

MINUTES
SPECIAL CALLED CITY COUNCIL MEETING
MAY 18, 2017

The Jackson, Tennessee, City Council met in a special called session on Thursday, May 18, 2017, at 8:00 a.m. in the George A. Smith Meeting Room at City Hall with Mayor Jerry Gist and Councilmembers Charles “Pepper” Bray; Ernest Brooks II; Harvey Buchanan; Scott Conger; Johnny Dodd; Vicky Foote; Charles Rahm; and Randy Wallace present. Councilmember David Cisco was not present. Also present was Anita Brooks, recorder of the minutes.

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

The purpose of the meeting was to consider a recommendation from the City of Jackson’s Budget Review Committee regarding the City’s fiscal year 2018 budget.

Mayor Gist expressed appreciation to the members of the City of Jackson Budget Review Committee for serving on the committee. The members of the City of Jackson Budget Review Committee are City Councilmembers Scott Conger, Ernest Brooks II, and Randy Wallace, and two citizens at large, Dennis Henderson and Jimmy Exum. Mayor Gist called upon Councilmember Randy Wallace who serves as Chairman of the City of Jackson’s Budget Review Committee and Councilmember Wallace called upon City Attorney Lewis Cobb to give a history on where the City stands on the sales tax that the City has been donating to the schools. City Attorney Lewis Cobb stated that he and Attorney Teresa Luna have been working together for the last few months on analyzing whether the City’s share of the local option sales tax was something the City controls or whether the control of these funds have been ceded to someone else. Mr. Cobb stated that up until the early 1990’s, the City of Jackson and Madison County each had separate school systems.

Mr. Cobb further stated that pursuant to State statute, a plan of consolidating Jackson City Schools and Madison County Schools was put on the ballot in 1989 and at the same time, Madison County proposed raising the local option sales tax, a tool that the State legislature has given to cities and counties across the state which requires the passage of a referendum and the referendum has to be approved by the voters. Mr. Cobb stated that Madison County had put a referendum on the ballot four previous times to raise the local option sales tax to the maximum and it had not passed but it had been adopted in the late 1960's as a local funding mechanism. Mr. Cobb stated that by State law, the local option sales tax is divided in the following manner: half goes to schools and the other half goes to the government that collects it. Mr. Cobb stated that in the discussion of funding the additional needs for school consolidation, it was proposed that the City's half of the increase local option sales tax would be used for education. Mr. Cobb further stated that increasing the local option sales tax was put on the ballot at the same time as the School Consolidation Plan and the fact that both items was on the ballot at the same time meant that both items were being discussed at the same time. Mr. Cobb stated that there were two different things that could have happened at that time which were: 1) sales tax could have passed and not the consolidation of schools, and the sales tax would have been at the higher rate; and 2) school consolidation could have passed without an increase in the local option sales tax and the county government would have had the obligation to fund the new school system through other sources; the primary source at that time for local funding for the county government was its property tax base. Mr. Cobb stated that it took longer for the schools to start the consolidation process than it did for the tax collectors to get to work and before the consolidation process was complete, the City Council, which at that time was a relatively new form of City government, voted to take the money that had been collected from its' share of the increased local option sales tax and it be given to schools. He further

stated that since that time, the City has not tried to claim any portion of that local option sales tax in its budget, it has always been sent to Madison County except for a couple of times when the Madison County Trustee was receiving the sales tax check and deducting a fee of approximately 1% for taking the check, cashing it and writing a check. Mr. Cobb stated that the City Council then passed a Resolution altering the County's process of doing this, a change that was made by the City Council alone; the City did not have to get a private act and the City did not have to get joint approval to make this change, it was within the City's power. Mr. Cobb further stated that when the Mayor and some of the City Council members asked him to look at the situation to determine what are the City Council's legal options, he and Attorney Teresa Luna researched the matter and they came to the opinion that if there was not a contract which is allowed under State law for the use of that money, it is within the City Council's power to determine how they want to direct the City's share of the local option sales tax but because he knew this might attract some attention and that there might be some dispute about it, he consulted with Attorney Bill Purcell, an attorney who has done more legal work in education funding than he has, and after Attorney Purcell studied documents relative to the case, Mr. Purcell reached the same conclusion as he had which is: if there is no legal binding contract that requires the City to give their share of the local option sales tax to anyone, then it is within the Council's power to direct the City's share of the local option sales tax as it sees fit. Councilmember Rahm asked Mr. Cobb if the referendum voted on in 1989 regarding school consolidation and the increase in the local option sales tax tied to each other and Mr. Cobb replied, "No." Councilmember Rahm then asked Mr. Cobb if it was perceived that one was tied to the other and he replied, "Yes, I think certain people perceived that one was tied to the other." Councilmember Rahm asked Mr. Cobb if there was a specified time period for those funds to be allocated to the School Consolidation Plan. Mr. Cobb stated that the only time ever specified in the School

Consolidation Plan was three years. Councilmember Foote asked Mr. Cobb if she is right in assuming that an additional burden was put on the County when schools were consolidated and the City Council realized that if the County was going to take a large responsibility with these schools then the City needed to help them out and the period that was decided on to help them adjust was three years. Mr. Cobb stated that the School Consolidation Plan was a three year plan and that was the only time estimate mentioned in the plan. Councilmember Foote then asked Mr. Cobb if it is correct that the City has continued donating their share of the local option sales tax for 25 additional years beyond the three years mentioned in the School Consolidation Plan and have done so without the City Council ever re-visiting the issue and Mr. Cobb replied, "Correct." Mayor Gist stated that the only contract according to Mr. Bill Purcell would be in the School Consolidation Plan which was approved by the County and approved by the City and that is where the three year effort was mentioned and no longer period than that was ever mentioned. Mr. Cobb stated that none of the resolutions authorizing the City's share of the local option sales tax for schools has any time limitations. Mr. Cobb also stated that the sales tax referendum, pursuant to State statute, simply increases the sales tax; there is no tie-in to education in the referendum. Mayor Gist stated that when city residents went to the polls in 1989 and voted for increasing the local option sales tax, the state law in effect at that time was that 50% of all local sales tax revenue would go to education and 50% would go to the government collecting the tax which was the law then and still the law now. Mayor Gist further stated that right after the consolidation effort, the City Council voted politically and collectively as a governing body to allocate the City's 50% of the local option sales tax to Madison County for education; it was not voted on by the citizens of Jackson. Mr. Cobb stated that his legal opinion and the opinion of Attorney Bill Purcell is that there is no binding contract or other legal obligation that restricts the City's ability to direct its' portion of the

local option sales tax to a specific use; the City receives this money and the City Council can vote to allocate this money as they see fit and if they want to make a change, they have the legal right to make that change.

Councilmember Wallace gave a presentation on the amount of dollars the city has contributed to the Jackson-Madison County School System through the City's local option sales tax revenue. The City has contributed \$680 Million Dollars to schools through its local option sales tax revenues since 1990. The State mandates that half of all local sales tax revenues must go to local schools and in Councilmember Wallace's presentation, he showed that City of Jackson residents pay the bulk of local funding for the Jackson-Madison County School System; 89% of total local dollars going to local schools is paid by city residents. Councilmember Wallace's presentation also showed that State-mandated city sales tax revenues and the City's donation to Madison County for schools have increased while the Madison County tax rate for schools have decreased.

Mayor Gist extended an invitation for public comment to anyone present who wished to express comments related to the business item. The following people came forward and asked Mayor Gist to consider appointing a committee among City Council members to allow them the opportunity to meet with members of the Madison County Commission and other county officials to see if an agreement can be reached before the City Council vote on the resolution:

- Richard Donnell, 99 Hickory Hollow Lane;
- former Jackson City Councilmember Brenda K. Monroe-Moses, 332 Hale Street;
- David Bault, 9 Overlook Cove;
- Madison County Commissioner Gary Deaton, 27 Plantation Drive;

- Madison County Commissioner Doug Stephenson, 124 Walnut Street; and
- Mike Nichols, Madison County Finance Director; 120 Oakfield Road.

Councilmember Dodd moved to call for the question but withdrew his motion to allow Madison County Mayor Jimmy Harris an opportunity to address the City Council.

Councilmember Dodd moved to call for the question. Councilmember Dodd's motion was seconded by Councilmember Buchanan and passed 5-2-1, with Councilmembers Bray, Brooks, Buchanan, Dodd and Wallace voting yea, Councilmembers Conger and Rahm voting nay and Councilmember Foote abstaining. On the motion of Councilmember Wallace, seconded by Councilmember Brooks, a Resolution directing the City's share of the local option sales tax was approved by a 6-1-1 vote, with Councilmembers Bray, Brooks, Buchanan, Conger, Dodd and Wallace voting yea, Councilmember Rahm voting nay and Councilmember Foote abstaining.

There being no further business, the meeting was adjourned.

JERRY GIST, MAYOR