



ORDINANCE NO. 1725

**AN ORDINANCE TO APPROVE THE ANNEXATION OF TERRITORY
WITHIN THE CITY LIMITS OF THE CITY OF FAIRHOPE, ALABAMA
(BALDWIN COUNTY COMMISSION)**

WHEREAS, Nelson Drive, from Scenic Highway 98 east approximately 525 feet (hereinafter "Nelson Drive"), is a road or road segment inside the corporate limit of the City of Fairhope; and

WHEREAS, Nelson Drive includes all improvements within the right-of-way such as, but not limited to, the road, drainage structures, signs, trails, sidewalks, etc.; and

WHEREAS, an accurate description of Nelson Drive, together with a map thereof showing their relationship to the corporate limits of the City of Fairhope, is attached hereto as Exhibit "A" and incorporated herein; and

WHEREAS, the portion of Nelson Drive that is not already the responsibility of the City of Fairhope has been County-maintained for a period of at least one (1) year prior to the effective date of this instrument; and

WHEREAS, Nelson Drive is located within the City of Fairhope but responsibility is vested in the County; and

WHEREAS, the City of Fairhope desires to annex and assume responsibility for Nelson Drive, to the extent it is not already maintaining portions thereof, in order to facilitate the orderly development and maintenance of this area and its corporate limits; and

WHEREAS, in order to accomplish the City of Fairhope's desire to annex and assume responsibility for Nelson Drive in accordance with *Code of Alabama*, §11-49-80(b), (c) and (d), the Baldwin County Commission passed a resolution on August 3, 2021, authorizing the annexation and transfer of responsibility for Nelson Drive to the City of Fairhope, a copy of which is attached hereto as Exhibit "B"; and

WHEREAS, said resolution did petition the City of Fairhope for annexation and contained the signature of the owner of the described territory and a map of Nelson Drive showing their relationship to the corporate limits of the City of Fairhope; and

WHEREAS, the City Council of the City of Fairhope has determined that it is in the public interest that Nelson Drive be annexed into the City of Fairhope and that all legal requirements for annexing Nelson Drive have been met pursuant to *Code of Alabama*, §§11-42-20 to 24.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF FAIRHOPE, ALABAMA, AS FOLLOWS:

Section 1. The City Council of the City of Fairhope, Alabama, finds and declares as the legislative body thereof that it is in the best interest of the citizens of the City, and the citizens of the affected area, to annex and bring the territory described herein as Nelson Drive into the corporate limits of the City of Fairhope, and to assume responsibility for those portions of Nelson Drive, if any, that are already within the corporate limits of the City of Fairhope pursuant to *Code of Alabama*, §§11-49-80(b), (c) and (d), and 11-42-20 to 24.

Section 2. The boundary lines of the City of Fairhope, Alabama, be, and the same are hereby altered or rearranged so as to include all of the territory heretofore encompassed by the corporate limits of the City of Fairhope, Alabama, and in addition thereto the following described territory, to-wit:

A part of the Northwest Quarter of the Southwest Quarter of Section 19, Township 6 South, Range 2 East, Baldwin County, Alabama and being more fully described as follows:

It is the intent of this document to convey unto the City of Fairhope, Alabama, any and all right and title to that portion of the right-of-way owned and maintained by Baldwin County along Nelson Drive, beginning at the east right-of-way line of Scenic Highway 98 also known as County Road 98 Scenic Route, ALT U. S. Highway 98 and South Mobile Street, and formerly known as U. S. Highway 98, and running easterly approximately 525 feet. Including all improvements within the right-of-way such as, but not limited to the road, drainage structures, signs, trails, sidewalks, etc. Said right-of-way being quitclaimed is part of property conveyed in Baldwin County Probate Court Case No. 9449, Real Property Book 17 page 792, Real Property Book 18 page 121 and corrected by Instrument Number 991083 and part of Real Property Book 13 page 771. It is also the intent to convey any and all prescriptive right-of-way that Baldwin County, Alabama may own. (See attached Exhibit "A")

Subject to any reservations, restrictions, exceptions, and encumbrances of record.

Section 3. The territory described in this ordinance shall become a part of and lie within the corporate limits of the City of Fairhope, Alabama, upon publication of this ordinance.

Section 4. To the extent that portions of Nelson Drive, if any, are already within the corporate limits of the City of Fairhope, but responsibility is vested in the County, the City of Fairhope hereby assumes responsibility of said portions of Nelson Drive pursuant to *Code of Alabama*, §11-49-80(b), in addition to their annexation or re-annexation as described herein. In accordance with *Code of Alabama*, §11-49-81, the City of Fairhope's assumption of responsibility for Nelson Drive is in exchange for the County agreeing that it shall resurface, one time, Nelson Drive from Scenic Highway 98 east approximately 525 feet with a minimum one and a half inch (1.5") overlay.

Ordinance No. 1725


Page -3-

The Baldwin County Commission and the City of Foley respectively acknowledge and agree that this one-time resurfacing has been scheduled to occur as soon as possible as consideration for this transfer, and may be completed prior to the transfer of maintenance. The Baldwin County Commission and the City of Fairhope agree that said consideration is a reasonable charge for being relieved of the burden of the control, management, supervision, repair, maintenance and improvement of the road described herein.

Section 5. This ordinance shall be published as provided by law, and a certified copy of the same, together with a certified copy of the resolution and petition of the Baldwin County Commission, shall be filed with the Probate Judge of Baldwin County, Alabama.

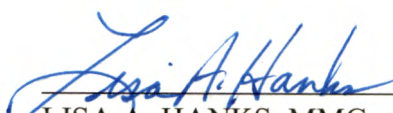
Section 6. If any part, section or subdivision of this ordinance shall be held to be illegal, invalid, or unenforceable for any reason, such holding shall not be construed to invalidate or impair the remaining provisions of this ordinance, which shall continue in full force and effect notwithstanding such holding.

ADOPTED THIS THE 13TH DAY OF SEPTEMBER, 2021



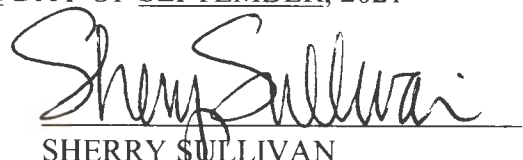
JACK BURRELL
Council President

Attest:



LISA A. HANKS, MMC
City Clerk

ADOPTED THIS THE 13TH DAY OF SEPTEMBER, 2021



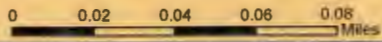
SHERRY SULLIVAN
Mayor

Ord. No. 1725 Published in
FAIRHOPE COURIER
on Wednesday, September 1, 2021
Lisa A. Hanks City Clerk



Baldwin County Highway Department

Nelson Drive ROW Acceptance - Exhibit "A" Map



RESOLUTION NO. 2021-108

**RESOLUTION OF THE COUNTY COMMISSION
OF BALDWIN COUNTY, ALABAMA,
AUTHORIZING ANNEXATION AND TRANSFER OF RESPONSIBILITY
FOR A PORTION OF NELSON DRIVE
FROM BALDWIN COUNTY TO THE CITY OF FAIRHOPE**

WHEREAS, Nelson Drive, from Scenic Highway 98 east approximately 525 feet (hereinafter “Nelson Drive”), is a road or road segment inside or abutting the corporate limits of the City of Fairhope; and

WHEREAS, Nelson Drive includes all improvements within the right-of-way such as, but not limited to, the road, drainage structures, signs, trails, sidewalks, etc.; and

WHEREAS, an accurate description of Nelson Drive is attached hereto as Exhibit “A” and incorporated herein; and

WHEREAS, the portion of Nelson Drive that is not already the responsibility of the City of Fairhope has been County maintained for a period of one (1) year prior to the effective date of this instrument; and

WHEREAS, Nelson Drive is located within the City of Fairhope but responsibility is vested in the County; and

WHEREAS, in order to clarify and simplify the City of Fairhope’s assumption of responsibility for Nelson Drive in accordance with *Code of Alabama*, §11-49-80(b), (c) and (d), the Baldwin County Commission is submitting its consent and petition to the City of Fairhope to annex Nelson Drive and assume the responsibility thereof; and

WHEREAS, the City of Fairhope desires to assume responsibility for Nelson Drive, to the extent it is not already maintaining portions thereof, in order to facilitate the orderly development and maintenance of this area and its corporate limits.

NOW, THEREFORE, BE IT RESOLVED by the Baldwin County Commission as follows:

Section 1. That Baldwin County hereby consents to and petitions for the annexation of Nelson Drive by the City of Fairhope pursuant to *Code of Alabama*, §11-49-80(c), and (d) and §11-42-20 to 24.

Section 2. To the extent that portions of Nelson Drive, if any, are already located within the corporate limits of City of Fairhope, but responsibility is vested in the County, the Baldwin County Commission hereby consents to the assumption of responsibility of said portion or portions of Nelson Drive by the City of Fairhope, pursuant to *Code of Alabama*, §11-49-80(b),

in addition to their annexation or re-annexation as described herein. In accordance with *Code of Alabama*, §11-49-81, the City of Fairhope's assumption of responsibility for Nelson Drive is in exchange for the County agreeing that it shall resurface, one time, Nelson Drive from Scenic Highway 98 east approximately 525 feet with a minimum one and a half inch (1.5") overlay. The Baldwin County Commission and the City of Fairhope respectively acknowledge and agree that this one time resurfacing has been scheduled to occur as soon as possible as consideration for this transfer, and may be completed prior to the transfer of maintenance.

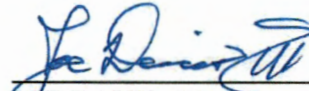
Section 3. The Baldwin County Commission and the City of Fairhope agree that said consideration is a reasonable charge.

Section 4. If any part, section or subdivision of this resolution shall be held to be illegal, invalid, or unenforceable for any reason, such holding shall not be construed to invalidate or impair the remaining provisions of this resolution, which shall continue in full force and effect notwithstanding such holding.

ADOPTED and APPROVED by the County Commission of Baldwin County, Alabama, on the 3rd day of August, 2021.

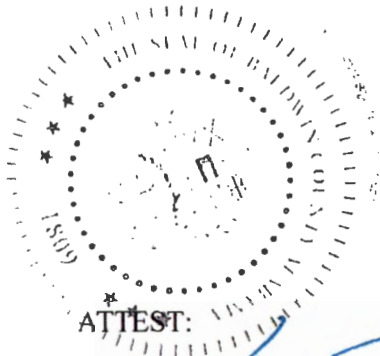
BALDWIN COUNTY COMMISSION

By:



JOE DAVIS, III
Chairman

Its:



ATTEST:



WAYNE DYESS

County Administrator