BEFORE THE MISSISSIPPI ETHICS COMMISSION

JEFFREY CLARK COMPLAINANT

VS.

BOARD OF ALDERMEN, CITY OF ABERDEEN RESPONDENT

CASE NO. M-10-010

ORDER OF DISMISSAL

This matter came before the Commission through an Open Meetings Complaint filed by Mr. Jeffrey Clark, an employee of The Monroe Journal, a newspaper published in Monroe County. The complaint was filed against the Mayor and Board of Aldermen for the City of Aberdeen, Mississippi (the board). The board filed a response by and through its attorney, Robert H. Faulks.

The Ethics Commission has jurisdiction over this matter pursuant to Section 25-41-15, Miss. Code of 1972. The Ethics Commission voted on this matter at its meeting on the date shown below and issued this order in accordance with Rule 16.3, Rules of the Mississippi Ethics Commission.

FACTS

The complainant alleges the board met on September 2nd, 7th and 14th, 2010, and “did not give the public proper notification.” The city attorney responded and included copies of the written notices of board meetings held on September 2nd, 7th and 14th, 2010. The response also includes an affidavit from the city clerk regarding the times and places at which the notices were posted and published. The city attorney also reports the City of Aberdeen is a special charter municipality, meaning it is not a “code charter” municipality established pursuant to Title 21, Miss. Code of 1972.

According to the city clerk’s sworn affidavit, she personally prepared and posted both a Notice of the Special Called Meeting scheduled 5:00 p.m. on September 2, 2010, attached to the response as Exhibit 1, and a Notice of the Work Session scheduled 5:00 p.m. on September 2, 2010, attached to the response as Exhibit 2, prior to the Special Called Meeting and the Work Session on the Bulletin Board at the Aberdeen City Hall building, and these notices remained posted on the Bulletin Board until the next day.

On Tuesday, September 7, 2010 at 4:00 p.m., the board held a Public Hearing to provide the public with an opportunity to comment on a taxing and spending plan incorporated in a proposed budget. By statute, Mississippi Code Section 21-35-5, the public is provided “Advance Notice” of the Public Hearing by newspaper publication. The city clerk personally arranged for this Advance Notice to the public. The Advance Notice was published in The Monroe County Journal, the same newspaper which employs the complainant, in advance of the Public Hearing, and proof of the newspaper publication was attached to the response as Exhibits 3 and 4.
The city clerk also personally prepared and posted an Agenda/Notice of the Public Hearing, attached to the response as Exhibit 5, prior to 4:00 p.m. on September 7, 2010 on the Bulletin Board at the Aberdeen City Hall building, and this Agenda/Notice remained posted on the Bulletin Board until the next day. The board subsequently held their first Regular Meeting of the month at 5:00 p.m., September 7, 2010. No formal notices of Regular Board Meetings were attached to the response, but a copy of the Agenda for the September 7, 2010 Regular Board Meeting was attached to the response.

On Tuesday, September 14, 2010 at 4:00 p.m., the board conducted a “Work Session” to hear proposals from insurance agents concerning a proposal to insure the property of the City of Aberdeen. The city clerk also personally prepared and posted a Notice of the Work Session, attached to the response as Exhibit 6, prior to 4:00 p.m. on September 14, 2010 on the Bulletin Board at the Aberdeen City Hall building, and this notice remained posted on the Bulletin Board until the next day.

The board also met for their second “Regular Board Meeting” on Tuesday, September 14, 2010 at 5:00 p.m. According to the affidavit, the Mayor and Board of Aldermen are required to adopt the Budget no later than September 15 each year, pursuant to Section 21-35-5, Miss. Code of 1972. Again, no formal notices of Regular Board Meetings were provided, but a copy of the Agenda for the September 14, 2010 Regular Board Meeting was attached to the response.

**LAW**

Section 25-41-13, Miss. Code of 1972, includes notice requirements for public meetings and reads in pertinent part as follows:

(1) Any public body which holds its meetings at such times and places and by such procedures as are specifically prescribed by statute shall continue to do so and no additional notice of such meetings shall be required except that a notice of the place, date, hour and subject matter of any recess meeting, adjourned meeting, interim meeting or 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.

(2) Any public body, other than a legislative committee, which does not have statutory provisions prescribing the times and places and the procedures by which its meetings are to be held shall, at its first regular or special meeting after July 1, 1990 spread upon its minutes the times and places and the procedures by which all of its meetings are to be held.

According to the response, the board established meeting and notice procedures on July 3, 1990, in compliance with Subsection (2). Based upon the sworn affidavit of the city clerk and the certified copies of written public notices, it appears the Mayor and Board of Aldermen for the City of Aberdeen complied with the applicable notice requirements set forth in Section 25-41-13 with regard to their meetings held on September 2nd, 7th and 14th, 2010.
WHEREFORE, this complaint is hereby dismissed this 5th day of November 2010.

MISSISSIPPI ETHICS COMMISSION

BY: __________________________________
    TOM HOOD, Executive Director and
    Hearing Officer

CERTIFICATE OF SERVICE

I, Tom Hood, Executive Director and Hearing Officer for the Mississippi Ethics Commission, do hereby certify that I have this day transmitted a true and correct copy of the foregoing document to the parties by mailing it to the last known address as follows:

Mr. Jeffrey Clark  
P. O. Box 519  
amory, MS 38821

Mr. Robert H. Faulks  
Attorney at Law  
P.O. Drawer 866  
Aberdeen, MS 39730

So certified this ________ day of November 2010.

____________________________________
TOM HOOD