MINUTES
SPECIAL CALLED CITY COUNCIL MEETING
FEBRUARY 25, 2020

The Jackson, Tennessee, City Council met for a special called meeting on Tuesday, February 25, 2020, at 9:00 a.m. in the George A. Smith Meeting Room at City Hall with Mayor Scott Conger and Councilmembers Ernest Brooks II; Harvey Buchanan; Johnny Dodd; Russ McKelvey; David Cisco; Ross Priddy; Paul Taylor; and Marda Wallace present. Councilmember Gary Pickens was absent. Also present was Sharon Smith, recorder of the minutes.

Mayor Conger gave the invocation and led the audience in the Pledge of Allegiance to the Flag.

The minutes of the February 4, 2020, meeting were approved and signed.

There were no proclamations today.

This was the time and place advertised for a public comment to items for opposition or in favor for items on the first readings. There were none.

This was the time and place advertised for a public comment to items for opposition or in favor for items on the second readings. There were none.

This was the time and place advertised for a public comment to items for Consideration of approval of documents relating to the Public-Private Partnership dealing with the construction of a new Madison High School, including the Sublease Agreement, the CRA TIF Fund Contribution Agreement, the Agreement for the Distribution of Surplus Purchase Amount Funds, the Quitclaim Deed--conveying parcels owned by the City at the JCM project site to the CRA, and the Quitclaim Deed—a deed consolidating parcels owned by City, County, and School District at JCM to the CRA. Mayor Conger called on Ray Washington, Interim School Superintendent, to give an overview. Mr. Washington stated three years ago, when Dr. Jones was superintendent, we embarked upon looking at all the schools and the viability of each one of them as far as renovating, replacing and what we would need to invest in them. When it came to Madison, it was pretty clear that it would take over $14 million to repair it. The question came up of would it be easier or better to replace Madison versus repairs. At the same time, before 2017, it had been flirted with the University of Memphis at Lambuth about using one of their existing buildings to move Madison to. When that didn't work out, because of the width of the hallways and trying to convert a dorm into a school building, just wasn't feasible, the thought then was where the Epworth building was torn down, could we build a school there, add additional parking where the current soccer field was, and make it a more viable place and a viable learning center for our students at Madison. It would also enhance the campus of the University of Memphis at Lambuth and would add more new enrollment opportunities for the students. We then looked at different methods of financing. We looked at different municipal bond type issues or ways we could construct a financial model that would work. We found a model of a new market tax credit concept and found out that the LIFT had been built with that same model, so we had an example of how it had worked in this City already. I was not familiar with it, but I became familiar with it and found out we had done something that way. We contacted Mr. Hal Crocker, who had executed the LIFT building project, and asked Mr. Crocker if he would be interested in building schools using that same method. At the same time, we were looking to bring JCM back online, either as K-8 or Junior/Senior High. At one time we thought about bringing it back as a K-8 school to replace Alexander, but we thought we'd be better suited to bring it back as a Junior/Senior High to relieve pressure off several schools within the district. So that's how we conclude the concept of this process of the new market tax credit to help revitalize each community on both sides of Highland, both schools are needed for various reasons and different reasons, but both are needed. In synopsis, short version, we knew we needed to build a new Madison; University of Memphis at Lambuth is willing to donate land and property, well University of Memphis; they're willing to support building a school there; and JCM was needed at the same time for a different reason. We saw where we could renovate that school, add some square footage to it and do some things that would be great for that community and bring that school back to East Jackson. Mr. Ray Washington answered questions regarding the overview of the Madison High School project.

Mayor Conger called on Dale Thomas, Attorney for the Madison County Schools. Councilmember Taylor asked Attorney Thomas for clarification on when schools go to do construction projects that they have to go through, what's similar for the City and County, a competitive bid process and share with us why that's not the case in this project. Attorney Thomas stated primarily, it's because the school system nor any governmental entity is building this. We have a development agreement that we're going to be entering into and the developer is then going to contract with the construction company to build the schools. It's a lot like what was done at the LIFT, it did not have to go through those same processes, because it is a public-private partnership. That is what allows the difference. For example, if we build a school anywhere else and we're not going through this public-private, we're going to have to go through the competitive bid system, but the district didn't handle any of the bids in this, it was all done by a private entity. Councilmember Taylor stated it was my understanding that the district had representation during the bid. Mr. Ray Washington stated that our facilities director was a part of it and around the whole process throughout the process. Attorney Thomas stated that what I meant by that is it wasn't controlled by the district. We didn't put out the bids, we had a representative there, but we weren't in control of the bids. Councilmember Taylor asked why governmental bodies have to go through a competitive bid process. Attorney Thomas stated that the thought process is that you want an open and transparent process. And that you also want to make sure you get the best bang for the public's money. That's the thought behind the competitive bidding process.

Mayor Conger called on Attorneys Lewis Cobb and Nick Latimer, representing the City, to answer questions on the items A-E, that are outlined in the agreements. Attorney Cobb stated that this is a public-private partnership trying to leverage a redevelopment idea to get tax credits. There are multiple documents between several entities that starts out with the school system in their request for financial support, the County and the City have agreed to work together to provide that support through a vehicle called the Community Redevelopment Association. Those are the players in this and Nick has been the primary wordsmith going through the documents, working with Mr. Thomas, working with the County, trying to get an agreement that everybody can look at and understand. That's what's before you, multiple agreements to achieve one purpose, which is using the development tax credits of about $5 million to develop new schools, to make better school systems, and to assist the redevelopment of the downtown area. Attorneys Cobb and Latimer answered questions regarding the agreements. Councilmember Taylor asked about the $150,000 letter of support from the West Tennessee Health Care. Attorney Cobb reviewed the letter. I was familiar with this issue, but I hadn't seen this letter. What I understand, is that there was a joint project called Spire that handled land that was owned by the district, but a building that was built in a joint project and because of some misunderstanding, it was on the tax roll, then it was off the tax roll, and now it's back on the tax roll. This provision, what the hospital is saying is they are willing to contribute one time, but not twice. The last paragraph talks about if there are taxes that are paid above the base year 2017, that's a credit for the contribution and the district is a tax exempt from property taxes. They are willing to pay payments in lieu of taxes, but if they pay payments in lieu of taxes and something else gets pulled back on the tax roll, then that is payment of taxes, not payment in lieu of taxes and they only have a total of a $150,000 payment. This documents represents that they pay one time, not double taxation. Councilmember Taylor asked if this $150,000 payment was included in Mr. Laffoon's calculation of $260,000. Attorney Cobb stated what the paragraph says is, it is taxes paid by the district and these taxes are paid by another entity, so they do not offset.

Councilmembers asked questions about the University of Memphis Foundation's contribution. Mayor Congers stated it's the foundation as the University of Memphis Board does not allowed to invest in projects such as this and Bobby has been in conversation with the University of Memphis. Mr. Bobby Arnold spoke on the University of Memphis Foundation contribution. The City provided the university some of our financial analysis and pro-forma that demonstrated to them the City's need for this contribution. We have demonstrated to them, to their satisfaction, based on some of the financial pro-forms we have provided to them, that the need does exist. Mayor Conger stated our projections and pro-forma demonstrate their will be a need for assistance over the next four years to help make the rent payments. The pro-forma serves as the proof of need. We will continue to give them updates annually on our financial situation. Councilmember Wallace stated the wording of the language with the University of Memphis, I'd like clarification that if they are going to look at this annually, that we can still count on them, if we get a large donation that it is still there over the next four years to help us. Mayor Conger stated we cannot ask for the $908,000 to be separated out in four payments, we have to ask for it annually. Councilmember Dodd asked based on University of Memphis Lambuth, West Tennessee Health Care and the CRA, what's the total that they will be giving the City to help with this project. Attorney Cobb stated he was there when Lambuth changed from private to a public institution and there were three primary forces that got together, the City, Jackson Energy Authority, and the hospital. They had a commitment, but not a contract with the state that would invest in and grow the campus and reinvest in this. We have trusted them to do what they said and that's been a very successful, important part of revitalization of the community. They have shown in past deeds that they are interested in developing and working with us in that area. Mr. Arnold stated, in answer to Councilmember Dodd's question, that the CRA contribution at closing would be $300,000, the West Tennessee Health Care commitment, over a seven-year period would be $1,050,000, the University of Memphis contribution would be $908,000, and in Superintendent Washington's comments, he summarized the new market tax credit value and for the City, that's about right at $1.9 million for the City project, so if you sum all of those up, and intended to include all those categories, that's about $4.1 million. Councilmember Taylor asked Attorney Latimer if he could attest that the documents that we're considering today would not put the City at any undue risk. Attorney Latimer stated that if we look at the sublease agreement, the City's only obligation, under the sublease agreement, is to pay rent and to purchase the property at the end of seven years.

Everything else under that document is the obligation of the school district as far as financial repairs, maintenance, insurance, and things like that. Change orders are in the development agreement. The City's not party to the development agreement, that's between Health Communication Education Partners, the School District, and Healthy Community. Councilmember Brooks asked who would own the physical structure after the seven years. Attorney Latimer stated that would be the school district or the City on behalf of the school district for the use and benefit of the school district. Councilmember Taylor asked how does that get determined. Attorney Cobb stated the practical difference between the two is zero. There are numerous schools that were owned by the City, pre-consolidation, and they've been placed in the custody of the school district, which the difference between that and ownership, is only if they decide they want to abandon them and it cost more to demolish them than they're worth, then we get that bill. I think it would be better for them to be owned by the district, than be owned by the City. There's no practical difference. Councilmember Taylor stated the only reason I can see is that we're making a $14 million investment, plus interest, in the project, with no asset at the end of the day. It would potentially be of the City's interest to look at holding onto that property during a short period of time and then signing it over to the County. Councilmember Buchanan stated we've been going at this for years, when a school ceases to be a school it reverts back to the City and County. Attorney Cobb stated that you're right, we have not agreed on that, I don't think our disagreement has been disagreeable, but there is within the language of the consolidation agreement, it says that the school, once it doesn't need the property, can sell it and keep the money, so that means if it's an asset, they get the money. It's a little different than

Councilmembers asked questions to Mr. Bobby Arnold about the financing of the documents. Councilmember Taylor stated that Mr. Arnold has presented over the last week or two, a number of different variations on pro-forma projecting what we've identified as the debt service issue, and also looking at how this potential project plays into that and could you bring us up to speed on where we are to date on understanding that debt service issue and the changes that you're proposing to our future budgets to take care of that. Mr. Arnold stated we have worked extensively in looking at different pro-forma and analysis. As you stated clearly, the school transaction would be a debt service fund transaction, so that's the reason I elected to do the pro-forma to kind of end the debt service fund, it brings some clarity to that. The purpose of doing it was to highlight the impact it would have on our debt service fund, as you know, we have to have a balanced debt service fund each year. We're not in a situation where we can spend more than what is appropriated in the debt service fund. Along with the work related to the school, the Budget Committee also asked us to include some assumptions in works surrounding potential funding for the City's capital budget over this period of time, as well. As the pro-forma indicated, the City has some short-term to mid-term challenges as in the next four years. Even before consideration of this project or before consideration of funding for future capital budgets, we have some short-term challenges for the next four years, not to regress, but this is some of the information we provided to the University of Memphis that they looked at in evaluating their decision to help support us in this project. The school project itself, specifically over the next seven years, 21–27, under the current understanding we have with the CRA funding upfront, the contributions from West Tennessee Health Care, the contributions from the University of Memphis, the school project itself over the next seven years would require $2.5 million. We've looked at different scenarios on possible funding for our capital budget during that time. The City, in my opinion, is in a position to fund this project. Certainly, the City will need to continue the work that we have already started together, in terms of ensuring that we're operating the City as effectively and as efficiently as we can and trying to focus on what we understand and agree are the City's priorities, investments that make sense, and the City will have to demonstrate some financial discipline to make decisions that will result, and some of those decisions will be hard, in us being able to meet our current obligations, as well as, fund this project and fund the capital budgets that are required for priority projects over the next several years. There are deficits, so none of this would happen without some action being taken by the City to address that. There are options available ensuring that our appetite for new capital is focused on very top priorities for the next four years. Councilmember Taylor asked if he could speak to those actions that would have to be taken, potentially. Mr. Arnold stated reduction in operating expenses across the City, and we currently have about a $750 million operating budget in the general fund, a 1% reduction is about $750,000 as an example, we currently allocate certain revenues go to certain funds, we might have to reallocate some of our existing revenues to the debt service fund as an example, and controlling our appetite for capital purchases would be another initiative. The City is faced with a difficult revenue problem and at some point, consideration of our revenue sources might be necessary. There are options available and combinations of options and there's work and analysis that needs to be done. There's additional work that needs to be done through the budgeting process and we are on the cusp of starting our capital budget process for this next year, but we need to get started on our operating budget. It's a process that we'll have to go through with our leadership at the City, our directors, our employees, the Budget Committee, this group, to decide what are the actions that makes the most sense for us to take. Councilmember Buchanan asked if we can maintain our AA bond rating with this initiative. Mr. Arnold stated that our credit rating was reaffirmed back in October with a stable outlook, so that's a very good place to start. I think some of the actions that the City has taken, with the formation of the Budget Committee and some of the work that we are already undertaking to ensure that we are operate the City as efficiently as we can, would be positive. The City, taking a longer range view of projects, such as this school initiative, that at a point in the future, would hopefully provide great value to our community, growth for our City and those types of projects, I'm confident, would be viewed favorably by rating agencies, provided we have a plan to show them how we're going to pay for it. It's impossible for me to say, unequivocally, that we would be able to maintain out credit rating, but I do think we have already taking certain actions, and the actions that we will need to take, moving forward, would be viewed favorably by the rating agency. On June 30, 2019, our general fund balance was $17.9 million. Councilmember Brooks asked Mr. Arnold with the working analysis and the mechanisms we do have in place, that leads you to believe we should approve this project. Mr. Arnold stated that I do and I would point out that it's important to know that for the next four fiscal years, because of the existing debt service requirements for the City of Jackson the next four years, they are significant. They average $11 million a year, round number, for the next four years. That's the short-term challenge I was referring to. Once we get to FY 2025, existing debt service drops off from $11 million to $5 million. It's a significant improvement at that point. Councilmember Priddy asked Mr. Arnold and Mayor Conger to speak to what you see as the roll of the Budget Committee, in light of all the work we've done, it's important for us to make this decision understanding the February 11th, most recent Budget Committee meeting, that we failed to bring that out of committee with a recommendation, so in light of that, have there been new developments, how should we understand that in this decision here and also in the tough decisions we have to make going forward? Mayor Conger stated we determined that the bylaws of the Budget Committee and the formation of it is, it's an advisory committee. It doesn't set the policy for the Council, but it advises or gives us recommendations or doesn't gives us recommendations. It's still ultimately the Council's decision to make any decisions going forward. Mr. Arnold stated that currently the City has designated a certain amount of our current property tax revenue to the capital outlay fund. We were able to do that a couple of years ago following the last, most recent, reappraisal. That's roughly $1.5 million a year. What we're talking about this morning is a debt service transaction. I support having a plan, we've identified what our challenges are and we need now to do our diligence and establish a plan and have the financial discipline to follow through to implement that plan. This $1.5 million that's currently been going to the capital outlay fund, due to the fact that our existing debt service for the next four years, before any consideration of the school project, which I gave you those numbers earlier, the school project impact does not start until our FY 2022. Before any additional borrowing, the City was in a position where we were going to have to take certain actions to fund our existing debt service that we have today. One of those was probably going to entail redirecting, reallocating some or all of that $1.5 million, that's been going to the capital outlay fund, to the debt service fund. Councilman Taylor stated speaking of the reallocation of the capital outlay money to help cover the deficits we have in our debt service fund, typically we've run about a $7.5 million capital budget a year, excluding grants. When we reallocate that money, your pro-forma shows that you're making an assumption that we would borrow $5 million next year, as the Budget Committee has come out and recommended to the Council, to taper that borrowing through driving operational efficiencies over the next four years. If we reallocate that capital outlay money effectively, I've seen the requests from our departments and they're substantial. To get that down to $5 million, it's going to be very difficult. Ultimately as Mayor Conger stated, the Budget Committee can give advice all day, but it's up to the Mayor's Office and you to make it work. Mayor Conger stated we have already started this process with the department heads. Mr. Arnold gave the financial pro-forma outlook to the departments and they understand where we are, what we have to look forward to with our capital needs, based on the level of needs and wants, so they understand we have to make some tough decisions. Councilmember Cisco asked that in the next seven years, how much would we pay into the schools. Mr. Arnold stated it would start in FY 2022, not 2021, and over that period through FY 27, it would total $2,555,000. Councilman Cisco stated then at the end of the seven years we've got a balloon payment of $9.7 million and what would be the interest rate and we'll have to borrow that money. Mr. Arnold stated he's not sure what it would be, but I looked at those numbers and $9.7 million at about 3%, it'll be another 13-14 years left that we could amortize the $9.7 million, that would be about $900,000 a year under those assumptions. Councilman Taylor asked what the current municipal bond rate is right now. Mr. Arnold stated he hasn't looked at them, but they are still very low and very comparable to what they were back in the fall. The recent was one was 1.96% and 2.4% was the higher of the two. Councilman Taylor asked have we looked at the analysis, if we or the County was to finance this through a municipal bond, would there be any savings? Mr. Arnold stated that analysis was done, but I haven't done the analysis on that. That analysis was prepared at some point, in the past, you have to take in the value of the new market tax credits. It would be hard to see how that could be offset. Councilman Taylor stated that he has done the analysis, at current rates, the only way that we see any savings, is if the interest rate is below 4%, when we go to borrow money in 2027/2028. The Council should know that municipal bond rates peak around a Presidential Election years, so we can have an expectation of bond rates continuing to rise in this year and in seven to eight years in the future. Mr. Arnold stated I have not done the analysis and certainly respect your numbers. Other information that has surfaced through the analysis we have collected that we've all looked at, beginning in 2025 fiscal year, depending on how much debt we may or may not issue between now and then, we will be generating a substantial surplus in our debt service fund in 2025. At some point, the City would have the opportunity to make decisions about how to use those funds. We could pay down or retire the potential balloon note if we elected to do that or we could use those funds for our capital needs that have been deferred or will be deferred over the next three to four years out of necessity.

On the motion of Councilmember Dodd, seconded by Councilmember Buchanan, to approve the consideration of approval of documents relating to the Public-Private Partnership dealing with the construction of a new Madison High School, based contingent upon the comptroller's approval of our documents submittal.

On the motion of Councilmember Taylor, to amend Councilmember Dodd's motion, based on the recommendation from the Budget Committee, and if approved, we hire a professional owner/representative to over watch the project, seconded by Councilmember Brooks, the amended motion was approved 7-1-0, with Councilmember Cisco voting nay.

Councilmember Taylor stated this has been a very difficult process and we've gone through a substantial amount of work to understand this. A vote of no today, if I was to do that, it wouldn't be because I don't want this to happen. I think we all know this should happen. My vote of no would be because I just don't have confidence in it and the reason I don't have that confidence is because of all the issues that have been brought up to now. The way that this was set up, the way it's been presented, the way it's been communicated and the way things have changed over the past six months, those things don't give me confidence in moving forward. It's not that I don't want to move forward, I just don't have confidence that we're doing this in the right way and in the way we need to be doing it. That's the reason I don't want to move forward on it and has nothing to do with whether or not we should be building schools, because we absolutely should be, but the issue I have is we are not doing this the right way. As many have spoke today, this is a non-competitive private job that should have been bid out to multiple general contractors to make sure that the tax payers of Jackson and Madison County are getting the lowest and best price and we skipped over that step. Now we're depending on one entity, one person, to tell us what the cost is and they can set that at whatever they want if we'll accept it. That's not being responsible to the tax payers of Madison County or Jackson, Tennessee. Mr. Cobb, back in November, I outlined multiple breaches of the pre-development agreement to you and there's no action has been taken on that. Nothing has been taken to remedy those, nothing has been done to outline how there's been miscalculations and inaccuracies in the documents that have been presented to not only this Council, but to the County, to the School System, or to the Budget Committees. Now, if I was to vote for this, after all the research that I've done, the lack of the plan we don't have to pay for this, and our other financial issues, that vote with the knowledge I have from my standpoint, would be a vote for business as usual. That's what we've ran against. That's what I've dedicated the last six to eight months of trying to fix here. We have to be responsible and if we want to keep doing things this way, we will pay the consequences in the end. This is a very difficult decision, but we have to start doing things the right way.

On the motion of Councilmember Dodd, seconded by Councilmember Buchanan, to approve the consideration of approval of documents relating to the Public-Private Partnership dealing with the construction of a new Madison High School with the approved amendment, were approved 5-3-0, with Councilmembers Priddy, Taylor and Cisco voting nay.

There being no further business, the meeting was adjourned.

SCOTT CONGER, MAYOR