

AUGUST 23, 2022

The Board of Supervisors met at 9:00 a.m. the 23rd day of August, 2022, in the Supervisors Board Room, in the Pearl River County Courthouse Complex in the City of Poplarville, Mississippi, with the following members of said Board and officers of said County were present to-wit:

President, Sandy Kane Smith, member from District Five;
Vice President, Malcolm Perry, member from District Two;
Donald Hart, member from District One;
Hudson Holliday, member from District Three;
Jason Spence, member from District Four;
County Administrator, Adrain Lumpkin, Jr.;
Chancery Clerk, Melinda Bowman.

The following proceedings were had and entered of record to-wit:

ORDER TO APPROVE SHERIFF'S DEPARTMENT PERSONNEL

There came on this day to be considered by the Board of Supervisors of Pearl River County, Mississippi, the matter of personnel changes in the Sheriff's Department.

Upon motion made by Malcolm Perry and seconded by Jason Spence, the following order was adopted, to-wit:

Be It Ordered by the Pearl River County Board of Supervisors to approve the following and attached personnel changes in the Sheriff's Department:

Morgan Rollins	Inmate Records Clerk	Hire full time
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Ordered and adopted, this the 23rd day of August, 2022.

Voting AYE: Donald Hart, Malcolm Perry, Hudson Holliday,
Jason Spence, and Sandy Kane Smith

Voting NAY: None



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PEARL RIVER COUNTY SHERIFF'S DEPARTMENT
DAVID ALLISON, SHERIFF
200 SOUTH MAIN STREET
POPLARVILLE, MS 39470
Phone: (601) 403-2340
Fax: (601) 403-2344

August 23, 2022

To: The Honorable Board of Supervisors of Pearl River County, Mississippi.

Please acknowledge upon the minutes the following personnel matters concerning the Sheriff's Department.

Please hire Morgan Rollins as full-time inmate Records Clerk replacing Megan Williams effective August 23, 2022.

Thank you,

A handwritten signature in blue ink, reading "David Allison". Below the signature is a horizontal line, and below that, the text "David Allison, Sheriff". To the right of the signature is a circular stamp with the letters "R" and "S" inside.

David Allison, Sheriff

ORDER TO APPROVE ROAD DEPARTMENT'S PERSONNEL

There came on this day to be considered by the Board of Supervisors of Pearl River County, Mississippi, the matter of personnel changes in the Road Department.

Upon motion made by Malcolm Perry and seconded by Jason Spence, the following order was adopted, to-wit:

Be It Ordered by the Pearl River County Board of Supervisors to approve the following and attached personnel changes in the Road Department:

Christopher Stockstill
Carl Brown

Resign
Hire

Ordered and adopted, this the 23rd day of August, 2022.

Voting AYE: Donald Hart, Malcolm Perry, Hudson Holliday,
Jason Spence, and Sandy Kane Smith

Voting NAY: None

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Pearl River County Road Department

To: Pearl River County Board of Supervisors
From: Charlie Schielder
CC: Marlinda Guerra
Date: 8/18/2022
Re: Personnel

Comments: **Please accept the resignation:** Christopher Stockstill his last date to work was August 17, 2022.

memo

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Pearl River County Road Department

To: Pearl River County Board of Supervisors
From: Charlie Schielder
CC: Marlinda Guerra
Date: 8/22/2022
Re: Personnel

Comments: **I would like to submit the following for hire:** Carl Brown as driver at the assigned rate of pay.

Minute Book Text Detail

Book 0226 Page 635 DECLARE NICHOLSON VFD BUILDING THAT

Date 8/23/2022 BURNED AS AN EMERGENCY

ORDER TO DECLARE BUILDING BURNED AT NICHOLSON VOLUNTEER
FIRE DEPARTMENT AN EMERGENCY AND AUTHORIZE COUNTY
ADMINISTRATOR TO SECURE TWO (2) QUOTES TO REPLACE BUILDING

There came on this day to be considered by the Board of
Supervisors of Pearl River County, Mississippi, the matter of
building burned at Nicholson Volunteer Fire Department.

Upon motion made by Malcolm Perry and seconded by Jason Spence,
the following order was adopted, to-wit:

Be It Ordered by the Pearl River County Board of Supervisors to
declare building burned at Nicholson Volunteer Fire Department
an emergency and authorize County Administrator to secure two (2)
quotes to replace the building. (See attachment)

Ordered and adopted, this the 23rd day of August, 2022.

Voting AYE: Donald Hart, Malcolm Perry, Hudson Holliday,
Jason Spence, and Sandy Kane Smith

Voting NAY: None

J. K. Stringer, Jr.

Office of the Attorney General
November 4, 2005
2005 WL 3775635 (Miss.A.G.)

Office of the Attorney General

State of Mississippi

*1

Opinion No.

2005

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0534

*1 November 4, 2005

Re: Emergency contracts

*1 J. K. Stringer, Jr.,
*1 Executive Director
*1 Department of Finance and Administration
*1 Post Office Box 267
*1 Jackson, MS 39205

Dear Mr. Stringer:

*1 Attorney General Jim Hood received your request for an Official Opinion and assigned it to me for research and response. In your letter, a copy of which is attached hereto and incorporated herein by reference, you state that the Office of Purchasing and Travel has interpreted the statutes providing for emergency contract procedures as not being applicable to construction contracts and you pose the following questions:

*1 1. Is the Office of Purchasing and Travel's past interpretation of 31-7-13(k) and (j) accurate or may state agencies and governing authorities conduct emergency construction under this statute?

*1 2. Does the authority conferred on this office under Section 33-15-11(c)(1), (2) and (4) allow for the suspension, on a case by case basis, of the requirement for competitive bidding of construction contracts, "if strict compliance with the provisions of any statute, order, rule or regulation would in any way prevent, hinder or delay necessary action in coping with a disaster or emergency," in this case the effects of Hurricane Katrina and/or Rita?

*1 In response, Section 31-7-1 et seq. of the Mississippi Code of 1972 provide the general statutory scheme for state agencies and governing authorities to make purchases and to contract for public construction. Section 31-7-13 of the Mississippi Code provides in part that:

*1 **All agencies and governing authorities shall** purchase their commodities and printing; contract for garbage collection or disposal; contract for solid waste collection or disposal; contract for sewage collection or disposal; **contract for public construction**; and contract for rentals as herein provided.

*1 (Emphasis added).

*1 Section 31-7-13 then specifies the methods in which certain purchases and contracts may be made and entered depending on the dollar amount of the purchase or contract. Purchases and contracts in excess of Fifteen Thousand Dollars (\$15,000.00) may be made following advertisement once each week for two consecutive weeks in the manner provided in Section 31-7-13(c).

*1 With regard to construction contracts, agencies and governing authorities will have detailed plans and specifications prepared prior to advertisement, in order for contractors to submit bids to perform the work described in the plans and specifications. This process may require weeks or months depending on the nature and scope of the work to be performed.

*1 With regard to your first question, as you note in your letter, Section 31-7-13(j) and (k) provide emergency purchase procedures for state agencies and governing authorities:

*1 (j) **State agency emergency purchase procedure.** If the governing board or the executive head, or his designee, of any agency of the state shall determine that an emergency exists in regard to the purchase of any commodities or **repair contracts**, so that the delay incident to giving opportunity for competitive bidding would be detrimental to the interests of the state, then the provisions herein for competitive bidding shall not apply and the head of such agency shall be authorized to make the purchase or repair. Total purchases so made shall only be for the purpose of meeting needs created by the emergency situation. In the event such executive head is responsible to an agency board, at the meeting next following the emergency purchase, documentation of the purchase, including a description of the commodity purchased, the purchase price thereof and the nature of the emergency shall be presented to the board and placed on the minutes of the board of such agency. The head of such agency, or his designee, shall, at the earliest possible date following such emergency purchase, file with the Department of Finance and Administration (i) a statement explaining the conditions and circumstances of the emergency, which

shall include a detailed description of the events leading up to the situation and the negative impact to the entity if the purchase is made following the statutory requirements set forth in paragraph (a), (b) or (c) of this section, and (ii) a certified copy of the appropriate minutes of the board of such agency, if applicable. On or before September 1 of each year, the State Auditor shall prepare and deliver to the Senate Fees, Salaries and Administration Committee, the House Fees and Salaries of Public Officers Committee and the Joint Legislative Budget Committee a report containing a list of all state agency emergency purchases and supporting documentation for each emergency purchase.

***2 (k) Governing authority emergency purchase procedure.** If the governing authority, or the governing authority acting through its designee, shall determine that an emergency exists in regard to the purchase of any commodities or **repair contracts**, so that the delay incident to giving opportunity for competitive bidding would be detrimental to the interest of the governing authority, then the provisions herein for competitive bidding shall not apply and any officer or agent of such governing authority having general or special authority therefor in making such purchase or repair shall approve the bill presented therefor, and he shall certify in writing thereon from whom such purchase was made, or with whom such a repair contract was made. At the board meeting next following the emergency purchase or repair contract, documentation of the purchase or repair contract, including a description of the commodity purchased, the price thereof and the nature of the emergency shall be presented to the board and shall be placed on the minutes of the board of such governing authority.

***2** (Emphasis added).

***2** As you also note in your letter, the terms "repair" or "repair contracts" are not defined in Title 31, Chapter 7. However, the terms "emergency" and "construction" are defined as follows:

***2 (f) "Emergency"** shall mean any **circumstances caused by fire, flood, explosion, storm, earthquake, epidemic, riot, insurrection or caused by any inherent defect due to defective construction, or when the immediate preservation of order or of public health is necessary by reason of unforeseen emergency, or when the immediate restoration of a condition of usefulness of any public building, equipment, road or bridge appears advisable**, or in the case of a public utility when there is a failure of any machine or other thing used and useful in the generation, production or distribution of electricity, water or natural gas, or in the transportation or treatment of sewage; or when the delay incident to obtaining competitive bids could cause adverse impact upon the governing authorities or agency, its employees or its citizens; or in the case of a public airport, when the delay incident to publishing an advertisement for competitive bids would endanger public safety in a specific (not general) manner, result in or perpetuate a specific breach of airport security, or prevent the airport from providing specific air transportation services.

***2 (g) "Construction"** shall mean the process of building, altering, improving, renovating or demolishing a public structure, public building, or other public real property. **It does not include** routine operation, **routine repair** or regularly scheduled maintenance of existing public structures, public buildings or other public real property.

***2** (Emphasis added).

***2** There are no statutory definitions of the terms "repair" or "repair contracts," in this chapter. Section 1-3-65 provides that words and phrases are used according to their common and ordinary meaning, except for technical words which are used according to their technical meaning. There is no indication in Section 31-7-1 et seq. that the Legislature intended that a technical meaning for repair or repair contracts, therefore, their common and ordinary meanings should be used.

***3** "Repair" is defined as "to restore by replacing a part or putting together what is torn or broken" and "to restore to a sound or healthy state". *Merriam-Webster's Collegiate Dictionary* (10th Ed. 2001). It is also defined as "to mend, remedy, restore, renovate, to restore to a sound or good state after decay, injury, dilapidation, or partial destruction. *Black's Law Dictionary* (Rev. 4th Ed. 1968).

***3** Consistent with these definitions, this office has previously opined that repair work to a damaged roof and electrical wiring of a school building, which were caused by a tornado, could be performed as an emergency repair contract under the provisions of Section 31-7-13(k). See enclosed MS AG Op., Bryant (Nov. 1, 1984).

***3** In light of these authorities, it is our opinion that state agencies and governing authorities may employ the respective provisions of Section 31-7-13(j) and (k) to contract for emergency repairs to public buildings that were damaged by Hurricanes Katrina and Rita, if the requirements of those paragraphs are met. Such repairs may include extensive construction-related work as long as the work will assist or result in the restoration of a facility that was partially destroyed. New construction, particularly that which is to be performed at a different site, does not appear to fall within the meaning of repair or repair contract.

***3** In response to your second question, as you note in your request, the Governor, pursuant to proclamations of a state of emergency due to Hurricane Katrina and the authority provided in Section 33-15-11, has authorized the Executive Director of the Mississippi Department of Finance and Administration to do the following:

***3 (1)** To suspend the provisions of any regulatory statute prescribing the procedures for conduct of state business, or the orders, rules or regulations of any state agency, if strict compliance with the provisions of any statute, order, rule or regulation would in any way prevent, hinder or delay necessary action in coping with a disaster or emergency.

***3 (2)** To transfer the direction, personnel or functions of state agencies, boards, commissions or units thereof for the purpose of performing or facilitating disaster or emergency services.

***3 (3)** To perform and exercise such other functions, powers and duties as may be necessary to promote and secure the safety and protection of the civilian population in coping with a disaster or emergency.

*3 These authorizations track the language of Section 33-15-11(c)(1), (2), and (4) which authorize the Governor to take extraordinary actions in the event of certain disasters or enemy attack, including natural disasters like Hurricane Katrina. Section 33-15-11(b)(9) authorizes the Governor to delegate and to provide for the sub-delegation of the powers contained in that article. The delegation of these powers to the Executive Director of the Department of Finance and Administration appears to be a valid one.

*4 Your second question concerns the application of the powers described in Section 33-15-11(c)(1), which relate to the suspension of the statute requiring competitive bidding of construction contracts in instances in which strict compliance would prevent, hinder or delay necessary action in coping with the hurricane-related disaster. Specifically, you inquire as to whether the competitive bidding requirements can be suspended on a case by case basis.

*4 "Regulatory statutes," as used in Section 33-15-11(c)(1), include those statutes which prescribe the method or manner in which certain actions may lawfully be taken by public and private entities, officers, and employees. It is our opinion that the competitive bidding requirements of Section 31-7-13 are regulatory provisions that may be suspended pursuant to Section 33-15-11(c)(1). It is also our opinion that, for purposes of this opinion, the term "state business," referred to in Section 33-15-11(c)(1), includes transactions conducted by agencies and governing authorities, as defined in Section 31-7-1.

*4 However, we find no authorization for a suspension of these provisions on a case by case basis. A suspension of specified regulatory provisions, pursuant to Section 33-15-11(c)(1), would be applicable to all parties in the areas described in the Governor's emergency declaration. A suspension would not apply to areas not described in the Governor's emergency declaration and the suspension may not extend beyond the date of the termination of the state of emergency by the Governor.
Very truly yours,

*4 Jim Hood

*4 Attorney General

*4 By: Charles T. Rubisoff

*4 Special Assistant Attorney General

2005 WL 3775635 (Miss.A.G.)

END OF DOCUMENT

ORDER TO ADVERTISE NOTICE OF BUDGET HEARING ON A PROPOSED
BUDGET AND PROPOSED TAX LEVIES FOR FISCAL YEAR 2023 ON
SEPTEMBER 6, 2022 AT 10:00 A.M.

There came on this day to be considered by the Board of
Supervisors of Pearl River County, Mississippi, the matter to
advertise for Budget Hearing.

Upon motion made by Jason Spence and seconded by Malcolm Perry,
the following order was adopted, to-wit:

Be It Ordered by the Pearl River County Board of Supervisors to
advertise to hold a public hearing on a proposed budget and
proposed tax levies for fiscal year 2023 on September 6, 2022, at
10:00 a.m. in the Board of Supervisors meeting room.
(See attached "Notice of Budget Hearing")

Ordered and adopted, this the 23rd day of August, 2022.

Voting AYE: Donald Hart, Malcolm Perry, Hudson Holliday,
Jason Spence, and Sandy Kane Smith

Voting NAY: None

“NOTICE OF BUDGET HEARING”

The Board of Supervisors of Pearl River County, Mississippi, will hold a public hearing on a proposed budget and proposed tax levies for fiscal year 2023 on September 6, 2022, at 10:00 a.m. in the Board of Supervisors meeting room at the Courthouse in Poplarville, Mississippi.

The Pearl River County Board of Supervisors is now operating with projected total budget revenue of \$31,019,500. Of such revenue, 58.19 % or \$18,050,500 is obtained through ad valorem taxes. For next fiscal year, the proposed budget has total projected revenue of \$32,744,000. Of that amount, 56.11 % or \$18,370,500 is proposed to be financed through a total ad valorem tax levy.

The decision to not increase the ad valorem tax millage rate for fiscal year 2023 above the current fiscal year's ad valorem tax millage rate means you will not pay more in ad valorem taxes on your home, automobile tag, utilities, business fixtures and equipment and rental real property, unless the assessed value of your property has increased for fiscal year 2023.

Any Citizen of Pearl River County is invited to attend this public hearing on the proposed budget and tax levies for fiscal year 2023 and will be allowed to speak for a reasonable amount of time and offer tangible evidence before any vote is taken.

The preceding notice is published in accordance with Sections 27-39-203 and 27-39-317 of the Mississippi Code of 1972 for the purpose of citizen participation.

ORDER TO ADJOURN

Upon motion made by Malcolm Perry and seconded by Jason Spence,
the following order was adopted, to-wit:

Be It Ordered to direct County Administrator to post a notice of
next meeting within one hour after such meeting is called in a
prominent place available to examination and inspection by the
general public at the Board of Supervisors meeting room in the
Pearl River County Courthouse Complex and make attached notice as
part of minutes.

Be It Further Ordered that this Board does now adjourn for the
term.

Ordered and adopted, this the 23rd day of August, 2022.

Voting AYE: Donald Hart, Malcolm Perry, Hudson Holliday,
Jason Spence, and Sandy Kane Smith

Voting NAY: None

PRESIDENT

CLERK OF THE BOARD

SANDY KANE SMITH
President, District Five
MALCOLM PERRY
Vice-President, District Two
DONALD HART
District One



HUDSON HOLLIDAY
District Three
JASON SPENCE
District Four
MELINDA BOWMAN
Clerk of Board

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BOARD OF SUPERVISORS
PEARL RIVER COUNTY
P.O. BOX 569
POPLARVILLE, MS 39470
(601) 403-2300
(601) 403-2309 Fax
ADRAIN LUMPKIN, JR.
County Administrator

NOTICE OF SUPERVISOR'S MEETING

You are hereby notified

Pursuant to

THE MISSISSIPPI OPEN MEETINGS LAW

that the next meeting of the

Board of Supervisors of Pearl River County, Mississippi,
will be held on Tuesday, Sept. 6 at 9:00 o'clock a.m.
in the Board of Supervisors Meeting Room
in the Board Room Building
at the Courthouse in Poplarville, Pearl River County, Mississippi

BOARD OF SUPERVISORS
PEARL RIVER COUNTY, MISSISSIPPI

By:

A handwritten signature in blue ink, appearing to read "Ad Lumpkin", is written over a horizontal line.

Adrain Lumpkin, Jr., County Administrator