

REGULAR MEETING OF MAY 5, 2015

Be it remembered that the Mayor and Board of Aldermen of the City of Ocean Springs met in a Regular meeting at City Hall in the City of Ocean Springs at 6:00 p.m. on May 5, 2015. The Mayor presiding, Aldermen Cox, Gill, McDonnell, Cody, Denyer, Dalgo and Impey were present. Also present was City Clerk Shelly Ferguson and City Attorney John Edwards.

The Mayor called the meeting to order.

Alderman Cody gave the invocation and the Mayor led the Pledge of Allegiance.

PROCLAMATIONS

The Mayor read a proclamation declaring the week of May 17-23, 2015 as **National Public Works Week** in the City of Ocean Springs (Exhibit 3-a).

The Mayor declared the week of May 3-9, 2015 as **Goodwill Industries Week** in the City of Ocean Springs (Exhibit 3-b).

OLD BUSINESS

Mr. Rich Westfall gave an update on the 2% county-wide occupancy tax that was recently passed by the Governor under House Bill 1672 enabling legislation whereby the Jackson County Board of Supervisors may levy and collect a 2% room tax for all hotels and motels in Jackson County. The Board of Supervisors authorized to initiate a referendum to be placed on a special election ballot on June 23, 2015. The referendum must pass with 60% of qualified electors to vote in favor of the tax. He said the City's support was instrumental in allowing House Bill 1672 to pass (Exhibit 4-a).

Alderman Impey commented about the newly adopted Film Ordinance. He stated he felt there was a need for this type of ordinance. He stated the Ocean Springs is not anti-business or anti-film and welcomes all business as well as the taxes it brings in. He explained a lot of intent was erroneously assigned to this ordinance and if there was any intent, it was to protect the citizens who live here. He further stated in order to make the Board's intentions clear, he will ask to rescind and repeal this Ordinance.

Motion was made by Alderman Impey, seconded by Alderman Dalgo and unanimously carried to rescind and repeal the Film Ordinance and authorize the Mayor to form an ad hoc committee to work with the film industry professionals to develop a more workable ordinance.

ADDENDUM

Motion was by Alderman Cody, seconded by Alderman Impey and unanimously carried to add the Addendum to the Agenda.

NEW BUSINESS

Mr. Matt Stebly, owner of Twisted Anchor Tattoo, stated his intention to appeal the Planning Commission's decision to deny his request for a special use permit to open his shop at the corner of Government Street and Cash Alley. He asked the Board to consider making the changes that will allow him to relocate his tattoo studio in a C-2 district. Mr. Stebly said he has the support of the community as well as the surrounding areas of his plans to move to downtown Ocean Springs (Exhibit 5-a).

The Mayor explained that instead of granting a special use permit, the Board will amend the zoning ordinance to allow tattoo studios within a C-2 zone, but only within the Commercial Business District (CBD). The shops could not be located within 400 feet of a church, school, park or playground or within 1000 feet of another tattoo studio, pawn shop or quick check cashing facility. The amendment also addresses the commercial design guidelines of the building itself. The Planning/Grants Administrator further explained this amendment will address all tattoo businesses in the City.

Motion was made by Alderman Impey, seconded by Alderman Cox and unanimously carried to authorize the Mayor to direct city staff to draft the ordinance amendment, send to Aldermen for review prior to advertisement, and advertise for a public hearing on the 1st meeting in June. It was also request to include information on Government Street properties that will be affected (Exhibit 5-b).

EXECUTIVE SESSION

Motion was made by Alderman Gill, seconded by Alderman Cody and unanimously carried to go into closed session to determine the necessity of going into executive session.

The City Clerk returned to the meeting and announced a motion was made by Alderman Cody, seconded by Alderman Cox and unanimously carried to remain in executive session to discuss potential litigation regarding zoning ordinance; personnel in the Police Department and City Hall and potential litigation regarding city services.

Motion was made by Alderman McDonnell, seconded by Alderman Cody and unanimously carried to approve sending letter to Joe Tucker, Jackson County Tax Collector, regarding costs of collection.

Motion was made by Alderman Cody, seconded by Alderman Cox and unanimously carried to return to regular session.

OLD BUSINESS

Mr. Ward Emling, Film Commissioner with the Mississippi Development Authority, thanked the Board for their support of the industry and recognizing that it is a business they wish to build and develop here as well as protect the community. He looks forward to working with the City to develop an ordinance that supports the film industry but protects the community and the interest of citizens. Mr. Emling said the coast has become one of their busiest locations and knows that bigger production is coming in the future.

The Mayor recognized Mr. Bill Webb who is the former Field Officer Director of the Mississippi Development Authority and the Film Commission's point person on the Coast.

Ms. Cher Foley thanked the Board for rescinding the recently adopted Film Ordinance. She said film is a skittish business and will not tolerate unstreamline business practices. She said what seems reasonable for most businesses and governments, is a game changer for film and any uncertainty is avoided at all costs when choosing a location.

Mr. Wes Benton, film producer and founder of the Sun & Sand Film Festival, stated as a film maker, the scheduling is something that is very hard to do but always wants to be a part of the community. He said he was working with investors on three (3) films to be shot in Ocean Springs with budgets totaling \$3M but due to the uncertainty, they have changed locations. Two (2) films may possibly still be filmed here.

Mr. Stephen Crump, 1202 Hillcrest Drive, commented on the latest draft ordinance stating that people who have made their homes in residential neighborhoods have the right to prevent entry of commercial businesses like short-term rentals or "house hotels". Any new ordinance must provide this ability. He said it is important for residents because it will allow the City to keep many residential districts intact and free of the profit-making commercial businesses. He asked that a provision be added to exclude short term rentals from locating in subdivisions that are 50+ years old because there are no homeowner associations or covenants in place to disallow these types of rentals. He further stated that by requiring all complaints concerning the rentals go to local property manager, this interferes with the residents' right to protect themselves from nuisances and safety issues. It should be the right of residents to contact

appropriate city authorities for noise offenses, driving offenses and trespassing and they ought to be able to call the police. He asked for a more specific way to determine occupancy and addressing off-street parking since there is no room for a fire truck to get through if a car is fully parked on the street (Exhibit 4-b).

The Planning/Grants Administrator stated occupancy requirements are determined by the Fire Marshall based on the number of sleeping areas and parking is determined by the Building Official based on the building codes.

Mr. Crump said this is probably the only city left that is a working city on a beach. And people move here to enjoy the residential neighborhoods and the quality of life the City provides. He said it may make the best sense to designate an area in and around downtown for house hotels and leave outer areas intact.

Ms. Beth Riley stated the City has been working on drafting regulation for three (3) years and she appreciates the time and thought gone into this effort. Ms. Riley reminded the Board that the estimates given by Mr. Abrams of the financial benefits were very conservative and the City depends on tourism. These rentals have operated for 12 years with no complaints and with very high satisfaction rates from the visitors shown by repeat customers. She asked why would short term rental owners jeopardize something that has worked for so long with so many benefits and why do they need to ask permission from their neighbors to continue operating. She said, upon doing research, she learned that neighbor notification is not required from pedophiles moving into a neighborhood. Ms. Riley presented a draft of a Good Neighbor brochure that will be given out to everyone who rents a property. Property owners have a right to use their property the way they want, as long as they are not breaking the law (Exhibit 4-c).

OLD BUSINESS – ADDENDUM

Motion was made by Alderman Cox and seconded by Alderman McDonnell to adopt Version 1 of the Short Term Rental that requires approval of 75% of property owners within 300 feet of the rentals and schedule a public hearing. Alderman Dalgo stated he does not support this version because he does not believe neighbors have a right to tell other neighbors what to do with their property. He supports Version 2 of the Short-Term Rental Ordinance that does not require approval of surrounding property owners only notification. Alderman Dalgo said both versions of the ordinance have tough regulations and if the rental owners do not abide by them, they would lose their permit to operate. Alderman Impey supported the comments made by Alderman Dalgo. He stated he has spent time researching and studying this matter and after looking at

some of the short term rental properties, he wishes he had some in Ward 6 because they are kept up nicely. Alderman Impey supports Version 2.

Alderman Dalgo said his motivation is not political, has had no one calling him and has no VRBOs in his Ward. It is based purely on the fact that he does not feel it is right to enable a neighbor to approve or disapprove of what another neighbor does with their property.

Alderman Cox stated he has received phone calls addressing both sides of this issue. He is a proponent of VRBOs but have several residents that have invested significantly in homes where this has not been allowed next to them. He said there needs to be something in place to protect R1 residential families. He thinks this is a fair compromise and agrees with Version 1.

Alderman Gill said the way this draft ordinance is set up, a new homeowner is protected from an overnight rental next door; the only way to rent overnight is at a hotel. If short term rentals are allowed, we are basically putting the same operation of a hotel in the middle of a residential area and that is an intrusion of the property homeowner. The draft ordinance does have some stipulation to protect the homeowners that if he disagrees with having a short term rental, he has the right to object to it. He said as long as he has been an alderman, there are two (2) things that people ask – don't intrude on their privacy and don't raise taxes. This is the first one that we come close to breaking.

Alderman McDonnell stated in both versions it clearly states there is a need and importance for these types of businesses in the community. The Board also recognizes that these businesses have been operating illegally in residential areas. Therefore, the Board is trying to address this by recognizing there is a need for them and provide a mechanism that will allow some of them. The Bed and Breakfast Ordinance has been on the books since the 1970's and some of these rentals will qualify as a B&B.

The Mayor stated she is in favor of Version 2 because of the strong regulations. She explained that if two (2) citations are written against a particular property owner within a twelve (12) month period, the license would be revoked. There would still be a notification process whereby you would know the owner of the VRBO and also the local contact person.

It was explained by the City Attorney that if a surrounding property owner within 300 feet of the rental does not respond or comply with the notification, it would be considered as an approval.

Motion was made by Alderman Cox and seconded by Alderman McDonnell to move forward with the Short-term Rental Ordinance in residential areas that requires the approval of 75% of property owners within 300 feet of the rental and schedule a Public Hearing in June. Motion carried with Aldermen Cox, Gill, McDonnell, Cody and Denyer voting aye and Aldermen Dalgo and Impey voting nay.

Alderman Denyer said he feels this is a starting point and hopes it will be productive for both the vacation rental business and the R1 residential residents. The VRBO owners have asked for regulations and want to pay taxes.

The Building Official presented a site plan and additional pictures concerning tree removal on Lot 3 Seaside & East Beach. Mr. Chris Eaton, property owner, asked the Board to override the recommendation of the Tree Committee. He said based on the existing tree canopy the house cannot be placed without sacrificing or damaging one or more trees. Mr. Eaton has moved the house back to keep the larger more prominent oak tree in the front and remove the small trees in the back.

Motion was made by Alderman McDonnell and seconded by Alderman Cody to allow Mr. Eaton to remove the trees as requested by Mr. Eaton at Lot 3 Seaside @ East Beach contingent upon planting replacement trees and direct the Building Official to provide a list of trees for planting that are equal in value to those removed. Motion carried with Alderman Cox, Gill, McDonnell, Cody, Denyer and Impey voting aye and Alderman Dalgo voting nay (Exhibit 4-e).

PUBLIC COMMENTS

Mr. Bruno Schrader, 504 General Pershing, made comment that in 1998 he asked for a license to operate a rental in an apartment about his carport. He was told at the time by the City that he needed an inspection and a tax id number. Mr. Schrader stated he operates as a business and is a member of the Chamber. He has collected and paid taxes for the past 17 years. He feels it is profitable and a very good thing for the community to do. He has had people from all over the country stay at his Bed and Breakfast. Mr. Schrader proposed to the City to pass reasonable legislation, regulate by licensing, pay taxes, enforce the rules and shut down violators.

Ms. Dian Wilhoite, 103 Shearwater Drive, owner of two (2) rental properties, one short term and one long term. Ms. Wilhoite stated she strongly recommends the City to reconsider not allowing short term rentals. Ms. Wilhoite read a statement that has been included in the minutes of record.

Ms. Theresa Callahan, a Cherokee Glen resident, states everyone in her neighborhood gets along and is opposed to short term rentals in her neighborhood. She agrees with Version 1.

Mr. Greg Williams, 2521 Promenade, asked the Board strongly consider reinstating Andre Kaufman back as the Public Works Director unless he has violated the public trust or the City is in legal jeopardy. He explained as a developer, he has knowledge about working with roads and being an important part of public works. As a water and sewer owner, he works daily with the same organizations that Mr. Kaufman worked with, Department of Environmental Quality, State Dept. of Health and Jackson County Utility Authority and many others. He asked the Board to consider this is based on his knowledge, the fact that other people know him and his ability to organize, maintain and work with a very difficult workforce.

Mrs. Sue Crump, 1202 Hillcrest Drive, stated she is in favor version 1 of the Short term rental ordinance. She and her husband live in an old neighborhood, established in 1956, off of Cherokee Glen. They do not have a homeowner's association because the developer is deceased. The intent of the covenants was to protect the integrity of the neighborhood.

Mr. Jim Bright, 1707 Carpenter Circle, has a short term rental on Iberville Drive. He asked to not pit neighbor against neighbor and is in favor of regulation, licensing and inspection but not allowing neighbors to decide.

Motion was made by Alderman Denyer, seconded by Alderman Dalgo and unanimously carried to make the statement read by Ms. Dian Wilhoite and the statement from Jon David and Brenda Johnson a part of these minutes.

CONSENT AGENDA

Motion was made by Alderman Cody, seconded by Alderman Cox and unanimously carried to approve the Consent Agenda with exception of item (7-g) and (7-i) which were pulled by Alderman Cox.

Alderman Cox pulled item (7-g) – Authorize employment of David S. Sheline, Patrolman, effective May 6, 2015, \$12.50 hourly with one-year probationary period, pending successful completion of all pre-employment requirements; upon completion of the Mississippi Law Enforcement Training Academy, hourly rate increases to \$13.94 – to ask the Police Chief if this was a replacement position or a new position. The Police Chief explained this was approved by the H.R. Committee and will fill a position in patrol. A Captain and Lieutenant position will not be filled (7-g).

Alderman Cox pulled item (7-i) – Authorize to declare various vehicles as surplus and no use to the Police Department; remove from City inventory and send to auction - to ask if the black Dodge truck used by the reserve officers could be donated to the school

district. The Police Chief state he will research this issue and report back to the Board (Exhibit 7-i).

Motion was made by Alderman Cox, seconded by Alderman Cody and unanimously carried to approve items (7-g) and (7-i).

DEPARTMENT REPORTS

The Mayor presented a breakdown of how the Chamber of Commerce plans to spend the allocation of \$25,000 collected from the 2% food and beverage tax (Exhibit 8-b).

ALDERMEN'S FORUM

Motion was made by Alderman Cody, seconded by Alderman Cox and unanimously carried to ratify the lease agreement with Earl Fayard to use his property located on Front Beach during the OS Mega Reunion to be held on June 19-21.

Alderman McDonnell asked why the City will be celebrating on the Friday, 3rd instead of the 4th of July. The Parks Director advised the pyrotechnics company is already booked for July 4th.

Alderman McDonnell asked the interim Public Works Director for an update on the Front Beach landscaping. He stated he was following up on the request for sod and white sand in the open area next to the previous repairs. Mr. Groue reported they had quotes for seed and fertilizer. Alderman McDonnell stated that he wants quotes for sod rather than seed and asked the Planning and Grants Administrator how much grant money is available. Mr. Groue will get the required quotes for coverage with the approximately \$20k available in the Tidelands grant funds, and will work with the County concerning the sand replacement.

The meeting ended at 9:45 p.m.

/s/ Shelly Ferguson
City Clerk

May 20, 2015
Date

/s/ Connie Moran
Mayor

May 20, 2015
Date

AGENDA
MAYOR AND BOARD OF ALDERMEN
CITY OF OCEAN SPRINGS
REGULAR MEETING
May 5, 2015 - 6:00 p.m.

1. CALL TO ORDER

2. ROLL CALL

3. PROCLAMATIONS

- a) National Public Works Week – May 17-23, 2015 (Exhibit 3-a)
- b) Goodwill Industries International Week – May 3-9, 2015 (Exhibit 3-b)

4. OLD BUSINESS

- a) Update on 2% Tourism funding – Mr. Rich Westfall (Exhibit 4-a)
- b) Discussion concerning Short-Term Rental (Residential) 2nd draft Ordinance – Mr. Stephen Crump (Exhibit 4-b)
- c) Discussion concerning Short-Term Rentals in Residential Zones with handouts – Mrs. Beth Riley (Exhibit 4-c)
- d) Ordinance update on Short-Term Rentals in Residential Zones (Exhibit 4-d)
- e) Appeal filed by Chris Eaton for Lot 3 Seaside @ East Beach concerning tree removal - Mr. Chris Eaton (Exhibit 4-e)

5. NEW BUSINESS

- a) Discussion concerning special use permit for art gallery /tattoo shop in C-2 zoning – Mr. Matt Stebly (Exhibit 5-a)
- b) Authorization to direct staff to draft an ordinance modification to address Tattoo Studios (Exhibit 5-b)

6. PUBLIC COMMENT: The public is invited to address the Board for up to 3 minutes. The Board will take all comments under advisement for potential action at a later date if warranted.

7. CONSENT AGENDA*

** Consent Agenda – All matters listed under Item 7, Consent Agenda, are considered to be routine by the Board of Aldermen and will be enacted by one motion. There will not be separate discussion of these items. If discussion is desired, that item will be removed from the Consent Agenda and will be considered separately.*

Mayor:

- a) Authorize to advertise for various Boards and Commissions; deadline to submit an application is June 5, 2015 (Exhibit 7-a)

City Clerk:

- b) Approve Minutes: Special Call Meeting April 16, 2015 (Exhibit 7-b)
- c) Approve Minutes: Special Call Meeting April 20, 2015 (Exhibit 7-c)
- d) Approve Minutes: Recess Meeting April 21, 2015 (Exhibit 7-d)
- e) Approve Minutes: Special Call Meeting April 28, 2015 (Exhibit 7-e)
- f) Approve payment: Docket of Claims and spread summary upon the Minutes (Exhibit 7-f)

Police Dept.:

- g) Authorize employment of David S. Sheline, Patrolman, effective May 6, 2015, \$12.50 hourly with one-year probationary period, pending successful completion of all pre-employment requirements; upon completion of the Mississippi Law Enforcement Training Academy, hourly rate increases to \$13.94 hourly (Exhibit 7-g)
- h) Authorize lateral transfer of Charlene Anderson as Executive Assistant to the Chief of Police, at current hourly rate, effective May 18, 2015 and six-month probationary period (Exhibit 7-h)
- i) Authorize to declare various vehicles as surplus and no use to the Police Department; remove from City inventory and send to auction (Exhibit 7-i)

Fire Dept.:

Human Resources/Risk Management:

- j) Authorize to begin the process to fill the HR Assistant position, pending approval by the HR Committee (Exhibit 7-j)

City Engineer:

Public Works:

Community Development & Planning:

- k) Accept resignation of Willis White from the Tree Committee and authorize to advertise to fill the vacant position on the committee (Exhibit 7-k)

Building Department:

Parks & Leisure Services:

- l) Approve Facility Use Agreement for the Ocean Springs Adult Co-ed Softball League at the Sports Complex beginning May 27th – August 26th (Exhibit 7-l)
- m) Approve Facility Use Agreement for the Ocean Springs Men's Adult Softball League at the Sports Complex beginning May 28th – November 12th (Exhibit 7-m)
- n) Authorize to schedule City fireworks show on Friday, July 3rd at Fort Maurepas by securing the Fayard property and obtaining sponsorships (Exhibit 7-n)

City Attorney:

Facilities:

Peer Review Committee:

Finance Committee:

H.R. Committee:

- o) Approve H.R. Committee Minutes: Meeting April 21, 2015 (Exhibit 7-o)

8. DEPARTMENT REPORTS

Mayor:

Discussion Item:

- a) Mayor's Veto on Film Ordinance adopted by April 21, 2015 (Exhibit 8-a)

Information Item:

- b) 2% tax update for 2015 submitted by the OS Chamber of Commerce (Exhibit 8-b)

City Clerk:

Police Dept.:

Fire Dept.:

Human Resources/Risk Management:

City Engineer:

Public Works:

Community Development & Planning:

Building Dept.:

Parks & Leisure Services:

City Attorney:

Facilities:

Peer Review Committee:

Finance Committee:

H.R. Committee:

9. ALDERMEN'S FORUM

10. EXECUTIVE SESSION

RECESS until 6:00 p.m. on May 19, 2015

ADDENDUM TO AGENDA
MAYOR AND BOARD OF ALDERMEN
CITY OF OCEAN SPRINGS
REGULAR MEETING
May 5, 2015 - 6:00 p.m.

1. OLD BUSINESS

- a) Request Board to consider any changes and authorize the Mayor to direct staff to re-advertise the ordinance and schedule public hearing for first meeting in June (Exhibit A-1a)
- b) Discussion by Ward Emling, Mississippi Development Authority Film Commissioner, Cher Foley and film producer, Wes Benton. Consideration to create an ad hoc task force to explore alternative ordinance for future consideration by the Board