

Minutes, City of Southaven, Southaven, Mississippi



MEETING OF THE MAYOR AND BOARD OF ALDERMEN
SOUTHAVEN, MISSISSIPPI
CITY HALL
March 6, 2018
6:00 p.m.
AGENDA

1. Call To Order
2. Invocation
3. Pledge Of Allegiance
4. Approval Of Minutes: February 20, 2018
5. Thomas Mastin Designation of Master Municipal Clerk (MMC) - Awarded by the International Institute of Municipal Clerks (IIMC), Inc.
6. Special Event Permit at Tanger Outlets
7. Contract with NovaCopy, Inc.
8. Resolution for Ordinance for City's Obligations for Streets in Gated Neighborhood and Procedure for Erection of Gates
9. Change Order for MS Valley Blvd. and Hwy. 51 Intersection Modernization
10. Planning Agenda: Item #1 Application by Curt Spencer for subdivision approval of Lakes of Nicholas, Section "L", Phase 1, south of College Road, west of Getwell Road
Item #2 Application by Baptist Memorial Health Care Corp. for subdivision approval to revise Southcrest Subdivision, Lots 10B and 10C, on the west side of Airways Blvd., south of Rasco Road
11. Mayor's Report
12. Citizen's Agenda
13. Personnel Docket
14. City Attorney's Legal Update
15. Claims Docket
16. Executive Session: Litigation involving SPD; Economic Development

Any citizen wishing to comment on the above items may do so.
Items may be added to or omitted from this agenda as needed.

Minutes, City of Southaven, Southaven, Mississippi

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Minutes, City of Southaven, Southaven, Mississippi

MINUTES OF THE REGULAR MEETING OF March 6, 2018 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 Regular Session on the 6th day of March, 2018 at six o'clock (6:00) p.m. at City Hall.

Present were:

William Brooks	Alderman At Large
Kristian Kelly	Alderman, Ward 1
George Payne	Alderman, Ward 3
Joel Gallagher	Alderman, Ward 4
John David Wheeler	Alderman, Ward 5
Raymond Flores	Alderman, Ward 6

Also present were Mayor Musselwhite, Andrea Mullen, City Clerk, Pam Pyle, Deputy City Clerk, and Nick Manley, City Attorney. Approximately forty-five (45) other people were present.

Mayor Musselwhite called the meeting to order. Reverend Bill Beavers with United Methodist Church led in prayer, followed by the Pledge of Allegiance led by Alderman Payne. Next, a motion was made by Alderman Payne to approve the minutes of the regular meeting of February 20, 2018 with any corrections, deletions, or additions necessary. Motion was seconded by Alderman Brooks. Motion was put to a vote and passed unanimously.

THOMAS MASTIN DESIGNATION OF MASTER MUNICIPAL CLERK (MMC) – AWARDED BY THE INTERNATIONAL INSTITUTE OF MUNICIPAL CLERKS (IIMC), INC.

Mayor Musselwhite recognized Thomas Mastin, Municipal Court Clerk, for receiving the designation of Master Municipal Clerk that was awarded by the International Institutes of Municipal Clerks, Inc.

SPECIAL EVENT PERMIT AT TANGER OUTLETS

Nick Manley, City Attorney, presented this item to the Board.

Mr. Manley stated that Tanger Outlets submitted a special event permit to be held at Tanger Outlet Mall for the following:

Hustle Family Day Sunday, March 11, 2018, 3 p.m. to 5 p.m.
Super Hero Saturday, April 14, 2018, 11 a.m. to 3 p.m.

Mr. Manley stated that the Police, Fire and Planning Department have reviewed the application and do not have any concerns / issues. Additionally, there will not be any food vendors on-site for these events. Alderman Flores made the motion

Minutes, City of Southaven, Southaven, Mississippi

to approve the special event permits for both dates. Motion was seconded by Alderman Kelly. Motion was put to vote and passed unanimously.

A copy of the applications are attached to these minutes.

CONTRACT WITH NOVACOPY, INC.

Nick Manley, City Attorney, presented this item to the Board.

Mr. Manley stated that this contract is for a copier / printer for the Planning / Engineering Department and it was the lower of the two quotes received. Alderman Gallagher made the motion to approve the contract and allow Chris Shelton to sign the agreement. Motion was seconded by Alderman Payne. Motion was put to vote and passed unanimously.

A copy of the agreement is attached to these minutes.

RESOLUTION FOR ORDINANCE FOR CITY'S OBLIGATIONS FOR STREETS IN GATED NEIGHBORHOOD AND PROCEDURE FOR ERECTION OF GATES

Nick Manley, City Attorney, presented these items to the Board.

Alderman Brooks made the motion to un-table this item, motion was seconded by Alderman Flores. Motion was put to vote and passed unanimously.

Mayor Musselwhite explained that this will put into the code of ordinances the process that is already being followed by the Planning Department. The only change from the draft that was presented at the February 20th meeting is that 75% of the homeowners would have to sign a petition in favor of the gates before it can go before the Planning Director and then ultimately before the Board of Alderman for approval. Mayor Musselwhite explained that the issue is that if a neighborhood chooses to gate their community and restrict access, their streets will then become private and that this is not a matter of taking the right to gate or not to gate. After hearing from Mayor Musselwhite, the Board of Alderman considered the following resolution:

RESOLUTION FOR ORDINANCE OF THE CITY OF SOUTHAVEN, MISSISSIPPI REGARDING THE CITY OF SOUTHAVEN'S OBLIGATIONS FOR THE STREETS IN GATED NEIGHBORHOODS AND PROCEDURES FOR ERECTION OF GATES

WHEREAS, Section 21-37-3 of the Mississippi Code grants the governing authorities of a municipality the power to exercise full jurisdiction in the matter of streets; and

WHEREAS, Section 21-19-15 of the Mississippi Code also provides in pertinent part that the governing authorities of a municipality shall have the power to make all needful police regulations necessary for the preservation of good order and peace of the municipality, to prevent injury to, destruction of, or interference with public or private property; and

Minutes, City of Southaven, Southaven, Mississippi

WHEREAS, the governing authorities of the City of Southaven find that the installation of public access gates may be allowed under circumstances in which homeowners of residential neighborhoods seek to reduce traffic, deter crime, enhance their sense of community and/or improve their quality of life; and

WHEREAS, the City of Southaven does not have the authority to perform maintenance, upkeep, or repair to streets that are located inside a gate, which gate does not provide full and equal access for all members of the public for use of such streets at all times; and

WHEREAS, the City of Southaven may perform maintenance, upkeep, or repair to those residential streets that are located inside a gate(s), when the gate(s) provide full and equal access to all members of the public to the residential neighborhood streets at all times.

THEREFORE, BE IT ORDAINED BY THE GOVERNING AUTHORITIES OF THE CITY OF SOUTHAVEN, MISSISSIPPI THAT:

SECTION 1: Applicability

This Ordinance shall apply to any residential street within the City of Southaven.

SECTION 2: City of Southaven Responsibility and Accessibility

A. The City shall not perform any maintenance, upkeep, repair, or any other work on a street, when such street is located within the confines of any gate that does not provide full and equal access to all members of the public at all times.

B. The City will maintain residential streets for those streets that are located within the confines of a public access gate only when all gate(s) controlling entry to residential streets provide full and equal access to all members of the public to the streets at all times. In addition, the public access gate(s) shall be marked with signage indicating that it is open to the public. After providing access to all members of the public, if the gate ceases to provide full and equal access to the streets for more than five (5) days during the course of a calendar year, the City maintains the right to not perform any further maintenance, upkeep, repair, or any other work on the subject residential streets.

C. Gates may only be erected in residential neighborhoods, which are defined as one or more of the following: (1) residential areas within the boundary of one homeowner's association; (2) residential areas shown on one or multiple recorded plats with the same or similar name commonly considered or referred to as one neighborhood that may or may not be the same name as the recorded plat(s); or (3) other areas determined by City Planning Department to be distinctive and cohesive. The City Planning Department shall have final authority to determine neighborhood boundaries as necessary for the purpose of administering this ordinance.

D. Gates shall not be erected on or in conflict with any collector or arterial streets as shown on the current Mississippi Department Of Transportation functional classification system map or other streets deemed to be through streets by City Planning Department.

SECTION 3: Prior Approval Required

All applications for gate installations must receive a recommendation from the City Planning Commission before seeking approval of the City Governing Authorities. Each application to the City Planning Commission must contain the following:

- A. Scaled sketch plans, site plans, and photographs showing proposed gate locations, gate dimensions, details of surrounding streetscape elements,

Minutes, City of Southaven, Southaven, Mississippi

including property lines, sidewalks, curblines, lighting, trees, indicating size, tree grates, planters, street signs, underground utilities, and fire hydrants, if relevant.

- B. A formal resolution evidencing the approval of Seventy Five Percent (75%) of the members of the homeowner association. Such resolution shall provide the results of the vote and date of vote.
- C. In lieu of a formal resolution from the homeowners association, a ballot may be sent by mail to all homeowners in the affected neighborhood. If Seventy Five Percent (75%) of the homeowners vote for the access gate, a sworn letter confirming that the vote occurred and results of the vote shall be submitted in place of the resolution.
- D. If there is not a platted subdivision/neighborhood, a petition signed by Seventy Five Percent (75%) of the property owners whose property abuts the public street on which the gate is to be installed or a mailed ballot in which Seventy Five Percent (75%) of the property owners whose property abuts the public street on which the gate is to be installed vote in the affirmative may be submitted.
- F. Written approval from the City Police and City Fire Department and any other additional information required by law, rule, or ordinance, or that any department of the City or City Governing Authorities, or permit applicant reasonably deems appropriate to assist the City in determining whether the permit should be granted. The applicant shall be provided sixty (60) days to supplement the application or additional time as determined by the City Planning Commission. Approval or denial of the application shall be within sixty (60) days of submission to the City Planning Commission.
- G. Upon filing an application a public notice sign, provided by the person or entity making the application shall be posted at all proposed gate location(s) 15 days prior to the City Planning Commission hearing for the proposed gate.

SECTION 4: Design Standards

A. Any request should include specific plans and specifications for the gate design of every element of the gated entry including, but not limited to, gate design, location, pedestrian access, lighting, planting, and signage. All gate installations shall conform to the following provisions:

1. Gates shall be designed in such a way as to avoid damage to existing public infrastructure including road surface, base, and curbing.
2. The gate should be treated as an architectural element matching the form, style, color, and detailing of the adjacent neighborhood buildings. Gate equipment will be either pre-finished in an approved color or painted with an approved color and screened with plant material as required.
3. A turn around space shall be constructed at the expense of the applicant or homeowner's association in an area at a distance in front of the public access gate to allow an average size passenger vehicle to turn around and leave without accessing the gate. Driveways shall not be used as a turnaround space.

Minutes, City of Southaven, Southaven, Mississippi

4. The gate shall have a Fire box and SOS system and/or any other system required by the City, which allow access by emergency vehicles, including fire and police department vehicles. In addition, the homeowners association or applicant shall provide a gate code to the City Police and Fire Department and shall notify E911 Communications if such code is changed. Approach and departure areas on both sides of a gated entrance must provide adequate setbacks and proper alignment to allow free and unimpeded passage of emergency vehicles through the entrance area.
5. The area containing and adjacent to the public access gate shall be sufficiently lighted so that the public access gate may be easily seen at night without any additional light source such as from vehicle or bicycle headlights.
6. All components of the gate system must be maintained in an approved operating condition, with all components serviced and maintained on a regular basis as needed to insure proper gate operation. A proper power supply shall be maintained to all electrical and electronic components at all times.

B. The homeowner's association or applicant shall assume all costs and responsibility for planning, installation, maintenance, and removal of any gate (private or public access), including repair or replacement if the gate malfunctions, becomes inoperable, or is damaged.

C. If the gate is a public access gate open to all members of the public at all times and the City maintains the streets within the gate, the City shall have the right to enter, inspect, disable, open, or remove any device or other feature that implements or controls vehicle access at the sole expense of the applicant or homeowner's association. All gate signage and equipment are subject to periodic inspection by the City and if found to be in a condition of disrepair must be repaired by the applicant or homeowner's association within five (5) calendar days of written notice from the City to the applicant's listed point of contact. Any request for extension of time to repair must be approved, in writing, by City Planning Department. While the gate is under repair it shall remain in an open position at all times.

D. If the gate is a public access gate open to all members of the public at all times and the City maintains the streets within the gate, to protect the interest of the City, the homeowner's association or applicant shall obtain and maintain a policy of liability insurance in an amount of not less than one million dollars (\$1,000,000.00). Said policy will include the City as an additional insured and will indemnify, protect against costs, expenses, damages or judgments associated with and claims arising out of or related to the public access gate. Said policy is to remain in effect until the complete removal of the gate. The homeowner's association or applicant shall file annually a copy of the Certificate of Insurance with the City Clerk.

E. If the gate is a public access gate open to all members of the public at all times and the City maintains the streets within the gate, upon submission of application, to the City Planning Commission, the applicant or homeowner's association shall name an individual who will act as the point of contact for any issues relating to or regarding its gate. The applicant or homeowner's association shall keep on file with the Planning Department the name, telephone number, and email address of the point of contact. Additionally, each applicant shall provide the same information of an alternate to act in the absence of the point of contact.

SECTION 5: Approval and Appeals Process

A. Upon written recommendation for approval or denial from the City Planning Commission, the Planning Director shall place upon the City Board Meeting Agenda its recommendation for the approval or denial of a permit to erect a gate. The City Governing Authorities shall

Minutes, City of Southaven, Southaven, Mississippi

then, by regular or special called meeting, conduct a public hearing in which parties interested and general citizenry shall have an opportunity to be heard.

B. Before the City Governing Authorities holds such a hearing and vote, there shall be an advertisement of the hearing in a paper of general circulation within the City. Said advertisement shall set forth the time and place of the hearing, described the nature of the proposed action. The first publication shall be made at least fifteen (15) calendar days before such hearing. All advertising costs shall be borne by the applicant. Proof of publication shall be provided to the Planning Director five (5) calendar days prior to the scheduled hearing.

C. Any party aggrieved by a recommendation of the Planning Commission may, at the aforementioned public hearing, make known their opinions in support or in opposition to the Commission's recommendation.

SECTION 6: Severability

Should any sentence, paragraph, subdivision, clause, phrase, or section of this ordinance be adjudged or held to be unconstitutional, illegal, or invalid, the same shall not affect the validity of this ordinance as a whole, or any part or provision thereof other than the part so decided to be invalid, illegal, or unconstitutional, and shall not affect the validity of the Code of Ordinances of the City of Southaven, Mississippi as a whole.

NOW, THEREFORE BE IT ORDERED that this Ordinance as set forth above in this Resolution shall take effect one month after passage.

NOW, THEREFORE BE IT ORDERED pursuant to Miss. Code 21-13-11, the City Clerk shall provide notice of the adoption of the Ordinance in the *Desoto Times* one (1) time.

A motion was made by Alderman Payne to adopt the foregoing Resolution. Motion was seconded by Alderman Gallagher and brought to a vote as follows:

Alderman Kristian Kelly	voted: YES
Alderman Joel Gallagher	voted: YES
Alderman George Payne	voted: YES
Alderman William Brooks	voted: YES
Alderman John Wheeler	voted: YES
Alderman Raymond Flores	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 6th day of March, 2018.

CITY OF SOUTHAVEN, MISSISSIPPI

Minutes, City of Southaven, Southaven, Mississippi

CHANGE ORDER FOR MS VALLEY BOULEVARD AND HIGHWAY 51 INTERSECTION MODERNIZATION

Whitney Choat-Cook, Director of Planning & Development, presented this item to the Board.

Mrs. Choat-Cook stated that this is a deductive change order on a final payout with an overall decrease of \$8,079.55 and the contract total for this project is \$181,776.00. Alderman Flores made the motion to approve the deductive change order in the amount of \$8,079.55. Motion was seconded by Alderman Brooks.

Roll call was as follows:

ALDERMAN	VOTED
Alderman Brooks	YES
Alderman Kelly	YES
Alderman Payne	YES
Alderman Gallagher	YES
Alderman Wheeler	YES
Alderman Flores	YES

Having received a majority of affirmative votes, Mayor Musselwhite declared that the motion was carried on the 6th day of March, 2018.

A copy of the change order is attached to these minutes.

PLANNING AGENDA:

Planning Agenda presented by Whitney Cook, Director of Planning & Development.

Item #1 Application by Curt Spencer for subdivision approval of Lakes of Nicholas, Section "L", Phase 1, south of College Road, west of Getwell Road

Mrs. Choat-Cook stated that this application request is for subdivision approval inside the existing Lakes of Nicholas PUD that consists of 18.22 acres. The lots range from 20,000 to 40,000 sq. ft. Mrs. Choat-Cook stated that there is 53 feet of right of way dedication where College Road added into this. There were two adjustments in terms of sewer easements requested. Those adjustments were made and submitted back to the City and Civil Link is satisfied with those changes on the drainage. Alderman Gallagher made the motion to approve the application request by Curt Spencer. Motion was seconded by Alderman Wheeler.

Roll call was as follows:

Minutes, City of Southaven, Southaven, Mississippi

ALDERMAN	VOTED
Alderman Brooks	YES
Alderman Kelly	YES
Alderman Payne	YES
Alderman Gallagher	YES
Alderman Wheeler	YES
Alderman Flores	YES

Having received a majority of affirmative votes, Mayor Musselwhite declared that the motion was carried on the 6th day of March, 2018.

A copy of the staff report is attached to these minutes and fully incorporated into these minutes.

- Item #2 Application by Baptist Memorial Health Care Corp. for subdivision approval to revise Southcrest Subdivision, Lots 10B and 10C, on the west side of Airways Blvd., south of Rasco Road

Mrs. Choat-Cook stated that this is an application request to revise Lot 10B and Lot 10C of the Southcrest Baptist Desoto Subdivision located on the west side of Airways and north side of Southcrest Parkway. There is an existing development on the site and the applicant is requesting to take some of the acreage from 10C and add it into 10B for a sale and development purpose. They will need Lot 10B increased in order to make the site work. Lot 10B will increase from 6 acres to 9 acres and Lot 10C will decrease from 16.17 acres to 13.17 acres. All roadway improvements and right of way dedication are complete so this request is only for revision. Alderman Payne made the motion to approve the application by Baptist Memorial Health Care Corp. Motion was seconded by Alderman Kelly.

Roll call was as follows:

ALDERMAN	VOTED
Alderman Brooks	YES
Alderman Kelly	YES
Alderman Payne	YES
Alderman Gallagher	YES
Alderman Wheeler	YES
Alderman Flores	YES

Having received a majority of affirmative votes, Mayor Musselwhite declared that the motion was carried on the 6th day of March, 2018.

A copy of the staff report is attached to these minutes and fully incorporated into these minutes.

MAYOR'S REPORT

Minutes, City of Southaven, Southaven, Mississippi

Waste Connections Contract

Mayor Musselwhite stated that at the last meeting authorization was given by the Board to enter into negotiations with Waste Connections for sanitation services. Mayor Musselwhite stated that they have reached an agreement and both agree that they have a contract. Mayor Musselwhite requested approval to finalize the agreement once the contract is sent to the City. Alderman Flores made the motion to approve the Waste Connections contract and authorized Mayor Musselwhite to sign the agreement. Motion was seconded by Alderman Wheeler.

Roll call was as follows:

ALDERMAN	VOTED
Alderman Brooks	YES
Alderman Kelly	YES
Alderman Payne	YES
Alderman Gallagher	YES
Alderman Wheeler	YES
Alderman Flores	YES

Having received a majority of affirmative votes, Mayor Musselwhite declared that the motion was carried on the 6th day of March, 2018.

A copy of the contract is attached to these minutes.

Black Balloon Day

Mayor Musselwhite explained that the City of Southaven placed black balloons outside of City buildings today in participation of a collective effort to pay silent tribute to all of those who have lost their battle with addiction. Specifically, opiate addiction is a terrifying trend on a national scale. Mississippi had 211 deaths last year with Desoto County having the highest number in the state. Our Southaven EMS team responds to these life-threatening calls now almost daily. Mayor Musselwhite stated that it's time to call attention to this problem and do something about it and asked to join him in creating more conversation and awareness about this risk to help save the lives of all of our families and friends.

Getwell / Goodman Road Traffic Signal

Mayor Musselwhite stated that the Getwell and Goodman Road turning lane traffic signal has some faulty equipment. The equipment is not faulty at all times, but will randomly malfunction to where the turn lanes specifically going south bound on Getwell will shorten the amount of time. Mayor Musselwhite stated that they are aware that this is causing a major problem with back up on Getwell and they are working with MDOT to get it corrected.

Pot Holes

Mayor Musselwhite reported that it is pothole season and they will be addressing the pothole issues with patching starting today and will overlay next week.

Serve Southaven – 1st Serve Day

Minutes, City of Southaven, Southaven, Mississippi

Mayor Musselwhite reported that there are several churches and other charitable organizations that have become members of the Serve Southaven Program and have many individuals that have offered to donate their time and money for those in need. Mayor Musselwhite explained that Tracy Gallagher was appointed to be the Director of the program and she has continued to do an incredible job for the city by connecting all of those that want to help with those in need. Mayor Musselwhite stated that he was proud to share that the City of Southaven would have the first ever serve day on Saturday, May 5 from 8 a.m. to 12:00 p.m. and the headquarters will be at the Senior Center in the multipurpose building at Snowden Grove. Mayor Musselwhite stated that there will be groups that will pick up litter throughout the City and everyone is welcome to participate.

Serve Southaven Purchase

Pursuant to Miss. Code 17-3-1, which allows for expenditures for the purpose of advertising and bringing into favorable notice the opportunities, possibilities and resources, a motion was made by Alderman Flores to purchase a banner with the Serve Southaven logo on it to use as a back drop for taking photos for Serve Day. Motion was seconded by Alderman Brooks. Motion was put to vote and passed unanimously.

CITIZEN'S AGENDA

No Citizen's Agenda

PERSONNEL DOCKET

Personnel Docket

March 6, 2018

<u>Payroll Additions</u>	<u>Position</u>	<u>Department</u>	<u>Start Date</u>	<u>Rate of Pay</u>
Davis, Eddy G. *	Grounds Crew	Parks 411	3/7/2018	\$8.50
Farris, Danny L. *	Grounds Crew	Parks 411	3/7/2018	\$8.50
Parquet, Kayliv *	Grounds Crew	Parks 411	3/7/2018	\$8.50

*pending 1 pre-emp screening

** pending 2 pre-emp screenings

<u>Pay Adjustments</u>	<u>Previous Classification</u>	<u>New Classification</u>	<u>Effective Date</u>	<u>Proposed Rate of Pay</u>
Code Enforcement Dept				
Austin Toungett	Officer	Supervisor	3/19/2018	\$19.23

<u>Resignations/Terminations</u>	<u>Department</u>	<u>Current Position Title</u>	<u>Effective Date</u>	<u>Rate of Pay</u>
Harold L. Mears	Code Enforcement	Manager	03/16/2018	\$25.09
James B. McClain	Fire	Lieutenant	03/31/2018	\$19.73

Minutes, City of Southaven, Southaven, Mississippi

Alderman Brooks made the motion to approve the Personnel Docket of March 6, 2018 as presented to this Board. Motion was seconded by Alderman Wheeler. The motion was put to vote and passed unanimously.

CITY ATTORNEY'S LEGAL UPDATE

Thompson Power Corporation Contract

Mr. Manley stated that the agreement is for generator preventative maintenance throughout the City and is not subject to bid laws under Miss Code 31-7-1(g) as it is for preventative maintenance and not regularly scheduled maintenance.

Alderman Brooks made the motion to approve the agreement and authorize Mayor Musselwhite to sign. Motion was seconded by Alderman Wheeler. Motion was put to vote and passed unanimously.

A copy of the agreement is attached to these minutes.

CLAIMS DOCKET

A motion was made by Alderman Payne to approve the Claims Docket of March 6, 2018 in the amount of \$3,349,565.44. Motion was seconded by Alderman Flores.

Excluding voucher numbers:

296406, 296433, 296446, 296447, 296519, 296607, 296909, 296915, 296948, 297008, 297042, 297044, 297065, 297084

Roll call was as follows:

ALDERMAN	VOTED
Alderman Brooks	YES
Alderman Kelly	YES
Alderman Payne	YES
Alderman Gallagher	YES
Alderman Wheeler	YES
Alderman Flores	YES

Having received a majority of affirmative votes, Mayor Musselwhite declared that the motion was carried and approved for payment on the 6th day of March, 2018.

EXECUTIVE SESSION

A copy of the Executive Session Minutes are maintained in the City Clerk's Office.

Minutes, City of Southaven, Southaven, Mississippi

There being no further business to come before the Board of Aldermen, a motion was made by Alderman Kelly to adjourn. Motion was seconded by Alderman Wheeler. Motion was put to a vote and passed unanimously March 6, 2018 at 6:50 p.m.

Darren Musselwhite,
Mayor

Andrea Mullen,
City Clerk
(Seal)