

# HELMSING, LEACH, HERLONG, NEWMAN & ROUSE

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May 3, 2013

### VIA E-MAIL

Mr. Michael Thompson  
City of Foley  
Post Office Box 1750  
Foley, Alabama 36536

RE: Executive Session – Real Estate Lease

Dear Mike:

If the City Council desires, it can discuss in an executive session certain aspects of its desire and plans to lease/purchase certain real property and its desire to sell certain other real property.

The real property discussion exception allows for the City to discuss in an executive session the consideration that it would be willing to lease real property. Under this exception, only those people representing the City's interests can attend the meeting (not the party the City would be dealing with). The pertinent part of this exception to the Open Meeting law is set forth below:

(6) To discuss the consideration the governmental body is willing to offer or accept when considering the purchase, sale, exchange, lease, or market value of real property. Provided, however, that the material terms of any contract to purchase, exchange, or lease real property shall be disclosed in the public portion of a meeting prior to the execution of the contract. If an executive session is utilized pursuant to this exception in addition to the members of the governmental body, only persons representing the interests of the governmental body in the transaction may be present during the executive session. This real property discussion exception shall not apply if:

- a. Any member of the governmental body involved in the transaction has a personal interest in the transaction and attends or participates in the executive session concerning the real property.
- b. A condemnation action has been filed to acquire the real property involved in the discussion.

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Code of Alabama, 36-25A-7(a)(6).

If the City Council wants to go into an executive session, it would first need to follow the following procedure:

1. Motion to go into an executive session to discuss the terms and consideration the City may be willing to lease certain real property;
2. Motion seconded and a majority voting in favor;
3. The vote of each member shall be recorded in the minutes;
4. After the majority vote, and before going into the executive session, the presiding officer shall state whether the City Council will reconvene after the executive session and, if so, the approximate time the body expects to reconvene. If the City Council will not reconvene, then this should be made clear, and the duration of the executive session does not matter, but the City Council cannot then go back into a regular meeting later.

Please let me know if you need anything further from me.

Very truly yours,

  
CASEY PIPES