

**MINUTES OF THE REGULAR MEETING  
OF FEBRUARY 1, 2011  
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 Regular Session on the 1<sup>st</sup> day of February, 2011 at six o'clock (6:00) p.m. at City Hall.

**Present were:**

<b>Charles G. Davis</b>	<b>Mayor</b>
<b>Greg Guy</b>	<b>Alderman at Large</b>
<b>Lorine Cady</b>	<b>Alderman, Ward 1</b>
<b>Ronnie Hale</b>	<b>Alderman, Ward 2</b>
<b>George Payne</b>	<b>Alderman, Ward 3</b>
<b>William Brooks</b>	<b>Alderman, Ward 4</b>
<b>Ricky Jobes</b>	<b>Alderman, Ward 5</b>
<b>Randall Huling</b>	<b>Alderman, Ward 6</b>

**Alderman Huling came in later. Also present were Sheila Heath, City Clerk, Chris Wilson, City Administrator, Mark Sorrell, City Attorney and Whitney Choat-Cook, City Planning Director. Approximately twenty five (25) other people were present.**

**Mayor Davis called the meeting to order. Alderman Payne led in prayer, followed by the Pledge of Allegiance led by Alderman Hale. Next, a motion was made by Alderman Cady to approve the minutes of the regular meeting of January 18, 2011 with any corrections, deletions, or additions necessary. Motion seconded by Alderman Jobes. Motion was put to a vote and passed unanimously.**

**CITIZEN'S AGENDA**

**No Citizen's Agenda**

**SURPLUS PROPERTY – SPD**

**Mayor Davis reported that it is the recommendation of Chief Tom Long to surplus the following:**

**1- 2000 Ford Crown Victoria, Unit #1392. V/N 2FAFP71W4YX12392**

**1- 2001 Ford Crown Victoria, Unit #1414. V/N 2FAFP71W81X146608**

**Alderman Brooks made the motion to surplus the vehicles in accordance to State Law and as presented to this Board. Motion was seconded by Alderman Cady. Motion was put to vote and passed unanimously, with Alderman Huling being absent**

**PLANNING AGENDA:**

**Planning Agenda was presented by Whitney Choat-Cook.**

**Item #1 Application by Pope Investment, LLC for design review approval of a pediatric dental facility to be located in the Deerchase Commercial Park**

**North, on the south side of Nail Road, west of Getwell Road. This was approved unanimously by the Planning Commission with some minor changes in landscaping. Motion was made by Alderman Jobes to approve Item #1 as presented. Motion was seconded by Alderman Hale. Motion was put to vote and passed unanimously with Alderman Huling being absent.**

**Item #2 Application by Betty Thomas for subdivision approval for a one lot minor subdivision on the south side of Star Landing Road, east of Old Airways Road. Alderman Jobes made the motion to approve Item #2 as presented. Motion was seconded by Alderman Hale. After a short discussion, motion was put to vote and passed unanimously, with Alderman Huling being absent.**

### **MAYOR'S REPORT**

**Mayor reported that we have received our Standard and Poor's rating and with our bond that we are refinancing, we maintained our AA- rating.**

**Mayor Davis reported that we are at this time repainting the Greenbrook Water Tower. They are going to strip it down and repaint the tower.**

**On Friday, February 4<sup>th</sup> from 2 p.m. -3 p.m., Congressman Alan Nunnelee will be at City Hall for a question / answer period. Mayor encouraged everyone to come by and meet the Congressman.**

**(Alderman Huling came in at this time)**

**Mayor reported that we have a Scrivener's Error on Tackett Commercial Subdivision. On the plate the street is named New Street and it should be called Cowboy Way. Alderman Cady made the motion to approve the Scrivener's Error as presented. Motion was seconded by Alderman Payne. Motion was put to vote and passed unanimously.**

**Mayor Davis asked for the authority to enter into an Interlocal agreement between the City of Southaven and the Horn Lake Creek Water Shed District. This will allow us to get reimbursed up to \$30,000.00 for work that was done in DeSoto Woods Subdivision. Motion was made by Alderman Brooks to enter into the Interlocal Agreement as presented. Motion was seconded by Alderman Cady. Motion was put to vote and passed unanimously.**

**Mayor reported on the Nail Road Interchange. MDOT had a Public Hearing on the Nail Road Interchange, which has a great impact on our City. All of the alternatives, B, C & D do away with the natural flow of traffic on Airways. It will turn it into a lighted intersection. In section B & C, it does not show Ashley Furniture on the drawing. A couple of things Mayor Davis is concerned about is that this would allow an escape route from the mall for criminals and Fire and EMS could have a slower response due to the slower traffic. Mayor Davis asked the Board to approve a Resolution to oppose alternatives B, C & D as presented by MDOT. Mayor Davis reported that we have until February 7<sup>th</sup> to respond to them in writing. Alderman Jobes**

**made the motion to oppose B, C & D as presented. Motion was seconded by Alderman Cady.**

**Roll call was as follows:**

<b>ALDERMAN</b>	<b>VOTED</b>
<b>Alderman Guy</b>	<b>YEA</b>
<b>Alderman Cady</b>	<b>YEA</b>
<b>Alderman Hale</b>	<b>YEA</b>
<b>Alderman Payne</b>	<b>YEA</b>
<b>Alderman Brooks</b>	<b>YEA</b>
<b>Alderman Jobs</b>	<b>YEA</b>
<b>Alderman Huling</b>	<b>YEA</b>

**RESOLUTION OF THE MAYOR AND BOARD OF ALDERMEN  
OF THE CITY OF SOUTHAVEN, MISSISSIPPI DECLARING ITS  
OPPOSITION TO THE PROPOSED IMPROVEMENTS TO NAIL  
ROAD BY THE MISSISSIPPI DEPARTMENT OF  
TRANSPORTATION**

**WHEREAS**, on January 24, 2011, the Mississippi Department of Transportation, hereinafter referred to as ‘MDOT’, held a public hearing to reveal its proposed intent to improve Nail Road;

**WHEREAS**, under MDOT’S proposed Nail Road interchange project, a new east-west connection over and possibly to Interstate 55 (I-55) at Nail Road would be constructed; Nail Road would be extended and widened from Interstate Boulevard west of Interstate 55 (I-55) to Airways Boulevard east of Interstate 55 (I-55); and Pepperchase Drive would be extended to connect to the proposed new Nail Road;

**WHEREAS**, during the public hearing, MDOT presented four (4) alternatives for improving Nail Road, to-wit:

- (1) Alternative “A”: Make no improvements to Nail Road;
- (2) Alternative “B”: Extend and widen Nail Road with a conventional diamond interchange at Interstate 55 (I-55);

- (3) Alternative “C”: Extend and widen Nail Road with a single-point urban interchange at Interstate 55 (I-55); and
- (4) Alternative “D”: Extend and widen Nail Road with no interchange at Interstate 55 (I-55), with only an overpass.

**WHEREAS**, the Mayor and Board of Aldermen for the City of Southaven, Mississippi, declare that MDOT’S proposed improvements to Nail Road as set forth in Alternatives “B”, “C” and “D” would adversely affect public safety, access and revenue for the City of Southaven;

**WHEREAS**, the Mayor and Board of Aldermen for the City of Southaven, Mississippi, specifically declare that MDOT’S proposed Alternatives “B”, “C” and “D” would delay response time of the Southaven Fire Department and EMS; would provide a readily available escape route from the Southaven Towne Center Mall on Airways Boulevard to the proposed Interstate 55 (I-55) interchange; would adversely impact existing businesses in the area, such as Ashley Furniture located near Airways Boulevard and The DeSoto Appeal located on Pepperchase, resulting in a decrease of property and sales taxes for the City of Southaven; would cross through established wetlands in the area and would adversely affect storm water drainage in the Airways area.

**NOW, THEREFORE, BE IT HEREBY RESOLVED** by the Mayor and Board of Alderman of the City of Southaven, Mississippi, that the City of Southaven is opposed to the proposed improvements to Nail Road by “MDOT” as set forth in Proposed Nail Road Improvements Alternatives “B”, “C” and “D”.

**IT IS FURTHER RESOLVED** by the Mayor and Board of Aldermen of the City of Southaven, Mississippi, that “MDOT” seek other alternatives for improving Nail Road that will not adversely affect the current road and surrounding areas.

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

<b>ALDERMEN</b>	<b>VOTED</b>
ALDERMAN GUY	YES
ALDERMAN HALE	YES
ALDERMAN PAYNE	YES
ALDERMAN HULING	YES
ALDERMAN CADY	YES
ALDERMAN BROOKS	YES
ALDERMAN JOBES	YES

**WHEREUPON**, the foregoing Resolution was declared passed and adopted at a regular meeting of the Mayor and Board of Alderman of the City of Southaven, Mississippi, on this, the 1st day of February, 2011.

**Mayor Davis reported that on February 10, 2011, a group of individuals will be going to the State Capital in Jackson and meet with the State Legislators about our 1% Tourism Tax. We will encourage them to approve the tax.**

The Mayor and Board of Aldermen of the City of Southaven, Mississippi (the "City"), took up the matter of the need for local and private legislation authorizing the City to levy an additional one percent (1%) sales tax from the gross income of restaurants within the City limits for the promotion of the City through its parks and recreation. After full discussion of the subject, Alderman Guy offered and moved the adoption of the following resolution.

**RESOLUTION OF THE MAYOR AND BOARD OF ALDERMEN OF THE CITY OF SOUTHAVEN, MISSISSIPPI, REQUESTING THE LEGISLATURE OF THE STATE OF MISSISSIPPI TO ENACT CERTAIN LOCAL AND PRIVATE LEGISLATION.**

**WHEREAS**, the Mayor and Board of Aldermen of the City of Southaven, Mississippi (the "Governing Body" of the "City"), hereby find, determine and declare as follows:

1. For the benefit of the people of the City, the City desires to levy an additional one percent (1%) sales tax from the gross revenues from restaurants within the City limits for the purpose of promoting the City; and

2. A referendum was held on October 5, 2010 by the City whereby the Citizens of the City did overwhelming approve the measure authorizing the City to levy the additional 1% sales tax on the gross revenues of the restaurants within the City; and

3. Based on the desire of the citizens of the City, the Governing Body of the City desires to request the Legislature of the State of Mississippi to enact local and private legislation authorizing the City to levy an additional 1% sales tax from the gross income of restaurants within the City limits for the promotion of the City and its parks and recreation.

**NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY, ACTING FOR AND ON BEHALF OF THE CITY, AS FOLLOWS:**

**SECTION 1.** The Governing Body of the City hereby requests that the Legislators, representing the City, draft and introduce, and that the Legislature of the State of Mississippi enact, local and private legislation authorizing the City to levy an additional 1% sales tax from the gross income of restaurants within the City limits for the promotion of the City and its parks and recreation as outlined in exhibit "A".

**SECTION 2.** That the Clerk is hereby directed to provide a certified copy of this resolution to the Legislators representing the City.

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

Alderman Greg Guy	voted: YEA
Alderman Loraine Cady	voted: YEA
Alderman Ronnie Hale	voted: YEA
Alderman George Payne	voted: YEA
Alderman William Brooks	voted: YEA
Alderman Ricky Jobes	voted: YEA
Alderman Randall Huling	voted: YEA

Having received a majority of affirmative votes, the Mayor declared that the resolution was carried and adopted as set forth above on this the 1<sup>st</sup> day of February 2011.

**COMMITTEE REPORTS:**

**Alderman Cady reported that she is still getting calls on the recycling program. Mayor Davis stated that the City Southaven is picking up cans when residents opt out.**

**CITY ATTORNEY'S LEGAL UPDATE**

No City Attorney Update

**OLD BUSINESS:**

Alderman Jobs asked about the fluoride in our water. Ray Humphrey, Utility Director, stated that the Federal Government sets the range, and we simply keep it in that range. It is not mandated that we put the fluoride in the water, only the amount that goes into it.

**PROGRESS REPORTS:**

No Progress Report

**CLAIMS DOCKET:**

A motion was made by Alderman Jobs to approve the Claims Docket of February 1, 2011, including demand checks and payroll in the amount of \$844,431.41. Motion was seconded by Alderman Guy. There was no further discussion, the motion was put to vote and passed unanimously.

Excluding voucher numbers:

156659, 156748, 156810, 156811, 156943, 156944, 156979, 156991, 157009, 157140, 157196, 157199, 157256.

Roll call was as follows:

<b>ALDERMAN</b>	<b>VOTED</b>
Alderman Guy	YEA
Alderman Cady	YEA
Alderman Hale	YEA
Alderman Payne	YEA
Alderman Brooks	YEA
Alderman Jobs	YEA
Alderman Huling	YEA

Having received a majority of affirmative votes, the Mayor declared that the motion was carried and approved for payment on this the 1<sup>st</sup> day of February, 2011.

**PERSONNEL AND LITIGATION**

Next, motion was made by Alderman Guy, to move for a closed determination of the issue on whether or not to declare an Executive Session. Motion was put to vote and passed unanimously. Alderman Guy made the motion to go into executive session for the purpose of discussing city-wide personnel and potential litigation. Motion was seconded by Alderman Cady. Motion was put to a vote and passed unanimously.

**Mayor called the meeting back to order.**

**Alderman Payne made the motion to approve the changes to the donation leave policy as recommended by the Personnel Committee. Motion was seconded by Alderman Huling. Motion was put to vote and passed unanimously.**

**Next, Alderman Huling made the motion to adopt the light duty policy. Motion was seconded by Alderman Brooks. Motion was put to vote and passed unanimously.**

The purpose of this order is to establish the authority for granting temporary light-duty assignments and to establish procedures for granting temporary light duty to eligible personnel within city departments.

Temporary light-duty assignments, when available, are for officers and other eligible personnel in the department who, because of injury or illness, are temporarily unable to perform their regular assignments but are capable of performing alternative duty assignments. Use of temporary light duty can provide employees with an opportunity to remain productive while convalescing as well as provide a work option for employees who may otherwise risk their health and safety or the safety of others by remaining on duty when physically or mentally unfit for their regular assignment. Therefore, it is the policy of the City of Southaven that eligible personnel be given a reasonable opportunity to work in temporary light-duty assignments when available and consistent with this policy.

**Eligible Personnel:** For purposes of this policy, a sworn or civilian member, suffering from medically certified illness, injury, or condition, who is temporarily unable to perform their regular assignment but is capable of performing alternative assignments.

**Family Medical Leave Act (FMLA):** Federal law providing for up to twelve (12) weeks of leave for eligible workers, for their own serious health condition or other situations as outlined in the law and the City's FMLA policy.

#### GENERAL PROVISIONS

1. Temporary light-duty positions are limited in number, task, variety, and availability. Therefore:
  - a. personnel injured or otherwise disabled in the line of duty may be given preference in initial assignment to light duty; and
  - b. assignments may be changed at any time, with concurrence of the treating physician, if deemed in the best interest of the employee or the agency.
  
2. This policy in no way affects the privileges of employees under provisions of the Family and Medical Leave Act, Fair Labor Standards Act, Americans with Disabilities Act, or other federal or state law.

3. Assignment to temporary light duty shall not affect an employee's pay classification, pay increases, promotions, retirement benefits or other employee benefits.

4. No specific position within a department shall be established for the use as a temporary light-duty assignment, nor shall any existing position be designated or utilized exclusively for personnel on temporary light duty.

5. Light-duty assignments are strictly temporary and will not exceed six (6)-weeks.

(Light duty may be provided for a total six(6)-week allotment in a one year period, with a year being defined as beginning on the first light duty day and ending 12 calendar months after the first light-duty day.) After the six-week period, personnel on temporary light duty who are not capable of returning to their original duty assignment may:

a. Pursue other options as provided by employment provisions under federal or state statute.

6. Officers of the Southaven Police department on temporary light duty are strictly prohibited from engaging in outside employment in which that officer may reasonably be expected to perform law enforcement functions which they have been determined physically or mentally unable to perform on behalf of the department.

7. Officers/employees who are medically prohibited from performing their regularly assigned duties may not engage in outside or "off-duty" employment until approved by the Chief of Police and/or Department Head. Officers/employees shall provide the Chief of Police documentation from their attending physician stating that the outside / off-duty employment is medically permitted.

8. Depending upon the nature and extent of the injury or illness, an employee on temporary light duty may be prohibited or restricted from wearing Southaven Police and/or Southaven Fire departmental uniform, carrying a weapon or otherwise limited in employing police powers as determined by the Chief of Police so long as such limitations are consistent with this policy.

9. Light-duty assignments shall not be made for disciplinary purposes.

10. Officers/employees who incur a duty-related injury and refuse a temporary light- duty assignment may be subject to loss of Worker's Compensation benefits. However, such officers/employees may be covered by FMLA provisions with respect to obtaining leave, whether paid or unpaid, per FMLA.

## B. TEMPORARY LIGHT-DUTY ASSIGNMENTS

1. Temporary light-duty assignments may be drawn from a range of technical and administrative areas that include but are not limited to the following:

- a. administrative functions (e.g. report review, special projects)
- b. clerical functions (e.g. filing)

- c. report taking (e.g. telephone reports)
- d. communications

2. Decisions on temporary light-duty assignments shall be made based upon the availability of an appropriate assignment given the applicant's skills, knowledge and abilities; availability of light duty assignments; and the physical limitations imposed on the officer.

a. When available, the work hours of a Light Duty assignment are subject to need and the availability of necessary equipment or work space.

3. Every effort shall be made to assign officers/employees to positions consistent with their rank and pay classification. However, where deemed appropriate, personnel may be assigned to positions designated for personnel of lower rank or pay classification. Officers/employees thus assigned shall:

a. Retain the privileges of their rank but shall answer to the supervisory personnel of the unit to which they are assigned with regard to work responsibilities and performance; and

b. Retain the pay classification and related benefits of the position held prior to their assignment to temporary light-duty.

#### C. REQUESTS FOR AND ASSIGNMENT TO TEMPORARY LIGHT DUTY

1. Requests for temporary light-duty assignments shall be submitted to the officer's / employee's immediate supervisor. Requests shall be accompanied by a statement of medical certification to support a requested reassignment, which must be signed by the treating physician. The certificate must include an assessment of the nature and probable duration of the injury or illness, prognosis for recovery, nature of work restrictions and an acknowledgement by the health-care provider of familiarity with the light-duty assignment and a statement that the employee can physically assume the duties involved.

2. The request for temporary light duty and the physician's statement shall be forwarded to the appropriate department head. Department head or designee may consult with the City's Human Resources and/or other City Department prior to making a determination regarding the assignment to temporary light-duty.

a. The Department may require the employee to submit to an independent medical examination by a health provider of the Department's choosing. In the event the opinion of this second health care provider differs from the foregoing health provider, the employee may request a third opinion at the employer's expense.

b. The employee and representative of the Department shall cooperate and act in good faith in selecting any third health-care provider, and both parties shall be bound by that medical decision.

3. Employees not eligible for FMLA leave, may be offered a temporary light duty assignment upon submission of a request from the officer's/employee's immediate supervisor or department head.

4. As a condition of assignment to temporary light-duty, employee's may be required to submit to monthly physical assessments of their condition.

**There being no further business to come before the Mayor and Board of Aldermen, a motion was made by Alderman Guy to adjourn. Motion seconded by Alderman Cady. Motion was put to a vote and passed unanimously, February 1, 2011 at 7:00 p.m.**

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**Charles G. Davis**  
**Mayor**

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**Sheila Heath, City Clerk**

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