

**OPEN MEETINGS COMPLAINT IN THE MATTER OF ACTING ON  
AMENDING THE CITY OF STARKVILLE ORDINANCE 2008-05  
IN THE EXECUTIVE SESSION OF  
THE BOARD MEETING OF JANUARY 6, 2015**

1. I believe that the Mayor and Board of Aldermen of the City of Starkville have participated in a course and pattern of violating the Open Meetings Act through the inappropriate use of the Executive Session. The specific violation about which this complaint is being filed occurred on January 6, 2015. In support of this allegation, I submit the following DVD of January 6, 2015 (Exhibit 1).

This DVD was created in the regular course of business. Members of the public can purchase a DVD of any recorded meeting for \$5.00. The agent of the station (Channel 5) whose responsibility it is to video the meetings has certified to the veracity of the recording and that as submitted it accurately reflects meeting occurrences and has not been edited or altered (Exhibit 2).

The chronology of events supporting this complaint is outlined below.

**January 6, 2015 Regular Meeting**

2. The agenda for the meeting of January 6, 2015, included an executive session listing the following subject matter:

- A. Potential Litigation
- B. Pending Litigation
- C. Property Acquisition
- D. Personnel.

This agenda is attached and can also be found on the City of Starkville website. [www.cityofstarkville.org](http://www.cityofstarkville.org) (Exhibit 3).

The minutes of the January 6, 2015, regular meeting show that the call of the Executive Session was as follows: A Motion to Enter Executive Session to Consider a Personnel

Matter of an Employee Grievance in the Fire Department, **Discuss a Personnel Matter relating to Administration of the Park Funds by a City Employee**, Consider the Rescission of the Equality Resolution and Employee + 1 Insurance Coverage under Prospective Litigation, a Personnel Matter concerning the job performance of an Employee in the Mayor's Office, an Update on the Carver Drive Drainage Improvement Project Construction Dispute under Prospective Litigation, and the Consideration of Acquiring easements to facilitate the City's Southwest Sewer Expansion under Property Acquisition. The item highlighted in the above paragraph is the subject of this complaint. The minutes are attached and can also be found on the City of Starkville website at [www.cityofstarkville.org](http://www.cityofstarkville.org) (Exhibit 4).

Upon exiting from executive session the Board of Aldermen through the city clerk announced that it had approved in executive session: A Motion of Amend Chapter Two of Article 8 of Ordinance 2008-5 Which Establishes the Powers and Duties of a City of Starkville Park Commission and setting Public Hearings for the Same.

Upon information and belief, the use of a personnel matter to enter executive session was a pretense to avoid public view of the deliberations around what to do with a financially troubled park commission. The Board of Aldermen clearly did not want to share their reasoning and concerns about amending the city ordinance 2008-05 creating the structure of the Park Commission.

Upon information and belief, the discussion did not include any matters related to job performance, character, professional competence or physical or mental health of a person holding a specific position as required by *Miss. Code Ann. § 25-41-7*. There ensued no discussion during the executive session involving an individual in the employ of the city.

In point of fact, because the City of Starkville has an autonomous Park Commission in accordance with *Miss. Code Ann. § 25-37-33 et. seq.* there is no ability of the Board of Aldermen to act upon or determine any matters related to job performance, character, professional competence or physical or mental health of a specific person in the employ of the City. All employees of the Park Commission serve at the will and pleasure of the

Park Commission, receive compensation from the Park Commission and are not answerable to the City of Starkville Board of Aldermen. Any personnel under the employ of the autonomous body of the Park Commission were by definition, ordinance and statute not employees of the City of Starkville and were therefore not a viable subject matter for the executive session in question.

Using the executive session as pretext to avoid discussing substantive issues in full view of the public is contrary to public policy. As reflected in the minutes (see Exhibit 4, Paragraph 24) Alderman Jason Walker made a motion to exit executive session and hold the discussion of amending an ordinance related to the park commission in open session. The motion was seconded by Alderman Ben Carver. The motion failed by a vote of 5-2. Obviously Alderman Walker and Alderman Carver understood the mandates of the Open Meetings Act but were unable to convince their fellow board members of the illegality of their actions.

Upon information and belief there was no discussion regarding performance of the Parks Director. The Accountant from the firm engaged to provide a financial status report to the board did so in executive session and indicated that he had nothing to say on the subject matter of personnel.

3. Alderman Roy A. Perkins, Ward 6, is a licensed attorney in the State of Mississippi and has been in practice for over 20 years. Alderman Perkins has also been on the Starkville Board of Aldermen in excess of 20 years and knew or should have known the constraints of the Open Meetings Act and the executive session limitations.

4. The remaining Aldermen of the City of Starkville have attended numerous sessions of the educational seminars held at the annual summer Mississippi Municipal League conference at taxpayer expense and knew or should have known of the constraints of the Open Meetings Act and the executive session limitations.

5. Upon information and belief, the city attorney was in attendance at the executive session and did not counsel the Board that their actions were fully supported by the laws addressing the open meetings act nor did he dissuade them from proceeding with unsuitable discussion in the executive session.

6. The Open Meetings Act was enacted for the benefit of the public and is to be construed liberally in favor of the public.
7. The City of Starkville has been cautioned previously about violations of the Open Meetings Act. See *William McGovern v. City of Starkville*, Ethics Commission No. M-12-020.
8. There is also a pending complaint before the Ethics Commission against the City of Starkville that alleges a pattern and practice of decision making outside of the public meetings. That complaint did not speak to the use of executive session but instead alleges the decisions as being made prior to the regular and recess meetings of the Board of Aldermen.
9. This complaint alleges that the Board of Aldermen continues to use all means available to them to conceal their discussions and decisions from the public whom they serve including intentional and inappropriate use of the executive session. A violation of the Open Meetings law occurs when the public is excluded from the meeting deliberations via external (prior to the board meetings) or internal means (within executive session). This Board of Aldermen has shown a blatant and willful disregard for the spirit, the intent and the language of the Open Meetings act.
10. It is illegal for aldermen to meet or in any other way communicate to make decisions or policy that affect the citizens of the City of Starkville in violation of the Open Meetings Act.
11. As stated by the Mississippi Supreme Court in *Mayor and Aldermen of Vicksburg v. Vicksburg Printing & Pub.*, 434 So. 2d 1333, 1336 (Miss. 1983): “However inconvenient openness may be to some, it is the legislatively decreed public policy in this state.”
12. The complainant respectfully requests that the Mississippi Ethics Commission investigate this decision regarding the amendment to ordinance 2008-05 made by the members of the Starkville Board of Aldermen on January 6, 2015, to remain in executive session and conduct the business of the city outside the view of the public.

The motion made by Alderman Walker and seconded by Alderman Carver to exit based on the inappropriate subject matter failed and the Board knew or should have known not to proceed further with the discussion.

13. The complainant respectfully requests that the Mississippi Ethics Commission find that there was an open meetings violation and that this finding displays an ongoing lack of respect for the need of the public to be aware of the Board's deliberations and that this Board of Aldermen contumaciously violates the Open Meetings Act.

14. Upon a finding of a violation of the Open Meetings Act, the Complainant respectfully requests that the commission impose on the offending members of the Board of Aldermen the maximum fine available for a second or subsequent offense and reasonable costs as provided in Title 25, Chapter 41, Miss. Code of 1972.

15. In a previously submitted complaint and response from a different individual, the City Attorney referenced the complainant as a disgruntled failed mayoral candidate.

In the interest of full disclosure, as the complainant I am a former employee of the City of Starkville and was the sole employee not reinstated at the first meeting in the term of this Board of Aldermen in July, 2013.

I have been a full time resident of the City of Starkville for the past 10 years. I am a Starkville native and attended school through to my Bachelor of Science degree from Mississippi State University. I received a Masters of Public Administration from the Andrew Young School of Policy Studies from Georgia State University.

I served at the will and pleasure of the two previous administrations and did so for the personal satisfaction of the service. I am not interested in or concerned with retribution for the actions taken that negatively affected me. My sole purpose is for this Board to cease and desist their ongoing pattern of flagrant disregard for the value and sanctity of the process of open government.

To attest to the support of other members of the community for the concerns expressed in this complaint I have attached a supplementary sheet of signatures from citizens who

are joining me in this complaint that is being filed and is accompanied by three other complaints. (Addendum A)

I believe that some members of this Board of Aldermen will not be influenced or dissuaded from their continued course of action by any finding other than that of a second violation and personal accountability requested in paragraph 14 herein.

Much of the information in the four complaints is duplicative in nature based on the foundation being laid, the chronology of events and the agenda items that were considered by the Board of Aldermen on multiple occasions with multiple results.

This complaint is a stand-alone document but it is accompanied by the three others that have been filed as stand-alone complaints. Each one is capable of supporting the individual complaint as presented.