

MUNICIPAL MINUTES, CITY OF TUPELO
STATE OF MISSISSIPPI

DECEMBER 20, 2011

Be it remembered that the regular meeting of the Tupelo City Council was held in the Council Chambers at the City Hall Building on Tuesday, December 20, 2011, at 6:00 p.m. with the following in attendance: Council Members Markel Whittington, R. Fred Pitts, Jim Newell, Nettie Y. Davis, Mike Bryan and Willie Jennings; City Attorney John S. Hill; and Glenda Muse, Clerk of the Council. Councilman Jonny Davis was absent.

The invocation was led by Annis Newell, wife of Councilman Jim Newell, followed by the Pledge of Allegiance led by Council President Fred Pitts.

IN THE MATTER OF CALLING THE MEETING TO ORDER

President Pitts called the City Council meeting to order at 6:00 p.m.

IN THE MATTER OF CONFIRMATION OR
AMENDMENT OF AGENDA AND AGENDA ORDER

Upon a motion by Councilwoman Davis, seconded by Councilman Whittington, the council voted unanimously of those present to confirm the agenda and agenda order as presented.

4. PROCLAMATIONS, RECOGNITIONS AND REPORTS AGENDA

IN THE MATTER OF RECOGNITION OF BOY/GIRL SCOUTS

No scouts were present for recognition.

IN THE MATTER OF RECOGNITION OF CITY EMPLOYEES

No city employees were present for recognition.

IN THE MATTER OF PUBLIC RECOGNITIONS

Councilman Jennings offered a "Thank you" to the city employees and wished them all, including the Mayor and his council colleagues, a Merry Christmas and a Happy New Year.

IN THE MATTER OF MAYOR'S REPORT

Mayor Reed began his report with the statement that tonight would go down as one of the most important nights in Tupelo's financial history, referring to the funding of a capital budget. All businesses the size of the City of Tupelo operate under an

MUNICIPAL MINUTES, CITY OF TUPELO
STATE OF MISSISSIPPI

DECEMBER 20, 2011

intelligent, well-planned capital budget without large, major purchases being left to the “roller coaster” of an annual budget and revenues. He referred to items such as purchase of fire trucks, big construction projects or equipment needed by the Public Works and Parks and Recreation Departments as well as the construction of a new aquatic center. Deteriorating sections of the city can be addressed as well to make all of Tupelo a safe and good part of the city in which to live. He thanked the members of the City Council who supported this better, smarter way of running the city’s business and hoped to prove to those who did not support it that it will be worth their support in the future.

Next, he announced that the local leaders of cities and county of Lee County, Mississippi, had acted in the best interest of all citizens to fully fund the county’s E-911 service for 2012. The cities raised one-half of the funds and the county raised one-half to insure that emergency services will continue for the welfare of all citizens. The system will be closely monitored during the next year, looking toward 2013.

Finally, Mayor Reed wished all citizens, the City Council and Department Heads, a Merry Christmas and Happy New Year. This community has much to be thankful for and he thanked everyone who had given something to others during this season. The United Way had made its goal and the Salvation Army Angel Tree left no child without. The City Hall employees had donated over 600 cans of food to a local food pantry. He stated he was proud of our city when we are at our best and this Christmas we have been at our best.

(President Pitts then closed the regular meeting and opened the Public Agenda.)

5. PUBLIC AGENDA

5.1 PUBLIC HEARING

5.1.A IN REGARD TO RE-ZONING OF PROPERTY LOCATED AT 826 JEFFERSON STREET

Two individuals responded to this Public Hearing. Realtor Ken Patterson, 603 Danielle Cove, and David King, a resident of 325 N. Park Street. This item appears later on the City Council agenda for consideration. The re-zoning request was denied by the Planning Committee at their November 7, 2011, meeting and the applicant has appealed that decision.

DECEMBER 20, 2011

5.2 CITIZEN'S HEARING

5.2.A IN REGARD TO DOG ORDINANCE

Ms. Krista Williamson, 2012 Fillmore Drive, appeared before the City Council in regard to a proposed aggressive dog ordinance, specifically opposing a breed-specific ordinance which she felt to be discriminatory.

(President Pitts then closed the Public Agenda and the council returned to regular session.)

6. ACTION AGENDA

IN THE MATTER OF REVIEW/APPROVE RESOLUTION DIRECTING SALE OF GENERAL OBLIGATION BONDS, SERIES 2011

Upon a motion by Councilman Whittington, seconded by Councilman Jennings, the council voted as follows to approve the following Resolution:

RESOLUTION DIRECTING THE SALE AND AWARD OF GENERAL OBLIGATION BONDS, SERIES 2011 (THE "BONDS") OF THE CITY OF TUPELO, MISSISSIPPI, DATED DECEMBER 1, 2011, IN THE PRINCIPAL AMOUNT OF THREE MILLION NINE HUNDRED NINETY-FIVE THOUSAND DOLLARS (\$3,995,000); AND A RESOLUTION APPROVING AND AUTHORIZING THE FORM OF, EXECUTION AND DISTRIBUTION OF AN OFFICIAL STATEMENT PERTAINING TO BONDS.

VOTING AYE: Whittington, Pitts, N. Davis, Jennings
VOTING NAY: Newell, Bryan
ABSENT: J. Davis

An executed copy of this Resolution is attached to these minutes and incorporated herein as **APPENDIX A.**

MUNICIPAL MINUTES, CITY OF TUPELO
STATE OF MISSISSIPPI

DECEMBER 20, 2011

7. ROUTINE AGENDA

IN THE MATTER OF REVIEW/APPROVE MINUTES OF REGULAR CITY COUNCIL MEETING

Upon a motion by Councilwoman Davis, seconded by Councilman Newell, the council voted unanimously of those present to approve the minutes of the regular City Council meeting of Tuesday, December 6, 2011.

IN THE MATTER OF REVIEW/PAY BILLS

Upon a motion by Councilman Newell and a second by Councilman Jennings, the council voted unanimously of those present to approve payment of the following checks, bills having been reviewed at 4:30 p.m. by Councilmen Whittington, Pitts, Newell and Jennings:

Check Nos. 97368 through 97739 (Pool Cash Fund)
Electronic transfers as shown on the face of the docket.
Invoices as shown on the face of the docket.
Requests made by AFLAC to reimburse employees under Flex-One Plan
As shown on the face of the docket.

IN THE MATTER OF REVIEW/APPROVE APPOINTMENT OF ASSOCIATE MUNICIPAL COURT JUDGE

Mayor Reed had recommended the appointment of Mr. James L. (Jay) Weir, Jr. as Associate Municipal Court Judge, such appointment to become effective January 1, 2012. Upon a motion by Councilman Bryan, seconded by Councilman Whittington, the council voted unanimously of those present to approve the appointment of Mr. Weir to this position. A copy of his resume is attached to these minutes and incorporated herein as **APPENDIX B.**

IN THE MATTER OF REVIEW/APPROVE APPOINTMENT OF CITY PROSECUTOR

Mayor Reed had recommended the appointment of Mr. Richard J. Babb as City Prosecutor, such appointment to become effective January 1, 2012. Upon a motion by Councilman Bryan and a second by Councilman Jennings, the council voted unanimously of those present to approve the appointment of Mr. Babb to this position. A copy of his resume is attached to these minutes and incorporated herein as **APPENDIX C.**

MUNICIPAL MINUTES, CITY OF TUPELO
STATE OF MISSISSIPPI

DECEMBER 20, 2011

IN THE MATTER OF REVIEW/ACCEPT/REVERSE DECISION OF PLANNING COMMITTEE IN REGARD TO RE-ZONING OF PROPERTY LOCATED AT 826 JEFFERSON STREET

Upon a motion by Councilman Newell and a second by Councilwoman Davis, the council voted unanimously of those present to send the matter of re-zoning of property located at 826 Jefferson Street back to the Planning Committee for further evaluation and consideration.

IN THE MATTER OF REVIEW/APPROVE RESOLUTION OF INTENTION TO INCREASE E-911 FUNDING

Upon a motion by Councilman Whittington and a second by Councilman Newell, the council voted unanimously of those present to approve a Resolution of Intention to Increase E-911 Funding, an executed copy being attached to these minutes as **APPENDIX D**. Municipalities and the Lee County Board of Supervisors had been advised by the Lee County E-911 Commission of funding shortfalls of the program and needed to increase annual revenues by approximately \$500,000. By approval of this resolution, the City Council of Tupelo, Mississippi, approves the funding contributions to the E-911 program as reflected in Exhibit "A" attached to the resolution. An interlocal agreement will be entered into at a later date between Lee County, Mississippi, participating municipalities and the North Mississippi Medical Center setting forth the terms and conditions of the funding contributions.

IN THE MATTER OF REVIEW/APPROVE FACILITIES CHARGE AGREEMENT BETWEEN TUPELO WATER & LIGHT DEPARTMENT AND RITE-KEM, INC.

Upon a motion by Councilman Whittington and a second by Councilman Bryan, the council voted unanimously of those present to approve a Facilities Charge Agreement between the Tupelo Water & Light Department and Rite-Kem, Inc., a manufacturing business in the city. In order to make a significant change to its operation, it is necessary to change overhead electric service at the Rite-Kem facility to underground service. Current overhead lines will not be able to handle the increased load of electric power needed for the new project. The Agreement before the council at this meeting sets forth a payment plan between the Tupelo Water & Light Department and Rite-Kem, Inc. to pay for the additional facilities charge. An executed copy of the Agreement, which is in accordance with the laws of the State of Mississippi, is attached to these minutes and incorporated herein as **APPENDIX E**.

**MUNICIPAL MINUTES, CITY OF TUPELO
STATE OF MISSISSIPPI**

DECEMBER 20, 2011

IN THE MATTER OF REVIEW/APPROVE CONTRACT BETWEEN RONALD FRANKS CONSTRUCTION COMPANY, INC. AND CITY OF TUPELO FOR REPAIR AND RE-HAB OF WATER BOOSTER STATION

The City Council at its November 1, 2011, meeting had approved and awarded the bid for the repair and rehabilitation of a water booster station to Ronald Franks Construction Company, Inc. Upon a motion by Councilman Jennings and a second by Councilman Whittington, the council voted unanimously of those present to approve the attached contract between Ronald Franks Construction Co., LLC, and the City of Tupelo, Mississippi, setting forth the terms to complete this project for a total contract price of \$115,280.00. **APPENDIX F** attached to these minutes and incorporated herein is a copy of the executed contract.

IN THE MATTER OF REVIEW/ACCEPT MINUTES OF TUPELO MAJOR THOROUGHFARE PROGRAM MEETING

Upon a motion by Councilman Bryan, seconded by Councilwoman Davis, the council voted unanimously of those present to accept the minutes of the Tupelo Major Thoroughfare Program meeting of November 14, 2011, a copy being attached hereto as **APPENDIX G.**

IN THE MATTER OF REVIEW/APPROVE CHANGE ORDER FOR DRAINAGE TASK FORCE PROJECTS

Sid Russell, Director of the Tupelo Public Works Department, had presented two change orders for certain drainage task force projects underway in the city, i.e.:

Drainage Improvements 2010 – Change Order 1
Additional pipe installed along Mt. Vernon Road for added slope protection.
Additional Cost: \$16,212.00

Old Belden Circle – Change Order 1
Re-routing of a portion of drainage pipe; quantities revised.
Cost Reduction: \$40,656.49

These two change orders represent an overall savings of \$24,444.49.

Upon a motion by Councilwoman Davis, seconded by Councilman Bryan, the council voted unanimously of those present to approve these two change order as presented by Mr. Russell. Copies of each are attached to these minutes and incorporated herein as **APPENDIX H.**

MUNICIPAL MINUTES, CITY OF TUPELO
STATE OF MISSISSIPPI

DECEMBER 20, 2011

IN THE MATTER OF REVIEW/ACCEPT MINUTES OF TUPELO REDEVELOPMENT AGENCY MEETING

Upon a motion by Councilman Newell, seconded by Councilman Jennings, the council voted unanimously of those present to accept the minutes of the Tupelo Redevelopment Agency meeting of Wednesday, October 26, 2011, a copy being attached hereto as **APPENDIX I.**

IN THE MATTER OF REVIEW/APPROVE MEMORANDUM OF UNDERSTANDING REGARDING THE MISSISSIPPI INTELLECTUAL PROPERTY THEFT TASK FORCE

This item had been tabled at the December 6, 2011, and upon a motion by Councilman Bryan and a second by Councilman Whittington, the council voted unanimously of those present to bring the matter off the table for consideration at this meeting.

Upon a motion by Councilman Newell and a second by Councilman Whittington, the council voted unanimously of those present to reject the Memorandum of Understanding Regarding the Mississippi Intellectual Property Theft Task Force.

IN THE MATTER OF REVIEW/APPROVE OPENING OF NEW BANK ACCOUNT

Kim Hanna, City Clerk, had requested the opening of a bank account at BancorpSouth Bank for the purpose of receiving \$3,995,000 for the General Obligation Bonds issued in 2011. The account will be: City of Tupelo 2011 G O Bonds.

Upon a motion by Councilman Whittington, seconded by Councilman Jennings, the council voted unanimously of those present to approve the opening of this new bank account for the purpose stated.

IN THE MATTER OF REVIEW/ACCEPT MINUTES OF PLANNING COMMITTEE MEETING

Upon a motion by Councilman Whittington, seconded by Councilman Newell, the council voted unanimously of those present to accept the minutes of the Planning Committee meeting of December 5, 2011, a copy being attached hereto as **APPENDIX J.**

MUNICIPAL MINUTES, CITY OF TUPELO
STATE OF MISSISSIPPI

DECEMBER 20, 2011

IN THE MATTER OF REVIEW/APPROVE AMENDMENT NO. 4 TO CONTRACT WITH ESG OPERATIONS, INC.

Upon a motion by Councilwoman Davis, seconded by Councilman Bryan, the council voted unanimously of those present to approve Amendment No. 4 to the Agreement Between ESG Operations, Inc. and Tupelo, Mississippi for Operations, Maintenance and Management Services. The original agreement was entered into between the parties on January 1, 2005. This Amendment No. 4 replaces Article 4.1 of the old agreement which allows for an annual 3% increase, bringing the annual amount for 2012 to \$1,444,266.00. An executed copy of

Amendment No. 4 to the agreement is attached to these minutes and incorporated herein as **APPENDIX K.**

8. STUDY AGENDA

IN THE MATTER OF REVIEW/DISCUSS AMENDMENT TO RESOLUTION PROVIDING FOR AMENDMENT TO EMPLOYEE HANDBOOK CONCERNING BENEFITS CONTINUATION

Upon a motion by Councilman Bryan, seconded by Councilman Whittington, the council voted unanimously of those present to suspend the rules and take action on this item at this meeting.

On October 18, 2011, the city council approved a resolution providing for an amendment to the City of Tupelo Employee Handbook concerning benefits continuation (COBRA). Due to some ambiguity in the aforesaid resolution, the city council has been advised by legal counsel that another document be considered to clear up any misunderstanding that may arise from the prior resolution; thus this action is before the council at this time.

Upon a motion by Councilman Newell, seconded by Councilman Bryan, the council voted unanimously of those present to approve an Amendment to Resolution Providing for Amendment to City of Tupelo Employee Handbook Concerning Benefits Continuation to become effective from and after December 20, 2011. An executed copy of this resolution is attached to these minutes and incorporated herein as **APPENDIX L.**

IN THE MATTER OF REVIEW/DISCUSS RESOLUTION OF INTENT REGARDING LOAN FROM MDA FOR FBO HANGAR IMPROVEMENT

At the request of Council Members Whittington and N. Davis, this item will be moved to the next regular City Council meeting.

MUNICIPAL MINUTES, CITY OF TUPELO
STATE OF MISSISSIPPI

DECEMBER 20, 2011

9. EXECUTIVE SESSION

IN THE MATTER OF EXECUTIVE SESSION

Upon a motion by Councilman Whittington and a second by Councilman Bryan, the council voted unanimously of those present to close the regular meeting to determine the need for an executive session.

Upon a motion by Councilman Bryan, seconded by Councilman Newell, the council voted unanimously of those present to go into executive session to discuss pending litigation.

Upon a motion by Councilman Bryan and a second by Councilman Whittington, the council voted unanimously of those present to come out of executive session with no action to be taken in regular session.

IN THE MATTER OF ADJOURNMENT

There being no further business to come before the council, upon a motion by Councilman Bryan, seconded by Councilman Newell, the council voted unanimously of those present to adjourn the regular City Council meeting at 7:05 p.m.

PRESIDENT

ATTEST:

CLERK OF THE COUNCIL

APPROVED:

MAYOR