

Minutes of July 5, 2011
Mayor and Board of Aldermen

Be it remembered that a regular meeting of the Mayor and Board of Aldermen, Long Beach, Mississippi, was begun and held at 5:00 o'clock p.m., Long Beach City Hall, 201 Jeff Davis Avenue, in said City, it being the first Tuesday in July, 2011, and the same being the time, date and place fixed by Laws of the State of Mississippi and ordinance of the City of Long Beach for holding said meeting.

There were present and in attendance on said board and at the meeting the following named persons: Mayor William Skellie, Jr., Aldermen Leonard G. Carrubba, Sr., Gary J. Ponthieux, Kaye H. Couvillon, Ronnie Hammons, Jr., Carolyn J. Anderson, City Clerk Rebecca E. Schruoff, and City Attorney James C. Simpson, Jr.

Aldermen Bernie Parker and Mark E. Lishen were absent the meeting.

There being a quorum present sufficient to transact the business of the City, the following proceedings were had and done.

The meeting was called to order and the award of bids, Senior Citizen and Recreation Center, Install Window and Door Shutters, was taken under advisement for further review and consideration at the next regular meeting, July 19, 2011.

There were no announcements, presentations or proclamations.

Alderman Couvillon made motion seconded by Alderman Carrubba and unanimously carried to suspend the rules and amend the Municipal Docket, as follows:

Item XI.6. NEW BUSINESS; USM Construction and Drainage.

The Mayor opened the floor for public comments regarding agenda items, as follows:

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 Mayor and Board of Aldermen

PUBLIC COMMENTS PERTAINING TO MATTERS ON THE AGENDA ONLY			
<p>NOTE: All comments <u>shall</u> be directed to the Chairman (Mayor). Comments of a personal nature regarding individual members of the Governing Authority (Mayor and Board of Aldermen), City Staff and/or Personnel, other Citizens, disruptive comments or improper actions <u>will not</u> be permitted. Public Comments will be limited to a total of ten (10) minutes and limited to a maximum of two (2) minutes per person. Except as otherwise directed by the Chairman (Mayor), Public Comments will not be permitted before or after the allotted time. Disruption of the regular business meeting will be cause for removal from the public meeting.</p>			
PLEASE PRINT: NAME / ADDRESS / TELEPHONE	AGENDA ITEM NO.	AGENDA ITEM SUBJECT MATTER	
1 Heath McKlveen 228 669 2020	11/4	Band festival	
2			
3			
4			
5			
6			
7			
8			
9			
10			

City of Long Beach, Mississippi
 Mayor and Board of Aldermen Meeting
 Date: _____

Excel Worksheet: public comments - agenda PUBLIC COMMENTS-AGENDA

Alderman Hammons made motion seconded by Alderman Carrubba and unanimously carried to approve minutes of the Mayor and Board of Alderman as submitted. Said minutes are as follows:

- Regular meeting and closed/executive session dated June 21, 2011.
- Work Session dated June 27, 2011.
- Public Hearing dated June 30, 2011.

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Alderman Anderson made motion seconded by Alderman Couvillon and unanimously carried to approve the regular meeting minutes of the Planning Commission dated June 28, 2011, as submitted.

Alderman Hammons made motion seconded by Alderman Anderson and unanimously carried to approve the recess meeting minutes of the Port Commission dated June 28, 2011, as submitted.

Alderman Ponthieux made motion seconded by Alderman Hammons and unanimously carried to approve payment of invoices as listed in Docket of Claims number 070511.

There was no report from the Mayor's Office.

Alderman Anderson made motion seconded by Alderman Hammons and unanimously carried to approve CDBG two (2) Requests for Cash and payment of four (4) invoices, as follows:

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Mayor and Board of Aldermen

MEMO

DATE: June 30, 2011
TO: Honorable William Skellie, Jr.
City of Long Beach
FROM: Ann Frazier
Jimmy G. Gouras Urban Planning
RE: City of Long Beach
CDBG Project #R-109-235-04-KCR
Fire Station
Request for Cash and Summary Support Sheet

Enclosed please find the following invoices for the above referenced project:

1. Jimmy Gouras
Invoice number 9174 in the amount of \$1,708.33
For Administration expense
2. JBHM
Invoice number 27 in the amount of \$586.40
For Architect/Engineering expense

Also enclosed is "Request for Cash and Summary Support Sheet No. 34" in the amount of \$2,294.73 for payment of the above invoices.

Please have the above invoices and Request for Cash and the supporting documentation placed on your next agenda for approval. After its approval, the appropriate official should sign the "Request for Cash and Cash Summary Support Sheet No. 34" and return it along with the supporting documentation for processing to our office at the following address:

Debra Tompkins
Jimmy Gouras Urban Planning
1100 Cherry Street
Vicksburg, MS 39183

If you have any questions, please do not hesitate to call me or Debra Tompkins at (601)638-7121.

REMINDER

From the date of deposit into your account you have only three (3) working days to distribute funds to avoid penalties from MDA.

JIMMY G. GOURAS

URBAN PLANNING CONSULTANTS, INC.

1100 CHERRY ST. • VICKSBURG, MS 39183 • 601-638-7121 • FAX 601-638-5292 • Email: jggouras@bellsouth.net

MEMO

DATE: June 30, 2011
TO: Honorable William Skellie, Jr.
City of Long Beach
FROM: Ann Frazier
Jimmy G. Gouras Urban Planning
RE: City of Long Beach
Community Revitalization Grant
CDBG Project #R-109-235-03-KCR
Town Green
Request for Cash and Summary Support Sheet

Enclosed please find the following invoices for the above referenced project:

1. Jimmy Gouras
Invoice number 9173 in the amount of \$5,800.00
For Administration expense
2. JBHM
Invoice number 24 in the amount of \$2,602.70
For Special Consultants expense

Also enclosed is "Request for Cash and Summary Support Sheet No. 26" in the amount of \$8,402.70 for payment of the above invoices.

Please have the above invoices and Request for Cash and the supporting documentation placed on your next agenda for approval. After its approval, the appropriate official should sign the "Request for Cash and Cash Summary Support Sheet No. 26" and return it along with the supporting documentation for processing to our office at the following address:

Debra Tompkins
Jimmy Gouras Urban Planning
100 Cherry Street
Vicksburg, MS 39183

If you have any questions, please do not hesitate to call me or Debra Tompkins at (601)638-7121.

JIMMY G. GOURAS

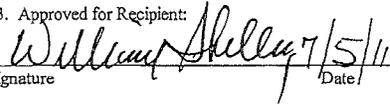
URBAN PLANNING CONSULTANTS, INC.

1100 CHERRY ST. • VICKSBURG, MS 39183 • 601-638-7121 • FAX 601-638-5292 • Email: jggouras@bellsouth.net

There came on for consideration CDBG Budget Modifications/Contract Extensions and action was taken as follows:

- Alderman Hammons made motion seconded by Alderman Ponthieux and unanimously carried to approve Town Green Budget Modification #6 to extend contract ending date to September 30, 2011, as follows:

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Mayor and Board of Aldermen**

MISSISSIPPI DEVELOPMENT AUTHORITY MODIFICATION SIGNATURE SHEET		
DISASTER RECOVERY DIVISION POST OFFICE BOX 849 JACKSON, MISSISSIPPI 39205-0849		
1. Recipient's Name, Address, and Telephone No. City of Long Beach Post Office Box 929 Long Beach, MS 39560-0929 228-863-1556	2. Effective Date: 3. Contract Number: R-109-235-04-KCR Grant Number: R-109-235-04-KCR 4. Modification Number: 6 5. Grant Identifier: (Funding Source & Year) CFDA Number: 14.219 & 14.228 6. Beginning and Ending Date January 2, 2008 – September 30, 2011 7. Page 1 of <u> 1 </u>	
8. As a result of this modification, funds obligated are changed as follows:		
<u>KCDBG</u>	<u>OTHER FEDERAL</u>	<u>OTHER (LOCAL-PRIVATE)</u>
FROM: No change	FROM: No change	FROM: No change
TO:	TO:	TO:
INCREASE:	INCREASE:	INCREASE:
DECREASE:	DECREASE:	DECREASE:
9. The above recipient is hereby modified as follows: The purpose of this modification is to extend the contract ending date from to September 30, 2011 to allow for completion of punch list construction activities and close out of the project.		
10. Except as hereby modified, all terms and conditions of the subcontract remain unchanged.		
12. Approved for Agency: Signature _____ Date _____ Name: Title:	13. Approved for Recipient:  Signature _____ Date <u>7/5/11</u> Name: William Skellie, Jr. Title: Mayor	

Alderman Ponthieux made motion seconded by Alderman Hammons and unanimously carried to approve Change Order 05, AFC, Inc., Town Green Project, as follows:

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GULF COAST OFFICE
2548 Beach Blvd, Ste. 100
Biloxi, Mississippi 39531

228.594.2200
FAX 228.594.2020
EMAIL info@jbhm.com

June 20, 2011

UPS Delivery

Mayor William Skellie, Jr.
City of Long Beach
201 Jeff Davis Avenue
Long Beach, MS 39560

RE: LONG BEACH TOWN GREEN – CHANGE ORDER 05

Dear Mayor Skellie:

The enclosed Change Order 05 for the Long Beach Town Green documents the following changes to the contract:

- 1) Install brick structure with roof around electrical meter box. The total cost to perform this work is a cost increase of \$1,367.88.

I have reviewed all documentation and find the above requests to be in order and appropriate. Should the changes described above be approved by the Board of Aldermen, the Contract Sum will be increased by a total of \$1,367.88. Therefore, the Contract Sum for the project will become \$1,222,350.66 and the date of Substantial Completion will be February 8, 2011.

ARCHITECTURE
PLANNING
LANDSCAPE ARCHITECTURE
INTERIOR DESIGN
GRAPHIC DESIGN
PROGRAM MANAGEMENT

Considering this Change Order, we anticipate significant funds remain obligated to this project and that the funds allocated to this change are warranted.

Enclosed you will find four (4) copies of the above mentioned Change Order. If approved by the Board of Aldermen, please sign all four (4) documents and return all copies to our JBHM – Biloxi Office for further processing. We will mail you a fully executed copy. Should you have additional questions concerning this change order, please do not hesitate to contact me.

Sincerely,

Glenn Currie, AIA, Principal

Enclosures: Change Order Number 05 (AIA Document G701) and related supporting documentation

OFFICES
Biloxi
Columbus
Jackson
Tupelo

PRINCIPALS
JOSEPH S. HENDERSON, AIA
RICHARD H. MCNEEL, AIA

JACK W. BALLARD, AIA
GLENN CURRIE, AIA

cc: Vonnie Ladner – AFC, Inc.
Mayor William Skellie, Jr. – City of Long Beach
Ann Frazier – Jimmy Gouras and Associates
Ginny Breckenridge / Elisha Hurst / Dawn Nolte – HORNE LLP
Glenn Currie/Edward Yeatman/ Carl Bradley – JBHM
JBHM # 09063.09

 **Document G701™ – 2001**

Change Order

PROJECT (Name and address): 09063 Long Beach Town Green Jeff Davis & Third Streets Long Beach, MS 39560	CHANGE ORDER NUMBER: 005 DATE: June 20, 2011	OWNER: <input checked="" type="checkbox"/> ARCHITECT: <input checked="" type="checkbox"/> CONTRACTOR: <input checked="" type="checkbox"/> FIELD: <input type="checkbox"/> OTHER: <input type="checkbox"/>
TO CONTRACTOR (Name and address): A. F. C., Inc. 2510 Highway 53 Perkinston, Mississippi 39573	ARCHITECT'S PROJECT NUMBER: 09063 CONTRACT DATE: 4/27/2010 CONTRACT FOR: General Construction	

THE CONTRACT IS CHANGED AS FOLLOWS:
 (Include, where applicable, any undisputed amount attributable to previously executed Construction Change Directives)

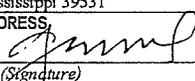
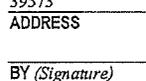
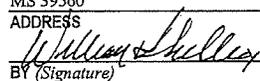
Install brick structure with roof around electrical meter box. Please see attached PCO#9 from AFC.

The original Contract Sum was	\$ 1,169,000.00
The net change by previously authorized Change Orders	\$ 51,982.78
The Contract Sum prior to this Change Order was	\$ 1,220,982.78
The Contract Sum will be increased by this Change Order in the amount of	\$ 1,367.88
The new Contract Sum including this Change Order will be	\$ 1,222,350.66

The Contract Time will be increased by Zero (0) days.
 The date of Substantial Completion as of the date of this Change Order therefore is February 8, 2011

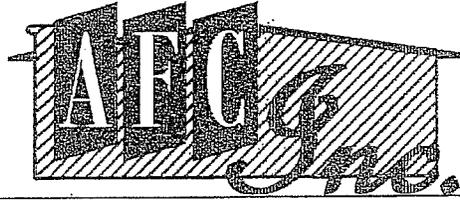
NOTE: This Change Order does not include changes in the Contract Sum, Contract Time or Guaranteed Maximum Price which have been authorized by Construction Change Directive until the cost and time have been agreed upon by both the Owner and Contractor, in which case a Change Order is executed to supersede the Construction Change Directive.

NOT VALID UNTIL SIGNED BY THE ARCHITECT, CONTRACTOR AND OWNER.

<u>JBHM Architects, P.A.</u> ARCHITECT (Firm name)	<u>A. F. C., Inc.</u> CONTRACTOR (Firm name)	<u>City of Long Beach</u> OWNER (Firm name)
<u>2548 Beach Blvd., Suite 100, Biloxi, Mississippi 39531</u> ADDRESS	<u>2510 Highway 53, Perkinston, Mississippi 39573</u> ADDRESS	<u>201 Jefferson Davis Hwy, Long Beach, MS 39560</u> ADDRESS
 BY (Signature)	 BY (Signature)	 BY (Signature)
<u>David Glenn Currie, AIA</u> (Typed name)	<u>Vonnie L. Ladner</u> (Typed name)	<u>William Skellie</u> (Typed name)
<u>6/20/11</u> DATE	<u>7/5/11</u> DATE	<u>7/5/11</u> DATE

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Mayor and Board of Aldermen



Posting

General Contractor
2510 Highway 53
Perkinston, Mississippi 39573
Office: (228) 586-5188
Fax: (228) 586-0755
Email: afcgeneral@aol.com

Change Order Proposal

PROJECT: Long Beach Town Green
115 East Third Street
Long Beach, MS 39560
PROPOSAL NUMBER: 9Rev1
DATE: 6/13/2011

Proposed Changes:
Install brick structure with roof around electrical meter box.

Brick	
Brick, Mortar, etc	\$ 400.00
Brick Labor	\$ 500.00
Carpentry	
Labor	\$ 320.00
Hardware	\$ 50.00

Amount: \$ 1,270.00
Profit Margin: \$ 0.00
Overhead: \$ 50.00
Sales Tax: \$ 47.88

Price: \$1,367.88

Vonnie Ladner

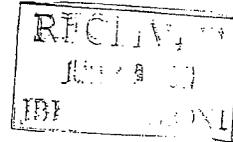
Vonnie Ladner, President, AFC Inc.

Accepted By

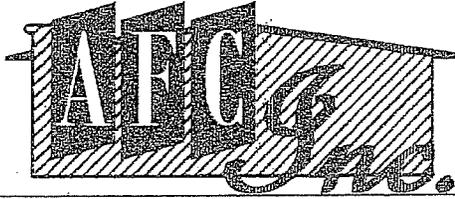
6-13-2011

Date

Date



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PCO #

General Contractor
2510 Highway 53
Perkinston, Mississippi 39573
Office: (228) 586-5188
Fax: (228) 586-0755
Email: afcgeneral@aol.com

Change Order Proposal

PROJECT: Long Beach Town Green
115 East Third Street
Long Beach, MS 39560
PROPOSAL NUMBER: 9Rev1
DATE: 6/13/2011

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Sales Tax: \$ 47.88

Price: \$1,367.88

Vonnie Ladner

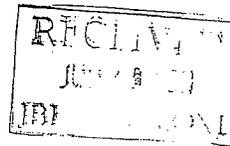
Vonnie Ladner, President, AFC Inc.

Accepted By

6-13-2011

Date

Date



There came on for consideration a letter and attachment from Recreation Director
Bob Paul, as follows:

Minutes of July 5, 2011
Mayor and Board of Aldermen

City of Long Beach

BOARD OF ALDERMEN

Leonard G. Carrubba, Sr. - At-Large
Gary J. Ponthieux - Ward 1
Bernie Parker - Ward 2
Kaye H. Couvillon - Ward 3
Ronnie Hammons, Jr. - Ward 4
Mark E. Lishen - Ward 5
Carolyn J. Anderson - Ward 6



WILLIAM SKELLIE, JR.
MAYOR

CITY CLERK
TAX COLLECTOR
Rebecca E. Schruff

CITY ATTORNEY
James C. Simpson, Jr.

June 30, 2011

Mayor William Skellie, Jr.
Board of Aldermen
City of Long Beach
P. O. Box 929
Long Beach, MS 39560

Dear Mayor and Board of Aldermen:

This letter is to request the approval to hire two (2) new part-time employees for the Park/Recreation Department, with an effective date of July 6, 2011.

The applicants are David E. Braud and Jonathan M. Toney. I am requesting each be allowed to work twenty (20) hours per week at the rate of \$10.00 per hour. I understand; due to the fact, they are part-time employees, they will not be covered by Civil Service, nor will they receive any employee benefits.

I appreciate your consideration in this matter and should you have any questions, please do not hesitate to contact me.

Sincerely,

Bob Paul
Director, Parks and Recreation
City of Long Beach

Job Description

The city of Long Beach is looking for two new part time employees for the parks and recreation dept. The job is twenty hours a week and pays ten dollars an hour.

Job description:

1. Flower bed maintenance/weed control in all city parks
2. Trash pickup and removal from all city parks
3. Cleaning of bathroom facilities in all city parks
4. Grass cutting, maintenance, and edging when necessary
5. Operating lawn mowers, weed whackers, pressure washers, leaf blowers, and tillers
6. Setting up and breaking down equipment for city functions at city parks
7. Graffiti removal from park equipment and property
8. Insect control (ants, mole crickets, ect.)
9. Inspecting playground equipment for safety
10. Monitoring irrigation systems
11. Monitoring the water park
12. Keeping common areas clean and free of debris
13. Pruning trees and bushes as necessary

Based upon the recommendation of Mr. Paul, Alderman Ponthieux made motion seconded by Alderman Anderson and unanimously carried to approve the two part time hires as set forth above.

There came on for consideration a letter from Harbor Master Bill Angley, as follows:

Minutes of July 5, 2011
Mayor and Board of Aldermen

June 29, 2011

TO: Mayor and Board of Aldermen

FROM: Bill Angley, Harbor Master

REF: Part-Time Hires

I respectfully request permission to hire Mrs. Wendy Reed and Mr. Laurence Olier, to work as part time harbor guards. Mrs. Reed and/or Mr. Olier will be called to work in the event a full time guard is unable to work his shift due to sickness or vacation.

As part time employees, Mrs. Reed and Mr. Olier understand they will not receive any benefits appertaining to full time permanent employees i.e. state retirement program and medical benefits.

I further request their salaries be set at \$10.00 per hour and this action be retro effective on July 1, 2011, that I may utilize their services for the 2011 Deep Sea Fishing Rodeo.

Thanking you in advance for your consideration in this matter.

Sincerely,


Bill Angley, Harbormaster

Based upon the recommendation of Mr. Angley, Alderman Ponthieux made motion seconded by Alderman Anderson and unanimously carried to approve the two (2) part time hires as set forth above.

There came on for consideration a letter with attachment from Leon Long, as follows:

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335

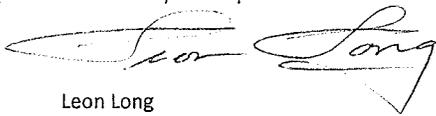
June 27, 2011

Becky Schruff
City of Long Beach
P.O. Box 929
Long Beach, MS 39560

Dear Ms Schruff,

Per our conversation this afternoon, I have completed my obligation and the warranty period has expired on Red Gate Subdivision. I am therefore ready to turn over the responsibility for the cost of the street lights in the subdivision. Enclosed is a recent copy of my Coast Electric bill.

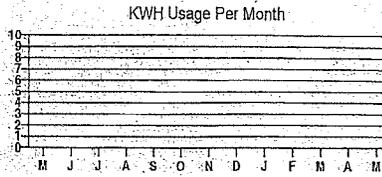
Thanks for your help in this matter.



Leon Long
Allen Long Real Estate LLC
8 Estate Drive,
Long Beach, MS 39560
228-860-4101

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Member Number: 301444001
 Web ID.: 3014440
 Member Name: ALLEN LONG REAL ESTATE LLC
 Service Address: ALLEN LONG REAL ESTATE LIGHT
 Meter Serial Number: 0
 Route: 603
 Days of Service: 29



BILL DATE	DELINQUENT AFTER	Service		BILLED DEMAND	Meter Reading		Meter Constant	KWH Used
		From	To		Previous	Present		
05/26/11	06/15/11	04/27/11	05/26/11		0	0	0	0

Explanation of Charges

PREVIOUS AMOUNT DUE	147.68
THANK YOU FOR YOUR PAYMENT 05/12/11	-147.68
RESIDENTIAL CHARGES	-3.46
12 150 W HPS - TOWN&COUNTR096	141.48
STATE SALES TAX	9.66
CURRENT ELECTRIC CHARGES	147.68
TOTAL AMOUNT DUE	147.68

Join our email list at www.coastepa.com and you'll be entered in a drawing to win an iPad.

Residential electric service is exempt from sales tax.
 Environmental Compliance Cost included in the above charges total: \$ 2.08
 Your Touchstone Energy Cooperative

Upon discussion, City Engineer David Ball concurred that the warranty period, Red Gate Subdivision is expired and the subdivision is in compliance; Alderman Ponthieux made motion seconded by Alderman Hammons and unanimously carried to transfer the cost for street lights, Red Gate Subdivision, to the city's account.

Alderman Carrubba made motion seconded by Alderman Anderson and unanimously carried to schedule a work session, Monday, July 18, 2011, 5:00 o'clock p.m., Long Beach City Hall Meeting Room, 201 Jeff Davis, for the purpose of discussing

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the fiscal year 2011-2012 municipal budget; and to schedule a public hearing Tuesday, August 16, 2011, 5:00 o'clock p.m., Long Beach City Hall Meeting Room, 201 Jeff Davis Avenue, to provide the general public with an opportunity to comment on the taxing and spending plan incorporated in the proposed budget of the city for the fiscal year beginning October 1, 2011 and ending September 30, 2012.

Alderman Anderson made motion seconded by Alderman Couvillon and unanimously carried to approve Recreation Department budget amendments, fiscal year 2010-2011, as follows:

**City of Long Beach
Budget Amendment Request**

Fund Name	General	Date	7/5/2011
Department #	435	Budget Entry #	
Department Name	Recreation		

	Original Budget	Prior Amendments	This Amendment	Revised Budget
Wages & Salaries 435-600100	64,912	-	5,300	70,212
Cleaning & Janitorial 435-610100	12,000		(5,300)	6,700
	76,912	-	-	76,912

Amendment to transfer funds within the Recreation department to hire two part time employees to maintain the Town Green.

Amendment # 2

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There came on for consideration derelict properties and Alderman Carrubba made motion seconded by Alderman Couvillon and unanimously carried to schedule public hearings, Tuesday, August 2, 2011, 5:00 o'clock p.m., Long Beach City Hall Meeting Room, 201 Jeff Davis Avenue, to determine whether or not certain properties are in such a state of uncleanliness as to constitute a menace to the public health and safety of the community; said properties are as follows:

- Herbie E. Young, 522 West Old Pass Road, Long Beach, Mississippi.
- Reginald W. Hudson, 211 Ferguson Avenue, Long Beach, Mississippi.
- Henry Dale Alexander, 524 West Old Pass Road, Long Beach, Mississippi.
- Robert F. Sistrunk & Homer T. Womack, 403 Gulf View Avenue, Long Beach, Mississippi.
- Kevin M. Erhard, 6 Linda Lane, Long Beach, Mississippi.
- Katherine Rodgers, 607 West Old Pass Road, Long Beach, Mississippi.
- Real Estate Development, 311 McCaughan Avenue, Long Beach, Mississippi.
- Katherine D. Taylor, 500 South Nicholson Avenue, Long Beach, Mississippi.

* *

Upon further discussion of derelict properties, Alderman Ponthieux made motion seconded by Alderman Anderson and unanimously carried to schedule a public hearing, Tuesday, August 2, 2011, 5:00 o'clock p.m., Long Beach City Hall Meeting Room, 201 Jeff Davis Avenue, to determine whether or not property located at 136 Markham Drive and assessed to Terrapin Holdings, LLC, is in such a state of uncleanliness as to constitute a menace to the public health and safety of the community.

Alderman Carrubba made motion seconded by Alderman Anderson and unanimously carried to appoint Randy Fisher to the Long Beach Planning Commission as his representative at-large. Other appointments were taken under advisement until the next regular meeting, July 19, 2011.

The mass notification proposal was taken under advisement for further consideration during the fiscal year 2011-2012 budget discussions.

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Alderman Anderson made motion seconded by Alderman Couvillon and unanimously carried to approve the Band Booster Festival scheduled for September 3, 2011, providing Cleveland Avenue remains open, eliminating the need for excessive police overtime to direct traffic, and the Band Booster organization purchases a fire hose ramp to protect fire hoses across Cleveland Avenue.

Alderman Hammons made motion seconded by Alderman Couvillon and unanimously carried authorizing payment to fund Cruisin' the Coast® in the amount of \$8,500.00.

No official action was required or taken regarding applications for permits – Town Green.

Alderman Anderson reported that an anonymous complaint was filed against her with the United States Office of Special Counsel alleging that she violated the Hatch Act and, upon investigation, she was exonerated in the matter.

After considerable discussion, Alderman Anderson made motion seconded by Alderman Ponthieux and unanimously carried to spread the letter from Andrea M. Miller, Attorney, Hatch Act Unit, upon the minutes of this meeting in words and figures, as follows:

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U.S. OFFICE OF SPECIAL COUNSEL
 1730 M Street, N.W., Suite 218
 Washington, D.C. 20036-4505
 202-254-3600

June 23, 2011

Carolyn Anderson
 Gulf Coast Substance Abuse Task Force
 19148 Commission Road
 Long Beach, MS 39560

Via E-mail (andersonc@lbsdk12.com) and U.S. Mail

Re: OSC File No. HA-11-1308

Dear Ms. Anderson:

This letter is in response to information the Office of Special Counsel ("OSC") received alleging that you violated the Hatch Act by being a candidate¹ in the partisan election for alderman of Long Beach, Mississippi, while employed as the executive director of the Gulf Coast Substance Abuse Task Force ("GCSATF"). Additionally, it was alleged that you used your official authority to influence the outcome of an election, in violation of the Hatch Act. For the reasons stated below, we have determined that you are not subject to the restrictions on political activity under the Hatch Act, and, consequently, your candidacy and any alleged influence you may have exerted did not violate the Act. Therefore, we are closing our file in this matter.

The Hatch Act governs the political activity of federal civilian executive branch employees (5 U.S.C. §§ 7321-7326) and individuals principally employed by state, county, or municipal executive agencies in connection with programs financed in whole or in part by loans or grants made by the United States or a federal agency (5 U.S.C. §§ 1501-1508). The Act applies to employees of private, nonprofit organizations only if the statute through which the organization derives its federal funding contains a provision stating that recipient organizations are deemed state or local government agencies for purposes of the Hatch Act. To date, the statutes authorizing Head Start and the Community Service Block Grant are the only statutes that contain such a provision. See 42 U.S.C. § 9851 and 42 U.S.C. § 9918 (b). While most covered employees are permitted to engage in a variety of political activities, the Hatch Act prohibits them from, among other things, being candidates for public office in a partisan election, i.e., an election in which any candidate represents, for example, the Republican or Democratic Party. 5 U.S.C. § 1502(a)(3) and 5 U.S.C. § 7323(a)(3).

OSC received a complaint alleging that you violated the Hatch Act by being a candidate for alderman for Ward 6 of Long Beach, Mississippi, while employed as the executive director of GCSATF, and by using your official authority as executive director of

¹ Although the complaint alleged that you ran in two partisan elections for alderman of Long Beach, Mississippi, you confirmed that you were initially appointed to fill a vacancy on the board of alderman in 2008, and only ran in one partisan election in 2009.

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GCSATF to affect the result of an election. In order to determine your coverage under the Hatch Act, OSC looked at the structure of GCSATF and Mississippi case law to determine whether GCSATF is a private or public nonprofit.

Mississippi case law states that a corporation "is not a public corporation merely because it is founded for a public charity." Brister v. Leflore County, 125 So. 816, 818 (Miss. 1930). "Public corporations are the instrumentalities of the state [or of a subdivision thereof], founded and owned by it in the public interest, supported [in whole or in part] by public funds, and governed by managers deriving their authority from the state [or from a subdivision thereof]." Id. (quoting Van Campen v. Olean General Hospital, 205 N.Y.S. 554, 555 (N.Y. App. Div. 1924)) (alteration in original). The test for determining if a corporation is public is whether "its continuity, and its control and management, [are] under the power of the public through public agents who are responsibly accountable to the government." Id. Further, "the arrangement [must] be such that the *majority control* shall remain in the *public through responsible public agents or managers*..." Bolivar Leflore Medical Alliance, LLP, V. v. Williams, 938 So.2d 1222, 1228 (Miss. 2006) (alteration in original) (quoting Brister, 125 So. at 819).

GCSATF is a nonprofit organization incorporated in the state of Mississippi. It was created to be a coalition eligible to receive federal grants under the Drug Free Communities Act ("DFCA") of 1997, 21 U.S.C. § 1501 et seq. Its stated purpose is to prevent and reduce youth substance use through awareness, education and implementation of research-based and best practice curriculum and programs within schools and community initiatives. To be an "eligible coalition" under the DFCA, GCSATF's membership must represent at least the following community sectors: youth, parents, business community, media, schools, youth-serving organizations, law enforcement agencies, religious or fraternal organizations, civic and volunteer groups, healthcare professionals, state/local government, and other organizations involved in the reduction of substance abuse. The DFCA only requires that coalitions have an elected official, or representative of an elective official, from the federal government and the state or political subdivisions thereof if it is feasible. 21 U.S.C. § 1532(a)(2)(B).

The board of directors for GCSATF consists of 20 members, with at least one director representing each of the 12 abovementioned sectors, and currently has one state representative. The executive committee, which has the power to transact all regular business of GCSATF, is comprised of a chair, vice chair, secretary, treasurer and immediate past chair, all of whom are chosen from the board of directors. Public representatives make up less than half of the composition of the board of directors and the executive committee, and GCSATF is not even required, unless "feasible," to have a state or federal representative sit on its board. Rather than being controlled by public agents, GCSATF is a cooperative organization controlled by all private and public stakeholders in the fight against substance abuse in the Gulf Coast region of Mississippi, with only a minority of its representatives being accountable to the government. Thus, OSC has concluded that GCSATF is a private nonprofit corporation for the purposes of the Hatch Act.

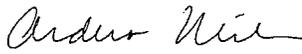
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Although GCSATF receives federal funding, OSC verified that GCSATF does not receive funding from either Head Start or Community Service Block Grants. Accordingly, GCSATF is not considered a state or local agency for the purposes of the Hatch Act, and, thus, employees of the GCSATF are not covered by the Act. Because you are not subject to the restrictions of the Hatch Act, your candidacy and other alleged political activities did not violate the Act and we are closing our file in this matter.

If you should have any further questions regarding this case or its outcome, please feel free to contact me at (202) 254-3664.

Sincerely,



Andrea M. Miller
Attorney, Hatch Act Unit

It was the consensus of the Mayor and Board of Aldermen to install a telephone line and speaker phone in the board meeting room.

There came on for consideration a report from Sergeant Kipper Thomas, Long Beach Police Department, as follows:

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228-863-7292
FAX 228-863-1557



LONG BEACH POLICE DEPARTMENT

P.O. BOX 929 LONG BEACH, MS 39560

June 24, 2011

To Whom It May Concern:

A background check was run on Mr. Howard M. Sexton for a beer permit to be established at 528K Klondyke Rd. Mr. Sexton has clean background check.


Sgt. Kipper Thomas

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Sent to PD
6/17/11. V.M.W.

CITY OF LONG BEACH, MISSISSIPPI
PO BOX 929
645 KLONDYKE ROAD
LONG BEACH, MS 39560
228-863-1554 PHONE
228-865-0822 FAX
EMAIL: veronica@cityoflongbeachms.com

BEER PERMIT APPLICATION

DATE OF APPLICATION 6-17-11		SOCIAL SECURITY NO [REDACTED]	
NAME: Howard M Sexton			
ADDRESS: 10080 Lacy Niolet			
CITY, STATE, ZIP CODE: Pass Christian MS 39571			
PHONE: 229-291-3392			
BUSINESS NAME: Spectra Bellies BBQ			
IS THIS A NEW BUSINESS <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO			
BUSINESS ADDRESS: 528 K Klondyke Rd **ADDRESS OF WHERE ALCOHOL WILL BE SOLD			
CITY, STATE, ZIP CODE: Long Beach MS 39560			
PHONE: 229-291-3392			
TYPE OF BUSINESS (BE SPECIFIC): BBQ			
DATE OF BIRTH	SEX	WEIGHT	HEIGHT
8-6-70	Male	300	6'00"
EYE COLOR	HAIR COLOR	RACE	DL NUMBER
Blue	Blonde	W	055812474 GA
SIGNATURE OF APPLICANT: Howard Sexton		DATE: 6-17-11	

Based upon the information provided by Sergeant Thomas, Alderman Hammons made motion seconded by Alderman Ponthieux and unanimously carried to approve the application for beer permit as set forth above.

There came on for discussion the matter of construction on the USM – Gulf Park Campus and considerable concerns regarding drainage, specifically impact to properties downstream from Bear Bayou. It was noted for the record that one building is under construction and four additional building are planned for construction.

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Questions arose regarding plans for retention ponds, paving of parking lots, and other drainage matters.

City Engineer David Ball answered questions and provided additional information, whereupon, Alderman Couvillon made motion seconded by Alderman Anderson and unanimously carried for the Mayor, members of the Board of Aldermen, Derrel Wilson, Project Manager, Utility Partners, LLC, and City Engineer David Ball meet with representatives of USM-Gulf Park, the construction project managers and/or architects at the construction meeting scheduled for July 21, 2011; in addition Mr. Ball will contact the project manager and relay the drainage concerns to them.

Mr. Steve Nicosia, 515 Gulf View Avenue, stated his concerns regarding drainage issues with the USM Gulf Park construction.

The City Attorney updated the Mayor and Board of Aldermen regarding litigation, Ronald Jefferson's properties; no official action was required or taken at this time.

There being no further business to come before the Mayor and Board of Aldermen at this time, Alderman Carrubba made motion seconded by Alderman Anderson and unanimously carried to adjourn until the next regular meeting in due course.

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APPROVED:

Alderman Leonard G. Carrubba, Sr., At-Large

Alderman Gary J. Ponthieux, Ward 1

Alderman Bernie Parker, Ward 2

Alderman Kaye H. Couvillon, Ward 3

Alderman Ronnie Hammons, Jr., Ward 4

Alderman Mark E. Lishen, Ward 5

Alderman Carolyn J. Anderson, Ward 6

Date

ATTEST:

Rebecca E. Schruff, City Clerk