Proceedings of the City Council Meeting of the city of Bay St. Louis, State of Mississippi, taken at a meeting held November 4, 2014 in the City Council Chambers at the Bay St. Louis Conference Center on Main Street. The meeting began at 5:30 p.m.

**ATTENDANCE:**

**COUNCIL:** Jeffrey Reed, President (Ward 3), Mike Favre (Council Member-at-Large), Doug Seal (Ward 1), Wendy McDonald (Ward 2), Bobby Compretta (Ward 4), Joey Boudin (Ward 5), and Lonnie Falgout (Ward 6)

**COUNCIL STAFF:** Jane Carrow, Clerk of Council

**ADMINISTRATIVE STAFF:** Les Fillingame, Mayor, David Kolf, City Clerk and Donald Rafferty, City Attorney

**ABSENT:** None

Council Member Reed called the meeting of November 4, 2014 to order.

Council Member Reed delivered the invocation and led the Pledge of Allegiance.

**GUESTS:**

**Students from OLA**

The following Our Lady Academy students introduced themselves and attended the meeting:

Sofia Taconi

Smantha Mirandy

Mikaela DeMetz

Emily McGinnity

Holland Murphree

Kalley Geroux

Loxi Smith

Lawren Lawhead

KinsleyStuart

Ferron Trapani

Alison Schatzle

CiCi Lamb

Leah Morris

Sarah Rimer

Tricia Williams

Abby Gollott

Liza Rittiner

Tiffany Jones

Georgia Williams

**Motion to Approve Work Authorization #2**

Council Member Seal moved, seconded by Council Member McDonald, to approve Work Authorization #2 for a Water Main Extension at the Harbor under the 2014-2015 General Services Agreement between the City of Bay St. Louis and Brown, Mitchell & Alexander, Inc.

The costs will have to be paid out of the Harbor Fund but Chuck Fortin, Harbor Master, said there are matching funds available for this work through BIG.

A vote was called for with the following response:

VOTING YEA: Boudin, Compretta, Falgout, Favre, McDonald, Reed, and Seal

VOTING NAY: None ABSENT: None

**Motion to Approve Work Authorization #1**

Council Member McDonald moved, seconded by Council Member Falgout, to approve Work Authorization #3, Tasks 1 & 2 under the 2014-2015 General Services Agreement between the City of Bay St. Louis and Brown, Mitchell & Alexander, Inc. for a cost of $20,000 for “Harbor Tranquility Investigation/Recommendations” .

A vote was called for with the following response:

VOTING YEA: Boudin, Compretta, Falgout, Favre, McDonald, Reed, and Seal

VOTING NAY: None ABSENT: None

**Complaint about Harbor Pile Driving**

**Brenda Noto**, 140 DeMontluzin, said there are a few people in her neighborhood who have had damage to their homes as a result of the Harbor pile driving. She has had brick damage and a door is coming away from the frame. Ms. Noto showed photographs to the Council. Mr. Rafferty said there was a previous case where a homeowner believed he had damage from the pile driving and it was determined that the damage was not caused by the impact of the pilings. It is the City’s position that until an expert can testify that the damage is due to the Harbor, the City will not take any action.

Council Member Boudin said it could be possible that a delivery truck, garbage truck or beer truck could have caused the damage. Mr. Rafferty said this would fall under the Mississippi Torts Claims Act which has a one year statute of limitations from the time of the damage.

Jason Chiniche, Engineer with Brown Mitchell and Alexander, said a vibration monitor was installed in the Harbor and everything was monitored for a day. The results showed more of a reading from delivery trucks than from the pile driving.

**PUBLIC FORUM**

**Margie and Reg Morken** said they own property at 121 and 123 Court Street. There is a small dumpster at the Community Center and parking garage. The Community Center places all of their garbage there on weekends and the dumpster is not picked up until Wednesday. There is no screen around the dumpster and it is creating a problem with rats. Mayor Fillingame said he is speaking to the County about removing that small dumpster. Ms. Morken said the Buoy Bar has been throwing trash bags full of beer bottles in the dumpster at 3 am on the weekends. It is very disruptive to the neighborhood. Council Member McDonald said she talked with the owners of the bar and they mistakenly thought the dumpster was the City’s. They have been using the wrong dumpster.

Council Member Reed said the use of offsite dumpsters is out of compliance with the Health Department. Mayor Fillingame said Trapani’s is using the City dumpster now but the Buoy Bar will begin using it soon.

**P&Z RECOMMENDATIONS**

**a) CHARLES GRAY**- application for Variance to the Zoning Ordinance. The applicant’s intention is to add an addition to the existing residence. The applicant is asking for a 7’ variance to the rear yard, therefore the applicant is asking for a 13’ setback to the rear yard. The property is located at 107 Washington St., parcel #149P-0-30-010.000, described as 3rd Ward, Lot 252, Bay St. Louis, Hancock County, Mississippi. The property lies in an R-1; Single-Family District which requires a 25’ front yard, 8’ side yard and 20’ rear yard. P&Z recommended approval 5-0 (Commissioner Jordan recused himself).

Council Member Reed asked if anyone had any comments regarding this application. Charles Gray discussed his plans with the Council.   
  
**Motion to Approve the Application**

Council Member Compretta moved, seconded by Council Member McDonald, to follow the recommendation of the Planning & Zoning Commission and approve the application.

A vote was called for with the following response:

VOTING YEA: Boudin, Compretta, Falgout, Favre, McDonald, Reed, and Seal

VOTING NAY: None ABSENT: None

**b) DAVID AND SUSAN BOUDREAUX** - application for Special Subdivision Plat Approval and a Variance to the Zoning Ordinance. The applicants’ intentions are to remove the canopy that is attached to the side of the residence and construct a screen porch. The new construction will be in the same footprint of the existing structure. The applicant is asking for a 3.6’ setback to the south side yard, therefore the applicant is asking for a 4.4’ variance to the south side yard. The property is located at 509 North Second St., Parcel #149f-0-29-041.000, described as Lot 269B & part 274B, 1st Ward, Bay St. Louis, Hancock County, Mississippi.The property in question is zoned R-2, Two Family District which requires a 25’ front yard, 8’ side yard and 20’ rear yard. P&Z recommended approval 6-0.

Council Member Reed asked if anyone present had any comments regarding this application. No one came forward.

**Motion to Approve the Application**

Council Member Favre moved, seconded by Council Member McDonald, to follow the recommendation of the Planning & Zoning Commission and approve the application with the stipulation that gutters be added on the side of the new addition.

A vote was called for with the following response:

VOTING YEA: Boudin, Compretta, Falgout, Favre, McDonald, Reed, and Seal

VOTING NAY: None ABSENT: None

**c) JENISE McCARDELL** - application Withdrawn

**d) MATT ROSENDAHL** - application for Variance to the Zoning Ordinance The applicant’s intention is to construct a single family residence. Where a lot is a corner lot fronting on two existing streets that intersect, the lot shall have two front yards. The applicant is asking for a 20’ variance to the front yard for a 5’ setback to the front yard fronting Hancock St. The applicant is also asking for a 10’ variance to the front yard for a 15’ setback to the front yard fronting Citizen St. The property is located at 202 Citizen St. and intersects on the corner of Hancock St., Parcel #149N-0-30-047.000, described as 4th Ward, Lot 15A, Bay St. Louis, Hancock County, Mississippi. The property is zoned R-2, Two-Family District which requires a 25’ front yard, 8’ side yard and 20’ rear yard. P&Z recommended approval 6-0.

Council Member Reed asked if anyone present had any comments regarding this application. No one come forward.

**Motion to Approve the Application**

Council Member Compretta moved, seconded by Council Member Favre, to follow the recommendation of the Planning & Zoning Commission and approve the application.

A vote was called for with the following response:

VOTING YEA: Boudin, Compretta, Falgout, Favre, McDonald, Reed, and Seal

VOTING NAY: None ABSENT: None

**e) CASA VERDE, LLC** - application for Special Exception to the Zoning Ordinance. The owner is asking for a special exception to the zoning ordinance to allow the residence that is currently located on the property to be used as a Bed and Breakfast establishment. According to the “Chart of Uses” in an R-1 District, a Bed and Breakfast may be allowed by Special Exception. The Bed and Breakfast will consist of 4 guest quarters. The owner has indicated on the site plan the required (1) parking space per sleeping room plus one space for visitor parking. The property is located at 134 Sycamore Street, Parcel #149L-0-30-237.000, described as Part 237, 3rd Ward, Bay St. Louis, Hancock County, Mississippi. The property is zoned R-1, Single Family District. P&Z recommended 5-0 (Jordan recused himself).

Council Member Reed asked if anyone present had any comments regarding this application. No one came forward.

**Motion to Approve the Application**

Council Member Compretta moved, seconded by Council Member Favre, to follow the recommendation of the P&Z Commission and approve the application.

A vote was called for with the following response:

VOTING YEA: Boudin, Compretta, Falgout, Favre, McDonald, Reed, and Seal

VOTING NAY: None ABSENT: None

**NEW BUSINESS**

**Key to Garden Center for Garden Club**

Council Member Reed requested the Mayor give the Bay Waveland Garden Club a key to the Garden Center Building. Mayor Fillingame said there has been some problems with keys for that building but asked the Garden Club president to come to his office so they could work out a solution.

**Trucks on Beach Boulevard**

Council Member Seal said there is a problem with delivery trucks blocking Beach Blvd. during peak hours. Mayor Fillingame said the City needs to set a policy by Ordinance and he wants to task the Planning and Zoning Commission with that job. Council Member Seal said that could take 3-4 months to accomplish. He suggested sending notices to the businesses. Council Member McDonald said a workshop would be in order and ask the business owners to help develop something workable. **Tish Williams**, Executive Director of the Hancock Chamber of Commerce, offered her services to poll the business community to see what is needed and get the information to the Council for the next meeting.

**OLD BUSINESS**

**Motion to Approve Application for Abandonment**

Council Member McDonald moved, seconded by Council Member Seal, to Approve the

Petition to abandon the 12’ platted alley between parcel #149L-0-29-102-000 and parcel #149L-0-29-103.000 splitting the land equally between the two property owners Purple Banana, LLC and Buggy Whip, Inc. (“Exhibit A”)

A vote was called for with the following response:

VOTING YEA: Compretta, Falgout, Favre, McDonald, Reed, and Seal

VOTING NAY: None ABSENT: None ABSTAIN: Boudin

**School Board Election Process**

Council Member Seal said he would like to see what has to be done to have the Bay Waveland School Board Members elected rather than appointed in Bay St. Louis. Mr. Rafferty said he would research the issue and come back to the Council with his findings.

**Motion to Approve the Re-Appointment of Harbor Commission Members**

Council Member Seal moved, seconded by Council Member Boudin, to approve the re-appointment of Rod Ward and Chris Roth to the Harbor Commission for a 3 year term and to appoint Dr. Mike Richardson to the Advisory Committee.

A vote was called for with the following response:

VOTING YEA: Boudin, Compretta, Falgout, Favre, McDonald, Reed, and Seal

VOTING NAY: None ABSENT: None

**Attorney E&O Insurance**

Mr. Rafferty told the Council he has two quotes for E&O Insurance. The premium for $250,000 coverage is $980 per year and the premium for $500,000 coverage is $1,800.00. Mr. Rafferty said he could have the policy done this week. Council Member Falgout said he would like to see Mr. Rafferty have $500,000 in coverage and have it cover George Blair, a member of Mr. Rafferty’s firm who is the City Prosecutor.

**Motion to Require $500,000 in Attorney E&O Insurance**

Council Member Falgout moved, seconded by Council Member Boudin, to

require $500,000 E&O Insurance be carried by Donald Rafferty, LLC.

A vote was called for with the following response:

VOTING YEA: Boudin, Compretta, Falgout, Favre, McDonald, Reed, and Seal

VOTING NAY: None ABSENT: None

**Motion to Accept the Offer of Gulfview Properties to Purchase 111 Court Street**

Mr. Rafferty sold the Council that the City has received the 3rd appraisal for 111 Court Street and the sale could close within 30 days. He said the price offered is within 10% of the average of all of the appraisals.

Council Member Falgout moved, seconded by Council Member Compretta, to accept the offer of Gulfview Properties to purchase 111 Court Street for $370,000 and to Authorize the City Attorney to set the closing and to Authorize the Mayor to activate the sale.

A vote was called for with the following response:

VOTING YEA: Boudin, Compretta, Falgout, Favre, McDonald, Reed, and Seal

VOTING NAY: None ABSENT: None

**Motion to Transfer the Ownership of Parking Garage to Hancock County**

Council Member Falgout moved, seconded by Council Member McDonald, to transfer the ownership of the Parking Garage to Hancock County.

A vote was called for with the following response:

VOTING YEA: Boudin, Compretta, Falgout, Favre, McDonald, Reed, and Seal

VOTING NAY: None ABSENT: None

**Motion to Donate Surplus Vehicles to Hancock Co. Sheriff’s Office**

Council Member Falgout moved, seconded by Council Member Favre, to donate a surplus gray Crown Victoria and the surplus Speed Limit Trailer to the Hancock County Sheriff’s Office.

A vote was called for with the following response:

VOTING YEA: Boudin, Compretta, Falgout, Favre, McDonald, Reed, and Seal

VOTING NAY: None ABSENT: None

**MAYOR’S REPORT**

**Motion to Approve Street Closure**

Council Member Boudin moved, seconded by Council Member Seal, to approve the following street closure:  
 Nov.15, 2014 4pm-5pm  
 2nd St. between State and DeMontluzin  
 To allow for Pirate Day in the Bay  
 Sponsored by Mystic Krewe of the Seahorse

A vote was called for with the following response:

VOTING YEA: Boudin, Compretta, Falgout, Favre, McDonald, Reed, and Seal

VOTING NAY: None ABSENT: None

**Motion to Approve Travel**

Council Member McDonald moved, seconded by Council Member Falgout, to approve travel for Mayor Fillingame and Paula Fairconnectue to attend the MDA Asset Development Annual Meeting in Jackson on November 19, 2014.

A vote was called for with the following response:

VOTING YEA: Boudin, Compretta, Falgout, Favre, McDonald, Reed, and Seal

VOTING NAY: None ABSENT: None

**Motion to Ratify Appointment of Steven Maggio as Municipal Judge**

City Clerk David Kolf said the IRS requires the Municipal Judge to be a City employee. He said an independent contractor is hired to do a job and has the opportunity for financial loss. This comes from a case out of Oklahoma. He said the Municipal Judge uses City employees, works in a City building and all of this limits his independence. He has submitted form 8188 to the IRS for a determination. The IRS may see having the Municipal Judge being a contractor and getting a 1099 instead of being a City employee as an avoidance of paying payroll taxes. Mr. Kolf said he doesn’t want to be in trouble with the IRS.

Council Member Boudin moved, seconded by Council Member Favre, to ratify the appointment of Steven Maggio as Bay St. Louis Municipal Judge at his current rate of pay and to retain Jay Lagasse and Tommy Carver as Judge Pro-temps.

A vote was called for with the following response:

VOTING YEA: Boudin, Compretta, Falgout, Favre, McDonald, Reed, and Seal

VOTING NAY: None ABSENT: None

**CITY CLERK REPORT**

**Motion to Approve Docket**

Council Member McDonald moved, seconded by Council Member Compretta, to approve the docket of claims as follows:

General Fund $ 53,101.00

Debt Service Fund $ 14,097.52

Utility Fund $ 6,995.00

Municipal Harbor Fund $ 4,089.79

Total $ 78,283.31

A vote was called for with the following response:

VOTING YEA: Boudin, Compretta, Falgout, Favre, McDonald, Reed, and Seal

VOTING NAY: None ABSENT: None

**Letter of Certification**

Council Member Falgout read the letter of certification from the City Clerk verifying that the funds are available and stating that he recommends making the payments. Council Member Falgout asked that this letter be spread on the minutes.

**Motion to Authorize the City of Bay St. Louis to Amend the Fiscal 2014 General Fund Budget**

Council Member McDonald moved, seconded by Council Member Seal, to authorize the City of Bay St. Louis to amend the Fiscal 2014 General Fund Budget as follows:

FUND DEPARTMENT ACCOUNT AMENDMENT

General Fund Judicial Prisoner Fees Increase $ 5,640.00

General Fund Police Capital Increase $ 40,080.90

Utility Fund Operations Repairs (Property) Increase $10,339.40

Utility Fund Operations Testing & Analysis Increase $ 3,119.60

Harbor Fund Operations Utilities Increase $ 7,201.00

Harbor Fund Operations Fuel Purchase Increase $29,500.00

A vote was called for with the following response:

VOTING YEA: Boudin, Compretta, Falgout, Favre, McDonald, Reed, and Seal

VOTING NAY: None ABSENT: None

**Motion to Amend the Harbor Ordinance**

Council Member Seal moved, seconded by Council Member McDonald, to amend the Harbor Ordinance to include the Criteria for Slip Modifications.

A vote was called for with the following response:

VOTING YEA: Boudin, Compretta, Falgout, Favre, McDonald, Reed, and Seal

VOTING NAY: None ABSENT: None

**Cash Balance Sheet**

Council Member Falgout asked that the Cash Balance report be spread on the minutes. (“Exhibit B”)

**Payroll**

Council Member Reed asked that the Payroll for the period ended October 15, 2014 in the amount of $150,585.50 and the Payroll for the period ended October 28, 2014 in the amount of $149,043.46 be spread on the minutes.

**ATTORNEY’S REPORT**

**Motion to Set Public Hearing for December 2, 2015**

Council Member Falgout moved, seconded by Council Member Favre, to set a public hearing for December 2, 2014 to determine if Parcel #013M-0-39-288.000 and Parcel #135M-0-39-290.000 on Victoria Street are a menace to the public health, safety and welfare to the citizens of Bay St. Louis due to an abandoned trailer and RV on the property being used for storage.

A vote was called for with the following response:

VOTING YEA: Boudin, Compretta, Falgout, Favre, McDonald, Reed, and Seal

VOTING NAY: None ABSENT: None

**PUBLIC FORUM**

No action was taken.

**MINUTES**

Council Member Seal moved, seconded by Council Member Falgout, to approve the minutes of August 19, 2014 with corrections.

A vote was called for with the following response:

VOTING YEA: Boudin, Falgout, Favre, Reed, and Seal

VOTING NAY: McDonald ABSENT: Compretta

**EXECUTIVE SESSION**

**Motion to determine the need to go into Executive Session**

Council Member McDonald moved, seconded by Council Member Seal, to determine the need to go into Executive Session (pending litigation and personnel).

A vote was called for with the following response:

VOTING YEA: Boudin, Falgout, Favre, McDonald, Reed, and Seal

VOTING NAY: None ABSENT: Compretta

**Motion to go into Executive Session**

Council Member McDonald moved, seconded by Council Member Seal, to go into executive session to discuss pending litigation and personnel.

A vote was called for with the following response:

VOTING YEA: Boudin, Compretta, Falgout, Favre, McDonald, Reed, and Seal

VOTING NAY: None ABSENT: None

**Motion to Come out of Executive Session**

Council Member McDonald moved, seconded by Council Member Seal, to come out of executive session with no action being taken.

A vote was called for with the following response:

VOTING YEA: Boudin, Compretta, Falgout, Favre, McDonald, Reed, and Seal

VOTING NAY: None ABSENT: None

**Motion to Authorize Filing Second Appeal to FEMA for PW 954**

Council Member McDonald moved, seconded by Council Member Falgout, to authorize filing a second appeal to FEMA for Construction and A&E Costs for PW954 in the amount of $171,499.

A vote was called for with the following response:

VOTING YEA: Boudin, Compretta, Falgout, Favre, McDonald, Reed, and Seal

VOTING NAY: None ABSENT: None

**ADJOURN**

Council Member McDonald moved, seconded by Council Member Boudin, to adjourn.

A vote was called for with the following response:

VOTING YEA: Boudin, Compretta, Falgout, Favre, McDonald, Reed, and Seal

VOTING NAY: None ABSENT: None

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**Jeff Reed, President, Ward 3 Date**

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**Mike Favre, Council Member at Large Date**

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**Doug Seal, Council Member -Ward 1 Date**

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**Wendy McDonald, Council Member – Ward 2 Date**

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**Bobby Compretta, Council Member – Ward 4 Date**

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**Joey Boudin, Council Member – Ward 5 Date**

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**Lonnie Falgout, Council Member - Ward 6 Date**

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**Jane Carrow, Clerk of Council**