

**Minutes of July 10, 1006
Mayor and Board of Aldermen**

City of Long Beach

BOARD OF ALDERMEN

Richard Bennett
Charlie Boggs
Richard Burton
Allen D. Holder, Jr.
Mark Lishen
Joe McNary
Richard Notter



**WILLIAM SKELLIE, JR.
MAYOR**

**CITY CLERK
TAX COLLECTOR
Rebecca E. Schruff**
**CITY ATTORNEY
Frank R. McCreary, III**

CITY OF LONG BEACH
COUNTY OF HARRISON
STATE OF MISSISSIPPI

TO THE CHIEF OF POLICE OR ANY LAW ENFORCEMENT OFFICER OF THE CITY OF LONG BEACH, MISSISSIPPI:

GREETINGS:

THIS IS TO COMMAND YOU TO NOTIFY Mayor William Skellie, Jr., Aldermen Allen D. Holder, Jr., Charles A. Boggs, Richard Notter, Richard Burton, Joseph McNary, Mark Lishen, Richard Bennett, City Clerk Rebecca E. Schruff and City Attorney Frank R. McCreary, III, all of the City of Long Beach, that a SPECIAL MEETING of the Mayor and Board of Aldermen has been called and ordered to be held on Monday, July 10, 2006, at 5:00 o'clock p.m. at the Long Beach School District Central Office, 19148 Commission Road, Long Beach, Mississippi, for the purpose of transacting important business of the City of Long Beach, as follows;

TO CONSIDER AND TAKE ACTION ON THE FOLLOWING:

1. RESCIND ACTION TAKEN IN EXECUTIVE SESSION AT A RECESS MEETING DULY HELD AND CONVENED, WEDNESDAY, JULY 5, 2006, PERTAINING TO DIRECTION GIVEN THE CITY ATTORNEY TO OBTAIN AN OPINION FROM THE ETHICS COMMISSION.
2. AUTHORIZE PAYMENT OF INVOICE NUMBER 10-1757-II IN THE AMOUNT OF \$328,536.60 AS SUBMITTED BY ALABAMA EMERGENCY RESPONSE AND RECOVERY AND LISTED IN DOCKET OF CLAIMS NUMBER 070406, UPON THE AVAILABILITY OF FUNDS.

And you are to have this Notice of Special Meeting then and there with the endorsement of its service on the above named officers and persons who could be found personally at least three (3) hours before the time and date fixed for the special meeting aforesaid.

WITNESS MY SIGNATURE, this the 10th day of
July, 2006.

Alderman Allen D. Holder, Jr.

Alderman Richard Bennett

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I HAVE THIS DAY PERSONALLY SERVED THE FOLLOWING NAMED INDIVIDUALS THAT COULD BE FOUND WITH NOTICE OF EMERGENCY SPECIAL MEETING AT LEAST THREE (3) HOURS PRIOR TO THE DATE AND TIME FIXED FOR HOLDING SAID MEETING.

NAME	DATE	TIME
<i>William D. Miller</i>	<i>7/10/06</i>	<i>9:17A</i>
<i>Robert D. Smith</i>	<i>7/10/06</i>	<i>9:17A</i>
<i>Joseph M. McKay</i>	<i>7/10/06</i>	<i>9:45</i>
<i>James P. ...</i>	<i>7/10/06</i>	<i>9:50</i>
<i>...</i>	<i>7/10/06</i>	<i>10:05</i>
<i>...</i>	<i>7-10-06</i>	<i>11:04</i>
<i>...</i>	<i>7-10-06</i>	<i>11:35</i>

[Signature]
HARLEY SCHINKER, CHIEF OF POLICE

BY: *[Signature]*
POLICE OFFICER

There came on for consideration the matter of rescinding action taken in executive session at a recess meeting duly held and convened, Wednesday, July 5, 2006, pertaining to direction given the City Attorney to obtain an official opinion from the Ethics Commission.

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Discussion was held to determine whether or not to declare an executive session and it was determined that the matter would be addressed in open session.

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Alderman Holder made motion seconded by Alderman Bennett to rescind the action directing the City Attorney to obtain an official opinion from the Ethics Commission.

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Alderman Burton offered substitute motion seconded by Alderman Boggs to sustain the action, directing the City Attorney to obtain an official opinion from the Ethics Commission regarding the assignment of debris removal contract from J. Levens Builders, Inc. to Alabama Emergency Response and Recovery to determine whether or not the City has discharged their obligation by approving the assignment and what, if any, liability the City would have if Mr. Levens benefits directly or indirectly from the debris removal contract. Questions and suspicions have arisen regarding the debris removal contract and it is the duty and obligation of the Board of Aldermen to seek this determination in order to protect and preserve the public trust.

Upon further discussion, it was determined that any individual can seek an official opinion from the Ethics Commission. Should evidence of wrongdoing or unlawful activities exist, then it would be the duty and obligation to provide that evidence to the proper authorities.

After considerable discussion and continued debate, the question on the substitute motion was put to a roll call vote by the Mayor and the result was as follows:

Alderman Richard Notter	voted	Aye
Alderman Richard Burton	voted	Aye
Alderman Charles Boggs	voted	Aye
Alderman Richard Bennett	voted	Nay
Alderman Allen D. Holder, Jr.	voted	Nay
Alderman Mark Lishen	voted	Nay
Alderman Joseph McNary	voted	Nay

The question having received the NEGATIVE vote of a majority of the Aldermen present and voting, the Mayor declared the motion NOT CARRIED.

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Upon further discussion and considerable debate, the question on the original motion was put to a roll call vote by the Mayor and the result was as follows:

Alderman Richard Notter	voted	Nay
Alderman Richard Burton	voted	Nay
Alderman Charles Boggs	voted	Nay

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Alderman Richard Bennett	voted	Aye
Alderman Allen D. Holder, Jr.	voted	Aye
Alderman Mark Lishen	voted	Aye
Alderman Joseph McNary	voted	Aye

The question having received the AFFIRMATIVE vote of a majority of the Aldermen present and voting, the Mayor declared the motion CARRIED and the action **rescinded** directing the City Attorney to obtain an official opinion from the Ethics Commission

There came on for consideration the matter of authorizing payment of invoice number 10-757-II in the amount of \$328,536.60 as submitted by Alabama Emergency Response and Recovery, listed in Docket of Claims number 070406.

Alderman Holder made motion seconded by Alderman Bennett to approve payment of said invoice upon the availability of funds.

Upon discussion, Alderman Boggs cited § 21-35-15 Mississippi Code Annotated in reference to legal expenditures, stating that the Board of Aldermen have an obligation and duty to the public to ensure that payment of the invoice is legal and that Mr. Levens has not benefited directly or indirectly from the debris removal contract based upon questions and suspicions that have arisen regarding this matter. Should payment of the invoice prove to be unlawful, FEMA could demand reimbursement for funds paid on the contract and individual members of the Board of Aldermen could be made liable for such expenses, in addition to penalties and fines, and/or incarcerated.

Upon questioning, no evidence of wrongdoing or unlawful activity was submitted for the record pertaining to the debris removal contract.

Upon request for clarification, the City Attorney advised that payment of the aforesaid invoice would be governed by contract laws, stating that, providing the contractor fulfilled his obligation under the terms of the contract, he would be entitled to payment, however, such payment would be at the discretion of the Board of Aldermen. The State Attorney General's Office advised that the Board of Aldermen may legally honor the assignment of contract from J. Levens Builders, Inc. to Alabama Emergency Response and Recovery, the State Ethics Commission was contacted regarding the contract assignment and FEMA apprised of the assignment. In addition, Jimmy Levens submitted a letter confirming that he would receive no compensation

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APPROVED:

Alderman Allen D. Holder, Jr., At-Large

Alderman Charles A. Boggs, Ward 1

Alderman Richard Notter, Ward 2

Alderman Richard Burton, Ward 3

Alderman Joseph McNary, Ward 4

Alderman Mark Lishen, Ward 5

Alderman Richard Bennett, Ward 6

Date: _____

ATTEST:

Rebecca E. Schruff, City Clerk