

**ARKANSAS DEPARTMENT OF ENERGY AND ENVIRONMENT
DIVISION OF ENVIRONMENTAL QUALITY**

IN THE MATTER

**City of Parkin
P.O. Box 498
Parkin, AR 72373**

**LIS No. 21- 018
AFIN 19-00434**

CONSENT ADMINISTRATIVE ORDER

This Consent Administrative Order (CAO) is issued pursuant to the authority of the Arkansas Solid Waste Management Act ("Act"), Ark. Code Ann. § 8-6-201 *et seq.*, and the Arkansas Pollution Control and Ecology Commission (APC&EC) Rules 7, 8, and 22.

The issues herein having been settled by the agreement of City of Parkin (Respondent) and the Division of Environmental Quality¹ (DEQ), it is hereby agreed and stipulated that the following FINDINGS OF FACT and ORDER AND AGREEMENT be entered.

FINDINGS OF FACT

1. DEQ regulates the disposal of solid waste pursuant to the Act, Ark. Code Ann. § 8-6-201 *et seq.*, and APC&EC Rule 22.
2. DEQ, as administered by its Director, is the state agency charged with ensuring compliance with the Act, Ark. Code Ann. § 8-6-201 *et seq.*
3. Ark. Code Ann. § 8-6-203(9) defines solid waste as:
 - (9) "Solid waste" means any garbage or refuse, sludge from a wastewater treatment plant, water supply treatment plant, or air pollution control facility, and other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from industrial, commercial, mining, and agricultural operations, and from community activities, but does not include solid or dissolved materials in domestic sewage, or solid or dissolved materials in irrigation return flows or industrial discharges that are point sources subject to permit under 33 U.S.C. § 1342, or source,

¹ Pursuant to Act 910 of 2019, the Arkansas Transformation and Efficiencies Act, the former Arkansas Department of Environmental Quality is now the Division of Environmental Quality in the newly created Department of Energy and Environment.

special nuclear, or by-products material as defined by the Atomic Energy Act of 1954, 42 U.S.C. § 2011 *et seq.*

4. Under Ark. Code Ann. § 8-6-203(1), a “Disposal Site” means “any place at which solid waste is dumped, abandoned, or accepted or disposed of for final disposition by incineration, landfilling, composting, or any other method.”

5. Ark. Code Ann. § 8-6-205(a) states in part:

(a) It shall be illegal for any person:

- (1) To violate any provision of this subchapter or any rule or order of the Arkansas Pollution Control and Ecology Commission issued pursuant to this subchapter or of a permit issued under this subchapter by the Division of Environmental Quality;
- (2) To construct, install, alter, modify, use, or operate any solid waste processing or disposal facility or disposal site without a permit from the division;
- (3) To dispose of solid wastes at any disposal site or facility other than a disposal site or facility for which a permit has been issued by the division. However, no provision of this subchapter shall be construed so as to prevent an individual from disposing of solid wastes resulting from his or her own household activities on his or her own land if the disposal does not create a public or private nuisance or a hazard to health and does not violate a city ordinance or other law and does not involve the open dumping of garbage;
- (5) To sort, collect, transport, process, or dispose of solid waste contrary to the rules or orders of the division or in such a manner or place as to create or be likely to create a public nuisance or a public health hazard or to cause or be likely to cause water or air pollution within the meaning of the Arkansas Water and Air Pollution Control Act, § 8-4-101 *et seq.*”

6. Respondent owns the property located at the intersection of W. Front Street and Slaybaugh Street (Site) in Parkin, Cross County, Arkansas.

7. On August 17, 2020, DEQ conducted a Complaint investigation at the Site. The investigation report is incorporated herein by reference. During the investigation, the following violations were observed:

- a. Respondent was operating a solid waste disposal site without permit coverage from DEQ. During the investigation, DEQ observed disposed solid waste of various types at the entrance of the Site and east, northwest, and southeast of a former maintenance shop on the Site. Partially burned solid waste and ash was observed on the southern, western, eastern, and southeastern areas of the Site. A partially burned garbage truck and partially burned trailer were also observed. Two (2) open dumpsters filled with solid waste were observed west of the Site's entrance. Failure to obtain a permit from DEQ prior to commencement of disposal activities violated Ark. Code Ann. § 8-6-205(a)(1), (a)(2), and (a)(3).
- b. Respondent was disposing of solid waste in a manner likely to cause water or air pollution or create a public health hazard. During the investigation, DEQ observed four (4) piles of smoldering solid waste east of the Site's main access drive. Burned waste tires were observed on the eastern portion of the Site. Three (3) dumpsters containing smoldering solid waste were also observed on the Site. The Site did not employ any best management practices to prevent contaminated stormwater from leaving the Site. The disposal of solid waste in a manner likely to create a public health hazard or likely to cause water or air pollution within the meaning of the Arkansas Water and Air Pollution Control Act is a violation of Ark. Code Ann. § 8-6-205(a)(1) and (a)(5).

8. On September 10, 2020, DEQ notified Respondent of the findings of the investigation.

9. On September 16, 2020, Respondent contacted DEQ by telephone to discuss the cited violations and Respondent's efforts to return to compliance.
10. On September 17, 2020, DEQ contacted Respondent by telephone and informed Respondent that the unpermitted dumping must cease immediately. DEQ further advised Respondent that the waste must be taken to a permitted landfill and manifests documenting proper disposal provided to DEQ.
11. On September 22, 2020, DEQ received a letter dated September 17, 2020, from Respondent stating that signage prohibiting dumping, burning, and trespassing had been placed at the Site. Respondent also stated that a new gate had been installed.
12. On September 29, 2020, DEQ met with Respondent and Parkin City Council at the Site. Those in attendance discussed security of the Site, current clean-up progress, and plans for removal of wastes at the Site. DEQ also advised Respondent that a proposed CAO was being drafted for the documented violations.
13. On September 30, 2020, Respondent emailed DEQ in response to the meeting, to update that the County Judge would be assisting with the clean-up effort.
14. On October 26, 2020, DEQ contacted Respondent by telephone to check on the status of the clean-up at the Site. Respondent stated that bids were currently being accepted for remediation of the Site.

ORDER AND AGREEMENT

WHEREFORE, the parties stipulate and agree as follows:

1. Respondent shall immediately cease receiving and disposing of solid waste at the Site.

2. Within thirty (30) calendar days of the effective date of this CAO, Respondent shall submit a Corrective Action Plan detailing the actions to be taken to correct the cited violations and prevent future unpermitted disposal at the Site.
3. Within six (6) months of the effective date of this CAO, Respondent shall submit a Final Report that includes, but is not be limited to, receipts showing proper disposal at a permitted class 1 landfill and photographs demonstrating that the Site has been fully remediated.
4. All documents required to be submitted to DEQ by this CAO, excluding the penalty payment required by Paragraph 5 below, shall be emailed to Enforcement, Office of Land Resources, at olrenforcement@adeq.state.ar.us, or submitted by Certified Mail or hand delivered to Enforcement, Office of Land Resources, DEQ, 5301 Northshore Drive, North Little Rock, Arkansas 72118-5317.
5. In compromise and full settlement of the violations specified in the Findings of Fact, Respondent shall pay a civil penalty of SEVEN THOUSAND DOLLARS (\$7,000.00) of which SEVEN THOUSAND DOLLARS (\$7,000.00) shall be conditionally SUSPENDED by DEQ. If Respondent fully complies with this CAO, the SUSPENDED civil penalty of SEVEN THOUSAND DOLLARS (\$7,000.00) shall be DISMISSED by DEQ. The suspension and dismissal of civil penalties is contingent upon Respondent complying with the terms of this CAO. If Respondent violates any term of this CAO, the full balance of SEVEN THOUSAND DOLLARS (\$7,000.00) shall become immediately due and payable to DEQ. In the event that Respondent fails to pay the civil penalty within the prescribed time, DEQ shall be entitled to attorneys' fees and costs of collection.
6. All requirements of this CAO are subject to approval by DEQ. In the event of any deficiencies, Respondent shall submit any additional information or changes requested, or take

additional actions specified by DEQ to correct any such deficiencies within the timeframe specified by DEQ. Failure to respond adequately in writing within the timeframe specified by DEQ constitutes a failure to meet the requirements established by this CAO.

7. If Respondent fails to meet any requirement of this CAO within the deadline established by the CAO, DEQ may assess stipulated penalties for the delay in the following amounts:

- | | | |
|-----|------------------------------------------|--------------------|
| (a) | First day through the fourteenth day: | \$100.00 per day |
| (b) | Fifteenth day through the thirtieth day: | \$500.00 per day |
| (c) | Each day beyond the thirtieth day: | \$1,000.00 per day |

These stipulated penalties for delay in performance shall be in addition to any other remedies or sanctions that may be available to DEQ by reason of Respondent's failure to comply with this CAO.

8. Respondent shall notify DEQ in writing within five (5) calendar days of knowledge of any delay or potential delay in complying with any provision of this CAO, specifying in detail the anticipated length of delay, the precise cause of delay, and the measures being taken to correct and minimize the delay.

9. DEQ may grant an extension of any provision of this CAO, provided that Respondent requests such an extension in writing and provided that the delay or anticipated delay has or will be caused by circumstances beyond the control of and without the fault of Respondent. The time for performance may be extended for a reasonable period but in no event longer than the period of delay resulting from such circumstances. The burden of proving that any delay is caused by circumstances beyond the control of and without the fault of Respondent and the length of the delay attributable to such circumstances shall rest with Respondent. Failure to notify the DEQ

promptly, as provided in the preceding paragraph of this Section, shall be grounds for a denial of an extension.

10. Nothing contained in this CAO shall be construed as a waiver by DEQ of its authority over alleged violations not specifically addressed herein. This CAO does not purport in any way to relieve Respondent of its responsibilities for obtaining any necessary permits or licenses, nor does it relieve Respondent of any other obligations imposed by any local, state, or federal laws. This CAO does not exonerate any past, present, or future conduct not expressly addressed herein.

11. This CAO is subject to public review and comment in accordance with Ark. Code Ann. § 8-4-103(d) and APC&EC Rule 8 and shall not be effective until thirty (30) calendar days after public notice is given. DEQ retains the right to rescind this CAO based upon the comments received within the thirty (30) day public comment period.

12. Notwithstanding the public notice requirements, the corrective actions necessary to achieve compliance shall be taken immediately. The publication of this CAO shall occur on or about the 10th or 25th day of the month following the date this CAO is executed. As provided by APC&EC Rule 8, this matter is subject to being reopened upon APC&EC initiative or in the event a petition to set aside this CAO is granted by the APC&EC.

13. This CAO has been reviewed and approved by the City Council of Respondent in a duly convened meeting with a quorum present. See copy of [meeting minutes or resolution] attached as Exhibit A.

14. The City Council of Respondent has authorized the Mayor and City Clerk/Treasurer to sign this CAO on behalf of Respondent. See Exhibit A.

15. The City Council of Respondent has authorized the Mayor and City Clerk/Treasurer to expend funds for compliance activities required by this CAO including but not limited to the payment of a civil penalty as set forth in this CAO. See Exhibit A.

SO ORDERED THIS 24th DAY OF February, 2021.

Becky W. Keogh
BECKY W. KEOGH, DIRECTOR

APPROVED AS TO FORM AND CONTENT:

CITY OF PARKIN

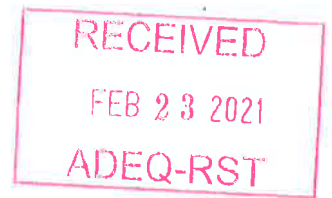
BY: Diane Patterson
(Signature)

Diane Patterson
(Typed or printed name)

TITLE: Mayor

DATE: 02-08-2021

**Regular City Council Meeting
City of Parkin
February 8, 2021**



Welcome

Mayor Patterson did the welcome.

Call to order

Mayor Patterson called the meeting to order at 6:00 P.M. on February 8, 2021 in Parkin City Hall Meeting room.

Prayer and Pledge of Allegiance

Councilmember Harris led in Prayer and Pledge of Allegiance.

Roll Call

Mayor Patterson conducted a roll call. The following members were present: Mayor Diane Patterson, City Clerk Prenita White, Councilmembers Samuel Harris, Mary Willis, David Hickman, Sherry Gillon, Delores Atkins, and Prongue Griffin. City Clerk Prenita White recognized there is a Quorum.

State of the City Address

The State of the City Address will be given on February 15, 2021 at 6:00 P. M.

Reports

- Financial Reports.....

Shaey Cooper - Fire Chief

Mr. Cooper says the Fire Department is good and has Mr. Theo Melton and Mr. Shawn Melton back on the department. Another person has an application to join the department also. The radio system has been updated to a digital radio system and the department still needs a couple more radios. The money will be paid from the insurance money that was collected.

Glenn Hogland - Code Enforcer- Absent

Mayor Patterson informed everyone that Mr. Hogland has health issues, but he said that electrical and gas inspections need to be increased.

Maurice Bailey - Street, Sanitation, & Water Departments

Mr. Bailey says all reports are good but he is still waiting on the man from Loanoke, AR to help with water leaks. The departments are fixing potholes and Mr. Bailey and Mr. Hicks will be on call if bad weather comes. Mr. Johnny Key will be back working as the Sanitation Driver when Mr. Dinwiddie leaves. He will be working 20 hours per week and making \$13 per hour.

Police Department

Mayor Patterson recognized the Police Department for making 2 drug busts.

Prenita White – City Clerk

There was a discussion regarding items in packet.

Councilmember Gillon made the motion and it was seconded by Councilmember Harris to approve the January 2021 Financial Report. Mayor Patterson then asked for voice vote.

David Hickman – Yes
Sherry Gillon– Yes

Samuel Harris – Yes
Delores Atkins – Yes

Mary Willis – Yes
Prongue Griffin - Yes

Clerk Prenita White stated that all attending members present voting yes motions carried 6 to 0 to approve the January 2021 Financial Report.

Councilmember Griffin made the motion and it was seconded by Councilmember Harris to approve the January 11, 2021 Regular Meeting minutes. Mayor Patterson then asked for voice vote.

David Hickman – Yes
Sherry Gillon– Yes

Samuel Harris – Yes
Delores Atkins – Yes

Mary Willis – Yes
Prongue Griffin - Yes

Clerk Prenita White stated that all attending members present voting yes motions carried 6 to 0 to approve the January 11, 2021 Regular Meeting minutes.

Old Business

2019 Water Audit

Mayor Patterson informed everyone that the 2019 Water Audit has been completed.

Comcast Grant

Mayor Patterson informed everyone that the City of Parkin received a Comcast Grant in the amount of \$1,911,742.00 for internet within the city.

New Business

Councilmember Recognitions

Mayor Patterson informed everyone that the following Councilmembers are now Certified Municipal Officials: Mayor Patterson, Councilmember Harris, Councilmember Hickman, and Councilmember Gillon.

Courtroom

Mayor Patterson informed everyone that Wynne wants to use the courtroom or any available space for 1 hour tutoring for a student for 3 days a week.

Councilmember Gillon made the motion and it was seconded by Councilmember Atkins to allow Wynne to use the courtroom for 1 hour tutoring for 3 days a week. Mayor Patterson then asked for voice vote.

David Hickman – Yes
Sherry Gillon – Yes

Samuel Harris – Yes
Delores Atkins – Yes

Mary Willis – Yes
Prongue Griffin - Yes

Clerk Prenita White stated that all attending members present voting yes motions carried 6 to 0 to allow Wynne to use the courtroom for 1 hour tutoring for 3 days a week.

Fire Department Invoice Approval

There was a discussion regarding an invoice for the Fire Department radio system.

Councilmember Hickman made the motion and it was seconded by Councilmember Gillon to pay \$10,125.00 for the radio system out the Fire Department Repair Fund. Mayor Patterson then asked for voice vote.

David Hickman – Yes
Sherry Gillon – Yes

Samuel Harris – Yes
Delores Atkins – Yes

Mary Willis – Yes
Prongue Griffin - Yes

Clerk Prenita White stated that all attending members present voting yes motions carried 6 to 0 to pay \$10,125.00 for the radio system out the Fire Department Repair Fund.

Osborne Farm Lease Agreement

There was a discussion regarding the Lease Agreement for Osborne Farms.

Councilmember Gillon made the motion and it was seconded by Councilmember Harris to approve the Osborne Farms Lease Agreement. Mayor Patterson then asked for voice vote.

David Hickman – Yes
Sherry Gillon – Yes

Samuel Harris – Yes
Delores Atkins – Yes

Mary Willis – Yes
Prongue Griffin - Yes

Clerk Prenita White stated that all attending members present voting yes motions carried 6 to 0 to approve the Osborne Farms Lease Agreement.

Police Department Grant

Mayor Patterson informed everyone that she applied for a \$2,550.00 grant to purchase another computer for a police department vehicle.

Resolutions

Mayor Patterson informed everyone that resolutions are needed to be approved for the City of Parkin.

City Clerk Prenita White read Resolution #02-08-2021-1 (Fair Housing Practices).

Councilmember Gillon made the motion and it was seconded by Councilmember Atkins to adopt Resolution #02-08-2021-1. Mayor Patterson then asked for voice vote.

**David Hickman – Yes
Sherry Gillon– Yes**

**Samuel Harris – Yes
Delores Atkins – Yes**

**Mary Willis – Yes
Prongue Griffin - Yes**

Clerk Prenita White stated that all attending members present voting yes motions carried 6 to 0 to adopt Resolution #02-08-2021-1.

City Clerk Prenita White read Resolution #02-08-2021-2 (Residential Anti-Displacement Plan).

Councilmember Gillon made the motion and it was seconded by Councilmember Atkins to adopt Resolution #02-08-2021-2. Mayor Patterson then asked for voice vote.

**David Hickman – Yes
Sherry Gillon– Yes**

**Samuel Harris – Yes
Delores Atkins – Yes**

**Mary Willis – Yes
Prongue Griffin - Yes**

Clerk Prenita White stated that all attending members present voting yes motions carried 6 to 0 to adopt Resolution #02-08-2021-2.

City Clerk Prenita White read Resolution #02-08-2021-3 (Excessive Force).

Councilmember Gillon made the motion and it was seconded by Councilmember Atkins to adopt Resolution #02-08-2021-3. Mayor Patterson then asked for voice vote.

**David Hickman – Yes
Sherry Gillon– Yes**

**Samuel Harris – Yes
Delores Atkins – Yes**

**Mary Willis – Yes
Prongue Griffin - Yes**

Clerk Prenita White stated that all attending members present voting yes motions carried 6 to 0 to adopt Resolution #02-08-2021-3.

ADEQ

Mayor Patterson informed everyone of a letter received by ADEQ regarding the dumpsite. It has to be cleaned by September 2021 or the City of Parkin will have to pay \$7,000.00. The Mayor needs approval to sign the form.

Councilmember Atkins made the motion and it was seconded by Councilmember Gillon to approve Mayor Patterson to sign the ADEQ form. Mayor Patterson then asked for voice vote.

David Hickman – Yes
Sherry Gillon– Yes

Samuel Harris – Yes
Delores Atkins – Yes

Mary Willis – Yes
Prongue Griffin - Yes

Clerk Prenita White stated that all attending members present voting yes motions carried 6 to 0 to approve Mayor Patterson to sign the ADEQ form.

Executive Session

Councilmember Gillon made the motion and it was seconded by Councilmember Harris to go into Executive Session to discuss personnel matters. Mayor Patterson then asked for voice vote.

David Hickman – Yes
Sherry Gillon– Yes

Samuel Harris – Yes
Delores Atkins – Yes

Mary Willis – Yes
Prongue Griffin - Yes

Clerk Prenita White stated that all attending members present voting yes motions carried 6 to 0 to go into Executive Session to discuss personnel matters at 6:40 P. M.

Open Session

Councilmember Gillon made the motion and it was seconded by Councilmember Atkins to go back into Open Session. Mayor Patterson then asked for voice vote.

David Hickman – Yes
Sherry Gillon– Yes

Samuel Harris – Yes
Delores Atkins – Yes

Mary Willis – Yes
Prongue Griffin - Yes

Clerk Prenita White stated that all attending members present voting yes motions carried 6 to 0 to go back into Open Session at 6:57 P. M.

Councilmember Atkins made the motion and it was seconded by Councilmember Gillon to approve a Verizon contract for police vehicle computer. Mayor Patterson then asked for voice vote.

David Hickman – Yes
Sherry Gillon– Yes

Samuel Harris – Yes
Delores Atkins – Yes

Mary Willis – Yes
Prongue Griffin - Yes

Clerk Prenita White stated that all attending members present voting yes motions carried 6 to 0 to approve a Verizon contract for police vehicle computer.

Mayor Patterson announced that Officer Darrell Crowder is back on the Police Department effective February 8, 2021 and the City Council accepts Officer Robert Morris's resignation.

Adjourn

Mayor Patterson asked for motion to adjourn and Councilmember Gillon made the motion and Councilmember Harris seconded. Mayor Patterson then asked for voice vote.

David Hickman – Yes
Sherry Gillon– Yes

Samuel Harris – Yes
Delores Atkins – Yes

Mary Willis – Yes
Prongue Griffin - Yes

Clerk Prenita White stated that all attending members present voting yes motions carried 6 to 0 to adjourn.

Meeting adjourned at 7:00 P. M.


Prenita White – City Clerk


Diane Patterson – Mayor

