**MINUTES OF CITY COUNCIL MEETING**

**VALLEY GRANDE, ALABAMA**

***Regular Meeting November 20, 2023***

Call to order by Wayne Labbe, Mayor at 5:00 PM

Meeting held at Valley Grande City Hall

Minutes submitted by Kim Harris, City Clerk

Presiding: Mayor Wayne Labbe

Invocation: Mayor Wayne Labbe

In Attendance:

Wayne Labbe, Mayor Present

Kay Davidson Absent

Sara Day Present

Jane Harris Present

Bruce Hughes Present

Robbie Rose Present

A quorum was made with 5 council members present.

The minutes from the November 6, 2023, regular meeting was presented by Kim Harris. A Motion was made by Sara Day to accept the minutes as written. Robbie Rose made the second. Motion carried by unanimous consent of the council members present by a show of hands vote.

SHOW OF HANDS VOTE YEA NAY

Wayne Labbe X

Kay Davidson Absent

Sara Day X

Jane Harris X

Bruce Hughes X

Robbie Rose X

**Reports of Standing Committees:**

**Kay Davidson / Business and Community Development:** Absent.

**Sara Day / Walking Trail and Community Events:** Sara Day reported that Christmas in the Park is 99% complete with just a few kinks. Sara Day also reported that Santa and Friends will be at the park on Sunday Dec. 10th from 2:00 – 4:00pm and has been shared on social media. Sara Day reported that she has spoken to the company regarding the 4th of July contract for next year and wanted input from the council on whether to stay on the same day as previous years on the 3rd of July or move to the 4th of July spot with an approximate double increase on price. The council agreed to stay at the July 3rd date at a much cheaper rate. Sara Day gave details of the assembly of the new Christmas tree that was installed at the walking trail.

**Jane Harris / Zoning, Annexation, Beautification and Education:** No report.

**Bruce Hughes / Sewer System and Public Safety:** No report.

**Robbie Rose / Parks and Recreation, Sports Complex:** No report.

**Reports of Officers:**

Boyd Pugh / Public Safety Director: Boyd Pugh reported 4 fire calls so far this month.

Sam Smitherman / Building Inspector: Absent.

Bubba Holley / Parks & Recreation: Absent. Wayne Labbe stated that Bubba Holley is finishing up softball and is still trying to find quotes for the storage buildings that were damaged in the storm. Jane Harris gave details of a 40X70 building that she spoke with Preston Phillips about and stated that with the building and concrete will be approximately 65,000.00.

Kim Harris / City Clerk-Treasurer: Kim Harris presented the council with a Profit and Loss including a Budget vs Actual spending report and Balance Sheet for this fiscal year for the council to review.

**Old Business:** Mayor Wayne Labbe reported that there are no quotes at this time for the repairs to the manhole at the sewer system, but they are still working on the quotes. Mayor Labbe gave details of the delays, and he hopes to hear something this coming week.

**New Business:** Mayor Wayne Labbe presented the council with Ordinance 2023-165 for Yellowhammer Networks to access a right of way to build out and operate an end-to-end fiber network through Valley Grande. Bruce Hughes made a motion to suspend the rules. Jane Harris made the second. Motion carried by unanimous consent of the council members present by a show of hands vote.

SHOW OF HANDS VOTE YEA NAY

Wayne Labbe X

Kay Davidson Absent

Sara Day X

Jane Harris X

Bruce Hughes X

Robbie Rose X

Jane Harris made a motion to adopt Ordinance 2023-165 for Yellowhammer Networks to access a right of way to build out and operate an end-to-end fiber network through Valley Grande as presented. Bruce Hughes made the second. Motion carried by unanimous consent of the council members present by a roll call vote.

ROLL CALL VOTE YEA NAY

Wayne Labbe X

Kay Davidson Absent

Sara Day X

Jane Harris X

Bruce Hughes X

Robbie Rose X

Mayor Labbe declared Resolution 2023-162 adopted as attached to these minutes.

**ORDINANCE NO. 2023-165**

**ORDINANCE TO GRANT ACCESS TO RIGHT OF WAY**

**TO YELLOWHAMMER NETWORKS, LLC**

**WHEREAS**, Yellowhammer Networks, LLC (“Yellowhammer”) is a company focused on enabling affordable fiber-based high speed internet services and desires to construct, maintain and operate a fiber optic network to provide internet and related services over its network to residential and business subscribers within the City of \_\_\_\_\_\_\_\_, Alabama (the “City”);

**WHEREAS**, Yellowhammer will cover the costs associated with the construction and installation of the network, and provides that the City has no financial obligations to guarantee the debt of Yellowhammer in connection with the project;

**WHEREAS**, the City finds a public purpose through the provision of affordable fiber-based high speed internet within its corporate limits for its residents and businesses and desires to grant non-exclusive access to the rights-of-way owned and/or controlled by the City for the purpose of building fiber-based high speed internet access to the benefit of its residents and businesses.

**BE IT ORDAINED** by the Mayor and the City Council of the City, in regular meeting duly assembled, a quorum present, as follows:

1. ***Access to Right of Way Granted*.** There is hereby granted to Yellowhammer the non-exclusive and limited authority to construct, maintain, and operate a fiber-based communications system in, over, under, across, and through the public rights-of-way in the City and any future additions or annexations thereto, as provided in the [Right of Way Access Agreement / Master Development Agreement][[1]](#footnote-1) attached as Exhibit A.
2. ***Term.*** This right-of-way access is granted to Yellowhammer for an initial term of twenty (20) years and will automatically renew thereafter for succeeding terms of up to twenty (20) years each unless Yellowhammer or the City gives written notice to the other at least three hundred and sixty-five (365) days prior to the expiration of any term of its intention not to renew a term.
3. ***Limitations of Right-of-Way Access*.**  Nothing in this Ordinance shall be construed as granting to Yellowhammer an exclusive right-of-way access for the purpose set forth in this Ordinance. Identical or similar right-of-way access may be granted by the City to more than one person or entity, within all or any portion of the City.
4. ***Subject to exercise of the City’s police power and prior lawful occupancy of the streets*.** Yellowhammer shall, at all times during the life of the right-of-way access, be subject to the lawful exercise of the City’s police power, and adhere to the City’s laws, ordinances and such reasonable regulations as the City Council may subsequently promulgate thereunder. The City reserves the right to make reasonable rules, regulations and restrictions for the protection of persons using the streets, avenues, alleys and/or other public places in the City from injury. Any privileges prescribed by this Ordinance shall be subordinate to any prior lawful occupancy of the City’s rights-of-way.
5. ***City-wide Access Conferred.*** This Ordinance grants access to the rights of way within the corporate limits of the City as may be amended from time to time, and the Mayor or his/her designee is authorized to execute the [Right of Way Access Agreement / Master Development Agreement][[2]](#footnote-2) with Yellowhammer, substantially in the form as attached in Exhibit A.
6. ***Severability*.** If any section, subsection, sentence, clause or phrase of this Ordinance is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this Ordinance. The City hereby declares that it would have passed this Ordinance, and each section, subsection, clauses and phrases thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional. Any provision found herein to be in direct contravention with state law or federal law either presently existing or enacted after the date of passage of this Ordinance shall be superseded by such law and rendered unenforceable without effect to those provisions found herein that are no in contravention with state and/or federal law.
7. ***Effective Date/Publication and Costs Therefor*.** This Ordinance will become effective upon publication. This Ordinance shall be published by the City in accordance with the applicable provisions of Section 11-45-8 of the *Code of Alabama* (1975). All costs of publication shall be paid by Yellowhammer.

ADOPTED this the \_\_\_ day of \_\_\_\_\_\_\_, 2023.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, President of Council

APPROVED:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, Mayor

ATTEST:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, City Clerk

**CERTIFICATION**

I, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, City Clerk of the City of \_\_\_\_\_\_\_\_\_\_\_\_\_\_, Alabama, hereby certify that the above to be a true and correct copy of an ordinance adopted by the City Council of the City of \_\_\_\_\_\_\_\_\_\_\_\_\_\_ at its regular meeting held on the \_\_\_\_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_, 2023, as same appears in the minutes of record of said meeting.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ City Clerk

**New Business Continued:** Johnathan Brown, Anna Brech, and Scott Brech presented the council with details of possible grants for tennis courts in Valley Grande in the acreage around the walking trail and ballfields. The mayor and council discussed the details and the mayor recommended that someone with the grant authority inquire about the grants and present it to the council to review at a future meeting.

**Public Comment:**  None

**Mayor’s Report:** Mayor Wayne Labbe reported that the sidewalks are almost complete, he is just waiting to meet with Paxton Reiss to do a punch list and final inspection.

Mayor Labbe stated that Selma Fence has started on the fence around the pavilion and hope that it will be complete in the next couple of weeks.

Mayor Labbe stated that the repairs to the ballfield lights will begin in the next two weeks as well.

Mayor Wayne Labbe reported that he received an official letter from the State of Alabama for the approval of the CDBG for resurfacing the Overlook Hills roads that is a 90% - 10% grant for the city. Mayor Labbe stated that the Dallas Co Commission will be splitting the 10% cost with the city.

There being no further business to come before the council, a motion to adjourn was made by Jane Harris, Bruce Hughes made the second. Motion carried by unanimous consent of the council members present.

The meeting was adjourned at 5:42PM.

Approved: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Wayne Labbe, Mayor

Attested: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Kim Harris, City Clerk

1. [↑](#footnote-ref-1)
2. [↑](#footnote-ref-2)