
BE IT REMEMBERED that a Special Meeting of the City Council of Jackson, Mississippi, was called by a majority of the City Council Members and notices having been placed by the Clerk of Council at 2:32 p.m. Wednesday, June 28, 2023 in the Clerk of Council's Office, electronic notifications to all Council Members, on the City's website and on the public bulletin board in City Hall, relative to: (1) Order authorizing the Office of the City Attorney to enter into a Stipulated Order with the United States of America through the Environmental Protection Agency and the State of Mississippi through the Mississippi Department of Environmental Quality in United States of America, et al vs the City of Jackson, Mississippi, Case No. 3:12-cv-790-HTW-LGI, U.S.S.D. MISS. (2) Order authorizing the Office of the City Attorney to retain bond counsel for the limited purpose of providing advice about the Stipulated Order. The meeting was convened in the Council Chambers located at 219 S. President Street at 4:00 p.m. on June 29, 2023 being the fifth Thursday of said month, when and where the following things were had and done to wit:

Present: Council Members: Ashby Foote, Council President, Ward 1; Angelique Lee, Council Vice President, Ward 2 (via teleconference); Kenneth I. Stokes, Ward 3; Brian C. Grizzell, Ward 4; Vernon Hartley, Ward 5; Aaron Banks, Ward 6 and Virgi Lindsay, Ward 7. Directors: Safiya Omari, Chief of Staff; Shanekia Mosley-Jordan, Clerk of the Council; Sabrina Shelby, Chief Deputy Clerk of Council and Catoria Martin, City Attorney.

Absent: None.

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The meeting was called to order by **President Foote**.

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ORDER AUTHORIZING THE OFFICE OF THE CITY ATTORNEY TO ENTER INTO A STIPULATED ORDER WITH THE UNITED STATES OF AMERICA THROUGH THE ENVIRONMENTAL PROTECTION AGENCY AND THE STATE OF MISSISSIPPI THROUGH THE MISSISSIPPI DEPARTMENT OF ENVIRONMENTAL QUALITY IN *UNITED STATES OF AMERICA, ET AL. vs. THE CITY OF JACKSON, MISSISSIPPI, CASE NO. 3:12-cv-790-HTW-LGI, U.S.S.D. MISS.*

WHEREAS, the parties negotiated a Consent Decree in the matter of *United States of America, et al. vs. The City of Jackson, Mississippi*, Civil Action No. 3:12-cv-790 HTW-LGI, U.S.S.D. Miss. on March 1, 2013; and

WHEREAS, while the City has worked diligently to comply with the terms of the Consent Decree, due to severe financial constraints caused by a failed meter modernization project, the COVID-19 Pandemic, declining customer base for its Water-Sewer Utility, and the large proportion of customers with incomes at or below the poverty level, the City has not been able to comply with all the requirements of the Consent Decree; and

WHEREAS, beginning in 2018, the City has been negotiating with the Plaintiffs to modify the Consent Decree to improve the City's ability to comply and account for the challenges facing the City since the entry of the Consent Decree; and

WHEREAS, following the entry of an Interim Stipulated Order in *United States vs. City of Jackson, Mississippi*, Civil Action No. 3:22-cv-686-HTW-LGI, U.S.S.D. Miss. November 29, 2022, the parties to the Clean Water Act Consent Decree determined that the best interests of all parties would be served by placing the operation and maintenance of the City of Jackson's wastewater collection, transmission, and treatment systems ("WCTS") under the authority of an Interim Third-Party Manager ("ITPM"); and

WHEREAS, the proposed Stipulated Order would stay the existing Consent Decree while the Stipulated Order is in effect; and

WHEREAS, the proposed Stipulated Order would place the operation and maintenance of the City of Jackson's WCTS under the authority of Ted Henifin, who is currently the ITPM for the

City's drinking water system (water treatment plants and distribution system) and Water-Sewer Business Administration (WSBA) Division, and who would be an officer of the Court, but would be required to advise, consult, and collaborate with the City of Jackson Public Works Director; and

WHEREAS, under the proposed Stipulated Order, the ITPM would be responsible for paying the cost of operation and maintenance of the WCTS and debt service payments as they come due from the revenue generated through customer billings; and

WHEREAS, the City would transfer to the ITPM ARPA matching funds used to obtain additional matching funds from Mississippi through the Municipality and County Water Infrastructure Grant Program for projects to improve the WCTS; and

WHEREAS, during the Stipulated Order, the ITPM would be focused on addressing 216 Emergency Sewer Failures, which are locations of known SSOs or other conditions indicative of sewer failure that have been prioritized for assessment and repair; and

WHEREAS, the ITPM would also prioritize repairs to the wastewater collection system in and around the Queen Lane subdivisions; and

WHEREAS, the ITPM would also work to complete a list of priority projects designated in the Stipulated Order during the term of the Stipulated Order; and

WHEREAS, the length of the Stipulated Order is anticipated to be four (4) years and, prior to its conclusion, the parties will create a transition plan and complete negotiations for a new or modified Consent Decree; and

WHEREAS, the Office of the City Attorney recommends that the governing authorities authorize the Office of the City Attorney to sign a Stipulated Order on behalf of the City contingent on concurrence by the U.S. Environmental Protection Agency and U.S. Department of Justice and contingent on a favorable memorandum concerning the Stipulated Order from the City's bond counsel.

IT IS, THEREFORE, ORDERED that the Office of the City Attorney is authorized to sign a Stipulated Order on behalf of the City in United States of America, et al. vs. The City of Jackson, Mississippi, Civil Action No. 3:12-cv-790 HTW-LGI, U.S.S.D. Miss., consistent with the terms of the Order presented to the governing authorities.

Council Member Grizzell moved adoption; **Council Member Banks** seconded.

President Foote recognized **Catoria Martin, City Attorney**, who provided a brief overview of said item.

President Foote recognized **Council Member Lindsay** who moved, seconded by **Council Member Hartley** to go into Closed Session to discuss pending litigation for Case No. 3:12-cv-790-HTW-LGI, U.S.S.D. MISS. The motion prevailed by the following vote:

Yeas – Banks, Foote, Grizzell, Hartley, Lee, Lindsay and Stokes.
Nays – None.
Absent – None.

President Foote announced to the public that the Council voted to go into Closed Session to discuss pending litigation.

Note: Vice President Lee left the meeting.

During Closed Session, **Council Member Grizzell** moved and **Council Member Hartley** seconded to go into Executive Session to discuss pending litigation on Case No. 3:12-cv-790-HTW-LGI, U.S.S.D. MISS. The motion prevailed by the following vote:

Yeas – Banks, Foote, Grizzell, Hartley, Lindsay and Stokes.
Nays – None.
Absent – Lee.

Note: Vice President Lee returned to the meeting.

Council Member Banks moved, seconded by **Council Member Grizzell** to come out of Executive Session. The motion prevailed by the following vote:

Yeas – Banks, Foote, Grizzell, Hartley, Lee, Lindsay and Stokes.
Nays – None.
Absent – None.

President Foote announced to the public that the Council voted to come out of Executive Session and action was taken.

During Executive Session, the Council took action on Agenda Item No. 1:

ORDER AUTHORIZING THE OFFICE OF THE CITY ATTORNEY TO ENTER INTO A STIPULATED ORDER WITH THE UNITED STATES OF AMERICA THROUGH THE ENVIRONMENTAL PROTECTION AGENCY AND THE STATE OF MISSISSIPPI THROUGH THE MISSISSIPPI DEPARTMENT OF ENVIRONMENTAL QUALITY IN *UNITED STATES OF AMERICA, ET AL. vs. THE CITY OF JACKSON, MISSISSIPPI*, CASE NO. 3:12-cv-790-HTW-LGI, U.S.S.D. MISS.

WHEREAS, the parties negotiated a Consent Decree in the matter of *United States of America, et al. vs. The City of Jackson, Mississippi*, Civil Action No. 3:12-cv-790 HTW-LGI, U.S.S.D. Miss. on March 1, 2013; and

WHEREAS, while the City has worked diligently to comply with the terms of the Consent Decree, due to severe financial constraints caused by a failed meter modernization project, the COVID-19 Pandemic, declining customer base for its Water-Sewer Utility, and the large proportion of customers with incomes at or below the poverty level, the City has not been able to comply with all the requirements of the Consent Decree; and

WHEREAS, beginning in 2018, the City has been negotiating with the Plaintiffs to modify the Consent Decree to improve the City’s ability to comply and account for the challenges facing the City since the entry of the Consent Decree; and

WHEREAS, following the entry of an Interim Stipulated Order in *United States vs. City of Jackson, Mississippi*, Civil Action No. 3:22-cv-686-HTW-LGI, U.S.S.D. Miss. November 29, 2022, the parties to the Clean Water Act Consent Decree determined that the best interests of all parties would be served by placing the operation and maintenance of the City of Jackson’s wastewater collection, transmission, and treatment systems (“WCTS”) under the authority of an Interim Third-Party Manager (“ITPM”); and

WHEREAS, the proposed Stipulated Order would stay the existing Consent Decree while the Stipulated Order is in effect; and

WHEREAS, the proposed Stipulated Order would place the operation and maintenance of the City of Jackson’s WCTS under the authority of Ted Henifin, who is currently the ITPM for the

City's drinking water system (water treatment plants and distribution system) and Water-Sewer Business Administration (WSBA) Division, and who would be an officer of the Court, but would be required to advise, consult, and collaborate with the City of Jackson Public Works Director; and

WHEREAS, under the proposed Stipulated Order, the ITPM would be responsible for paying the cost of operation and maintenance of the WCTS and debt service payments as they come due from the revenue generated through customer billings; and

WHEREAS, the City would transfer to the ITPM ARPA matching funds used to obtain additional matching funds from Mississippi through the Municipality and County Water Infrastructure Grant Program for projects to improve the WCTS; and

WHEREAS, during the Stipulated Order, the ITPM would be focused on addressing 216 Emergency Sewer Failures, which are locations of known SSOs or other conditions indicative of sewer failure that have been prioritized for assessment and repair; and

WHEREAS, the ITPM would also prioritize repairs to the wastewater collection system in and around the Queen Lane subdivisions; and

WHEREAS, the ITPM would also work to complete a list of priority projects designated in the Stipulated Order during the term of the Stipulated Order; and

WHEREAS, the length of the Stipulated Order is anticipated to be four (4) years and, prior to its conclusion, the parties will create a transition plan and complete negotiations for a new or modified Consent Decree; and

WHEREAS, the Office of the City Attorney recommends that the governing authorities authorize the Office of the City Attorney to sign a Stipulated Order on behalf of the City contingent on concurrence by the U.S. Environmental Protection Agency and U.S. Department of Justice and contingent on a favorable memorandum concerning the Stipulated Order from the City's bond counsel.

IT IS, THEREFORE, ORDERED that the Office of the City Attorney is authorized to sign a Stipulated Order on behalf of the City in United States of America, et al. vs. The City of Jackson, Mississippi, Civil Action No. 3:12-cv-790 HTW-LGI, U.S.S.D. Miss., consistent with the terms of the Order presented to the governing authorities.

Council Member Grizzell moved adoption; **Council Member Banks** seconded.

President Foote recognized **Council Member Banks**; seconded by **Council Member Hartley**, who recommended an amendment in, Section 5., subsection ii., located on page 21 of the Stipulated Order as presented to the City Council is amended to state in its entirety: Discuss the status of implementation and other matters concerning this Stipulated Order with the Court; provided, the ITPM shall submit to all Parties copies of any documents submitted to the Court and the ITPM shall notify and provide all Parties the opportunity to be present or offer a written response to such discussion and be advised of any decision made. The motion prevailed by the following vote:

Yeas – Banks, Foote, Grizzell, Hartley, Lee, Lindsay and Stokes.

Nays – None.

Absent – None.

Thereafter, **President Foote** called for a vote on said Order as amended:

ORDER AUTHORIZING THE OFFICE OF THE CITY ATTORNEY TO ENTER INTO A STIPULATED ORDER WITH THE UNITED STATES OF AMERICA THROUGH THE ENVIRONMENTAL PROTECTION AGENCY AND THE STATE OF MISSISSIPPI THROUGH THE MISSISSIPPI DEPARTMENT OF ENVIRONMENTAL QUALITY IN *UNITED STATES OF AMERICA, ET AL. vs. THE CITY OF JACKSON, MISSISSIPPI*, CASE NO. 3:12-cv-790-HTW-LGI, U.S.S.D. MISS.

WHEREAS, the parties negotiated a Consent Decree in the matter of *United States of America, et al. vs. The City of Jackson, Mississippi*, Civil Action No. 3:12-cv-790 HTW-LGI, U.S.S.D. Miss. on March 1, 2013; and

WHEREAS, while the City has worked diligently to comply with the terms of the Consent Decree, due to severe financial constraints caused by a failed meter modernization project, the COVID-19 Pandemic, declining customer base for its Water-Sewer Utility, and the large proportion of customers with incomes at or below the poverty level, the City has not been able to comply with all the requirements of the Consent Decree; and

WHEREAS, beginning in 2018, the City has been negotiating with the Plaintiffs to modify the Consent Decree to improve the City's ability to comply and account for the challenges facing the City since the entry of the Consent Decree; and

WHEREAS, following the entry of an Interim Stipulated Order in *United States vs. City of Jackson, Mississippi*, Civil Action No. 3:22-cv-686-HTW-LGI, U.S.S.D. Miss. November 29, 2022, the parties to the Clean Water Act Consent Decree determined that the best interests of all parties would be served by placing the operation and maintenance of the City of Jackson's wastewater collection, transmission, and treatment systems ("WCTS") under the authority of an Interim Third-Party Manager ("ITPM"); and

WHEREAS, the proposed Stipulated Order would stay the existing Consent Decree while the Stipulated Order is in effect; and

WHEREAS, the proposed Stipulated Order would place the operation and maintenance of the City of Jackson's WCTS under the authority of Ted Henifin, who is currently the ITPM for the City's drinking water system (water treatment plants and distribution system) and Water-Sewer Business Administration (WSBA) Division, and who would be an officer of the Court, but would be required to advise, consult, and collaborate with the City of Jackson Public Works Director; and

WHEREAS, under the proposed Stipulated Order, the ITPM would be responsible for paying the cost of operation and maintenance of the WCTS and debt service payments as they come due from the revenue generated through customer billings; and

WHEREAS, the City would transfer to the ITPM ARPA matching funds used to obtain additional matching funds from Mississippi through the Municipality and County Water Infrastructure Grant Program for projects to improve the WCTS; and

WHEREAS, during the Stipulated Order, the ITPM would be focused on addressing 216 Emergency Sewer Failures, which are locations of known SSOs or other conditions indicative of sewer failure that have been prioritized for assessment and repair; and

WHEREAS, the ITPM would also prioritize repairs to the wastewater collection system in and around the Queen Lane subdivisions; and

WHEREAS, the ITPM would also work to complete a list of priority projects designated in the Stipulated Order during the term of the Stipulated Order; and

WHEREAS, the length of the Stipulated Order is anticipated to be four (4) years and, prior to its conclusion, the parties will create a transition plan and complete negotiations for a new or modified Consent Decree; and

WHEREAS, Section 5., subsection ii., located on page 21 of the Stipulated Order as presented to the City Council is amended to state in its entirety:

Discuss the status of implementation and other matters concerning this Stipulated Order with the Court; provided, the ITPM shall submit to all Parties copies of any documents submitted to the Court and the ITPM shall notify and provide all Parties the opportunity to be present or offer a written response to such discussion and **be advised of any decision made**; and

WHEREAS, the Office of the City Attorney recommends that the governing authorities authorize the Office of the City Attorney to sign a Stipulated Order on behalf of the City contingent on concurrence by the U.S. Environmental Protection Agency and U.S. Department of Justice and contingent on a favorable memorandum concerning the Stipulated Order from the City’s bond counsel.

IT IS, THEREFORE, ORDERED that the Office of the City Attorney is authorized to sign a Stipulated Order on behalf of the City in United States of America, et al. vs. The City of Jackson, Mississippi, Civil Action No. 3:12-cv-790 HTW-LGI, U.S.S.D. Miss., consistent with the terms of the Order presented to the governing authorities.

Yeas –Banks, Foote, Grizzell, Hartley, Lee and Lindsay.
Nays – Stokes.
Absent – None

Note: Council Member Stokes left the meeting.

ORDER AUTHORIZING THE OFFICE OF THE CITY ATTORNEY TO RETAIN BOND COUNSEL FOR THE LIMITED PURPOSE OF PROVIDING ADVICE ABOUT THE STIPULATED ORDER.

WHEREAS, as negotiations have concluded regarding a proposed Stipulated Order in the Clean Water Act Consent Decree matter, the Office of the City Attorney determined to ensure the City’s obligations with respect to water and sewer revenue general bond resolution covenants are by seeking review of the Stipulated Order by bond counsel; and

WHEREAS, the City of Jackson seeks legal representation from experienced bond counsel with expertise and training to review (1) the 1993 Water and Sewer General Bond Resolution and all amendments and (2) the proposed Stipulated Order negotiated between the City of Jackson and the state and federal government, to provide a bond memorandum as to whether the Stipulated Order allows the City of Jackson to meet its obligations in the general bond resolution of the water and sewer revenue bonds; and

WHEREAS, Jones Walker L.L.P., specifically Aileen Thomas and Christopher Pace, have the expertise and training to provide a swift and reliable bond memorandum; and

WHEREAS, it would be in the best interests of the City to enter into a legal service agreement with Jones Walker L.L.P. in an amount not to exceed \$15,000.00.

IT IS, THEREFORE, ORDERED that the Mayor be authorized to execute an agreement with Jones Walker L.L.P. in an amount not to exceed \$15,000.00 to represent the City in the above referenced matter.

Council Member Lindsay moved adoption; **Council Member Grizzell** seconded.

Yeas – Banks, Foote, Grizzell, Lee and Lindsay.
Nays – None.
Abstention – Hartley.
Absent – Stokes.

**SPECIAL MEETING OF THE CITY COUNCIL
THURSDAY, JUNE 29, 2023 4:00 P.M.**

There being no further business to come before the City Council, the Council stood adjourned until the Special City Council Meeting at 10:00 a.m. on July 3, 2023. At 5:34 p.m., the Council stood adjourned.

PREPARED BY:

Shanekia M. Gordon
CLERK OF COUNCIL

APPROVED:

[Signature], 7/18/2023
COUNCIL PRESIDENT DATE

[Signature]
MAYOR

ATTEST:

Angela Harris
CITY CLERK
