

MINUTES OF THE BOARD MEETING OF THE MAYOR AND BOARD OF ALDERMEN  
OF THE CITY OF BRANDON, MISSISSIPPI  
HELD ON SEPTEMBER 18, 2017

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 Middleton, Dobbs, Morris, Williams, Corley, Vinson and Coker were present. Ellie Whitten led the prayer and Lilly Ford led the Pledge of Allegiance. Each are members of the Mayor's Youth Council. Public Comments/ Recognitions: None.

1.

APPROVE THE MINUTES OF THE REGULAR BOARD MEETING OF  
SEPTEMBER 5, 2017

Alderman Corley made the motion to approve the Minutes of the Regular Board Meeting of September 5, 2017, which are appended hereto, seconded by Alderman Morris, and upon unanimous vote the motion carried.

2.

AUTHORIZE TRAVEL FOR OFFICER SETH BROWN AND OFFICER JOHN LEWIS;  
APPROVE SHRED-IT AGREEMENT; ADOPT REVISED POLICE  
DEPARTMENT POLICY 4.25

Alderman Williams made the motion to approve travel for Officer Seth Brown and John Lewis pursuant to memos of the Police Chief; to approve the agreement with Shred-It (as amended) and to authorize the Mayor to execute the same; and to adopt revised Police Department Policy 4.25, all of which are appended hereto, seconded by Alderman Coker, and upon unanimous vote the motion carried.

3.

APPROVE TRAVEL FOR CHIEF TERRY WAGES; SURPLUS EQUIPMENT AND  
AUTHORIZE PUBLICATION OF NOTICE TO SELL THE SAME

Alderman Morris made the motion to approve travel for Chief Terry Wages pursuant to his memo; and to surplus one 1997 Ferrara Pumper, VIN#1825 and to authorize publication of notice to sell the same, in accordance with the memos from the Fire Chief which are appended hereto, seconded by Alderman Vinson, and upon unanimous vote the motion carried.

4.

PROCLAIM NOVEMBER 25TH AS SMALL BUSINESS SATURDAY; ADOPT BOX SEAT  
RATES FOR THE BRANDON AMPHITHEATER/THE QUARRY

Alderman Dobbs made the motion to proclaim November 25, 2017 as Small Business Saturday; and to approve box seat rates for the Brandon Amphitheater/The Quarry for the 2018 concert season, in accordance with the memos from the Director of Economic Development, which are appended hereto, seconded by Alderman Vinson, and upon unanimous vote the motion carried.

5.

SET PUBLIC HEARINGS FOR DETERMINATION OF PUBLIC NUISANCE; ADOPT RESOLUTIONS ADJUDICATING THE ACTUAL COST OF CLEANING PRIVATE PROPERTY AND ASSESS PENALTIES; APPROVE SITE PLAN FOR RENOVATIONS AT 1811 WEST GOVERNMENT STREET

Alderman Corley made the motion to set public hearings during the Regular Board Meeting on October 2, 2017 to determine whether the following properties constitute a public nuisance, to wit: 103 Bulldog Circle, 32 Quail Ridge Drive, and 704 Brenmar; and to adopt Resolutions adjudicating the actual cost of cleaning private property and assessing penalties as presented for the following: 386 Luckney Road (PPIN#024446), 212 Appleridge (PPIN#021938), 1083 Star Road (PPIN#031310) and 112 Woodcliff Place (PPIN#024226) (except that as to PPIN#024226, if the same is paid in full on or before September 29, 2017, no penalties will be assessed), in accordance with the memos from the Community Development Director, which are appended hereto, seconded by Alderman Morris, and upon unanimous vote the motion carried.

6.

APPOINT BUILDING OFFICIAL

Alderman Vinson made the motion to appoint Donnie Sullivan as the City's Building Official in accordance with the memo from the Community Development Director which is appended hereto, seconded by Alderman Coker, and upon unanimous vote the motion carried.

7.

ADOPT RESOLUTION RE: INCREASING FEES AND CHARGES FOR GARBAGE AND RUBBISH COLLECTION; ACCEPT DEED OF DEDICATION FROM TRUSTMARK; APPROVE HEMPHILL CONSTRUCTION PAY REQUEST #1 AND CHANGE ORDER #1 RE: NORTH COLLEGE STREET WATER LINE IMPROVEMENT PROJECT; ACCEPT COMMODITY BIDS RECEIVED ON SEPTEMBER 15, 2017

Alderman Williams made the motion to adopt a Resolution increasing fees and charges for garbage and rubbish collection; to accept the Deed of Dedication from Trustmark; and to approve Hemphill Construction Pay Request #1 and Change Order #1 re: North College Street Water Line Improvement Project first finding that the change is necessary and is based on recommendations of the Project Engineer and is being made in a commercially reasonable manner and not made to circumvent the public purchasing statutes; and accept commodity bids received on September 15, 2017, in accordance with the memos of the Public Works Director which are appended hereto, seconded by Alderman Corley, and upon unanimous vote the motion carried.

## PUBLIC HEARINGS RE: DELINQUENT GARBAGE ACCOUNTS

The next matter for consideration were public hearings and action regarding certain delinquent garbage accounts. Whereupon the Public Works Director advised that all pre-requisites to the public hearings have been met and that each of the accounts and property holders for which public hearings are to be held were given Notice of Intent of the City of Brandon to Declare a Lien on Real Property and Provide Notice to the Rankin County Tax Collector Regarding Unpaid Fees and Charges for Rubbish Collection and Disposal per Section MCA Section 21-19-2 (1972 as Amended).

1. Frances Spann, 162 Mary Myles Drive. Account current. No action taken.
2. Eddie & Dora Lister, 447 Luckney Road. Account holder appeared. Payment Plan approved.
3. Inez Kersh, 591 Luckney Road. Default entered. Lien on the real property to be filed with the Chancery Clerk and Notice of Unpaid Fees and Charges to be provided to the Rankin County Tax Collector.
4. Mattie May Lister, 479 Luckney Road. Default entered. Lien on the real property to be filed with the Chancery Clerk and Notice of Unpaid Fees and Charges to be provided to the Rankin County Tax Collector.
5. Sheila Love, 304 Love Cove. Default entered. Lien on the real property to be filed with the Chancery Clerk and Notice of Unpaid Fees and Charges to be provided to the Rankin County Tax Collector.
6. Austin Muirhead & Kim Dilmore, 98 Courtney Anne Cove. Account holders appeared. Payment Plan approved.
7. Alane Dotson, 236 Hillcrest Drive. Account current. No action taken.
8. Guyton Ethel Estate, 195 Mary Myles Drive. Account holder appeared. Payment Plan approved.
9. Tonya Hatten, 495 Luckney Road. Default entered. Lien on the real property to be filed with the Chancery Clerk and Notice of Unpaid Fees and Charges to be provided to the Rankin County Tax Collector.
10. Dc Nichols, 100 Mary Craine Circle. Determined that there was no home on the property. The house was demolished. Account to be adjusted and removed from list of generators.

11. Tyrone Bloodsaw, 164 Craine Circle. Default entered. Lien on the real property to be filed with the Chancery Clerk and Notice of Unpaid Fees and Charges to be provided to the Rankin County Tax Collector.
12. Lesia Denise Gipson, 375 Love Circle. Default entered. Lien on the real property to be filed with the Chancery Clerk and Notice of Unpaid Fees and Charges to be provided to the Rankin County Tax Collector.
13. Ashley Newell, 101 Robbins Road. Account holder appeared. Payment Plan approved.
14. Daniel Evans, 373 Tolleson Drive. Account current. No action taken.
15. Eva J. Evans, 185 Mary Myles Drive. Account current. No action taken.
16. Patricia Craine, 120 Shady Lane. Account holder appeared. Payment Plan approved.
17. Melanie S. Goodman, 127 McDonald Lane. Account holder appeared. Payment Plan approved.
18. Sadie Lewis, 107 Mary Myles Drive. Account holder appeared. Payment Plan approved.
19. Dwayne Mangum, 157 Mary Myles Drive. Account holder appeared. Payment Plan approved.
20. Thelma Smith, 392 Luckney Road. Account holder appeared. Payment Plan approved.
21. Hattie Greer, 142 Mary Myles Drive. Account holder appeared. Payment Plan approved.
22. Effie Mae Lee, 6599 Grants Ferry Road. Account holder appeared. Payment Plan approved.
23. David & Polly Ward, 196 Mary Myles Drive. Default entered. Lien on the real property to be filed with the Chancery Clerk and Notice of Unpaid Fees and Charges to be provided to the Rankin County Tax Collector.
24. Eatie Mae Nolan, 140 Mary Myles Drive. Account holder appeared. Payment Plan approved.
25. John & Vivian West, 635 Luckney Road. Default entered. Lien on the real property to be filed with the Chancery Clerk and Notice of Unpaid Fees and Charges to be provided to the Rankin County Tax Collector.
26. Robert White, 367 Tolleson Drive. Account holder appeared. Payment Plan approved.
27. Vonzerle & Yolanda Jackson, 117 Vernon Circle. Account current. No action taken.

28. Willie Mae Wilson, 187 Mary Myles Drive. The City was advised that the account holder passed away and proof of death was provided. Account to be adjusted accordingly.
29. Lena Jones, 478 Luckney Road. Account current. No action taken.
30. Shahla Mary Hatten, 101 Ken Drive. Account current. No action taken.
31. Edgar & Shirley Ward, 141 Craine Circle. Account current. No action taken.
32. Melvin Mangum, 186 Mary Myles Drive. Default entered. Lien on the real property to be filed with the Chancery Clerk and Notice of Unpaid Fees and Charges to be provided to the Rankin County Tax Collector.
33. Jay Kay, 344 Tolleson Drive. Default entered. Lien on the real property to be filed with the Chancery Clerk and Notice of Unpaid Fees and Charges to be provided to the Rankin County Tax Collector.
34. Ken Young, 152 Craine Circle. Default entered. Lien on the real property to be filed with the Chancery Clerk and Notice of Unpaid Fees and Charges to be provided to the Rankin County Tax Collector.
35. Johnny Smith, 403 Stringer Lane. Account current. No action taken.
36. Gregory D. Jones, 136 Stringer Lane. Account current. No action taken.
37. William & Angela Shorter, 228 Penny Lane. Account current. No action taken.
38. Kenneth & Marilyn Walker, 119 Sterling Oak Drive. Default entered. Lien on the real property to be filed with the Chancery Clerk and Notice of Unpaid Fees and Charges to be provided to the Rankin County Tax Collector.
39. Edna Williams, 556 Luckney Road. Account current. No action taken.
40. Andrew & Monieca Shavers, 121 John Henry Drive. Account current. No action taken.
41. Michael & Mona Purry, 112 Irena Drive. Account current. No action taken.
42. Cindy Elwell, 211 Evergreen Drive. Account current. No action taken.
43. Arnold Bailey, 477 Luckney Road. Account current. No action taken.
44. Michael Louviere, 135 Robbins Road. Account current. No action taken.
45. Jennifer Thompson, 5040 Warner Drive. Account current. No action taken.

46. Timothy Frank, 5645 Warner Drive. Account current. No action taken.
47. Freddy Wilson, 107 Shady Cove. (Revision for 9/5/17) Account holder appeared. Payment Plan approved.
48. Bob Myers (Geneva Myers), 148 Mary Myles. (Revision for 9/5/17) Account holder appeared. Payment Plan approved.
49. Dorothy Keys, 170 Caine Circle. (Revision for 9/5/17) Account holder appeared. Payment Plan approved.
50. Sharon Day-Essex, 134 Mary Myles. (Revision for 9/5/2017) Account holder appeared. Payment Plan approved.

Alderman Coker made the motion to declare those given notice to appear and failing to do so as indicated herein-above to be in default and that liens be filed with the Chancery Clerk on the real property identified as the account location and that notices of delinquency be provided to Tax Collector, unless full payment and/or a payment plan has been executed by the account holder and/or property owner and the Director of Economic Development, subsequent to the public hearings and before the same are filed, consistent with the directives of the Mayor and Board of Aldermen and that specific authority be granted to the Director of Economic Authority to cancel any liens and notices for any account brought current, and that regarding those who appeared and entered into payment plans, that the payment plans be approved and that in the event the account holder/property owner fails to abide by the terms of the payment plan, liens be filed with the Chancery Clerk on the real property identified as the account location and that notices of delinquency be provided to the Tax Collector, and further that where adjustments are indicated herein-above, that based on the evidence submitted such adjustments be approved as indicated, and further that all documents related to these public hearings be appended to the minutes, seconded by Alderman Williams and upon unanimous vote the motion carried.

9.

APPROVE PROFESSIONAL SERVICES AGREEMENT WITH TRAIL SOLUTIONS MOUNTAIN BICYCLING ASSOCIATION; APPROVE PICKLEBALL LEAGUE REGISTRATION; APPROVE THRASH COMMERCIAL CONTRACTORS, INC. PAY REQUEST #11 RE: RANKIN TRAILS AMPHITHEATER AND BASEBALL PROJECT/THE QUARRY

Alderman Vinson made the motion to approve the professional services agreement with Trail Solutions Mountain Bicycling Association and to authorize the Mayor to execute the same; to approve Pickleball league registration and to approve Thrash Commercial Constructors, Inc., Pay Request #11 re: Rankin Trails Amphitheater and Baseball Project/The Quarry, in accordance with the memos from the Parks & Recreation Director, which are appended hereto, seconded by Alderman Dobbs, and upon unanimous vote the motion carried.



10.

APPROVE SALARY INCREASES EFFECTIVE OCTOBER 1, 2017; APPROVE THE DOCKET OF CLAIMS FOR SEPTEMBER 8 & 18, 2017 AND FOX EVERETT CLAIMS RELEASED ON SEPTEMBER 14, 2017

Alderman Morris made the motion approve salary increases effective October 1, 2017 as presented by the City Clerk; and to approve the Docket of Claims for September 8 and 18, 2017 and Fox Everett Claims released on September 4, 2017, in accordance with the memos from the City Clerk, which are appended hereto, seconded by Alderman Corley, and upon unanimous vote the motion carried.

11.

EXECUTIVE SESSION

Alderman Corley made the motion to consider the need to go into executive session to discuss potential litigation, acquisition of real property, personnel matters, and transaction of business and discussion regarding the prospective exclusive use of lands which includes commercial, financial information exempt from the provisions of public access, seconded by Alderman Coker, and upon unanimous vote the motion carried.

Alderman Corley then made the motion to go into executive session for the reasons stated and in particular to discuss matters pertaining personnel matters involving employees of the Public Works Department, the leasing of land from the Rankin County School District and the exclusive use of the Amphitheater on dates to be determined and the associated offers related thereto as presented by Red Mountain Entertainment, Inc., seconded by Alderman Morris, and upon unanimous vote the motion carried.

Alderman Corley made the motion to authorize the Mayor to execute a lease with the Rankin County School District for the new Lakeland Drive water tank site in the amount of \$300.00 per year, seconded by Alderman Vinson, and upon unanimous vote the motion carried.

The Mayor advised that City has received commercial and financial information of a proprietary nature from Red Mountain Entertainment, Inc., (RME), who is the City's exclusive provider of promotional and booking services for the Amphitheater regarding the booking of Events #2018-001.V2 (supercedes and replaces Event #2018-001), 2018-008, 2018-009, 2018-010, 2018-011, 2018-012, 2018-013, 2018-014, 2018-015, 2018-016, 2018-017, 2018-018, 2018-019, 2018-020 and 2018-021, at the Amphitheater and for the exclusive use of the same on dates certain to be determined, which information is required to be submitted by RME to the City for approval in accordance with the RME's professional services agreement with the City, and based on such trade secrets and commercial and financial information submitted by RME, all of which is proprietary to RME, Alderman Coker made the motion to authorize the Mayor to execute the offers on behalf of the City for said events, as presented by RME, which offers contain trade secrets and confidential and proprietary commercial and financial information and accordingly

are exempt from the provisions of the Mississippi Public Records Act of 1983, and to direct the City Clerk to maintain the approved and executed offers in a segregated files with accompanying and associated information received from RME regarding said events, which files shall, unless otherwise directed by the Mayor and Board of Aldermen, be accessible only by the Mayor, City Attorney and City Clerk and further that in the event the offers for said events are accepted, the Mayor is authorized to execute contract documents and set ticket pricing including associated fees and municipal charges, as recommended by RME, and to receive revenue and incur costs and expend monies and to take action consistent with the accepted offers and the agreement with RME relative to the advertising, promotion and staging of said events at the Amphitheater and after said event has been publically announced by RME, the City Clerk shall present the executed contract for said events to be spread on the Minutes, with any proprietary commercial or financial information or trade secrets redacted therefrom, and shall thereafter provide a full accounting of all revenue and expenditures of said events to the Mayor and Board of Aldermen, all of which shall be maintained and reflected in a segregated event file for said events, and shall be reported and reconciled based on standards acceptable to the City's auditors with proprietary commercial and financial information and trade secrets of RME redacted therefrom, to be spread on the Minutes as soon as practical after said events, seconded by Alderman Vinson and upon unanimous vote the motion carried.

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

(The votes taken in Executive Session were announced upon return to the Board Room.)

12.

#### ACTION RE: GREENFIELD SEWER RATES

Alderman Morris made the motion to suspend increases in Greenfield Water Association sewer customer rates approved by the MPSC in 2015 pending approval of new tariff by the MPSC for the sewer rates adopted in 2017, in accordance with the memo of the Public Works Director which is appended hereto, seconded by Alderman Williams, and upon unanimous vote the motion carried.

13.

#### ACCEPT BID RE: NEW LAKEBEND WATER WELL

The City received 3 bids on the 2017 Water Improvements New Lakebend Water Well Project on August 21, 2017. The three bidders and bid amounts were as follows: Thompson Brothers Drilling, Inc., \$940,800.00; Griner Drilling Service, Inc., \$993,000.00; and Layne Christensen Co., \$999,361.00. After a review of the bids, it was learned that the bid submission by Thompson Brothers was not in conformance with the bid specifications. A summary of the issues associated with the Thompson Brothers bid and a recommendation regarding the same is provided by the City's Engineer which is incorporated herein by reference. The Thompson Brothers' bid submission did not include the following:



- a. Letter of Qualifications - The bid specifications required all bidders to furnish with their bid submission a letter showing certain information regarding their qualifications. This information was not provided to the City at the time of the bid submission and was not in their bid package at the time the bids were opened. This information was provided subsequent to the bid opening.
- b. Affidavit of No-Collusion. The bid specifications required all bidders to furnish with their bid, on a form provided by the City, an Affidavit of Non-Collusion. This information was provided subsequent to the bid opening.

In *Murphy & Sons, Inc. v. Desoto County Board of Supervisors*, 122 So.3d 87 (Miss. App. 2013), the Mississippi Court of Appeals considered an instance wherein the apparent low bidder did not meet the bid specifications and the bid was rejected accordingly as not being in compliance with the bid specifications.

In *Murphy*, the Court considered whether a Board which has the authority to waive bid requirements is required to do so. In this respect, the Court citing *J.H. Parker Constr. Co. v. Board of Aldermen of Natchez*, 721 So. 2d 671 (Miss. Ct. App. 1998), opined that:

Just as the aldermen in *J.H. Parker Construction Co.* had discretion to waive the requirement in the bid specifications and accept a bid not in total conformity with the bid specifications, so does the Board, in the current case, have discretion to enforce the bid specifications as written.

As noted by the City's Engineer, as to the qualification letter, the bid specifications expressly state that "[f]ailure of the bidder to furnish ... the information with his bid shall be grounds to reject his bid". And with respect to the affidavit of non-collusion, the bid specifications expressly state that "[f]ailure to properly sign and notarize this affidavit will disqualify this bid".

The Board has the authority to determine that the bid from Thompson Brothers was not in conformity with the bid specifications, i.e., failure to provide qualification letter and affidavit of non-collusion, and to reject the same accordingly.

To the extent that Thompson Brothers may argue, "no harm - no foul"; as noted, as to the two matters that were not provided, the specifications provided express statements that the failure to do so would either be grounds to reject the bid or would disqualify the bid. Moreover, in this respect, the Board may also take into consideration that the other bidders in fact did comply with the bid specifications, the bids submitted were competitive, and the other bidders, at least as to the issues which expressly state that the failure to comply will result in the bid being rejected, have a reasonable basis to believe that the playing field will be level and the rules not changed after the bids are opened. Furthermore, the City may reasonably take into consideration the failure of Thompson Brothers to comply with the submission requirements as evidence of lackadaisical business judgment, operations and/or oversight.

Based on all attendant facts and circumstances and in consideration of all relevant matters pertaining to the bids submitted, Alderman Corley made the motion to consider the bid submitted by Thompson Brothers not to be in conformance with the bid specifications and to reject the same accordingly and further to accept the bid of Griner Drilling Service, Inc., in the amount of \$993,000.00 as the lowest and best bid received and to approve contract documents and to authorize the Mayor to execute the same 10 days after the date hereof and to append to the minutes the related bid tabulation sheets and information including the summary and recommendation of the City Engineer, seconded by Alderman Vinson and upon unanimous vote the motion carried.

14.  
ADJOURN

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

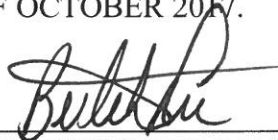
(Next Regular Board Meeting October 2, 2017.)

MINUTES APPROVED THIS THE 2<sup>nd</sup> DAY OF OCTOBER 2017.

ATTEST:

  
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ANGELA BEAN, CITY CLERK



  
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HON. BUTCH LEE, MAYOR