

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 3:15 p.m. Tuesday, July 12, 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. The meeting was convened in the Council Chambers located at 219 S. President Street at 4:00 p.m. on July 12, 2023 being the second Wednesday of said month, when and where the following things were had and done to wit:

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

Absent: None.

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

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 City Council Order of June 29, 2023 Authorizing the Office of the City Attorney Enter into a Stipulated Order with the United States, etc. is rescinded.

IT IS FURTHER 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.

IT IS FURTHER ORDERED that the authority to sign the Stipulated Order is contingent on concurrence in the Stipulated Order by the U.S. Environmental Protection Agency and U.S. Department of Justice, and the Mississippi Department of Environmental Quality and contingent on a favorable memorandum concerning the Stipulated Order from the City's bond counsel.

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

President Banks recognized **Catoria Martin, City Attorney**, who provided a brief overview of said item. After discussion, **President Banks** recognized **Council Member Grizzell** who moved, seconded by **Council Member Lindsay** to go into Closed Session to discuss **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 Banks announced to the public that the Council voted to go into Closed Session to discuss going into Executive Session to discuss litigation.

During Closed Session, **Council Member Grizzell** moved and **Vice President Lee** seconded to go into Executive Session to discuss 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, Lee, Lindsay and Stokes.
Nays – None.
Absent – None.

Council Member Grizzell moved, seconded by **Council Member Lindsay**, 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 Banks 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 (“TPM”); 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.

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IT IS FURTHER ORDERED that the authority to sign the Stipulated Order is contingent on concurrence in the Stipulated Order by the U.S. Environmental Protection Agency and U.S. Department of Justice, and the Mississippi Department of Environmental Quality and contingent on a favorable memorandum concerning the Stipulated Order from the City's bond counsel.

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

Nays – Hartley and Stokes.

Absent – None.

There being no further business to come before the City Council, the Council stood adjourned until the Regular Zoning Meeting at 2:30 p.m. on July 17, 2023. At 4:41 p.m., the Council stood adjourned.

SPECIAL MEETING OF THE CITY COUNCIL
WEDNESDAY, JULY 12, 2023 4:00 P.M.

520

PREPARED BY:

Shanekia Mosley-Jordan
CLERK OF COUNCIL

APPROVED:

[Signature], 8/11/23
COUNCIL PRESIDENT DATE

[Signature]

MAYOR

ATTEST:

[Signature]
CITY CLERK
