

The Mayor and Board of Aldermen of the City of Hernando met in regular session at City Hall on Tuesday, September 21, 2021 at 6:00 P.M. with Mayor Chip Johnson presiding. Alderpersons present were: Alderman W.I. “Doc” Harris, Alderwoman Natalie Lynch, Alderman Andrew Miller, Alderman Bruce Robinson, Alderman Chad Wicker, Alderwoman Beth Ross and Alderman Ben Piper. Also present for the meeting were: City Clerk Pam Pyle, City Attorney Steve Pittman, Public Works Director Lee Germany, Assistant Public Works Director Curtis Bain, City Engineer Joe Frank Lauderdale, Police Chief Scott Worsham, Deputy Fire Chief Sam Witt, Joanna Herring, Zoning Administrator Kristen Duggan, Parks Director DeWayne Williams, Planning Consultant BJ Page, Nester Duran, Greg Smith, Steve Pirtle, Jamey Pirtle, Gracie Dunavent, Randy Martin, Austin Wilson, Dale Wilson, Patty Taylor, Terry Taylor, Jacqueline Dutsch, Anne Matthews, Kathy Garrison, Thomas Bradley, Derick Briglane, Kathy Chatham, Victoria Penny, Benjamin Ballard, Beth Raffety, Marcus Killebrew, and Darrell Dixon.

PLEDGE OF ALLEGIANCE

Pledge of Allegiance

INVOCATION

Alderman Miller gave the invocation.

AGENDA

Agenda
City of Hernando
Mayor and Board of Alderman
Regular Meeting

September 21, 2021

6:00pm

- 1) Call the meeting to order
- 2) Pledge of Allegiance
- 3) Invocation
- 4) Approve Agenda
- 5) Approve Docket of Claims No.’s 44303-44552
- 6) Approve Minutes from the regular Mayor and Board of Aldermen Meeting on September 7, 2021

7) Consent Agenda

- a. Approval to close 1-block of Center Street from Highway 51 to Church Street for Dickens of a Christmas. We will have antique cars from 1908 -1920 and antique agricultural equipment and artifacts from the early 1900's. these will be displayed on the south side of the road for visitors on foot and those on the horse-drawn carriage rides to view and learn about them from the owners of the artifacts.
 - b. Approval Apply for the Walmart Community Grant for Dickens of a Christmas.
 - c. Authorize a stipend increase for Joe Jenkins becoming a Certified EMT-B in the amount of \$600.00 annually.
 - d. Approval to apply of the T-Mobile Hometown Grant to refresh and beautify downtown. This is a highly competitive grant and is up to \$50,000.00 with no match.
 - e. Approve the DeSoto County Election Commission to use the Gale Center October 11th - October 15th from 6:00 pm to 9:00 pm for training for the November 2nd election. There is no longer a cleaning fee.
 - f. Authorization for completion of the Municipal Compliance Questionnaire and signatures.
 - g. Authorize publication of the Solid Waste Management Information as required by 17-17-348.
- 8) PL-1550 – Request for Final Plat Approval for the 4th Revision of Lot 8 of Juanita Acres, located on the east side of Hall Road, south of Pleasant Hill Road, more specifically known as 1246 Hall Road, in Section 30, Township 2 South, Range 7 West, revising the plat to vacate a 25' wide right-of-way along the southern boundary line of the lot, previously vacated by the Board of Aldermen on March 5, 2019. The property consists of 3.32 acres and is currently zoned in the “AR,” Agricultural Residential District – Ben Smith of IPD Engineering, L.L.C., on behalf of Matthew Baker, owner of the property.
- 9) PL-1551 – Request for Final Plat Approval for Montclair Subdivision, Phase 6, 28.67 acres, 36 single-family residential lots and 1 common open space lot, located south of West Oak Grove Road, east of Tates Way, at the eastern terminus of Clair Circle South, in Section 23, Township 3 South, Range 8 West. The property is currently zoned in the “PUD,” Planned Unit Development District – Greg Smith of Mendrop Engineering Resources on behalf of Butch Davis of Montclair, L.L.C., the owner of the property.
- 10) Kathy Chatham with the Celebration of Arts Committee to speak on the beautification of the City.
- 11) Authorize the Krewe of Hernando to use the Milton Kuykendall Park track and infield on October 30th, 2021 from 9:00-12:00 and to close the streets around the perimeter of the park from 10:00-11:00 for the Krewe Boo One Mile Fun Run.
- 12) Approval to accept lowest, best quote from BWI Companies, Inc for perennial rye grass seed blend of \$8,400.00 for 75 50lb bags for the soccer fields.
- 13) Approval of Collins Lemonade to provide concessions for Fall 2021 and Spring 2022 Soccer Seasons and sign agreement.

- 14) Approve Soccer Field Rental rate for others who wish to rent the fields for practice and games.
- 15) Authorize to hire Ethan Menne for grounds maintenance in the parks department at \$10/hr, pending pre-employment screenings
- 16) Authorize to hire Liam Hall as a certified police officer at the rate of \$23.50 per hour, effective 10/01/2021.
- 17) Authorize to hire Shane Griffin as a certified police officer at the rate of \$25.00 per hour (current open position)
- 18) Approval to award the lowest, best bid for the New Age Logistics Road Construction Project to Phillips Contracting Co, Inc. with a bid of \$643,516.00.
- 19) Approval for Joe Frank Lauderdale to purchase AWG Easements at appraised value.
- 20) Accept lowest and best quote to finish cemetery dirt work
- 21) Approval for EMS fee schedule increase.
- 22) Discussion of upgrading the proposed 8” water line on Green T Road to a 12” line.
- 23) Discussion of designing the soccer park parking lot to prepare for bidding.
- 24) Noise Ordinance Discussion
- 25) Adjourn

Motion was duly made by Alderman Miller and seconded by Alderman Robinson to approve the Agenda. A vote was taken with the following results:

A vote was taken with the following results:

Those voting “Aye”: Alderman Harris, Alderwoman Lynch, Alderman Miller, Alderman Robinson, Alderman Wicker, Alderwoman Ross and Alderman Piper.

Those voting “Nay”: None

ORDERED AND DONE this the 21st day of September, 2021.

APPROVE DOCKET OF CLAIMS NO.’S 44303-44552

The Board of Aldermen were presented with a docket of claims No. 44303-44552, in the amount of \$1,094,559.85 for approval.

Motion was duly made by Alderman Harris and seconded by Alderman Robinson to approve the docket of claims for payment as presented.

A vote was taken with the following results:

Those voting “Aye”: Alderwoman Lynch, Alderman Miller, Alderman Robinson, Alderman Wicker, Alderwoman Ross, Alderman Piper and Alderman Harris.

Those voting “Nay”: None.

ORDERED AND DONE this the 21st day of September, 2021.

**APPROVE MINUTES OF THE REGULAR MEETING OF THE MAYOR AND BOARD
OF ALDERMEN SEPTEMBER 7, 2021**

Motion was duly made by Alderman Robinson and seconded by Alderman Piper to approve the minutes from the regular Mayor and Board of Aldermen Meeting on September 7th 2021.

A vote was taken with the following results:

Those voting "Aye": Alderman Miller, Alderman Robinson, Alderman Wicker, Alderwoman Ross, Alderman Piper, Alderman Harris, and Alderwoman Lynch.

Those voting "Nay": None.

ORDERED AND DONE this the 21st day of September, 2021.

CONSENT AGENDA

- a. Approval to close 1-block of Center Street from Highway 51 to Church Street for Dickens of a Christmas. We will have antique cars from 1908 -1920 and antique agricultural equipment and artifacts from the early 1900's. these will be displayed on the south side of the road for visitors on foot and those on the horse-drawn carriage rides to view and learn about them from the owners of the artifacts.
- b. Approval Apply for the Walmart Community Grant for Dickens of a Christmas.
- c. Authorize a stipend increase for Joe Jenkins becoming a Certified EMT-B in the amount of \$600.00 annually.
- d. Approval to apply of the T-Mobile Hometown Grant to refresh and beautify downtown. This is a highly competitive grant and is up to \$50,000.00 with no match.
- e. Approve the DeSoto County Election Commission to use the Gale Center October 11th - October 15th from 6:00 pm to 9:00 pm for training for the November 2nd election. There is no longer a cleaning fee.
- f. Authorization for completion of the Municipal Compliance Questionnaire and signatures.
- g. Authorize publication of the Solid Waste Management Information as required by 17-17-348.

Motion was duly made by Alderwoman Miller seconded by Alderman Robinson to approve the consent agenda as presented.

A vote was taken with the following results:

Those voting "Aye": Alderman Robinson, Alderman Wicker, Alderwoman Ross, Alderman Piper, Alderman Harris, Alderwoman Lynch, and Alderman Miller.

Those voting "Nay": None

ORDERED AND DONE this the 21st day of September, 2021.

Municipal Compliance Questionnaire

As part of the municipality's audit, the governing authorities of the municipality must make certain assertions with regard to legal compliance. The municipal compliance questionnaire was developed for this purpose.

The following questionnaire and related certification must be completed at the end of the municipality's fiscal year and entered into the official minutes of the governing authorities at their next regular meeting.

The governing authorities should take care to answer these questions accurately. Incorrect answers could reduce the auditor's reliance on the questionnaire responses, resulting in the need to perform additional audit procedures at added cost.

Information

Note: Due to the size of some municipalities, some of the questions may not be applicable. If so, mark N/A in answer blanks. Answers to other questions may require more than "yes" or "no," and, as a result, more information on this questionnaire may be required and/or separate work papers may be needed.

1. Name and address of municipality:
City of Hernando, 475 W. Commerce Street, Hernando, MS 38632

2. List the date and population of the latest official U.S. Census or most recent official census:
2020 16,813

3. Names, addresses and telephone numbers of officials (include elected officials, chief administrative officer, and attorney).
See attached

4. Period of time covered by this questionnaire:
From: 10-1-2020 To: 9-30-2021
5. Expiration date of current elected officials' term: June 30, 2025

IV-B0

MUNICIPAL COMPLIANCE QUESTIONNAIRE
Year Ended September 30, 20_

Answer All Questions: Y - YES, N - NO, N/A - NOT APPLICABLE

PART I - General

- | | |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------|
| 1. Have all ordinances been entered into the ordinance book and included in the minutes? (Section 21-13-13) | <u>Y</u> |
| 2. Do all municipal vehicles have public license plates and proper markings? (Sections 25-1-87 and 27-19-27) | <u>Y</u> |
| 3. Are municipal records open to the public? (Section 25-61-5) | <u>Y</u> |
| 4. Are meetings of the board open to the public? (Section 25-41-5) | <u>Y</u> |
| 5. Are notices of special or recess meetings posted? (Section 25-41-13) | <u>Y</u> |
| 5. Are all required personnel covered by appropriate surety bonds? | <u>Y</u> |
| · Board or council members (Sec. 21-17-5) | <u>Y</u> |
| · Appointed officers and those handling money, see statutes governing the form of government (i.e., Section 21-3-5 for Code Charter) | <u>Y</u> |
| · Municipal clerk (Section 21-15-38) | <u>Y</u> |
| · Deputy clerk (Section 21-15-23) | <u>Y</u> |
| · Chief of police (Section 21-21-1) | <u>Y</u> |
| · Deputy police (Section 45-5-9) (if hired under this law) | <u>N/A</u> |
| 7. Are minutes of board meetings prepared to properly reflect the actions of the board? (Sections 21-15-17 and 21-15-19) | <u>Y</u> |
| 8. Are minutes of board meetings signed by the mayor or majority of the board within 30 days of the meeting? (Section 21-15-33) | <u>Y</u> |
| 9. Has the municipality complied with the nepotism law in its employment practices? (Section 25-1-53) | <u>Y</u> |
| 10. Did all officers, employees of the municipality, or their relatives avoid any personal interest in any contracts with the municipality during their term or within one year after their terms of office or employment? (Section 25-4-105) | <u>Y</u> |
| 11. Does the municipality contract with a Certified Public Accountant or an auditor approved by the State Auditor for its annual audit within twelve months of the end of each fiscal year? (Section 21-35-31) | <u>Y</u> |

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12. Has the municipality published a synopsis or notice of the annual audit within 30 days of acceptance?
(Section 21-35-31 or 21-17-19) Y
- PART II - Cash and Related Records**
1. Where required, is a claims docket maintained?
(Section 21-39-7) Y
2. Are all claims paid in the order of their entry in the claims docket? (Section 21-39-9) Y
3. Does the claims docket identify the claimant, claim number, amount and fund from which each warrant will be issued?
(Section 21-39-7) Y
4. Are all warrants approved by the board, signed by the mayor or majority of the board, attested to by the clerk, and bearing the municipal seal? (Section 21-39-13) Y
5. Are warrants for approved claims held until sufficient cash is available in the fund from which it is drawn?
(Section 21-39-13) Y
6. Has the municipality adopted and entered on its minutes a budget in the format prescribed by the Office of the State Auditor? (Sections 21-35-5, 21-35-7 and 21-35-9) Y
7. Does the municipality operate on a cash basis budget, except for expenditures paid within 30 days of fiscal year end or for construction in progress? (Section 21-35-23) Y
8. Has the municipality held a public hearing and published its adopted budget? (Sections 21-35-5, 27-39-203, & 27-39-205) Y
9. Has the municipality complied with legal publication requirements when budgetary changes of 10% or more are made to a department's budget? (Section 21-35-25) Y
10. If revenues are less than estimated and a deficit is anticipated, did the board revise the budget by its regular July meeting? (Section 21-35-25) N/A

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11. Have financial records been maintained in accordance with the chart of accounts prescribed by the State Auditor? (Section 21-35-11) Y
12. Does the municipal clerk submit to the board a monthly report of expenditures against each budget item for the preceding month and fiscal year to date and the unexpended balances of each budget item? (Section 21-35-13) Y
13. Does the board avoid approving claims and the city clerk not issue any warrants which would be in excess of budgeted amounts, except for court-ordered or emergency expenditures? (Section 21-35-17) Y
14. Has the municipality commissioned municipal depositories? (Sections 27-105-353 and 27-105-363) Y
15. Have investments of funds been restricted to those instruments authorized by law? (Section 21-33-323) Y
16. Are donations restricted to those specifically authorized by law? [Section 21-17-5 (Section 66, Miss. Constitution)-- Sections 21-19-45 through 21-19-59, etc.] Y
17. Are fixed assets properly tagged and accounted for? (Section II - Municipal Audit and Accounting Guide) Y
18. Is all travel authorized in advance and reimbursements made in accordance with Section 25-3-41? Y
19. Are all travel advances made in accordance with the State Auditor's regulations? (Section 25-3-41) Y
- PART III - Purchasing and Receiving**
1. Are bids solicited for purchases, when required by law (written bids and advertising)? [Section 31-7-13(b) and (c)] Y
2. Are all lowest and best bid decisions properly documented? [Section 31-7-13(d)] Y
3. Are all one-source item and emergency purchases documented on the board's minutes? [Section 31-7-13(m) and (k)] Y
4. Do all officers and employees understand and refrain from accepting gifts or kickbacks from suppliers? (Section 31-7-23) Y

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PART IV - Bonds and Other Debt

- | | | |
|----|------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------|
| 1. | Has the municipality complied with the percentage of taxable property limitation on bonds and other debt issued during the year? (Section 21-33-303) | Y
_____ |
| 2. | Has the municipality levied and collected taxes, in a sufficient amount for the retirement of general obligation debt principal and interest? (Section 21-33-87) | Y
_____ |
| 3. | Have the required trust funds been established for utility revenue bonds? (Section 21-27-65) | N/A
_____ |
| 4. | Have expenditures of bond proceeds been strictly limited to the purposes for which the bonds were issued? (Section 21-33-317) | Y
_____ |
| 5. | Has the municipality refrained from borrowing, except where it had specific authority? (Section 21-17-5) | Y
_____ |

PART V - Taxes and Other Receipts

- | | | |
|----|----------------------------------------------------------------------------------------------------------------------------------------------|--------------|
| 1. | Has the municipality adopted the county ad valorem tax rolls? (Section 27-35-167) | Y
_____ |
| 2. | Are interest and penalties being collected on delinquent ad valorem taxes? (Section 21-33-53) | Y
_____ |
| 3. | Has the municipality conducted an annual land sale for delinquent ad valorem taxes? (Section 21-33-63) | N/A
_____ |
| 4. | Have the various ad valorem tax collections been deposited into the appropriate funds? (Separate Funds for Each Tax Levy) (Section 21-33-53) | Y
_____ |
| 5. | Has the increase in ad valorem taxes, if any, been limited to amounts allowed by law? (Sections 27-39-320 and 27-39-321) | N/A
_____ |
| 6. | Are local privilege taxes collected from all businesses located within the municipality, except those exempted? (Section 27-17-5) | Y
_____ |
| 7. | Are transient vendor taxes collected from all transient vendors within the municipality, except those exempted? (Section 75-85-1) | Y
_____ |
| 8. | Is money received from the state's "Municipal Fire Protection Fund" spent only to improve municipal fire departments? (Section 83-1-37) | Y
_____ |

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9. Has the municipality levied or appropriated not less than 1/4 mill for fire protection and certified to the county it provides its own fire protection or allowed the county to levy such tax? (Sections 83-1-37 and 83-1-39) Y
10. Are state-imposed court assessments collected and settled monthly? (Section 99-19-73, 83-39-31, etc.) Y
11. Are all fines and forfeitures collected when due and settled immediately to the municipal treasury? (Section 21-15-21) Y
12. Are bids solicited by advertisement or, under special circumstances, three appraisals obtained when real property is sold? (Section 21-17-1) Y
13. Has the municipality determined the full and complete cost for solid waste for the previous fiscal year? (Section 17-17-347) Y
14. Has the municipality published an itemized report of all revenues, costs and expenses incurred by the municipality during the immediately preceding fiscal year in operating the garbage or rubbish collection or disposal system? (Section 17-17-348) Y
15. Has the municipality conducted an annual inventory of its assets in accordance with guidelines established by the Office of the State Auditor? (MMAAG) Y

IV-B5

CONTACT INFORMATION FOR OFFICIALS OF THE CITY OF HERNANDO, MISSISSIPPI

MAYOR: Chip Johnson 475 W. Commerce Street Hernando, MS 38632 662-429-9092

ALDERMEN:

Doc Harris, At-Large 475 W. Commerce Street Hernando, MS 38632 662-429-9092
Natalie Lynch, Ward 1 475 W. Commerce Street Hernando, MS 38632 662-429-9092
Andrew Miller, Ward 2 475 W. Commerce Street Hernando, MS 38632 662-429-9092
Bruce Robinson, Ward 3 475 W. Commerce Street Hernando, MS 38632 662-429-9092
Chad Wicker, Ward 4 475 W. Commerce Street Hernando, MS 38632 662-429-9092
Beth Ross, Ward 5 475 W. Commerce Street Hernando, MS 38632 662-429-9092
Ben Piper, Ward 6 475 W. Commerce Street Hernando, MS 38632 662-429-9092

CITY CLERK: Pam Pyle 475 W. Commerce Street Hernando, MS 38632 662-429-9092

CITY ATTORNEY:
Steven Pittman 475 W. Commerce Street Hernando, MS 38632 662-429-9092

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CITY OF HERNANDO

Certification to Municipal Compliance Questionnaire

Year Ended September 30, 2021

We have reviewed all questions and responses as contained in this Municipal Compliance Questionnaire for the Municipality of Hernando, and, to the best of our knowledge and belief, all responses are accurate.



(City Clerk's Signature)



(Mayor's Signature)

9/27/21
(Date)

9/27/21
(Date)

Minute Book References:

Book Number 28

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(Clerk is to enter minute book references when questionnaire is accepted by board.)

IV-B7

PL-1550-REQUEST FOR FINAL PLAT APPROVAL FOR THE 4TH REVISION OF LOT 8 OF JUANITA ACRES, LOCATED ON THE EAST SIDE OF HALL ROAD, SOUTH OF PLEASANT HILL ROAD, MORE SPECIFICALLY KNOWN AS 1246 HALL ROAD, IN SECTION 30, TOWNSHIP 2 SOUTH, RANGE 7 WEST, REVISING THE PLAT TO VACATE A 25' WIDE RIGHT-OF-WAY ALONG THE SOUTHERN BOUNDARY LINE OF THE LOT, PREVIOUSLY VACATED BY THE BOARD OF ALDERMEN ON MARCH 5, 2019. THE PROPERTY CONSISTS OF 3.32 ACRES AND IS CURRENTLY ZONED IN THE "AR," AGRICULTURAL RESIDENTIAL DISTRICT-BEN SMITH OF IPD ENGINEERING, L.L.C., ON BEHALF OF MATTHEW BAKER, OWNER OF THE PROPERTY.

BJ Page presented the Planning Commission's Staff Report.

Motion was duly made by Alderman Piper and seconded by Alderman Miller to grant Final Plat approval to the "1st Revision to Lot 8 of the 4th Revision of Juanita Acres Subdivision," 3.23 acres located on the east side of Hall Road, south of Pleasant Hill Road, and is more specifically known as 1246 Hall Road in Section 30, Township 2 South, Range 7 West, based upon a finding that the submitted plat generally conforms to the requirements of the City's codes and ordinances, subject to the following conditions of 1-A, B, and C.

A vote was taken with the following results:

Roll Call Vote "Aye": Alderman Piper, Alderman Harris, Alderwoman Lynch, Alderman Miller, Alderman Robinson, Alderman Wicker, and Alderwoman Ross.

Those voting "Nay": None.

ORDERED AND DONE this the 21st day of September, 2021.



**City of
Hernando**
MISSISSIPPI

**BOARD OF ALDERMEN
STAFF REPORT**

Project No.: PL-1550
Request: Request for Final Plat Approval for the 4th revision of Lot 8 of Juanita Acres Subdivision
Location: East side of Hall Road, south of Pleasant Hill, more specifically known as 1246 Hall Road in Section 30, Township 2 South, Range 7 West
Applicant: Ben Smith of IPD Engineering, L.L.C., on behalf of Matthew Baker, owner of the property
Date: September 21, 2021

INTRODUCTION:

Mr. Ben Smith of IPD Engineering, L.L.C., on behalf of Matthew Baker, owner of the property, is requesting Final Plat approval for the 4th revision of Lot 8 of Juanita Acres Subdivision. Lot 8 consists of 3.23 acres located on the east side of Hall Road, south of Pleasant Hill Road, and is more specifically known as 1246 Hall Road in Section 30, Township 2 South, Range 7 West.

DISCUSSION:

The original Juanita Acres Subdivision was approved by the DeSoto County Planning Commission on December 30, 1969, and subsequently by the Board of Supervisors on January 7, 1970. The plat reflected a 25' wide right-of-way along the southern boundary of Lot 8 and the northern boundary of Lot 7 to provide for a future road that would eventually extend through adjoining property to McIngvale Road. In 2019, the Mayor and Board of Aldermen, on a finding that the road would never be constructed, voted to vacate this right-of-way and revert the right-of-way back to the adjoining properties. Mr. Matthew Baker, the current owner of Lot 8, is seeking to revise the plat to bring it into conformance with the Board's previous action as it relates to his property.

STAFF COMMENTS:

1. This is Final Plat approval. If approved by the Planning Commission, the application will be submitted to the Board of Aldermen at their meeting on September 21, 2021.
2. As previously stated, the only purpose for this plat revision is to eliminate the 25' wide right-of-way on Lot 8 previously vacated by the Mayor and Board of Aldermen. As a result, there is no construction of public improvements or dedication of new easements or new rights-of-way involved.
3. The title of the currently recorded plat is the "4th Revision of Juanita Acres Subdivision." The title of the proposed revised plat reads "4th Revision of Lot 8 of Juanita Acres Subdivision;" however, research does not seem to indicate that there have been previous revisions specifically to Lot 8. Rather, it would appear that the title of the revised plat has been confused with the title for the overall subdivision. It would seem that the title of the revised plat should be the "1st Revision to Lot 8 of the 4th Revision of Juanita Acres Subdivision," in order to keep the land records straight.

Table 1: Subdivision History

Subdivision	PC Approval	Board Approval
Juanita Acres	December 30, 1969	January 7, 1970
Juanita Acres Section B	April 1, 1971	May 5, 1971
Juanita Acres Revised	April 1, 1971	June 9, 1971
Juanita Acres 2 nd Revision	1971	February 1, 1972
Juanita Acres 3 rd Revision	May 31, 1979	June 6, 1979
Juanita Acres 4 th Revision	November 29, 1979	December 5, 1979

4. The Planning Commission reviewed this request for final plat approval at their meeting on September 14, 2021, and voted unanimously to recommend approval of the submitted plat to the Board of Aldermen, finding that the submitted plat generally conformed to the City's codes and ordinances, subject to the conditions listed under the following proposed motion.

PROPOSED MOTION:

Motion to grant Final Plat **approval** to the "1st Revision to Lot 8 of the 4th Revision of Juanita Acres Subdivision," 3.23 acres located on the east side of Hall Road, south of Pleasant Hill

Road, and is more specifically known as 1246 Hall Road in Section 30, Township 2 South, Range 7 West, based upon a finding that the submitted plat generally conforms to the requirements of the City's codes and ordinances, subject to the following conditions:

1. Revise the plat as follows:
 - A. Revise the title of the plat to read "1st Revision to Lot 8 of the 4th Revision of Juanita Acres Subdivision."
 - B. Revise the utility easements along the front rear and south side property lines to reflect the new south property line.
 - C. Reflect the Section corner tie-in.

**PL-1551-REQUEST FOR FINAL PLAT APPROVAL FOR MONTCLAIR
SUBDIVISION, PHASE 6, 28.67 ACRES, 36 SINGLE-FAMILY RESIDENTIAL LOTS
AND 1 COMMON OPEN SPACE LOT, LOCATED SOUTH OF WEST OAK GROVE
ROAD, EAST OF TATES WAY, AT THE EASTERN TERMINUS OF CLAIR CIRCLE
SOUTH, IN SECTION 23, TOWNSHIP 3 SOUTH, RANGE 8 WEST. THE PROPERTY
IS CURRENTLY ZONED IN THE "PUD," PLANNED UNIT DEVELOPMENT
DISTRICT-GREG SMITH OF MENDROP ENGINEERING RESOURCES ON BEHALF
OF BUTCH DAVIS OF MONCLAIR, L.L.C., THE OWNER OF THE PROPERTY.**

Motion was duly made by Alderman Harris and seconded by Alderman Ross to grant Final Plat approval for Montclair Subdivision, Phase 6, consisting of 36 single-family residential lots and 1 common open space lot, located at the eastern terminus of Claire Circle South, situated in Section 23, Township 3 South, Range 8 West, based upon a finding that the submitted final plat generally conforms to the approved preliminary plan for the planned unit development, and generally meets the requirements of the City's codes and ordinances, subject to the following conditions 1 -F.

A vote was taken with the following results:

Those voting "Aye": Alderman Piper, Alderman Harris, Alderwoman Lynch, Alderman Miller, Alderman Robinson, Alderman Wicker, and Alderwoman Ross.

Those voting "Nay": None.

ORDERED AND DONE this the 21st day of September, 2021.



**City of
Hernando**
MISSISSIPPI

**BOARD OF ALDERMEN
STAFF REPORT**

Project No.: PL-1551
Request: Final Subdivision Plat – Montclair Subdivision, Phase 6

Location: South of West Oak Grove Road on Scott Road, then Northeast on Tates Way to Clair Circle South, then east on Claire Circle South to its terminus. Situated in Section 23, Township 3, Range 8

Applicant: Greg Smith of Mendrop Engineering Resources on behalf of Butch Davis of Montclair, L.L.C.

Date: September 14, 2021

INTRODUCTION:

Mr. Greg Smith with Mendrop Engineering Resources on behalf of Butch Davis of Montclair, L.L.C., is requesting Final Plat approval of Montclair Subdivision, Phase 6, consisting of 36 single-family residential lots and 1 common open space lot, located from West Oak Grove Road south on Scott Road, then northeast on Tates Way to Claire Circle South, then east on Claire Circle South to its terminus, situated in Section 23, Township 3 South, Range 8 West.

BACKGROUND:

The property that makes up Montclair Subdivision was originally named Ivy Meadows and was approved as a 192.40 acres Planned Residential Neighborhood by the DeSoto County in 2005. The area was annexed into the City of Hernando in November of 2005. In 2007, the property underwent ownership change and the project name changed to Montclair Planned Residential Development. The subject property is located within a PUD Overlay District.

Phase 1 – 55 Residential Lots, 2 Common Open Space Lots

Planning Commission Approval – August 8, 2006
Board of Aldermen Approval – August 15, 2006
Recorded – February 15, 2007 – Plat Book 102, Pages 27-28

Phase 2 – 42 Residential Lots, 1 Common Open Space Lot

Planning Commission Approval – September 12, 2016
Board of Aldermen Approval – October 4, 2016
Recorded – January 31, 2017 – Plat Book 120, Pages 15-16

Phase 3 – 44 Residential Lots, 2 Common Open Space Lots

Planning Commission Approval – November 17, 2017
Board of Aldermen Approval – November 21, 2017
Recorded – May 1, 2018 – Plat Book 124, Pages 6-7

Phase 4 – 33 Residential Lots, 0 Common Open Space Lots

Planning Commission Approval – February 15, 2019
Board of Aldermen Approval – May 21, 2019
Recorded – September 16, 2019 – Plat Book 129, Pages 8

Phase 5 – 70 Residential Lots, 2 Common Open Space Lots

Planning Commission Approval – May 13, 2020
Board of Aldermen Approval – May 20, 2020
Recorded – February 1, 2021 – Plat Book 133, Pages 8-9

The proposed subdivision will be developed as Montclair Subdivision, Phase 6, and will consist of 36 single-family residential lots and 1 common open space lot. The residential lot sizes range from 14,704 sq. ft. up to 58,465 sq. ft., with the majority of the lots in the 15,000 – 21,000 sq. ft. range. The common open space lot consists of 5.65 acres.

Access into Phase 6 will be provided by the extension of Claire Circle South from its current terminus on further to the east. There are no interconnecting streets in this phase of the development, although the development's approved preliminary plan does call for a north/south interconnecting street located just east of both Phase 6 and the adjacent Phase 5 that will connect Claire Circle South with Creek Haven Drive to the north. The preliminary plan did call for another interconnecting street between Phases 5 and 6 that would have been part of this Phase, but it was not provided for in the previously approved Phase 5, so it cannot now be carried through to Phase 6. All of the streets in Phase 6 will have 50' rights-of-way.

Each lot will have the required setbacks listed below which conform to the approved Preliminary Plan and the Restrictive Covenants requirements.

	Front	Side	Rear
Lots 225 – 242 and 248 – 260	30'	10'	30'
Lots 243 – 247	40'	15'	35'

The minimum heated floor area requirements for the Montclair development are as follows:

Lots 30,000 sq. ft. in size or larger	2,200 sq. ft. minimum heated floor area
Lots 20,000 sq. ft. to 30,000 sq. ft.	2,000 sq. ft. minimum heated floor area
Lots 10,000 sq. ft. to 20,000 sq. ft.	1,800 sq. ft. minimum heated floor area

The restrictive covenants recorded with Phase 1 were also attached to Phases 2 through 5 through the recording of a "Declaration of Joinder." Mr. Greg Smith, the applicant's engineer, indicated at the Planning Commission meeting that it was the applicant's intent to follow this same approach for Phase 6, and that the restrictive covenants for Phase 6 would be the same as those previously recorded for Phases 1 – 5.

As proposed, the submitted final plat for Phase 6 meets the City of Hernando's Subdivision Regulations, and the lots meet the requirements of the approved Montclair (Ivy Meadows) project text and preliminary development plan.

STAFF COMMENTS:

1. A drive-through of the development reflects that the public improvements appear to be in place in Phase 6, with the exception of the asphalt on the streets, and sidewalks (which will be installed as each residence is constructed).
2. Phase 6 does not complete the development of the subdivision; however, a recent review of County ownership records indicates that none of the common open space areas required by the original PUD approval, and recorded with all of the previous phases (1 – 5), have been transferred to the Montclair Homeowners Association (Business ID 896780) at this time, even though the Association has been in existence since August 7, 2006, and is still considered "in good standing" by the Mississippi Secretary of State's Office.

3. The Planning Commission reviewed this request for final plat approval at their meeting on September 14, 2021, and voted unanimously to **recommend approval** of the submitted plat to the Board of Aldermen, finding that the submitted final plat for Montclair Subdivision, Phase 6, consisting of 36 single-family residential lots and 1 common open space lot, located at the eastern terminus of Claire Circle South, situated in Section 23, Township 3 South, Range 8 West, generally conformed to the approved preliminary plan for the planned unit development, and generally meets the requirements of the City's codes and ordinances, subject to the conditions contained in the following proposed motion.

PROPOSED MOTION:

Motion to grant Final Plat **approval** for Montclair Subdivision, Phase 6, consisting of 36 single-family residential lots and 1 common open space lot, located at the eastern terminus of Claire Circle South, situated in Section 23, Township 3 South, Range 8 West, based upon a finding that the submitted final plat generally conforms to the approved preliminary plan for the planned unit development, and generally meets the requirements of the City's codes and ordinances, subject to the following conditions:

1. Revise the final plat to address the following:
 - A. Revise the Owner's and Mortgagee's Certificates to state "...and dedicate the right-of-way for the roads and utility easements as shown on the plat of the Subdivision to the City of Hernando for the public use forever." Eliminate the following wording, "...and reserve for the public utilities the utility easements as shown on the plat."
 - B. Revise Note #1 on the face of the plat to reflect the correct setback requirements for Lots 243 – 247.
 - C. Revise the plat to reflect the correct front yard building line for Lots 243 - 247.
 - D. Revise the plat to reflect the Section corner tie-in.
 - E. Revise the title of the plat to incorporate the number of lots and the Zoning District identification.
 - F. Revise the plat to eliminate the City Certification located in the upper left-hand corner of Sheet 1 since it is a duplication of the same certificate located on the right-hand side of Sheet 1.
2. Any buffer areas, retention basins, landscape areas, open areas, street medians, entrance signs, and any other common elements, proposed to be dedicated to the Homeowners Association in Phase 6, or any of the previous phases, shall be deeded over to the Homeowners Association. A copy of the finalized incorporation papers and all deeds transferring common elements to the Homeowners Association shall be submitted to the staff for inclusion in the file. All common elements required in all previous sections of the development must be completed and dedicated to the Homeowners Association prior to the issuance of any building permits in Phase 6.
3. The Homeowners Association covenants shall be submitted to and approved by Planning Staff prior to recording of the plat for Phase 6. The submitted covenants shall match the covenants that were recorded with Phases 1 – 5 of Montclair Subdivision. If amendments are requested by the developer, if the proposed changes are more restrictive than what is currently required by the previous phases of Montclair Subdivision, then those changes may be approved by the Planning staff. If the proposed changes are less restrictive than

what is currently required by the previous phases of Montclair Subdivision, then those changes must be approved by the Planning Commission.

4. Improvements are to be the responsibility of the developer and not the responsibility of the City of Hernando.
5. All landscaping in all common open space areas, natural areas, buffer areas, streetscape areas, medians, islands, and the entrance signage areas and such other associated improvements shall be installed/constructed prior to the issuance of any building permit within that respective phase of the development. Street trees may be bonded insuring their installation prior to the final inspection and occupancy of the residence upon each lot.
6. Following Plat Approval, the Developer shall submit two (2) complete sets of construction plans for review and approval to the Office of Planning. Grading, drainage, and engineering construction plans to be approved by the City Engineer.
7. The developer shall install drainage pipe, erosion control material, sewer mains and service, water mains, fire hydrants, and service, gas mains and service, curb and gutter for all streets, and gravel or soil cement base for the streets and one (1) layer of blacktop, 1½" thick, before the plat of the subdivision is recorded. A performance guarantee must be filed for the remainder of the improvements in an amount set by the City Engineer. This includes another 1½" of blacktop making a total of three inches (3") of blacktop surface and sidewalks. Prior to recording the final plat, all public improvements shall be installed, completed, and accepted by the City of Hernando.
8. Prior to the beginning of utility and improvement construction, the Developer shall enter into a Development Contract with the City of Hernando for the installation of all required Public Improvements. This is in accordance with Article VI Required Minimum Improvements, §B. Procedures for Posting or Release of Bonds of the City of Hernando's Land Subdivision Ordinance.
9. Sidewalks shall be installed on both sides of all streets.
10. Streetlights shall be installed at the developer's expense. Streetlight plans shall be submitted to the Office of Planning for City Engineer and Planning Director approval.
11. All utilities and services (electric, telephone, cable, etc.) are to be installed underground. The water service lines shall be installed with tracing wire at the top.
12. Prior to recording the final plat, the Developer shall submit for approval a schedule of Lot Numbers and associated street addresses to the Office of Planning. Corner lots shall include potential addresses for both streets.
13. Prior to submitting the plat for recording, the applicant shall coordinate with the Post Office the centralized delivery location of the mailboxes.

**KATHY CHATHAM WITH THE CELEBRATION OF ARTS COMMITTEE TO SPEAK
ON THE BEAUTIFICATION OF THE CITY**

The Celebration of Arts Committee wants to beautify the Square with hanging flower baskets. The flower baskets would hang from the lamp posts and have 1 per post. The Committee would donate \$250.00 worth of baskets and plants, but will not maintain them. The city would have to be responsible for watering them, and Joe Frank Lauderdale will look into the cost of irrigation, and research further.

No action was taken.

AUTHORIZE THE KREWE OF HERNANDO TO USE THE MILTON KUYKENDALL PARK TRACK AND INFIELD ON OCTOBER 30TH, 2021 FROM 9:00-12:00 AND TO CLOSE THE STREETS AROUND THE PERIMETER OF THE PARK FROM 10:00 - 11:00 FOR THE KREWE BOO ONE MILE FUN RUN.

Derick Biglane stated the 1-mile run will help fund the library and other fundraisers. Alderman Miller stated to keep in mind routes for any races have been discussed and residents need notification of the race. Derick Biglane will take care of resident's notification.

Motion was duly made to approve by Alderman Miller and seconded by Alderman Robinson with stipulation residents will be notified prior to that date.

A vote was taken with the following results:

Those voting "Aye": Alderman Wicker, Alderwoman Ross, Alderman Piper, Alderman Harris, Alderwoman Lynch, Alderman Miller, and Alderman Robinson.

Those voting "Nay": None.

ORDERED AND DONE this the 21st day of September, 2021.

APPROVAL TO ACCEPT LOWEST, BEST QUOTE FROM BWI COMPANIES, INC. FOR PERENNIAL RYE GRASS SEED BLEND OF \$8,400.00 FOR 75 50LB BAGS FOR THE SOCCER FIELDS.

Motion was duly made to approve by Alderman Harris and seconded by Alderman Piper to accept the lowest/best bid of \$8,400.00 to BWI Companies for 75 50lb bags of perennial rye grass seed blend for the soccer fields.

A vote was taken with the following results:

Those voting "Aye": Alderwoman Ross, Alderman Piper, Alderman Harris, Alderwoman Lynch, Alderman Miller, Alderman Robinson, and Alderman Wicker.

Those voting "Nay": None.

ORDERED AND DONE this the 21st day of September, 2021.

APPROVAL OF COLLINS LEMONADE TO PROVIDE CONCESSIONS FOR FALL 2021 AND SPRING 2022 SOCCER SEASONS AND SIGN AGREEMENT

Motion was duly made by Alderman Harris and seconded by Alderman Robinson to approve as presented and sign.

A vote was taken with the following results:

Those voting “Aye”: Alderman Miller, Alderman Robinson, Alderman Wicker, Alderwoman Ross, Alderman Piper, Alderman Harris, and Alderwoman Lynch.

Those voting “Nay”: None.

ORDERED AND DONE this the 21st day of September, 2021.

APPROVE SOCCER FIELD RENTAL RATE FOR OTHERS WHO WISH TO RENT THE FIELDS FOR PARCTICE AND GAMES

DeWayne Williams stated that no recreational soccer will be charged. Alderwoman Lynch suggested that the seal be changed to the new one on the application.

Motion was duly made by Alderman Harris and seconded by Alderman Piper to approve the Soccer field rental rates application with the new seal replacement.

A vote was taken with the following results:

Those voting “Aye”: Alderman Robinson, Alderman Wicker, Alderwoman Ross, Alderman Piper, Alderman Harris, Alderwoman Lynch, and Alderman Miller.

Those voting “Nay”: None.

ORDERED AND DONE this the 21st day of September, 2021.

AUTHORIZE TO HIRE ETHAN MENNE FOR GROUNDS MAINTENANCE IN THE PARKS DEPARTMENT AT \$10/HR, PENDING PRE-EMPLOYMENT SCREENINGS

Motion was duly made by Alderman Miller and seconded by Alderman Robinson approval to hire Ethan Menne for grounds maintenance in the Parks Department at \$10/hr, pending pre-employment screenings.

A vote was taken with the following results:

Those voting “Aye”: Alderman Wicker, Alderwoman Ross, Alderman Piper, Alderman Harris, Alderwoman Lynch, Alderman Miller, and Alderman Robinson.

Those voting “Nay”: None.

ORDERED AND DONE this the 21st day, September 2021.

AUTHORIZE TO HIRE LIAM HALL AS A CERTIFIED POLICE OFFICER AT THE RATE OF \$23.50 PER HOUR, EFFECTIVE OCTOBER 1, 2021.

Motion was duly made by Alderman Harris and seconded by Alderwoman Ross to approve hiring Liam Hall as a certified Police Officer at the rate of \$23.50/hr, effective October 1, 2021.

A vote was taken with the following results:

Those voting “Aye”: Alderwoman Ross, Alderman Piper, Alderman Harris, Alderwoman Lynch, Alderman Miller, Alderman Robinson, and Alderman Wicker.

Those voting “Nay”: None.

ORDERED AND DONE this the 21st day of September, 2021.

AUTHORIZE TO HIRE SHANE GRIFFIN AS A CERTIFIED POLICE OFFICER AT THE RATE OF \$25.00 PER HOUR.

Motion was duly made by Alderman Robinson and seconded by Alderman Piper to approve hiring Shane Griffin as a certified Police Officer at the rate of \$25.00/hr.

A vote was taken with the following results:

Those voting "Aye": Alderman Wicker, Alderwoman Ross, Alderman Piper, Alderman Harris, Alderwoman Lynch, Alderman Miller, and Alderman Robinson.

Those voting "Nay": None.

ORDERED AND DONE this the 21st day of September, 2021.

APPROVAL TO AWARD THE LOWEST, BEST BID FOR THE NEW AGE LOGISTICS ROAD CONSTRUCTION PROJECT TO PHILLIPS CONTRACTING CO, INC. WITH A BID OF \$643,516.00.

Motion was duly made by Alderman Robinson and seconded by Alderman Piper for approval of the lowest, best bid for the New Age Logistics Road Construction Project to Phillips Contracting Co, Inc. with a bid of \$643,516.00.

A vote was taken with the following results:

Those voting "Aye": Alderman Robinson, Alderman Wicker, Alderwoman Ross, Alderman Piper, Alderman Harris, Alderwoman Lynch, and Alderman Miller.

Those voting "Nay": None.

ORDERED AND DONE this the 21st day of September, 2021.

APPROVAL FOR JOE FRANK LAUDERDALE TO PURCHASE AWG EASEMENTS AT APPRAISED VALUE.

Joe Frank Lauderdale stated that he is working on 3 easement purchases and have 2 to present tonight. CSC Properties was appraised at \$1,800.00. Miracle Homes Inc appraised at \$150.00.

Motion was duly made by Alderman Wicker and seconded by Alderman Robinson for approval for Joe Frank Lauderdale to purchase AWG easements at appraised value as presented.

A vote was taken with the following results:

Those voting "Aye": Alderman Miller, Alderman Robinson, Alderman Wicker, Alderwoman Ross, Alderman Piper, Alderman Harris, and Alderwoman Lynch.

Those voting "Nay": None.

ORDERED AND DONE this the 21st day of September, 2021.

APPROVAL TO ACCEPT THE LOWEST, BEST QUOTE TO FINISH DIRT WORK IN THE CEMETERY

Presented by Joe Frank Lauderdale.

The quote to finish the dirt work is \$28,000.00, which was more than expected, and we will not be able to do the paths. The lowest quoted was form M5 Construction Co at \$7.00 per yard and we have a dozer. Alderman Miller asked what about Oak Grove Road that was torn up?

Could we put down a metal plate to protect the bad spots? Joe Frank Lauderdale stated he would look into that.

Motion to was duly made by Alderman Miller, and seconded by Alderman Robinson to accept the lowest quote of \$7.00 per yard from M5 Construction Co and we hire a dozer.

A vote was taken with the following results:

Those voting "Aye": Alderwoman Lynch, Alderman Miller, Alderman Robinson, Alderman Wicker, Alderwoman Ross, Alderman Piper, and Alderman Harris.

Those voting "Nay": None

ORDERED AND DONE this the 21st day of September, 2021.

APPROVAL FOR EMS FEE SCHEDULE INCREASE

Presented by JoAnn Herring:

All cities in Desoto County are going to unify the fee schedules since we are providing mutual services to one another from time to time. Insurance pays a percentage on what is billed, and the fee increases will get us better in line with insurance payments.

Motion was duly made by Alderman Harris and seconded by Alderman Piper to approve the EMS schedule increase.

A vote was taken with the following results:

Those voting "Aye": Alderman Wicker, Alderwoman Ross, Alderman Piper, Alderman Harris, Alderwoman Lynch, Alderman Miller and Alderman Robinson.

Those voting "Nay": None

ORDERED AND DONE this the 21st day of September, 2021.

DISCUSSION OF UPGRADING THE PROPOSED 8" WATER LINE ON GREEN "T" ROAD TO A 12" LINE.

Discussion was the difference of cost for an 8" line and a 12" line.

Joe Frank Lauderdale spoke with them on a plan and we came in from the East with a 12" line for them to connect to. We looking at a new water plant coming in the near future. Whoever develops the Madison Lake property with the new McIngvale Realignment, they will have a new line that will come up and connect to that line that will serve that whole area. Alderwoman Ross asked where the money would come from. Mayor Johnson stated it is not budgeted and would have to come from the contingency line item in the Public Works budget. Alderman Harris stated in July they received a cost estimate. Will there be extra cost down the road? Joe Frank Lauderdale said no, it would not cost extra. Some of the areas will be 8" and some 12" pipe. There is one estimate for all 8" pipe and another for all 12" pipe. Not all areas will need 12" pipe, so it will be a mixture of 8" and 12" pipe. Alderwoman Ross asked will this be enough for the future. Joe Frank Lauderdale stated it would because there will be a second feed from McIngvale Road Realignment that will make up the difference. Alderwoman Lynch asked is this the only bid? Joe Frank Lauderdale said it has not been bid out yet, but what has been presented is an estimate. Mayor Johnson stated that it's not like we can give them \$86,000.00, but Joe Frank Lauderdale will present an option. Material wise, we would have to bid anything over \$50,000.00. We may be able to purchase the line from them like we did with North MS Water with an appraised value of the final product after it is complete, for a set amount before the

project ever starts. Mayor Johnson stated we could purchase the line for up to \$86,000.00 as long as it is appraised at that value or more. The attorney will check on that. Alderman Robinson stated that we would be saving over \$100,000.00 in labor because we would not have to pay for it. Alderman Miller stated we need to be careful if we try to manipulate to save. Mayor Johnson stated they are going to be opening soon and we need to move quickly. Alderman Wicker said they are now putting in an 8" line at this time. Steven Pittman will look into the legalities and come back to the board with a recommendation.

No action was taken.

DISCUSSION OF DESIGNING THE SOCCER PARK PARKING LOT TO PREPARE FOR BIDDING

Derick Biglane presented:

The complex was done privately and in phases with the Hernando Soccer Association. The Community Foundation may be able to help with funding. Sponsorships are up, and the city could do the sponsorships themselves for additional revenue. Alderman Piper stated that the parking lot needs netting for safety from children running into the parking lot to chase balls. There are some ideas on this plan that we need to look at on future budgets. Mayor Johnson stated that there is no capital improvement budget in the Parks department. The money would have to come from the \$1.2M in overlay funds budgeted for this year. Alderman Piper stated we need to consider now the streets that need repairing and overlaying as quick as possible because it takes time. Maybe the next meeting or the next. Mayor Johnson stated that we do have the Civil-Link Plan for Road Maintenance and Repair list that was not completely followed, as it happens. It will be \$28,000.00 to update the list, so I would like to take the plan and look at it ourselves to use as a guideline to go forward. Joe Frank Lauderdale stated we only have Motor Scooter Drive out for bid at this time. Alderman Wicker stated we have \$700,000.00 from last year that has been carried over. Alderman Miller stated the road plan list needs to be looked at and make sure that we overlay the most needed repairs first and not put something else ahead; some are turning into gravel roads. It could be bid as one master plan to get a better price.

Motion was duly made by Alderman Harris and seconded by Alderman Robinson for Joe Frank Lauderdale to update the list by priority and identify the money in our budget to start on the overlays with a time frame and be prepared to discuss it at the next meeting.

A vote was taken with the following results:

Those voting "Aye": Alderman Robinson, Alderman Wicker, Alderwoman Ross, Alderman Piper, Alderman Harris, Alderwoman Lynch, and Alderman Miller.

Those voting "Nay": None.

ORDERED AND DONE this the 21st day of September, 2021.

Motion was duly made by Alderman Wicker and seconded by Alderman Harris for Joe Frank Lauderdale to design the Soccer Field parking lot and present it to the board.

A vote was taken with the following results:

Those voting "Aye": Alderman Robinson, Alderman Wicker, Alderwoman Ross, Alderman Piper, Alderman Harris, Alderwoman Lynch, and Alderman Miller.

Those voting "Nay": None.

ORDERED AND DONE this the 21st day of September, 2021.

NOISE ORDINANCE DISCUSSION

Steven Pittman researched the noise ordinance and spoke with all persons involved. It is advisable to have a definite time frame in place. He also recommends decibels to be set based on the observations of the other city ordinances. Exemptions and decibels were discussed by the Board. The Noise Ordinance includes all of the city and not just the Downtown area.

Terry Taylor and Patty Taylor stated that they opened Uncle Bubbas June 19, 2019 and have had live bands since August 1, 2019. They presented pictures showing the dirt lot that is now residential, and Uncle Bubbas was there first. We had live bands until COVID hit. The statement by Russ Barnes that we played outside because of COVID was false. We started playing outside August 1, 2019 and went inside when it got cold. He said we had the same band 3 nights in a row and played 6 or 7 hours a night. That is not correct, we had 3 different bands from 7:00 or 8:00 and stopped at 11:00. He stated that Social x Saint LLC was moving because of Uncle Bubbas. Social x Saint LLC sent a statement that they are moving to consolidate their 2 businesses and have no animosity towards Uncle Bubbas. They are moving above our other restaurant, the Underground. We are a family business employing over 40 people. When the tornados came in 2020, we donated over \$2,000.00 worth of food to the first responders and victims. We have held many benefits for the Hernando Animal Shelter and other benefits. Mrs. Neal stated that we had biker night and they were rude and shouting obscenities. They are Veterans in the American Legion and Masonic group. They are very nice and respectful. I have never heard any obscenities. Mrs. Neal said the we retaliated and we have not retaliated; we don't condone and of that behavior from any of our employees. She came in and took pictures and told one of the bands she was going to have them arrested, and has attempted to have our manager arrested multiple times, and he is not a teenager, he is 60 years old. We were concerned about the funeral home, so we spoke to Hernando Funeral home and asked if the music was too loud. He said what music, we cannot hear it. We were unaware about Mrs. Dunavent having a problem with noise, until we saw the video from the 8/3/21 meeting. We want to apologize to her for the disturbance and hope that we can all come to an agreement that will make everyone happy. We opened in 2019 and found a wonderful outdoor entertainment space. We played outdoors until the weather got bad. COVID has hit restaurants hard as everyone knows. If we are forced to play indoors or not at all it will likely put us out of business. As COVID has increased the outside music has helped us keep our doors open. We appreciate the opportunity of serving the residents of Hernando and surrounding areas. Uncle Bubbas has won the Best Patio category in DeSoto County DeSoto's Best contest this year. We employ over 40 people who want to work when so many do not, and closing would put them all on the unemployment line. Even with the low sales because of COVID we have paid over \$150,000.00 in sales tax in 2020. Thank you for allowing us to speak and for considering our business when voting on this noise ordinance.

Mayor Johnson stated just to let you know, we are not picking on you, but need a city-wide ordinance.

Tom Bradley stated he is a small business person and resident. If you are going to do a decibel reading, you need to do it from the residence and take a reading there. If it is not 65 in their home, it is not too loud. The Hernando High marching band is too loud. But they are excluded. You are excluding city functions, so you need to be fair about it.

Debra Raffety stated if they are allowed to play 7 days a week are we going to have to have them come everyday and take a reading at our home? That places a big burden on the residents. It would have to be policed as a complaint.

Jacqueline Dutsch stated it is important to consider that looking at decibel reading from property line instead of residence. The decibel reading would need to be different and you need to consider more of an ambient level.

Austin Wilson stated he wanted to apologize for any misspeaking that I may have done as referenced by Mrs. Taylor when I said we were in constricton at the same time. They were absolutely there first. On decibel levels, every 3-unit increment, the sound intensity doubles. I would take into consideration Mr. Pittman's recommendation.

Preston McAlexander stated that it is entirely too loud, but be careful on decibel levels. A power lawn mower is 80-89 decibels, a vacuum cleaner is 75 decibels, and you may have people complaining about neighbors mowing their grass.

Motion was duly made by Alderman Wicker and seconded by Alderman Robinson to approve the ordinance adding the Oxford language on parades, fireworks, and so forth, allow outside music on Sunday from 1:00 to 9:00, increase the decibel to 75, and include penalty to business owners only.

A roll call vote was taken:

Those voting "Aye": Alderman Robinson, Alderman Wicker, Alderwoman Ross, Alderman Piper, Alderwoman Lynch, and Alderman Miller.

Those voting "Nay": Alderman Harris

ORDERED AND DONE this the 21st day of September, 2021.

ORDINANCE OF THE CITY OF HERNANDO FOR THE PURPOSE OF AMENDING THE CHAPTER 16 ENVIRONMENT ARTICLE III NOISE OF THE CITY OF HERNANDO CODE ORDINANCE

BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF HERNANDO:

WHEREAS, the Mayor and Board of Aldermen of the City of Hernando, Mississippi, are empowered, pursuant to Chapter 1 of Title 17 of the Mississippi Code of 1972, as amended, to establish, enforce, amend, supplement, or change zoning regulations; and

WHEREAS, pursuant to § 21-19-1 et seq., of the Mississippi Code of 1972, as amended, the Mayor and Board of Aldermen have the power to make regulations to secure the general health of the City; to preserve good order and peace of the City; and to adopt codes dealing with general public health, safety, and welfare; and

WHEREAS, pursuant to § Section 21-17-5, of the Mississippi Code of 1972, as amended, the Mayor and Board of Aldermen have the authority to adopt any orders, resolutions, or ordinances with respect to the municipal affairs of the City, which are not inconsistent with the Mississippi Constitution of 1890 or any other statute or law of the State; and

WHEREAS, the Mayor and Board of Aldermen have found and determined that the following regulations as set forth in this Ordinance are in the best interest of the citizens of the City.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Board of Aldermen of the City of Hernando, Mississippi, as follows:

That Article III of Chapter 16 Environment, of the City of Hernando Code of Ordinance shall be amended to read as follows.

CHAPTER 16 ENVIRONMENT ARTICLE III. NOISE

Sec. 16-82 General Prohibition.

The creation of any unreasonably loud or disturbing noise/sound, as outlined in this article, within the city limits of Hernando, MS. is hereby prohibited. Any noise/sound of such character, intensity and duration as reasonably calculated to be detrimental to the life or health of any ordinary reasonable person are hereby prohibited.

Effective control and elimination of unnecessary noise is essential to the furtherance and health and welfare of the citizens, and to the conduct of the normal pursuits of life, recreation, commerce and industrial activity.

It is in the public interest that unnecessary noise be eliminated within the corporate limits.

It shall be unlawful for any person within the City of Hernando to make, continue or cause to be made or continued, any loud, unnecessary or unusual noise which either disturbs or endangers the comfort, repose, health, peace or safety of others within the limits of the City.

Sec. 16-83 Definitions.

A-weighted sound level means the sound level in decibels as measured on a sound level meter using the A-weighting network as defined in ANSI S1.42. In proper terminology, such a sound level should be stated for example as "The A-weighted sound level is 60 dB." In common practice this is abbreviated as "The sound level is 60 dBA." The "A" added to "dB" to signify that the sound is A-weighted during the measurement.

Construction means on-site erection, fabrication, installation, alteration, repair, demolition or removal of any structure, facility, or addition thereto, including all related activities, including but not restricted to, clearing of land, earthmoving, blasting, landscaping, and paving.

Decibel means sound pressure level as measured by a sound level meter abbreviated as dB in this article. It is a unit of sound level that denotes the ratio between two physical quantities of acoustic or electric power. The number of decibels is ten times the logarithm (to the base 10) of this ratio. (When measuring sound, the square of the sound pressure is the quantity proportional to power.) See A-weighted sound level.

Emergency work means any work or action necessary to deliver essential public services including, but not limited to repairing water, gas, electricity, telephone, sewer facilities, or public transportation facilities, removing fallen trees on public rights-of-way, dredging navigational waterways, or abating life-threatening conditions.

Motor vehicle means any vehicle that is propelled other than by human or animal power on land.

Muffler means a properly functioning sound dissipative device or system for abating the sound of escaping gases on equipment were such a device as part of the normal configuration of the equipment.

Noise means sound which:

- (1) Is louder than that permitted in this article, or
- (2) Disturbs a reasonable person of normal sensibilities.

Outdoor ambient music means low-level, background music, which is slightly audible or inaudible at the real property line. Outdoor ambient music does not include music played by a disc jockey, "DJ" or music

that is used for karaoke or other live performances. Ambient music may include music played by a jukebox or programmed, when such music meets the audibility requirements. (Outdoor entertainment and outdoor ambient music are distinguishable by: (a) sound level and (b) intent.)

Outdoor entertainment means live or prerecorded music or broadcast presented at higher sound levels intended as entertainment, in an outdoor environment such that the sound source and/or audience is outside of a building. (Outdoor entertainment and outdoor ambient music are distinguishable by: (a) sound level and (b) intent.) Higher sound level is defined as 75 dBA at five feet from the source.

Outdoor music venue means a commercial property where sound equipment is used to amplify sound that is not fully enclosed by permanent, solid walls and a roof.

Plainly audible means any sound that can be detected by a person using his or her unaided hearing faculties. As an example, if the sound source under investigation is a portable or personal vehicular sound amplification or reproduction device, the detection of the rhythmic bass component of the music is sufficient to verify plainly audible sound. The accountable official need not determine the title, specific words, or the artist performing the song.

Real property line means either: a) the line including its vertical extension that separates one parcel of real property from another; b) the vertical and horizontal boundaries of the dwelling unit that is part of a multi-dwelling unit building; or c) on a mixed-use property, the interface between the two portions of the property in which different categories of activity are being performed (e.g. if the mixed-use property is a building which is residential upstairs and commercial downstairs, then the real property line would be the interface between the residential area and the commercial area).

Responsible Party means a venue manager, venue owner, sound engineer, or other person authorized to make decisions regarding the use of sound equipment permitted under this article.

Sound means an oscillation in pressure, particle displacement, or particle velocity, in a medium with internal forces that cause compression and rarefaction of that medium. The description of sound may include any characteristic of such sound, including duration, amplitude, and frequency.

Sound equipment means a loudspeaker, public address system, amplification system, or other sound producing device.

Sound level meter means an instrument for measuring sound levels meeting standards ANSI S1.4, and ANSI S1.43 or IEC 651, which for the purposes of this article must include the A-weighting network, slow time-weighting, fast time-weighting, and ability to measure the time average sound level over a period as defined in the standards. The meter must also meet the class 2 requirements at a minimum as per the standard IEC 61672. (alternately Type 2 (ANSI S1.4))

Time average sound level means the level of an equivalent steady sound that over a stated period for a stated location has the same sound energy as an actual sound that may be varying in level over the stated period. (This was previously known as equivalent sound level or leq.)

Sec. 16-84 Specific Unlawful Noises.

The following acts, among others, are declared to be loud, disturbing and unnecessary noises in violation of this Ordinance, but such enumeration shall not be deemed to be exclusive, namely:

1. Any noise made by the motor of any automobile, truck, tractor, motorcycle, not reasonably required in the operation thereof under the circumstances and shall include but not be

limited to backfiring and motor racing. Operating sound equipment in or on a vehicle, or the use of any automobile, motorcycle, or vehicle so out of repair, so loaded or modified, or operated in such a manner as to create loud noises, such as but not limited to, spinning or squealing tires, grating, grinding, rattling, or other noise as to be plainly audible or causing a vibration, outside of the vehicle, heard or felt from the public street or sidewalk, at a distance of 30 feet.

2. The sounding of any horn or signaling device on any automobile, motorcycle or other vehicle on any street or public place of the city, except as a danger warning; the creation by means of any such signaling device of any unreasonably loud or harsh sound; and the sounding of any such device for an unnecessary and unreasonable period of time. The use of any signaling device except one operated by hand or electricity; the use of any horn, whistle or any other device operated by engine exhaust; and the use of any such signaling device when traffic is for any reason held up.

3. Yelling, shouting, hooting, whistling, singing or blowing of horns on the public streets, or at any time or place so as to annoy or disturb the quiet, comfort, or repose of persons in any office, or in any dwelling, hotel, motel, apartment or other type of residence, business or facility, or of any persons in the vicinity.

4. The operation between the hours of 9:00 p.m. and 6:00 a.m. of any pile driver, steam shovel, pneumatic hammer, derrick, steam or electric hoist, construction equipment or other appliance, the use of which is attended by loud or unusual noise.

5. The use of or operation between the hours of 9:00 p.m. and 6:00 a.m. of any power saw, power-planer, or other powered tool or appliance or saw or hammer, or other tool, and any other construction noise so as to disturb the quiet, comfort, or repose of persons in any dwelling, hotel, motel, apartment, or other type of residence, or of any person in the vicinity.

6. The operating of any noise-creating blower or power fan or any internal combustion engine the operation of which causes noise due to the explosion of operating gases or fluids, unless the noise from such blower or fan is muffled and such engine is equipped with a muffler device sufficient to deaden such noise.

7. The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine, motor, motorcycle or motor vehicle except through a muffler or other device which will effectively prevent loud or explosive noises therefrom. No person while on a public or private highway, street or road shall operate a motor vehicle with the muffler missing or removed.

8. The creation of a loud and excessive noise in connection with loading or unloading any vehicle or the opening and destruction of bales, boxes, crates, and containers.

9. The shouting and crying of peddlers, hawkers and vendors which disturbs the peace and quiet of persons in the neighborhood.

10. The use of any drum or other instrument or device for the purpose of attracting attention by creation of noise to any performance, show or sale, or for any other reason.

11. The keeping of any animal, bird or fowl which by causing frequent or long continued noise shall disturb the comfort or repose of persons in the vicinity including the habitual barking of any dog, dogs, or sounds made by other permitted pets or domesticated animals, in a manner as to be plainly audible, as heard from the property line of the residence, or from the adjacent public street or sidewalk.

12. Any noise emitted from a radio, tape player, tape recorder, record player, boom box or television outdoors on or in any publicly owned property or place, including but not limited to public parks when such noise is audible to a person of normal hearing sensitivity one hundred (100) feet from said radio, tape player, tape recorder, record player, or television.

Sec. 16-85 Exemptions.

The following uses and activities shall be exempt from the noise prohibitions described in other sections of this Ordinance:

1. Non-amplified crowd noises resulting from legal activities, between the hours of 9:00 p.m. and 6:00 a.m.
2. Construction operations for which building permits have been issued, or construction operations not requiring permits due to ownership of the project by an agency of government, provided such equipment is operated with the manufacturing mufflers and noise reducing equipment in use and in proper operating condition between 6:00 a.m. and 9:00 p.m.
3. Noises of safety signals, warning devices, and emergency pressure relief valves.
4. Noises resulting an employee of a governmental entity engaged in the employee's official duty and noise from any authorized emergency, fire or police vehicle when responding to an emergency call, acting in time of emergency or in connection with official police or fire department business.
5. Noises from emergency work, being work made necessary to restore property to a safe condition following a public calamity or work required to protect persons or property from an imminent exposure to danger or work by private or public utilities when restoring utility service.
6. Noises made by places of worship using bells, chimes or carillons as part of their religious observance.
7. Any aircraft operated in conformity with, or pursuant to, a federal law, federal air regulations, and air traffic control instructions and pursuant to and within the duly adopted federal air regulations. Any aircraft operating under technical difficulties in any kind of distress, under emergency orders of air traffic control or being operated pursuant to and subsequent to the declaration of an emergency under federal air regulations are also exempt.
8. All noises resulting from normal operations of railroad trains are exempt; provided, however, that excessive use of railroad train signaling devices are declared to be loud, disturbing, and unnecessary noises.
9. All noises from waste disposal vehicles between the hours of 6:00 a.m. and 9:00 p.m.
10. Golf course lawn and maintenance activities at legally permitted golf courses.
11. Safety signals and alarm devices, storm warning sirens or horns, and the authorized testing of such equipment.
12. Use of public address systems at any ballpark, stadium while an athletic contest is in progress therein. School bands, school athletic and school entertainment events including practices from 7:00 a.m. to 12:00 midnight, Monday through Saturday and 12:00 noon to 8:00 p.m. on Sunday.

13. Cries for emergency assistance and warning calls.
14. Noise sources associated with agricultural operations, provided such operations take place between the hours of 6:00 a.m. and 8:00 p.m.; provided, however, that the operation of an internal combustion engine shall not be exempt pursuant to this subsection if such engine is not equipped with suitable exhaust and intake silencers which are in good working order.
15. Any mechanical device, apparatus or equipment which is utilized for the protection or salvage of agricultural crops during periods of adverse weather conditions or when the use of mobile noise sources is necessary for pest control; provided, however, that the operation of an internal combustion engine shall not be exempt pursuant to this subsection if such engine is not equipped with suitable exhaust and intake silencers which are in good working order.
16. Any other noise resulting from activities of a temporary duration and for which a permit has been granted by the Chief of Police or his/her designee.
17. Any Chamber of Commerce sponsored event approved by the mayor and board of aldermen.
18. Any City of Hernando event approved by the mayor and board of aldermen.
19. Any event sponsored by Desoto County and approved by the Desoto County Board of Supervisors.

Sec. 16-86 Restrictions On Outdoor Entertainment.

A business may provide outdoor entertainment that is in compliance with the requirements of this article. Outdoor entertainment is allowed Monday through Thursday between the hours of 10:00 a.m. and 9:00 p.m. Outdoor entertainment is allowed on Friday and Saturday between the hours of 10:00 a.m. and 10:00 p.m. Outdoor entertainment is allowed on Sunday between the hours of 1:00 p.m. and 9:00 p.m.

A business may not operate sound equipment or produce any other sound in violation of this article in excess of 75 decibels (dBA) as measured at the adjacent public street or curb but at least five feet from the building façade.

Outdoor loudspeakers. In all commercial enterprises, no loudspeakers shall be located outside the confines of the building facade or patio/yard footprint or be oriented in such a way that the face of the front of the loudspeaker(s) points in the direction of any adjacent property. No loudspeaker(s) shall have any openings on the back or side that project sound and must be aimed inward and down to the greatest extent possible.

Sec. 16-86 Restrictions on Indoor Entertainment.

Indoor loudspeakers. In all commercial enterprises, no loudspeaker(s) shall be located beyond the interior walls of the building or be oriented in such a way that the face or front of the loudspeaker(s) points in the direction of any exterior door, window, or other opening to the exterior of the building. This provision shall not apply to permanently closed doors, windows, or emergency exits. No loudspeaker(s) shall have any openings on the back or side that project sound.

Loudspeaker(s) shall be located in the interior of the building and must be located at a distance greater or equal to five feet from any exterior door, window, or other opening to the exterior; or

If loudspeaker(s) are located less than five feet from any exterior door, window, or other opening to the exterior of the building, then such windows, doors, or openings to the exterior must remain closed during the hours of operation. In the event that a door subject to this section constitutes an emergency fire exit that is required to remain open during hours of operation then the City of Hernando acting with the fire marshal, pursuant to city and state law, may exempt such door from the requirements of this section. Written documentation issued by the office of state fire marshal of such authorized exemption must be located at the commercial enterprise and must be available upon request.

Sec. 16-86 Permits.

The Chief of Police may grant a temporary permit to persons desiring to use loudspeakers or other electrical devices for parades or for religious, social or political gatherings to be held in any park or other suitable place of assembly.

Application. Any permit issued hereunder should be issued only on written application which shall set forth the following:

1. A description of the premises for which the permit shall issue.
2. The dates and times for which the permit is to be issued.
3. The name and address of the person applying for the permit.
4. Any facts which would show that the activity for which the permit is sought would not disturb the peace of any family or person within the area into which the sound shall carry.
5. The application shall designate a responsible person to be present during the activity. Said person shall be responsible for conducting the activity in compliance with the provisions of the permit and must be present at all times.
6. Other such information as the Chief of Police shall deem necessary and proper.
7. The application shall become a part of any permit issued.
8. The owner of the property upon which the activity will occur shall sign the application, together with any other applicants.

Sec. 16-87 Issuance.

A permit shall be issued or denied within fifteen (15) days of receipt of a completed, signed application. The Chief of Police shall consider the following when considering a permit request:

1. The anticipated noise and duration of the activity.
2. The time of day the activity is to take place.
3. The proximity of the activity to residential areas, schools, churches or other meeting places.
4. Prior complaints from residents as a result of other similar activities.

5. In the event a permit is denied, the applicant may appeal the decision to the Mayor and Board. 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.

Sec. 16-88 Revocation.

The Chief of Police shall have the authority to revoke any permit issued on the finding of any of the following:

1. The activity is being conducted in a manner inconsistent with the permit, including the description of the activity as set out in the application.
2. That there is any misrepresentation of the activity on the application for the permit.
3. Other good cause.

Sec. 16-89 Penalty.

Any person, firm or corporation violating any provision of this Ordinance shall be guilty of a misdemeanor. For businesses, the responsible party subject to penalty shall be the tenant or business owner or other individual associated with the business owner as defined under "Responsible Party" above. The Ordinance does NOT apply to the property owner. Upon conviction shall be fined a minimum of One Hundred Dollars (\$100.00) and/or sentenced to serve ten (10) days in jail, or both, for the first offense; and shall be fined a minimum of Two Hundred Fifty Dollars (\$250.00) and/or sentenced to serve twenty (20) days in jail, or both, for the second offense; and shall be fined up to One Thousand Dollars (\$1,000.00) and/or sentenced to serve thirty (30) days in jail, or both, for any subsequent offense. Each day such violation is committed or permitted to continue shall constitute a separate offense.

Notwithstanding any other provision of this chapter, no criminal complaint shall be filed unless the offending party is first given a verbal or written notification of violation by any peace officer and a reasonable opportunity to correct such violation.

Secs. 16-90--16-98. Reserved.

VOTE:	YEA	NAY
ALDERMAN PIPER	X	
ALDERWOMAN ROSS	X	
ALDERMAN WICKER	X	
ALDERMAN ROBINSON	X	
ALDERMAN MILLER	X	
ALDERWOMAN LYNCH	X	
ALDERMAN HARRIS		X

SO ADOPTED, on this the 21st day of September, 2021

APPROVED:

MAYOR CHIP JOHNSON

ATTEST:

PAM PYLE, CITY CLERK

ADJOURN

There being no further business at this time a motion was duly made by Alderman Piper, seconded by Alderman Robinson to adjourn.

Motion passed with a unanimous vote of "Aye".

RESOLVED AND DONE, This 21st day of September, 2021

MAYOR CHIP JOHNSON

ATTEST:

PAM PYLE, CITY CLERK