

**OPEN MEETINGS COMPLAINT IN THE MATTER OF
REPEALING PLUS ONE INSURANCE COVERAGE
AT THE SEPTEMBER 9, 2014 SPECIAL CALL MEETING**

1. I believe that the Mayor and Board of Aldermen 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 September 9, 2014. In support of this allegation, I submit the following DVDs of September 2, 2014, September 16, 2014 and September 23, 2014. (Exhibits 1-3)

The chronology of events supporting this complaint is outlined below.

The subject matter of the meeting about which the complaint is being filed was initially considered during the regular meeting of September 2, 2014. Reconsideration of this issue was held in the special call meeting of September 9, 2014 and then again on September 16, 2014. Mayor Parker Wiseman vetoed the Board of Aldermen action of September 16, 2014 rescinding the Plus One insurance feature on September 20, 2014. The Board of Aldermen considered the matter one further time on September 23, 2014, in an attempt to override the Mayor's veto.

The DVDs were 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 as to the veracity of the recordings and that as submitted they accurately reflect meeting occurrences and have not been edited or altered. (Exhibit 4)

There is no DVD available for the special call meeting of September 9, 2014.

September 2, 2014 Regular Meeting

2. The agenda for the regular meeting of September 2, 2014, shows a topic labeled under Board Business. Item X.C. Consideration of the Proposal for Renewal of Services for the Medical Insurance Benefit Plan and for the Dental Insurance Benefit Plan for the Employees of the City of Starkville as presented. This item was unanimously approved

after questions and answers and an ensuing discussion by Alderman Roy Perkins and Alderman Scott Maynard (See DVD, Exhibit 1 @ 2:00:45-2:07:52). The Agenda and the minutes for the meeting of September 2, 2014 are included and can be found on the City of Starkville website, www.cityofstarkville.org. (Exhibit 5-6)

September 9, 2014 Special Call Meeting

3. The agenda for the special call meeting of September 9, 2014, includes an item under Board business labeled X. A. Consideration of Amending City's Medical Insurance Benefit Plan and/or Dental Insurance Benefit Plan and Discussion of Personnel Issues related thereto and an item under Executive Session labeled XIV. A. Potential Litigation. This agenda is attached and can be found on the City of Starkville website, www.cityofstarkville.org. (Exhibit 7)

The minutes of the September 9, 2014 special call meeting reflect that the discussion of the "Plus one coverage was brief" and the Board then went into a closed determination session followed by an executive session. The call of the executive session was stated as "Consideration to enter executive session to discuss potential litigation and personnel issue related to the consideration of amending the city's medical insurance benefit plan and/or dental insurance benefit plan." The minutes are attached and can be found on the City of Starkville website, www.cityofstarkville.org. (Exhibit 8)

Upon exiting executive session, Mayor Parker Wiseman announced there had been no action taken in executive session.

Alderman Ben Carver then made a motion to rescind the City of Starkville Board Order of September 2, 2014, relating to the renewal and expansion of the City's Medical Insurance Benefit Plan to remove the "employee plus one adult" coverage provision of the insurance package approved by the Board on September 2, 2014, and for the provision to take effect immediately. There was no second to the motion and Mayor Wiseman declared the motion failed.

Upon information and belief the personnel issue was not in compliance with the requirements of Mississippi Code § 25-41-7 (4) (a) Transaction of business and

discussion of personnel matters relating to the job performance, character, professional competence, or physical or mental health of a person holding a specific position. Upon information and belief, there was no discussion of a particular individual or employee holding a specific position as required in the foregoing code section.

The complainant submits that this agenda item was a ruse to take the matter up in executive session so as not to allow the public a view into the decision-making process. This represents the ongoing pattern and practice of removing deliberations and decisions from the view of the public in direct contradiction to the requirements of Mississippi Code § 25-41-7.

As further evidence of the desire to limit the visibility and reduce the public scrutiny of their discussions and decisions, this meeting was taken up as a special call meeting. There was no emergency or situation that would have created a disadvantage to the City if the subject matter of this meeting had waited until the regularly scheduled recess meeting 7 days following on September 16, 2014.

September 16, 2014 Recess Meeting

4. The agenda for the recess meeting of September 16, 2014 included an item under Board business labeled: X.H. Discussion and Consideration of the Health Insurance for the City of Starkville related to Plus One Coverage. The City of Starkville offers a time at each regular and recess meeting before the conduct of Board business for any citizen to come to speak to the Board on any subject matter for a maximum of 3 minutes. On this date there was a lengthy citizen comment period of over an hour that included many citizens speaking passionately on the matter of the proposed repeal of the insurance coverage (see Exhibit 2, DVD @ 20:25-1:22:48).

The motion was made by Alderman David Little to amend the Employee +1 Adult coverage provision under the City's Medical Insurance Benefit Plan that was approved by the Board of September 2, 2014, to include coverage only for legally married spouses as defined in Article 14, Section 263A of the Mississippi Constitution effective immediately. The motion was seconded by Alderman Ben Carver. There was a full and thorough discussion by the members of the Board of Aldermen on this agenda item

(See Exhibit 2 @ 2:25:10-3:23:10). The vote resulted in approval of the motion with a 4-2-1 vote. The agenda and the minutes of the recess meeting of September 16, 2014, are attached and can be found on the City's website at www.cityofstarkville.org. (Exhibits 9-10).

There was no proposal or discussion of entering executive session for considering this matter during this meeting.

6. Mayor Wiseman vetoed the Board's action to rescind the Plus One Coverage on September 20, 2014. The Mayor's veto is attached (Exhibit 11).

September 23, 2014 Recess Meeting

7. The agenda for the recess meeting of September 23, 2014 included an item under Board business labeled: X.A. Discussion and Consideration of Overturning the Mayors Veto of the Boards Amending and Redefinition of the Plus One Major Medical Health Insurance. The agenda and the minutes of the recess meeting of September 23, 2014, are attached and can be found on the City's website at www.cityofstarkville.org. (Exhibits 12-13).

Once again there were many citizens who used the available 3 minutes that are provided under the agenda heading of citizen comments. The majority of the citizens speaking under the heading of citizen comments spoke on the matter of the Plus One coverage both for and against.

The Board discussion of the Plus One coverage occurred while considering the override of the Mayor's veto. There was a lengthy and detailed presentation by Alderman Lisa Wynn of the deliberations by the Board on this agenda topic (See DVD, Exhibit 3 @ 1:02:30). She then recused herself from the meeting (See DVD, Exhibit 3 @ 1:29:10).

Mayor Parker Wiseman also provided a lengthy presentation on the Board's previous deliberative process on this matter (See DVD, Exhibit 3 @ 1:36:32).

There was no discussion or consideration of entering Executive Session on any provision of this subject matter during this meeting.

Alderman Little made a motion pursuant to Mississippi Code § 21-3-15, to override the Mayor's veto dated September 19, 2014, to Amend the Employee + 1 Adult Coverage provision under the City's Medical Insurance Benefit Plan to include coverage for only legally married spouses as defined in the Article, 14, Section 263A of the Mississippi Constitution. The motion was seconded by Alderman Carver.

The Board voted 4-2 with the recusal of Alderman Wynn. The Mayor declared the motion failed for lack of the required veto override total of 5 affirmative votes.

8. The Open Meetings Act was enacted for the benefit of the public and is to be construed liberally in favor of the public.

9. Moreover, 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.

10. It is inappropriate 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. A following of the meetings of the Board of Aldermen of the City of Starkville will reflect a pattern and practice of board members making motions, seconding the motions and voting without discussion on matters which are significant enough that discussion would be reasonable, but for the fact that the decisions have been made prior to the board meeting and in private. The facts and circumstances of the meeting of September 9, 2014 would indicate that the Board of Aldermen use the option of an executive session for the much the same purpose as the prior and pending allegations of arranging votes and determining policy outside of the public view in contravention of the Open Meetings Act.

12. The Board of Aldermen in the meetings of September 16, 2014 and September 23, 2014 which were subsequent to the Special Call meeting of September 9, 2014, did not avail themselves of the use of an executive session to discuss any aspects of this board agenda item. The complainant would submit that the use of executive session on

September 9, 2014, was a ploy to shield any substantive dialogue about the topic from public view.

13. 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.”

14. The 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.

15. 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.

16. The complainant respectfully requests that the Mississippi Ethics Commission investigate the meeting of September 9, 2014 and other meetings of the Starkville Board of Aldermen, which have not been held in open session.

17. 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 right and need of the public to be aware of the Board’s deliberations and that this Board of Aldermen contumaciously violates the Open Meetings Act.

18. 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 offenses and reasonable costs for filing this complaint as provided in Title 25, Chapter 41, Miss. Code of 1972.

19. In a previously submitted complaint and response, the City Attorney referenced that 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. Prior to that I was born and raised here and attended school through to my Bachelor of Science degree from Mississippi 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 18 herein.

This complaint is a stand-alone document but it is accompanied by three others that each have been filed as stand-alone complaints based on separate actions taken by the Starkville Board of Aldermen on 2 different occasions.