

BEFORE THE MISSISSIPPI ETHICS COMMISSION

DEBRA LEE GIVINS

COMPLAINANT

VS.

OPEN MEETINGS CASE NO. M-24-005

**MAYOR AND BOARD OF ALDERMEN,
TOWN OF UTICA**

RESPONDENT

FINAL ORDER

This matter came before the Commission through an Open Meetings Complaint filed by Debra Lee Givins against the Mayor and Board of Aldermen for the Town of Utica, Mississippi (the “board” or “town”). The board filed responses by and through its attorney. The Ethics Commission has jurisdiction over this matter pursuant to Section 25-41-15, Miss. Code of 1972. A Preliminary Report and Recommendation was issued on November 1, 2024 in accordance with Rule 4.6, Rules of the Mississippi Ethics Commission.

On November 13, 2024, the respondent provided additional information regarding this case. Accordingly, a Final Report and Recommendation was presented to the commission at its regular meeting held on February 7, 2025, at which time the commission approved this Final Order in accordance with Rule 4.6 of the Rules of the Mississippi Ethics Commission.

I. FINDINGS OF FACT

1.1 Debra Givins alleges that the Mayor and Board of Aldermen for the Town of Utica, Mississippi violated the Open Meetings Act by failing to post notice for a special meeting to discuss and approve the filing of a petition for a protective order in the Hinds County Chancery Court on March 13, 2024.

1.2 In its response to the complaint, the town explains that on February 13, 2024, a public records request was filed with the Mississippi Home Corporation (MHC) seeking records of a grant to the Town of Utica for housing improvements. MHC is an agency of the State of Mississippi created by the Mississippi Home Corporation Act of 1989, Miss. Code Section 43-33-701, et seq. The response further explains as follows:

By the time the Town was notified of this request ..., the Town did not have time to hold a special meeting to discuss how to proceed. The Town felt that some of the information contained in the grant application and documentation [was confidential or not subject to disclosure under the Mississippi Public Records Act]. A decision by the Mayor was made to file the lawsuit to apply for a protective order as provided by statute to stop Mississippi Home Corp from releasing the information until the Board could meet to consider the issue.

The response also states that after the petition for a protective order was filed, a special meeting of the Board was called and held on March 20, 2024, and at that meeting, the board authorized the town’s attorney to proceed with the lawsuit.

1.3 The hearing officer requested copies of the town's meeting minutes from February and March 2024, as well as a copy of the notice for the March 19, 2024, special meeting. The minutes reflect that the board met in regular meetings on February 6 and March 5, 2024, and in a special meeting on March 20, 2024. The notice for the special meeting was dated March 19, 2024, and states that the following topics would be discussed:

- FY 2022 HUD Beautification Project
- Advertising for an Engineer and Administrator for the Beautification Project
- Discuss Certified Letters being mailed out to Public Officials
- Discuss Bid Protest for MCWI Administrative Services #9762009.

1.4 The minutes for the March 20, 2024 meeting reflect that the board discussed the four items listed above and discussed and unanimously approved an "order for Attorney Mel Breeden to move forward with the Protective Order Lawsuit"

1.5 The town explained in its November 13, 2024 correspondence:

The members of the Board of Aldermen received certified letters concerning the release of certain records of a grant awarded to the Town. A special meeting of the Board was called to decide whether to file a lawsuit in Chancery Court seeking a protective order to block the release. The notice of the meeting stated "Discuss Certified Letters being mailed out to Public Officials." ...

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). In Hinds County Board of Supervisors v. Common Cause of Mississippi, 551 So.2d 107 (Miss.1989), the Supreme Court summarized the Legislative intent of the Open Meetings Act as follows:

Every member of every public board and commission in this state should always bear in mind that the spirit of the Act is that a citizen spectator, including any representative of the press, has just as much right to attend the meeting and see and hear everything that is going on as has any member of the board or commission.

Id. at 110. "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 Pursuant to Section 25-41-13(1)(a) of the Open Meetings Act, "[a] notice of the place, date, hour and subject matter of . . . any called special meeting shall be posted within one (1) hour after such meeting is called in a prominent place available to examination and inspection by the general public in the building in which the public body normally meets. A copy of the notice shall be made a part of the minutes or other permanent official records of the public

body.” The evidence shows the board timely posted notice of the March 20, 2024, meeting and included a copy of that notice in the minutes of that meeting.

2.3 Initially, it appeared that the board deliberated and voted on a subject matter which was not listed in the notice of the special meeting. Namely, the board approved an order authorizing an attorney to seek a protective order, and this topic was not listed among the subject matters in the notice of special meeting posted on March 19, 2024. However, the board explained that the action to authorize the board attorney to seek a protective order arose from the board’s deliberations regarding “Discuss Certified Letters being mailed out to Public Officials.” As such, the special meeting notice sufficiently listed the matters to be discussed at the meeting. Accordingly, there is no violation of the Open Meetings Act.

WHEREFORE, the complaint is hereby dismissed this 7th day of February 2025.

MISSISSIPPI ETHICS COMMISSION

BY: _____
TOM HOOD, Executive Director