

BEFORE THE MISSISSIPPI ETHICS COMMISSION

MARY LEE BEAL

COMPLAINANT

VS.

CASE NO. M-14-004

MAYOR AND BOARD OF ALDERMEN,  
CITY OF STARKVILLE

RESPONDENT

ORDER OF DISMISSAL

This matter came before the Commission through an Open Meetings Complaint filed by Mary Lee Beal against the Mayor and Board of Aldermen for the City of Starkville (hereinafter referred to as the "board"). The board filed a response by and through its attorney.

The Ethics Commission has jurisdiction over this matter pursuant to Section 25-41-15, Miss. Code of 1972. A Recommendation of Dismissal was presented in accordance with Rule 4.6, Rules of the Mississippi Ethics Commission.

I. FINDINGS OF FACT

1.1 The complainant alleges the board met or communicated outside of a public meeting to predetermine whom the board would appoint to the municipal school district board of trustees. The nonpublic meeting or communication allegedly occurred near February 18, 2014. The complaint is based on a comment made by one member of the board, Alderwoman Lisa Wynn, during a public meeting of the board held on February 18, 2014.

1.2 During the February 18 public meeting, the board considered and made an appointment to the municipal school district board of trustees. During discussion concerning the appointment, Alderwoman Wynn allegedly commented that "sometimes as board members, we have to make decisions behind the scenes that some of you may not understand and they are difficult. Tonight was one of those."

1.4 In her complaint, Ms. Beal argues Alderwoman Wynn's statement establishes the board met to make the decision outside of the public meeting. Ms. Beal seeks to have the Ethics Commission investigate the decisions made by the board since July 1, 2013, to determine whether the board has conducted other non-public meetings.

1.5 The city's response contains affidavits from the mayor and all aldermen. Each of the affidavits denies the aldermen have met or communicated to make decisions outside of properly noticed public meetings. Additionally, Alderwoman Wynn's affidavit states that "emotions were running high in the room over the appointment of [the] school board member and [she] admittedly used a poor choice of words." Wynn explains that her statement intended to convey that she had "individually agonized" over her personal decision concerning the appointment prior to coming to the meeting on February 18, not that she had engaged in any behind-the-scenes meetings of the board. The city also provided the February 18 meeting

minutes which reflect the board considered the school board appointment during a public meeting.

## II. CONCLUSIONS OF LAW

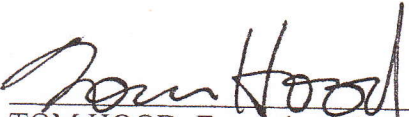
2.1 “The Open Meetings Act was enacted for the benefit of the public and is to be construed liberally in favor of the public.” Board of Trustees of State Insts. of Higher Learning v. Miss. Publishers Corp., 478 So.2d 269, 276 (Miss. 1985). “However inconvenient openness may be to some, it is the legislatively decreed public policy of this state. Mayor & Aldermen of Vicksburg v. Vicksburg Printing & Pub., 434 So.2d 1333, 1336 (Miss.1983).

2.2 Section 25-41-3, Miss. Code of 1972, defines a “meeting” as “an assemblage of members of a public body at which official acts *may* be taken upon a matter over which the public body has supervision, control, jurisdiction or advisory power.” (emphasis added) “[O]fficial acts’ includes action relating to formation and determination of public policy....” Gannett River States Pub. Corp., Inc. v. City of Jackson, 866 So.2d 462, 466, ¶ 16 (Miss. 2004), quoting Bd. of Trustees at 278. “The Legislature does not indicate that official acts must be taken in order for the gathering to be considered a meeting.” Gannett at 466, ¶ 15. Official acts may be taken when a quorum of the public body is assembled. Id. Meetings of a public body must be open to the public; minutes of meetings must be kept; and public notice must be provided. See Sections 25-41-5, 25-41-11 & 25-41-13.

2.3 The affidavits and minutes submitted by the board establish the discussion and vote concerning the municipal school board appointment occurred at a public meeting of the board. There is no evidence the vote was prearranged as alleged by the complainant. Moreover, no legal authority exists for the Commission to “investigate” all meetings of a public body to find other potential violations of the Open Meetings Act as the complainant has requested. See Section 25-41-15.

WHEREFORE, this complaint is hereby dismissed this 6th day of March 2015.

MISSISSIPPI ETHICS COMMISSION

BY:   
TOM HOOD, Executive Director

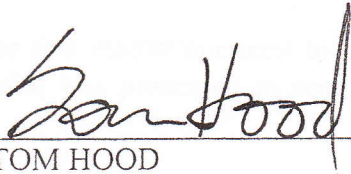
CERTIFICATE OF SERVICE

I, Tom Hood, Executive Director for the Mississippi Ethics Commission, do hereby certify that I have this day transmitted a true and correct copy of the foregoing document to the parties by mailing it to the last known address, all as follows:

Ms. Mary Lee Beal  
516 Greensboro St.  
Starkville, MS 39756

Mr. Christopher J. Latimer  
Mitchell, McNutt & Sams  
P. O. Box 1366  
Columbus, MS 39703

So certified this 12<sup>th</sup> day of March 2015.

  
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TOM HOOD