

**MINUTES OF THE RECESS MEETING
OF THE MAYOR AND BOARD OF ALDERMEN**

The City of Starkville, Mississippi

Be it remembered that the Mayor and Board of Aldermen met in a Recess Meeting on
August 4, 2009 at 5:30 p.m. in the Courtroom of City Hall,
located at 101 Lampkin Street, Starkville, MS.

There being present were Mayor Parker Wiseman , Alderman Ben Carver Ward 1, Sandra C. Sistrunk
Ward 2, Eric Parker Ward 3, Richard Corey Ward 4, Jeremiah Dumas Ward 5,
Roy A.' Perkins, Ward 6, and Henry N. Vaughn, Sr., Ward 7.

Attending the Mayor and Board was Deputy City Clerk, Tammy R. Tyndall.

1. AN ORDER APPROVING THE OFFICIAL AGENDA OF THE AUGUST 4, 2009 BOARD MEETING WITH AMENDMENTS AS FOLLOWS:

OFFICIAL AGENDA
THE MAYOR AND BOARD OF ALDERMEN
OF THE
CITY OF STARKVILLE, MISSISSIPPI

RECESS MEETING OF TUESDAY, AUGUST 18, 2009
5:30 P.M., CITY HALL COURTROOM,
101 LAMPKIN STREET

PROPOSED CONSENT AGENDA IS PROVIDED AS APPENDIX A ATTACHED

****ITEMS SHOWN IN ITALICS WITH AN ASTERISK HAVE BEEN ADDED, ~~DELETED~~ OR MODIFIED FROM THE ORIGINAL AGENDA.

- I. **CALL THE MEETING TO ORDER**
- II. **PLEDGE OF ALLEGIANCE AND MOMENT OF SILENCE**
- III. **APPROVAL OF THE OFFICIAL AGENDA**
 - A. CONSIDERATION OF THE APPROVAL OF THE CONSENT AGENDA (SEE APPENDIX A)
- IV. **APPROVAL OF THE MINUTES OF THE CITY OF STARKVILLE BOARD OF ALDERMEN**
 - A. REQUEST CONSIDERATION OF THE APPROVAL OF THE MINUTES OF THE RECESS MEETING OF JULY 21, 2009.

V. COMMENTS BY MAYOR AND BOARD OF ALDERMEN

- A. TRAVIS OUTLAW DAY IN THE PARK IS TO BE HELD ON SATURDAY, AUGUST 29, IN MCKEE PARK LOCATED ON LYNN LANE.

VI. CITIZEN COMMENTS

VII. PUBLIC APPEARANCES

- A. PRESENTATION BY JENNIFER GLAZE FROM THE GREATER STARKVILLE DEVELOPMENT PARTNERSHIP REQUESTING THE CITY PARTICIPATE IN AUTHORIZING BANNERS ALONG UNIVERSITY DRIVE AND MAIN STREET

**** B. ~~PRESENTATION BY CLIFF RUSSELL ON THE \$5,000,000 RDA LOAN AUTHORIZED FOR THE CITY OF STARKVILLE AND THE POSSIBILITY OF A TIME EXTENSION REQUEST~~

VIII. PUBLIC HEARING

- A. SECOND PUBLIC HEARING ON AMENDING THE CITY OF STARKVILLE ORDINANCE 2005-2 AND THE CITY OF STARKVILLE CODE OF ORDINANCES, CHAPTER 10, ALCOHOLIC BEVERAGES.

- 1. SPEAKERS FOR PROPOSED CHANGE:

- ALAN COUEY
- BETHANY STICH
- JAY YATES
- ASHLEY MURDOCK
- JIM GAFFORD
- NICK PAPPAS
- GRADY DIXON

- NEUTRAL:
- RICHARD MULLENAX

- 2. SPEAKERS OPPOSED TO PROPOSED CHANGE:

- MARNITA HENDERSON
- BUCK SWAIN
- JULIA WILLIAMS

- **** ~~DOT THOMAS~~
- SAM BULLINGTON
- BOBBY CONLIN

IX. MAYOR'S BUSINESS

- ### A. CONSIDERATION OF ADVERTISING FOR LETTERS OF INTEREST FOR THE OKTIBBEHA COUNTY HERITAGE MUSEUM AND THE OKTIBBEHA COUNTY LIBRARY BOARD OF TRUSTEES TERMS ENDING 09-30-09. (INCLUDED UNDER APPENDIX A)
- B. CONSIDERATION OF AUTHORIZING THE MAYOR TO SIGN THE REQUEST FOR AN EXTENSION ON THE \$5,000,000 RDA LOAN.
- C. CONSIDERATION OF THE APPROVAL OF THE CITY'S PARTICIPATION IN THE INSTALLATION OF BANNERS ALONG MAIN STREET AND UNIVERSITY DRIVE

X. BOARD BUSINESS

- A.. CONSIDERATION OF THE APPROVAL OF ORDINANCE 2009-4, AS AN AMENDMENT TO ORDINANCE 2005-2 AND THE CITY OF STARKVILLE CODE OF ORDINANCES, CHAPTER 10, ALCOHOLIC BEVERAGES, SECTIONS 10-37; 10-38; 10-39.
- B. CONSIDERATION OF THE APPROVAL OF A RESOLUTION AUTHORIZING THE CITY ATTORNEY TO FILE A PETITION ASKING THE STATE TAX COMMISSION FOR AUTHORIZATION TO EXTEND THE SALE OF ALCOHOLIC BEVERAGES TO INCLUDE SUNDAY FROM 11:00 A.M. UNTIL 10:00 P.M.
- C. DISCUSSION OF CELLULAR PHONES ISSUED TO ALDERMEN AT CITY EXPENSE.
- ### D. CONSIDERATION OF APPROVING THE FLYER AS REQUESTED BY THE OKTIBBEHA COUNTY HUMANE SOCIETY FOR DISTRIBUTION IN ELECTRIC DEPARTMENT INVOICES (INCLUDED UNDER APPENDIX A).
- E. DISCUSSION OF THE REQUIREMENTS, OBLIGATIONS AND IMPLICATIONS OF THE ISSUANCE OF THE REMAINING AUTHORIZED BONDS FOR THE CONSTRUCTION OF STREETS AND DRAINAGE.
- ### F. REQUEST BY JACK BRYAN REQUESTING THE WAIVING OF BUILDING PERMIT FEES FOR AN EAGLE SCOUT PAVILION CONSTRUCTION PROJECT AT THE STARKVILLE HIGH SCHOOL TENNIS COURTS (INCLUDED UNDER APPENDIX A).
- ### G. CONSIDERATION OF APPROVING A RESOLUTION TO ADOPT THE HAZARD MITIGATION PLAN FOR THE CITY OF STARKVILLE TO INCLUDE AUTHORIZING THE MAYOR TO SIGN SAID RESOLUTION (INCLUDED UNDER APPENDIX A).
- H. CONSIDERATION OF THE APPROVAL OF A RECYCLING CONTRACT WITH STARKVILLE RECYCLING.
- ### I. CONSIDERATION OF CALLING FOR A PUBLIC HEARING ON THE PROPOSED MUNICIPAL BUDGET FOR THE FISCAL YEAR 2010 (INCLUDED UNDER APPENDIX A).

- **** J. *CONSIDERATION OF THE APPROVAL OF THE INTERLOCAL AGREEMENT BETWEEN THE CITY OF STARKVILLE AND OKTIBBEHA COUNTY FOR A PUBLIC SAFETY INTEROPERABILITY COMMUNICATIONS GRANT.*

XI. DEPARTMENT BUSINESS

A. AIRPORT

1. REQUEST APPROVAL FOR THE ACCEPTANCE OF THE BEST PROPOSAL FROM A RENTAL CAR AGENCY SEEKING TO BE LOCATED AT BRYAN FIELD TO INCLUDE AUTHORIZATION FOR THE CITY ATTORNEY TO NEGOTIATE A CONTRACT WITH THE SELECTED ENTITY.

- **** 2. *REQUEST ACCEPTANCE AND EXECUTION OF THE FAA AIP GRANT NO. 3-28-0068-014-2009 IN THE AMOUNT OF \$3,389,006 FOR THE RUNWAY 18/36 REHABILITATION PROJECT.*

- **** 3. *REQUEST AUTHORIZATION TO AWARD THE CONTRACT FOR RUNWAY 18/36 REHABILITATION PROJECT TO APAC, INC. IN THE AMOUNT OF \$3,445,755.00 FROM FAA AIP GRANT NO. 3-28-0068-014-2009.*

- **** 4. *REQUEST APPROVAL OF THE ENGINEERING CONTRACT FROM CLEARWATER CONSULTANTS, INC. PERTAINING TO RUNWAY 18/36 REHABILITATION IN THE AMOUNT OF \$121,620.00 FROM THE 2009 FAA AIP GRANT, NO. 3-28-0068-014-2009.*

B. BUILDING, CODES AND PLANNING DEPARTMENT

1. CONSIDERATION TO APPROVE P&Z ITEM #RZ 09-04: A REQUEST BY MR. LUTHER HUNTER FOR A ZONING CHANGE FROM R-1 (SINGLE-FAMILY) TO R-6 (MOBILE HOMES/MHP/MHS) LOCATED AT 655 BUTLER ROAD IN WARD 6.

2. CONSIDERATION TO APPROVE P&Z ITEM #CU 09-02: A REQUEST BY MS. NAKESHA WEAVER TO ALLOW A CLASS B GROUP CHILD CARE CENTER IN A C-1 (NEIGHBORHOOD COMMERCIAL) ZONING DISTRICT LOCATED AT 905 LOUISVILLE STREET IN WARD 3.

3. CONSIDERATION TO APPROVE P&Z ITEM #PP 09-03: A REQUEST BY VANCE DEVELOPMENT, LLC, FOR A PRELIMINARY PLAT APPROVAL OF "COUNTRY SIDE" IN AN R-E (RESIDENTIAL ESTATE) ZONING DISTRICT LOCATED ON THE NORTH SIDE OF COUNTRYSIDE DRIVE AT BELVEDERE, WEST OF S. MONTGOMERY STREET, IN WARD 3.

4. CONSIDERATION TO APPROVE ITEM FP 09-03: A REQUEST BY MR. JEREMY TABOR FOR APPROVAL OF "ANNABELLA REVISED FINAL CONDO PLAT" A PREVIOUSLY RECORDED PLAT LOCATED IN AN R-3 (MULTI-FAMILY) ZONING DISTRICT LOCATED AT THE NORTHWESTERN CORNER OF S. MONTGOMERY STREET AND YELLOW JACKET DRIVE IN WARD 3.

C. OFFICE OF THE CITY CLERK

1. REQUEST APPROVAL OF THE CITY OF STARKVILLE CLAIMS DOCKET AS OF AUGUST 13, 2009.

D. COURTS

THERE ARE NO ITEMS FOR THIS AGENDA

E. ELECTRIC DEPARTMENT

THERE ARE NO ITEMS FOR THIS AGENDA

F. ENGINEERING AND STREETS

THERE ARE NO ITEMS FOR THIS AGENDA

G. FIRE DEPARTMENT

THERE ARE NO ITEMS FOR THIS AGENDA

H. PERSONNEL

1. CORRECTION OF THE CLASSIFICATION OF OPERATOR I IN THE DRINKING WATER DIVISION.

I. POLICE DEPARTMENT

1. REQUEST AUTHORIZATION TO ENTER INTO A CONTRACT WITH E-COMMERCE/REPORT BEAM FOR DISTRIBUTION OF TRAFFIC ACCIDENT REPORTS.

- ### 2. REQUEST AUTHORIZATION FOR UNIFORMED STARKVILLE POLICE OFFICERS TO WORK STARKVILLE PUBLIC SCHOOLS AND STARKVILLE ACADEMY ATHLETIC EVENTS AND SECURITY/CROWD CONTROL FOR SKATE ODYSSEY, PURSUANT TO MISSISSIPPI CODE 17-25-11 (INCLUDED UNDER APPENDIX A).

J. PUBLIC SERVICES

1. REQUEST AUTHORIZATION TO ADVERTISE FOR BIDS FOR A USED REPLACEMENT BULLDOZER FOR THE CITY /COUNTY RUBBISH LANDFILL CONTINGENT UPON THE PARTICIPATION OF THE COUNTY IN THE FIVE (5) YEAR LEASE/PURCHASE FINANCING FOR AN ESTIMATED PRICE OF \$200,000.

K. SANITATION DEPARTMENT

THERE ARE NO ITEMS FOR THIS AGENDA

XII. EXECUTIVE SESSION

A. PENDING LITIGATION

B. PERSONNEL

XIII. ADJOURN UNTIL SEPTEMBER 1, 2009 @ 5:30 AT CITY HALL IN THE COURTROOM

APPENDIX A

IX. MAYOR'S BUSINESS

- A. CONSIDERATION OF ADVERTISING FOR LETTERS OF INTEREST FOR THE OKTIBBEHA COUNTY HERITAGE MUSEUM AND THE OKTIBBEHA COUNTY LIBRARY BOARD OF TRUSTEES TERMS ENDING 09-30-09.

X. BOARD BUSINESS

- D. CONSIDERATION OF APPROVING THE FLYER AS REQUESTED BY THE OKTIBBEHA COUNTY HUMANE SOCIETY FOR DISTRIBUTION IN ELECTRIC DEPARTMENT INVOICES.
- F. REQUEST BY JACK BRYAN REQUESTING THE WAIVING OF BUILDING PERMIT FEES FOR AN EAGLE SCOUT PAVILION CONSTRUCTION PROJECT AT THE STARKVILLE HIGH SCHOOL TENNIS COURTS.
- G. CONSIDERATION OF APPROVING A RESOLUTION TO ADOPT THE HAZARD MITIGATION PLAN FOR THE CITY OF STARKVILLE TO INCLUDE AUTHORIZING THE MAYOR TO SIGN SAID RESOLUTION.
- I. CONSIDERATION OF CALLING FOR A PUBLIC HEARING ON THE PROPOSED MUNICIPAL BUDGET FOR THE FISCAL YEAR 2010.

XI. DEPARTMENT BUSINESS

- I. POLICE DEPARTMENT
 - 2. REQUEST AUTHORIZATION FOR UNIFORMED STARKVILLE POLICE OFFICERS TO WORK STARKVILLE PUBLIC SCHOOLS ATHLETIC EVENTS AND SECURITY/CROWD CONTROL FOR SKATE ODYSSEY, PURSUANT TO MISSISSIPPI CODE 17-25-11.

There came for consideration the matter of the approval of the motion approving the Official Agenda of the August 18, 2009, Board meeting with the amendments enumerated above with orders contained in the aforementioned agenda are effectuated upon the approval of said agenda(s). After discussion, and upon the motion of Alderman Eric Parker, duly seconded by Alderman Richard Corey.

The members of the Board present and voting moved unanimous approval of the Official Agenda of the August 18, 2009, board meeting with the amendments enumerated above with orders contained in the aforementioned agenda are effectuated upon the approval.

**2. AN ORDER APPROVING THE CONSENT AGENDA OF THE AUGUST 18, 2009
REGULAR METING OF THE BOARD OF ALDERMEN**

There came for consideration the matter of the approval of the motion to approve the consent agenda as enumerated above. After discussion and upon the motion of Alderman Ricahrd Corey, duly seconded by Alderman Sandra C. Sistrunk,

The members of the Board present and voting moved unanimous approval of the Official Agenda of the August 18, 2009, board meeting with the amendments enumerated above with orders contained in the aforementioned agenda are effectuated upon the approval.

3. AN ORDER APPROVING THE JULY 21, 2009 MINUTES OF THE REGULAR MEETING

There came for consideration the matter of the approval of the motion to approve the minutes of the July 7, 2009 regular meeting of the Mayor and Board of Aldermen. After discussion and upon the motion of Alderman Sandra C. Sistrunk, duly seconded by Alderman Richard Corey,

The members of the Board present and voting moved unanimous approval of the minutes of the July 21, 2009 regular meeting of the Mayor and Board of Aldermen.

COMMENTS BY THE MAYOR AND BOARD

The Mayor addressed the parties present reminding them of Travis Outlaw Day on August 29th at 10:00 AM.

The Mayor gave and update of the curbside recycling efforts stating that "the bags" had gone out for bids and the proposed contract with Starkville Recycling is on the agenda for the evening.

Alderman Dumas clarified that there were two proposed changes to the proposed ordinance on the evening's agenda for consideration of adoption.

CITIZENS COMMENTS

Mr. Alvin Turner resident of Ward 7 addressed the Mayor et al relative some of his concerns regarding the proposed alcohol ordinance and the potential increase in crime.

Mr. Chris Taylor expressed his frustration over the size of the court room and the lack of accommodations thereby created.

Ms. Julia Williamson addressed the Mayor et al as a follow up to her comments at a previous Board meeting regarding the proposed ordinances changes.

Ms. Dorothy Issac addressed the Mayor et al regarding her request to have the sirens tested before the tornado season ended.

Mr. Mark Ivy addressed the Mayor and Board regarding his opposition to the proposed changes to the alcohol ordinance.

Mr. Robert Gunn addressed the Mayor et al regarding the proposed changes to the alcohol.

Ms. Ethel Williams, addressed the Mayor et al regarding the sewer line on Hendrix Road, expressing her frustration regarding the lack of response from the City on repairing her yard after "the work" was completed. Additionally, she asked why the road could not get graded or graveled.

Alderman Perkins addressed the Mayor et al stating that the road (Hendrix Road) is in his ward and that the road was annexed but not designated as a public road. Alderman Perkins noted an order on the minutes regarding the requirements which have yet to be met, required for the road to declared public road.

PUBLIC APPEARANCES:

Jennifer Glaze from the Greater Starkville Development Partnership addressed the Mayor and Board requesting the City's participation in the placement of banners along University Drive and Main Street for a joint program between the City and Mississippi State University.

PUBLIC HEARING:

SECOND PUBLIC HEARING ON AMENDING THE CITY OF STARKVILLE ORDINANCE 2005-2 AND THE CITY OF STARKVILLE CODE OF ORDINANCES, CHAPTER 10, ALCOHOLIC BEVERAGES

The Mayor and Board held the first public hearing Public hearing on the amendment to the beer ordinance 2005-2 and the corresponding code of ordinances Chapter 10, Article II, Sections 10-36 et. seq.

Mayor Wiseman set the parameters of the public hearing noting that speakers will be allowed thirty minutes total speaking time in increments of three minutes per each speaker. Mayor also noted that each person wishing to speak after the allotted time had expired, would be placed on a speakers list for the next public hearing, with said list taking precedence.

After setting the parameters for the public hearing on the amendment to the beer ordinance 2005-2 and the corresponding code of ordinances Chapter 10, Article II, Sections 10-36 et. Seq, Mayor Wiseman opened the floor for comments from the public.

Mr. Richard Mullenax, ward five resident, addressed the Mayor et al stating that he was “neutral” on the sales but was not in favor of the the distance.

MS. Alan Couey addressed the Mayor and Board in support of the proposed ordinance.

Mr. Marnita Henderson addressed the Mayor and Board in opposition to the proposed ordinance.

Ms. Bethany Stich addressed the Mayor and Board in favor of the proposed ordinance.

Ms. Buck Swain addressed the Mayor and Board in opposition to the proposed ordinance.

Mr. Jay Yates addressed the Mayor and Board in favor of the proposed ordinance.

Mr. Stan Ballentine addressed the Mayor and Board in opposition to the proposed ordinance.

Mrs. Ashleigh Murdock addressed the Mayor and Board in favor of the proposed ordinance.

Mr. Bobby Conlin addressed the Mayor and Board in opposition to the proposed ordinance.

Mr. Jim Gafford addressed the Mayor and Board in support of the proposed ordinance.

Mr. Alvin Turner ward seven resident, spoke in opposition of the proposed ordinance.

Mr. Lafrone Proffitt addressed the Mayor and Board in opposition to the proposed ordinance.

Mr. Grady Dixon addressed the Mayor and Board in support of the proposed ordinance.

Mayor Wiseman noted for the record that the following individuals submitted comments via electronic mail:

In favor of the proposed ordinance:

Dr. Gerald Emison, Mr. Grady Dixon and Mr. Robert McMillan.

Opposed to the proposed ordinance:

Mr. and Mrs. Jim Lytle and Mr. Dale Strickland.

Neutral:

Mr. Richard Mullenax and Dr. Dasha Radin.

Inquiry:

Mr. Robbie Coblentz

Upon conclusion of the public comments, the Mayor closed that portion of the public hearing noting that the public was welcome to submit questions and comments to the Board in writing.

Mayor called for questions or comments for the Board which was received as follows:

Alderman Vaughn noted that the majority of the speakers were opposed to the ordinance. Alderman Vaughn read a letter submitted to the local newspaper and reiterated his opposition to the ordinance.

Alderman Perkins reiterated his extreme opposition to the proposed ordinance.

Calling for and hearing no additional comments from anyone, the Mayor adjourned the public hearing and declared a five minute recess.

The meeting reconvened after the five minute recess.

4. AN ORDER APPROVING GRANTING AUTHORIZATION TO THE MAYOR TO SIGN THE REQUEST FOR AN EXTENSION ON THE \$5,000,000 RDA LOAN

There came for consideration the matter of the approval of the motion to grant authorization to the Mayor to send a letter to the USDA requesting the possible extension of the time available for exercising the \$5,000,000 RDA loan for the City of Starkville. After discussion and upon the motion of Alderman Eric Parker, duly seconded by Alderman Richard Corey,

The Board moved unanimous approval of the motion to to grant authorization to the Mayor to send a letter to the USDA requesting the possible extension of the time available for exercising the \$5,000,000 RDA loan for the City of Starkville.

5. AN ORDER APPROVING THE CITY'S PARTICIPATION IN THE INSTALLATION OF BANNERS ALONG MAIN STREET AND UNIVERSITY DRIVE

There came for consideration the matter of the approval of the motion to approve the participation in the placement of banners along University Drive and Main Street for a joint program between the City and Mississippi State University, with the City's participation being that an in-kind service of installation/attachment of the banners to the poles. After discussion and upon the motion of Alderman Richard Corey, duly seconded by Alderman Jeremiah Dumas,

The Board moved unanimous approval of the motion approve the participation in the placement of banners along University Drive and Main Street for a joint program between the City and Mississippi State University, with the City's participation being that of the in-kind service of installation/attachment of the banners to the poles.

6. AN ORDER APPROVING ORDINANCE NUMBER 2009-06 AN ORDINANCE AMENDING ORDINANCE NUMBER 2005-02 OF THE CITY OF STARKVILLE, OKTIBBEHA COUNTY, MISSISSIPPI, AS AMENDED, IN ORDINANCE 2006- 8A, TO INCREASE THE HOURS FOR THE SALE OF ALCOHOLIC BEVERAGES, BEER, AND LIGHT WINE; AND TO ALTER THE DISTANCE REQUIREMENTS IN CONFORMANCE WITH THE STATE TAX COMMISSION

There came for consideration the matter of the approval of the motion to approve Ordinance 2009-6 of the City of Starkville Mississippi as amended in Ordinance Number 2006-8, to increase the hours for the sale of alcoholic beverages, beer and light wine; and to alter the distance requirements in conformance with the State Tax Commission with said ordinance having been reduced to writing. After discussion and upon the motion of Alderman Jeremiah Dumas duly seconded by Alderman Richard Corey,

The motion to approve Ordinance 2009-6 of the City of Starkville Mississippi as amended in Ordinance Number 2006-8, to increase the hours for the sale of alcoholic beverages, beer and light wine; and to alter the distance requirements in conformance with the State Tax Commission with said ordinance having been reduced to writing, was put to a vote with the results as follows:

Alderman Ben Carver	Voted: NAY
Alderman Sandra Sistrunk	Voted: YEA
Alderman Eric Parker	Voted: YEA
Alderman Richard Corey	Voted: YEA
Alderman Jeremiah Dumas	Voted: YEA
Alderman Roy A.' Perkins	Voted: NAY
Alderman Henry Vaughn	Voted: NAY

Having received a majority of the affirmative vote, the Mayor declared to motion passed, approved and adopted; said ordinance is as follows:

ORDINANCE NUMBER 2009-06 AN ORDINANCE AMENDING ORDINANCE NUMBER 2005-02 OF THE CITY OF STARKVILLE, OKTIBBEHA COUNTY, MISSISSIPPI, AS AMENDED, IN ORDINANCE 2006- 8A, TO INCREASE THE HOURS FOR THE SALE OF ALCOHOLIC BEVERAGES, BEER, AND LIGHT WINE; AND TO ALTER THE DISTANCE REQUIREMENTS IN CONFORMANCE WITH THE STATE TAX COMMISSION

WHEREAS, the State of Mississippi has granted to the State Tax Commission extensive regulatory powers and responsibilities over the sale and distribution of alcoholic beverages, beer, and light wine, which have been delegated to the Alcoholic Beverage Control Division under Mississippi Code Annotated §67-1-1, et seq. (1972, as amended) and Mississippi Code Annotated §67-3-1, et seq. (1972, as amended); and

WHEREAS, the authority of a municipality to regulate the sale of beer and light wine is limited by law under Mississippi Code Annotated §67-3-65 (1972, as amended) to enforcing such proper rules and regulations for fixing zones and territories, prescribing hours of opening and closing, and for such other measures as will promote public health, morals, and safety as they may by ordinance provide; and

WHEREAS, the Mayor and Board of Aldermen believe it is in the best interest of the City of Starkville to amend its City Ordinance Number 2005-02 and Ordinance Number 2006-8a under the authority of Mississippi Code Annotated §67-3-65 (1972, as amended) to prescribe hours of opening and closing and to designate territories surrounding churches and schools in which beer and light wine shall not be sold or consumed, and for such other measures as will promote public health and safety, as they may by ordinance provide;

NOW THEREFORE, BE IT ORDAINED, by the Mayor and Board of Aldermen of the City of Starkville that Ordinance Number 2005-02 and Ordinance Number 2006-8a and the City of Starkville Code of Ordinances, Chapter 10, Alcoholic Beverages as adopted, are amended as follows:

Section 2 shall be repealed and replaced with the following language:

Section 2: Privilege License Required.

No beer and light wine shall be sold within the municipal boundaries of the City of Starkville unless the seller has first obtained a retail ABC permit from the Mississippi State Tax Commission under Mississippi Code Annotated §67-3-17 (1972, as amended) and has also obtained a privilege license from the City of Starkville and paid the applicable privilege license fee to be renewed annually;

Section 3 shall be repealed and replaced with the following language:

Section 3: Territory where sale is prohibited.

(a) On-premises Consumption. No beer or light wine shall be sold for on-premises consumption within two hundred fifty (250) feet of the nearest point of the primary building of any church or school property functioning as a church, school, child care facility or funeral home.

Alderman Roy A.' Perkins Voted: NAY

Alderman Henry Vaughn Voted: NAY

ORDAINED AND ADOPTED, this the 18th day of August, A.D., 2009 at the Recess Meeting of the Mayor and Board of Aldermen of the City of Starkville, Mississippi.

PARKER WISEMAN, Mayor
City of Starkville, Mississippi

MARKEETA OUTLAW, City Clerk
City of Starkville, Mississippi

7. AN ORDER APPROVING A RESOLUTION OF THE MAYOR AND BOARD OF ALDERMEN OF THE CITY OF STARKVILLE, MISSISSIPPI, DIRECTING THE CITY ATTORNEY TO PREPARE AND FILE A PETITION TO THE MISSISSIPPI STATE TAX COMMISSION SEEKING EXTENSION OF THE DAYS AND HOURS FOR ON-PREMISES PERMITTEES TO SELL ALCOHOLIC BEVERAGES

There came for consideration the matter of the approval of the motion to approve a resolution directing the city attorney to file a petition asking the State Tax Commission for authorization to extend the sale of alcoholic beverages to include Sunday sales from 11:00 A.M. until 10:00 P.M. After discussion and upon the motion of Alderman Jeremiah Dumas, duly seconded by Alderman Richard Corey,

The motion to approve a resolution directing the city attorney to file a petition asking the State Tax Commission for authorization to extend the sale of alcoholic beverages to include Sunday sales from 11:00 A.M. until 10:00 P.M., was put to a vote with the results as follows:

Alderman Ben Carver Voted: NAY

Alderman Sandra Sistrunk Voted: YEA

Alderman Eric Parker Voted: YEA

Alderman Richard Corey Voted: YEA

Alderman Jeremiah Dumas Voted: YEA

Alderman Roy A.' Perkins Voted: NAY

Alderman Henry Vaughn Voted: NAY

Having received a majority of the affirmative vote, the Mayor declared to motion passed, approved and adopted.

8. AN ORDER REQUEST BY JACK BRYAN REQUESTING THE WAIVING OF BUILDING PERMIT FEES FOR AN EAGLE SCOUT PAVILION CONSTRUCTION PROJECT AT THE STARKVILLE HIGH SCHOOL TENNIS COURTS (INCLUDED UNDER APPENDIX A)

There came for consideration the matter of the approval of the motion to waive the permit fees for the Eagle Scout project of Mr. Jack Bryan for the pavilion at the Starkville High School tennis court. After discussion and upon the motion of Alderman Jeremiah Dumas duly seconded by Alderman Richard Corey,

The Board approved the motion to to waive the permit fees for the Eagle Scout project of Mr. Jack Bryan for the pavilion at the Starkville High School tennis court, with a five to two vote in the affirmative; the opposing votes being cast by Alderman Perkins and Alderman Vaughn.

9. AN ORDER TO NEGOTIATE THE CONTRACT WITH STARKVILLE RECYCLING AS PROVIDED

There came for consideration the matter of the approval of the motion to negotiate the contract (provided in the packet) between the City of Starkville and Starkville Recycling with the final version returned to the full Board for consideration of approval. After discussion and upon the motion of Alderman Jeremiah Dumas duly seconded by Alderman Richard Corey,

The Board unanimously approved the motion to negotiate the contract (provided in the packet) between the City of Starkville and Starkville Recycling with the final version returned to the full Board for consideration of approval; said contract is as follows:

**STATE OF MISSISSIPPI
COUNTY OF OKTIBBEHA
SERVICE CONTRACT FOR ACCEPTANCE OF RECYCLING MATERIALS
FOR THE CITY OF STARKVILLE**

THIS CONTRACT is made and entered into this ___ day of September, 2009, by and between the City of Starkville, Mississippi hereinafter referred to as "City", and Starkville Recycling, Inc. hereinafter referred to as "Contractor".

WITNESSETH:

WHEREAS, The City of Starkville desires to contract for services for the receipt of recycling materials for the City of Starkville Sanitation Department; and

WHEREAS, the City has recognized the services that are locally provided by Starkville Recycling, Inc. , and the contractor filed with the City its privilege license and insurance and has a verbal proposal to perform functions for and on behalf of the City as a private contractor upon certain terms and conditions, and the City has accepted said proposal as the most favorable to its operations.

NOW THEREFORE, in consideration of the premises and the mutual promises and covenants hereinafter contained, the parties agree as follows:

1. Services: The Contractor shall, in good and workmanlike manner and at his own cost and expense, furnish all labor, materials, plant, and equipment not furnished by the City of Starkville Sanitation Department necessary for the complete acceptance of the recycling materials as contained in the City of Starkville recycling program as adopted and outlined by the Board of Aldermen:

2. Contract documents: The Contractor and the City agree that the Requirements of services, the City of Starkville Recycling Program directives, Performance Bond, Specifications, and other items attached hereto, the accompanying interpretations and all additional instructions in explanation of all details and changes which may be furnished to the Contractor as provided herein, are each and all, by reference hereto, incorporated herein and together with this Service Contract constitute the Contract.

3. Performance Bond: The Contractor agrees to execute a performance Bond, in the form attached hereto, in the amount equal and not less than One Hundred Thousand Dollars (\$ 100,000.00). It must be valid throughout the term of the contract to cover any damages up to the amount determined by the City with a surety or sureties satisfactory to the City.

4. Commencement Date: The Contractor shall begin work under this contract on or before a date specified in a written "Notice to Proceed" and shall faithfully execute and fully complete all work as specified in a workmanlike and timely manner.

5. Contract Price: The Contract price set forth under Paragraph 6 following shall represent the total of all sums due the Contractor for work performed under this contract and no order of the City or any of their employees, either verbal or written, shall modify or act as a waiver of the Contract Price and the Contract Price shall not be modified in any fashion except by the execution of the parties hereto of a Contract Amendment, approved by the City and prepared in a form acceptable by the parties hereto which shall automatically modify the Contract Price in accordance with such executed Contract Amendment, after which the amended Contract price will govern until further amended by additional Contract Amendment(s) or termination of the Contract.

6. Terms of Payment: The Contractor shall:

On Wednesday of each month, the Contractor shall prepare to receive the materials delivered by the City of Starkville Sanitation Department. Said materials shall be contained in green specially marked recycling bags provided by the Sanitation Department which have been collected by same throughout the city. The Contractor acknowledges and agrees that the materials contained in said bags will not be sorted and will contain recyclable materials to include paper, newsprint, plastic, steel, aluminum, varying metals, and other materials. The Contractor agrees to accept all recyclables at no charge to the City.

7. Remedies for Breach Non-Exclusive: Neither the inspection of the City or any of their employees, nor any decision, interpretation, order, measurements, or certificate by the City, nor any order by the City for payment of the money, nor any payment for or acceptance of the whole or any part of the work by the City, nor any extension of time, nor any possession taken by the City, nor any right to damages herein provided, nor any waiver of any breach of contract shall be held to be a waiver of any subsequent breach. Any remedy provided in this Contract shall be taken and construed as cumulative; that is, in addition to all other suits, actions, or legal proceedings, the City shall also be entitled as of right to writ of injunction against any breach of any of the provisions of the Contract.

8. Indemnification: The Contractor agrees to indemnify and hold the City of Starkville harmless from any liability of any kind which may occur through its negligence in the performance of this Contract or which may accrue out of the performance of this contract. To that end, the Contractor further agrees to make the City of Starkville an additional named insured on the policy of the insurance required hereunder.

9. Damages for Breach: Should the Contractor default or breach this Contract, as defined herein, the Contractor shall pay upon demand \$5,000.00 as liquidated damages to the City to enable the City to collect said materials and establish a proposal and a resource to collect said recyclables and deliver same to alternate provider. In addition, prejudgment interest on the liquidated damages may be awarded against the Contractor in any action for the breach. This amount of liquidated damages shall be in addition to any funds held by the City at the time of breach as set forth in paragraph four (4).

10. Damages for Equipment Not Returned: Should the Contractor, his agents or assigns fail to return equipment as herein described in paragraph six (6) of the specifications, the Contractor shall pay upon demand \$15,000.00 as liquidated damages to the City to enable the City to immediately replace said equipment in order to enable the City's ability to continue the recycling program. In addition, prejudgment interest on the liquidated damages may be awarded against the Contractor in any action for the breach. Both parties agree that the amount of liquidated damages for failure to return the equipment provided, or to return said equipment in a condition that would prevent its reasonable use by the Department represents an approximate replacement cost. Contractor understands and acknowledges that this liquidated damages clause will cover only the cost of the equipment or Alleycat trailer and will not be reflective of any other costs borne by the City to continue the recycling program.

11. Consequential Damages: Other loss or damage to the City shall be specified in writing to the Contractor within a reasonable period subsequent to the breach (reasonable being contemplated by the parties to be conditioned as not sooner than 45 days after the occurrence of the breach) and all sums, in addition to sums specified in paragraph 9 and 10, if applicable, shall be drawn on the Performance Bond and then the Performance Bond shall be released.

12. Default or breach: Default or breach under this contract shall be defined as: Failure or refusal of Contractor to proceed with work after notice by the Sanitation Department Head to commence or proceed with work. Oral notice is not acceptable. Assignment or sublet of this contract or any part thereof without previous written consent of the City. Unnecessary or unreasonable delay of work under contract. Willful violation of any provisions of the terms of this contract. Failure or refusal to fully complete the work on schedule as specified herein or as extended by the Contractor

13. Liquidated damages: The parties agree that the liquidated damages assessed under this Contract are reasonable under the circumstances and truly and fully represent and accurately reflect the reasonable damage to the City Of Starkville as a result of default or breach described herein and do not represent a penalty to the Contractor.

14. Term: This Contract shall be for a period of time not to extend beyond the swearing in of the newly appointed Board of Aldermen on the first Monday of July 2013, notwithstanding anything else in the contractual agreement. At that time the contract may be canceled without notice until such time a new contract has been approved by the Board of Aldermen that will take office on the first Monday of July 2013. After a period of three (3) years, the contract may be renewed or rebid at the discretion of the City.

15. Termination: Either party to this Contract may terminate the same without cause upon giving the other party sixty (60) days notice in writing of its intention to terminate this Contract.

16. Entire Agreement: This agreement constitutes the entire agreement of the parties with reference to the subject matter hereof and supersedes all prior negotiations, understandings, representations, and agreements, if any. The parties acknowledge that that are entering into this agreement as a result of their own independent investigations and not as a result of any representations of the other party not contained herein.

17. Binding on Personal Representatives: All the terms of this agreement shall be binding upon and inure to the benefit of, and be enforced by, the respective legal representatives of the parties hereto.

18. Attorney's fees: If it becomes necessary for a non-defaulting party to employ an attorney to insure the performance of the terms and conditions of this agreement or to recover damages, then the defaulting party agrees to pay, as part of any judgment, reasonable attorney's fees and court costs.

19. Choice of Law. This agreement shall be construed and enforced according to the laws of the State of Mississippi.

20. Modification of Agreement: This agreement sets forth the entire understanding of the parties hereto, and it may not be changed except by a written document signed by the parties hereto.

IN WITNESS WHEREOF, the parties hereto by their duly authorized representatives executed this Contract.

Parker Wiseman, Mayor
City of Starkville, Mississippi

Stan Shurden
Starkville Recycling, Contractor

10. AN ORDER APPROVING THE INTERLOCAL AGREEMENT BETWEEN THE CITY OF STARKVILLE AND OKTIBBEHA COUNTY FOR A PUBLIC SAFETY INTEROPERABILITY COMMUNICATIONS GRANT

There came for consideration the matter of the approval of the motion to approve the Interlocal Agreement between the City of Starkville and Oktibbeha County for a Public Safety Interoperability Communications Grant. After discussion and upon the motion of Alderman Jeremiah Dumas duly seconded by Alderman Richard Corey,

The Board unanimously approved the motion to approve the Interlocal Agreement between the City of Starkville and Oktibbeha County for a Public Safety Interoperability Communications Grant.

11. AN ORDER TO ACCEPT AND EXECUTE THE FAA AIP GRANT NO. 3-28-0068-014-2009 IN THE AMOUNT OF \$3,389,006 FOR THE RUNWAY 18/36 REHABILITATION PROJECT

There came for consideration the matter of the approval of the motion to accept and execute the FAA AIP Grant number 3-28-0068-014-2009 in the amount of \$3,389,006. After discussion and upon the motion of Alderman Jeremiah Dumas duly seconded by Alderman Richard Corey

The Board unanimously approved the motion to to accept and execute the FAA AIP Grant number 3-28-0068-014-2009 in the amount of \$3,389,006.

12. AN ORDER TO AWARD THE CONTRACT FOR RUNWAY 18/36 REHABILITATION PROJECT TO APAC, INC. IN THE AMOUNT OF \$3,445,755.00 FROM FAA AIP GRANT NO. 3-28-0068-014-2009

There came for consideration the matter of the approval of the motion to award the contract for runway 18/36 rehabilitation project to APAC, Inc. in the amount of \$3,445,755.00 from FAA AIP Grant No. 3-28-0068-014-2009 . After discussion and upon the motion of Alderman Jeremiah Dumas duly seconded by Alderman Richard Corey,

The Board moved unanimous approval of the motion to to award the contract for runway 18/36 rehabilitation project to APAC, Inc. in the amount of \$3,445,755.00 from FAA AIP Grant No. 3-28-0068-014-2009.

13. AN ORDER APPROVING THE ENGINEERING CONTRACT FROM CLEARWATER CONSULTANTS, INC. PERTAINING TO RUNWAY 18/36 REHABILITATION IN THE AMOUNT OF \$121,620.00 FROM THE 2009 FAA AIP GRANT, NO. 3-28-0068-014-2009

There came for consideration the matter of the approval of the motion to approve the engineering contract from Clearwater Consultants, INC. pertaining to runway 18/36 rehabilitation in the amount of \$121,620.00. After discussion and upon the motion of Alderman Jeremiah Dumas, duly seconded by Alderman Richard Corey,

The Board moved unanimous approval of the motion to approve the engineering contract from Clearwater Consultants, INC. pertaining to runway 18/36 rehabilitation in the amount of \$121,620.00.

14. AN ORDER APPROVING P&Z ITEM #RZ 09-04: A REQUEST BY MR. LUTHER HUNTER FOR A ZONING CHANGE FROM R-1 (SINGLE-FAMILY) TO R-6 (MOBILE HOMES/MHP/MHS) LOCATED AT 655 BUTLER ROAD IN WARD 6

There came for consideration the matter of approval of the motion to approve P&Z item #RZ 09-04: a request by Mr. Luther Hunter for a zoning change from R-1 (Single-Family) to R-6 (Mobile Homes/MHP/MHS), located at 655 Butler Road in Ward 6. After discussion and upon the motion of Alderman Roy A. Perkins duly seconded by Alderman Eric Parker,

The Board voted unanimously to approve P&Z item #RZ 09-04: a request by Mr. Luther Hunter for a zoning change from R-1 (Single-Family) to R-6 (Mobile Homes/MHP/MHS), located at 655 Butler Road in Ward 6.

15. AN ORDER TO APPROVE P&Z ITEM #CU 09-02: A REQUEST BY MS. NAKESHA WEAVER TO ALLOW A CLASS B GROUP CHILD CARE CENTER IN A C-1 (NEIGHBORHOOD COMMERCIAL) ZONING DISTRICT LOCATED AT 905 LOUISVILLE STREET IN WARD 3

There came for consideration the matter of the approval of the motion to approve P&Z item #CU 09-02: a request by Ms. Nakesha Weaver to allow a Class B Group Child Care Center in a C-1 (Neighborhood Commercial zoning district, located at 905 Louisville Street in Ward 3. After discussion and upon the motion of Alderman Eric Parker, duly seconded by Alderman Sandra C. Sistrunk,

The Board voted unanimously to approve the motion to approve P&Z item #CU 09-02: a request by Ms. Nakesha Weaver to allow a Class B Group Child Care Center in a C-1 (Neighborhood Commercial zoning district, located at 905 Louisville Street in Ward 3.

16. AN ORDER TO APPROVE APPROVE P&Z ITEM #PP 09-03: A REQUEST BY VANCE DEVELOPMENT, LLC, FOR A PRELIMINARY PLAT APPROVAL OF "COUNTRY SIDE" IN AN R-E (RESIDENTIAL ESTATE) ZONING DISTRICT LOCATED ON THE NORTH SIDE OF COUNTRYSIDE DRIVE AT BELVEDERE, WEST OF S. MONTGOMERY STREET, IN WARD 3

There came for consideration the matter of the approval of the motion to approve P&Z item #PP 09-03: a request by Vance Development, LLC, for a preliminary subdivision plat approval of "Country Side," located on the north side of Countryside Road at Belvedere, west of South Montgomery Street in Ward 3 with the staff recommendations. After discussion and upon the motion of Alderman Jeremiah Dumas, duly seconded by Alderman Eric Parker,

STAFF RECOMMENDATIONS (derived from the City Planner)

The Planning & Zoning Commission's recommendation for approval of the "Country Side" preliminary subdivision plat located on the north side of Countryside Road at Belvedere, west of S. Montgomery Street, would be based on the preliminary plat dated July 31, 2009, the findings of fact and conclusions of this staff report dated August 5, 2009, and the following conditions:

1. The preliminary plat meets the minimum standards for the State of Mississippi, as required by Chapters 13 & 23 of Title 17 of the Mississippi Code of 1972, as amended.
2. The proposed preliminary plat meets the minimum requirements for R-E zoning dimensions.
3. The detention facility shall be positioned on a separate "tract" and a note added to the preliminary plat that the homeowners association shall be responsible for the ownership, perpetual maintenance, operations and general upkeep of the facility to be reflected in the relevant deeds and restrictive covenants.
4. Stream bank Restoration and Erosion protection shall be provided for the existing drainage way that bisects the property.
5. A final plat review and approval shall be required prior to the recording of the plat at the Oktibbeha County Chancery Clerk's Office.

The Board voted unanimously to approve to approve P&Z item #PP 09-03: a request by Vance Development, LLC, for a preliminary subdivision plat approval of "Country Side," located on the north side of Countryside Road at Belvedere, west of South Montgomery Street in Ward 3 with the staff recommendations as enumerated above.

17. AN ORDER TO APPROVE THE CITY OF STARKVILLE CLAIMS DOCKET AS OF AUGUST 13, 2009

There came for consideration the matter of the approval of the motion to approve the claims docket as of August 13, 2009. After discussion and upon the motion of Alderman Richard Corey, duly seconded by Alderman Jeremiah Dumas,

The Board moved unanimous approval of the motion to to approve the claims docket as of August 13, 2009.

18. AN ORDER TO CORRECT THE CLASSIFICATION OF OPERATOR I IN THE DRINKING WATER DIVISION

There came for consideration the matter of the approval of the motion to correct classification for an Operator I is Grade 9, Step 1, and the correct salary is \$26,478.93 (\$12.73 per hour). Ross has all the certifications and meets all requirements for this position. After discussion and upon the motion of Alderman Richard Corey, duly seconded by Alderman Sandra C. Sistrunk,

The Board moved unanimous approval of the motion to to the motion to correct classification for an Operator I is Grade 9, Step 1, and the correct salary is \$26,478.93 (\$12.73 per hour). Ross has all the certifications and meets all requirements for this position.

19. AN ORDER TO MOVE INTO CLOSED SESSION

There came for consideration the matter of the approval of the motion to move into a closed determination session. After discussion and upon the motion of Alderman Richard Corey, duly seconded by Alderman Jeremiah Dumas,

The Board moved unanimous approval of the motion to move into a closed determination session to discuss the need for an executive session.

20. AN ORDER TO MOVE INTO EXECUTIVE SESSION

There came for consideration the matter of the approval of the motion to move into executive session for the discussion for the purpose of the discussion of a personnel matter and potential litigation. After discussion and upon the motion of Alderman Eric Parker duly seconded by Alderman Jeremiah Dumas,

The Board moved unanimous approval of the motion to move into executive session.

21. AN ORDER TO MOVE OUT OF EXECUTIVE SESSION

There came for consideration the matter of the approval of the motion to move out of executive session. After discussion and upon the motion of Alderman Eric Parker duly seconded by Alderman Jeremiah Dumas,

The Board moved unanimous approval of the motion to move out of executive session

A MOTION TO RECESS UNTIL 1:00 PM ON TUESDAY SEPTEMBER 1, 2009

Alderman Roy A.' Perkins moved that the Board of Aldermen recess until 5:30 p.m. on Tuesday September 1, 2009, in the Court Room of City Hall located at 101 Lampkin Street, Starkville, MS. Alderman Jeremiah Dumas, seconded, with the motion carrying unanimously.

PARKER WISEMAN, MAYOR

TAMMY R. TYNDALL,
DEPUTY CITY CLERK

SIGNED AND SEALED THIS ____ DAY OF _____ 2009.