF ANDALUSIA ALABAMA (hereinafter referred to as “the corporation.”)

ARTICLE III

Principal Office

The principal office of THE UTILITIES BOARD OF THE CITY OF ANDALUSIA, ALABAMA is at City Hall, 505 E. Three Notch Street, Andalusia, Alabama.

ARTICLE IV

Duration

The Duration of THE UTILITIES BOARD OF THE CITY OF ANDALUSIA, ALABAMA shall be perpetual.

ARTICLE V

Current Directors

The number of directors constituting the initial Board of Directors of the Corporation was three (3). The current Board of Directors is comprised of the following, who are serving for the following terms:

Vacancy- Citizen to be appointed- term expiring January 8, 2007

Bridges Anderson-City Councilman - term expiring October 6, 2008

Richard E. Jones- Citizen - term expiring January 8, 2009

Andy Alexander-City Councilman- term expiring October 6, 2008

Ashton Wells-Citizen - term expiring January 8, 2011

Henceforth, the Board shall consist of 5 members. All directors shall be appointed by the City Council of Andalusia. Three of the 5 directors shall be citizens of the City of Andalusia, who are not elected officials, or employees of the city. The remaining two directors shall be members of the City Council of Andalusia, excluding the Mayor. Terms of the at large directors shall be 6 years. The terms of the City Council members shall serve for the term of the City Council currently in Office. Any vacancies that may occur during a term shall be filled for the remainder of that term by the City Council. The Mayor of the City of Andalusia will be appointed an ex officio member of the Utility Board of the City of Andalusia, having voice but not vote.

ARTICLE VI

Purposes

The purposes for which the Corporation is formed are:

(a.) To operate the City of Andalusia's utilities, to include at present the water, sewer, and/or electric systems and to operate in the future any other system, which may hereafter, be defined as a "utility".

(b.) To have succession by its corporate name for the duration of time specified in this Certificate of Incorporation or until dissolved as provided for herein;

(c.) To sue and be sued and to defend civil actions against it;

(d.) To make use of a corporation seal and to alter the same at pleasure;

(e.) To acquire, purchase, construct, operate, maintain, enlarge, extend and improve any system or systems, the operation of which is provided for in this Certificate of Incorporation, or in any amendment thereto, or as may heretofore be provided by state law (whether or not such system or systems were in existence and whether or not such system or systems were privately owned prior to acquisition by this Corporation and whether such system or systems are located with or without or partly within and partly without the City of Andalusia or within the limits of another municipality) and to receive, acquire, take and hold, whether by purchase, gift, lease, devise or otherwise, real, personal and mixed property of any nature whatsoever that its Board of Directors may deem a necessary or convenient part of such system or systems;

(f.) To borrow money for any corporation function, use or purpose and to issue in evidence of the borrowing interest-bearing- bonds payable solely from the revenues derived from the operation of any one or more of its systems (regardless of the system or systems for the benefit of or with respect to which such borrowing may be made);

(g.) To pledge for payment of its bonds any revenues from which such bonds are made payable and to mortgage, pledge or otherwise convey as security for such bonds the system or systems the revenues from which are so pledged;

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(h.) To transport and/or to sell at wholesale all or any part of its utility supply to any Corporation or municipality, as allowed by law, for distribution to the inhabitants thereof and the surrounding territory;

(i.) To transfer and/or to distribute and/or to sell to any one or more customers Water, and/or electricity and to furnish services from any system the operation of which is provided for herein or in any amendment thereto, and to establish and collect and alter charges for water, electric and/or sewer services and all services of any kind sold or furnished by it; provided, that charges for services from any sewer system shall be established in such manner that there shall be no charge with respect to any portion of such sewer system that may have been paid for wholly or in part by assessments against the property specially benefited thereby, but any person whose property is served in part by a portion of a sewer system so paid for and in part by a portion of a sewer system not so paid for may be charged as appropriate rate for the service rendered such property by a sewer disposal plant, a sewage treatment plant or any other portion of a sewer system which has not to any extent been paid for by such assessments;

(j.) To adopt a schedule of rates:

1. Providing that the Corporation may render combined statements or bill for services furnished from its systems and that it may decline to accept payments of charges for services from any one or more of its other systems, and

2. Providing for discontinuance of service from a system or systems to any customer who shall be delinquent in payment of charges for service from any system owned by such Corporation;

(k.) To lease, exchange, sell, convey and otherwise dispose of its real, personal or mixed property by any form of legal conveyance or transfer; provided, however, that the governing body of the City of Andalusia shall consent to the lease, exchange, sale, conveyance or other disposition and such consent shall be evidenced by a duly adopted ordinance of the said governing body, which ordinance shall be adopted within 30 days of such lease, exchange, sale, conveyance or other disposition.

(l.) To exercise all powers of eminent domain now or hereafter conferred on municipalities in this state;

(m.) To appoint and employ such officers and agents, including attorneys, and accountants, as its business may require, except members to serve on the Alabama Electric Cooperative Board of Directors, said power of appointment is hereby assigned to the City of Andalusia; and

(n.) To provide for such insurance as its Board of Directors may deem advisable;

(o.) To have and exercise all powers necessary or convenient to effect its corporate purposes;

(p.) To have one or more office(s) and to conduct any or all of its operation and business and to promote its objects, within or without the State of Alabama, without restriction as to place or amount;

(q.) To do any and all of the things herein set fourth as principal, agent, contractor, trustee or otherwise, alone or in company with others, whether such others be individuals, Corporations, municipalities, associations or in partnership;

(r.) To exercise all powers now granted, or which in the future may be granted by Alabama law as to Corporations formed thereunder, subject to any limitation imposed or any provision of any other statute of the State of Alabama, in furtherance of these corporate purposes.

(s.) To operate the electrical and/or other utility systems for the City of Andalusia, Alabama, not to generate money for the Utilities Board, but for the general fund of the City.

ARTICLE VII

By-Laws

The conduct of the business and the affairs of the Corporation shall be governed and regulated by its By-Laws. The Board of Directors is expressly authorized to alter, amend, or repeal the By-Laws of the Corporation.

ARTICLE VIII

Management

(a) Beginning on August 1, 2006, the Board shall at its discretion employ a superintendent of its choice and at such salary and benefits as it shall deem appropriate. Should a

superintendent be appointed by the Board, that person shall not be *an elected official*, from the City of Andalusia. In addition to the power and authorities granted to the Board by the By-Laws, the Statutes of Alabama, or otherwise expressly conferred upon them, the Board is hereby empowered to exercise all such powers and do all such acts and things as may be exercised or done by the Corporation subject to the provisions of the Code of Alabama, these Articles of Incorporation, the By-Laws of the Corporation and to any resolution from time to time made by the Corporation in a general meeting, provided that no resolution or By-Laws so made shall make improper any prior act of the Directors which would have been proper if such By-Laws had not been made or if such resolution had not been adopted.

(b) Should a disaster situation / state of emergency be declared by the city of Andalusia, the Superintendent of the utility board will report to the Mayor of the City of Andalusia for the period of time required to respond to the disaster / state of emergency and restore services to the city to the extent possible. The mayor's office will coordinate the efforts of the city and utility board departments during the declared disaster / state of emergency period. The utility board reserves the right to limit the service of the superintendent and utility departments to the mayor should it deem the length of the declared disaster / state of emergency to be excessive and that a minimum of 80% of utility services have been restored.

Certificate of Chairman of Board of Directors

The undersigned, being the Chairman of the Board of Directors of the Utilities Board of the City of Andalusia, does hereby certify that the foregoing is a true and correct copy of the *Amended and Restated Articles of Incorporation of The Utilities Board of the City of Andalusia* which were adopted by resolution of its the Board of Directors pursuant to *Alabama Code Section 11-50-392* on February 14, 2006, and which were thereafter approved by resolution of the Andalusia City Council, also pursuant to *Alabama Code Section 11-50-392*, adopted on February 14, 2006.

Certified this 14th day of February, 2006

/s/ Richard E. Jones

Richard E. Jones, Chairman

The Mayor endorsed the resolution and commended the utility board and its leadership for having the foresight to make necessary changes. Councilman Powell moved to adopt Resolution 2006-06 as recommended by the utility board. Councilman Cotton seconded the motion. Mayor Andrews asked if there were any abstentions before calling for a vote. Councilman Alexander, Councilman Anderson, and Mayor Andrews abstained from voting. Upon calling for discussion before a vote, Councilman Jones listed several reasons for not supporting the resolution. Councilman Cotton noted reasons for supporting the resolution. Being put to a vote the resolution passed with the following results:

YEAS:
Cotton
Powell

NAES:
Jones

ABSTAINED:
Andrews
Anderson
Alexander

ADJOURNMENT:

Mayor Andrews wished everyone a Happy Valentines Day. There being no further business, the meeting was adjourned.

THE CITY OF ANDALUSIA, ALABAMA

BY: _____
Jerry B. Andrews, Mayor

ATTEST:

John M. Thompson, City Clerk