



MINUTES

COUNCIL WORK SESSION

Diamondhead, Mississippi

Council Chambers
City Hall
June 27, 2013
9:15 a.m.

-
1. **Call to Order**—Mayor Ingraham called the meeting to order at 9:22 a.m.
 2. **Invocation**—See Minutes for 06.27.13 Special Called meeting.
 3. **Pledge of Allegiance**—See Minutes for 06.27.13 Special Called meeting.
 4. **Roll Call**—The following members of Council were present: Mayor Ingraham, Dianne Ackerman, Hank Holcomb, Ernie Knobloch, Ron Rech. Councilmember Roberson was absent. Additionally, Mayor-elect Schafer and Councilmembers-elect LaFontaine and Sislow were present.
 5. **Review of Minutes**—N/A
 6. **Confirmation or Adjustments of the Agenda Order**
 - Add 12m—Recommendation to Appoint Hank Holcomb to Cruisin' The Coast Committee effective 07.01.13
 - Add 12n—moved from the Special Called Meeting Agenda, item 9a
 - Add 12o— moved from the Special Called Meeting Agenda, item 9b
 - Move 12i to 7d
 7. **Communications/Announcements from the Mayor and Council**
 - a. The Inauguration of the new Council will take place on Monday, July 1, 2013 at 4:00 p.m. in Council Chambers.
 - b. The next regularly scheduled Council Meeting is at 6 p.m. on July 1, 2013 in Council Chambers located at 5000 Diamondhead Circle.
 - c. The next regularly scheduled Council Work Session will be held July 11, 2013 at 9 a.m. at Council Chambers located at 5000 Diamondhead Circle.
 - d. 2013-2072—An Ordinance to Prohibit Firearms/Weapons on City Property and in City Hall—city attorney Bragg Williams was recognized and discussed the issue. Following discussion, no action was taken.

The City Attorney left the meeting at 9:44 a.m.
 8. **Presentations**—None
 9. **City Manager Update**—the City Manager was recognized and updated Council on the following issues:
—A title search is being done on the Red Zone/Dairy Queen roadway to determine the owner.

- Ms. Liz Carroll will retire on Friday and Elaine Bienvenue will take her place.
- Mr. Frankowitz of the Butler Snow law firm was recognized and reviewed the results of the recent P & Z Commission meeting.
- No police report was available.

10. Review of Docket of Claims—Following discussion, no action was taken.

11. Citizens Wishing to Address Council, Agenda Items—None

12. REGULAR AGENDA—Old and New Business

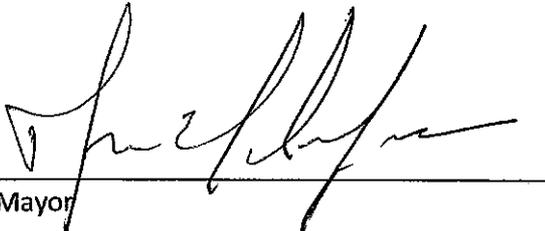
- a. 2013-2036—A Resolution Appointing Mississippi Municipal League 2013 Voting Delegates for the City of Diamondhead. Following discussion, no decision was made.
- b. 2013-2039—Accept the Recommendation of the Director of Public Works for the Purchase of a Trailer Mounted Portable Asphalt Recycler and Hot Box. Following discussion, no action was taken.
- c. 2013-2050—Resolution Appointing Mayor Pro-Tem. Following discussion, no action was taken.
- d. 2013-2063—Discussion of Listing of City Council Established Committees. Following discussion, the item was tabled until next Work Session.
- e. 2013-2065—Discussion of External Committees. Following discussion, the item was tabled until next Work Session.
- f. 2013-2066—Discussion of Signage in Diamondhead. Following discussion, the item was tabled until next Work Session.
- g. 2013-2069—Discussion of Cost of Elections. Following discussion, the item was tabled until next Work Session.
- h. 2013-2071—Discussion of Property Assessments
- ~~i. 2013-2072—An Ordinance to Prohibit Firearms/Weapons on City Property and in City Hall. Item moved to 7d for discussion.~~
- j. 2013-2074—Approval to Advertise “Proposal for Furnishing Traffic Signs, Posts and Hardware to the City of Diamondhead. Following discussion, the item was tabled until next Work Session.
- k. 2013-2075—Discussion of the Enforcement of Ordinance 2013-033 Creating a Police Force in Diamondhead. Following discussion, the item was tabled until next Work Session.
- l. 2013-2078—Appointment of New City Attorney. Following discussion, no action was taken.
- m. 2013-2079—Recommendation to Appoint Hank Holcomb to the Diamondhead Cruisin’ the Coast Committee effective July 1, 2013. Following discussion, no action was taken.

- n. 2013-2073—Discussion of Letter from Reliance Trust dated May 24, 2013 and comments from Councilmember Ackerman. Councilmember Holcomb moved, seconded by Councilmember Rech, to spread the letter and comments on the minutes and to provide a copy of same to the incoming Council. The motion carried unanimously. No further action was taken.
- o. 2013-2076—Appreciation Letter to Karen Ladner Ruhr—the Mayor read a letter to Karen Ladner Ruhr, Circuit Clerk for Hancock County, in appreciation of her assistance during the recent election process. No further action was taken.

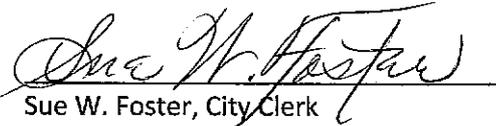
The City Manager was recognized and advised that he had received a call from Attorney Lucien Bougeois indicating that no decision had been made by the judge regarding the lease/purchase of City hall at this time. Additionally, it was noted during discussion that additional the costs incurred due to the lawsuit brought by the approximately 200 members of the Taxpayers Association include legal fees in excess of \$31,000 plus an interest payment of \$11,789 that was required to be made due to the delay in the execution of the lease/purchase agreement, interest the city will not have reimbursed. The total cost to the Diamondhead citizens for the lawsuit brought by the approximately 200 members of the Taxpayers Association against the purchase of city hall to-date is in excess of \$42,789, with additional legal fees and associated costs for the delay anticipated, including a considerable increase in the 2.21% interest rate originally approved by Hancock Bank. Mayor-Elect Schafer was recognized and indicated that our attorneys should request that the judge require those protesting the lease/purchase of city hall to post an appeal bond that would cover the city's damages.

The City Manager presented an Order issued by Municipal Judge Robert H. Johnson, Jr. ordering the Municipal Court to be deemed in permanent session and prohibiting weapons in the Municipal Court, lobbies, hallways, and corridors connected to the Municipal Court. Councilmember Holcomb moved, seconded by Councilmember Ackerman, to spread the Order on the Minutes. The motion carried unanimously and no further action was taken.

- 13. **Citizens Wishing to Address Council, Non-Agenda Items**—None
- 14. **ADJOURN**—Councilmember Rech moved, seconded by Councilmember Knobloch, to adjourn the meeting. The motion carried unanimously and the meeting was adjourned at 12:26 p.m.



Mayor



Sue W. Foster, City Clerk

Meeting Notice Posted at City Hall on June 25, 2013.

COUNCIL MEETING-June 27, 2013

Comments from Council Member, Dianne Ackerman

No one other than the Reliance Trust knows the names of the people that bought bonds to finance the construction of the Diamondhead Baptist Church building unless the bond holder has disclosed their ownership.

No member of the city council owned any of these bonds or was otherwise involved with these bonds. (See letter from Reliance Trust dated May 24th, 2013)

The city was NOT issuing bonds to finance the purchase of the former church building. The financing was through a lease purchase (ground lease) with Southern Mississippi Investment Company, Inc. (a non-profit). The financing was offered by Hancock Bank as a \$1,600,000.00 fixed rate loan for 15 years at a rate of 2.21% which would have provided \$57.14 per square foot. The first installment was not due until June 1, 2014

There was no millage that was going to be added to the current millage to finance the building or renovate.

The building along with renovations would provide for the city's NEEDS for the next 20 plus years. In addition, it also provided for a teen/senior/activity center as well as needs of a city police force.

Any existing building within the Diamondhead City limits would require renovations whether the city leased or purchased it. Other buildings were reviewed prior to the decision on purchasing the former Baptist Church. An independent architectural firm made evaluations on these buildings. In addition, other sites had been reviewed just prior to incorporation in preparation for the city to start.

It would not be a prudent decision for the city hall to be located in any building in the commercial area that could generate sales tax revenue. The current city hall location has never generated sales tax revenue.

Moving the city hall to another site would be of considerable expense to the tax payers as relocation costs could be substantial and as mentioned, renovations would be needed.

The current portion of the building which the city is using for the offices and the council meeting room was NOT designed originally by the Baptist church to have been used permanently for worship. This addition financed by church members was designed as a multiuse facility until enough financing was available to the church to enter the next planned

phase of building a church sanctuary. This multiuse design made it easy for the city to use as a city hall.

Through conversations, it is believed that the majority of the newly elected council agrees with the purchase.

The Diamondhead Baptist Church was independently appraised at \$2.5 million. The church was willing to sell to the city for the balance owed, \$1,008,000 million. (This is 40 cents on the dollar of appraised value!) It is not prudent to assume that if building were to go into foreclosure that it would be available to the city at a much lower cost than \$1 million. The possibility exists that if the church building went in to foreclosure, that a realtor or investor could purchase the building for \$1 million and then sell to the city for profit. This investor could sell to another buyer and then the city would not have a suitable site for city hall. Construction of a city hall would be well over \$3.1 million according Eley Guild Hardy Architects on October 1, 2012. (The reality of this estimate is confirmed by the cost of the East Hancock County Library, completed in 2013, the 7,000 square foot structure was purchased for \$1,300,000.00 or \$185.71 per square foot.) This purchase that the city was going to make from Diamondhead Baptist Church did not include a real estate fee, thereby saving taxpayer's dollars.

The Diamondhead Taxpayers Association and their objectors by creating delays in financing of this purchase, have cost the taxpayers' money in the form of a payment of \$11,789 of interest that will not flow back to the city, additional legal costs associated with the delays, and the difference in the interest rate between 2.21%, which was guaranteed through June 30th, 2013 and the new increase in interest rates. If the purchase is not completed by September 30th, 2013, then approximately \$122,000 of capital improvements that would have been included as part of the financing will remain in the current year budget and not be able to be used for other projects as anticipated.

Currently, building costs and interest rates are trending upward. (Read e-mail from V.P. of Merrill Lynch attached to this write-up.)

It would be in the best interest of the taxpayers to proceed with this purchase as well as renovations quickly in order to save money. While some renovations have to be done to comply with the Federal ADA (American with Disabilities Act), which can be reimbursed with a grant, it would save money to do other renovations simultaneously both from the view of escalating interest rates and construction costs. Additionally, Mississippi Emergency Management Agency was in the process of preparing a grant for a roof and windows upgrade to sustain 150 mph winds. If the purchase is not soon, the City of Diamondhead will lose this money, because other cities and counties across the state are now ahead of us in making requests for funds.

A Mayor and City Council must have the vision to save the taxpayer's money not only in the current year's budget, or for the four years of their term in office, but for the 10-20 plus or more years in the future.

It is recommended that the mayor and council approve the financing as soon as possible.



Writer's Direct Dial
(404) 965-7232
(800) 241-5569, ext. 17232
Fax (404) 365-7055

May 24, 2013

Diamondhead Baptist Church
63780 Diamondhead Drive North
Diamondhead, MS 39525

**RE: First Mortgage Bond Issue Dated June 30, 2003
Trust No. 6252318**

To whom it may concern:

Reliance Trust Company serves as Trustee pursuant to the Trust Indenture dated June 30, 2003 relating to a series of First Mortgage Bonds Series dated June 30, 2003.

This is to confirm that the following individuals are not currently, nor have they ever been bondholders of or had any other manner of involvement with the above referenced bond issue.

Dianne Ackerman
Henry Griffin Holcomb
Charles H. Ingraham, Jr.
Ernie Knobloch
Ronald Lee Rech
Dalton Roberson

This is also to confirm that these individuals have not currently, nor have they ever received any compensation from Reliance Trust Company regarding the sale of the property securing the above referenced bond issue.

Sincerely,

RELIANCE TRUST COMPANY

A handwritten signature in black ink, appearing to read 'Linda C. Dozier-Jones', written over a horizontal line.

Linda C. Dozier-Jones
Vice President

cc: Bragg Williams

IN THE CHANCERY COURT OF HANCOCK COUNTY, MISSISSIPPI

IN RE: VALIDATION OF NOT TO EXCEED \$1,600,000 PROMISSORY NOTE
(CITY OF DIAMONDHEAD, MISSISSIPPI LEASE PURCHASE AND CITY
HALL PROJECT), SERIES 2013 OF THE SOUTHERN MISSISSIPPI
INVESTMENT CO., INC. AS APPROVED BY THE CITY OF
DIAMONDHEAD, MISSISSIPPI

NO.: C2301-13-0284(2)

AFFIDAVIT OF LINDA C. DOZIER-JONES

STATE OF GEORGIA

COUNTY OF FULTON

PERSONALLY APPEARED BEFORE ME, the undersigned notary public, in and for the above state and county, Linda C. Dozier-Jones, an adult resident citizen of the State of Georgia, and hereby makes this affidavit, based on personal knowledge, stating as follows:

1. My name is Linda C. Dozier-Jones. I am over twenty-one years of age and of sound mind. I have personal knowledge of, and am competent to testify about, all of the matters set out in this Affidavit.
2. I serve as Vice President of Reliance Trust Company.
3. Reliance Trust Company's physical address is 1100 Abernathy Road, Suite 400, Atlanta, Georgia 30328.
4. Reliance Trust Company serves as Trustee pursuant to the Trust Indenture date June 30, 2003, relating to a series of First Mortgage Bonds Series date June 20, 2003.

EXHIBIT

B

5. The following individuals are not currently, nor have they ever been bondholders of or had any other manner of involvement with the above referenced bond issue: Dianne Ackerman, Henry Griffin Holcomb, Charles H. Ingraham, Jr., Ernie Knobloch, Ronald Lee Rech, and Dalton Roberson.
6. The individuals listed in paragraph 5 above, have not currently, nor have they ever received any form of compensation from Reliance Trust Company regarding the sale of the property securing the First Mortgage Bond Series.
7. This affidavit is based upon my personal knowledge and I am competent to render this testimony.

FURTHER, AFFIANT SAYETH NOT.

This the 11th day of June, 2013.



LINDA C. DOZIER JONES

SWORN TO AND SUBSCRIBED before me, this the 11th day of June, 2013.



NOTARY PUBLIC

My Commission Expires:

May 5, 2015



IN THE MUNICIPAL COURT OF DIAMONDHEAD, MISSISSIPPI
HANCOCK COUNTY, MISSISSIPPI

IN RE: WEAPON(S) IN COURTHOUSES

ORDER

THIS MATTER came before the Court *sua sponte*, after the undersigned Judge of the Municipal Court of the City of Diamondhead, Mississippi, having found a general need to address courthouse security for the protection of the courthouse personnel, attorneys, parties, witnesses, and the general public, in light of the recent amendments to the statutes pertaining to the carrying of open and concealed weapons, Miss. Code Ann §§ 97-37-1 and 97-37-7, and does find and order as follows:

Effective July 1, 2011, the Mississippi Legislature amended Miss. Code Ann. § 97-37-7 to allow the carrying of concealed weapon(s) by a person licensed by Miss. Code Ann. § 45-9-101 who has voluntarily completed an instructional course in the safe handling and use of firearms offered by an instructor certified by a nationally recognized organization that customarily offers firearm training, or by any other organization approved by the Department of Public Safety, in courthouses except in courtrooms during judicial proceedings, and any location listed in subsection (13) of Miss. Code Ann. § 45-9-101, except any place of nuisance defined in Miss. Code Ann. § 95-3-1, any police, sheriff, or highway patrol station or any detention facility, prison, or jail.

Effective July 1, 2013, the Mississippi Legislature also amended Miss. Code Ann. § 97-31-1 in an attempt to clarify the “open carry” rights of citizens of this State with regard to certain weapons or firearms.

It is the opinion of the undersigned Judge that the carrying of any weapon, concealed, open, or otherwise in any courthouse by any person other than a law enforcement officer in carrying out his/her official business is an unreasonable danger to the public, courthouse personnel, attorneys, and judges. Although courthouses are not inherently places of dangerous activity, many cases involve emotionally charged subject matter that is conducive to acts of physical violence. In order to protect the safety of all individuals in the courtroom, trial judges have been entrusted with the authority to restrict the carrying of weapons in their courtrooms regardless of the broadening of the firearm statutes which "shall in no way interfere with the right of a trial judge to restrict the carrying of firearms in the courtroom." Miss. Code Ann. § 97-37-7(2).

It is therefore this Court's Order that the safety of all persons in the courtroom is best served by only allowing law enforcement officers to carry firearms in courtrooms. Given the difficulty that would result in enforcing this Court's Order with respect to weapons not being allowed in the courtrooms and the recent legislation authorizing certain persons to carry weapons in courthouses, the Court finds that for the purposes of this Order the Municipal Court of Diamondhead shall be deemed in permanent session and that the lobbies, hallways, and corridors connecting to any courtroom are effectively entrances into the courtrooms and should therefore be deemed a part of each courtroom.

IT IS THEREFORE ORDERED that for the purposes of this Order the Municipal Court of Diamondhead, Mississippi, is hereby deemed in permanent session and that the lobbies, hallways, and corridors connecting to any courtroom utilized by the Diamondhead Municipal Court shall be and hereby are designated as entrances into the courtrooms and therefore are deemed a part of each courtroom.

IT IS FURTHER ORDERED that weapons of any kind, including but not limited to, firearms, handguns, pistols, rifles, shotguns, stun guns, knives, and any other items of any kind or nature that could or may be used as a weapon shall be and hereby are prohibited from being brought into any courtroom except when in the possession of a sworn law enforcement officer.

IT IS FURTHER ORDERED that consistent to his/her statutory duties relative to courthouse security, the Sheriff's Department, Police Department, court appointed bailiff, or other law enforcement personnel shall be and are hereby required to implement any procedure or measure necessary under the law to enforce compliance with this Order, including the implementation of electronic or manual screening of persons, purses, backpacks, bags, briefcases, attaché cases, and luggage of any kind

SO ORDERED, this 27th Day of June, 2013.

s/R. Hayes Johnson, Jr.
Judge Robert H. Johnson, Jr.

