

Joseph Rawson
701 Dearborne Road
Hattiesburg, MS 39401

27 December, 2016

Attn: Johnny L. Dupree, Mayor of the City of Hattieburg

Re: Council Order setting compensation for next elective term

Dear Mr. Dupree:

The Council held their recessed meeting on the 20th of December to act on the items listed on the meeting agenda. Before acting on the agenda, the Council voted to amend the agenda to include an order to set the compensation of the members of council and the mayor for the succeeding term that starts in 2017. The vote to include this order on the agenda was successful, and the Council voted on that item, ordering a change in the compensation of elective officers.

I attended the council meeting on the 20th of December, and also the agenda review session the previous day. Our council has decided to receive public input on the day prior to the Tuesday meeting after the agenda has been reviewed, and members of the public came to council chambers to bring matters to their attention. The public was not able to comment upon a proposed change in salary for the elective officers because this item was not on the agenda. There was no manner by which the public could comment upon

A Brief Review of Council Procedure

The Council has an ordained permanent policy whereby they must provide the opportunity for public comment before taking action on any item on the agenda, except for the adjusting of order, approval of the minutes of previous meetings, and conducting presentations. The opportunity for the Council to receive input from the public occurs during the Public Agenda, which is ordered on the entire agenda just prior to the items for action on the Policy Agenda and Routine Agenda. (Code of Ordinances Sec. 2-22) Ever since the very first day I stepped foot into the council chambers of the City of Hattiesburg, on the first of August, 2011, I have never observed any meeting agenda being lawfully ordered to include the Public Agenda in the official agenda of the meeting.

In fact the Citizen Forum, which is the portion of the Public Agenda that provides the Council with the opportunity to receive comment from the public, has been routinely conducted on the day prior¹ to the regular, or recessed regular meeting, subsequent to the review of the agenda. When the Council decides to amend an agenda with an item, without first receiving public comments on said item, the Council loses their opportunity to learn about potential problems that may occur with taking action on an item. It is only for items that, if postponed to a future agenda, would “threaten the immediate safety and/or well being of citizens of the community or employees of the city, would potentially disrupt the delivery of essential services, would result in substantial increased cost in the purchase of necessary items for the administration of city government or would, if delayed, result in the loss of opportunity for significant economic development in the city,” (Code of Ordinances 2-22) that the Council is able to amend the agenda to take action on an item without the requirement for public comment.

¹ When, due to holidays, there is no meeting on the prior Monday, the Citizen Forum is usually held subsequent to action being taken on the agenda during the official meeting.

Media Coverage of the Order to Set Compensation

In the days following the order to set compensation, the public received information that this occurred from both the Hattiesburg American newspaper and the local television station, WDAM. People who were informed by them were able to comment upon their reports on the internet, with many of the comments being unheard by the Council and not mentioned in the public record. The Hattiesburg American wrote a follow up report on the salary increases, comparing the salaries to other municipalities in the state and reported that the increases were “excessive.” It was also reported that the President of the Council stated that there is only one time that the Council is able to set the compensation of succeeding elective officers, however section 21-8-21 of the Mississippi Code of 1972 provides that this be done “at any time prior to ninety (90) days before the next general election for the selection of municipal officers.”

Elective officers in the city should not be in a position to have a local newspaper report upon an excessive increase in salary, while not providing the opportunity to receive public input concerning the desire to adjust those salaries. The public should have to be informed entirely by the local news media about the public business of the city when they are ordinarily informed by the posting of the meeting agenda at city hall.

The Veto Power of the Mayor in a Mayor-Council Form of Government

Section 21-8-17 of the Mississippi Code of 1972 provides the ability of the Mayor to reject ordinances by refusing to signing his approval and returning the ordinance to the Council, along with a written statement “setting forth his objections thereto.” Please keep in mind that this power is provided in chapter 8 of title 21, and that section 21-8-47 provides that the term “ordinance” used said chapter shall be “deemed to include ordinances, resolutions, orders and any other official actions of the council, except those procedural actions governing the conduct of the council's meetings, appointing a clerk of council, and exercising the council's investigative functions.”

A Request for a Veto

With regard to the public commentary I have already witness concerning the decision of the Council to set the salaries of the next term of elective officers, I feel that it was very unwise for the Council to perform this act without offering the public to comment in a manner by which they can receive it publicly. Our Council decided to perform this act without the traditional courtesy of receiving public input to better determine whether this was appropriate. Also, there was no legislative finding where the Council determined that this was either necessary or appropriate, giving this act all the fingerprints and earmarks of an arbitrary and capricious act.

With this in mind, I seriously recommend that you refuse this order and return it to the Council on the grounds that the public was denied the ability to give commentary and guidance before the Council acted upon this item. I hope you had a good Christmas this year!

Sincerely,

Joseph Rawson