

MINUTES OF THE REGULAR BOARD MEETING OF THE MAYOR AND BOARD OF  
ALDERMAN OF THE CITY OF BRANDON, MISSISSIPPI  
HELD ON APRIL 20, 2015

The Regular Board Meeting was held in the Brandon City Hall Boardroom, 1000 Municipal Drive, Brandon, Mississippi. The meeting was led by Mayor Butch Lee. Aldermen Morrow, Christopher, Corley Williams, Morris, and Vinson were present. Alderman Coker was absent. Alderman Williams led the prayer and Alderman Corley led the Pledge of Allegiance. Public Comments/ Recognitions: Richard Morrison, candidate for Rankin County School Superintendent and David Ruth, candidate for County Coroner each addressed the board and audience about the upcoming election. The Mayor also recognized several Waste Management employees who came to the aid of a citizen. The Mayor also referenced several letters of thanks received in relation to the services provided by the Fire Department and Pafford EMS for citizens. Michael Mann addressed the board regarding drainage issues on Meadowlane Drive.

1.  
APPROVE MINUTES OF REGULAR BOARD MEETING OF APRIL 6, 2015

Alderman Morrow made the motion to approve Minutes of Regular Board Meeting of April 6, 2015, which are appended hereto, in accordance with a memo from the Mayor, seconded by Alderman Corley, and upon unanimous vote the motion carried.

2.  
APPROVE TRAVEL OF THE MAYOR TO WASHINGTON D.C.

Alderman Morris made the motion to approve travel of the Mayor to Washington D.C., from May 20-21, 2015, seconded by Alderman Vinson and upon unanimous vote the motion carried.

3.  
APPROVE AGREEMENT WITH JOE MCGEE CONSTRUCTION COMPANY, INC.

Alderman Morrow made the motion to approve an Agreement with Joe McGee Construction Company, Inc., in accordance with the memo from the Mayor, which is appended hereto, and to authorize the Mayor and City Clerk to execute the same, seconded by Alderman Morris, and upon unanimous vote the motion carried.

4.  
APPROVE RENTAL RATES RE: LINENS, DRAPES AND LIGHTS FOR THE  
CONFERENCE ROOM

Alderman Corley made the motion to approve the rental rates for linens, drapes and lights for the conference room in accordance with the memo from the Events Coordinator, which is appended hereto, seconded by Alderman Williams, and upon unanimous vote the motion carried.

5.

APPROVE AGREEMENT TO PURCHASE RECORDING EQUIPMENT FROM QUALITY RECORDING SOLUTIONS; SURPLUS POLICE DEPARTMENT VEHICLES AND AUTHORIZE MID-SOUTH AUCTION TO SELL THE SAME AND DEPOSIT PROCEEDS INTO GENERAL FUND AND DRUG SEIZURE ACCOUNT PURSUANT TO MEMO; AND APPROVE GERALD DUCKWORTH, RICK FOWLER AND CHASE BEEMON TO TRAVEL TO BILOXI, MS ON JUNE 8-12 TO ATTEND THE MLEOA CONFERENCE

Alderman Corley made the motion to approve the agreement to purchase recording equipment and annual maintenance from Quality Recording Solutions, LLC in the amount of \$23,660.00 as the lowest and best quote received; to surplus two (2) Ford Crown Victorias bearing VIN# ending in 2397 and 3734 and one (1) Dodge Charger bearing VIN# ending in 7647 and one (1) 2008 Mercury Marquis bearing VIN#9129 and to authorize Mid-South Auction to sell the same and to deposit the net proceeds into the General Fund and Drug Seizure Account; and approve Gerald Duckworth, Rick Fowler and Chase Beemon to travel to Biloxi, MS on June 8-12 to attend the MLEOA Conference, in accordance with the memos from the Police Chief which are appended hereto, seconded by Alderman Vinson, and upon unanimous vote the motion carried.

6.

HIRE CHRIS COLEMAN, DAVID MATHIS AND SERGIO SANCHEZ AS A FIREFIGHTERS; AND APPROVE LT. BRYHN BECK AND CAPT. BRIAN ROBERTS TO TRAVEL TO MERIDIAN, MS ON APRIL 21-23, 2015 TO ATTEND A STATE WIDE TASK FORCE EXERCISE

Alderman Williams made the motion to hire Chris Coleman, David Mathis and Sergio Sanchez as Firefighters; and to approve Lt. Bryhn Beck and Capt. Brian Roberts to travel to Meridian, MS on April 21-23, 2015, to attend a state wide task force exercise, in accordance with the memos from the Fire Chief, which are appended hereto, seconded by Alderman Morris, and upon unanimous vote the motion carried.

7.

PUBLIC HEARING AND ACTION RE: DIMENSIONAL VARIANCE REQUEST OF CRAIG AND LEISA McCOOL AT 100 SNYDER DRIVE TO PERMIT THE CONSTRUCTION OF AN ADDITION EXTENDING INTO THE SIDE SETBACKS

The Public Hearing was opened regarding the Dimensional Variance request of Craig and Leisa McCool at 100 Snyder Drive to permit the construction of an addition extending into the side setbacks whereupon the Director of Community Development advised that all prerequisites to the Public Hearing had been met and that the matter was presented to the Planning Commission and that the Planning Commission's recommendation was to approve the request. The Director then presented a Staff Report and file material relative to the Public Hearing and the variance request and the same was appended to the Minutes accordingly. Thereafter, those in favor of or in opposition to the variance request were asked to come forward and speak, whereupon the applicants addressed the board. No one spoke in opposition to the request. The Public Hearing was closed. Alderman Morrow, first incorporating the findings and conclusions contained in the Staff Report and determining that in accordance with 2015 of the City's Zoning Ordinance, special conditions and circumstances exist which are peculiar to the building and

lands involved which are not applicable to other buildings and lands, that the literal interpretation of the ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of the City's Zoning Ordinance and that granting of the variance will not confer upon the applicant any special privilege that is denied by ordinance to other lands and buildings in the same district, made the motion to approve the variance request, seconded by Alderman Morris, and upon unanimous vote the motion carried.

8.

PUBLIC HEARING AND ACTION RE: RE-ZONING REQUEST OF SHERRY BRITT TO  
RE-ZONE THE PROPERTY AT 307 TOLLESON DRIVE  
FROM R-1 TO C-2

The Public Hearing was opened regarding the Re-zoning Request of Sherry Britt seeking to re-zone the property located at 307 Tolleson Drive from R-1 to C-2, whereupon the Director of Community Development advised that all prerequisites to the Public Hearing had been met and that the matter was presented to the Planning Commission and that the Planning Commission's recommendation was to approve the request. The Director then presented a Staff Report and file material relative to the Public Hearing and the re-zoning request and the same was appended to the Minutes accordingly. Thereafter, those in favor of or in opposition to the variance request were asked to come forward and speak, whereupon the applicants addressed the board. Alvin and Sherry Britt spoke in favor of the request. They generally described their business and the plans for future improvements to the property if the application is granted. Jimmy Johnston, 1820 Hwy. 471, the owner of the property addressed the board. He presented a binder of materials in support of the application which is appended to the Minutes. He thanked the City and the Community Development Department for the professionalism shown him in this process. He generally discussed the applicants and their intended use of the property and the proposed enhancements. He contended that the initial residential zoning of the property by the County was in error and that the continued zoning of the property as residential by the City was also an error. He contended that the consistent use of the property was commercial. He addressed concerns about traffic and referenced a letter in this respect from Guest Consultants which is in the materials presented by him. Those in opposition to the request were then recognized. Eighteen people in the audience identified themselves as present and in opposition to the request. Jeralyn Owens, 208 Tolleson Drive, spoke in opposition to the request, indicating in her comments that she was the unofficial spokesperson for the neighborhood. She presented the Board with a Petition of all residents on Tolleson Dr., and most on Ken and Bentley Drive in opposition to the request which Petition is appended to the Minutes. She also presented a letter from a former owner of the subject property indicating its use as a residence which letter is also appended to the Minutes. Ms. Owens reiterated that the subject property is surrounded by residential property that an undeveloped lot immediately adjacent to the subject property just sold and will be used for a residence, that there are real traffic concerns if the property is zoned commercial and that once zoned as such there is no going back. She advised the Board that based on the information she obtained and presented, there was no mistake in the original zoning and that the property had in fact been used as a residence. She also advised the Board that there were no changing conditions in the neighborhood that warranted a change in zoning and that no public need existed as there were several commercially zoned properties in the area that could be utilized for the applicant's proposed use. Brett Parks, 207 Tolleson Dr., spoke in opposition to the request. He generally described his background in safety and focused his remarks on safety. His concern was in relation to the type of business, a gun manufacturer, and the concerns related

to this use, the close proximity of neighbors, his concerns about guns being fired and ammunition exploding and in general the concerns one would have in living near such a facility. The Public Hearing was closed and Alderman Williams was recognized. He then stated that in accordance with Section 2107 no amendment shall be made by the Mayor and Board of Aldermen to the ordinance text or the official zoning map unless the proposed amendment complies with one or more of the following criteria: (a) The amendment will correct a manifest error in the ordinance; (b) The amendment to the official zoning map is necessary because of changing conditions within the city, new development patterns or annexation; (c) The amendment will more suitably promote and protect the public health, safety and welfare than the existing district boundaries which said amendment would replace. Moreover, as in this case, in the event of written protest against such amendment signed by 20 percent or more of the owners of property either within the area to be re-zoned or within 160 feet therefrom, such amendment shall not become effective except by the favorable vote of two-thirds of all the members of the board of aldermen. To justify a re-zoning, the burden of proof is upon the applicant to show either: (1) that there was a mistake in the original zoning, or (2) that the character of the neighborhood had changed substantially and that there was a public need for re-zoning the property. Furthermore, the applicant must prove the requisite elements by clear and convincing evidence. With respect to a claim that there was a mistake in the original zoning, this Mississippi Supreme Court has held that a mistake within the meaning of the law is not a mistake of judgment, but, rather, a clerical or administrative mistake. According to the Court, if the Board determines that the failure to zone the subject property as commercial was not a mistake in judgment but rather one of omission or over-site, i.e., an administrative mistake, then a reliance on this element is valid. However, if the Board intended to re-zone the subject property as residential and now considers such to have been a mistake in judgment, this element is unavailable in considering re-zoning the property. As reflected in correspondence from the Central Mississippi Planning and Development District dated March 13, 2009 (which was obtained the last time there was an attempt to re-zone the subject property which application was withdrawn) and which is appended hereto, the City did comply with the provisions of Section 416 of the City's Zoning Ordinance and that the classification of the subject property as residential was consistent with the county's zoning classification and consistent with the City's Land Use Plan adopted in January 2007 and subsequently. Accordingly, there has been no showing that there is a mistake in the zoning of the subject property. As articulated in court decisions while it is impossible to articulate or design a particular test for determining what is sufficient evidence to show a material change and a public need to support re-zoning, in order to support a claim of a change in the character of the area, there must be some showing of previous re-zonings, statistics or mapped circumstances of growing change and some manner of quantifying such changes in the general and immediate area. Based on the information submitted, except for the widening of Hwy. 471, which has been planned for over 15 years and which has been considered and contemplated in the process of adopting Land Use Plan and in zoning property in the City and the area during this time, there has been no showing of previous re-zonings, statistics or mapped circumstances or other evidence quantifying changes. In order to obtain a re-zoning based upon change in character, the applicant must prove not only a substantial change in the character of the area but also a public need for the re-zoning. *Assuming arguendo* that the applicant has proven a change in character which is denied, there has been no showing by the applicable standard of proof that there is a public need for the re-zoning and in this respect, it is the case that there are sufficient areas within the City to own and operate the proposed business. Based on all of the attendant facts and circumstances, all matters presented at the hearing hereon, at the Planning Commission, as presented by the Community Development Department, and by the Central Mississippi

Planning and Development District, and based on these comments and those provided at the Public Hearing and all other relevant information and first incorporating the same and the City's Comprehensive Land Use Plan with maps and appendices thereto and the City's Zoning Regulation and Land Use Map, Alderman Williams made the motion to deny the application, seconded by Alderman Corley, and upon affirmative vote of the members present with the exception of Alderman Christopher who voted "nay", the motion carried.

9.

PUBLIC HEARING AND ACTION RE: CONDITIONAL USE REQUEST OF C-SPIRE  
WIRELESS FOR A CELL TOWER AT 650 CITY LIMITS ROAD IN AN R-1  
RESIDENTIALLY ZONED DISTRICT

The Public Hearing was opened regarding the Conditional Use Request of C-Spire Wireless for a cell tower on a 100' x 100' or .253 acre site located within a 18.01 acre tract (Parcel #J8-42-10) in a R-1 zoned area, whereupon the Director of Community Development advised that all prerequisites to the Public Hearing had been met and that the matter was presented to the Planning Commission and that the Planning Commission's recommendation was to deny the request. The Director then presented a Staff Report and file material relative to the Public Hearing and the request and the same was appended to the Minutes accordingly. Thereafter, those in favor of or in opposition to the request were asked to come forward and speak, whereupon the applicants addressed the board. Jerry Skipper with C-Spire addressed the Board and gave a general overview of the proposed site, the tower and related information. He showed several pictures of the same tower at several locations in the Jackson Metro Area. Bob Everette, 107 W. Easthaven Cove, spoke in favor of the request and explained the trouble he has had with cell service at his house. David Walsh, 140 Easthaven Dr., appeared in favor of the request. Jeff Martella, 1010 Centerpointe Dr., appeared in favor of the request and advised that he was present for six other families in Centerpointe in favor of the request. Wayne Ball, 1401 Cassandra Place, spoke in favor of the request. Tommy Scott, 601A City Limits Road, spoke in opposition to the request and generally described his concerns about the tower being located in such close proximity to his residence. Lori Schnider, 508 Trichambridge Road, spoke in opposition to the request and generally raised concerns about the tower potentially lowering property values or making it more difficult to sell her house. Vernon Johnson, 1020 Centerpointe Drive spoke in opposition to the request and generally relayed his experience in the cell tower location business and concerns regarding the safety of the tower, its location and related matters. Chris Grobe, 1124 Point Cove, spoke in opposition to the request and generally expressed concerns about the location of the tower and asked about alternate locations. Eleanor Johnson, 1020 Centerpointe Drive, spoke in opposition to the request and generally reiterated what the others in opposition expressed. The Public Hearing was closed. Alderman Corley, first incorporating the findings and conclusions contained in the Staff Report and determining that the proposed use is consistent with Section 502 of the City's Zoning Ordinance and that the elements of Section 2106 of the City's Zoning Ordinance as presented at the Public Hearing and otherwise addressed in the Staff Report incorporated herein, have been met and/or will be addressed in the process of site plan and architectural review, made the motion to approve the Conditional Use Request, seconded by Alderman Morris, whereupon Aldermen Corley, Vinson, Williams and Morris voted "aye" and Aldermen Morrow and Christopher voted "nay", and the motion carried.

10.

PUBLIC HEARING AND ACTION RE: DIMENSIONAL VARIANCE REQUEST OF DAVID MCKAY AND DALE BLALOCK FOR PARCEL I8L-37 AND APPROVE PRELIMINARY PLAT

The Public Hearing was opened regarding the Dimensional Variance request of David McKay and Dale Blalock for Parcel I8L-37, a 1.52 acre tract at the corner of City Limits Road and Woodland Drive to construct a five lot subdivision varying from the minimum square footage and minimum lot width requirements and to approve the preliminary plat, whereupon the Director of Community Development advised that all prerequisites to the Public Hearing had been met and that the matter was presented to the Planning Commission and that the Planning Commission's recommendation was to approve the request. The Director then presented a Staff Report and file material relative to the Public Hearing and the variance request and the same was appended to the Minutes accordingly. Thereafter, those in favor of or in opposition to the variance request were asked to come forward and speak, whereupon the applicants addressed the board. No one spoke in opposition to the request. The Public Hearing was closed. Alderman Morrow first incorporating the findings and conclusions contained in the Staff Report and determining that in accordance with 2015 of the City's Zoning Ordinance, special conditions and circumstances exist which are peculiar to the building and lands involved which are not applicable to other buildings and lands, that the literal interpretation of the ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of the City's Zoning Ordinance and that granting of the variance will not confer upon the applicant any special privilege that is denied by ordinance to other lands and buildings in the same district, made the motion to approve the variance request and preliminary plat with the condition that the veneer of the houses constructed in the subdivision be primarily of brick and that sidewalks be installed on City Limits Road to Hwy. 80, and with the additional provision that construction of each house may begin within 18 months of approval, seconded by Alderman Corley, and upon unanimous vote the motion carried.

11.

SET THE FOLLOWING PUBLIC HEARINGS FOR MAY 4, 2015, DURING THE REGULAR BOARD MEETING: VARIANCE REQUEST OF DEEP SOUTH CUSTOM HOMES AT 106 ELIZABETH DRIVE TO BUILD WITHIN REAR AND SIDE SETBACKS

Alderman Williams made the motion to set the following public hearing for May 4, 2015, during the Regular Board Meeting: variance request of Deep South Custom Homes at 106 Elizabeth Drive re: side and rear setbacks, in accordance with the memo from Community Development Director, which is appended hereto, seconded by Alderman Vinson, and upon unanimous vote the motion carried.

12.

TABLE ACTION RE: SITE PLAN FOR PARKING LOT EXPANSION AT 103 CHRISTIAN DRIVE

Alderman Morrow made the motion to table consideration of the site plan for the parking lot expansion at 103 Christian Drive to the next Regular Board meeting, seconded by Alderman Corley, and upon unanimous vote the motion carried.

13.

APPROVE WAGGONER ENGINEERING TASK ORDER #3, APPROVE MIMS, INC., PAY REQUEST #1; APPROVE MCINNIS ELECTRIC PAY REQUEST # 7

Alderman Corley made the motion to approve Waggoner Engineering Task Order #3 in the amount of \$9,400.00 for the City Hall Entergy Audit; to approve Mims, Inc., Pay Request #1 in the amount of \$69,687.25 for the Sunset Drive, Sunchase and North Street Water Lines Project; and to approve McInnis Electric Pay Request # 7 in the amount of \$11,168.51 for the 2012 Lighting and Landscape Project #STP-7341-00(25) LPA/106341-701000LPA, in accordance with the memos from the Public Works Director which are appended hereto, seconded by Alderman Vinson, and upon unanimous vote the motion carried.

14.

HIRE PART-TIME EMPLOYEES EFFECTIVE APRIL 20, 2015; AND APPROVE BRANDON BAPTIST CHURCH SUMMER CAMP RESERVATION

Alderman Morrow made the motion to hire part-time employees effective April 20, 2015; and to approve Brandon Baptist Church Summer Camp Reservation, in accordance with the memos from Director of Parks and Recreation, which are appended hereto, seconded by Alderman Williams, and upon unanimous vote the motion carried.

15.

APPROVE: DOCKET OF CLAIMS FOR APRIL 9 & 20, 2015; FOX EVERETT CLAIMS RELEASED ON APRIL 6 & 8, 2015

Alderman Williams made the motion to approve the Docket of Claims for April 9 & 20, 2015 and Fox Everett claims released on April 6 & 8, 2015, in accordance with the memos from City Clerk, which are appended hereto, seconded by Alderman Morrow, and upon unanimous vote the motion carried.

16.

EXECUTIVE SESSION

Alderman Morris made the motion to consider the need to go into executive session to discuss personnel matters and the acquisition of real property, seconded by Alderman Morrow, and upon unanimous vote the motion carried.

Alderman Morris then made the motion to go into executive session for the reasons stated and more specifically to discuss personnel matters involving the Police Department and the acquisition of real property regarding the East Brandon Sewer Project and Hwy. 80 improvements and economic development, seconded by Alderman Williams, and upon unanimous vote the motion carried.

Alderman Williams made the motion to authorize employee #7597 to travel for a conference in Tampa, FL from May 18-22, 2015, seconded by Alderman Morris, and upon unanimous vote the motion carried.

Alderman Morrow made the motion to resume the Regular Board Meeting out of executive session, seconded by Alderman Corley, and upon unanimous vote the motion carried.

(The vote in Executive Session was announced upon return to the Board Room).

17.  
ADJOURN

Alderman Corley made the motion to adjourn the Regular Board Meeting, seconded by Alderman Williams, and upon unanimous vote the motion carried.

(Next Regular Board Meeting will be on May 4, 2015).

MINUTES APPROVED THIS THE 4th DAY OF MAY, 2015.

  
\_\_\_\_\_  
HON. BUTCH LEE, MAYOR

ATTEST:

  
\_\_\_\_\_  
ANGELA BEAN, CITY CLERK

