

**MINUTES OF THE REGULAR MEETING
OF FEBRUARY 3, 2009
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 3rd day of February, 2009, at six o'clock (6:00) p.m. at City Hall.

Present were:

Charles G. Davis	Mayor
Greg Guy	Alderman, at Large
Lorine Cady	Alderman, Ward 1
James Stark	Alderman, Ward 2
James Loftis	Alderman, Ward 3
Paul Ollar	Alderman, Ward 4
Ricky Jobes	Alderman, Ward 5
Randall Huling	Alderman, Ward 6

Being all of the Officials of the City of Southaven. Also present were Chris Wilson, City Administrator, Glenda Smallwood, City Clerk, Whitney Choat, Planning Director, and Bradley Wallace, Director of Operations. Approximately fifteen (15) other people were present.

Mayor Davis called the meeting to order. Alderman Loftis led in prayer. Following the Pledge of Allegiance led by Alderman Cady, a motion was made by Alderman Cady to approve the minutes of January 20, 2009 with any corrections, deletions, or additions as necessary. Motion seconded by Alderman Loftis. Motion passed unanimously.

At this time Alderman Stark joined the meeting by telecommunications.

RESOLUTION

Mayor Davis reported Captain Johnny Cox has requested to hold a public auction of abandoned personal property seized by the Police Dept. A motion was made by Alderman Guy to adopt RESOLUTION OF THE MAYOR AND BOARD OF ALDERMAN OF THE CITY OF SOUTHAVEN, MISSISSIPPI DESIGNATING CAPTAIN JOHNNY COX TO CONDUCT A PUBLIC AUCTION OF ABANDONED PERSONAL PROPERTY SEIZED BY THE SOUTHAVEN POLICE DEPARTMENT PURSUANT TO SECTION 21-39-21 OF THE MISSISSIPPI CODE ANNOTATED (1972). Motion seconded by Alderman Cady. Motion was put to a roll call vote and passed unanimously.

Roll call was as follows:

Alderman Guy	Yea
Alderman Cady	Yea
Alderman Stark	Yea
Alderman Loftis	Yea
Alderman Ollar	Yea
Alderman Jobses	Yea
Alderman Huling	Yea

A copy of the aforesaid Resolution is hereby attached to and made a part of these minutes.

PLANNING

The Planning Agenda was presented by Whitney Choat, Planning Director.

Item #1 Application by Lightman Properties for subdivision approval revision to Desoto Station Subdivision. A motion was made by Alderman Loftis to approve item #1 as presented. Motion seconded by Alderman Guy. Motion was put to a vote and passed unanimously.

Item #2 Application by Mid-South Internal Medicine for a conditional use permit to allow reader board signage. A motion was made by Alderman Loftis to approve item#2 as presented. Motion seconded by Alderman Cady. Motion was put to a vote and passed unanimously.

Item #3 Amendment to Chapter 6 Sign Regulation. Ms. Choat reported that she has given each Alderman a packet to review. There may be a safety issue with the current foreign language signage posted throughout the City. She asked that the Ordinance Committee look at this Ordinance and possibly bring back recommendations.

Item #4 Amendment to Chapter 11 Tree Removal Requirements. A motion was made by Alderman Huling to adopt RESOLUTION FOR THE AMENDMENT TO CHAPTER 11. TREE REMOVAL REQUIREMENTS IN THE ZONING ORDINANCE. Motion seconded by Alderman Guy. Motion was put to a roll call and passed unanimously.

Roll call was as follows:

Alderman Guy	Yea
Alderman Cady	Yea
Alderman Stark	Yea
Alderman Loftis	Yea
Alderman Ollar	Yea
Alderman Jobses	Yea
Alderman Huling	Yea

This Ordinance is in effect immediately upon the unanimous passage and a copy of aforesaid Ordinance is hereby attached to and made a part of this Ordinance.

MAYOR'S REPORT

Mayor Davis recommended appointing Kristin McElhannon as the official Municipal Court Clerk. A motion was made by Alderman Cady to appoint Kristin McElhannon as the Municipal Court Clerk for the City of Southaven. Motion seconded by Alderman Guy. Motion was put to a vote and passed unanimously.

Mayor Davis reported he will have his quarterly Prayer Luncheon tomorrow at the Snowden House. He reported the pastor at Trinity Baptist Church will be the speaker.

CITY ATTORNEY LEGAL UPDATE

Mark Sorrell, City Attorney reported on a claim submitted by Mike and Ann Husky, 5633 Nicolas Drive, requesting replacement cost of their carpet, hardwood flooring in their house as well as various and sundry personal items. On the fifth day of January, 2009 Mike and Ann Husky adopted a puppy from the Southaven Animal Shelter. Approximately 8 hours later the puppy began showing signs of illness. The next morning they took the puppy to their private veterinarian, Dr. Cox. He diagnosed the puppy as having parvo virus. Dr. Cox informed them how to clean their property and after leaving Dr. Cox's office on the 6th day of January they immediately went to the Southaven Animal Shelter requesting a refund of the adoption fee. Mr. Sorrell reported the adoption fee was refunded as well as the parvo examination fee performed by Dr. Cox. He reported that after Mike and Ann Husky returned home on the 6th day of January they began to clean their home, using a bleach wash to clean certain items. They also removed the carpet in their home. They removed the lower level as well as some of the upper level. He reported there are three estimates for replacing the carpet as well as the hardwood floor attached to the claim. He reported there was also a request for \$1,206.00. This represents expenses for the replacement of drugs, clothing, and miscellaneous items. Mr. Sorrell reported that after he received the claim he contacted Perry Mason, with Southaven Animal Shelter and requested that he review this report of claim. He reported that Denisa Young with the Animal Shelter contacted Dr. Cox and got information about how Mike and Ann Husky should clean their property. Dr. Cox pointed out that pulling up carpet was extreme. Mr. Mason contacted Dr. Timothy Fleming, Veterinarian and he stated he thought pulling up the carpet was extreme. Following the conversation with Dr. Fleming, Mr. Mason contacted Mrs. Ann Husky and informed her of this. Mrs. Husky responded by saying they had already removed the carpet. Mr. Sorrell reported he reviewed the standard adoption contract that the Animal Shelter uses when an individual wants to adopt an animal. Mr. Sorrell reported that the contract provides for any individual taking possession of an adopted animal "releases and discharges the Southaven Animal Shelter, it's employees, City of Southaven, from liability for any injuries, or damages to any person or property caused in the future by said animal

and for any cause of action, claim, suits, or demands whatsoever may arise as a result of such injuries or damages. Mr. Sorrell reported that after investigating this matter, it is his legal opinion that Mike and Ann Husky's claim against the City of Southaven should be denied. He reported that is based on the language set forth in the Adoption Contract which Ann Husky signed freely and voluntarily when she adopted this puppy.

At this time Mike and Ann Husky came before the Mayor and Board of Aldermen and gave their position on this claim. Mr. Husky stated that Dr. Cox's statement to his wife was very clear concerning the parvo virus. He stated the parvo virus will live in their home for five years or more. Dr. Cox advised the only way to kill the virus is with bleach. Mr. Husky said they used the bleach on every surface that bleach could be used on that day. Dr. Cox also advised any thing the virus had come in contact with would spread the virus in other areas where the puppy had not even gone. The puppy was in the house for one night. Dr. Cox advised steam cleaning the carpet would only dilute the virus but not kill it. He said they have confirmed this with another well respected Veterinarian in Horn Lake. He said she pointed out the danger to the adult dogs living in the home. He stated they believe they acted reasonably in what they did. Mrs. Husky said they had been informed the City's Veterinarian had recommended a spray that could be used on the carpet. She said Dr. Cox advised this spray has to soak through to the pad and it is not a guarantee. She stated Dr. Cox advised that if they got another puppy it would have to be vaccinated before bringing it into the house. She stated they have children in the house coming in constant contact with the flooring. She stated while she did sign the contract she understood the puppies were suppose to be kept in a separate area at the Animal Shelter and tested for parvo before being adopted out. She stated based on that she feels like the City is at fault. Mayor Davis called for a motion for the purpose of discussion. A motion was made by Alderman Guy to bring the Husky claim up for review. Motion seconded by Alderman Huling. Motion was put to a vote and passed unanimously. Mayor Davis asked if the carpet had been taken up and replaced and Mr. Husky replied it had been taken up but not replaced. Mayor Davis stated parvo is a disease that can stay hidden. It can manifest itself in one animal and not another. It is a very unique and strong virus. Mayor Davis reported it has been our policy to give every animal coming into the shelter a parvo shot which would make them test positive for parvo and this policy has changed since this incident. The animals will be tested first and then given the vaccination. Alderman Ollar asked about the City's policy before this claim. Mayor Davis responded that in the past when we have had animals die of parvo after being adopted from the shelter we have refunded the money for the medical bill and the adoption fees. Alderman Jobses stated he is glad the City changed the policy and is now testing first. He asked about the chemical for hardwood flooring. Mayor Davis reported there is a chemical that can be used on hard surfaces but is unsure about hardwood flooring. Mayor Davis asked the Board to consider an amendment at this time. He stated he thinks our

City Attorney is totally correct in the legal aspect of this claim regarding the contract statement of no liability to the City; however he stated in the past we have looked at each situation and he said he thinks everyone is in agreement the carpet had to be removed. He stated taking the \$7,947.00 claim and deducting the hardwood flooring and some of the items that possibly could have been saved; he recommended the Board consider a \$4,000.00 payment. He reported while we can not stop the parvo virus and can not stop animals from contracting it, they did bring some things to our attention and we changed our policy which made it better for everyone.

Alderman Huling asked the City Attorney if there are other puppies in that litter that are now adopted out are we opening the City up to liability with this claim when other claims come in. City Attorney, Mark Sorrell reported that he understands from Perry Mason at the Animal Control Shelter that other puppies in the same litter do not have the parvo virus. Alderman Guy made a motion to amend the original motion to pay the Mike & Ann Husky claim, not in the amount submitted, but in the amount of \$4,000.00. Motion seconded by Alderman Loftis.

Alderman Guy stated we need to make sure the City is protected with whatever means it takes. Mayor Davis responded those measures have been taken. Mr. Husky asked that the City provide a chemical to treat the hardwood flooring and Mayor Davis said we will provide the name of the chemical and Mr. Husky can research it and make the decision if he wants to use it. Mayor Davis stated the amendment is to pay the claim in the amount of \$4,000. He called for a vote on the amendment and the motion passed unanimously. Mayor Davis called for a vote on the motion as amended and it passed unanimously.

PROGRESS REPORTS

A motion was made by Alderman Huling to direct Whitney Choat, Planning Director to put a Stop Work Action Order on Lot #2 of Snowden Farm's P.U.D. and to access a fine in the amount of \$41,000 or an agreed upon landscaping in accordance with the Board Policy for the Snowden Grove P.U.D. Motion seconded by Alderman Loftis. Mayor Davis reported this required a tree survey and no removal of trees prior to construction. Mayor Davis reported Lot 1 was approved under the CVS zoning. He reported CVS also owns Lot 2 but they cleared it without following the tree ordinance, without permission and without a site plan. Mayor Davis stated we stressed that before any trees came down off of any lot they would provide a tree survey. Alderman Huling reported these were sizeable trees that were cut down. Motion was put to a vote and passed unanimously.

CLAIMS DOCKET

A motion was made by Alderman Guy to approve the claims docket of 2-03-09 in the amount of \$1,194,799.87 including demand checks excluding voucher numbers 113011-113032, 113035-113046, 113048-114335, 114406-114411, 114418, 114445, 114448, 114462-114485,

114489-114491, 114496-114498, 114504-114505, 114509-114535, 114563, 114686, 114764, 114769, 114781, 114784-114785, 114791, 114806, 114811, 114838, 114850, 114955, 114972, 114993, 111115015, 1150550-115056, 115065-115071, 115076-115091, 115129, and115139. Motion seconded by Alderman Loftis. Motion was put to a roll call vote and passed unanimously.

Roll call was as follows:

Alderman Guy	Yea
Alderman Cady	Yea
Alderman Stark	Yea
Alderman Loftis	Yea
Alderman Ollar	Yea
Alderman Jobs	Yea
Alderman Huling	Yea

There being no further business to come before the Mayor and Board of Aldermen, a motion was made by Alderman Guy to adjourn. Motion seconded by Alderman Ollar . Motion was put to a vote and passed unanimously, February 03, 2009 at 6: 45 p.m.

Charles G. Davis, Mayor

Glenda Smallwood, City Clerk