

ORDINANCE NO.: 1882

**AN ORDINANCE ESTABLISHING THE
EMERGENCY TEMPORARY SUPERVISION OF EMPLOYEES
IN THE EXECUTIVE AND ADMINISTRATIVE SERVICE
OF THE CITY, IN THE ABSENCE OF THE MAYOR
AND PRESIDENT OF THE CITY COUNCIL**

WHEREAS, The City of Prichard, Alabama operates under a Mayor/Council form of government, (mayor and five (5) councilmembers), pursuant to §11-43C-1 et seq., *Code of Alabama* 1975, as amended;

WHEREAS, in February of 2000, impeachment proceedings were brought against the Mayor of the City of Prichard and the Members of the City Council;

WHEREAS, on or about March 17, 2000 the Office of the Mayor was ordered to be vacated by the Circuit Court of Mobile County, Alabama as a result of said proceedings;

WHEREAS, on or about March 24, 2000, Prichard City Council District 3 and the Office of the President of the City Council were vacated by the resignation of former Councilmember Wayne Lafitte;

WHEREAS, on or about March 29, 2000, Prichard City Council District 2 was vacated by the resignation of former Councilmember Clifford Bryant;

WHEREAS, the City of Prichard is presently operating in the absence of a mayor and council president pending the appointment of persons to fill the vacancies in Council Districts 2 and 3 and the election of a president of the council who will serve as acting mayor;

WHEREAS, the employees in the executive and administrative service of the City of Prichard are under the control and supervision of the mayor or, in his absence, the president of the city council, acting as mayor; and

WHEREAS, in the normal course of government, Section 11-43C-21 provides, in pertinent part, that "neither the council nor any of its members shall direct or request the appointment of any person to, or his removal from office, or in any manner take part in the appointment or removal of officers and employees in the administrative service to the city; that the council shall deal with the administrative service only through the mayor; and that members of the council shall not give orders to any subordinates of the mayor, either publicly or privately;"

WHEREAS, Section 11-43C-11 further provides, in pertinent part, that "pursuant to the provisions and limitations of this chapter and subject to the limitations imposed by the Constitution of Alabama and its laws, *all powers of the city shall be vested in the council elected as herein provided and hereinafter referred to as "the council,"* which shall enact ordinances, adopt budgets and determine policies. *All powers of the city shall be exercised in the manner prescribed by this chapter, or if the manner be not prescribed, then in such manner as may be prescribed by law or by ordinance.*

WHEREAS, the operation of city government, especially the supervision of officers and employees in the administrative service to the city, in the absence of both a mayor and a president of the city council to act as mayor in his stead is not prescribed in 11-43C-1, et seq.;

WHEREAS, Section 11-43C-21(7) provides that the City Council shall "succeed to all the powers, rights and privileges conferred upon the former governing body of the city by statutes in effect at the time of adoption by the city of the mayor-council form of government [11-43C-1 et seq.] and not in conflict with this chapter;"

WHEREAS, Section 11-43-47, the law under which the City of Prichard and the former governing body operated prior to the adoption of Section 11-43C-1 et seq., provides that, "[T]he council shall prescribe by an ordinance the powers to be exercised and the duties to be performed by officer appointed or elected so far as such duties and powers are not prescribed by law;"

WHEREAS, the City Council of the City of Prichard hereby finds and declares that the supervision and control of officers and employees in the administrative service to the city to be in need of emergency supervision; that the supervision and control of employees in the administrative service to the city is not provided for under Section 11-43C-1 et seq.; and that such supervision and control is in the best interest of and required to protect the public health, safety and welfare of the citizens of the City of Prichard; and

WHEREAS, in lieu of a sitting mayor and president of the council, the remaining three (3) Members of the City Council are desirous of continuing the conduct of business in the City of Prichard in an orderly and efficient manner and, to that end, establishing temporary supervision of the executive departments of the city in order to protect the public health, safety and welfare until such time as a mayor is elected or a president of the city council is elected to act as mayor;

**NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF
THE CITY OF PRICHARD, ALABAMA, as follows:**

- A. Until a mayor is elected and properly qualified and seated or a president of the city council is elected to act as mayor, whichever comes first:
 2. The heads of all executive departments, ("Department Heads"), including, but not limited to: the Department of Finance; the Department of Public Works; the Department of Inspections; the Office of Community Development; the Office of the City Clerk; the Office of the Chief of Police; the Office of the City Attorney, the Office of the City Prosecutor, and the Office of the Fire Chief shall report to and shall be under the direct supervision and control of the City Council of the City of Prichard, Alabama.
 3. That all executive/administrative departments and personnel, not listed in paragraph 1 above, that would normally answer or report directly to the mayor, shall answer, report to and be under the supervision of the Department of Finance. The Department of Finance shall ensure that said executive/administrative departments and personnel shall continue to perform tasks, as nearly as possible, in accordance with their existing job descriptions, provided, however, that in the event that there exist a need for such executive/administrative departments and personnel to assist with the work of other divisions, the Director of Finance shall assign such temporary work, on a day to day basis, as said Director deems necessary and expedient. The Director of Finance shall report such temporary assignments to the City Council at the next meeting of the Staff and Council.

4. The Department Heads shall continue to perform their daily tasks in accordance with their job descriptions and responsibilities, provided, however, that any matter requiring executive approval shall be first presented to the City Council. In the event that any such matter appears to require immediate executive action, the procedure set forth in paragraph 5 hereof shall be followed.
5. All Department Heads, unless otherwise excused, shall meet with the City Council in a "Staff/Council meeting at 3:00 p.m., on each Friday and at the same time on the day next preceding each regular or special meeting of the council. The purpose of said meetings shall be to review the work of each department and to allow the council a reasonable opportunity to assist and to give direction to said Department Heads in and about the performance of his/her duties. Each Department Head shall be prepared to inform and present to the Council:
 - a. The status of ongoing projects and work;
 - b. The status and condition of employees under his/her supervision;
 - c. Recommendations of proposed work;
 - d. Problems and impediments to the efficient operation of their respective departments;
 - e. Recommendations that will assist with the progress and problem resolution of ongoing work and projects;
 - f. Disciplinary problems with employees under his/her supervision;
 - g. Requisitions and purchase orders of a non-emergency nature;
 - h. Contracts and documents of every kind and nature which in any way obligate the city or otherwise require the signature of the executive head of the city; and
 - i. Such other reports and matters that would normally be reported and/or submitted to the mayor, including financial reports stating the condition of the city's finances, books and accounts.

5. A representative from the accounting firm responsible for preparing the city's Plan of Reorganization shall also be in attendance at each Staff/Council meeting and shall be prepared to advise the Council of the progress of the proposed Plan and to advise the Council of any proposed appropriation, expenditure or requisition that will or might conflict with the proposed Plan.

x 6 In the event that three (3) members of the City Council are in attendance at a Staff/Council meeting, the same shall be considered a Special Meeting of the Council and all rules of law pertaining to open meetings shall be observed. Matters of general discussion shall proceed freely and openly, however, any matter involving the good name and character of an individual and all matters pertaining to pending or threatened litigation shall be discussed in an executive session, as permitted by law.

x 7 Requisitions and purchase orders of an emergency nature or any other executive or administrative matter, usually presented to the Mayor, which appears to require immediate executive action shall be presented to the Director of Finance and to the City Clerk. If either the Director of Finance or City Clerk determines that the requisition, purchase order or other executive/administrative matter can not be held for action by the City Council at its next scheduled meeting, the City Clerk is directed to promptly contact and advise each member of the City Council of said matter who shall then consider the propriety of calling a Special Meeting.

x 8 For and during the course of this Ordinance, pre-disciplinary hearings against employees shall continue to be originated and held in the same manner and under the same procedure in effect prior to the adoption of this Ordinance, provided, however, the recommendation of any pre-disciplinary board shall be forwarded to the City Clerk who shall place the matter on the next Council Agenda for final determination consistent with the Rules and Regulations of the Mobile County Personnel Board and the Personnel Rules of the City of Prichard. To the extent permitted by

law, the Council shall discuss the good name and character of any employee in an executive session, however, the final determination shall be made and debated in a duly held open meeting. All previously established rights of appeal are hereby preserved.

89 For and during the course of the operation of this Ordinance, in addition to all other records kept in the normal course of her employment, the City Clerk shall maintain a Temporary Journal which shall contain a copy of the various reports, documents and things submitted to the City Council pursuant to paragraphs 2, 3, 4, 5, 6 and 7 of this Ordinance. The City Clerk shall also prepare and maintain in said Journal a summary of discussions and recommendations from the Staff/Council meetings. Upon the election and qualification of a mayor or the election of a council president to act as mayor, whichever first occurs, the Temporary Journal shall be turned over to said mayor or acting mayor, as the case may be.

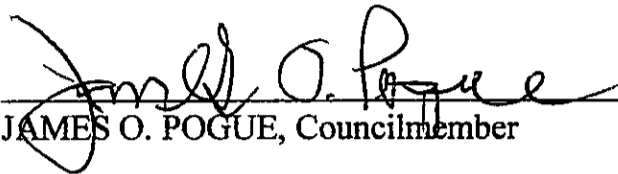
- B. Upon its adoption as required by law, a copy of this Ordinance shall be distributed to each Department Head and persons mentioned in paragraphs 1 and 2 above. A copy of this Ordinance shall also be posted in a conspicuous place outside of the offices of each Department Head where employees may have an opportunity to review and become familiar with its content.
- C. This Ordinance shall expire and become of no force or effect upon the election and qualification of a mayor or the election of a council president, to act as mayor, whichever occurs first.
- D. This Ordinance, by its terms temporary in nature, shall, pursuant to Sections 11-45-1 and 11-45-8 of the *Code of Alabama* 1975, as amended, become effective immediately upon its adoption by the City Council of the City of Prichard and posting, without publication.

DONE this the 20th day of April, 2000.

APPROVED:



HARK EPHRIAM, Councilmember



JAMES O. POGUE, Councilmember



MARVIN LEACHMAN, Councilmember

ATTESTED:

~~CYNTHIA K. NORWOOD, City Clerk~~

Darlene Palma, Asst. City Clerk