

Joseph Rawson
612 North Main Street
Hattiesburg, MS 39401

22 June, 2015

Attn:

Anthony Parker, Chief of Police

Re: Council Resolution declaring surplus items

Dear Mr. Parker:

I took the time to attend the agenda review meeting this Monday the 4th of January, 2016 in the council chambers. After the agenda was reviewed, the Council chose to receive comment from the public, then subsequently held the work session scheduled after the review. During the work session, the police department identified property that needed to be disposed by auction, informing the Council that the proceeds that would be introduced into the general fund would be substantial enough to authorize an auction of this property.

The next day, during the regular meeting of the Council, the Council amended the agenda to include a resolution generally authorizing the property listed by the police department to be sold at auction. However, the work session was just the day before and also, "the purpose of a work session shall be to consider and discuss ideas, projects, or proposals that may be forthcoming for deliberation and action at a future date," (Code of Ordinances 2-19(E)), which the police officer seemed to convey. Nobody, during the work session, gave any indication that this was urgent enough to amend to the agenda the very next day. I was honestly surprised when the Council moved to amend the agenda to add a resolution to authorize the auction the very next day. Not only was the Council not given any evidence to determine that placing the resolution on next agenda for the recessed regular meeting 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) even if there was an emergency claim, it seems an extremely poor policy for the municipality to depend on the proceeds of an auction of property in an evidence room to provide for safety or economic development. If the Council would really want to confirm that this amendment to the agenda fulfilled the aforesaid criteria, they would be essentially be claiming that the impending sale of personal property recovered by the city is essential to the well being of the people of the city.

Nevertheless, the resolution adopted by the Council on the 5th of January, 2016, could potentially be very dangerous to the police, depending upon how the authorization is executed. Please take a close look at the resolution and notice that the Council neglected to provide specific statutory authority by which to conduct the sale of property. If you were to decide to hold this auction, you would be required to select the appropriate statute that the Council is relying on to authorize the auction, rather than the Council informing you of the authority to use as grounds to actually conduct the sale of the listed property. This leaves you, or more accurately the Mayor, to decide which statutory authority will be used to conduct the sale, leaving this liability with the administration, rather than with the Council who neglected to provide you with specific statutory authority to conduct the auction lawfully.

Being an observer of the aforementioned work session, I took careful notice that the discussion seemed to indicate that this property was lost, abandoned, or otherwise recovered property, such property being protected by the statutory requirements of § 21-39-21 Miss. Code Ann. 1972, and also that you selected an agent who was capable of holding this auction either outside the geographical requirements of this statute, or without stating the particular place where the auction will be held. The Council failed to clarify the requirements of the statute during the work session, and also neglected, as mentioned before, the authority by which to conduct the auction. Very conspicuously, the Council neglected in the following resolution to designate some official to actually conduct the sale, eliminating the ability for you, or any of your subordinates, to use this statute to dispose of the property, since you are not capable of selecting the person to conduct the sale of the property, as this is entirely in the hands of the governing authorities of the municipality.

I have decided to appeal the Council's decision, since they have been pretty sloppy about handling the whole decision. There is a really good reason why they are supposed to review the agenda, then obtain public comments before actually conducting the business on the agenda. I wanted to write this letter to you, so that you can be aware of what is happening with regard to the Council's action, and hopefully, refrain from conducting an unauthorized sale, when our Council apparently cannot resolve to do something plainly and clearly. Thank you for your time.

Sincerely,

Joseph Rawson