

PAGE ONE

**STATE OF ALABAMA
COUNTY OF COVINGTON**

**ANDALUSIA, ALABAMA
FEBRUARY 6, 2007**

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 in room 340 at city hall for a work session for the purpose of planning and finalizing the agenda. Lester O'Neal spoke to the council about insurance and Ricky Jones spoke about a proposed contract amendment with the utility board.

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:

Mayor Andrews presented the council with the minutes from the previous council meeting of January 16, 2007, for its consideration. Councilman Powell moved to approve the minutes as presented. Councilman Jones seconded the motion which passed unanimously.

COUNCIL APPROVES ORDINANCE NO. 2007-01 AN ORDINANCE PROMOTING CLEAN AIR IN PUBLIC PLACES IN ANDALUSIA:

Mayor Andrews presented Ordinance No. 2007 – 01 to the council for its consideration.

THE CITY OF ANDALUSIA
ANDALUSIA, ALABAMA

ORDINANCE NO. 2007-01

AN ORDINANCE PROMOTING CLEAN AIR IN PUBLIC PLACES IN ANDALUSIA

WHEREAS, Environmental Tobacco Smoke is a leading public health problem in the City of Andalusia and throughout the United States; and

WHEREAS, the use of lighted smoking products inherently creates a health hazard of second hand smoke, which affects the public health, indoor environment, and the enjoyment of public places; and

WHEREAS, there exists conclusive evidence that Environmental Tobacco Smoke causes cancer, cardiovascular disease, respiratory disease, negative birth outcomes, allergies and irritations to the eyes, ears, nose, and throat of both smokers and nonsmokers; and

WHEREAS, Environmental Tobacco Smoke, which includes both exhaled and side stream smoke from burning cigarettes, causes the deaths of 53,000 Americans each year; and

PAGE TWO

WHEREAS, the harmful effects of Environmental Tobacco Smoke are not confined to smokers but also cause severe discomfort and illness to nonsmokers; and

WHEREAS, public establishments have been shown to be locations of significant exposure to Environmental Tobacco Smoke by citizens of the City of Andalusia; and

WHEREAS, both the Public Health Services National Toxicology Program and the World Health Organizations; International Agency for Research on Cancer identify Environmental Tobacco Smoke as a human Class A carcinogen and state that there is no safe level of exposure; and

WHEREAS, the United States Surgeon General, the American Cancer Society, The American Lung Association, and the Alabama Department of Public Health have concluded that involuntary smoking is a cause of disease, including lung cancer, in nonsmokers,

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Andalusia, Alabama, that the Council recognizes the rights of those who wish to breathe smoke free air and establishes this regulation to protect and improve the public health and welfare by requiring certain establishments to be totally SMOKE-FREE facilities.

Section I. Definitions and Guidelines

Definitions

- A. Business Agent - An individual who has been designated by the owner or operator of any establishment to be the manager or otherwise in charge of said establishment.
- B. Employee - Any individual who performs services for an employer in return for wages or profit.
- C. Enclosed - A space, structure, facility or any portion thereof, bounded by walls (with or without windows) continuous from floor to ceiling or deck above and served by heating, ventilating and air conditioning (HVAC) system(s), and through which air can circulate from one portion to another, including, but not limited to offices, rooms, hallways, customer service areas, foyers, common areas, waiting areas, restrooms, lounges, and eating areas.
- D. Smoking - Inhaling, exhaling, burning or carrying any lighted cigar, cigarette, pipe, or other lighted tobacco product in any manner or form.

Section II. Signage Designating Establishments as SMOKE-FREE.

- 1. It shall be the responsibility of the owner of a public place where smoking is prohibited to provide signage that shall be posted conspicuously on or adjacent to each and every door to the establishment that is generally accessed by patrons or employees, plainly visible from the exterior of the building to persons entering through the door.
- 2. Signage shall be no smaller than 8.5 inches by 11 inches, with white lettering on a red or black background, and include the following statements; "This establishment is a SMOKE-FREE facility" with letters no smaller than 5/8 inch tall (approximately 66 pts.); "Smoking is prohibited throughout this facility at all times" with letters no smaller than 1/4 inch tall (approximately 36pts.); and "City of Andalusia Ordinance Number 2007 - 01 "with letters no smaller than 1/8 inch tall (approximately 20 pts.).

Section III. Specific Places Where Smoking is to be Regulated.

1. Public Places Where Smoking is PROHIBITED:

- A. Educational facilities.
- B. Governmental facilities and vehicles.
- C. Hotel and motel areas that serve the public except in rooms that are rented to guests and are not designated as "Smoking" rooms.
- D. Healthcare Facilities.
- E. Sports arenas, both indoor and outdoor, including but not limited to auditoriums, gymnasiums, and stadiums.
- F. Retail and service facilities such as restaurants, banks, car dealerships, convenience stores, day care facilities, industrial buildings, Laundromats, office buildings, public transportation vehicles, etc. in areas that are used by the public.
- G. Within twenty-five feet of a public doorway to a building where smoking is prohibited.

2. Public Place Where Smoking is PERMITTED:

- A. Designated smoking areas for employees that protect other employees and the public from second hand smoke. If an employee lounge is designated for smoking, a comparable area must be designated for non-smoking employees.

PAGE THREE

B. Any bar, restaurant or other business open to the general public, the admission to which requires a member of the public to be over the age of twenty-one (21).

Section IV. Violations

1. It shall be the responsibility of the owner, business agent, manager or other person having control of such public place where smoking is prohibited to ensure compliance with all sections of this ordinance pertaining to his/her place of business. A violator of this ordinance may receive:

A. In the case of a first violation, a fine of one hundred dollars (\$100.00) plus court costs;

B. In the case of a second violation, within 24 months of the first violation, a fine of five hundred dollars (\$500.00); plus court costs, and,

C. In the case of three or more violations within 24 months of the second or current violation, a fine of five hundred dollars (\$500.00), plus court costs, for each violation.

2. No provision, clause or sentence of this ordinance shall be interpreted as prohibiting the City of Andalusia from suspending or revoking any license or permit issued by and within the jurisdiction of the City of Andalusia for repeated violations of this ordinance.

3. If the owner, business agent, manager or other person having control of such public place where smoking is prohibited attempts to enforce this ordinance and a patron violates it (smoke in a SMOKE-FREE establishment), then the owner, business agent, manager or other person having control shall not be deemed to be in violation of this ordinance and the patron shall be subject to a fine as follows:

A. In the case of a first violation, a fine of one hundred dollars (\$100.00), plus court costs;

B. In the case of a second violation, within 24 months of the first violation, a fine of five hundred dollars (\$500.00), plus court costs; and,

C. In the case of three or more violations within 24 months of the second or current violation, a fine of five hundred dollars (\$500.00), plus court costs, for each violation.

4. Each calendar day on which an owner, business agent, manager or other person having control of a public place where smoking is prohibited operates in violation of any provision of this ordinance, shall be deemed a separate violation; each calendar day a patron violates this ordinance (i.e., smokes in a SMOKE-FREE establishment) shall be deemed a separate violation.

Section V. Enforcement

1. Authority to enforce this ordinance shall be held by the City of Andalusia, its subsidiary programs or designees.

2. An owner, manager, operator, or employee of a place regulated by this ordinance shall inform persons violating this ordinance of the appropriate provisions thereof.

3. The City of Andalusia's Fire Department, or its designee, the Covington County Health Department, or its designee, shall, while in an establishment that is undergoing otherwise mandated inspection, or at any other time deemed necessary by these entities, inspect for compliance with this ordinance.

4. Any citizen who desires to register a complaint under this ordinance may initiate enforcement with the Magistrate of the City of Andalusia.

5. The Police Department is responsible for responding to violations of this ordinance by writing citations for noncompliance by either proprietors or patrons of a facility where smoking is restricted.

6. Any fines or fees collected under this ordinance shall be used for the enforcement of these regulations.

Section VI. Non-retaliation

No owner, business agent, manager or other person having control of a public place where smoking is prohibited shall discharge, refuse to hire, refuse to serve or in any manner retaliate or take any adverse personnel action or other adverse action against any employee, applicant, customer or person because such employee, applicant, customer or person takes any action in furtherance of the enforcement of this ordinance or exercises any right conferred by this ordinance.

Section VII. Conflict with Other Laws, Ordinance or Regulations

PAGE FOUR

1. Nothing in this ordinance shall be deemed to amend or repeal any applicable fire, health or other law, ordinance or regulation so as to permit smoking in areas where it is prohibited by such fire, health or other law, ordinance or regulation.

2. Nothing in this ordinance shall be deemed to preempt the further limitation of smoking in the City of Andalusia by any local regulatory body within the limits of its authority and jurisdiction.

Section VIII. Severability

If any provision, clause, sentence, paragraph or word of this ordinance or the application thereof to any person, entity or circumstances shall be held invalid, such invalidity shall not affect the other provisions of this ordinance which can be given effect without the invalid provisions or application and to this end the provisions of this ordinance are declared severable.

Section IX. Effective Date

Public places legally permitted and/or licensed shall implement the provisions of this ordinance by March 1, 2007.

Read, approved and adopted on this _____ day of _____, 2007.

CITY OF ANDALUSIA
ANDALUSIA, ALABAMA

BY: _____
Jerry B. Andrews, Mayor

ATTEST:

John M. Thompson, City Clerk

Councilman Cotton moved to adopt Ordinance No. 2007 – 01. Councilman Powell seconded the motion. Mayor Andrews called for a vote which produced the following results:

Yes:	No:	Abstained:
Mayor Andrews		Councilman Jones
Council man Anderson		
Councilman Alexander		
Councilman Powell		
Councilman Cotton		

MAYOR ANNOUNCES DISCUSSION REGARDING CITY’S LIABILITY, VEHICLE AND EQUIPMENT INSURANCE POLICY :

Mayor Andrews announced that the city’s liability, vehicle and equipment insurance policy was discussed during the work session and that the council would hold it over until the next meeting.

COUNCIL APPROVES RESTAURANT RETAIL LIQUOR LICENSE FOR MONTEREY’S:

Mayor Andrews presented the council with an application for a restaurant retail liquor license for Monterey’s of Andalusia on the MLK Expressway. Councilman Alexander moved to approve the application. Councilman Jones seconded the motion. Mayor Andrews called for a vote which produced the following results:

Yes:	No:	Abstained:
Mayor Andrews	Councilman Cotton	Councilman Powell
Councilman Anderson		
Councilman Jones		
Councilman Alexander		

PAGE FIVE

COUNCIL POSTPONES ACTION ON RESOLUTION NO. 2007-02 AMENDING CITY OF ANDALUSIA'S CONTRACT WITH UTILITY BOARD:

Mayor Andrews announced that the council was not ready to act on a resolution amending the contract with the utility board. Councilman Cotton noted that he would be out of town for the next council meeting and asked that the resolution not be considered until the first meeting in March. Absent a vote it was the general consensus that the issue would not be considered until the full council was present for a subsequent meeting.

COUNCIL APPROVES PAYMENT FROM CONTINGENCY FOR IDEACOM UPGRADE:

Mayor Andrews presented the council with an estimate for \$2,540 to upgrade the telephone system at the Fire Department necessary to replace lines that would have to come down during the Church Street Project. Councilman Powell moved to approve the estimate from IdeaCom for \$2,540 from contingency. Councilman Anderson seconded the motion which passed unanimously.

COUNCIL POSTPONES ACTION ON RETAIL LIQUOR LICENSE FOR HIDEAWAY PIZZA:

Mayor Andrews announced that the council had decided to holdover consideration of a restaurant retail liquor license for Hideaway Pizza until the next council meeting pending further investigation.

COUNCIL APPROVES PAYMENT FROM CONTINGENCY OF ONE-HALF COST OF BRYANT APPRAISALS:

Mayor Andrews presented the council with three appraisals from Bryant Appraisals for \$1,250. He added that the Industrial Development Board of the City of Andalusia would pay for ½ of the bills. Councilman Cotton moved to appropriate \$625 from contingency to pay for the bills. Councilman Powell seconded the motion which passed unanimously.

COUNCIL APPROVES CEMETERY MAINTENANCE BID FROM GARRICK LAWN SERVICE:

Mayor Andrews presented the council with the results of bid openings for cemetery maintenance.

**BID RECAP
BID #012207
Cemetery Maintenance Bid
February 1, 2007, 10:30 AM**

	Name	Bid Amount
1.	Chance Lawn Service	No Bid
2.	Mr. Billy Gorum	\$1900.00
3.	Garrick Lawn Service	\$1321.00
4.	B D & S Services	No Bid
5.	Yard-Man	No Bid

Successful Bidder: Garrick Lawn Service

Bid Amount: \$1321.00

Date: 02/01/2007

Witness

John M. Thompson, City Clerk

Councilman Jones moved to approve of the low bid from Garrick Lawn Service for \$1321. Councilman Anderson seconded the motion which passed unanimously.

PAGE SIX

COUNCIL APPROVES RESOLUTION NO. 2007-05 AUTHORIZING AMENDMENT IN AGREEMENT WITH THE ALABAMA DEPARTMENT OF TRANSPORTATION FOR THE SOUTH THREE NOTCH TRANSPORTATION ENHANCEMENT PROJECT:

Mayor Andrews presented the council with Resolution No. 2007 – 05 authorizing the mayor to enter into a contract, amending a previous contract, with the Alabama Department of Transportation.

CITY OF ANDALUSIA
ANDALUSIA, ALABAMA

A RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO A CONTRACT WITH THE ALABAMA DEPARTMENT OF TRANSPORTATION TO AMEND THE PREVIOUS AGREEMENT FOR THE SOUTH THREE NOTCH TRANSPORTATION ENHANCEMENT PROJECT

RESOLUTION NUMBER 2007-05

BE IT RESOLVED, by the City of Andalusia as follows:

1. That the City enter into an agreement with the State of Alabama, acting by and through the Alabama Department of Transportation relating to a Transportation Enhancement project with partial funding by the Federal Highway Administration, which agreement is before this Council;
2. That the agreement be executed in the name of the City, for and on behalf of the City, by its Mayor.
3. That it be attested by the Clerk and the seal of the City affixed thereto.

BE IT FURTHER RESOLVED, that upon the completion of the execution of the agreement by all parties, that a copy of such agreement be kept on file by the City Council.

I, the undersigned qualified and acting City Clerk of the City of Andalusia, Alabama, do hereby certify that the above and foregoing is a true copy of a resolution lawfully passed and adopted by the City Council named therein, at a regular meeting of such Council held on the 6th day of February, 2007, and that such resolution is on file in the City Clerk's Office.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the City on this 6th day of February, 2007.

John M. Thompson, City Clerk-Treasurer

Councilman Anderson moved to approve Resolution No. 2007 – 05. Councilman Alexander seconded the motion which passed unanimously.

COUNCIL APPROVES RESOLUTION NO. 2007-06, AUTHORIZING AGREEMENT WITH THE ALABAMA DEPARTMENT OF TRANSPORTATION FOR THE ANDALUSIA INDUSTRIAL PARK ACCESS ROAD PROJECT:

Mayor Andrews present the council with Resolution No. 2007 – 06 authorizing the mayor to enter into a contract with the Alabama Department of Transportation for the purpose of constructing an access road into the Andalusia Industrial Park.

CITY OF ANDALUSIA
ANDALUSIA, ALABAMA

A RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO A CONTRACT WITH THE ALABAMA DEPARTMENT OF TRASSPORTATION FOR THE PURPOSE OF CONSTRUCTING AN ACCESS ROAD INTO THE ANDALUSIA INDUSTRIAL PARK

RESOLUTION NO. 2007 - 06

BE IT RESOLVED, by the City Council of the City of Andalusia, Alabama as follows:

1. That the City enter into an Agreement with the State of Alabama, acting by and through the Alabama Department of Transportation for:

PAGE SEVEN

Project IAR-020-000-004; beginning at the intersection of Alabama Highway 29 and Goat Hill Road and ending at the intersection of the existing Andalusia Industrial Park entrance on Sutton Road to benefit PSI Sales, Inc., SaeHaeSung Corporation, Ameridoor Corporation, City of Andalusia C/D Landfill and Recycling and King Buildings in the City of Andalusia; which Agreement is before this Council.

2. That the Agreement be executed in the name of the City, by its Mayor, for and on its behalf;
3. That the Agreement be attested by the City Clerk and the seal of the City affixed thereto.

BE IT FURTHER RESOLVED, that upon the completion of the execution of the Agreement by all parties, that a copy of such Agreement be kept on file by the City Clerk.

Passed, adopted and approved this 6TH day of February, 2007.

ATTESTED:

John M. Thompson City Clerk-Treasurer

Jerry B. Andrews, Mayor

I, the undersigned qualified and acting clerk of the City of Andalusia, Alabama, do hereby certify that the above and foregoing is a true copy of a resolution passed and adopted by the City Council of the City named therein, at a regular meeting of such Council held on the 6th day of February, 2007, and that such resolution is on file in the City Clerk's office.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the City on the 6th day of February, 2007.

John M. Thompson, City Clerk-Treasurer

Councilman Powell moved to adopt Resolution No. 2007 – 06. Councilman Jones seconded the motion. Mayor Andrews called for a vote which produced the following results:

Yes:	No:	Abstained:
Mayor Andrews		Councilman Cotton
Councilman Anderson		
Councilman Jones		
Councilman Alexander		
Councilman Powell		

COUNCIL APPROVES PURCHASE FROM CONTINGENCY OF FOUR POLICE VEHICLES:

Mayor Andrews announced that Police Chief Wilbur Williams had requested to purchase four police vehicles. Councilman Cotton moved to appropriate \$84,743 from contingency to procure the vehicles. Councilman Anderson seconded the motion which passed unanimously.

ANNOUNCEMENTS:

1. Mayor Andrews announced that the Industrial Development Board had requested that a Phase I Environmental study be conducted on the Andalusia Industrial Park. He said that he would bring proposals back to the council at the next meeting.
2. Mayor Andrews commented that the council's street resurfacing project was nearing completion and commended Public Works Director Jim Hogg for his expertise and diligence on the project.
3. Mayor Andrews announced that there would be a Storyteller in the House at City Hall on Friday, February 16, 2006, at 7:00 and invited everyone to attend.
4. Councilman Jones announced that he planned a District Two Meeting on February 27, 2007, in the auditorium at city hall at 6:00. He invited the other council members, mayor and everyone in District Two to attend.
5. Councilman Powell announced that speed breakers and warning signs would soon be installed on Grider Street.

PAGE EIGHT

6. Mayor Andrews reminded everyone to attend the Andalusia Area Chamber of Commerce Banquet at 7:00 later in the evening.

ADJOURNMENT:

There being no further business Mayor Andrews called the meeting adjourned.

THE CITY OF ANDALUSIA, ALABAMA

BY: _____
Jerry B. Andrews, Mayor

ATTEST:

John M. Thompson, City Clerk/Treasurer