

Minutes, City of Southaven, Southaven, Mississippi



MEETING OF THE MAYOR AND BOARD OF ALDERMEN SOUTHAVEN, MISSISSIPPI

CITY HALL
October 16, 2018
6:00 p.m.
AGENDA

1. Call To Order
2. Invocation
3. Pledge Of Allegiance
4. Approval of Minutes: Special Meeting, October 4, 2018
5. Swearing-In Mayor's Youth Council New Members
6. Resolution for Budget Amendment
7. Recommendation of Bid Award – Public Works
8. Municipal Compliance Certification
9. Contract with P.B.J. Happee Day Shows, Inc.
10. Resolution for Liens
11. RJ Young Copy Contract for Parks Dept.
12. City Ordinances Title VIII, Chapter 6, Sections 8-136 – 8-140
13. Resolution for Sanitation Assessments
14. Resolution for Intergovernmental Transfer to City of Hernando
15. Agreement with Athletic House
16. Resolution to Clean Private Property
17. Planning Agenda:
 - Item #1 Application by Tim Paxton for subdivision approval of the Gardens of Belle Pointe Phase 1 on the north side of Church Road, east of Getwell Road
 - Item #2 Application by R & W Developers for subdivision approval of Central Park Sec. P on the west side of Tehulahoma Road, south of Stateline Road
 - Item #3 Application by R & W Developers for subdivision approval of Central Park Sec. O on the west side of Tehulahoma Road, south of Stateline Road
 - Item #4 Application by Stanley Thorne for subdivision approval to revise lot 40 of the Southaven First Commercial Subdivision on the west side of Hwy. 51, south of Stateline Road
 - Item #5 Application by North MS Real Estate Mgmt. for subdivision approval of Guaranty Bank Subdivision on the northeast corner of Getwell Road and Nail Road
 - Item #6 Application by Tom Fowlkes for design review approval of a funeral home inside the Desoto Memorial Gardens Cemetery on the north side of Star Landing Road, west of Swinnea Road
18. Mayor's Report
19. Citizen's Agenda
20. Personnel Docket
21. City Attorney's Legal Update
22. Claims Docket
23. Executive Session: Economic Development (Industry/Business Locating to City)

Any citizen wishing to comment on the above items may do so.
Items may be added to or omitted from this agenda as needed.

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MINUTES OF THE SPECIAL CALLED MEETING OF October 16, 2018 OF THE MAYOR AND BOARD OF ALDERMEN OF THE CITY OF SOUTHAVEN, MISSISSIPPI

BE IT REMEMBERED that the Mayor and Board of Aldermen of the City of Southaven, Mississippi met in a Special Session on the 16th day of October, 2018 at six o'clock (6:00) p.m. at City Hall.

Present were:

William Brooks	Alderman At Large
Kristian Kelly	Alderman, Ward 1
George Payne	Alderman, Ward 3
Joel Gallagher	Alderman, Ward 4
Raymond Flores	Alderman, Ward 6

Absent were:

Charlie Hoots	Alderman, Ward 2
John David Wheeler	Alderman, Ward 5

Also present were Mayor Musselwhite, Andrea Mullen, City Clerk, and Nick Manley, City Attorney. Approximately seventy-five (75) other people were present.

Mayor Musselwhite called for a moment of silence for Mr. Joe Cates, 2nd Mayor of Southaven. Mr. Cates led the City of Southaven from 1985-1997 in the early years of heavy growth. Mayor Musselwhite stated that all flags on the City of Southaven municipal properties will fly half-staff the entire week until interment in honor of Mr. Cates.

Mayor Musselwhite called the meeting to order. Alderman Gallagher led in prayer followed by the Pledge of Allegiance led by Alderman Payne. Next, a motion was made by Alderman Payne to approve the minutes of the Special Meeting of October 4, 2018 with any corrections, deletions, or additions necessary. Motion was seconded by Alderman Hoots. Motion was put to a vote and passed unanimously.

SWEARING-IN MAYOR'S YOUTH COUNCIL NEW MEMBERS

Mayor Musselwhite swore-in the 2018-2019 Mayor's Youth Council. New Members sponsored by Timothy Gardner from Southaven High School and Jeff Shands from Desoto Central High School.

Southaven High School:

McKenzie McBride
Matthew Gardner
Aidan Chisamore
Rebecca Luther

Desoto Central High School:

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Zada Davis
Ella Lammey
Gavin Logazino
Zinnia Owens

RESOLUTION FOR BUDGET AMENDMENT

Chris Wilson, City Administrator, presented this item to the Board.

Mr. Wilson stated that this budget amendment will allow for moving the balance forward for the end of FY18 for previously approved projects as set forth in the Resolution. The following resolution was then considered by the Board of Alderman:

RESOLUTION OF THE MAYOR AND BOARD OF ALDERMEN OF THE CITY OF SOUTHAVEN, MISSISSIPPI TO AMEND 2019 BUDGET

The Mayor and Board of Aldermen of the City of Southaven, Mississippi (the "City"), considered the matter of amending the 2019 City Budget.

WHEREAS, pursuant to Miss. Code 21-35-25, the City desires to amend its 2019 budget; and

WHEREAS, the City's actual collections and anticipated revenues will exceed the estimates; thus, the City desires to revise and increase the budget appropriation of such funds as set forth in Exhibit A; and

WHEREAS, the transfer from fund to fund, or from item to item, will not result in the expenditure of any money for a purpose different from that which was budgeted or collected; and

NOW THEREFORE BE IT RESOLVED AS FOLLOWS:

1. The City Board approves the budget amendment as set forth in Exhibit A and authorizes the Mayor or CAO or their designee to take any and all actions for such amendment.
2. If required, the City is authorized to publish within two (2) weeks of this action in the same manner as the final adopted budget. This publication shall contain a description of the amendment, the amount of money and funds affected, and a detailed statement explaining the need and purpose of the amendment. The vote of each member of the municipality's governing authority on each amendment shall be included in the publication or posted notice.
3. The Mayor or CAO or their designee are authorized to take all actions to further the effectuate the intent of this Resolution.

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Following the reading of the foregoing Resolution, Alderman Flores made the motion and Alderman Kelly seconded the motion for its adoption. The Mayor put the question to a roll call vote, and the result was as follows:

Alderman William Brooks	voted: YES
Alderman Kristian Kelly	voted: YES
Alderman George Payne	voted: YES
Alderman Joel Gallagher	voted: YES
Alderman John David Wheeler	voted: ABSENT
Alderman Charlie Hoots	voted: ABSENT
Alderman Raymond Flores	voted: YES

The budget amendment is attached to these minutes.

RECOMMENDATION OF BID AWARD – PUBLIC WORKS

Nick Manley, City Attorney, presented this item to the Board.

Mr. Manley stated that previously the bid for the patch truck and dump truck were rejected and since that time have done another reverse auction. Tag Truck Center was the lowest and best bid of \$160,498.00 for the patch truck and \$98,500.00 for the dump truck.

Alderman Gallagher made the motion to award the bid to TAG Truck Center for the patch truck in the amount of \$160,498.00 and authorize Bradley Wallace to make the purchase and sign all documents associated with the purchase. Motion was seconded by Alderman Payne.

Roll call was as follows:

ALDERMAN	VOTED
Alderman Brooks	YES
Alderman Kelly	YES
Alderman Hoots	ABSENT
Alderman Payne	YES
Alderman Gallagher	YES
Alderman Wheeler	ABSENT
Alderman Flores	YES

Having received a majority of affirmative votes, Mayor Musselwhite declared that the motion was carried on the 16th day of October, 2018.

Alderman Gallagher made the motion to award the bid to TAG Truck Center for the dump truck in the amount of \$98,500.00 and authorize Bradley Wallace to

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make the purchase and sign all documents associated with the purchase. Motion was seconded by Alderman Payne.

Roll call was as follows:

ALDERMAN	VOTED
Alderman Brooks	YES
Alderman Kelly	YES
Alderman Hoots	ABSENT
Alderman Payne	YES
Alderman Gallagher	YES
Alderman Wheeler	ABSENT
Alderman Flores	YES

Having received a majority of affirmative votes, Mayor Musselwhite declared that the motion was carried on the 16th day of October, 2018.

A copy of the recommendation letters and bid tabulations are attached to these minutes.

MUNICIPAL COMPLAINEE CERTIFICATION

Chris Wilson, City Administrator, presented this item to the Board.

Mr. Wilson stated that the Board must adopt the municipal compliance questionnaire in order to begin the FY18 audit process. Mr. Wilson explained that this is the City making certain amendments in regards to purchases, inventory, and fixed assets. Alderman Flores made the motion to adopt the Municipal Compliance Questionnaire. Motion was seconded by Alderman Payne.

Roll call was as follows:

ALDERMAN	VOTED
Alderman Brooks	YES
Alderman Kelly	YES
Alderman Hoots	ABSENT
Alderman Payne	YES
Alderman Gallagher	YES
Alderman Wheeler	ABSENT
Alderman Flores	YES

Having received a majority of affirmative votes, Mayor Musselwhite declared that the motion was carried on the 16th day of October, 2018.

A copy of the municipal compliance questionnaire is attached to these minutes.

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CONTRACT WITH P.B.J. HAPPEE DAYS SHOWS, INC.

Nick Manley, City Attorney, presented this item to the Board.

Mr. Manley stated that this agreement is with the entity who assists the City with the Springfest Carnival and mirrors the agreement from last year. The agreement provides that the City receives 35% of the gross receipts, along with \$75.00 per game vendor and \$400.00 per food vendor. P.B.J. will indemnify the City and provide an insurance certificate to the City. The agreement includes provisions regarding the City's right to control the premises/event stated in the agreement. Alderman Payne made the motion to authorize Mayor Musselwhite to sign the agreement. Motion was seconded by Alderman Brooks.

Roll call was as follows:

ALDERMAN	VOTED
Alderman Brooks	YES
Alderman Kelly	YES
Alderman Hoots	ABSENT
Alderman Payne	YES
Alderman Gallagher	YES
Alderman Wheeler	ABSENT
Alderman Flores	YES

Having received a majority of affirmative votes, Mayor Musselwhite declared that the motion was carried on the 16th day of October, 2018.

A copy of the agreement is attached to these minutes.

RESOLUTION FOR LIENS

Nick Manley, City Attorney, presented this item to the Board.

Mr. Manley stated that this resolution will allow for liens to be filed by the City for those properties that were cut by City contractors pursuant to Miss. Code 21-19-11. Mayor Musselwhite asked if there were any comments from the Board and there were none. Mayor Musselwhite then asked for any comments from the public and there were none. The following resolution was then considered:

RESOLUTION OF THE MAYOR AND BOARD OF ALDERMEN OF THE CITY OF SOUTHAVEN, MISSISSIPPI ADJUDICATING THE COST OF CLEANING PROPERTY, IMPOSING A PENALTY AND IMPOSING LIEN OF THE SAME AGAINST PROPERTY

WHEREAS, the City of Southaven ("City") has the authority, pursuant to Section 21-19-11 of the Mississippi Code (1972) to clean up property within the City, under circumstances which create a menace to the public health and safety of the community, and

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WHEREAS, the Mayor and Board of Aldermen conducted hearings regarding various properties, as set forth in Exhibit A, and determined that the conditions and circumstances of such properties created a menace to the public health and safety of the community, and ordered the clean-up of the properties, and

WHEREAS, pursuant to the authority granted to the City, the Mayor and Board of Aldermen contracted with an outside contractor who has undertaken and completed the clean-up of the properties, and

WHEREAS, the Mayor and Board of Aldermen have heard proof and find as a fact that the actual cost of the clean-up is as attached hereto as Exhibit A, and

WHEREAS, the Mayor and Board of Aldermen are desirous of imposing a penalty of Two Hundred Fifty Dollars and 00/100 (\$250.00) per property per cutting, and

WHEREAS, the Mayor and Board of Aldermen deem and resolve that the clean-up cost and penalty shall be collected as a lien against property and if not paid, the lien shall be converted as an assessment against each property, to be collected by the Tax Collector in the manner employed for the collection of all other taxes and assessments of the municipality, unless sooner collected through other means.

NOW, THEREFORE, BE IT ORDERED by the Mayor and Board of Aldermen of the City of Southaven, Mississippi as follows, to wit:

1. The actual cost of the clean-up of properties listed in Exhibit A be assessed to the property and the same is hereby determined to be as set forth in Exhibit A attached hereto.
2. A penalty in the amount of \$250 per lot per cutting as listed above be, and the same is hereby imposed against each parcel in addition to the actual cost of the property clean-up. In addition, any and all enrollment fees be collected by the City.
3. The total amount, as set forth above, be, and the same is hereby assessed against each property, to be filed as a lien and if not collected, to be converted as an assessment to be collected by the Tax Collector in the manner used for collection of other municipal taxes and assessments, unless sooner collected through other means.

Following the reading of this Resolution, it was introduced by Alderman Brooks and seconded by Alderman Kelly. The Resolution was then put to a roll call vote and the results were as follows, to-wit:

Alderman William Brooks

voted: YES

Alderman Kristian Kelly

voted: YES

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Alderman George Payne	voted: YES
Alderman Joel Gallagher	voted: YES
Alderman John David Wheeler	voted: ABSENT
Alderman Charlie Hoots	voted: ABSENT
Alderman Raymond Flores	voted: YES

RESOLVED AND DONE this 16th day of October, 2018.

A list of the street name, parcel id#, and assessment totals is attached to these minutes.

RJ YOUNG COPY CONTRACT FOR PARKS DEPARTMENT

Nick Manley, City Attorney, presented this item to the Board.

Mr. Manley stated that this contract is for the copier in the Parks Department. Alderman Payne made the motion to authorize Chris Shelton to sign the agreement. Motion was seconded by Aldermen Brooks. Motion was put to vote and passed unanimously with Alderman Hoots and Alderman Wheeler being absent.

A copy of the contract is attached to these minutes.

CITY ORDINANCES TITLE VIII, CHAPTER 6, SECTIONS 8-136-8-140

Nick Manley, City Attorney, presented this item to the Board.

These ordinances, Chapter 6, Sections 8-136-8-140, were discussed by the ordinance committee. These ordinances prohibit solicitation in city streets. After review of the issue with the SPD and noting that the SPD is unable to find that it has issued a citation pursuant to these ordinances, along with the fact that the Mississippi Code, specifically, Miss. Code Section 97-35-25; Miss. Code Section 97-35-23; and Miss. Code Section 63-3-1105 provide the SPD with enforcement mechanisms to prohibit obstruction and interference in the streets, the recommendation is to repeal these ordinances and rely on the state statutes. In the event that a new ordinance needs to be drafted due to the Mississippi Code not adequately addressing the issues, one will be drafted. The Board of Alderman then considered the following resolution:

RESOLUTION OF THE MAYOR AND BOARD OF ALDERMEN OF THE CITY OF SOUTHAVEN, MISSISSIPPI REPEALING THE SOUTHAVEN CODE OF ORDINANCES TITLE VIII, CHAPTER 6, SECTIONS 8-136 – 8-140

WHEREAS, Mississippi Code Section 21-37-3 provides the City of Southaven ("City") shall have the power to exercise full jurisdiction in the matter of streets, and

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WHEREAS, Mississippi Code Section 21-17-5 provides the City shall have the power to alter, modify and repeal orders, resolutions or ordinances with respect to such municipal affairs, property and finances which are not inconsistent with the Mississippi Constitution of 1890, the Mississippi Code of 1972; and

WHEREAS, in order to control traffic and protect the health, safety, welfare, comfort and convenience of the City's citizens, the City desires to prohibit activity in the City streets and public rights-of-way which obstructs, interferes, or impedes traffic, or creates a danger to pedestrians; and

WHEREAS, the City desires to rely on certain provisions of the Mississippi Code Annotated of 1972, including but not limited to, Miss. Code Section 97-35-25; Miss. Code Section 97-35-23; and Miss. Code Section 63-3-1105 for the purpose of prohibiting activity in the City streets and public rights-of-way, which obstructs, interferes, or impedes traffic, or creates a danger to pedestrians; and

WHEREAS, the prohibition of activity in the City streets and public rights-of-way, which obstructs, interferes, or impedes traffic, or creates a danger to pedestrians, shall be applied in a content neutral manner, so that such restriction applies to all activities; and

NOW, THEREFORE BE IT ORDAINED BY THE MAYOR AND BOARD OF ALDERMEN OF THE CITY OF SOUTHAVEN, MISSISSIPPI, THAT BY RESOLUTION OF THE MAYOR AND BOARD OF ALDERMEN OF THE CITY OF SOUTHAVEN, MISSISSIPPI TO REPEAL THE CITY OF SOUTHAVEN CODE OF ORDINANCES, TITLE VIII, CHAPTER 6, SECTIONS 8-136 – 8-140 AS FOLLOWS:

Chapter 6 – Interference in Streets

1. City Code of Ordinance Title VIII, Chapter 6, Section 8-136 shall be repealed.
2. City Code of Ordinance Title VIII, Chapter 6, Section 8-137 shall be repealed.
3. City Code of Ordinance Title VIII, Chapter 6, Section 8-138 shall be repealed.
4. City Code of Ordinance Title VIII, Chapter 6, Section 8-139 shall be repealed.
5. City Code of Ordinance Title VIII, Chapter 6, Section 8-140 shall be repealed.

NOW, THEREFORE BE IT ORDERED that the City Clerk, pursuant to Miss. Code 21-13-11, provide notice for the repeal CITY OF SOUTHAVEN CODE OF ORDINANCES, TITLE VIII, CHAPTER 6, SECTIONS 8-136 – 8-140 in the *Desoto Times* for one (1) time.

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Alderman Gallagher moved that the foregoing Resolution be adopted. The motion was seconded by Alderman Brooks and brought to a vote as follows:

Alderman Kristian Kelly	voted: YES
Alderman Charlie Hoots	voted: ABSENT
Alderman George Payne	voted: YES
Alderman Joel Gallagher	voted: YES
Alderman John Wheeler	voted: ABSENT
Alderman Raymond Flores	voted: YES
Alderman William Brooks	voted: YES

Having received a majority of affirmative votes, the Mayor declared that the Resolution was carried and adopted as set forth above on this the 16th day of October, 2018.

CITY OF SOUTHAVEN, MISSISSIPPI

RESOLUTION FOR SANITATION ASSESSMENTS

Nick Manley, City Attorney, presented this item to the Board.

Mr. Manley stated that this resolution will allow for assessments to be placed on car tags or liens filed on the properties for those individuals who have not paid the sanitation assessment. After hearing from Mr. Manley, the Board of Alderman considered the following resolution:

RESOLUTION FOR ASSESSING UNPAID SANITATION FEES

WHEREAS, the City of Southaven ("City") operates and maintains a garbage and rubbish collection system; and

WHEREAS, the City previously implemented a \$12.00 per month sanitation fee to defray the cost for the operating and maintaining of the garbage and rubbish collection system; and

WHEREAS, despite correspondence requesting that the City residents pay the sanitation fee and providing the residents the opportunity to address the City Board at previous City meetings, the residents listed at the properties on Exhibit A have failed to pay the sanitation fee; and

WHEREAS, the individuals were provided an opportunity for a hearing at the City Board Meetings regarding the delinquent assessments and chose not to attend the hearing; and

WHEREAS, the City desires to collect the sanitation fees from the individuals and in the amount as set forth in Exhibit A; and

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Board of Aldermen of the City of Southaven, Mississippi, as follows, to-wit:

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1. Pursuant to Mississippi Code Section 21-19-2, the City Public Works Director and his staff are authorized to notify the Desoto County Tax Collector of the unpaid fees for those residents as set forth in Exhibit A. Upon receipt of the residents and addresses as set forth in Exhibit A from the City, the Desoto County Tax Collector shall not issue or renew a motor vehicle road and bridge privilege license for the motor vehicle owned by those individuals, unless such fees or charges, in addition to any other taxes or fees assessed against the motor vehicle, are paid.

2. In lieu of filing the assessments with the Desoto County Tax Collector, the City, pursuant to Mississippi Code 21-19-2, may file a lien on the property offered the sanitation service.

3. The Mayor, City Public Works Director and any of their designees are authorized to take any and all action to effectuate the intent of this Resolution.

After a full discussion of this matter, ALDERMAN Payne moved that the foregoing Resolution be adopted. The motion was seconded by ALDERMAN Kelly. Upon the question being put to a vote, Members of the Board of Aldermen voted as follows:

Alderman Kristian Kelly	voted: YES
Alderman Charlie Hoots	voted: ABSENT
Alderman George Payne	voted: YES
Alderman Joel Gallagher	voted: YES
Alderman John Wheeler	voted: ABSENT
Alderman Raymond Flores	voted: YES
Alderman William Brooks	voted: YES

RESOLVED AND DONE, this 16th day of October, 2018.

A list of addresses with unpaid sanitation fees is attached to these minutes.

RESOLUTION FOR INTERGOVERNMENTAL TRANSFER TO CITY OF HERNANDO

Nick Manley, City Attorney, presented this item to the Board.

Mr. Manley stated that the City has possession of an old bridge that has been stored in a wooded area at Central Park for several years. Originally, Whitney Choat-Cook, Director of Planning & Development, hoped to find use of it for beautification, but it has now deteriorated and the City has no use for it. The City of Hernando learned about it and wants to use it as a pedestrian bridge in one of their parks. Thus, the Mayor has requested that the bridge be transferred to

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Hernando and Hernando will assume all costs of moving it. The Board of Alderman considered the following resolution and agreement with Hernando:

RESOLUTION OF THE MAYOR AND BOARD OF ALDERMEN OF THE CITY OF SOUTHAVEN, MISSISSIPPI DECLARING SURPLUS PROPERTY

WHEREAS, the City of Southaven ("City") is presently in possession of Surplus Property consisting of a steel construction bridge, which currently has no use by the City and has been in storage by the City; and

WHEREAS, it has been recommended to the Mayor and Board of Aldermen by the City that the bridge be declared as surplus and sold and/or disposed of pursuant to Mississippi Code 17-25-25(6); and

WHEREAS, the Mayor and Board of Aldermen are desirous of disposing of the bridge, which is surplus property; and

WHEREAS, the Mayor and Board of Aldermen hereby authorize that the bridge be declared as surplus and transferred pursuant to Miss. Code 31-7-13(m)(vi) as such transfer is in the best interest of the taxpayers as it will allow for equipment needed by Hernando, Mississippi Parks to be used and allow for the City to not incur any future costs for storage, upkeep, removal, or maintenance associated with the bridge; and

NOW, THEREFORE, BE IT ORDERED by the Mayor and Board of Aldermen of the City of Southaven, Mississippi as follows, to wit:

1. The bridge be hereby declared to be surplus property and may be disposed of pursuant to Mississippi Code 17-25-25(6).
2. The Mayor is authorized to sign an agreement with Hernando, Mississippi for the transfer of the bridge and the Mayor, City Clerk and/or their designees are authorized to take any and all action to effectuate the intent of this Resolution.

Motion was made by Alderman Brooks and seconded by Alderman Payne, for the adoption of the above and foregoing Resolution, and the question being put to a roll call vote, the result was as follows:

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Alderman William Brooks	voted: YES
Alderman Kristian Kelly	voted: YES
Alderman Charlie Hoots	voted: ABSENT
Alderman George Payne	voted: YES
Alderman Joel Gallagher	voted: YES
Alderman John Wheeler	voted: ABSENT
Alderman Raymond Flores	voted: YES

RESOLVED AND DONE, this 16th day of October, 2018.

AGREEMENT FOR THE PURCHASE AND SALE OF SURPLUS PROPERTY

This agreement is made entered into, effective as of the date of the last signature of the parties hereto, by and between the City of Hernando, Mississippi ("Hernando") and City of Southaven, MS (the "City").

WHEREAS, the City has found and determined that a certain steel construction bridge it possesses is surplus and no longer necessary for the City's operations. In particular, the City has determined that the bridge (the "Surplus Property") is no longer of use or value to the City; and

WHEREAS, the Surplus Property qualifies as a commodity under Miss. Code Ann. § 31-7-1 *et. seq* (the "Public Purchases Statute") and the City desires to dispose of the Surplus Property by sale to Hernando at an agreed upon price less than market value; and

WHEREAS, the City makes a finding that it is in the best interest of the citizens and tax payers of the State of Mississippi so that the cost to the City for storage, removal, repair, and upkeep can be eliminated so that the City can transfer the Surplus Property as set forth herein. Such transfer being for the purpose of aiding Hernando Parks; and

WHEREAS, Hernando is a governmental entity as defined by the Public Purchases Statute and Miss. Code Ann. § 31-7-13(m)(vi) permits intergovernmental sales and transfers of commodities at below market value between governmental entities when certain findings, such as those herein, have been made; and

NOW, THEREFORE, FOR AND IN CONSIDERATION of the mutual covenants and agreements contained herein and pursuant to the authority of Miss. Code Ann. 31-7-1, *et seq*, of the Mississippi Code of 1972, the City and Hernando do hereby covenant, contract and agree as follows:

1. Hernando shall pay to the City the sum of One Dollar and 00/100 (\$1.00) and incur all costs associated with removal and transfer of the Surplus Property.
2. Hernando shall assume the risk of loss of the Surplus Property at such time as the City gives physical possession of the Surplus Property to Hernando or its agents. The City is providing the Surplus Property "AS IS" without any warranties of any kind, including, but not limited to, warranties of merchantability, fitness for a particular purpose and warranties related to the operation of the Surplus Property. The City shall not be liable

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to Hernando, Hernando's employees, agents, guests, citizens, customers, vendors, contractors or any other third party or person claiming by or through Hernando or any other for any loss, injury or damage caused directly or indirectly, in whole or in part by the Surplus Property.

3. Miscellaneous Provisions.

a. Neither this Agreement nor any of its terms may be changed or modified, waived, or terminated except by an instrument in writing, approved by the governing body of each

party, with such approval spread upon its official minutes, and signed by each parties authorized representative.

b. The failure of any party to insist upon strict compliance by another party shall not be deemed a waiver of its right to do so in the future.

c. In case any one or more provisions set forth in this Agreement shall for any reason be held invalid, illegal or unenforceable in any respect, any such invalidity, illegality, or unenforceability shall not affect any other provision of this Agreement and this Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been incorporated therein.

d. The parties each represent that the person executing this Agreement on behalf of such party has the power and authority to enter into this Agreement and such entity has the authority to consummate the transactions herein contemplated. All proceedings required to be taken by or on behalf of each party to authorize it to make, deliver and carry out the terms of this Agreement have been or will be duly and properly taken by each party and this Agreement is the legal, valid and binding obligation of the parties and is enforceable in accordance with its terms. This agreement may be executed in counterparts, which shall constitute an original.

WITNESS the signature of the parties hereto after first being approved by the respective governing authorities.

A copy of the signed agreement is attached to these minutes.

AGREEMENT WITH ATHLETIC HOUSE

Nick Manley, City Attorney, presented this item to the Board.

Mr. Manley stated that this is a lease agreement with Athletic House (f/k/a Smith Brumley) and is done pursuant to Miss. Code 57-7-1 due to the economic impact of a sports merchandise entity. The terms are very similar to the previous lease and the rent is different amounts for various months with a total rent of \$19,600.00 per year. The Athletic House is responsible for indemnifying the City and has provided the insurance certificate with the City listed as an additional insured. In addition, any material additions (exceeding \$5,000.00) or material improvements (exceeding \$1,000.00) must be approved by City. Alderman Payne made the motion to authorize Mayor Musselwhite to sign the agreement. Motion was seconded by Alderman Brooks. Motion was put to vote and passed unanimously with Alderman Hoots and Alderman Wheeler being absent.

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A copy of the agreement is attached to these minutes.

RESOLUTION TO CLEAN PRIVATE PROPERTY

Mayor Musselwhite introduced the cleaning of property and asked if there were any comments from the Board and there were none. Mayor Musselwhite then asked for any comments from the public and there were none. The Board then considered the following resolution to clean private property:

RESOLUTION GRANTING AUTHORITY TO CLEAN PRIVATE PROPERTY

WHEREAS, the governing authorities of the City of Southaven, Mississippi, have received numerous complaints regarding the parcel of land located at the following address, to-wit:

4112 Triple Crown Loop
1195 McGowan Drive

to the effect that the said parcel of land has been neglected whereby the grass height is in violation and there exist other unsafe conditions and that the parcel of land in the present condition is deemed to be a menace to the public health and safety of the community.

WHEREAS, pursuant to Section 21-19-11 of the Mississippi Code Annotated (1972), the governing authorities of the City of Southaven, Mississippi, provided the owners of the above described parcel of land with notice of the condition of their respective parcel of land and further provided them with notice of a hearing before the Mayor and Board of Aldermen on Thursday, October 4, 2018, by United States mail and by posting said notice, to determine whether or not the said parcel of land were in such a state of uncleanness as to be a menace to the public health and safety of the community.

WHEREAS, none of the owners of the above described parcel of land appeared at the meeting of the Mayor and Board of Aldermen on Tuesday, October 16, 2018, to voice objection or to offer a defense.

NOW, THEREFORE, BE IT HEREBY RESOLVED, by the Mayor and Board of Alderman of the City of Southaven, Mississippi, that the above described parcel of land located at:

4112 Triple Crown Loop
1195 McGowan Drive

is deemed in the existing condition to be a menace to the public health and safety of the community.

BE IT FURTHER RESOLVED that the City of Southaven shall, if the owners of the above described parcel of land do not do so themselves, immediately proceed to clean the respective parcel of land, by the use of

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municipal employees or by contract, by cutting weeds and grass and removing rubbish and other debris.

Following the reading of this Resolution, it was introduced by Alderman Brooks and seconded by Alderman Kelly. The Resolution was then put to a roll call vote and the results were as follows, to-wit:

ALDERMAN	VOTED
Alderman William Brooks	YES
Alderman Kristian Kelly	YES
Alderman Charlie Hoots	ABSENT
Alderman George Payne	YES
Alderman Joel Gallagher	YES
Alderman John David Wheeler	ABSENT
Alderman Raymond Flores	YES

The Resolution, having received a majority vote of all Aldermen present, was declared adopted on this, the 16th day of October, 2018.

PLANNING AGENDA

Planning Agenda presented by Whitney Cook, Director of Planning & Development.

Item #1 Application by Tim Paxton for subdivision approval of the Gardens of Belle Pointe Phase 1 on the north side of Church Road, east of Getwell Road

Mrs. Choat-Cook stated that this application is for the first phase of Belle Pointe Subdivision located on the north side of Church Road between the existing Belle Pointe Subdivision and Snowden Farms. Mrs. Choat-Cook stated that this was recently rezoned to a PUD and per the text, this area had lots ranging in size from 9100 to 20,000 square feet and a heated square footage minimum of 2,000 square feet. Mrs. Choat-Cook stated that there are some open spaces involved with it but there is an HOA set in the plan in which the developer will take on until he hands it over. This application is compliant with all bulk regulations set per the ordinance and was voted unanimously in favor of by the Planning Commission. Alderman Brooks made the motion to approve the application by Tim Paxton. Motion was seconded by Alderman Payne.

Roll call was as follows:

ALDERMAN	VOTED
Alderman Brooks	YES
Alderman Kelly	YES
Alderman Hoots	ABSENT
Alderman Payne	YES
Alderman Gallagher	YES
Alderman Wheeler	ABSENT
Alderman Flores	YES

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Having received a majority of affirmative votes, Mayor Musselwhite declared that the motion was carried on the 16th day of October, 2018.

A copy of the staff report and final plat is attached to these minutes and fully incorporated into these minutes.

Item #2 Application by R & W Developers for subdivision approval of Central Park Sec. P on the west side of Tchulahoma Road, south of Stateline Road

Mrs. Choat-Cook stated that this application is a request for Central Park, Section P located on the west side of Tchulahoma, south side of Stateline Road. This portion is accessed directly off of Rasco Road from the Tchulahoma side. This consists of 12.73 acres submitted with 69 lots, with no open spaces, but it is adjacent to the City Park with a section between lots 933 & 934 that open up into park. This application is compliant with the overall PUD that was approved in the late 1990's. There is no common open space and no HOA as there is nothing to be maintained in this section. This application is compliant with the heated square footages and the minimums required by the PUD and was voted unanimously in favor of by the Planning Commission. Alderman Kelly made the motion to approve the application by R&W Developers. Motion was seconded by Alderman Payne.

Roll call was as follows:

ALDERMAN	VOTED
Alderman Brooks	YES
Alderman Kelly	YES
Alderman Hoots	ABSENT
Alderman Payne	YES
Alderman Gallagher	YES
Alderman Wheeler	ABSENT
Alderman Flores	YES

Having received a majority of affirmative votes, Mayor Musselwhite declared that the motion was carried on the 16th day of October, 2018.

A copy of the staff report, vicinity map, and final plat is attached to these minutes and fully incorporated into these minutes.

Item #3 Application by R & W Developers for subdivision approval of Central Park Sec. O on the west side of Tchulahoma Road, south of Stateline Road

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Mrs. Choat-Cook stated that this application is requesting subdivision approval for Central Park Section O, accessed off of Central Ridge Road, located off of Tchulahoma which is north of the main drive to Central Park. This subdivision consists of 9.6 acres with 35 lots and is compliant with everything approved in the original PUD. There is 1.45 acres at the very end of the cove that is being shown as city preservation area. This preservation area is open space that was agreed upon at the original approval to leave as a natural preservation area and would become an extension of Central Park. Mrs. Choat-Cook explained that there was a previous situation with a lot of tires and debris in that area that the City had to clean up and her recommendation is to approve the application contingent upon investigating the property to determine if the City will be responsible for cleanup. Mayor Musselwhite clarified that the vote was not giving the land to the City as the City does not want it unless the land has a valid purpose. Mrs. Choat-Cook stated that this was approved in the late 1990's and there was a greenbelt system through Central Park that was designated and approved with a PUD to be a City preservation area to the City Park. Mrs. Choat-Cook stated that looking at it historically and the documentation, the land is unusable, has a creek in it, and may be a flood plain. This is something that cannot be used by a development and it was agreed upon with a previous City administration to take it on as a City park area.

Alderman Kelly made the motion to approve the application by R & W Developers for subdivision approval. Motion was seconded by Alderman Brooks.

Mayor Musselwhite made the recommendation to not take the property until a clear plan has been given so that they are not giving the tax payers a bigger burden on useless land.

Ben Smith approached the Board and explained that he presented the PUD to the City in the 90's at the same time that Reeves & Williams donated Central Park. Part of the agreement with donating the Central Park property to the City was that the City would also take the preservation areas.

Mrs. Choat-Cook requested to omit the city preservation area designated and record the lots themselves. Mrs. Choat-Cook stated that she will come back before the board with an update at the next meeting and the Board can then decide if they are going to revise it or leave as is.

Alderman Kelly made the motion to amend the original motion to approve the application for subdivision approval that included the preservation area.

Roll call was as follows:

ALDERMAN	VOTED
Alderman Brooks	YES
Alderman Kelly	YES
Alderman Hoots	ABSENT
Alderman Payne	YES
Alderman Gallagher	YES
Alderman Wheeler	ABSENT
Alderman Flores	YES

Having received a majority of affirmative votes, Mayor Musselwhite declared that the motion was carried on the 16th day of October, 2018.

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Alderman Brooks made the motion to approve the lots for the plat recording, and at this juncture, not approve the preservation area pending further update from the Planning Director. Motion was seconded by Alderman Kelly.

Roll call was as follows:

ALDERMAN	VOTED
Alderman Brooks	YES
Alderman Kelly	YES
Alderman Hoots	ABSENT
Alderman Payne	YES
Alderman Gallagher	YES
Alderman Wheeler	ABSENT
Alderman Flores	YES

Having received a majority of affirmative votes, Mayor Musselwhite declared that the motion was carried on the 16th day of October, 2018.

A copy of the staff report is attached to these minutes and fully incorporated into these minutes.

Item #4 Application by Stanley Thorne for subdivision approval to revise lot 40 of the Southaven First Commercial Subdivision on the west side of Hwy. 51, south of Stateline Road

Mrs. Choat-Cook stated that this an application requesting to revise Lot 40 at Southaven First Commercial Subdivision, Section C. This is on the west side of Highway 51, south of First Commercial Drive. The applicant submitted the plat amending Lot 40, but there is already a lot 40a, 40b, 40c, 40d, and just a random Lot 40. Mrs. Choat-Cook stated that it is compliant, but they asked him to take it out of Southaven First Commercial Section C and create a new subdivision with it, allowing it to have its own individual lots. Applicant was acceptable to those changes and the Planning Commission voted unanimously in favor of it. Alderman Payne made the motion to approve the subdivision application by Stanley Thorne. Motion was seconded by Alderman Brooks.

Roll call was as follows:

ALDERMAN	VOTED
Alderman Brooks	YES
Alderman Kelly	YES
Alderman Hoots	ABSENT
Alderman Payne	YES
Alderman Gallagher	YES
Alderman Wheeler	ABSENT
Alderman Flores	YES

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Having received a majority of affirmative votes, Mayor Musselwhite declared that the motion was carried on the 16th day of October, 2018.

A copy of the staff report is attached to these minutes and fully incorporated into these minutes.

Item #5 Application by North MS Real Estate Mgmt. for subdivision approval of Guaranty Bank Subdivision on the northeast corner of Getwell Road and Nail Road

Mrs. Choat-Cook stated that this is an application for the northeast corner of Getwell Road and Nail Road with approximately 2.8 acres that will be divided in half, 1.4 acres on the hard corner and 1.4 to the north. This will be adjacent to the Snowden House and Amphitheatre property. Mrs. Choat-Cook stated that there are set backs that need cleaned up. The applicant is not showing an ingress/egress and there is no public utilities there. Mayor Musselwhite asked why the applicant was dividing the property and Mrs. Choat-Cook stated that Guaranty Bank would like to locate on the hard corner and sale the property to the north. The applicant needs the 1.4 acres to make it marketable for another purpose. Alderman Brooks made the motion to approve the subdivision application by North MS Real Estate Management. Motion was seconded by Alderman Payne.

Roll call was as follows:

ALDERMAN	VOTED
Alderman Brooks	YES
Alderman Kelly	YES
Alderman Hoots	ABSENT
Alderman Payne	YES
Alderman Gallagher	YES
Alderman Wheeler	ABSENT
Alderman Flores	YES

Having received a majority of affirmative votes, Mayor Musselwhite declared that the motion was carried on the 16th day of October, 2018.

A copy of the staff report is attached to these minutes and fully incorporated into these minutes.

Item #6 Application by Tom Fowlkes for design review approval of a funeral home inside the Desoto Memorial Gardens Cemetery on the north side of Star Landing Road, west of Swinnea Road

Alderman Payne recused himself and left the room.

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Mrs. Choat-Cook stated that this request is for design review approval for the Coleman Funeral Home inside the Desoto Memorial Gardens Cemetery on Starlanding Road on the north side at Swinnea. It is approximately 8,000 square feet and located on 3.08 acres in an agricultural zone and conforms to the residential guidelines of what is surrounding it. Mrs. Choat-Cook stated that they made several amendments to the landscape and photometric design for their outside lighting and they complied with all requests. The Planning Commission voted unanimously to approve with those comments. Alderman Gallagher made the motion to approve the design review application with comments by Tom Fowlkes. Motion was seconded by Alderman Brooks.

Roll call was as follows:

ALDERMAN	VOTED
Alderman Brooks	YES
Alderman Kelly	YES
Alderman Hoots	ABSENT
Alderman Payne	RECUSED
Alderman Gallagher	YES
Alderman Wheeler	ABSENT
Alderman Flores	YES

Having received a majority of affirmative votes, Mayor Musselwhite declared that the motion was carried on the 16th day of October, 2018.

A copy of the staff report is attached to these minutes and fully incorporated into these minutes.

Alderman Payne then returned to the room.

MAYOR'S REPORT

West Precinct Update

Mayor Musselwhite stated that renovations are complete and will be in use and fully occupied on October 26. Mayor Musselwhite added that that it will be great for the City having a police presence on Highway 51.

I-269 Update

Mayor Musselwhite reported that the last leg of I-269 that will connect I-40 and I-55 will be complete. There will be a ceremony at 10:00 a.m. on October 26 by MDOT and as soon as the ceremony is over, the interstate will be open.

City Hall Renovations

Mayor Musselwhite explained that the plan to do renovations at City Hall has been to not borrow money, but to use the money saved over the years by being financially prudent and also by the proceeds from City real estate that we do not have a purpose for anymore. Mayor Musselwhite stated that the building does not represent the City of Southaven and we are the one of the most progressive cities

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in the southeast and the third largest in the state. Mayor Musselwhite stated that there has been talk about doing something to the building for five years and it is time to do something about it. The design two years ago enclosed the lobby, had a two story grand entrance, metal cladding, added woodgrain and brickwork and would be a \$4.3 million dollar project. Mayor Musselwhite explained that he has had discussions with Urban Arch about breaking the project down into phases without duplicating expense. After speaking with the architects, they believe it would be more financially smart to do some of these projects as a bigger group together. The bad news is that instead of the \$750,000 expense they are recommending to spend \$1.7 million with the initial phase. The good news is that changing the design eliminates a lot of the cost. Spending the \$1.7 million, we are done with the major things except for those improvements that can be done gradually by budgeting in Facilities Management. Mayor Musselwhite stated that his recommendation is to move forward using funds from the unassigned fund balance surplus. There was some discussion among the Mayor and Board in regards to options and bringing the building into code.

May Boulevard Bridge Update

Mayor Musselwhite clarified that when he initially brought up the May Boulevard Pedestrian Bridge that he did not have all of the information and asked for discussion among the Board of Alderman. Since that discussion, Mayor Musselwhite stated that it was quoted back to him that some liked the bridge but did not like his idea of building a bridge that was not ADA compliant. Mayor Musselwhite stated that he would never propose a bridge that was not ADA compliant or make a presentation that people in good physical condition could run/walk over the bridge and a person in a wheelchair or using a stroller could cross Getwell Road. Mayor Musselwhite went on to say that Dan Cordell, City Consulting Engineer, is still getting data on the cost of the bridge and once he receives that information will bring it back to the Board.

Update: Mayor Musselwhite stated that the May Boulevard Pedestrian Bridge would be tremendous in connecting the bridge with Snowden Grove Park. The bridge will also get pedestrian connectivity all the way from Central Park to Malone Road, a dramatic change in a short amount of time and will obviously help Silo Square. Mayor Musselwhite stated that the Silo Square developer is interested in the bridge and it would help with the marketability of that development as well. Mayor Musselwhite stated that the suggestion was made that instead of using cash on hand, to possibly go back and re-do the TIF and by state law this can be done.

Mayor Musselwhite explained that a TIF is a Tax Increment Financing Bond with no money changing hands and no City money goes to anyone until buildings are built and infrastructure is put in. A portion of the additional tax revenue that is generated is given back to the private developer to incentivize them to do the development. The total revenue generated by this development is proposed to be \$1.6 million and \$457,000 was going to be used to pay the TIF bond back and that would allow up to \$5 million for the developer.

Mayor Musselwhite stated that they feel comfortable with the preliminary information that the bridge is going to be under \$2 million and if they change the

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TIF Bond to a \$7 million instead of \$5 million on the same 15 year term that makes the payment \$640,000 instead of \$457,000, so this is another viable way to do the bridge without using cash to do it. Mayor Musselwhite stated that the bridge will be a grand way to promote economic development and he is a big advocate for the May Boulevard Pedestrian Bridge.

CITIZEN'S AGENDA

No Citizen's Agenda

PERSONNEL DOCKET

Personnel Docket

October 16, 2018

<u>Payroll Additions</u>	<u>Department</u>	<u>Position Title</u>	<u>Start Date</u>	<u>Rate of Pay</u>
Jeffrey Dunn	Utility	Service Tech	TBD	\$12.00
Kasey Livingston	Fire	Fire Fighter II	TBD	\$15.57
Courvorsier Marion *	Parks	Laborer	10/22/2018	\$11.50
Mary Roberts	Planning	Bldg Permit Clerk	TBD	\$16.00
Johntel Turner **	Parks	Laborer	10/22/2018	\$11.50

*pending 1 pre-emp screening

** pending 2 pre-emp screenings

<u>Pay Adjustments</u>	<u>Previous Classification</u>	<u>New Classification</u>	<u>Effective Date</u>	<u>Proposed Rate of Pay</u>
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<u>Stipend</u>	<u>Type of Stipend</u>	<u>Effective Date</u>	<u>Yearly Amount</u>
<i>Police</i>			
Lance Weems	ACC	10/29/2018	\$600.00

<u>Resignations/Terminations</u>	<u>Department</u>	<u>Current Position Title</u>	<u>Effective Date</u>	<u>Rate of Pay</u>
Colby T. Carroll	Public Works	Operator	10/11/2018	\$15.00
Emily Baggett	Crossing Guard	Police	08/06/2018	\$9.00
Thomas Greene	Crossing Guard	Police	10/16/2018	\$9.00
Anita Hester	Crossing Guard	Police	10/16/2018	\$9.00
JoAnn Loopez	Crossing Guard	Police	10/15/2018	\$9.00
Roy Melton	Crossing Guard	Police	12/31/2017	\$9.00
Andreanne Moore	Crossing Guard	Police	10/16/2018	\$9.00
Angela Tabor	Crossing Guard	Police	10/16/2018	\$9.00

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Alderman Brooks made the motion to approve the Personnel Docket of October 16, 2018 as presented to this Board. Motion was seconded by Alderman Payne.

Roll call was as follows:

ALDERMAN	VOTED
Alderman Brooks	YES
Alderman Kelly	YES
Alderman Hoots	ABSENT
Alderman Payne	YES
Alderman Gallagher	YES
Alderman Wheeler	ABSENT
Alderman Flores	YES

Having received a majority of affirmative votes, Mayor Musselwhite declared that the motion was carried on the 16th day of October, 2018.

CITY ATTORNEY'S LEGAL UPDATE

FY19 Historic DeSoto Foundation Donation Update

Mr. Manley stated that when the FY19 donations were approved in September, the resolution needed to site our local and private, Chapter 9 33 HB1618 as the authority to contribute to the Historic Desoto Foundation. Alderman Flores made the motion to make this addition to the minutes for the Historic DeSoto Foundation. Motion was seconded by Alderman Gallagher.

Roll call was as follows:

ALDERMAN	VOTED
Alderman Brooks	YES
Alderman Kelly	YES
Alderman Hoots	ABSENT
Alderman Payne	YES
Alderman Gallagher	YES
Alderman Wheeler	ABSENT
Alderman Flores	YES

Having received a majority of affirmative votes, Mayor Musselwhite declared that the motion was carried on the 16th day of October, 2018.

JAG Grant

Mr. Manley stated that he needs authorization to sign the JAG legal certification for the JAG Grant. Alderman Gallagher made the motion to authorize Mr. Manley to sign the certification. Motion was seconded by Alderman Kelly.

Roll call was as follows:

ALDERMAN	VOTED
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Alderman Brooks	YES
Alderman Kelly	YES
Alderman Hoots	ABSENT
Alderman Payne	YES
Alderman Gallagher	YES
Alderman Wheeler	ABSENT
Alderman Flores	YES

Having received a majority of affirmative votes, Mayor Musselwhite declared that the motion was carried on the 16th day of October, 2018.

CLAIMS DOCKET

A motion was made by Alderman Payne to approve the Claims Docket of October 16, 2018 in the amount of \$2,964,890.34. Motion was seconded by Alderman Flores.

Excluding voucher numbers:

309656, 309664, 309674, 309697, 309768, 309793, 309798, 309922, 309923, 309931, 310013, 310044, 310054, 310055, 310097, 310114, 310119, 310128, 310133, 310135, 310136, 310329, 310351, 310391, 310409, 310423, 310480, 310483, 310495, 310504

Roll call was as follows:

ALDERMAN	VOTED
Alderman William Brooks	YES
Alderman Kristian Kelly	YES
Alderman Charlie Hoots	ABSENT
Alderman George Payne	YES
Alderman Joel Gallagher	YES
Alderman John David Wheeler	ABSENT
Alderman Raymond Flores	YES

Having received a majority of affirmative votes, Mayor Musselwhite declared that the motion was carried and approved for payment on the 16th day of October, 2018.

SPECIAL CLAIMS DOCKET

Alderman Payne made the motion to approve the Special Claims Docket of October 16, 2018 in the amount of \$270,518.03. Motion was seconded by Alderman Flores.

Roll call was as follows:

ALDERMAN	VOTED
Alderman William Brooks	YES

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Alderman Kristian Kelly	YES
Alderman Charlie Hoots	ABSENT
Alderman George Payne	YES
Alderman Joel Gallagher	YES
Alderman John David Wheeler	ABSENT
Alderman Raymond Flores	YES

Having received a majority of affirmative votes, Mayor Musselwhite declared that the motion was carried and approved for payment on the 16th day of October, 2018.

EXECUTIVE SESSION

A copy of the Executive Session Minutes are maintained in the City Clerk's Office.

There being no further business to come before the Board of Aldermen, a motion was made by Alderman Brooks to adjourn. Motion was seconded by Alderman Payne. Motion was put to a vote and passed unanimously October 16, 2018 at 7:34 p.m.

Darren Musselwhite,
Mayor

Andrea Mullen,
City Clerk
(Seal)

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