

**MINUTES OF THE SPECIAL MEETING
OF SEPTEMBER 9, 2011
OF THE MAYOR AND BOARD OF ALDERMEN
OF THE CITY OF SOUTHAVEN, MISSISSIPPI**

BE IT REMEMBERED that the Mayor and Board of Aldermen of the City of Southaven, Mississippi met in Special Session on the 9th day of September, 2011 at six o'clock (6:00) p.m. at City Hall.

Present were:

Lorine Cady	Alderman, Ward 1
Ronnie Hale	Alderman, Ward 2
George Payne	Alderman, Ward 3
William Brooks	Alderman, Ward 4
Ricky Jobes	Alderman, Ward 5
Randall Huling, Jr.	Alderman, Ward 6

Alderman Huling and Alderman Payne were present via telecommunication. Alderman Guy was absent. Also present were Sheila Heath, City Clerk, Chris Wilson, City Administrator and Mark Sorrell, City Attorney. Approximately ten (10) other people were present.

Mayor Davis called the meeting to order. Alderman Cady led in prayer, followed by the Pledge of Allegiance led by Alderman Jobes.

POTENTIAL LITIGATION

Mayor Davis reported that upon the recommendation of the City Attorney and this Board, that this Board uphold the previous action concerning the noise ordinance. Alderman Cady made this motion. Motion was seconded by Alderman Huling. Motion was put to vote and passed unanimously.

ECONOMIC DEVELOPMENT

**RESOLUTION OF THE MAYOR AND BOARD OF ALDERMEN
OF THE CITY OF SOUTHAVEN, MISSISSIPPI TO AMEND
THE CITY OF SOUTHAVEN CODE OF ORDINANCES,
TITLE X, CHAPTER 2, "NOISE CONTROL," ARTICLE III,
SECTION 10-122, AND ARTICLE IV, SECTION 10-145**

The Mayor and Board of Aldermen of the City of Southaven, Mississippi (the "City"), considered the matter of amending the Southaven Code of Ordinances, specifically, Title X, Chapter 2, "Noise Control," Article III, Section 10-122, and Article IV, Section 10-145 ("Ordinance")

Thereupon Alderman Brooks offered and moved the adoption of the following resolution:

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WHEREAS, the City may regulate certain activities to protect its citizens from noises or sounds; and

WHEREAS, the City's regulations must be clearly and narrowly drawn in a manner that serves the governmental interest without regulating speech content, or creating undue discretion in government officials to restrain speech; and

WHEREAS, the City desires to amend the Ordinance to ensure Constitutional compliance; and

WHEREAS, the Ordinance, as amended, is content neutral, not overly broad, narrowly tailored, provides a judicial safeguard and specific guidelines for the governmental authorities, and serves the legitimate City interest of citizens' peaceful enjoyment.

WHEREAS, the Board further authorizes the Mayor, or his designee, to sign such documents or take actions that are necessary or required for the effectuation of the amended Ordinance.

NOW, THEREFORE, BE IT ORDERED by the Mayor and Board of Aldermen of the City of Southaven, Mississippi as follows, to wit:

1. The Ordinance shall be amended as set forth below:

Sec. 10-122. Specific unlawful noises.

(14) *Music*: The playing of any music by a live band or other instruments or devices utilizing sound amplification equipment in any manner so as to unreasonably disturb the peace and quiet of neighboring persons of ordinary sensibilities in the vicinity thereof.

Sec. 10-145. Issuance of permits.

(a) The chief of police may issue a permit only upon a showing that the activity will not unreasonably disturb the peace and quiet of neighboring persons of ordinary sensibilities within the area within which the noise will carry. A permit may be issued or denied within fifteen (15) days of receipt of

a completed, signed application. The chief of police shall consider the following factors in considering whether to grant such a permit:

- (1) The time of day the activity is to take place. The chief of police shall not issue a permit, pursuant to this section, for any "Music" as set forth in Sec. 10-122(14) which occurs Sunday through Thursday during the hours of 11:00 p.m. and 7:00 a.m. and Friday through Saturday during the hours of 12:00 a.m. and 7:00 a.m.
- (2) The proximity of the activity to residential areas, schools, churches or other meeting places.
- (3) Prior complaints from residents as a result of other similar activities.
- (4) General location of activity.

(b) In the event a permit is denied, the applicant may appeal the decision to the mayor and board of aldermen. Any such appeal shall be taken not more than ten (10) days from denial of a permit by giving notice of the appeal to the city clerk.

2. That the Mayor, or his designee, is hereby authorized to sign such documents or take actions that are necessary or required for the effectuation of the amended Ordinance.

The foregoing Resolution was seconded by Alderman Jobes and brought to a vote as follows:

Alderman Greg Guy	voted: Absent
Alderman Lorine Cady	voted: Yes
Alderman Ronnie Hale	voted: Yes
Alderman George Payne	voted: Yes
Alderman William Brooks	voted: Yes
Alderman Ricky Jobes	voted: Yes
Alderman Randall Huling	voted: Yes

Having received a majority of affirmative votes, the Mayor declared that the Resolution was carried and adopted as set forth above on this the 9th day of September, 2011.

There being no further business to come before the Mayor and Board of Aldermen, a motion was made by Alderman Hale to adjourn. Motion seconded by Alderman Brooks. Motion was put to a vote and passed unanimously, September 9, 2011 at 6:05 p.m.

**Charles G. Davis,
Mayor**

Sheila Heath, City Clerk