

**CITY OF BILOXI
AGENDA ITEM
FACT SHEET**

Item No.: 4 B
Council Meeting Date: December 6, 2016

ITEM TITLE: **ORDINANCE** (2nd Reading)
 INTRODUCED BY: **Mayor Andrew "FoFo" Gilich**
 CONTACT PERSON: **E. Michael Leonard, CAO** *EM*
Jerry Creel, Director of Community Development

SUMMARY EXPLANATION:

An Ordinance to establish Waterfront Design Standards and Guidelines within the Point Cadet, Back Bay of Biloxi, Biloxi Small Craft Harbor, and West Beach Boardwalk Overlay District zones.

Resolution _____ Ordinance Public Hearing _____ Routine Agenda _____

Exhibits for Review

Contract _____ Minutes Plans/Maps Deed _____ Lease _____

Other (Specify): Case Fact Sheet

Submittal Authorization: Council President _____ Mayor

STAFF RECOMMENDATION: Staff recommends approval

COUNCIL ACTION: Motion By: Lawrence Second By: Glavan

Vote:	<u>Councilmember</u>	<u>Yes</u>	<u>No</u>	<u>Other</u>	<u>Councilmember</u>	<u>Yes</u>	<u>No</u>	<u>Other</u>
	Lawrence	___	___	___	Tisdale	___	___	___
	Gines	___	___	___	Glavan	___	___	___
	Newman	___	___	___	Fayard	___	___	___
	Deming	___	___	___				

ACTION TAKEN:

fds/112916bpc First reading on Nov. 29, 2016

Ordinance No.

ORDINANCE TO ESTABLISH **WATERFRONT DESIGN STANDARDS** AND
GUIDELINES WITHIN THE POINT CADET, BACK BAY OF BILOXI,
BILOXI SMALL CRAFT HARBOR, AND WEST BILOXI BEACH BOARDWALK OVERLAY
DISTRICT ZONES

WHEREAS, Biloxi's extensive waterfront is a highly valuable asset that is inseparable from the City's economy, history, culture and identity; and

WHEREAS, the City of Biloxi, as a municipality and political subdivision of the State of Mississippi, owns in fee simple or holds significant property interests in numerous parcels of land bordering the waterfront as well as in public trust tidelands throughout the 243 miles of Biloxi's waterfront (not counting 49.8 miles of inlets and bayous), and these publically owned parcels and property interests are included in the intent and purpose of this ordinance in order to provide design standards and guidelines for current and future governing authorities of the City, as well as private property owners and property owned by other governmental entities; and

WHEREAS, making the best use of this valuable asset is in the interest of the citizens of Biloxi and the State of Mississippi and is consistent with and in compliance with the City of Biloxi Waterfront Master Plan, as amended, Comprehensive Land Use Plan for the City of Biloxi, the City's Reviving the Renaissance plan, and plans produced by the post-Katrina Governor's Commission on Recovery, Rebuilding, and Renewal and Mississippi Renewal Forum; and

WHEREAS, Waterfront design guidelines and design standards for developers and governmental entities facilitate public access and the best use of the waterfront and protect the waterfront from neglect, destruction, waste or misuse; and

WHEREAS, the City of Biloxi's Land Development Ordinance (LDO) includes a Waterfront District and a Sand Beach District zoning designation that encourage views of the seascape and pedestrian accessibility to the waterfront; and

WHEREAS, Architectural and Historical Overlay District design standards for certain designated areas of Biloxi, including some waterfront areas, uses primarily a "street-based approach" for design standards and guidelines in determining appropriateness of design; and

WHEREAS, it is the intent of this ordinance that the LDO should provide for a "waterfront-based approach" for design standards and guidelines, recognizing the unique challenges of providing fire, life safety, and law enforcement protection at the edge of the waterfront, on and in buildings and structures adjacent to the edge of the water and on and over the water, for determining appropriateness of design for developments bordering the waterfront in all Nonresidential Base Zoning Districts, Planned Development Zoning Districts, AHO Districts and CRO Districts, in order to protect and enhance the public health, safety and welfare on the waterfront, and enhance public access to the Biloxi waterfront, seascape and public trust tidelands as a public realm of special character, opportunity and value to the community; and

WHEREAS, on Thursday, October 20, 2016, the Biloxi Planning Commission held a public hearing in the Auditorium of the Dr. Martin Luther King, Jr., Municipal

Building, 676 Dr. Martin Luther King, Jr., Boulevard, Biloxi, Mississippi, to hear Case No. 16-053-PC, City of Biloxi, with respect to a request initiated by the Mayor of Biloxi and the Director of Community Development to commence establishment of Waterfront Design Standards and Guidelines; and

WHEREAS, the Planning Commission members were apprised of the particulars of the case, being made cognizant of the fact that as per Section 23-2-4(A)(2)b of the Biloxi Land Development Ordinance, the Mayor and the Director of Community Development may suggest that the City of Biloxi Land Development Ordinance be amended in this instance, by establishing Waterfront Design Standards and Guidelines in nonresidential zoning districts and by amending certain sections of the Biloxi Land Development Ordinance, as addressed within Case No. 16-053-PC, City of Biloxi; and

WHEREAS, it is the intent of this Text Amendment to add sections into the Land Development Ordinance to establish Waterfront Design Standards and Guidelines within nonresidential zoning districts and to amend certain sections of the Biloxi Code of Ordinances; and

WHEREAS, on October 20, 2016, the Biloxi Planning Commission, after some discussion, voted to recommend approval of the proposed changes to the City of Biloxi Land Development Ordinance, as offered; and

WHEREAS, the Biloxi City Council, after careful review of the proposed changes and supporting information and further findings by the City Council, hereby adopts the report and findings of the Biloxi Planning Commission and, in so doing, determines that

the Text Changes proposed to the City of Biloxi Land Development Ordinance, as presented, are appropriate as amended herein by the City Council.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BILOXI, MISSISSIPPI, AS FOLLOWS:

SECTION 1: Article 23-3-5, Overlay Zoning Districts, of the Land Development Ordinance of the Code of Ordinances, City of Biloxi, Mississippi, of 2010, is hereby amended to add the following subsection (G):

23-3-5(G): Waterfront Design Standards and Guidelines Overlay District Zone

(A) Purpose: The Waterfront Design Standards and Guidelines Overlay District Zone has been established and is intended to:

- (a)** Require the protection and enhancement of the Biloxi waterfront, seascape and public trust tidelands as a public realm of special character, opportunity and value to the community; to facilitate the best use of the waterfront, to help protect the Biloxi waterfront from neglect, destruction, waste or misuse; to protect and enhance public health and safety on the waterfront, on structures and vessels near the edge of the water at the land's end and over the water; and in particular to enhance fire and life safety and law enforcement in these areas through the accessibility of fire department and police department personnel and equipment on and through the setbacks stated in subsection (E) a., below.
- (b)** Encourage and enhance pedestrian-friendly and marine-vessel friendly public access to, and use of, the waterfront and the water for recreational and commercial purposes appropriate to water-related or water-dependent activities for:
 - (i)** Sports and recreation, including, but not limited to, sailing; swimming; soft-shelling; floundering; fishing by boat, pier, or wading; rowing; kayaking; relaxation; birding; viewing the seascape; and water-related festivals and ceremonies; and
 - (ii)** Businesses, including, but not limited to, marinas and harbors; commercial seafood businesses related to live-catch or aquaculture; charter boats for fishing,

sailing, or touring; water-taxis; waterfront restaurants and recreational businesses; water-related tournaments and special events.

- (c) Encourage and facilitate access from the water to the land by use of boats, fire department pumper boats, and water vessels of all types appropriate to the culture of Biloxi;
- (d) Encourage the use of the waterfront for water-related public and private uses;
- (e) Encourage authentic Biloxi architectural and landscape designs that are appropriate to the culture and history of Biloxi; and
- (f) Encourage economic, social and environmental sustainability by encouraging living shorelines and sustainability of the natural and built environment along the landside and seaside of the waterfront.

(B) Applicability.

(a) Districts.

These waterfront design standards and guidelines shall apply to all new development and redevelopment of land and buildings on land and on or over the water, including, but not limited to, site improvements, buildings, piers, boardwalks, marinas, landscaping and structures of any kind on the landside or the waterside of all parcels of land bordering the public waters in all of the following zoning districts:

- (i) Point Cadet Overlay Zoning District
- (ii) Back Bay of Biloxi Overlay Zoning District
- (iii) Biloxi Small Craft Harbor Overlay Zoning District
- (iv) West Biloxi Beach and Boardwalk Overlay Zoning District

(b) Supplemental Authority.

These waterfront design standards and guidelines are intended to be supplemental to and in addition to all other design standards, guidelines and requirements of the Land Development Ordinance. If any of these waterfront design standards and guidelines are found to be in conflict with any other standard, guideline or requirement of the Land Development Ordinance, then these waterfront design standards and guidelines shall prevail.

(C) Applications for review: timing of review.

Review for compliance with the standards and guidelines of this Section 23-3-5(G) shall occur during review of an application for approval of any Planned Development [Section 23-2-4 (C)], Site Plan [Section 23-2-4 (E)], Preliminary Plat [Section 23-2-4 (F)], or Certificate of Zoning Compliance [Section 23-2-4 (L)], as appropriate, and shall be considered by the Director of Community Development, the DRC, and other Decision-Making Authorities pursuant to, and as part of, the procedures and standards of Article 23-2 of the LDO.

(D) Certification of Compliance.

As part of the process for issuance of a Certificate of Zoning Compliance pursuant to Section 23-2-4 (L) of the LDO, the Director of Community Development shall determine and make findings of compliance and appropriateness of the applicant's design with these waterfront standards and guidelines prior to issuing any building or other permits required under the LDO.

(E) General Waterfront Design Standards.

- (a) All public and private developments and redevelopments shall have a minimum twenty-five foot (25'), no-build setback from the edge of the water up to a vertical elevation of fourteen feet (14') above the horizontal surface and a minimum twelve-foot (12') side yard setback, to facilitate and enhance access for fire department and police department personnel and equipment to provide enhanced fire protection and life safety and law enforcement in and on structures and vessels on land, near the edge of the water and on and over the water; and to encourage and enhance pedestrian access to the shoreline and water and viewing of the seascape; these setbacks apply only to the surface of the land (which may be an improved surface) up to a vertical elevation of fourteen feet (14') from the surface; these setbacks do allow structures to be built above the fourteen foot (14') elevation above the land surface, and also allow structural columns, light fixtures, and other ancillary improvements on the land surface provided they do not impeded access and use of the surface of the set-back area for fire department pumper trucks and equipment and law enforcement vehicles that use less than fourteen feet (14') of vertical space.
- (b) No fencing is permitted within the 25' setback, but safety railings at the edge of the land and water are permitted, subject to applicable building and safety codes.
- (c) No parking, trash receptacles, utilities or other unsanctioned use within the setbacks shall be part of the design of any development or redevelopment.
- (d) No parking shall be permitted adjacent to the 25' setback.
- (e) No development or redevelopment shall block travel by pedestrians along the waterfront on public easements or tidelands adjacent to private uplands, and designs are encouraged to facilitate pedestrian access from and to adjacent properties.
- (f) Laser Lights and other spotlights directed skyward are not allowed.
- (g) All public and private utilities shall be installed underground, except for lift stations, transformers and other elements of utility systems that may need to be installed above-ground for reasons of safety or technical necessity as certified by a registered professional engineer.

(F) General Waterfront Design Guidelines. These guidelines are not mandatory, but they are encouraged.

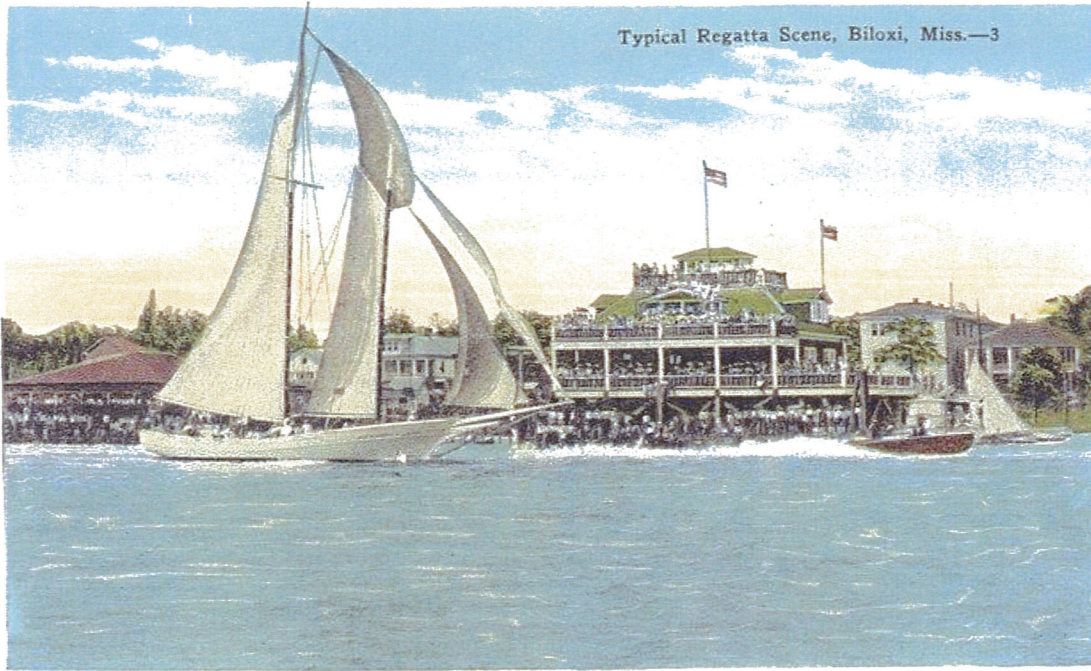
- (a) Access to the land from the water by boat is encouraged, where possible.

- (b) Outdoor cafes and other areas facing the water, or over the water's edge, are encouraged; incorporation of covered, open and/or arched, broad promenades are encouraged.
- (c) View of commercial workspaces is encouraged, to facilitate public education and view of seafood off-loading, aquaculture, oyster-shucking, crab-picking, net-making, seafood processing, seafood cooking, fish cleaning, boatbuilding, boat repair, and marine blacksmiths.
- (d) Native landscaping compatible with living shoreline is encouraged.
- (e) Light fixtures designed for minimal light pollution and dark-sky friendly are encouraged, to help preserve views of islands, vessels, moon and stars over water.
- (f) Dock space for working vessels is encouraged;
- (g) Design decisions should be mindful of the view of the land from the water as well as the view of the water from the land.
- (h) Design decisions that provide boardwalks, piers, steps, and other structures that allow pedestrians to be close to the water, wade in the water or touch the water are encouraged.
- (i) Applications should describe applicant's effort to achieve authentic Biloxi designs and activities appropriate for Biloxi's history and culture.

(G) EXAMPLES OF APPROPRIATE DESIGNS AND ACTIVITIES.

- a. The following photos provide examples of authentic designs from Biloxi's history and from other waterfront communities with similar histories:

This photo depicts the old Biloxi Yacht Club on regatta day.



This photo depicts historic Biloxi waterfront in the downtown area.



This photo depicts the Buena Vista pavilion over the water in downtown Biloxi.



This photo depicts the Biloxi Small Craft Harbor before Hurricane Camille.



This photo depicts the Biloxi Small Craft Harbor before Hurricane Camille.



This photo is an example of how NOT to plan or design docks and access to the water. These boats are next to the Factory Restaurant on Point Cadet in the early 1980s.



This photo depicts the riverfront boardwalk in New Orleans



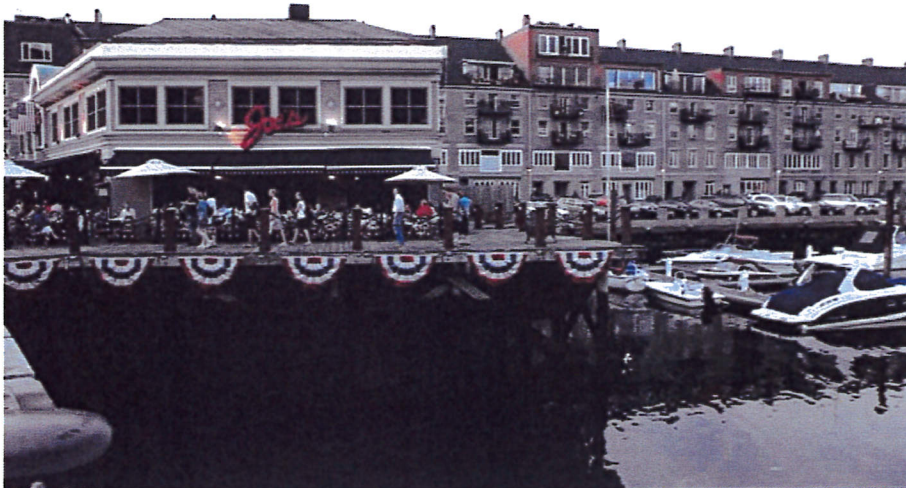
This photo is another depiction of the New Orleans riverfront.



This photo depicts sidewalk café next to boardwalk at a marina.



This photo depicts mixed-use retail, café, housing, and marina.



This photo depicts a wharf and marketplace over the water with dock for historic vessels.



This photo depicts Baltimore's Inner Harbor and Festival Marketplace.

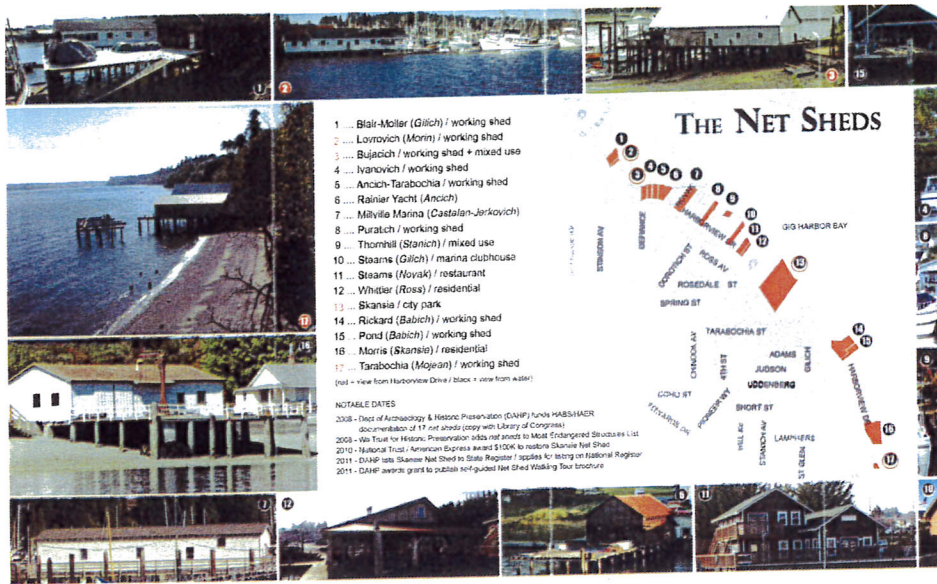


This photo depicts a wide boardwalk with floating pier for docking vessels.



This photo depicts a waterfront bandstand that could also float on a barge.





a. Activities.

Biloxi's natural waterfront is "user-friendly" compared to waterfronts that have powerful waves, treacherous currents, rocks, or cliffs. The following is a partial list of activities associated with the Biloxi waterfront, old and new:

- i. Wading and swimming.
- ii. Soft-shelling and floundering.
- iii. Walking on sand bars at low tide.
- iv. Skimming with skim boards.
- v. Playing with or racing toy boats or model boats.
- vi. Walking on beach/beachcombing.
- vii. Watching sunset, sunrise.
- viii. Looking at moon, stars, and clouds.
- ix. Romance, enchantment.
- x. Bird watching.
- xi. Cooning oysters.
- xii. Treasure hunting.
- xiii. Skipping shells or rocks; various games.
- xiv. Dances in pavilions over water.
- xv. Talking on pier.
- xvi. Bonfires, cookouts.
- xvii. Recreational piers (ex: Wachenfeld Pier).
- xviii. Air shows, hot-air balloons, seaplanes, kite-flying.
- xix. Wade fishing, seining.
- xx. Fishing from pier, boat, or bridge.

- xxi. Throwing cast net in water; throwing cast net from pier or boat.
- xxii. Catching crabs with nets or trap.
- xxiii. Use of human-powered rowboats, skiffs, paddleboard, kayak etc.
- xxiv. Use of various types of sailboats.
- xxv. Use of various types of motor vessels.
- xxvi. Landing and processing of commercial seafood.
- xxvii. Boatbuilding and repair.
- xxviii. Boat docks.
- xxix. Net making and mending.
- xxx. Marinas.
- xxxi. Charter boats and display of catch.
- xxxii. Fishing tournaments.
- xxxiii. Restaurants.
- xxxiv. Seafood markets.
- xxxv. Bars, lounges, music venues.
- xxxvi. Boat to Ship Island; boats to hire; tour boat.
- xxxvii. Schooner races, regattas, other boat races.
- xxxviii. Parasail service.
- xxxix. Jet Ski and other vendors.
- xl. Casinos.
- xli. Hotels/motels.
- xlii. Water based festivals and parades (Blessing of the Fleet, Christmas on the Water).

(H) Specific Waterfront Design Standards and Guidelines. These specific standards and guidelines apply in the areas defined in this sub-section in addition to the general waterfront design standards that apply to all applicable zoning districts:

(a) Point Cadet. Point Cadet Waterfront Design Standards and Guidelines (for the waterfront area from Bellman Street east and around the peninsula to the CSX railroad bridge):

Boardwalk and/or walkway to be constructed in full or in part from the south end of Oak Street to the Howard Avenue Fishing Pier. The boardwalk and/or walkway shall be constructed in the twenty-five (25) foot setback or off the bulkhead by the City of Biloxi on easements and property owned or to be acquired by the City.

The followings standards or guidelines shall be followed by the upland landowner for any new construction and renovation along the existing waterfront:

1. Walkways or decks may be constructed to tie into the public walkway or boardwalk if they meet the following guidelines:
 - a. Construction shall match or complement the existing construction and the design has been approved by the city.

- b. All construction shall be handicap accessible.
 - c. Waste receptacle shall be supplied and maintained by landowner and receptacles shall match units used by the city.
 - d. Landscaping shall meet the waterfront design standards.
 - e. The public access and movement shall not be hindered by any items or construction by the upland landowner.
2. The upland landowner may and is encouraged to construct piers, floating boat dock or marina south of the bulkhead or water's edge after approval of required government agencies.
 3. The construction of piers and decks to give the public access to the water edge is encouraged.
 4. Signage: The landowner may obtain permits to install signage as long as it meets city ordinances and waterfront design standards.

(b) Back Bay of Biloxi. Back Bay of Biloxi Waterfront Design Standards and guidelines (for the waterfront area from the CSX Railroad Bridge meandering north and west to the I-110 Bridge):

Back Bay of Biloxi – Phase I: Boardwalk and/or walkway to be constructed in full or in part from the Howard Avenue Fishing Pier to the north end of Oak Street. The boardwalk, walkway, and piers shall be constructed by the City of Biloxi or shall be part of existing boardwalks on easements and property owned or to be acquired by the City.

The followings standards or guidelines shall be followed by the upland landowner for any new construction and renovation along the existing waterfront:

1. Walkways or decks may be constructed to tie into the public walkway or boardwalk if they meet the following guidelines:
 - a. Construction shall match or complement the existing construction and the design has been approved by the city.
 - b. All construction shall be handicap accessible.
 - c. Waste receptacle shall be supplied and maintained by landowner and receptacles shall match units used by the city.
 - d. Landscaping shall meet the waterfront design standards.
 - e. Public access and movement shall not be hindered by any items or construction by the upland landowner.
2. The upland landowner may and is encouraged to construct piers, floating boat dock or marina south of the bulkhead or water's edge after approval of required government agencies.
3. The construction of piers and decks to give the public access to the water edge is encouraged.
4. Signage: The landowner may obtain permits to install signage as long as

it meets city ordinances and waterfront design standards.

Back Bay of Biloxi – Phase II: Boardwalk, walkway and piers to be constructed in full or in part from the north end of Oak Street to I-110 Bridge. The boardwalk, walkway, and piers shall be constructed by the City of Biloxi on easements and property owned or to be acquired by the City.

The followings standards or guidelines shall be followed by the upland landowner with any new construction and renovation along the existing waterfront:

1. Walkways or decks may be constructed to tie into the public walkway or boardwalk if they meet the following guidelines:
 - a. Construction shall match or complement the existing construction and the design has been approved by the city.
 - b. All construction shall be handicap accessible.
 - c. Waste receptacle shall be supplied and maintained by landowner and receptacles shall match units used by the city.
 - d. Landscaping shall meet the waterfront design standards.
 - e. Public access and movement shall not be hindered by any items or construction by the upland landowner.
2. The upland landowner may and is encouraged to construct piers, floating boat dock or marina south of the bulkhead or water's edge after approval of required government agencies.
3. The construction of piers and decks to give the public access to the water edge is encouraged.
4. Signage: The landowner may obtain permits to install signage as long as it meets city ordinances and waterfront design standards.

(c) Biloxi Small Craft Harbor. Biloxi Small Craft and Commercial Harbors Waterfront and Downtown Design Standards and guidelines (for the waterfront area from Bellman Street west to the Biloxi Lighthouse): The standards and guidelines for this area shall be the same as stated above for the POINT CADET area.

(d) West Biloxi Beach and Boardwalk. West Biloxi Beach and Boardwalk Waterfront Design Standards (for the waterfront area from the Biloxi Lighthouse to DuBuys Road):

West Biloxi Beach and Boardwalk Phase I: Boardwalk to be completed from Rodenberg Avenue Comfort Station to Camellia Street. The boardwalk and open decks shall be constructed by the City of Biloxi in collaboration with Harrison County Board of Supervisors.

The followings standards or guidelines shall be followed by the upland landowner with any new construction and renovation along the existing sand beach:

1. Walkways or decks may be constructed to tie into the public boardwalk if they meet the following guidelines:
 - a. Construction shall match or complement the existing construction and the design has been approved by the city.
 - b. All construction shall be handicap accessible onto the boardwalk and back to the sand beach.
 - c. Waste receptacle shall be supplied and maintained by landowner and receptacles shall match units used by the city.
 - d. Landscaping shall meet the waterfront design standards.
 - e. Public access and movement shall not be hindered by any items or construction by the upland landowner.
2. Signage: The landowner may install signage as long as it meets city ordinances and waterfront design standards.
3. Access to the boardwalk or the sand beach that crosses the existing or new dunes to be constructed to not damage the dunes or sea grasses.

West Biloxi Beach and Boardwalk Phase II: Concrete infill walkway to be constructed over the existing seawall to match existing walkway from Biloxi Lighthouse to Rodenberg Avenue Comfort Station. The infill concrete walkway shall be constructed by the City of Biloxi in collaboration with the Harrison County Board of Supervisors.

West Biloxi Beach and Boardwalk Phase III: Concrete infill walkway to be constructed over the existing seawall to match existing walkway from Treasure Bay Casino to Broadwater Marina. The infill concrete walkway shall be constructed by the City of Biloxi in collaboration with the Harrison County Board of Supervisors.

West Biloxi Beach and Boardwalk Phase IV: Concrete infill walkway to be constructed over the existing seawall to match existing walkway from Broadwater Marina to Debuys Road. The infill concrete walkway shall be constructed by the City of Biloxi in collaboration with the Harrison County Board of Supervisors.

SECTION 2: This ordinance shall be published as provided by law and shall become effective thirty (30) days after publication.

RESOLUTION NO.

RESOLUTION TO DENY THE **TEXT CHANGES** PROPOSED TO ESTABLISH
WATERFRONT DESIGN STANDARDS AND GUIDELINES WITHIN THE POINT
CADET, BACK BAY OF BILOXI, BILOXI SMALL CRAFT HARBOR, AND WEST BILOXI
BEACH BOARDWALK OVERLAY DISTRICT ZONES

WHEREAS, Biloxi's extensive waterfront is a highly valuable asset that is inseparable from the City's economy, history, culture and identity; and

WHEREAS, the City of Biloxi, as a municipality and political subdivision of the State of Mississippi, owns in fee simple or holds significant property interests in numerous parcels of land bordering the waterfront as well as in public trust tidelands throughout the 243 miles of Biloxi's waterfront not counting 49.8 miles of inlets and bayous, and these publically owned parcels and property interests are included in the intent and purpose of this ordinance in order to provide design standards and guidelines for current and future governing authorities of the City, as well as private property owners and property owned by other governmental entities; and

WHEREAS, making the best use of this valuable asset is in the interest of the citizens of Biloxi and the State of Mississippi and is consistent with and in compliance with the City of Biloxi Waterfront Master Plan, as amended, Comprehensive Land Use Plan for the City of Biloxi, the City's Reviving the Renaissance plan, and plans produced by the post-Katrina Governor's Commission on Recovery, Rebuilding, and Renewal and Mississippi Renewal Forum; and

WHEREAS, Waterfront design guidelines and design standards for developers and governmental entities facilitate public access and the best use of the waterfront and protect the waterfront from neglect, destruction, waste or misuse; and

WHEREAS, the City of Biloxi's Land Development Ordinance (LDO) includes a Waterfront District and a Sand Beach District zoning designation that encourage views of the seascape and pedestrian accessibility to the waterfront; and

WHEREAS, Architectural and Historical Overlay District design standards for certain designated areas of Biloxi, including some waterfront areas, uses primarily a "street-based approach" for design standards and guidelines in determining appropriateness of design; and

WHEREAS, it is the intent of this ordinance that the LDO should provide for a "waterfront-based approach" for design standards and guidelines, recognizing the unique challenges of providing fire, life safety, and law enforcement protection at the edge of the waterfront, on and in buildings and structures adjacent to the edge of the water and on and over the water, for determining appropriateness of design for developments bordering the waterfront in all Nonresidential Base Zoning Districts,

Planned Development Zoning Districts, AHO Districts and CRO Districts, in order to protect and enhance the public health, safety and welfare on the waterfront, and provide public access to, the Biloxi waterfront, seascape and public trust tidelands as a public realm of special character, opportunity and value to the community; and

WHEREAS, on Thursday, October 20, 2016, the Biloxi Planning Commission held a public hearing in the Auditorium of the Dr. Martin Luther King, Jr., Municipal Building, 676 Dr. Martin Luther King, Jr., Boulevard, Biloxi, Mississippi, to hear Case No. 16-053-PC, City of Biloxi, with respect to a request initiated by the Mayor of Biloxi, and the Director of Community Development to commence establishment of Waterfront Design Standards and Guidelines; and

WHEREAS, the Planning Commission members were apprised of the particulars of the case, being made cognizant of the fact that as per Section 23-2-4(A)(2)b of the Biloxi Land Development Ordinance, the Mayor and the Director of Community Development may suggest that the City of Biloxi Land Development Ordinance be amended in this instance, by establishing Waterfront Design Standards and Guidelines in nonresidential zoning districts and by amending certain sections of the Biloxi Land Development Ordinance, as addressed within Case No. 16-053-PC, City of Biloxi; and

WHEREAS, it is the intent of this Text Amendment to add sections into the Land Development Ordinance to establish Waterfront Design Standards and Guidelines within nonresidential zoning districts and to amend certain sections of the Biloxi Code of Ordinances; and

WHEREAS, on October 20, 2016, the Biloxi Planning Commission, after some discussion, voted to recommend approval of the proposed changes to the City of Biloxi Land Development Ordinance, as offered; and

NOW, THEREFORE, BE IT RESOLVED, BY THE CITY COUNCIL OF THE CITY OF BILOXI, MISSISSIPPI, that having given the Planning Commission's recommendation full consideration hereby rejects said recommendation and hereby denies the requested Text Changes to the City of Biloxi Land Development Ordinance, as proposed by Case No. 16-053-PC, having determined that said Text Changes are unwarranted due to a determination that _____

.....B

1 BILOXI PLANNING COMMISSION
2 OCTOBER 20, 2016
3 Dr. Martin Luther King, Jr. Municipal Bldg.
4 676 Dr. Martin Luther King, Jr. Boulevard
5 Biloxi, Mississippi

6 COMMISSION MEMBERS PRESENT:

- 7 Mr. David Washer, President
- 8 Mr. John Snow
- 9 Mr. August Parker
- 10 Mr. Gary Lechner
- 11 Ms. Joann Humphries
- 12 Ms. Kaye Bankston
- 13 Mr. Steve Delahousey
- 14 Mr. Kyle Carron
- 15 Mr. David Stanovich
- 16 Mr. Joe King
- 17 Ms. Cheryl Thompson
- 18 Mr. Curtis Harrison

19 OTHERS PRESENT:

- 20 Mr. Jerry Creel,
21 Director of Community Development
- 22 Mr. Ed Shambra,
23 Executive Planner
- 24 Mr. Peter Abida,
25 Commission Attorney
- 26 Ms. Felicia Serpas,
27 Planning Technician,
- 28 Ms. Caryle Lena,
29 Planning Technician
- 30 Mr. Tim Cipolla,
31 Code Enforcement
- 32 Mr. Eric Nolan,
33 City Arborhist

34 REPORTED BY:

35 CRYSTAL LYNN MORRIS, CSR

CRYSTAL LYNN MORRIS, CSR
(228) 424-2047 E-MAIL ICAPTION4U@AOL.COM

1 (2:00 p.m.)

2 PROCEEDINGS

3 MR. WASHER:

4 Let's call the Planning Commission
5 Meeting to order, please. We'll record the
6 members present.

7 Mr. Harrison; Ms. Thompson; Mr. King;
8 Mr. Stanovich; Mr. Carron; Mr. Delahousey;
9 Ms. Bankston; Ms. Humphries; Mr. Lechner; Mr.
10 Parker; Mr. Snow; myself, David Washer; Ed
11 Shambra, Executive Planner; Peter Abide,
12 Commission Attorney; Jerry Creel, Director of
13 Community Development; Felicia Serpas,
14 Planning Technician; Caryle Lena, Planning;
15 Tim Cipolla on video; Eric Nolan, City
16 Arborist; and our court reporter is Crystal
17 Morris.

18 Mr. Parker, would you please
19 lead us in a moment of prayer?
20 (Moment of prayer.)

21 MR. WASHER:

22 Thank you. I'll ask Ms. Bankston,
23 would you lead us in the Pledge?

CRYSTAL LYNN MORRIS, CSR
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1 (PLEDGE OF ALLEGIANCE.)

2 We would also recognize in the
3 audience we have Dr. Paul Tisdale, Councilman
4 Ward 5. Kenny Glavan, Councilman Ward 6.
5 Beverly Martin Supervisor District 1. We
6 also welcome members of the press.

7 We would ask that anyone desiring to
8 speak please come to the podium and give us
9 your name and address and sign in at the pad
10 provided. Please mute or turn off your
11 cellphones.

12 I think for the benefit of everyone's
13 time I will ask Mr. Nolan if he would please
14 take that pad and pass it around and if you
15 anticipate speaking go ahead and sign in and
16 we will keep things moving along. Anyone
17 desiring to speak please come to the
18 podium and give us your name and address and
19 sign in at the pad provided. Please mute or
20 turn off your cellphones.

21 Ask if all members received a copy
22 of the minutes? Any additions or
23 corrections? If not, we'll entertain a
24 motion to accept the minutes as presented.

25 MR. SNOW:

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00:00:41 1 So moved.
 00:00:41 2 MR. DELAHOUSEY:
 00:00:43 3 Second.
 00:00:43 4 MR. WASHER:
 5 All those in favor say Aye. Any
 00:00:45 6 opposed. Thank you.
 00:00:53 7 Mr. Creel, any reports?
 00:00:53 8 MR. CREEL:
 00:00:53 9 Yes, sir, Mr. Chairman and
 00:00:53 10 1members of the Commission, over the past
 00:04:15 11 two weeks the department has issued 91
 00:00:57 12 building permits with a construction
 00:00:59 13 valuation of \$1.4 million. We've
 00:01:03 14 collected \$8,600 in permit fees; issued
 00:01:06 15 15 COs. Of the COs the permit CO was
 00:01:11 16 issued for the Hyatt Place Hotel on Beach
 00:01:15 17 Boulevard. We currently have 87
 00:01:15 18 single-family houses under construction.
 00:01:17 19 We have received the actual building
 00:01:19 20 construction plans this week for the La
 00:01:23 21 Quinta Inn and Suites at the corner of
 00:01:24 22 Beach Boulevard at Hopkins Boulevard.
 00:01:29 23 Yesterday the DRC approved the
 00:01:32 24 final site plan for the Hilton Garden Inn
 00:01:35 25 to be located on Beach Boulevard. Sales
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1 Classification from NB--Neighborhood
 2 Business and WF Waterfront District to
 00:01:25 3 CB-- Community Business. This case was
 00:02:30 4 advertised on September 29th,
 00:02:32 5 October 6th, and October 13th.
 00:02:35 6 Mr. Nolan, do you have the video
 00:02:37 7 on that, please sir?
 00:02:38 8 MR. NOLAN:
 00:02:52 9 This is the property north of
 00:02:53 10 Highway 90. We are heading back to the
 00:03:25 11 East. This is the south side of 90.
 00:04:07 12 That about covers it.
 00:04:09 13 MR. WASHER:
 00:04:10 14 Thank you. Mr. Blessey.
 00:04:12 15 MR. BLESSEY:
 00:04:13 16 Thank you, Mr. Chairman. I am
 00:04:16 17 Gerald Blessey, 134 Rue Magnolia, Biloxi.
 00:04:20 18 I am here as special counsel representing
 00:04:22 19 the Mayor and this administration, the
 00:04:26 20 applicant for this zoning change.
 00:04:28 21 Mr. Nolan has some additional
 00:04:31 22 maps and videos that I would like to talk
 00:04:35 23 about here in just a moment. Eric, if
 00:04:41 24 you could bring up the first map.
 00:04:44 25 So this change, requested change
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00:01:36 1 tax revenues for the month of
 00:01:38 2 September were \$970,000 which is slightly
 00:01:41 3 down from the million dollars in previous
 00:01:43 4 months.
 00:01:44 5 MR. WASHER:
 00:01:44 6 Thank you. We have no continued
 00:01:47 7 public hearings.
 00:01:48 8 New public hearing today Case No.
 9 16-050-PC — City of Biloxi — this an
 10 application to consider a Comprehensive
 11 Zoning Map Amendment and other matters to
 12 be presented at the hearing on this
 13 request involving twenty (20) Tax
 14 Parcels, and also including those certain
 15 parcels located south of Beach Boulevard,
 16 east of Pine Street, west of Cedar
 17 Street, up to the east property line of
 18 the City of Biloxi's parcel situated west
 19 of and adjacent to the Golden Nugget
 20 Casino site, collectively totaling
 21 approximately 23.3 Acres (More or Less)
 22 of property located within the eastern
 23 section of the City of Biloxi, which
 24 parcels have been selected for a
 25 suggested change in Zoning District
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00:04:48 1 in the Zoning Map Amendment is based on
 00:04:51 2 the change in the character of the
 00:04:53 3 neighborhood, as well as the public need.
 00:04:57 4 So first I want to talk about the change
 00:04:59 5 in the character of the neighborhood
 00:05:02 6 towards more family-oriented attractions.
 00:05:07 7 As you recall, the original
 00:05:11 8 Waterfront zoning occurred in the
 00:05:14 9 beginning of the late 80s and has had
 00:05:16 10 several additions since the Waterfront
 00:05:21 11 zoning. But in the meantime, in recent
 00:05:25 12 years, and in particularly since Katrina,
 00:05:29 13 some of it predating Hurricane Katrina
 00:05:32 14 the trend has been towards more
 00:05:36 15 family-oriented attractions.
 00:05:38 16 The initial casinos that came in
 00:05:42 17 there, as important as they were to the
 00:05:46 18 revival of the tourism economy, have
 00:05:49 19 declined. There are fewer casinos now
 00:05:55 20 then there were at the height of the
 00:05:58 21 casinos then. The Casino Magic is no
 00:06:00 22 longer there; it has been replaced by an
 00:06:04 23 family-oriented attraction,
 00:06:07 24 Margaritaville. Harrah's, to the West,
 00:06:09 25 as we know, has gone in and out of
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00:06:13 1 bankruptcy. And, of course, Golden
 00:06:15 2 Nugget replaced Isle of Capri, and the
 00:06:16 3 new Palace is there. What has been
 00:06:20 4 happening, if you don't mind I can't see
 5 the map very well, so I will take this.
 00:06:31 6 So I would like to talk about --
 00:06:36 7 okay. Well, let's go back to the one we
 00:06:42 8 had. So towards the West in the
 00:06:50 9 neighborhood you have the Ohr-O'Keefe
 00:06:54 10 Museum of Art, which would benefit by
 00:06:57 11 having more visitors in the area. We
 00:06:59 12 have The Schooner Pier, which had begun
 00:07:03 13 right before Katrina and finished after
 00:07:05 14 Katrina, which also encourages sailing
 00:07:09 15 and other non-casino recreation. You
 00:07:14 16 have, of course, the new Blind Tiger
 00:07:18 17 restaurant here where there was casino
 00:07:23 18 property before -- casino activity before
 00:07:26 19 Katrina. You have the new parish center
 00:07:31 20 next to St. Michaels church. The
 00:07:35 21 Margaritaville Resort, of course,
 00:07:36 22 phenomenally successful new development
 00:07:41 23 already bringing new visitors to Biloxi.
 00:07:45 24 And then we have the Maritime Seafood
 00:07:51 25 Industry Museum, which was redone with

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00:07:54 1 the splendid award-winning design and is
 00:07:56 2 bringing in new visitors. But it could,
 00:08:02 3 likewise, along with the Ohr-O'Keefe
 00:08:05 4 Museum and other family-oriented
 00:08:08 5 attractions benefit from more new
 00:08:07 6 visitors. These museums now do not break
 00:08:11 7 even. They don't have enough patronage
 00:08:15 8 yet to meet the expenses, so the City
 00:08:18 9 subsidizes them. The Waterfront park and
 00:08:24 10 splash pad and so forth where the Point
 00:08:28 11 Cadet Plaza was.
 00:08:28 12 So, all in all, the whole area
 00:08:31 13 surrounding where we are proposing zoning
 00:08:33 14 has been moving in the direction of more
 00:08:36 15 family-oriented entertainment and fewer
 00:08:39 16 casinos. The character of the
 00:08:42 17 neighborhood clearly has been changing in
 00:08:46 18 the direction of Community Business,
 00:08:51 19 which would permit the type of
 00:08:53 20 family-oriented entertainment we are
 00:08:56 21 talking about without allowing adult
 00:08:59 22 bookstores or adult so-called
 23 entertainment. So that is the direction
 00:09:07 24 that we feel clearly has been occurred.
 00:09:11 25 So Eric if you go to the next one.

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00:09:14 1 This is just another version of
 00:09:26 2 what we just looked at, but it shows you
 00:09:27 3 the proposed zoning change is in the
 00:09:27 4 center of what has become a much more
 00:09:28 5 family-oriented destination. Eric, go
 00:09:35 6 ahead. Go to the next one.
 00:09:39 7 So we are categorizing these
 00:10:12 8 three sets among the total 20 some odd
 00:10:16 9 acres and 20 parcels. Parcel A we are
 00:10:21 10 calling south of Highway 90 and west of
 00:10:24 11 the old Covacevich property that includes
 00:10:26 12 the existing Margaritaville and basically
 00:10:32 13 any unproductive land at the moment to
 00:10:36 14 the West. That is what you see in the
 00:10:38 15 bold broad stripes.

00:10:43 16 Parcel B, north of Highway 90 --
 00:10:47 17 and, by the way, Parcel A is Waterfront
 00:10:51 18 zoning and has been for nearly four
 00:10:55 19 years.

00:10:56 20 Parcel B is Neighborhood
 00:10:58 21 Commercial and we want to upgrade it to
 00:11:01 22 Community Business. And that would
 00:11:04 23 permit a plat-wise a whole array of
 00:11:10 24 family attractions that we think are
 00:11:13 25 greatly needed. So that is north of

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00:11:16 1 Highway 90.
 00:11:17 2 Then Parcel C is the old
 00:11:22 3 Covacevich property, which is between
 00:11:26 4 Margaritaville, the current
 00:11:27 5 Margaritaville and the Golden Nugget
 00:11:32 6 Casino. And that property had in the
 00:11:34 7 past been a parking garage and is
 00:11:40 8 currently parking is jointly owned based
 00:11:45 9 on a settlement agreement from early 2000
 00:11:49 10 with the Secretary of State, 50 percent
 00:11:52 11 Secretary of State and 50 percent City of
 00:11:55 12 Biloxi.

00:11:56 13 We have an opportunity there for
 00:11:57 14 a non-casino development, namely a new
 00:12:01 15 Salt Grass Restaurant that Golden Nugget
 00:12:04 16 is proposing. And it is my understanding
 00:12:07 17 the Secretary of State is willing and
 00:12:10 18 interested in working with the City to
 00:12:12 19 negotiate the lease for that property.
 00:12:13 20 It is clearly not eligible for a casino
 00:12:17 21 site, it is too small. And with this
 00:12:19 22 requirement for exclusivity on the part
 00:12:25 23 of Golden Nugget to lease with the City,
 00:12:28 24 Secretary of State and institutions of
 00:12:30 25 higher learning are joint landlords three

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00:12:34 1 ways. That has been in the news a little
 00:12:38 2 bit lately. So, this parcel here, C, is
 00:12:41 3 south of Highway 90 and presently
 00:12:44 4 Waterfront. And we are proposing it
 5 should be Community Business or ideally
 00:12:50 6 for a Waterfront restaurant which we
 00:12:52 7 think would enhance the family
 00:12:55 8 attractions. We clearly think there is a
 00:13:03 9 public need for more Community Business
 00:13:08 10 and family attractions.
 00:13:10 11 Eric, if you will go to the maps
 00:13:12 12 regarding Community Business and
 00:13:15 13 Waterfront. So this map shows the
 00:13:24 14 Waterfront areas that are currently zoned
 00:13:28 15 Waterfront in the City. There are 650
 00:13:31 16 total acres of Waterfront Zoning
 00:13:33 17 available upon the dry zoning rules for
 00:13:36 18 casinos. 650 acres.
 00:13:40 19 Let's go to the next map. So
 00:13:45 20 this map shows you the only Community
 00:13:49 21 Business zoning area that is actually
 00:13:53 22 along the water in the City, 17.5 acres
 00:13:57 23 in West Biloxi. And this is Veterans
 00:14:01 24 Avenue. So why is this significant?
 00:14:08 25 This clearly shows that the most

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00:15:44 1 everything seen so far. These are
 00:15:46 2 exhibits in the package. The Biloxi Bay
 00:15:50 3 Chamber of Commerce endorsing the zoning
 00:15:54 4 change to additional family
 00:15:56 5 entertainment. The Palace Casino,
 00:16:03 6 likewise pointing out in another moment
 00:16:06 7 you will see a whole list of casino
 00:16:10 8 operators' comments.

The most important aspect to help
 casinos is not another casino but more
 visitors in town.

Let's go ahead. So the
 Mississippi Hotel & Lodging Association,
 Ms. Linda Hornsby is the Executive
 Director. I want to call particular
 attention in the packet with the attached
 exhibits.

So this letter to Mayor Gilich
 and to Council members and it is in the
 record. So this particular paragraph
 "The Mississippi Gulf Coast Hotel &
 Tourism Industry has a great need for
 additional and enhanced family
 attractions in order to attract this much
 needed element to the area. At the

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00:14:10 1 attractive feature we have as a
 00:14:12 2 destination resort is our Waterfront.
 00:14:13 3 Biloxi has over 150 miles of Waterfront.
 00:14:18 4 We are a Waterfront city. But we don't
 00:14:21 5 need wall-to-wall casinos. What we need
 00:14:25 6 now is more family-oriented attractions
 00:14:28 7 using our greatest asset which is the
 00:14:33 8 water, waterscape, the seascape, water
 00:14:35 9 recreation, water activities and
 00:14:37 10 amusement parks and other things like
 00:14:39 11 that that are along the most important
 00:14:41 12 avenue and the most important view scape
 00:14:44 13 we have. That is what makes us different
 00:14:46 14 from a desert or from a mountain or from
 00:14:49 15 other shorelines. This beautiful
 00:14:52 16 Waterfront we have and all the activities
 00:14:55 17 you can do there both on the land side
 00:14:58 18 and on the water side. Let's see, Eric,
 00:15:00 19 we have some others?
 00:15:23 20 I would like for the record all
 00:15:25 21 the maps you have just seen, I would like
 00:15:28 22 to introduce into the record the packets
 23 that has been prepared by the zoning
 00:15:36 24 staff and go into the record. So on
 00:15:39 25 behalf of the Applicant introducing

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00:17:14 1 current time", October 4th is the date of
 00:17:15 2 this letter, "Our hotel inventory supply
 00:17:20 3 exceeds demand as evidenced in the
 00:17:24 4 History of Occupancy Report, which is
 00:17:25 5 attached, and additional attractions.
 00:17:28 6 Additional attractions will positively
 00:17:29 7 address that imbalance and enhance the
 00:17:33 8 existing market. There is no question
 00:17:35 9 that additional attractions would
 00:17:36 10 increase the demand in the area which
 00:17:39 11 will automatically give existing hotel
 00:17:43 12 business and will also lead to additional
 00:17:43 13 hotel growth."

Now, keep in mind this is a
 statement in light of the fact that we
 are still several thousand hotel rooms
 below Pre-Katrina numbers for the Gulf
 Coast Tourist Industry. So even though
 we have not gotten back to Pre-Katrina
 hotel rooms, the occupancy rates overall
 the supply of rooms far exceeds demand.
 Why is that? We need more business. We
 need more visitors for all the tourist
 industry. And the whole argument the
 City is making here is really not a

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00:18:19 1 matter of casinos versus family
 00:18:23 2 entertainment, it is a matter of what is
 00:18:26 3 the best, the highest and best use for
 00:18:28 4 the quality of life for our own people
 5 and to make this community more of a
 00:18:33 6 destination resort for families. One
 00:18:37 7 consequence of that, a big consequence of
 00:18:37 8 that looking at the big picture is that
 00:18:41 9 it helps all the tourist industry and not
 00:18:44 10 just the casinos. But it also helps
 00:18:48 11 casinos, and in so doing it helps the
 00:18:48 12 state treasury, the City treasury, the
 00:18:54 13 jobs and so forth. So that is the data
 00:18:58 14 from the Hotel & Lodging Association. Go
 00:19:05 15 ahead.

00:19:06 16 This is a letter from the Mayor
 00:19:16 17 to Secretary Hosemann. We are putting
 00:19:19 18 this in the record. It cites some things
 00:19:23 19 I have said and will say in a moment.
 00:19:26 20 There is a map you saw earlier. Slow
 00:19:36 21 down.

00:19:47 22 This is the Balch & Bingham
 00:19:54 23 letter requesting the hearing be
 00:19:56 24 rescheduled since the Secretary of State
 00:19:58 25 did not get notice of the original

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00:20:01 1 hearing.
 00:20:01 2 As we know, the staff of the
 00:20:03 3 Planning Commission did what they usually
 00:20:06 4 do is notify people with a tax parcel
 00:20:10 5 number and by name and address. And the
 00:20:12 6 State did not have one on their
 00:20:15 7 particular piece, and of course that was
 00:20:17 8 a month ago and there has been notice for
 00:20:21 9 today's hearing. That's all part of
 00:20:30 10 Balch and Bingham. Let's go to the next
 00:20:32 11 one. That is all in the record. That is
 00:20:34 12 in the record. Go ahead.

00:20:36 13 So as I mentioned a few moments
 00:21:02 14 ago about the master planning for
 00:21:05 15 Waterfront zoning in this area, I now
 00:21:08 16 kind of want to walk you through what we
 00:21:12 17 are proposing, and the City is proposing
 00:21:15 18 is consistent with the Comprehensive Plan
 00:21:18 19 of the City and it's consistent with
 00:21:21 20 nearly 30 years of national planning of
 00:21:24 21 Waterfront in the area. And I introduced
 00:21:28 22 these exhibits and will again. Here we
 00:21:32 23 have a batch of exhibits all of which I
 00:21:33 24 am asking to be introduced. And the
 00:21:33 25 court reporter has Exhibit 1, which is

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00:21:45 1 the master plan from 1985, which was the
 00:21:49 2 origination of the Waterfront Zoning
 00:21:55 3 District; and the second page, which as
 00:21:58 4 you can see right off the bat -- maybe
 00:22:02 5 you can't see it, but it is in the
 00:22:04 6 record -- are calling for water parks and
 00:22:08 7 museums, and the other family-oriented
 00:22:15 8 attractions. This was the run of the
 00:22:20 9 first run casino Isle of Capri in this
 00:22:23 10 location.

00:22:24 11 The next document is Exhibit 2.
 00:22:37 12 That is not Exhibit 2. That is the plan
 00:22:40 13 update. Let's go to the next exhibit.
 00:22:44 14 That is the second page. That's it.

00:22:48 15 Now, so after Katrina, Governor
 00:22:52 16 Barbour formed a Commission on recovery,
 00:22:55 17 rebuilding and renewal headed by James
 00:23:02 18 Barksdale, Mississippian who was very
 00:23:04 19 helpful with recovery and the former head
 00:23:05 20 of Netscape as well. So, in this
 00:23:11 21 Post-Katrina Comprehensive Review of what
 00:23:15 22 is needed not only along the Coast and in
 00:23:18 23 Biloxi, but look at the second page. Go
 00:23:22 24 to the second page. This is probably not
 00:23:24 25 showing up well, but what is shaded there

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00:23:27 1 says "A top tier tourist designation is
 00:23:31 2 what is recommended and needed." It says
 00:23:34 3 by 2010. We are getting there but we
 00:23:37 4 still have a long way to go. So to
 00:23:43 5 attain Tier One Status as a tourism
 00:23:52 6 destination the Coast must have enhanced
 00:23:55 7 hotel occupation to at least 30,000
 00:23:59 8 rooms. We are now at about 8 or 9,000.
 00:24:03 9 We have got a lot in the hopper. Biloxi
 00:24:07 10 is doing pretty good with five hotels
 00:24:10 11 underway, but that is well short of
 00:24:13 12 pre-Katrina and well short of this goal.
 00:24:15 13 Enlarge convention and meeting space to
 00:24:19 14 at least 600,000 square feet. The
 00:24:22 15 Convention Center has been enlarged but
 00:24:26 16 not that large. Better integrate core
 00:24:27 17 attraction. This is the key throughout
 00:24:30 18 the City's only Comprehensive Plan.
 00:24:33 19 Better integrate core attractions
 00:24:37 20 including dining, shopping, sports, Eco,
 00:24:41 21 special events, fishing, museums,
 00:24:46 22 cultural and historical attractions and
 00:24:48 23 major destination attractions. These
 00:24:52 24 attractions do not have to be located in
 00:24:55 25 the exact same locations in the three

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00:24:57 1 coast counties, but it must be easily
 00:25:02 2 accessible from them.
 00:25:04 3 So the point is we are talking
 00:25:06 4 about a strategic change recognizing --
 00:25:12 5 and I will have more data on this in a
 00:25:14 6 moment -- recognizing that the casino
 00:25:22 7 market is flat. The likely casino growth
 00:25:25 8 like all other business is based on
 00:25:27 9 supply and demand. Where is the market
 00:25:34 10 feasibility? Not only did Harrah's go
 00:25:36 11 bankrupt, but as you know, and I will
 00:25:40 12 show this in a moment. The Scarlet Pearl
 00:25:42 13 opened a year ago and basically
 00:25:44 14 cannibalized the existing market.
 00:25:48 15 The City of Biloxi's tax
 00:25:51 16 collections from casinos has gone down
 00:25:55 17 since Scarlet Pearl opened. They are not
 00:25:57 18 bringing in any significant new visitors.
 00:26:01 19 To get more visitors we do not need
 00:26:04 20 casinos, we need family attractions.
 00:26:07 21 That is the logic we are trying to get
 00:26:07 22 across here.

00:26:07 23 Let's go to the next -- so you
 00:26:18 24 recall Mayor Holloway and his
 00:26:18 25 administration and the Council members

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00:27:54 1 unique more so then we are now
 00:27:57 2 destination, a one of a kind. And that
 00:28:00 3 is the history of Biloxi, an iconic
 00:28:06 4 Biloxi. The one of a kind. We had three
 00:28:09 5 bad disasters in recent years with
 00:28:11 6 Katrina, the recession and the BP Oil
 00:28:14 7 spill all of which has hurt tourism and
 00:28:17 8 family-oriented attractions more so than
 00:28:22 9 other businesses except, of course,
 00:28:24 10 seafood and fishing which was devastated.

00:28:47 11 So this is an article which I
 00:28:50 12 encourage you to read from the Economist
 00:28:54 13 Magazine on October 8th. The casino
 00:28:57 14 industry nationwide, even worldwide has a
 00:29:01 15 real challenge about sustaining itself
 00:29:05 16 going forward because the younger
 00:29:07 17 generation is not as attracted to casinos
 00:29:12 18 as some of us older folks. So the point
 00:29:15 19 I'm making here is again if we want as a
 00:29:19 20 city to have a strategic plan to sustain
 00:29:23 21 our economy as a tourist destination we
 00:29:24 22 need more non-casino family-oriented
 00:29:29 23 attractions. I just point this out
 00:29:32 24 because The Economist this probably is
 00:29:33 25 the leading economic magazine.

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00:26:18 1 after Katrina had another study called
 00:26:20 2 Reviving the Renaissance, which
 00:26:24 3 essentially looked at where Biloxi was
 00:26:27 4 after the terrible devastation.
 00:26:27 5 If you will go to the next one.
 00:26:31 6 This is Exhibit 3, and I will not read
 00:26:32 7 all this. But essentially it says as the
 00:26:38 8 prior studies work with local attractions
 00:26:40 9 to create a marketing program that would
 00:26:44 10 fund the restoration of cultural and
 00:26:47 11 historic tourism attractions and events
 00:26:50 12 and so fourth; including festivals, and
 00:26:54 13 all these things, museums and aquariums.
 00:26:58 14 Clearly as part of the Reviving the
 00:27:02 15 Renaissance was essential to the revival
 00:27:04 16 of Biloxi's economy and quality of life.

00:27:08 17 Okay, Eric, if you go to the next
 00:27:11 18 one. The City of Biloxi's Comprehensive
 00:27:27 19 Plan, which I have out of order here,
 00:27:33 20 likewise, makes the same points, both on
 00:27:37 21 the overview of page 8 and page 127 that
 00:27:41 22 I want to call your particular attention
 00:27:45 23 too. The same kind of rationale. We
 00:27:45 24 need to integrate diversify broad based
 00:27:50 25 many varieties of attractions to become a

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00:29:36 1 Let's go to the next exhibit,
 00:29:37 2 Exhibit 5. So what you see here, and I
 00:29:50 3 will not read this, it shows the past
 00:30:01 4 year, the first 10 months or 9 months of
 00:30:04 5 this year's casino collections compared
 00:30:09 6 to 2015 and the prior year. You can see
 00:30:12 7 the trend is not good. If you will give
 00:30:17 8 that back to me.

00:30:42 9 So in addition to the collect of
 00:30:52 10 exhibits, I offer Exhibit 6, which is a
 00:30:55 11 letter from Secretary Hosemann to Mayor
 00:30:58 12 Gillich of October 19th expressing his
 00:31:01 13 interest in trying to work with
 00:31:08 14 developers and others in promoting family
 00:31:10 15 entertainment and his rationale for his
 00:31:13 16 position at the moment.

00:31:16 17 Then Exhibit 9, which is the
 00:31:21 18 Mayor's response -- excuse me, it's an
 00:31:24 19 earlier letter from the Mayor stating the
 00:31:26 20 City's rationale as to why we would like
 00:31:29 21 to work with them for family
 00:31:33 22 entertainment and why we don't need
 00:31:36 23 additional casinos.

00:31:40 24 Now, the issue of highest and
 00:31:44 25 best use is an issue for the City of
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00:31:48 1 Biloxi for the Planning Commission and
 00:31:50 2 City Council and Mayor to decide, not the
 00:31:53 3 Secretary of State. The highest and best
 00:31:55 4 use for land is a classic municipal
 00:32:03 5 responsibility. The Planning Commission
 00:32:06 6 has done well on that for many, many
 00:32:09 7 decades. And so what we are urging you
 00:32:12 8 to consider really this application is
 00:32:16 9 not for one development or one specific
 00:32:19 10 project. The Margaritaville's II example
 00:32:23 11 of an amusement park is an example. But
 00:32:25 12 what we are trying to encourage by this
 00:32:29 13 zoning change is to place more land in
 00:32:32 14 the category of non-casino Waterfront
 00:32:36 15 family-oriented attraction land use.
 00:32:39 16 Hopefully Margaritaville's II will be
 00:32:43 17 successful we hope. But the next owner
 00:32:46 18 or group of owners whether the Secretary
 00:32:48 19 of State or whoever would have the same
 00:32:52 20 level of expectation from this Planning
 00:32:54 21 Commission and our zoning code that that
 00:32:57 22 is the kind of usage that we want to see
 00:33:00 23 there. Not casinos, which we really
 00:33:03 24 don't need more in the are and not adult
 00:33:06 25 bookstores or other kinds of things. I

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00:34:23 1 Business. Not so. And, of course,
 00:34:24 2 height variances are often granted for
 00:34:27 3 major productions, major projects. But
 00:34:30 4 compared to Waterfront zoning when you
 00:34:33 5 have to present -- you are supposed to
 00:34:36 6 present a master plan, which is the
 00:34:39 7 nature of conditional use, height and
 00:34:41 8 everything has to come before you to show
 00:34:44 9 that the totality of the project meets
 00:34:47 10 the judgment of this Planning Commission
 00:34:50 11 and the Council as to appropriate within
 00:34:53 12 that zone. Those things are not all as a
 00:34:56 13 matter of right. Even the casino does
 00:34:59 14 not have a matter of right to build
 00:35:02 15 something at any height, they have to
 00:35:05 16 come before you. Even a casino does not
 00:35:08 17 have a right to a marina without coming
 00:35:11 18 before you and showing how it all works
 00:35:14 19 and integrates as part of the City's
 00:35:17 20 Comprehensive Plan.

So there has been much talk about
 whether the City is involved in any
 sweetheart deal. The only sweetheart
 deal we know of is Exhibit 10, which is a
 November lease of 2015, lease for
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00:33:04 1 am presuming that if an adult bookstore
 00:33:06 2 were willing to pay casino rates, I'll
 00:33:12 3 bet that the Secretary would not be
 00:33:15 4 encouraging that kind of agreement even
 00:33:17 5 though it would make the money he is
 00:33:19 6 talking about.

00:33:19 7 There are a lot of other elements
 00:33:21 8 other than money. It is money versus
 00:33:23 9 quality of life. It is on the one hand
 00:33:25 10 what can the landlord make versus what is
 00:33:29 11 in the interest of the whole community,
 00:33:32 12 and our proposal is in the interest of
 00:33:35 13 the whole community.

00:33:46 14 I want to make a couple
 00:33:49 15 observations about some matters that have
 00:33:53 16 been mentioned in news stories.
 00:33:57 17 Community Business, this zoning change we
 00:33:59 18 are requesting, does not prohibit
 00:34:02 19 marinas. Marinas are permitted by
 00:34:07 20 Conditional Use. If a person were to
 00:34:09 21 look at our zoning code and actually come
 00:34:12 22 and consult our zoning staff they would
 00:34:17 23 have known that instead of announcing,
 00:34:19 24 this was announced yesterday, that
 00:34:19 25 marinas are prohibited in Community

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00:35:45 1 tidelands between the Secretary of State
 00:35:47 2 and Harrah's Casino just to the west of
 00:35:51 3 the zoning change we are talking about.
 00:35:53 4 And that leads -- if you look at this it
 00:35:56 5 is in your packet, is \$2.00 a square
 00:35:59 6 foot. \$2.00 a square foot, which
 00:36:03 7 apparently according to the Secretary of
 00:36:05 8 State's letters and so forth is the floor
 00:36:09 9 in his negotiations with Margaritaville
 00:36:11 10 versus somewhere near \$5.00 a square foot
 00:36:14 11 as the ceiling. That negotiation between
 00:36:18 12 the Secretary of State and that developer
 00:36:21 13 or any other developer I want to point
 00:36:24 14 out the City is not involved in the
 00:36:27 15 negotiations, nor do we have any land to
 00:36:30 16 negotiation in this instance. But we are
 00:36:32 17 concerned when we people talk about
 00:36:36 18 incorrectly sweetheart deals with the
 00:36:40 19 City, which we are not any part of.

The only one we know of is less
 than a year old next door for the very
 amount of money that apparently is not
 good enough for the family-oriented
 amusement park that the Secretary at this
 point is opposing and we understand their

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00:37:01 1 in negotiations and hope they succeed in
 00:37:02 2 the negotiations both in the interest of
 00:37:06 3 the State and the City and the developer.
 00:37:09 4 So use the example though of
 00:37:19 6 Margaritaville to the amusement park. A
 00:37:22 7 million new visitors a year. Here is the
 00:37:25 8 key. Here is what is so different about
 00:37:30 9 opposing what has been proposed. Here is
 00:37:33 10 why a reasonable negotiations for at
 00:37:38 11 values of land that are appropriate for
 00:37:38 12 the kind of uses that we are trying to
 00:37:41 13 encourage. A million new visitors a
 00:37:45 14 year, what does that mean to the State
 00:37:48 15 Treasury, to the City Treasury, to our
 00:37:54 16 people overall. Those 700 new permanent
 00:37:56 17 jobs is one thing it means. And then
 00:38:00 18 about \$28 to \$30 million in gross sales
 00:38:03 19 is conservatively estimated for the use
 00:38:06 20 of all the parcels there except the
 00:38:10 21 Covacevich property. That generates \$1.9
 00:38:15 22 million, \$1,960,000 roughly as new sales
 00:38:20 23 tax to the State and the City. The City
 00:38:23 24 gets 18 percent of that share. So
 00:38:25 25 roughly that would be in round numbers
 about \$1,000,600 in new sales tax to the

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00:38:47 1 Gulfport, but if you have a million new
 00:39:40 2 visitors here that will help everybody.
 00:39:51 3 I mention Scarlet Pearl not to be
 00:39:54 4 critical of them, but you have to have
 00:39:56 5 new attractions in order to have growth
 00:39:59 6 in casino usage. And that number I just
 00:40:02 7 gave you, the new visitors could also
 00:40:07 8 produce another \$870,000 in gaming tax
 00:40:09 9 for the City. The State gets eight
 00:40:09 10 percent of gross gaming revenue, the City
 00:40:11 11 gets four percent share with the County,
 00:40:13 12 the school system and the police
 00:40:15 13 department.

So if you add these up on the
 state level annually a \$1.6 million in
 sales tax, \$250,000 in income tax, about
 \$1.7 million in gaming that is about 3.6
 million a year, not counting the
 tidelands lease. If you multiply that
 times 40, which I understand was the gold
 standard yesterday, \$25 million that
 allegedly the City standing in the way
 of, if you multiply 2.6 million times 40
 years, that's \$144 million over that 40
 years to the State of Mississippi. That

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00:38:28 1 State. And I say new sales tax because
 00:38:30 2 just moving existing people around like
 00:38:34 3 Scarlet Pearl did or some other
 00:38:38 4 industries or even some new restaurants,
 00:38:39 5 as much as we love them, moving around
 00:38:42 6 does not really produce growth in the
 00:38:44 7 economy. Maybe a little bit, but not
 00:38:48 8 much. It does not produce sales tax. It
 00:38:49 9 is new visitors who come for a new reason
 00:38:56 10 that produce new sales tax, new jobs and
 00:38:58 11 new income tax. And 700 permanent jobs
 00:39:05 12 would produce about 7 and-a-half, \$8
 00:39:07 13 million a year payroll and about \$250,000
 00:39:11 14 in state income tax every year. And you
 00:39:13 15 can assume reasonably that about
 00:39:18 16 25 percent of those million new visitors
 00:39:22 17 among the adults would visit a casino in
 00:39:25 18 the area at least once, spending the
 00:39:28 19 average of \$87. And if you do that then
 00:39:33 20 you have another \$1,740,000 in gaming tax
 00:39:35 21 to the State of Mississippi every year
 00:39:35 22 because of the new visitors that come in.
 00:39:40 23 Not moving them around between
 00:39:40 24 D'iberville and Biloxi. Hopefully they
 00:39:40 25 will go to Scarlet Pearl too, and

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00:40:51 1 is not counting what comes to the City of
 00:40:55 2 Biloxi. Plus you got the tidelands
 00:40:59 3 lease, and even with that \$2.00 a square
 00:41:01 4 foot, and we are not in that negotiation,
 00:41:02 5 based on market value and appraisals that
 00:41:05 6 is the right thing to do between the
 00:41:08 7 Secretary and developer. But even at
 00:41:11 8 \$2.00 that is 10 million in tidelands
 00:41:14 9 rent. So 150 million versus 25 million
 00:41:18 10 sounds like a pretty good deal to me.
 00:41:20 11 That is what the City is proposing if you
 00:41:23 12 look at it comprehensively for the State
 00:41:27 13 of Mississippi.

Casinos are not in and of
 themselves - they are means to a larger
 end. We hope the Secretary and others
 who may oppose what we are proposing
 would see it in that light. To see only
 a tidelands rent as the only index is to
 miss the big picture that I just talked
 about.

Let me just mention one other
 thing about the casino market. Not only
 is it flat here but it is threatened by a
 proliferation as you know keeping up with

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00:42:08 1 It. There is some discussion about
 00:42:12 2 additional casinos in Georgia, Florida,
 00:42:18 3 Alabama and neighboring states. Every
 00:42:21 4 time that happens, every time an Indian
 00:42:26 5 gaming element opens within in the
 00:42:28 6 driving distance of our casinos it hurts
 00:42:32 7 our market. The way to countermand that
 00:42:34 8 to protect our industry, both gaming and
 00:42:37 9 tourism is to have new attractions.
 00:42:40 10 Bringing people here are coming here not
 00:42:42 11 for the gaming itself and that becomes a
 00:42:45 12 kind of world-class attraction that
 00:42:50 13 cannot be replicated in Georgia or
 00:42:58 14 Alabama or Florida very easily.
 00:43:02 15 I would like to go to the three
 00:43:07 16 maps of Parcel A, B and C. Eric, can you
 00:43:15 17 do that?
 00:43:18 18 So I am at the conclusion of our
 00:43:27 19 presentation here and my friend and
 00:43:30 20 colleague, and I mean that sincerely,
 00:43:33 21 Jonathan Dyal is here on the behalf of
 00:43:36 22 Secretary of State who may be speaking.
 00:43:39 23 But I want to ask this Planning
 00:43:42 24 Commission to consider a request from the
 00:43:42 25 Mayor who is not able to be here at this

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00:45:11 1 Now, Mr. Chairman, there are
 00:45:13 2 other people who would like to speak as
 00:45:18 3 proponents unless there are questions of
 00:45:10 4 me at this time I would be glad to answer
 00:45:20 5 them or I could come back later if you
 00:45:22 6 want me to.
 00:45:22 7 (City of Biloxi Exhibits 1
 00:45:22 8 through 13 were marked for identification
 00:45:22 9 by the court reporter and said exhibits
 00:45:23 10 are attached hereto.)
 00:45:23 11 MR. WASHER:
 00:45:24 12 Any questions of Mr. Blessey from
 00:45:27 13 the Commission? Thank you, sir.
 00:45:28 14 MR. BLESSEY:
 00:45:29 15 And I think, if I may, Supervisor
 00:45:33 16 Beverly Martin is here and she is our
 00:45:36 17 senior political official in the
 00:45:39 18 audience, and I don't mean age. So
 00:45:44 19 Beverly if you would like to come
 00:45:45 20 forward.
 00:45:49 21 MS. MARTIN:
 00:45:50 22 That was a good save there. I
 00:45:52 23 was going to change my mind. I am not a
 00:45:59 24 speaker as Mr. Blessey, but long story
 00:46:00 25 short is my background is tourism and

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00:43:44 1 moment, but asked me to make the request
 00:43:47 2 to you that Parcel A and Parcel C, which
 00:43:52 3 is the area south of Highway 90 that you
 00:43:56 4 can continue this hearing to the next
 00:44:00 5 meeting to allow you to have further
 00:44:03 6 deliberation. There is a lot of material
 00:44:05 7 for you to bend around. I'm sure
 00:44:07 8 Jonathan will give you a lot to think
 00:44:10 9 about and we want you to think about it
 00:44:11 10 with open minds and continue on those two
 00:44:13 11 pieces, but vote on the north side, which
 00:44:15 12 is Parcel B, and the Secretary has no
 00:44:20 13 property interest in and it is not
 00:44:32 14 Waterfront anyway, so to let that go
 00:44:34 15 forward, as you may know Margaritaville
 00:44:36 16 is proposing a hotel on that site, an
 00:44:42 17 extended stay facility, which could be
 00:44:45 18 going forward while the rest of it is
 00:44:48 19 under consideration.
 00:44:49 20 So if you would kindly do that we
 00:44:53 21 hope you would vote on B today and
 00:44:55 22 continue the hearing so that the
 00:45:02 23 Secretary or anyone else could come back
 00:45:07 24 at the next meeting and offer evidence in
 00:45:07 25 support or opposed.

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00:46:02 1 casinos. I dearly love both, as you
 00:46:07 2 know, those that know me. But we do need
 00:46:09 3 more family attractions and have an
 00:46:11 4 opportunity here. No one asked me to be
 00:46:13 5 here I came because I am interest in
 00:46:16 6 this. I don't see what the issue is.
 00:46:18 7 The Secretary of State's office,
 00:46:21 8 with all due respect, years ago prior to
 00:46:24 9 the current Secretary of State carved out
 00:46:28 10 the casino industry and set that higher
 00:46:31 11 rate. It is much higher than Chevron is
 00:46:35 12 paying or Mississippi Power or any other
 00:46:37 13 businesses that actually are also
 00:46:40 14 tidelands leases. So that came from that
 00:46:43 15 office.
 00:46:44 16 This business is clearly not a
 00:46:46 17 casino. I don't want to get in the
 00:46:50 18 negotiations part, but to me they should
 00:46:52 19 be treated as such. Go back to the
 00:46:55 20 non-gaming lease to what the amount is
 00:46:56 21 and charge them that. I am all for this.
 00:47:00 22 It is our district, our coast, our town,
 00:47:03 23 our city, our county and I think it is
 00:47:05 24 our decision to make. So thank you.
 00:47:05 25 MR. BLESSEY:

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00:47:14 1 I think the representative of the
 00:47:16 2 Ohr-O'Keefe museum is here.
 00:47:18 3 MS. MESSER:
 00:47:19 4 My name is Carol Messer. I am
 00:47:23 5 the assistant director of the Ohr-O'Keefe
 00:47:24 6 Museum of Art. Our Director wanted to
 00:47:29 7 come but he was not able to make it today
 00:47:29 8 so he sent a letter for me to read to
 00:47:31 9 you.
 00:47:33 10 "We are truly grateful for the
 00:47:33 11 vibrancy and economic benefits that our
 00:47:37 12 casino industry has provided to Biloxi
 00:47:39 13 and the Mississippi Gulf Coast. We would
 00:47:41 14 not be here today without the casino
 00:47:44 15 industry and their generosity. We want
 00:47:46 16 the casino industry to continue to thrive
 00:47:48 17 and provide jobs and economic wellbeing
 00:47:51 18 to Biloxi, the Mississippi Coast and to
 00:47:54 19 the State. Currently the Secretary of
 00:47:58 20 State wants to keep 20 acres between
 00:48:00 21 Margaritaville and the Great Lawn at
 00:48:02 22 Harrah's and between Harrah's and the St.
 00:48:05 23 Michael Church to a classification that
 00:48:07 24 can only be used for casinos property.
 00:48:07 25 Biloxi has had no interest from casino

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00:49:06 1 and economic growth and that could easily
 00:49:06 2 draw an additional new one million
 00:49:10 3 visitors to Biloxi. This can only be
 00:49:13 4 good for all of us. As Mayor Gilich has
 00:49:16 5 said changing the zoning of these parcels
 00:49:17 6 would give Biloxi a package that no other
 00:49:22 7 casino jurisdiction could match. I
 00:49:24 8 agree. Kevin O'Brien."
 00:49:24 9 MR. WASHER:
 00:49:38 10 Thank you. Hold up Mr. Glavan.
 00:49:38 11 MR. ABIDE:
 00:50:03 12 Well, you may speak at your
 00:50:04 13 perle. You may disqualify yourself from
 00:50:08 14 the vote.
 00:50:08 15 MR. GLAVAN:
 00:50:08 16 So what is your recommendation?
 00:50:08 17 Mr. CREEL:
 00:50:08 18 If you speak today on behalf of
 00:50:08 19 it you'd have to recuse yourself at the
 00:50:11 20 Council meeting from a vote.
 00:50:12 21 MR. GLAVAN:
 00:50:13 22 I can do that. I will recuse
 00:50:15 23 myself at the council meeting. I think
 00:50:17 24 it is too important. And today I come
 00:50:19 25 before you as president of the Hotel &
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00:48:09 1 developers for this zoned site for nearly
 00:48:10 2 ten years. It is evident there is no new
 00:48:13 3 casino developer interested in this
 00:48:16 4 property. Even if there was an
 00:48:18 5 interested casino developer, an
 00:48:21 6 additional casino could not possibly
 00:48:24 7 dilute the health and benefits of our
 00:48:25 8 existing casino industry. As we have had
 00:48:27 9 an opportunity to diversify our tourism
 00:48:29 10 trade providing new business and cultural
 00:48:32 11 attractions to bring new visitors and
 00:48:35 12 families to Biloxi and the Mississippi
 00:48:44 13 Coast to an area that is currently and
 00:48:44 14 has been a no man's land. Changing the
 00:48:44 15 zoning of Point Cadet parcels would be a
 00:48:45 16 tremendous benefit not only to the
 00:48:47 17 Ohr-O'Keefe Museum of Art and the
 00:48:47 18 Maritime Seafood Industry Museum, but
 00:48:49 19 also to the City of Biloxi and Harrison
 00:48:52 20 County. If the Secretary of State would
 00:48:54 21 allow these parcels of land to be rezoned
 00:48:57 22 the Ohr-O'Keefe Museum of Art and the
 00:49:02 23 Maritime Museum would be the bookends of
 00:49:02 24 a new, vibrant business and cultural
 00:49:03 25 district that would increase visitation

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00:50:23 1 Lodging Association and as a citizen of
 00:50:25 2 Biloxi. I have been in the tourism
 00:50:28 3 industry for a number of years, number of
 00:50:30 4 decades actually. And you know we are
 00:50:32 5 talking about a compelling game changing
 00:50:38 6 decision for our community, for Biloxi.
 00:50:39 7 And I think it is very important. Last
 00:50:41 8 night we had a Hotel Lodging meeting and
 00:50:44 9 the Director of the Division of Tourism,
 00:50:48 10 Craig Ray, gave us some facts and figures
 00:50:49 11 about the State of Mississippi.
 00:50:51 12 Pre-Katrina we had 30 million
 00:50:54 13 visitors to the State of Mississippi.
 00:50:55 14 Last year we had 22 million. So we are
 00:50:59 15 significantly down from our the visitors
 00:51:01 16 to the state, while the states around us
 00:51:04 17 are breaking records.
 00:51:07 18 I heard the Secretary of State's
 00:51:09 19 comments that he does not want to leave
 00:51:12 20 money on the table. We've got
 00:51:13 21 \$140,000,000 on the table of just this
 00:51:17 22 development alone. And, you know, to not
 00:51:21 23 take advantage of that when interest
 00:51:23 24 rates could go up and these investors
 00:51:26 25 opportunities could ride up and the

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00:51:28 1 opportunity dissipates and we are left
 00:51:30 2 with a piece of property that may be
 00:51:32 3 vacant for another decade or longer. I
 00:51:36 4 think that is important to weigh that.
 5
 With all due report to the
 00:51:42 6 Secretary of State I understand he wants
 00:51:43 7 the most money for the coffers of the
 00:51:48 8 State and I truly believe he wants what
 00:51:49 9 is best for our community, but I think he
 00:51:51 10 has a narrow view of this decision that
 00:51:53 11 we are weighing today. And I am hopeful
 00:51:58 12 that as he weighs the community outcry of
 00:52:00 13 jobs, of money, of a million new visitors
 00:52:06 14 that is a million new voices that would
 00:52:10 15 be promoting their experience on the
 00:52:13 16 Mississippi Gulf Coast. And I will leave
 00:52:15 17 you with these three words,
 00:52:18 18 multi-dimensional experience. This is
 00:52:19 19 important.
 00:52:20 20 Right now we are almost one
 00:52:22 21 dimensional on the experience that you
 00:52:25 22 have on the Mississippi Gulf Coast,
 00:52:28 23 predominantly gaming. And it is good to
 00:52:30 24 see hotels and restaurants and the like
 00:52:34 25 to come back; however, we need that

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00:53:35 1 continued to a later date as we gather
 00:53:38 2 more information and as we do continue to
 00:53:39 3 have conversations with the Secretary and
 00:53:40 4 we do appreciate his integrity in this
 00:53:44 5 process and certainly the leadership of
 00:53:48 6 the City that you allow us to present a
 00:53:48 7 case, whether it be for or against, at a
 00:53:51 8 later date. Thank you.
 00:53:51 9 MR. WASHER:
 00:53:51 10 Anyone else speaking in favor?
 00:53:51 11 MR. RAYMOND:
 00:54:17 12 I am Bill Raymond. I am the
 00:54:19 13 Historic Administrator for Biloxi, and I
 00:54:19 14 am speaking as the manager of the Biloxi
 00:54:23 15 Visitor Center. We are the number one
 00:54:26 16 attraction on the Coast for Trip Advisor,
 00:54:29 17 the number one travel site for visitors.
 00:54:32 18 And we see about 150,000 people a year
 00:54:35 19 come through our facility. And one of
 00:54:37 20 the things we get every day constantly, I
 00:54:40 21 just left just the center just now, are
 00:54:43 22 people looking for things to do, more
 00:54:46 23 family attractions. We have been to the
 00:54:48 24 casinos; we enjoy the casinos, but we are
 00:54:51 25 looking for something else. We do help

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00:52:34 1 multi-dimensional experience for our
 00:52:36 2 guests to attract significant business.
 00:52:39 3 We have state organizations that go to
 00:52:41 4 other states and hold their annual
 00:52:44 5 conventions. That is embarrassing to me.
 00:52:51 6 And to have the opportunity to create
 00:52:53 7 that multidimensional experience and get
 00:52:56 8 the state's conventions to stay in
 00:52:59 9 Mississippi is very important.
 00:53:01 10 So I will just close with this.
 00:53:02 11 I hope Secretary Hosemann takes an look
 00:53:07 12 at Biloxi, because we are truly a city
 00:53:09 13 that works. Thank you.
 00:53:12 14 MR. WASHER:
 00:53:12 15 Thank you. We will open the
 00:53:13 16 floor if anyone would like to come
 00:53:16 17 forward and speak. Again, give us your
 00:53:18 18 name and address. If have you not signed
 00:53:19 19 in on the pad, please do so.
 00:53:17 20 MR. MOORE:
 00:53:17 21 Thank you, Mr. Chairman. I just
 00:53:24 22 wanted to introduce myself. I am John
 00:53:28 23 Moore, general counsel for Margaritaville
 00:53:28 24 and we are here. I just wanted to echo
 00:53:30 25 Mr. Blessey's request that this matter be

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00:54:53 1 them out, but we need more things. We
 00:54:58 2 are definitely seeing an improvement in
 00:55:00 3 that situation. We have Margaritaville
 00:55:01 4 recently opened up and we have the
 00:55:02 5 expansion of Big Play. Those are the
 00:55:04 6 kind of things we are looking at, but we
 00:55:06 7 need more of that. That is what the
 00:55:08 8 tourists are asking for every day. We
 00:55:11 9 need to keep that in mind as we plan the
 00:55:14 10 development of the City is that something
 00:55:17 11 that visitors are looking for and they
 00:55:19 12 are looking for reasons to stay longer.
 00:55:21 13 Yeah, right now we are staying a day
 00:55:22 14 and-a-half or so. You know, if we get
 00:55:24 15 them to stay one more day or so that is a
 00:55:27 16 huge increase in tax revenue. Thank you.
 00:55:30 17 MR. REYES:
 00:55:30 18
 00:55:34 19 Good afternoon. My name is
 00:55:36 20 Gilbert Reyes. I am here to represent
 00:55:39 21 the Military Veterans Association. I am
 00:55:43 22 a veteran. I have been internationally
 00:55:43 23 recognized by the hospitality state to
 00:55:46 24 initiate a disability community senior
 00:55:46 25 citizens program and I am here to help

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00:55:48 1 everybody associate themselves
 00:55:50 2 appropriately for higher learning
 00:55:50 3 education for all universities. Stennis
 00:56:00 4 Space Center also knows me. I have been
 00:56:00 5 offered a LLC Corporation out of
 00:56:00 6 Louisiana, which incorporates
 00:56:01 7 nonprofit/profit.
 00:56:03 8 Mr. Carter knows me personally.
 00:56:04 9 I went with him to assist myself with the
 00:56:06 10 discussions with Mr. Delbert Hosemann. I
 00:56:09 11 am an IT Specialist, to present a power
 00:56:11 12 point introduction. I am coming for an
 00:56:13 13 para-park introduction for a paraplegic
 00:56:16 14 fishing rodeo and I will have multi names
 00:56:18 15 of people coming for this introduction
 00:56:19 16 for this opportunity.
 00:56:20 17 We are doing ocean literacy
 00:56:24 18 program, the Department of Resources and
 00:56:26 19 Gulf Coast Resource Laboratory and I met
 00:56:28 20 and they are all receptive to what I am
 00:56:30 21 trying address. And I will instill this
 00:56:32 22 in everybody's best interest to make sure
 00:56:32 23 and implement appropriately instead of
 00:56:36 24 "The Color Purple" and "Mississippi
 00:56:38 25 Burning."

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00:56:38 1 When I was in the military and
 00:56:40 2 everybody's question is "Your from
 00:56:41 3 Mississippi, is Mississippi really like
 00:56:42 4 this?" It's insulting. So my mother's
 00:56:44 5 from North Mississippi and my mother
 00:56:46 6 recognized Nelson Mandella at our church
 00:56:50 7 since '67. She had more awards than any
 00:56:52 8 officer at Keesler Air Force Base. She
 00:56:54 9 had five degrees in 10 years of night
 00:56:56 10 school.
 00:56:56 11 I am not here to plead. I am a
 00:56:58 12 concerned citizen. I am a veteran. And
 00:57:00 13 I am in outreach association for
 00:57:02 14 international recognition for highest
 00:57:02 15 hospitality state. I have worldwide
 00:57:07 16 recognition in World Leader College in
 00:57:00 17 2014 in Mobile, Alabama where all tourism
 00:57:10 18 activities around the world came there
 00:57:11 19 and were interested in the opportunities.
 00:57:13 20 I reached out to the independent living
 00:57:15 21 people organization. Now, all these
 00:57:15 22 countries came back and they inquire
 00:57:20 23 about price and services I have to offer.
 00:57:20 24 I am doing a manufacturing opportunity
 00:57:20 25 with the Chamber of Commerce, the US

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00:57:24 1 Chamber of Commerce. I have been offered
 00:57:25 2 to come to the Pentagon by Veterans
 00:57:27 3 Association to represent the hospitality
 00:57:29 4 state. Everybody knows me. I'm not here
 00:57:33 5 to jeopardize our relationship. I have a
 00:57:34 6 producer that wants to do a movie with me
 00:57:36 7 to instill this vision. So, please, step
 00:57:38 8 forth and introduce yourself
 00:57:39 9 appropriately. And I do have
 00:57:41 10 recognition; and I do have angel
 00:57:45 11 investors; and I do have a VB contract
 00:57:47 12 for educating veteran-employed disabled
 00:57:49 13 community. Thank you for your attention
 00:57:49 14 and cooperation with the address for this
 00:57:51 15 family-oriented opportunity.

MR. WASHER:

Anyone else speaking in favor?

MR. CARNEY:

Good afternoon. Leroy Carney. I
 am a resident of East Biloxi. I am here
 on another matter. I did not know the
 issue with the Mayor and Blessey was on
 the docket today.

I am glad that the Mayor sees
 this and others that is we need some

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00:58:18 1 other type of attraction other than
 00:58:20 2 casinos, because as he said, the revenue
 00:58:24 3 from the declining and the talk about the
 00:58:26 4 state lottery. So every time there is
 00:58:28 5 something else like that comes along it
 00:58:31 6 is going to hurt the industry here. So
 00:58:33 7 we need to be forward-thinking about
 00:58:36 8 other ideas that is going to bring
 00:58:39 9 citizens, more citizen to this area. And
 00:58:45 10 I am just tickled pink that they are
 00:58:46 11 trying to do this. That is an awful lot
 00:58:50 12 of land to be designated for casinos
 00:58:53 13 only. If you look at the total
 00:58:54 14 population of Biloxi that is a lot of
 00:58:58 15 land that's designating for casinos only.
 00:59:00 16 I would hope you all would about it and
 00:59:03 17 do what is necessary to make Biloxi grow.
 00:59:07 18 Thank you.

MR. WASHER:

Thank you, Mr. Carney. We did
 get a couple letters provided to us late
 today. This may have been included in
 Mr. Blessey's presentation. We have a
 statement from Peak Managers, eight
 casino GMs in support of what the City is

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00:59:25 1 requesting and also has a resolution from
00:59:28 2 the Biloxi Businessmen's Club in support
00:59:30 3 of the City's request.

00:59:30 4 If no one else is speaking in
2 5 favor, we ask is there anyone speaking in
00:59:33 6 opposition?

00:59:34 7 MS. ABIDE:

00:59:34 8 I want to speak in favor. Hey, I
00:59:45 9 am Jenny Abide and I am a realtor here in
00:59:51 10 Downtown Biloxi. And I am so in favor of
00:59:53 11 this proposal. I think it will be great
00:59:56 12 for Biloxi. I sell a lot of houses
01:00:01 13 Downtown and a lot of them to young
01:00:02 14 professionals, young singles that are
01:00:03 15 just moving in. They are coming back to
01:00:03 16 the area. And that is what I hear, that
01:00:05 17 we need more things that families can do.
01:00:08 18 And I would like for y'all to consider
01:00:11 19 that. Thank you.

01:00:21 20 MR. WASHER:

01:00:21 21 Mr. Dyal.

01:00:21 22 MR. DYAL:

01:01:22 23 Good afternoon, my name is
01:02:32 24 Jonathan Dyal, 1310 25th Avenue, with
01:02:35 25 Balch & Bingham in Gulfport, Mississippi.

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01:02:39 1 I am here today on the behalf of
01:02:41 2 the State of Mississippi and on behalf of
01:02:43 3 all citizens of the State of Mississippi
01:02:45 4 including you. And I just want to
01:02:47 5 clarify some of the misconceptions that
01:02:50 6 are out there. And I want to try to show
01:02:52 7 you what we are talking about about the
01:02:54 8 map. If you look at the map, everything
01:02:57 9 south of Highway 90 is Waterfront in this
01:03:01 10 area. Can I also move around with this
01:03:06 11 thing?

01:03:06 12 There are a couple of
01:03:08 13 misconceptions that I heard and I want to
01:03:18 14 make sure everybody understands. The
01:03:21 15 State of Mississippi is not against
01:03:23 16 family-oriented activities. In fact,
01:03:27 17 there are family-oriented activities
01:03:29 18 going on on Waterfront property right
01:03:30 19 now. There are hotels. There are
01:03:33 20 restaurants. That is going on on
01:03:35 21 Highway 90 South. And we have that right
01:03:38 22 now with the wonderful project called
23 Margaritaville. That is not the issue.

01:03:42 24 The issue is that we have been in
01:03:48 25 litigation, the State of Mississippi was

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01:03:49 1 sued about 18 years ago. And that
01:03:52 2 litigation, we won it in about May, and
01:03:56 3 it was fighting with the developer called
01:03:59 4 Biloxi Lodging or Barrington as you know
01:04:02 5 it.

01:04:04 6 Barrington transferred property
01:04:05 7 to Biloxi Lodging and we were in a
01:04:08 8 lawsuit with Barrington and its
01:04:12 9 predecessors for almost 18 years; and
01:04:13 10 that is these two lots. That litigation
01:04:16 11 was resolved in favor of the State in May
01:04:18 12 of this year. We immediately or right
01:04:23 13 before the dismissal, we had a situation
01:04:26 14 where Barrington/Biloxi Lodging sued the
01:04:32 15 State again. Instead of requesting just
01:04:34 16 K and L as ownership they want 157 feet
01:04:38 17 at the north end. So we have that
01:04:40 18 litigation going right now and that is
01:04:42 19 part of the problem.

01:04:43 20 We came to a situation where we
01:04:51 21 thought in August we were getting close
01:04:51 22 to a resolution, August 26th. A
01:04:52 23 resolution was made to resolve this
01:04:55 24 litigation that was going on. The next
01:04:57 25 thing we knew we got notice on

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01:04:59 1 September 15th that an application had
01:05:04 2 come before the Commission to rezone this
01:05:07 3 property. And that is what we have been
01:05:09 4 working on trying to resolve with this
01:05:12 5 litigation that has been going on for
01:05:15 6 18 years. It was not Biloxi Lodging and
01:05:18 7 Barrington that had this litigation, it
01:05:19 8 was the predecessors. They took over
01:05:23 9 when they bought the property. SO we had
01:05:25 10 this going on and tried to get a
01:05:27 11 resolution. And that is what has, I
01:05:29 12 guess, hampered the ability is when we
01:05:31 13 had the September 15th hearing where we
01:05:33 14 were not notified of it and a decision
01:05:35 15 was made to rezone this out of Waterfront
01:05:39 16 into Community Business.

01:05:41 17 The reason I bring that up is I
01:05:43 18 just wanted to give you the basis for
01:05:44 19 what is taking so long and we were this
01:05:47 20 close to getting that resolved. So I
01:05:50 21 want to bring up the differences, if you
01:05:52 22 would.

01:05:56 23 In Waterfront District, the way
01:05:59 24 it is currently zone and in Community
01:06:02 25 Business the way the City of Biloxi has

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01:06:04 1 filed a new application for a hearing
 01:06:05 2 today you can have restaurants. There is
 01:06:09 3 no difference. You can have them under
 01:06:13 4 either designation. You can have hotels
 / 5 under either designation. You can have
 01:06:20 6 shops. And more importantly, you can
 01:06:21 7 have entertainment uses, the
 01:06:23 8 family-oriented uses that are currently
 01:06:27 9 ongoing at the Margaritaville property
 01:06:29 10 south of Highway 90. You can have that
 01:06:32 11 west of there. It can be with the new
 01:06:34 12 developer or with anyone else, but it can
 01:06:37 13 be under the Waterfront designation. You
 01:06:37 14 did not have to rezone in order to allow
 01:06:42 15 that to happen. Rezoning is a drastic
 01:06:46 16 step. You are lowering it from the best
 01:06:47 17 and highest use to something that's
 01:06:49 18 lesser to do the same thing; restaurants,
 01:06:52 19 hotels, shops, entertainment uses. I sat
 01:06:55 20 here and I heard people talk about we
 01:06:55 21 need more family-oriented attractions.
 01:06:59 22 We agree. We are not fighting over that.
 01:07:02 23 You can do it under either zoning. You
 01:07:06 24 don't lower it to have that happen.
 01:07:08 25 The difference is under

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01:08:10 1 Waterfront development; that means the
 01:08:11 2 other activities occurring on the water.
 01:08:14 3 Where if you go to Community Business
 01:08:15 4 District you must ensure that it is
 01:08:18 5 compatible to surrounding areas. You are
 01:08:21 6 lowering what you can do from the water
 01:08:24 7 to the land.
 01:08:25 8 You can have water-oriented
 01:08:28 9 facilities permitted in the Waterfront
 01:08:29 10 District; whereas under the Community
 01:08:31 11 Business District it is eliminated.
 01:08:33 12 These are the big differences of
 01:08:35 13 what the City of Biloxi is asking you to
 01:08:38 14 do. They are asking you to potentially
 01:08:40 15 change this from Waterfront to Community.
 01:08:43 16 Next slide please. I will make
 01:08:46 17 my legal argument, so bear with me, but I
 01:08:50 18 have got to preserve the record. Okay.
 01:08:51 19 I told you the State of
 01:08:53 20 Mississippi is in negotiations with
 01:08:55 21 developers. They are doing that. But I
 01:08:58 22 have got to preserve it for today and
 01:09:00 23 that is the only reason I am going to go
 01:09:02 24 through this so I bore you to death doing
 01:09:02 25 this.

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01:07:08 1 Waterfront you can potential have gaming
 01:07:13 2 and you cannot under Community Business
 01:07:13 3 District. Go ahead.
 01:07:16 4 The other big difference under
 01:07:19 5 Waterfront District you have 175 feet
 01:07:22 6 height limit, whereas under Community
 01:07:25 7 Business District only 60-foot height
 01:07:27 8 limit. So it limits who you can
 01:07:30 9 negotiate with and what you can
 01:07:33 10 potentially put on that property. Yes, a
 01:07:35 11 developer can come in and say I need
 01:07:37 12 95 feet to build my restaurant and you
 01:07:40 13 give a variance. You don't have to do
 01:07:42 14 that under Waterfront District. You
 01:07:45 15 already have the right to build that.
 01:07:46 16 What the potential developer is
 01:07:48 17 wanting to do west of the property, they
 01:07:51 18 need those height limits. They are
 01:07:53 19 potentially putting up a 200-foot Ferris
 01:07:58 20 wheel. They are planning on building
 01:07:59 21 another hotel. All that can be done
 01:08:00 22 under Waterfront District as it is
 2 23 currently designated.

Under Waterfront it must
 compliment and be compatible with working

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01:09:04 1 There is limited jurisdiction of
 01:09:05 2 municipalities or state land that is the
 01:09:10 3 Public Trust Tidelands. You can only
 01:09:13 4 change it for public safety reasons or
 01:09:15 5 for elimination of a public nuisance.
 01:09:18 6 And I've heard nothing today that there
 01:09:21 7 were any public safety issues with any of
 01:09:23 8 the property south of Highway 90. And
 01:09:25 9 let me take a step back. We are not
 01:09:27 10 talking about -- we are not debating or
 01:09:31 11 objecting, as my good friend Mr. Blessey
 01:09:33 12 said, of Parcel B for property that is
 01:09:37 13 north of Highway 90. Feel free. Rezone
 01:09:41 14 that. We do not have a dog in that hunt.
 01:09:42 15 That is the area right there where the
 01:09:45 16 laser is pointing, that is Parcel B. We
 01:09:49 17 have no objection to that.
 01:09:50 18 What is in pink, the Waterfront
 01:09:52 19 area to the South, do not redesignate
 01:09:55 20 that. That is a lower designation to
 01:09:57 21 Community Business. And what our point
 01:10:00 22 was is you can only in our opinion
 01:10:02 23 legally do it if it is a matter of public
 01:10:06 24 safety or elimination of a public
 01:10:09 25 nuisance and neither one of those exists.

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01:10:11 1 While reasonable zoning
 01:10:12 2 restrictions aimed at public safety may
 01:10:16 3 be enforced, a municipality and/or county
 01:10:19 4 may not enact an Ordinance that would
 5 have an effect prohibiting the state
 01:10:29 6 agency from fulfilling its statutory
 01:10:30 7 obligations. And that goes to the fact
 01:10:30 8 it's a legal argument that the State of
 01:10:32 9 Mississippi and the Secretary of State is
 01:10:32 10 in charge of the Public Trust Tidelands
 01:10:36 11 and he is trying to protect that not only
 01:10:38 12 for the state but for each one of you.

01:10:41 13 Let me talk to you about this
 01:10:44 14 property that we looked at right here.
 01:10:45 15 This is Exhibit 2. This is all in your
 01:10:45 16 notebook. By the way, you have the map
 01:10:50 17 as Exhibit 1 and the comparison chart as
 01:10:50 18 Exhibit 2. Show them where
 01:10:52 19 Margaritaville is right now. This
 01:10:58 20 property right here, right now it is
 01:11:01 21 under Waterfront; it is for
 01:11:11 22 family-oriented activities and they are
 01:11:11 23 paying \$4.90 per square foot for the
 01:11:11 24 property right now south of Highway 90.
 01:11:14 25 That is money that goes to you, not to

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01:11:17 1 the State of Mississippi, Public Trust
 01:11:19 2 Tidelands. The money goes back to the
 01:11:22 3 three coastal counties and the citizens
 01:11:25 4 those counties to be used for the public.
 01:11:28 5 That is \$4.90 a square foot.

01:11:34 6 When we got the application -- if
 01:11:36 7 you would bring up the next slide. Let's
 01:11:39 8 do spot zoning first. Spot zoning,
 01:11:42 9 another legal argument, where a Zoning
 01:11:44 10 Ordinance is amended, reclassifying one
 01:11:47 11 or more tracts of lots for a use that is
 01:11:51 12 prohibited by the original zoning
 01:11:53 13 ordinance and out of harmony with the
 01:11:55 14 current zoning.

01:11:57 15 I would suggest to you that if
 01:11:57 16 you try to rezone what is in those dark
 01:12:00 17 circles there, south of Highway 90
 01:12:03 18 Waterfront, you are doing what is called
 01:12:05 19 spot zoning and you are potentially
 01:12:07 20 trying to rezone for a particular
 01:12:08 21 developer.

01:12:11 22 Rezoning has been invalidated
 01:12:20 24 where it was designed to favor someone in
 01:12:23 25 particular. The current Margaritaville I
 Hotel is Waterfront, family

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01:12:24 1 entertainment. We talked about that.
 01:12:24 2 The proposed Margaritaville II Hotel
 01:12:27 3 should stay Waterfront at family
 01:12:31 4 entertainment.

01:12:31 5 The simple solution if you
 01:12:33 6 disagree with what I'm saying on this is
 01:12:35 7 grant them a variance. You keep it
 01:12:39 8 Waterfront and grant a variance if you
 01:12:40 9 don't think that what they are trying to
 01:12:41 10 put there is permitted you grant a
 01:12:45 11 variance but you keep it Waterfront.
 01:12:47 12 That is the and highest use. If you can
 01:12:51 13 can you blow that up.

01:13:15 14 If you could, see up there there
 01:13:16 15 is a chart up here, it is all in your
 01:13:19 16 book, and you have got it in front of
 01:13:20 17 you. You can read through this later if
 01:13:23 18 you would like. But there is a -- bottom
 01:13:27 19 right-hand corner, Point Cadet, please.
 01:13:32 20 This is Exhibit 20 in your book. But you
 01:13:38 21 can see it. If you look down in the
 01:13:39 22 right-hand corner you see Point Cadet
 01:13:42 23 here. Everything south of Highway 90 is
 01:13:44 24 pink; it is Waterfront. If you take and
 01:13:47 25 try to change this one area for this one

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01:13:50 1 development it is called spot zoning.
 01:13:52 2 And I take -- we have to appeal to the
 01:13:55 3 City Council and then have to appeal from
 01:13:58 4 there if you are trying to change
 01:13:59 5 something south of Highway 90. So that
 01:14:01 6 is why we are agreeing with Mr. Blessey.
 01:14:04 7 Let us keep working with the developers
 01:14:07 8 and let us keep working on negotiating
 01:14:08 9 what is right; okay, and table any
 01:14:10 10 decisions for any of the property that's
 01:14:11 11 south of Highway 90. Am I going to fast?

12 COURT REPORTER:

13 No. I'm fine.

14 MR. DYAL:

15 Okay. I've been told I go too
 16 fast.

01:14:10 17 If you would please bring up the
 01:14:19 18 next slide. So you have the first one we
 01:14:26 19 talked about had to be public safety or a
 01:14:29 20 nuisance and we don't believe that works.
 01:14:32 21 We have got the zoning, we call spot
 01:14:34 22 zoning. Then there is an additional
 01:14:38 23 third test the state has that we need to
 01:14:39 24 be able to bring out from a legal
 01:14:41 25 standpoint.

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01:14:41 1 There is no mistake in the
 01:14:44 2 current original zoning. It was zoned, I
 01:14:46 3 think Mr. Blessey said, in the early
 01:14:47 4 1980s. There was no mistake in the
 01:14:52 5 zoning south of Highway 90 Waterfront. I
 01:14:54 6 have not heard anything about that.
 01:14:57 7 So the next test, I think we
 01:14:59 8 heard testimony on today or just argument
 01:15:01 9 about or discussion, was the character of
 01:15:06 10 the neighborhood has not changed. I
 01:15:08 11 believe one of the two prompts here --
 01:15:09 12 put up the second one. The character of
 01:15:09 13 the neighborhood has not changed.
 01:15:11 14 I heard some comments about how
 01:15:14 15 we have the Ohr-O'Keefe Museum and the
 01:15:19 16 Maritime Seafood Museum. I will suggest
 01:15:21 17 to you -- I am from Wiggins and I live in
 01:15:25 18 Gulfport. I come to Biloxi as lot and I
 01:15:28 19 spend a lot of money in your town. I can
 01:15:30 20 tell you from my experience the museum
 01:15:31 21 was built back in exactly the same spot.
 01:15:35 22 The character has not changed since it
 01:15:38 23 has been built back. The Ohr-O'Keefe
 01:15:40 24 Museum, great thing, great family
 01:15:41 25 attraction too. But it was built, I

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01:16:45 1 developer. You have to understand we
 01:16:48 2 have been negotiating through litigation
 01:16:54 3 and August 26th we got an offer and were
 01:16:57 4 working through that when we got notice
 01:16:57 5 of the September 15th hearing. We got
 01:17:01 6 notice after it happened. So what it
 01:17:03 7 does if we go from Waterfront to
 01:17:06 8 Community Business it forces us as a
 01:17:09 9 state and on your behalf to go negotiate
 01:17:13 10 with one person at one price. It should
 01:17:15 11 be the \$4.90 they are currently paying us
 01:17:19 12 south of Highway 90.
 01:17:21 13 Mr. Blessey made some comments
 01:17:23 14 about -- I believe it is called The Great
 01:17:27 15 Lawn, where it's \$2.00 a foot, that is
 01:17:28 16 property to the west that is not being
 01:17:30 17 used. We are talking about property that
 01:17:33 18 is going to be used like the current
 01:17:38 19 Margaritaville uses our public tidelands
 01:17:39 20 at \$4.90 a foot. That is property that
 01:17:41 21 is used for family entertainment; that is
 01:17:44 22 what we are trying to get for the Public
 01:17:47 23 Trust Tidelands. It is up to the
 01:17:48 24 developer, not the City of Biloxi to file
 01:17:52 25 the application, but the developer. The

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01:15:43 1 believe, close to where the old Tullis
 01:15:46 2 Manor used to be. We used to go and have
 01:15:47 3 picnics there and have a good time. It
 01:15:49 4 was built there.
 01:15:49 5 The character south of
 01:15:51 6 Highway 90, where we are talking about,
 01:15:52 7 Point Cadet, has not changed. It has
 01:15:54 8 been the same. So you can't change
 01:15:57 9 something when the character of that
 01:15:59 10 neighborhood has not changed.
 01:15:59 11 Here is the second point. There
 01:16:04 12 is no evidence of a public need for one
 01:16:07 13 developer exclusively. We like
 01:16:11 14 Margaritaville, the State does. We'd
 01:16:13 15 like to be able to have the appraisal
 01:16:17 16 done that we stated. It takes 4 to 6
 01:16:20 17 weeks. And understand we have been in
 01:16:23 18 litigation for 18 years, not just with
 01:16:28 19 the developer but with their
 01:16:28 20 predecessors. We finally won in May and
 01:16:31 21 then a new lawsuit was filed. So we
 01:16:34 22 believed that when we got this notice on
 01:16:40 23 September 15th that a hearing had been
 01:16:40 24 held in our absence that this was a way
 01:16:43 25 to force us to negotiate with one

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01:17:53 1 developer has a change and they want to
 01:17:54 2 change this from Waterfront to Community
 01:17:57 3 Business. They have to identify how the
 01:18:00 4 neighborhood has changed and what that
 01:18:08 5 public need is.
 01:18:09 6 I have not heard the developer
 01:18:08 7 get up here and ask for this to be
 01:18:08 8 rezoned. I would suspect that the
 01:18:08 9 developer does not want this to be
 01:18:13 10 rezoned. We talked about the
 01:18:12 11 restrictions. Okay. I don't know what
 01:18:14 12 they will say or won't say, but I am
 01:18:16 13 telling you I have not heard the
 01:18:19 14 developer file this petition requesting
 01:18:21 15 you to rezone south of Highway 90.
 01:18:24 16 We have the three arguments
 01:18:26 17 legally and the fourth argument, failure
 01:18:29 18 to follow procedure. If there are
 01:18:31 19 multiple owners on a piece of property
 01:18:33 20 they have to file the application; that
 01:18:35 21 is one of your requirements, not ours.
 01:18:38 22 The owners of the property did
 01:18:40 23 not file this application asking for this
 01:18:43 24 to be rezoned, the City did. The
 01:18:46 25 developer did not sign the application

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01:18:48 1 with the City. And if you go to Parcel
 01:18:50 2 Z, this is the property between the
 01:18:54 3 current Margaritaville and Golden Nugget.
 01:19:55 4 We are working with Mr. Blessey and with
 / 5 the City to negotiate with the Golden
 01:19:01 6 Nugget as joint owners of this particular
 01:19:03 7 parcel, the only one south of Highway 90.
 01:19:06 8 Go ahead. And we did not join in the
 01:19:09 9 petition to have it rezoned. We are one
 01:19:10 10 of the two owners. We did not even know
 01:19:13 11 about it until September 15th when we
 01:19:14 12 heard about it in the news. Okay. It
 01:19:16 13 was nobody's fault. What happened on
 01:19:19 14 that last year, I agreed with Mr.
 01:19:21 15 Blessey. We figured out why we did not
 01:19:24 16 get notices because we were not listed as
 01:19:28 17 tax parcels. Okay. But when we got the
 01:19:26 18 news that night it is Secretary Hosemann
 01:19:33 19 is against family-oriented things. We
 01:19:36 20 said we are not against that. We went
 01:19:30 21 and had a meeting with the City of Biloxi
 01:19:40 22 and we sat down with the Mayor, with
 01:19:43 23 several attorneys on the City of Biloxi
 01:19:45 24 side and tried to work through these
 01:19:47 25 issues. We get a letter back on October

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01:20:54 1 since 1980s has been Waterfront and it
 01:20:57 2 always has been south of Highway 90.
 01:21:01 3 Like I said, we are not objecting north.
 01:21:02 4 If we were to take the \$2.00 that is
 01:21:03 5 currently on the table for property with
 01:21:07 6 one developer instead of getting an
 01:21:10 7 appraisal and putting the property out to
 01:21:13 8 see who else might want to try to lease
 01:21:15 9 this property and picking the best one,
 01:21:18 10 okay? It is financially feasible to pay
 01:21:23 11 us for the next 40 years. This is a
 01:21:25 12 serious position. You are talking about
 01:21:28 13 40 years and trying to enter a Public
 01:21:30 14 Trust Tidelands lease with someone.
 01:21:33 15 You've got to be able to make sure they
 01:21:34 16 can pay and make sure it is a good
 01:21:37 17 project. You've got to do your homework.
 01:21:37 18 If you take the \$2.00 and not the \$4.90
 01:21:40 19 where this property should be paid at
 01:21:42 20 somewhere in there and the appraisal will
 01:21:45 21 tell us in 4 to 6 weeks. You would lose
 01:21:49 22 26.6 million over 40 years. I've got the
 01:21:49 23 calculations. It is \$4.90 per square
 01:21:55 24 foot minus the \$2.00 per square foot
 01:21:55 25 times the acres, we ar talking about 5.8

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01:19:54 1 12th and it says Delbert is for casinos,
 01:19:56 2 Delbert is for this, and the State is for
 01:19:57 3 this. And we have been quiet. We have
 01:19:59 4 not responded to this. I thought we were
 01:20:02 5 above board with this. We get all these
 01:20:05 6 letters and then yesterday it was a
 01:20:07 7 tipping point. Enough was enough. An
 01:20:11 8 editorial came out from Sun Herald
 01:20:13 9 yesterday morning blasting the State of
 01:20:15 10 Mississippi for not agreeing to
 01:20:17 11 family-oriented activities and a press
 01:20:20 12 conference was held yesterday.
 01:20:23 13 Secretary Hosemann came down and
 01:20:24 14 expressed that we have been working with
 01:20:27 15 the developer. And, by the way, we met
 01:20:29 16 with them yesterday trying to work
 01:20:30 17 through these issues. But you can't put
 01:20:32 18 our hands behind our back to try to
 01:20:35 19 rezone something to a lesser amount and
 01:20:38 20 then try to expect us to get you more
 01:20:40 21 than \$2.00 a square foot. It is hard to
 01:20:42 22 do that when you negotiate with one.

So I want to tell you kind of
 some solutions for this. Five points or
 six points. The highest and best use

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01:22:00 1 acres, which is the square footage, times
 01:22:00 2 40 years comes out to \$26,674,000. The
 01:22:08 3 State cannot leave that money on the
 01:22:10 4 table if we go against what his
 01:22:12 5 obligation is to the Public Trust
 01:22:14 6 Tidelands.

If you would, Mr. Blessey, I am
 not taking a shot at the City because I
 do love the City of Biloxi, but by
 rezoning it forces us to negotiate with
 that one developer and we can't do that.

The Planning Commission can grant
 a variance to current Waterfront for any
 non-gaming us. It did so for
 Margaritaville I. Y'all were granted
 that for Margaritaville I. They were not
 in compliance with the current
 Waterfront.

Ultimate market price needs to be
 made by a public bid in an open forum
 based on Waterfront zoning. That is all
 we are asking. If Barrington and Biloxi
 Lodging come to the table and they are
 the only bidder and they have the best
 bid out there after the appraisal has

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01:22:59 1 been done and after it has been marketed,
 01:23:00 2 great. Secretary Hosemann and the State
 01:23:01 3 of Mississippi is going to enter that
 01:23:04 4 because that is what the market will
 4 5 bare.

01:23:06 6 I heard a developer talk today
 01:23:09 7 about the market. We need to first
 01:23:11 8 advertise the property, have any bids,
 01:23:14 9 and give it to the highest and best use
 01:23:17 10 to whoever is going to pay for that. It
 01:23:20 11 is not \$2.00 being forced on us. It has
 01:23:23 12 got to be whatever that market will bare.

01:23:27 13 If you would go to the last one.
 01:23:28 14 When that property is up for public bid,
 01:23:31 15 based on the highest and best use, every
 01:23:34 16 citizen knows that the decision was made
 01:23:36 17 by the actual market. At the end of the
 01:23:40 18 day I do believe that our good friends
 01:23:40 19 that developed Margaritaville, I am
 01:23:43 20 talking about Biloxi Lodging and
 01:23:44 21 Barrington, the ones we are working with.
 01:23:45 22 I do believe they may end up getting it
 01:23:48 23 at the end. We may be able to have a
 01:23:53 24 negotiation once an appraisal comes out.
 01:23:55 25 But to rezone it and force us to

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01:24:50 1 we got the best price for you. That is
 01:24:54 2 all we are asking. So we would ask to
 01:24:56 3 you continue that.

01:24:57 4 Let me make sure I have any other
 01:25:00 5 comments that I heard. Salt Grass
 01:25:04 6 Restaurant. We have agreed with the City
 01:25:07 7 of Biloxi to go to Golden Nugget and
 01:25:10 8 negotiate for the Salt Grass Restaurant.
 01:25:12 9 You don't have to have a rezoning for
 01:25:15 10 that to occur. Restaurants are allowed
 01:25:17 11 for the current zoning. Of course that
 01:25:19 12 is south of Highway 90. Let me see if I
 01:25:22 13 heard anything else.

01:25:28 14 One thing I heard, I keep hearing
 01:25:33 15 in the paper -- we did not respond to
 01:25:33 16 yesterday -- a million visitors, 700 new
 01:25:37 17 jobs, 28 to 30 million in gross sales. I
 01:25:41 18 need to see that in writing. I've heard
 01:25:44 19 that in the paper. I heard people say
 01:25:45 20 that. I have not seen a plan that says
 01:25:47 21 that yet. Okay. I want to see that and
 01:25:48 22 make sure that when we negotiate we are
 01:25:51 23 seeing something in writing that has got
 01:25:52 24 a projection of all of this we are
 01:25:55 25 hearing since September 15th. Okay. So

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01:23:55 1 negotiate with our hands tied behind our
 01:23:58 2 back is not fair. It is not fair to the
 01:24:00 3 State, it is not fair to you and every
 01:24:02 4 citizen here.

01:24:02 5 All we are asking -- and I agree,
 01:24:02 6 Mr. Blessey and I five minutes before we
 01:24:05 7 walked in we agreed to hopefully that you
 01:24:14 8 will continue, keep the record open, put
 01:24:14 9 it on your next docket a month from now
 01:24:14 10 and if we have not been able to resolve
 01:24:14 11 -- you know, we might not have the
 01:24:16 12 appraisal in quite yet, might have to put
 01:24:16 13 it two months, but give us time to
 01:24:19 14 continue to negotiate and have this as an
 01:24:23 15 open public bid and the highest best use,
 01:24:25 16 so that everybody knows this is above
 01:24:27 17 board. Okay. That is what he meant by
 01:24:29 18 that. That is what Secretary Hosemann
 01:24:32 19 yesterday -- he may have not come across
 01:24:33 20 right because, you know, WLOX they like
 01:24:37 21 to make me look fatter than I really am,
 01:24:42 22 okay. I am a big boy, okay. But I am
 23 just letting you know it didn't come
 01:24:47 24 across like I think it could have. And
 01:24:48 25 that is let's make sure everybody knows

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01:25:37 1 we are taking our time and making our due
 01:25:59 2 diligence to make sure we have the right
 01:26:02 3 price; make sure that we have to facts to
 01:26:03 4 support this.

01:26:04 5 Ms. Humphries, you asked a great
 01:26:06 6 question at the end of the September 15th
 01:26:09 7 thing. "What is going to go on this
 01:26:11 8 property?" And I thought that was a
 01:26:12 9 great question when I was reading through
 01:26:14 10 it. And then that night it came out that
 01:26:16 11 it may be an extension of the current
 01:26:19 12 development. And I think we just take
 01:26:21 13 our time, take a deep breath, give us
 01:26:24 14 time to negotiate and everyone time to
 01:26:28 15 see the appraisals and to see what the
 01:26:30 16 highest and best use is for this property
 01:26:33 17 then we can get this resolved in a public
 01:26:36 18 open forum -- let's go to the last
 01:26:40 19 slide -- where every citizen knows that
 01:26:45 20 the division was made by the actual
 01:26:48 21 market.

01:26:50 22 I will take questions. I'm sure
 01:26:51 23 people want to tell me to go back to
 01:26:54 24 Gulfport.
 01:26:54 25

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01:28:54 1 (Secretary of State Exhibit 14,
 01:28:54 2 1 through 20 were marked for
 01:28:54 3 identification by the court reporter and
 01:28:55 4 said exhibits are attached hereto.)
 01:28:55 5 MR. WASHER:
 01:28:55 6 Any questions of members of the
 01:28:57 7 Commission of Mr. Dyal?
 01:28:57 8 MR. CARRON:
 01:28:57 9 How much are they getting a
 01:28:57 10 square foot now?
 01:28:57 11 MR. DYAL:
 01:27:06 12 Right now \$4.90 per square foot
 01:27:02 13 for the property we are talking about
 01:27:05 14 right here. Just the tidelands part.
 01:27:11 15 See you have the hotels built there and
 01:27:13 16 that is built on their private property
 01:27:15 17 they built years ago.
 01:27:18 18 MR. CARRON:
 01:27:18 19 What about the other ones?
 01:27:20 20 MR. DYAL:
 01:27:20 21 Right here? We are not getting
 01:27:23 22 anything right now. That is what we've
 01:27:25 23 been in 18 years of litigation over. We
 01:27:28 24 got sued for these two parcels up here
 01:27:30 25 and that is your access into all this.

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01:28:32 1 your binder. And there was a warranty
 01:28:35 2 deed from Barrington to Biloxi Lodging
 01:28:35 3 back in January of this year. And they
 01:28:39 4 tried to transfer the top portion of this
 01:28:42 5 property K and L. We won the lawsuit and
 01:28:46 6 the new lawsuit was filed. So that is
 01:28:46 7 what we are trying to resolve is the top
 01:28:52 8 147 feet of K and L right here with
 01:28:55 9 Biloxi Lodging now, which Barrington
 01:28:58 10 transferred to Biloxi Lodging. If you
 01:29:02 11 look at 7, 8 and 9 it's in your book.
 01:29:02 12 I want to go through the exhibits
 01:29:02 13 real quick and I will sit down.
 01:29:04 14 You have September 22nd we had to
 01:29:07 15 file the appeal letter when we did not
 01:29:09 16 have notice and understand that.
 01:29:10 17 Number 11 is where the new
 01:29:12 18 hearing was set for today.
 01:29:14 19 Number 12 is the order where we
 01:29:17 20 won that case back in May and it became
 01:29:17 21 final, by the way.
 01:29:21 22 Number 13 is the new complaint
 01:29:23 23 that I have been telling you about.
 01:29:25 24 Everything I am telling you is in the
 01:29:27 25 notebook. Read it and call me if you

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01:27:32 1 Okay. And we had to fight for 18 years,
 01:27:35 2 not necessarily with Biloxi Lodging or
 01:27:38 3 Barrington, but their predecessors. They
 01:27:41 4 are the ones that filed suit against us
 01:27:42 5 18 years ago. I think it was called
 01:27:44 6 Biloxi Casino Corp. And then when they
 01:27:47 7 would transferred it to somebody they
 01:27:49 8 would keep going with the lawsuit. So we
 01:27:50 9 have fought and so I finally won that.
 01:27:52 10 The Courts of Mississippi finally ruled
 01:27:54 11 in the State's favor that we own -- that
 01:28:00 12 they cannot -- that their lawsuit should
 01:28:02 13 be dismissed. Let's try it like that.
 01:28:02 14 So they re-filed and don't want the whole
 01:28:08 15 parcel now. Now they want the top
 01:28:09 16 147 feet. That is one of the issues we
 01:28:11 17 are trying to resolve because we need
 01:28:14 18 access down to this property. So I hope
 01:28:14 19 I answered your question.
 01:28:15 20 Let me make sure I clarify. The
 01:28:19 21 developer for the Margaritaville Hotel is
 01:28:21 22 Biloxi Lodging/Barrington and it is in
 01:28:23 23 your documents where Barrington
 01:28:30 24 Development has corporate documents and
 01:28:31 25 you've got Biloxi Lodging, No. 7 and 8 of

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01:29:29 1 have questions. I don't know that I can
 01:29:32 2 do that, talk to you. Go through Peter
 01:29:35 3 Abide and he'll call me.
 01:29:37 4 Then we get the letter from Mayor
 01:29:39 5 Gilich after our meeting on October 6th.
 01:29:40 6 And then we had our letter back on
 01:29:44 7 October 19. And these are articles
 01:29:46 8 related to what was going to go on today.
 01:29:48 9 And then you got the Sun Herald articles
 01:29:52 10 that are going and blasting at one point.
 01:29:53 11 But I have to tell you I thought they did
 01:29:58 12 a great job yesterday once the facts came
 01:29:59 13 out and once we explained this -- I think
 01:30:01 14 that is part of the problem we have not
 01:30:04 15 been able to voice our opinion or the
 01:30:06 16 facts yet. I thought the Sun Herald did
 01:30:09 17 a great job yesterday of restating the
 01:30:11 18 facts. Okay.
 01:30:12 19 You have the Covacevich
 01:30:15 20 Settlement Agreement if you want to look
 01:30:17 21 at what we own with the City of Biloxi at
 01:30:19 22 50 percent. Then you have the area map.
 01:30:20 23 Inside the cover I gave you the
 01:30:22 24 case law, the Attorney General Opinion
 01:30:31 25 for the legal stuff that I have been

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01:30:31 1 telling you about. Okay. I am putting
 01:30:31 2 that in the record and have got to
 01:30:31 3 preserve the record.
 01:30:31 4 She is smiling because she has
 01:30:34 5 had cases with me. For 18 years I have
 01:30:34 6 been practicing law. I worked for Judge
 01:30:37 7 Walter Gex, III, here in the City of
 01:30:40 8 Biloxi for three years at your federal
 01:30:40 9 court house. Came to work everyday. Ate
 01:30:42 10 in Biloxi every day and spent my money in
 01:30:44 11 Biloxi every day. Loved it. Judge Gex
 01:30:48 12 was a great man. And I've been with
 01:30:49 13 Balch & Bingham for the last 15 years and
 01:30:49 14 I think it is a great firm for the Gulf
 01:30:53 15 Coast, the entire Mississippi Gulf Coast.
 01:30:55 16 Not Gulfport or Biloxi or Pass Christian
 01:30:55 17 or Bay St. Louis, but for everybody.
 01:30:58 18 Okay. And that is what we are here to do
 01:31:01 19 is represent everybody. And all we are
 01:31:03 20 asking is that do you continue -- go
 01:31:05 21 ahead and grant Parcel B and please
 01:31:10 22 continue A and C to your next hearing or
 01:31:13 23 maybe the following one depending on the
 01:31:15 24 appraisals.

Any other questions?

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01:32:04 1 brought too. As you can see, it is not
 01:32:05 2 continuous with this property we are
 01:32:06 3 talking about. It is over in front of
 01:32:09 4 Harrah's.
 01:32:09 5 MR. WASHER:
 01:32:09 6 So it has always been \$2.00 a
 01:32:12 7 square foot?
 01:32:13 8 MR. DYAL:
 01:32:13 9 As far back as I can see and can
 01:32:15 10 understand. I have only been
 01:32:18 11 representing the State of Mississippi for
 01:32:18 12 about a year and-a-half now. As far as I
 01:32:20 13 researched I believe those two little
 01:32:21 14 parcels have been \$2.00 a square foot
 01:32:21 15 there. And it may have been because --
 01:32:21 16 if you give me a minute I can clarify --
 01:32:24 17 but it may have been because of the
 01:32:25 18 bankruptcy. And I want to make sure I
 01:32:28 19 answered your question.

Let me try to explain it. We
 were getting \$4.85 from the old
 Margaritaville. And I don't want to get
 it confused, but the old Margaritaville
 Casino slab that is built out of the
 ground that went away and took a lot of

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01:31:16 1 MR. WASHER:
 01:31:18 2 You said the adjoining property,
 01:31:18 3 The Great Lawn, is at \$2.00 a square
 01:31:24 4 foot?
 01:31:24 5 MR. DYAL:
 01:31:24 6 It is not even on the map here.
 01:31:24 7 It is over here in front of Harrah's;
 01:31:26 8 right? Yeah. There are two small
 01:31:27 9 parcels and I have that tidelands lease
 01:31:30 10 if you would like it, too.
 01:31:30 11 MR. WASHER:
 01:31:31 12 No, I was just curious, was that
 01:31:31 13 a cram down as a result of the
 01:31:34 14 bankruptcy? What was the lease before?
 01:31:34 15 MR. DYAL:
 01:31:38 16 It was two things; one is because
 01:31:38 17 it is a green space it is a non-usable
 01:31:41 18 piece -- there is two little ends on the
 01:31:43 19 great lawn on both sides. It is kind of
 01:31:47 20 hard to explain. It is not a square, it
 01:31:50 21 is just two little ends that we said it
 01:31:52 22 is non-usable property. Nobody can use
 01:31:59 23 it except for a great lawn type of event.
 01:32:02 24 And it is being leased at \$2.00 a square
 01:32:02 25 foot. I do have that lease that I

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01:33:23 1 money to take it back out of the ground,
 01:33:25 2 it was two of the small parcels off that.
 01:33:28 3 And it went from \$4.85 to \$2.00 when it
 01:33:32 4 became the unusable two parcels that were
 01:33:34 5 cut off.
 01:33:35 6 MR. STANOVICH:
 01:33:36 7 I have a question.
 01:33:36 8 MR. DYAL:
 01:33:36 9 Yes, sir.
 01:33:36 10 MR. STANOVICH:
 01:33:37 11 We are counting five parcels;
 01:33:40 12 correct? Which one other than Z are you
 01:33:43 13 collecting tidelands money on now?

MR. DYAL:
 Not in this area we are not able
 to collect. Well, let me take that back.
 That is a good point. I do know this.
 See this little sliver? Am I saying that
 right? A sliver. This is what Biloxi
 Lodging/Barrington is paying 4.90 a
 square foot for right now under
 tidelands. Okay. And there is a sliver
 right through here because their hotel
 has a hangover, it hangs over a little
 bit and goes onto tidelands property.

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01:34:27 1 They need that for ingress and egress for
 01:34:31 2 parking and things like that. So they
 01:34:34 3 are paying 4.90 a foot for this parcel
 01:34:37 4 here.

5 What we are trying to do is
 01:34:39 6 Golden Nugget right now is currently
 01:34:41 7 parking over here on this property that
 01:34:43 8 Mr. Blessey and I or the State and the
 01:34:47 9 City are going to trying to get --

01:34:50 10 MR. STANOVICH:

01:34:50 11 That is not my question. My
 01:34:51 12 question is are you getting tidelands on
 01:34:55 13 K, L, I and 4 now?

01:34:58 14 MR. DYAL:

01:34:58 15 No, sir. We have been in
 01:34:58 16 litigation over the access to these. We
 01:35:00 17 own --

01:35:02 18 MR. STANOVICH:

01:35:03 19 Have you ever got tidelands money
 01:35:05 20 since Katrina on those parcels?

01:35:06 21 MR. DYAL:

01:35:08 22 I would not think so. I don't
 01:35:10 23 think we have because we have been in
 01:35:12 24 litigation over the access to those.

01:35:12 25 MR. STANOVICH:

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01:35:16 1 Which leads me to believe there
 01:35:16 2 is not a huge demand for that property
 01:35:19 3 and no one has been interested in the
 01:35:21 4 last 10 years.

01:35:22 5 MR. DYAL:

01:35:22 6 Well, I am telling you it is hard
 01:35:24 7 to lease unless you want people to come
 01:35:26 8 up on a boat to get to it. It is hard to
 01:35:28 9 lease when you have somebody who wants to
 01:35:30 10 build a restaurant or hotel on it when
 01:35:30 11 you can't get access.

01:35:30 12 MR. STANOVICH:

01:35:32 13 So the only piece you are getting
 01:35:35 14 money on is Z; is that correct?

01:35:36 15 MR. DYAL:

01:35:36 16 We are not getting money on Z
 01:35:39 17 right now. Z is what Golden Nugget is
 01:35:40 18 currently using and we are trying to work
 01:35:40 19 with the City of Biloxi to negotiate a
 01:35:43 20 deal with them to pay us to build the
 01:35:45 21 Salt Grass Restaurant they talked about.

01:35:47 22 MR. CARRON:

01:35:49 23 Is the reason they can't get
 01:35:49 24 there is because of the dispute for that
 01:35:52 25 146 feet right across?

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01:35:52 1 MR. DYAL:

01:35:53 2 Correct. The first lawsuit
 01:35:54 3 started in 1998 was the original
 01:35:57 4 developers. I think it was called Biloxi
 01:36:01 5 Casino Corp sued the State of Mississippi
 01:36:02 6 claiming ownership of K and L. And it
 01:36:05 7 went on and it went on and on and I got
 01:36:08 8 hired to get this thing resolved and I
 01:36:11 9 did. And that was a dismissal of this
 01:36:13 10 lawsuit after 18 years.

01:36:16 11 So then a new lawsuit was filed
 01:36:18 12 by Biloxi Lodging, which is Barrington
 01:36:25 13 transferred what they thought was their
 01:36:26 14 interest to Biloxi Lodging of 147 feet at
 01:36:28 15 the very top that goes across like this.
 01:36:31 16 And they are basically claiming ownership
 01:36:34 17 to these two right now. We have been
 01:36:38 18 working on a settlement and I can't tell
 01:36:38 19 you what the settlement is, it's
 01:36:41 20 improper, but we have been working on
 01:36:43 21 settlement negotiations to where this
 01:36:47 22 opens up for both the state and for the
 01:36:48 23 developer. In other words, you -- I
 01:36:53 24 don't want to go too far -- you give
 01:36:56 25 cross releases where you can have access.

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01:36:59 1 It goes both ways and that is a good
 01:37:01 2 thing for the developer and a good thing
 01:37:04 3 for the state. But what we are not going
 01:37:10 4 to do is lease the property below it for
 01:37:12 5 \$2.00 a square foot unless that is what
 01:37:16 6 the market, based on the highest and best
 01:37:18 7 use is. And that is all we are saying is
 01:37:21 8 we have to have an appraisal.

01:37:31 9 We were in negotiations in August
 01:37:31 10 when this came out in September. I'm
 01:37:31 11 trying to tell you timing, I'm trying to
 01:37:31 12 telling you why we were surprised when
 01:37:31 13 September 15th happened.

01:37:33 14 MR. WASHER:

01:37:33 15 Any other questions?

01:37:34 16 MR. PARKER:

01:37:36 17 Highest and best use is one
 01:37:37 18 thing. Getting someone to take it is
 01:37:40 19 another thing. Are you going to tell us
 01:37:43 20 that if the people walk away from this
 01:37:46 21 development because you are asking too
 01:37:48 22 much money that you can find someone else
 01:37:51 23 who can pay it?

01:37:51 24 MR. DYAL:

01:37:55 25 I can tell what you we are going
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01:37:57 1 to do is get an appraisal done; we are
 01:38:00 2 going to market and put it up and whoever
 01:38:02 3 the best -- that person that comes in
 01:38:05 4 whether it is this developer or someone
 5 else has to be able to show that they can
 01:38:11 6 pay for the next 40 years, too. Okay.
 01:38:12 7 We are going to make sure we cross our Ts
 01:38:15 8 and dot our Is that whoever comes in and
 01:38:18 9 offers the best money for this property
 01:38:19 10 after it has been properly marketed. It
 01:38:21 11 has not been marketed for the last ten
 01:38:24 12 years through litigation. That is what
 01:38:25 13 I'm trying to tell you. We have got to
 01:38:27 14 make sure we have researched that
 01:38:29 15 thoroughly. And no, I am not promising
 01:38:31 16 you anything. I cannot promise you
 01:38:34 17 anything. I mean I don't have someone in
 01:38:34 18 my back pocket. At the end of the day
 01:38:37 19 they may be the winner and that is great.
 01:38:39 20 But you have done it above board. You
 01:38:41 21 have done it where everyone can see.
 01:38:43 22 That is all we are asking. We are not
 01:38:46 23 going to be forced into you've got to
 01:38:49 24 give it to them for the next 65 years at
 01:38:51 25 \$2.00 a square foot because we have now
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01:39:48 1 You don't have to rezone to do what they
 01:39:50 2 are wanting to do. Does that make sense?
 01:39:53 3 You already have the
 01:39:53 4 Margaritaville I Hotel for family
 01:39:56 5 entertainment. To build a second hotel
 01:39:56 6 that is basically the way I vision it is
 01:40:01 7 they want to build another hotel at the
 01:40:05 8 other end of this property and build a
 01:40:07 9 Ferris wheel in between and have water
 01:40:10 10 activities. You don't have to rezone for
 01:40:13 11 that to occur. You can do that right now
 01:40:15 12 in Waterfront. You don't have to change
 01:40:17 13 that for that to occur.
 01:40:23 14 MR. WASHER:
 01:40:23 15 Thank you.
 01:40:24 16 MR. DYAL:
 01:40:24 17 Thank you. I appreciate your
 01:40:27 18 time.
 01:40:27 19 MR. WASHER:
 01:40:28 20 Anyone else in the audience want
 01:40:29 21 to speak in opposition? No one else
 01:40:33 22 speaking in opposition, Mr. Blessey, we
 01:40:35 23 will give you a few minutes.
 01:40:37 24 MR. BLESSEY:
 01:40:38 25 Well assuming and hearing what
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01:38:51 1 zoned it CB, and they are the only people
 01:38:55 2 that you can potentially negotiate with.
 01:39:50 3 That is not fair to you or us.
 01:38:58 4 Did I answer that? I don't know
 01:39:00 5 if I answered it.
 01:39:01 6 MR. PARKER:
 01:39:02 7 I don't think you did. We've got
 01:39:04 8 someone who wants it now and it has been
 01:39:08 9 empty 15 years. Are we going to let it
 01:39:12 10 sit another 15 years?
 01:39:13 11 MR. DYAL:
 01:39:13 12 The exact same person that wants
 01:39:14 13 it now is suing us that we have got to
 01:39:16 14 resolve with. The one that is suing us
 01:39:20 15 wants it right now and we are trying to
 01:39:22 16 work through that.
 01:39:23 17 What I'm trying to tell you is I
 01:39:26 18 think you will see those things will be
 01:39:28 19 resolved if you let the process play out
 01:39:31 20 with the appraisal and the highest and
 01:39:34 21 best person to bid and afford to pay it
 01:39:37 22 at that time. All we are asking you to
 01:39:41 23 do is continue this until such time as
 01:39:44 24 that process can take place. And you can
 01:39:44 25 come back and say no. Here is my answer.
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01:40:40 1 Jonathan said I am not sure where to
 01:40:44 2 begin, other than to say Jonathan we
 01:40:44 3 invite you back to Biloxi hoping to ride
 01:40:48 4 a Ferris wheel and spend some money here.
 01:40:48 5 Here is the problem with this
 01:40:52 6 situation. So much of what he said on
 01:40:55 7 the legal side, I will talk a little bit
 01:40:59 8 about that. And you have counsel and the
 01:41:01 9 City has counsel.
 01:41:02 10 His litigation problems with one
 01:41:05 11 of the landowners is irrelevant to the
 01:41:11 12 whole process. By the way,
 01:41:16 13 Margaritaville, Barrington or Biloxi
 01:41:20 14 Lodging or whoever it is, they don't own
 01:41:21 15 all the property. They have options.
 01:41:24 16 One reason, Mr. Parker, that
 01:41:26 17 nobody has developed the property yet is
 01:41:28 18 because nobody has come along to try to
 01:41:30 19 assemble all the land at an affordable
 01:41:34 20 price. And he is representing one of the
 01:41:36 21 people now that is apparently the last
 01:41:38 22 one that is holding it up. Betting on
 01:41:42 23 the come hoping that someday somebody
 01:41:44 24 will come along.
 01:41:45 25 Let me clarify a number of
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01:41:47 1 factual misstatements and then talk a
 01:41:52 2 little about the legal issues where he is
 01:41:54 3 fundamentally wrong. Incorrect.
 01:42:00 4 On the last thing about the
 01:42:03 5 litigation, let's just remind you that he
 01:42:05 6 has not won that case yet. So he is
 01:42:07 7 acting as if he already owns it all and
 01:42:07 8 won it.
 01:42:07 9 The Secretary of State, you know,
 01:42:10 10 said he's been at it for 18 years.
 01:42:13 11 Sounds like it has been quite a legal
 01:42:16 12 dispute that is still going on. Here is
 01:42:19 13 the difference in timing and this is what
 01:42:21 14 is so disingenuous about what the
 01:42:23 15 Secretary of State is saying. He is
 01:42:24 16 saying all of a sudden you up and have
 01:42:26 17 this zoning change so now he wants to go
 01:42:28 18 do an appraisal. He just told you before
 01:42:31 19 that, before this zoning ever got started
 01:42:33 20 he has been in negotiation with one
 01:42:35 21 developer. Not only that, he did not
 01:42:39 22 mention that the Secretary of State when
 01:42:42 23 they won the first time he said over a
 01:42:45 24 year ago or concluded in May that the
 01:42:50 25 Secretary of State himself announced that

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01:44:04 1 executive summary, which is in the
 01:44:06 2 record. Take a look at it. The casino
 01:44:08 3 is the highest and best use. That is his
 01:44:10 4 opinion. He does not determine highest
 01:44:14 5 and best use of the City of Biloxi, you
 01:44:15 6 at City Council do.
 01:44:17 7 My point is the timing, we have
 01:44:19 8 not rushed anything. The City of Biloxi
 01:44:24 9 has not caused them to need to go do an
 01:44:26 10 appraisal. He could have had an RFP for
 01:44:31 11 what he claims the State owns at least as
 01:44:35 12 of last April when he got that report.
 01:44:38 13 Plenty time to go out and do all this
 01:44:40 14 bidding and all this other stuff he is
 01:44:42 15 talking about.

01:44:44 16 Now, he went about this chart
 01:44:47 17 about comparing Waterfront to Community
 01:44:50 18 Business. It is true many uses are the
 01:44:54 19 same; not all of them. By the way, some
 01:44:58 20 of the ones that are prohibited he did
 01:45:00 21 not mention like adult bookstores and
 01:45:01 22 adult entertainment. But more
 01:45:03 23 importantly, you see, it is not the same
 01:45:05 24 uses that is the issue. I want you all
 01:45:08 25 to understand, Mr. Parker and all of you,

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01:43:31 1 he had Broaddus Planning and Dale
 01:43:36 2 Partners beginning almost a year ago
 01:43:38 3 planning the use of this property in a
 01:43:41 4 secret plan that he did not come to the
 01:43:43 5 this Planning Commission Staff or the
 01:43:46 6 City of Biloxi.
 01:43:52 7 So almost a year ago the
 01:43:55 8 Secretary hired Broaddus Planning to come
 01:43:57 9 do a master plan, allegedly for this
 01:44:01 10 property, not consulting the City or
 01:44:03 11 anyone else. Did not come to the
 01:44:06 12 Planning Commission to talk about it or
 01:44:08 13 come to the staff. And then he got the
 01:44:11 14 report in April of this year, by his own
 01:44:13 15 admission, he's received -- and the
 01:44:16 16 State, I assume, paid for that. And they
 01:44:18 17 have refused to produce that plan to the
 01:44:21 18 City, and we requested it, and they have
 01:44:23 19 not produced it to you today. They are
 01:44:26 20 talking open process, but they are the
 01:44:28 21 ones with a closed process.

01:44:31 22 If he wanted to do an appraisal,
 01:44:33 23 why didn't he do it last April when he
 01:44:36 24 got the Broaddus plan saying they ought
 01:44:38 25 to have a casino here. It's in the

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01:45:09 1 that an owner or developer can come in
 01:45:12 2 here to do family entertainment and in
 01:45:15 3 order to accept that the land is actually
 01:45:17 4 zoned for that time of entertainment.
 01:45:21 5 Values follow that. He is right about
 01:45:23 6 that. That is his problem. He not only
 01:45:26 7 wants to decide highest and best use he
 01:45:29 8 wants to limit it to one value, casino
 01:45:34 9 value. And that is not going to happen.
 01:45:34 10 So he wants non-casinos to pay the same
 01:45:38 11 thing. That does not make any sense.
 01:45:41 12 The zoning uses that are -- some are
 01:45:44 13 similar, some are not. But you can't do
 01:45:48 14 what is being suggested here and it is
 01:45:50 15 not just for this one developer. I made
 01:45:54 16 it clear that it did not matter whether
 01:45:57 17 this developer does it or not. This land
 01:45:59 18 is zoned for what it should be zoned for,
 01:46:04 19 which is family-oriented entertainment,
 01:46:05 20 Community Business, so that the
 01:46:08 21 expectation of the land owners and the
 01:46:10 22 expectation of the developers is based on
 01:46:13 23 the values associated with that. And in
 01:46:15 24 time, in my opinion, in time if these
 01:46:15 25 kinds of world-class developments occur

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01:46:18 1 that are non-casino, those kinds of zones
01:46:21 2 will probably be worth more than casino
01:46:23 3 properties. Casino properties are in
01:46:25 4 trouble right now.

01:46:37 5 So to be feasible to actually do
01:46:37 6 something, why hasn't there been
01:46:40 7 something there for 11 years since
01:46:42 8 Katrina? Because nobody can afford to do
01:46:45 9 what needs to be done. So now have you
01:46:47 10 an opportunity maybe. And, by the way,
01:46:49 11 nobody is forcing him to negotiate with
01:46:51 12 anybody. He claims he's got total power.
01:46:53 13 He does not have to negotiate with him.
01:46:55 14 He can go out and do an RFP today. You
01:46:58 15 know. It does not matter the zoning, he
01:47:01 16 can do an RFP. And he does not have to
01:47:05 17 negotiate with Barrington or anybody
01:47:06 18 else. He can do the open and public
01:47:08 19 process.

01:47:11 20 From a public standpoint, why
01:47:14 21 didn't he do that open and public process
01:47:15 22 a long time ago? Why shouldn't all
01:47:17 23 tidelands leases be negotiated in the
01:47:18 24 public, including Barrington? Why don't
01:47:23 25 they have to have a meeting and talk

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01:46:25 1 on the water, as I showed you before.
01:46:27 2 Now, this is what is really
01:46:29 3 interesting. He talks about your
01:46:33 4 limitation or the City's limitation over
01:46:36 5 powers of state land. He is not correct
01:46:39 6 under the law in my opinion. And I will
01:46:41 7 tell you why. First of all, he -- later
01:46:44 8 on Mr. Jonathan, and he is my friend by
01:46:48 9 the way. Jonathan said that the State
01:46:55 10 does not have to conform to the zoning.
01:49:01 11 He admitted that. But the State has
01:49:03 12 certain obligations he said. The
01:49:06 13 Secretary of State has obligations for
01:49:09 14 Public Trust Tidelands. Here is the
01:49:11 15 difference. The Public Trust For
01:49:14 16 Tidelands for the Secretary of State is
01:49:16 17 asserting as if he has total duty to make
01:49:18 18 the most money he can make of it
01:49:24 19 regardless what the local communities
01:49:26 20 zoning is. He has kind of turned it on
01:49:28 21 his head. He thinks the State can ignore
01:49:32 22 the zoning or represent the City is
01:49:34 23 trying to impose zoning on him. Now,
01:49:36 24 what is the nature -- this will probably
01:49:43 25 all get breached before the Mississippi

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01:47:25 1 about I offered this and you offered
01:47:27 2 that.
01:47:27 3 Now, he mentions that he is
01:47:29 4 charging \$4.90 a square foot for this
01:47:31 5 little sliver over there. That little
01:47:33 6 sliver is pretty small and he did force
01:47:36 7 that developer to get Margaritaville to
01:47:40 8 tear it down. He forced that development
01:47:41 9 and did not have any choice. Nobody is
01:47:43 10 going to lease that sliver and pay casino
01:47:47 11 price for it.

01:47:49 12 When you talk about the larger
01:47:50 13 square footage, the common sense of it
01:47:52 14 becomes not feasible for a non-casino to
01:47:55 15 pay casino prices. But that is between
01:47:58 16 him and the developer. Maybe they will
01:48:01 17 work it out, maybe they won't.

01:48:03 18 The City want a zoning change for
01:48:04 19 the future. And if it works for this
01:48:07 20 great. If it doesn't work for this, down
01:48:08 21 the line when we have got 20 more acres
01:48:11 22 that could be seen for developers in the
01:48:15 23 world that's on the water that we have an
01:48:19 24 additional 20 acres. We only have 17
01:48:24 25 and-a-half right now that are up and down

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01:49:48 1 Supreme Court if the Secretary of State
01:49:47 2 persists.
01:49:48 3 The Public Trust For Tidelands is
01:49:51 4 not like any other trust in all other
01:49:54 5 American law, English American law. It
01:49:57 6 is not like the 16 Section Lands Trust,
01:50:00 7 which the purpose of which is to make
01:50:01 8 money for education. That is its
01:50:03 9 purpose.
01:50:04 10 The purpose of the Public Trust
01:50:06 11 For Tidelands, which is an ancient trust,
01:50:08 12 comes down to us in English law started
01:50:10 13 with the Magna Carta all the way to
01:50:13 14 prerevolutionary days and all the way
01:50:16 15 down to statehood and up to just a few
01:50:17 16 years ago when casinos came about in
01:50:20 17 Biloxi. And certain Secretary's of
01:50:30 18 State, his two predecessors, decided this
01:50:30 19 is a chance to make a windfall by
01:50:30 20 extorting casinos to get a permanent
01:50:34 21 rate. That is kind of water under the
01:50:36 22 bridge now. It has been done.

01:50:37 23 The purpose of Public Trust for
01:50:37 24 Tidelands has never been to make money
01:50:37 25 for the state. It has been and still is

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01:50:48 1 under the law to encourage commerce,
 01:50:48 2 recreation, fishing, environmental
 01:50:51 3 protection on the water's edge at the
 01:50:53 4 mean high tide line and below. And money
 01:51:02 5 is not the objective of the Public Trust
 01:51:03 6 for Tidelands. Money for the State
 01:51:05 7 treasury issues that. And why it the
 01:51:08 8 classic public private partnership they
 01:51:09 9 are the total rights of the upland
 01:51:10 10 owners. The reason why he's in that big
 01:51:11 11 lawsuit there, because if he is not the
 01:51:12 12 upland owner then the only person that
 01:51:14 13 has a right to lease below there is the
 01:51:17 14 uplands owner. By his own rules he can't
 01:51:21 15 lease to anybody else except the owner.
 01:51:22 16 So if that owner wins he is not being
 01:51:25 17 forced to negotiate with him. The state
 01:51:27 18 law, his own rules say he can only
 01:51:31 19 negotiate with them.
 01:51:32 20 So what we are talking about here
 01:51:34 21 is to encourage commerce and recreation
 01:51:35 22 at the water's edge that would benefit
 01:51:38 23 the larger community. That is what his
 01:51:41 24 duty is as Secretary of State.
 01:51:45 25 Now, ironically, we have shown

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01:53:01 1 same little area I will walk over and
 01:53:03 2 point to you because this map actually
 01:53:11 3 comes down and includes this. Some of
 01:53:13 4 this is similar to The Great Lawn. It is
 01:53:15 5 on pilings over land that he claims is
 01:53:20 6 not usable. It is usable.
 01:53:23 7 The Barrington proposal, which is
 01:53:25 8 a public proposal now for an amusement
 01:53:29 9 park and everything. Now, the reason why
 01:53:30 10 it is not a hotel on that site is because
 01:53:32 11 it could not hold that much weight. You
 01:53:36 12 have to have pilings and so forth there.
 01:53:38 13 So it is usable if you have the right
 01:53:41 14 design and concept.
 01:53:42 15 Now, he said the character of the
 01:53:45 16 neighborhood has not changed. By
 01:53:47 17 definition Margaritaville I, which is
 01:53:51 18 there now and very successful changed the
 01:53:55 19 character of this neighborhood to
 01:53:58 20 family-oriented entertainment. What a
 01:54:00 21 phenomenal change in the character in
 01:54:01 22 addition to the all the others that we
 01:54:02 23 had there.
 01:54:03 24 I will quickly remind you that
 01:54:10 25 the Seafood Museum, of course was there

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01:51:46 1 you already that if you do what the City
 01:51:51 2 is recommending, the state treasury gets
 01:51:56 3 \$144 million instead of with his
 01:51:57 4 calculations. Mr. Parker hit the nail on
 01:51:58 5 the head. You don't get \$26 million,
 01:52:02 6 Jonathan, without a tenant. You have to
 01:52:05 7 have someone make a deal and they have
 01:52:08 8 not made one yet. And the likelihood of
 01:52:12 9 the casino making it is very remote right
 01:52:13 10 now. Okay.
 01:52:24 11 I want to be clear talking about
 01:52:27 12 spot zoning. Clearly this is not for a
 01:52:30 13 particular developer. The particular
 01:52:33 14 developer making proposals hopefully they
 01:52:34 15 will negotiate a deal with him, but he is
 01:52:38 16 not required to do that nor is the
 01:52:40 17 Secretary of State. They may decide some
 01:52:42 18 other use.
 01:52:43 19 Now, this business about \$2.00 a
 01:52:45 20 square foot. This area of Harrah's that
 01:52:46 21 he's talked about not being useable, of
 01:52:48 22 course it was useable for years. You had
 01:52:50 23 the Harrah's super structure and you
 01:52:56 24 actually had a casino on top of it. You
 01:52:58 25 had pilings going on down there. The

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01:54:13 1 prior to Katrina, but not the
 01:54:15 2 multimillion dollar new version we have
 01:54:19 3 here. We had all these additions with
 01:54:22 4 The Schooner Pier and so forth, and the
 01:54:22 5 Ohr-O'Keefe Museum. These are trends.
 01:54:22 6 And that is what you look for when you
 01:54:30 7 are looking at character change in the
 01:54:32 8 neighborhood.
 01:54:47 9 Now, he is totally incorrect and
 01:54:50 10 I know you know this that the City is not
 01:54:54 11 required and the City has the authority
 01:54:58 12 on its own behalf to ask for changes in
 01:55:01 13 its own Ordinances. And you have done
 01:55:03 14 that many times. The City Council or the
 01:55:07 15 Community Development Director or the
 01:55:10 16 Mayor may request in the interest of the
 01:55:12 17 overall community including the sea
 01:55:15 18 property over there next to Golden
 01:55:20 19 Nugget. It is Z on that map and C on the
 01:55:24 20 parcels.
 01:55:26 21 There is no -- if a private owner
 01:55:30 22 or owners themselves want to make for
 01:55:34 23 change then the rules say both owners
 01:55:37 24 need to ask for it together. This is not
 01:55:40 25 an ownership asking for change, this is a

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01:55:43 1 city government zoning change request.
 01:55:45 2 So he is wrong on that under our rules
 01:55:48 3 and under state law.
 04:45:04 4 Just very quickly, with regard to
 5 resolving this issue there have been a
 01:55:11 6 number of efforts both on the part of the
 01:56:14 7 Mayor and the Secretary of State to try
 01:56:16 8 to resolve these things and that is good.
 01:56:17 9 They talked as early as today and they
 01:56:21 10 made a request to continue a portion of
 01:56:24 11 this for a couple weeks, not another
 01:56:27 12 month; two weeks to your next meeting.
 01:56:30 13 But when you are thinking about these
 01:56:37 14 corollary issues about whether he really
 01:56:40 15 has a duty to make the most money with
 01:56:43 16 tidelands, it might be well for the staff
 01:56:48 17 to look and see what does he charge for
 01:56:50 18 Chevron over in Jackson County per square
 01:56:51 19 foot or what does he charge any other
 01:56:52 20 non-casino?
 01:56:53 21 I would just like to point out
 01:56:56 22 since he made the case that somehow this
 01:56:59 23 money belongs to you. So there is
 01:57:21 24 \$10 million a year of tidelands money
 01:57:25 25 collected by the Secretary of State. And
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01:56:42 1 the majority of it. It is just
 01:56:44 2 extraordinary.
 01:59:04 3 You see we have the same thing
 01:59:07 4 with Salt Grass -- coming to the end
 01:59:10 5 here. Take that off Eric. We are joint
 01:59:14 6 owners. The City gets the first \$350,000
 01:59:17 7 of rent, I think, because the City when
 01:59:19 8 it settled this dispute, to my judgment
 01:59:22 9 it should not have, in 2002 about who
 01:59:26 10 were the owners of the property. The
 01:59:28 11 State recognized we had the primary claim
 01:59:30 12 so we get the first 300 and something
 01:59:33 13 thousand. Well, the only way to get that
 01:59:36 14 amount at appraised value is to have
 01:59:42 15 casino uses because no restaurant is
 01:59:44 16 going to pay that kind of square footage
 01:59:47 17 cost for land. So zoning has changed
 01:59:52 18 again, yes. The consequence of the
 01:59:54 19 zoning change is to -- I don't consider
 01:59:56 20 it lowering the uses, it is different
 02:00:00 21 uses that serves the community, the whole
 02:00:02 22 community. But in today's market it is
 02:00:06 23 valued less by appraisers. I expect that
 02:00:09 24 is going to change as casinos decline.
 02:00:11 25 So, yeah, it is a consequence. That is
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01:57:28 1 85 percent of it, as you can see, comes
 01:57:29 2 from Biloxi and Biloxi's casinos. All
 01:57:32 3 right. There is a little bit from other
 01:57:35 4 areas. Now, six percent comes back in
 01:57:43 5 this particular year, which is 2016, six
 01:57:47 6 percent comes back to Biloxi. Almost
 01:57:50 7 half of it goes to the administration of
 01:57:53 8 the Department of Marine Resources, which
 01:57:55 9 is fine, they are a great organization
 01:57:55 10 and they do a good job, but they are
 01:57:56 11 being funded by the state general fund,
 01:57:58 12 not by your tidelands, money that he
 01:58:11 13 claims we are going to get to use. Bond
 01:58:11 14 repayment I think that is year around,
 01:58:11 15 but most parks in the state are funded by
 01:58:13 16 state bond issues not tideland bond
 01:58:16 17 issues. And you have the other uses. I
 01:58:19 18 just point this out because this notion
 01:58:21 19 that somehow what we are proposing it is
 01:58:25 20 denying the state an opportunity for
 01:58:28 21 money that is going to come back to you,
 01:58:30 22 it is just not what is happening and
 23 hasn't been for a long time and it is
 01:58:36 24 really very disproportionate in terms of
 01:58:38 25 -- not even Harrison County does not get
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02:00:14 1 not the motive though, that is a
 02:00:16 2 consequence of the zoning change. The
 02:00:16 3 motive is to inset private property
 02:00:20 4 owners and the state and by developers to
 02:00:23 5 do family-oriented entertainment and to
 02:00:26 6 invest their money at family-oriented
 02:00:28 7 land prices. So that is the big
 02:00:31 8 difference. That is why it has not
 02:00:33 9 happened yet. And he is going to find
 02:00:34 10 out if he does an RFP. If he does an RFP
 02:00:37 11 he will find out what the market
 02:00:39 12 regularly is. He is six months late in
 02:00:42 13 doing that and now he is jeopardizing the
 02:00:47 14 ability for anybody to come in here and
 02:00:48 15 get it up and running for the 2018
 02:00:52 16 tourist season, which means we lose one
 02:00:55 17 more year as Beverly and Kenny pretty
 02:01:00 18 eloquently stated how far behind we are
 02:01:04 19 in tourism. So the consequence of
 02:01:05 20 waiting longer is to wait another tourist
 02:01:08 21 season before we have this land or the
 02:01:15 22 adjacent land developed to what we
 02:01:16 23 believe is the highest and best use.
 02:01:17 24 I have not seen the Broadus
 02:01:21 25 plan. It would be interesting to see it
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02:01:21 1 and see whether they even considered
 02:01:25 2 family entertainment as comparison. So I
 02:01:27 3 hope the Secretary will produce that.
 02:01:32 4 Not to mention the press, who
 02:01:37 5 have done a great job of covering this, I
 02:01:41 6 want to correct one thing and the Sun
 02:01:44 7 Herald, of course can correct if they
 02:01:48 8 wish. But the Sun Herald yesterday said
 02:01:52 9 there is lots of conflicting information.
 02:01:56 10 It did not say that his facts were
 02:01:59 11 correct, but lots of conflicting
 02:02:03 12 information. And the conflict is
 02:02:07 13 primarily coming from the Secretary's
 02:02:11 14 office. So why don't we just admit that
 02:02:15 15 the \$2.00 a square foot next door, Mr.
 02:02:19 16 Secretary, is the only sweetheart deal
 02:02:23 17 out there. And if that is the going rate
 02:02:27 18 and that is what is fair then his
 02:02:31 19 appraisers would pick up on it and not
 02:02:35 20 pay what it ends up being. But let's not
 02:02:39 21 suggest that there is anything other than
 02:02:43 22 complete transparency and above board on
 02:02:47 23 the part of the City of Biloxi here
 02:02:51 24 because we are not negotiating for
 02:02:55 25 anybody.

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02:03:58 1 MR. BLESSEY:
 02:03:58 2 Mr. Chairman, Jonathan requested
 02:04:00 3 and I join in the request, is it possible
 02:04:04 4 for the Commission to continue --
 02:04:04 5 MR. WASHER:
 02:04:05 6 We were just discussing that. We
 02:04:07 7 stated that we closed this hearing. We
 02:04:07 8 will resend that we are closing this
 02:04:10 9 hearing. We will continue the hearing to
 02:04:12 10 the next meeting, which will be on
 02:04:15 11 November 3rd.
 02:04:15 12 Now, we may vote on a portion of
 02:04:16 13 it today and continue some of it. You
 02:04:19 14 said you had no objection to the parcel
 02:04:23 15 north of Highway 90. We may go ahead and
 02:04:25 16 vote on that and condition the rest of
 02:04:26 17 it. Do you have any objection to that?
 02:04:29 18 MR. DYAL:
 02:04:31 19 No, sir. I was asking Mr.
 02:04:32 20 Blessey like what is the procedure from
 02:04:34 21 here. Are you planning to voting today
 02:04:38 22 or do I need to wait to the end of the
 02:04:37 23 meeting or how does it work?
 02:04:37 24 MR. WASHER:
 02:04:38 25 We plan on voting today.

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02:02:31 1 As far as the -- well, I think I
 02:02:35 2 answered the question on bankruptcy.
 02:02:39 3 There is no problem on the bankruptcy.
 02:02:43 4 We talked about the sliver on the map.
 02:02:47 5 So let's hope that in a few weeks
 02:02:51 6 maybe the parties that are negotiating,
 02:02:55 7 the developer and the Secretary, were in
 02:02:59 8 that lawsuit can settle the lawsuit and
 02:03:03 9 come to a conclusion. But your decision
 02:03:07 10 should not be based on whether they
 02:03:11 11 succeed or not; it should be based on
 02:03:15 12 whether they come back and say we agree
 02:03:19 13 on everything. It should be based on
 02:03:23 14 what's in the best interest of the City
 02:03:27 15 of Biloxi and its future, and its people,
 02:03:31 16 and its quality of life, its economy.
 02:03:35 17 And that is to do as the Mayor's
 02:03:39 18 requested is to make these changes that
 02:03:43 19 we seek.
 02:03:47 20 MR. WASHER:
 02:03:51 21 Thank you, Mr. Blessey. We will
 02:03:55 22 consider that hearing closed.
 02:03:59 23 We will move on to our next case.
 02:04:03 24 Anyone who wants to leave please do so
 02:04:07 25 quietly.

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02:04:40 1 MR. DYAL:
 02:04:41 2 Okay. I will wait then.
 02:04:41 3 MR. BLESSEY:
 02:04:45 4 I think he wanted to know if he
 02:04:48 5 could leave if you are planning to
 02:04:51 6 continue the south of Highway 90, the two
 02:04:54 7 parcels. I think that's --
 02:04:57 8 MR. WASHER:
 02:05:00 9 We will continue that.
 02:05:03 10 MR. BLESSEY:
 02:05:06 11 SO it is the other one that you
 02:05:09 12 may or may not vote on today.
 02:05:12 13 MR. WASHER:
 02:05:15 14 Continuing on. Case No.
 02:05:18 15 16-047-PC -- Clarence Taylor for the
 02:05:21 16 Vernon Gilbert Elks Lodge #576 -- an
 02:05:24 17 application requesting a Zoning Map
 02:05:27 18 Amendment, to consider a change in zoning
 02:05:30 19 for three parcels of land collectively
 02:05:33 20 measuring approximately 1.67 acres (more
 02:05:36 21 or less) in overall size, from their
 02:05:39 22 current zoning district classification of
 02:05:42 23 RM-20 Medium-Density Multi-Family
 02:05:45 24 Residential to NB Neighborhood Business,
 02:05:48 25 for those properties identified as 636

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02:05:43 1 Esters Boulevard, 230 Nixon Street, and
02:05:45 2 an un-numbered property having no street
02:05:51 3 frontage. This case was advertised on
02:05:52 4 September 29th, October 6th and October
02:06:04 5 13th. Mr. Nolan do you have video on
02:06:09 6 that, please, sir?

02:06:09 7 MR. CIPOLLA:

02:06:09 8 This is looking down Esters and
02:06:19 9 up Nixon Street. This is all from the
02:06:20 10 corner. Got to go back up to the other
02:06:22 11 part of the building there is the
02:06:26 12 extension on the back. That property
02:06:28 13 they own to the north and west back there
02:06:50 14 and that they maintain it.

02:06:50 15 MR. TAYLOR:

02:06:50 16 Mr. Chairman, members of the
02:06:51 17 Planning Commission and Board of Zoning
02:06:54 18 Adjustments, good afternoon. My name is
02:06:58 19 Clarence Taylor, president or more
02:07:00 20 specifically the Exalted Ruler of the
02:07:00 21 Vernon Gilbert Elks Lodge, No. 576,
02:07:09 22 located at 636 Esters Boulevard. I have
02:07:12 23 some members of the Elks Lodge and if
02:07:17 24 they would please stand. Thank you.

02:07:23 25 We are here to submit an

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02:09:01 1 submit to you today that we are not
02:09:02 2 seeking to change the character of the
02:09:05 3 neighborhood. We have existed in this
02:09:05 4 neighborhood since April of 1925. The
02:09:11 5 need has always been there. We have
02:09:13 6 established a need in the community. And
02:09:15 7 since Katrina that need is even greater.

02:09:19 8 In East Biloxi a number of
02:09:21 9 structures large structures were lost.
02:09:24 10 Right now the lodge serves as a meeting
02:09:27 11 home for a number of civic and social
02:09:31 12 groups. One group is the Kingsman
02:09:34 13 Improvement Social Club, and we have
02:09:37 14 representatives here today that can
02:09:38 15 attest to that. We also serve as the
02:09:42 16 meeting home for the Second Line Mardi
02:09:47 17 Gras club.

02:09:48 18 We just recently opened our doors
02:09:49 19 for three funeral repasses. One, only
02:09:52 20 one involved an elk member; the other two
02:09:57 21 were members of the community. There was
02:10:00 22 no charge for this. We also opened our
02:10:02 23 doors for class reunions, family reunions
02:10:06 24 and other social events, which include
02:10:10 25 birthday parties, wedding celebrations,

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02:07:25 1 application for a zoning variance. And I
02:07:32 2 believe there is another map. This is
02:07:53 3 our main piece of property. We have four
02:07:56 4 pieces of property located in and around
02:07:59 5 636 Esters Boulevard. This is one piece
02:08:03 6 right here zoned RM-20. Another piece is
02:08:06 7 located at 230 Nixon Street, and we have
02:08:10 8 a third piece which is unnumbered right
02:08:14 9 here. There is a fourth piece that I
02:08:16 10 thought was a map I saw earlier which is
02:08:21 11 zoned Neighborhood Business. We own all
02:08:24 12 four pieces of property.

02:08:28 13 You have a letter that indicates
02:08:28 14 at one of our meetings the body voted to
02:08:31 15 consolidate all four pieces of property
02:08:35 16 into one piece for ease of management and
02:08:37 17 legal documentation. And we desire to
02:08:39 18 have all pieces designated as
02:08:43 19 Neighborhood Business, which would best
02:08:45 20 reflect our operating status as a lodge
02:08:46 21 and a communality entity.

02:08:52 22 I know when you vote on this
02:08:58 23 particular issue you will be looking at
02:09:01 24 whether or not there will be a change in
02:09:01 25 the character of the neighborhood. I

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02:10:15 1 et cetera. Of course there is a fee for
02:10:16 2 that.
02:10:17 3 With some of the funds that we've
02:10:19 4 raised from those social events we pass
02:10:21 5 out scholarships to high school
02:10:25 6 graduates. We have a number of youth
02:10:28 7 programs. We have a beauty and talent
02:10:31 8 contest for high school students. We
02:10:34 9 have a music contest. We have an
02:10:37 10 oratorical contest where students present
02:10:42 11 orations from topics that were selected
02:10:46 12 from the national office. So there is a
02:10:47 13 need that we are meeting in the
02:10:49 14 community.

02:10:50 15 I want to keep this short because
02:10:53 16 I was hoping that all of this would end
02:10:55 17 today. I want to make sure it ends
02:10:57 18 today. All of what we do is listed in
02:11:00 19 the package that you have before you, so
02:11:01 20 I will stop right here and entertain any
02:11:03 21 questions that you may have and allow
02:11:06 22 anyone to speak in favor of our zoning
02:11:09 23 change.

02:11:12 24 MR. WASHER:

02:11:12 25 Mr. Taylor, I can understand your
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02:11:15 1 desire to make it all one zoning, but is
 02:11:17 2 there totally a need for it to be one
 02:11:18 3 zoning, particularly extending into those
 02:11:22 4 neighborhoods?
 02:11:23 5 MR. TAYLOR:
 02:11:23 6 A need? Yes, for one piece. The
 02:11:28 7 extension to the neighborhood I'm
 02:11:30 8 confused.
 02:11:34 9 MR. WASHER:
 02:11:34 10 It runs through -- the cul-de-sac
 02:11:37 11 street is in there. To your right, isn't
 02:11:41 12 their homes that back up to that
 02:11:43 13 property?
 02:11:44 14 MR. TAYLOR:
 02:11:45 15 Right here, no.
 02:11:46 16 MR. CIPOLLA:
 02:11:47 17 There is a home here and a home
 02:11:48 18 there and that is it.
 02:11:50 19 MR. WASHER:
 02:11:51 20 So there is just a lot of vacant
 02:11:54 21 lots in there?
 02:11:55 22 MR. TAYLOR:
 02:11:55 23 Right.
 02:11:56 24 MR. WASHER:
 02:11:56 25 That was my question. Any other

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02:11:57 1 questions of members of the Commission?
 02:11:57 2 MR. STANOVICH:
 02:12:00 3 Mr. Taylor, is that fourth piece
 02:12:02 4 on that corner there is that yours too?
 02:12:09 5 MR. TAYLOR:
 02:12:10 6 Yes, sir. And that is the piece
 02:12:11 7 that is right now zoned Neighborhood
 02:12:15 8 Business.
 02:12:16 9 MR. STANOVICH:
 02:12:16 10 The back two parcels -- what is
 02:12:19 11 on the north one now? The north parcel
 02:12:24 12 right there.
 02:12:24 13 MR. TAYLOR:
 02:12:28 14 This piece? Right here we have
 02:12:29 15 an auxiliary building which we call the
 02:12:32 16 patio. But this piece right here is
 02:12:35 17 vacant.
 02:12:36 18 MR. STANOVICH:
 02:12:37 19 I see.
 02:12:38 20 MR. CARRON:
 02:12:38 21 But what is on that one little
 02:12:40 22 section there; is that a vacant lot also?
 02:12:44 23 MR. TAYLOR:
 02:12:44 24 It's a breezeway.
 02:12:54 25 MR. WASHER:

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02:12:54 1 So there is no homes in that
 02:12:57 2 breezeway area?
 02:12:58 3 MR. TAYLOR:
 02:12:58 4 No.
 02:12:59 5 MR. WASHER:
 02:13:00 6 Any other questions of members of
 02:13:01 7 the Commission of Mr. Taylor?
 02:13:03 8 MR. CARRON:
 02:13:03 9 Would like to thank him for his
 02:13:09 10 patients today.
 02:13:10 11 MR. TAYLOR:
 02:13:10 12 Thank you. I think we need a
 02:13:12 13 break.
 02:13:15 14 They wanted to mention the youth
 02:13:17 15 department that we have. We do have a
 02:13:18 16 youth department that does a number of
 02:13:20 17 things; it is a mentorship program that
 02:13:25 18 we sponsor. If any of you are familiar
 02:13:27 19 with the Elks, you know, BPOE, we are
 02:13:27 20 very similar to that organization. We
 02:13:32 21 have the same rituals and everything. So
 02:13:34 22 we are required by our Grand Lodge to
 02:13:37 23 have a number of social programs; the
 02:13:40 24 youth department is one of those.
 02:13:42 25 MR. WASHER:

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02:13:42 1 Is there anything else? We'll
 02:13:45 2 ask is there anyone else want to speak in
 02:13:48 3 favor?
 02:13:49 4 MR. CARNEY:
 02:13:50 5 Good afternoon to y'all again.
 02:14:03 6 Leroy Carney, 309 Keller Avenue, Biloxi.
 02:14:05 7 I am a member of the Vernon Gilbert Elks
 02:14:09 8 Lodge and past Grand Exalted Ruler, also
 02:14:06 9 a past Exalted Ruler at the same lodge.
 02:14:17 10 I can tell you this, as my
 02:14:17 11 brother said just a minute ago, we have
 02:14:19 12 been there since 1925 and been a part of
 02:14:22 13 that community since 1925. There have
 02:14:25 14 been a lot of businesses to go out of
 02:14:27 15 business and go under since then, but
 02:14:29 16 fortunately we are still there because of
 02:14:34 17 the need for us to be in that community
 02:14:35 18 and people that have always supported us
 02:14:37 19 and the community has always supported
 02:14:38 20 us.
 02:14:39 21 As he mentioned, we have a
 02:14:42 22 Thanksgiving program each year where we
 02:14:45 23 bring the seniors down the lodge
 02:14:49 24 sometimes and feed them or when we do not
 02:14:51 25 feed them we pick a number from the

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02:14:54 1 community and we take them baskets for
02:15:00 2 groceries for their whole day. We carry
02:15:02 3 them from the lodge to them. There are
02:15:04 4 times we have dinner for them and bring
02:15:09 5 them down to the lodge on Thanksgiving.

02:15:09 6 We also have a program Toys For
02:15:13 7 Tots for the kids; back to school
02:15:16 8 supplies. We have a program that gives
02:15:18 9 supplies to the school kids. We
02:15:21 10 advertise a certain age and the public is
02:15:25 11 invited from all over the City. And we
02:15:27 12 put that out to all the churches and
02:15:30 13 sometimes we are able to get it out to
02:15:33 14 the radio to put it out there as well.

02:15:36 15 I would hope you support this.
02:15:38 16 If you look around this community, Vernon
02:15:43 17 Gilbert Elk's Lodge has been a beckon to
02:15:45 18 this community for quite a long time.
02:15:48 19 And there have been other organizations
02:15:51 20 who got started as a result of being a
02:15:54 21 part of the Vernon Gilbert Elk's Lodge, a
02:15:59 22 number of other civic organizations. And
02:16:02 23 also the Louis Commission they meets
02:16:04 24 there too. They have had some of their
02:16:06 25 functions at the Coliseum or on

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02:17:12 1 right now as a place of visitors that
02:17:19 2 come right down Main Street looking for
02:17:21 3 the Blues Trail because it is on the
02:17:21 4 website and people look for that. And
02:17:24 5 the Elks is an example of those things
02:17:27 6 they are looking for are part of the
02:17:29 7 Blues Trail.

02:17:30 8 I hope we can do things to
02:17:32 9 enhance the Elks Lodge into the whole
02:17:38 10 project that the City provides when they
02:17:40 11 ask people to come and visit, so they can
02:17:43 12 also realize they are visiting a part of
02:17:47 13 the Blues Trail and that we've utilized
02:17:50 14 things north of the track. Thank you.

02:17:52 15 MR. WASHER:
02:17:54 16 Thank you.
02:17:58 17 MS. JAMES:

02:17:59 18 Good afternoon. My name is Julia
02:18:01 19 James, I am a resident of Ocean Springs,
02:18:04 20 Mississippi. However, I am a homeowner
02:18:07 21 for pieces of property on Nixon Street;
02:18:11 22 one that borders Division and Nixon
02:18:14 23 Street. I have lived on Nixon Street
02:18:16 24 myself over 25 years. I am a supporter
02:18:21 25 and member of the Vernon Gilbert Elks

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02:16:09 1 Highway 90. They meet and have their
02:16:10 2 meetings at the lodge and we allow them
02:16:13 3 to come there.

02:16:14 4 We would hope that you support
02:16:17 5 this change, as it was said earlier, all
02:16:20 6 the houses, the little old shacks around
02:16:22 7 us, they are all torn down and all went
02:16:28 8 under water after Katrina. And most of
02:16:30 9 them -- some of them were rental
02:16:32 10 properties and some of the families who
02:16:35 11 just never built back or passed on. And
02:16:37 12 we hope you will support us in this
02:16:38 13 effort. Thank you.

02:16:40 14 MR. WASHER:
02:16:40 15 Thank you.
02:16:48 16 MR. PARKS:

02:16:49 17 George Parks, I live at 174
02:16:49 18 Hannibal Court. And I would like for you
02:16:54 19 all to consider just a little bit
02:16:56 20 different.

02:16:58 21 I would like somewhere down in
02:17:00 22 the future that we would consider
02:17:05 23 extending the Main Street Project a
02:17:05 24 little bit further north and include the
02:17:09 25 Elks in it also. We have the Blues Trail

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02:18:25 1 Lodge. I have seen what they have done
02:18:27 2 in this community, not being from Biloxi.
02:18:31 3 It was because of the things that I saw
02:18:33 4 that they were doing that made me want to
02:18:37 5 become involved with them. I support
02:18:40 6 them as a homeowner and as a member. My
02:18:44 7 tenants I have seem to have no problem.
02:18:47 8 I do have property at 235 and 234, which
02:18:52 9 is adjacent to the property. I have no
02:18:55 10 issues with them and I fully support them
02:18:58 11 and what they are trying to do. I ask
02:19:00 12 this Board to just -- you know --

02:19:08 13 MR. WASHER:
02:19:08 14 To approve the request.
02:19:10 15 MS. JAMES:

02:19:10 16 Yes. To take it into
02:19:12 17 consideration. Thank you for your time.

02:19:14 18 MR. WASHER:
02:19:14 19 Thank you, Ms. James. Anyone
02:19:18 20 else speaking in favor for reasons other
02:19:19 21 than stated already. If not -- let me
02:19:20 22 just say everybody that's in favor stand
02:19:21 23 up and we can get a gauge of that.

02:19:21 24 MR. TAYLOR:
02:19:26 25 Thank you very much. Appreciate
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02:19:27 1 it.
 02:19:27 2 MR. WASHER:
 02:19:27 3 If there is no one else speaking
 02:19:28 4 in favor, is anyone speaking in
 02:19:31 5 opposition?
 02:19:36 6 MS. WASHINGTON:
 02:19:36 7 Opposition. My name is Jacquelin
 02:19:38 8 Washington and I am at 223 Nixon Street.
 02:19:42 9 I also represent the Nixon Street
 02:19:45 10 Association of Homeowners. We're an
 02:19:47 11 autonomous organization formed by the
 02:19:51 12 residents of Nixon Street for the purpose
 02:19:51 13 of considering and acting on issues
 02:19:58 14 affecting our liability and quality of
 02:19:58 15 our neighborhood in which we live.
 02:20:01 16 The Biloxi Elks is located on
 02:20:04 17 Nixon Street but the members are not. I
 02:20:05 18 am the one that has to listen to the
 02:20:09 19 music and the rhetoric till 3:00 a.m. in
 02:20:11 20 the morning. Approximately ten years ago
 02:20:13 21 from Thursday to Sunday I called the
 02:20:16 22 police every night. Those things can be
 02:20:18 23 found in the court records.
 02:20:21 24 We do have some members here that
 02:20:23 25 are against it. My property value is
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02:21:45 1 Nixon. That property does not represent
 02:21:49 2 my parcel. My parcel goes all the way
 02:21:52 3 back to the piece there.
 02:21:57 4 I am here today to tell you I
 02:21:59 5 love the Elks Club and grew up in the
 02:22:03 6 Elks Club. It was 45 years ago they had
 02:22:06 7 houses all around the Elks Club. I,
 02:22:10 8 needless to say, used to sit up in the
 02:22:13 9 Elks Club when I was 4 or 5 years old
 02:22:17 10 drinking Barqs root beer out the bottle.
 02:22:19 11 You can't do that now.
 02:22:21 12 My concern now is my privacy.
 02:22:25 13 I'm single. And I had to fence in my
 02:22:28 14 backyard because they don't keep up their
 02:22:32 15 property. That little sliver we are
 02:22:34 16 talking about is overgrown. I don't have
 02:22:38 17 Power Point, but I have pictures of my
 02:22:41 18 backyard and what is unkept.
 02:22:46 19 I am here to say I fear for my
 02:22:52 20 property value and my quality of life.
 02:22:57 21 And if it is rezoned, I want to know if
 02:23:00 22 they are going to redevelopment it or
 02:23:02 23 what they plan on doing with that? That
 02:23:05 24 is my questions today.
 02:23:07 25 MR. WASHER:
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02:20:28 1 down. Nixon Street is also one of the
 02:20:28 2 streets that has horrible and horrific
 02:20:32 3 environmental problems. We are still
 02:20:34 4 under the Ward II disaster. So we suffer
 02:20:38 5 from property that is overgrown. I
 02:20:41 6 suffer from noise, traffic, prostitution,
 02:20:47 7 the sale of illegal and illicit drugs on
 02:20:51 8 my street. I have grandchildren.
 02:20:53 9 I am standing here begging. If
 02:20:56 10 they want the property to be rezoned and
 02:20:59 11 not for community or neighborhoods so we
 02:21:02 12 can bring in young people to increase our
 02:21:06 13 revenue, not for partying and this, that
 02:21:08 14 and the other, but to live and reside and
 02:21:17 15 have our grandchildren there. That is
 02:21:17 16 why I'm standing here; and that is why I
 02:21:17 17 oppose this situation with the utmost
 02:21:19 18 certainty that I would like for them to
 02:21:21 19 pay me out if you go forward with that
 02:21:24 20 zoning. Thank you.
 02:21:28 21 MR. WASHER:
 02:21:28 22 Thank you. Anyone else speaking
 02:21:32 23 in opposition?
 02:21:32 24 MS. PHILLIPS:
 02:21:35 25 I am Paulette Phillips, 244
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02:23:07 1 Thank you.
 02:23:12 2 MS. PHILLIPS:
 02:23:12 3 And I had to fence my backyard
 02:23:15 4 because of the sliver being so overgrown
 02:23:22 5 and it has homeless people.
 02:23:24 6 I come home every day and no
 02:23:27 7 telling what is back there behind that
 02:23:30 8 fence. That is my opposition.
 02:23:35 9 MR. WASHER:
 02:23:35 10 Anyone else speaking in
 02:23:36 11 opposition? No one else speaking in
 02:23:38 12 opposition, Mr. Taylor, any comments?
 02:23:38 13 MR. TAYLOR:
 02:23:38 14 Just wondering. There is come
 02:23:38 15 confusion about whether or not the
 02:23:52 16 property that Ms. Paulette speaks of is
 02:23:54 17 really not our property that's not being
 02:23:56 18 maintained. We maintain our property on
 02:23:59 19 a regular basis.
 02:24:00 20 MS. PHILLIPS:
 02:24:01 21 Well, my property goes back there
 02:24:03 22 to the line. It does not stop at that
 02:24:05 23 line. My property goes all the way back
 02:24:08 24 there. Where you got it shaded that is
 02:24:13 25 behind my property. I thought you said
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02:24:19 1 the shaded area was yours.
 02:24:22 2 MR. WASHER:
 02:24:22 3 Put the pointer on Ms. Phillips'
 02:24:25 4 property.
 02:24:26 5 MS. PHILLIPS:
 02:24:26 6 I'm 244. And 244 is my two --
 02:24:34 7 where is little thing is at. I bought
 02:24:38 8 the property behind me.
 02:24:44 9 MR. WASHER:
 02:24:45 10 Hold up. Show us your property,
 02:24:46 11 Ms. Phillips.
 02:24:48 12 MS. PHILLIPS:
 02:24:49 13 Mine is 244 right there. It goes
 02:24:52 14 right here. Is that not yours?
 02:24:56 15 MR. TAYLOR:
 02:24:57 16 No.
 02:24:58 17 MS. PHILLIPS:
 02:24:58 18 I'm going by the shading. You
 02:25:07 19 haven't been mowing it.
 02:25:08 20 MR. WASHER:
 02:25:08 21 We will get the City of Biloxi
 02:25:12 22 to find out who owns the property.
 02:25:12 23 MS. PHILLIPS:
 02:25:12 24 They've been mowing it because I
 02:25:14 25 asked the guy who mows because I want him
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02:25:15 1 to clean up my fence line.
 02:25:21 2 MR. WASHER:
 02:25:22 3 Anything else, Mr. Taylor?
 02:25:23 4 MR. TAYLOR:
 02:25:23 5 We will research it and if it is
 02:25:25 6 ours we will make sure we maintain it
 02:25:28 7 because we pay someone on a regular
 02:25:30 8 basis.
 02:25:30 9 MR. WASHER:
 02:25:31 10 Mr. Taylor, why do we need to
 02:25:33 11 extend that far back into that
 02:25:38 12 neighborhood with that neighborhood
 02:25:38 13 zoning.
 02:25:38 14 MR. TAYLOR:
 02:25:39 15 Because it is our property. Like
 02:25:40 16 I said, we are trying to put everything
 02:25:41 17 under just one umbrella.
 02:25:46 18 MR. CARRON:
 02:25:47 19 Do you have any plans of putting
 02:25:50 20 a business or anything like that on that
 02:25:51 21 property?
 02:25:51 22 MR. TAYLOR:
 02:25:53 23 No.
 02:25:53 24 MR. CARRON:
 02:25:53 25 And the issue with the noise, is
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02:25:56 1 it true that it is going on till 3:00 in
 02:25:59 2 the morning?
 02:26:00 3 MR. TAYLOR:
 02:26:01 4 Not this year. Not recently.
 02:26:01 4 AUDIENCE MEMBER:
 02:26:07 5 Oh yes it is.
 02:26:08 6 MR. TAYLOR:
 02:26:10 7 But we are aware of some
 02:26:11 8 complaints from Ms. Washington. We are
 02:26:13 9 looking into putting in more soundproof
 02:26:16 10 doors because we feel there is one door
 02:26:19 11 that might be a possible cause of noise
 02:26:22 12 seeping out into the community so we do
 02:26:25 13 plan to address that.
 02:26:29 14 MR. STANOVICH:
 02:26:30 15 Will you be doing any new
 02:26:33 16 activities with this zoning change that
 02:26:34 17 you have not done in the past?
 02:26:34 18 MR. TAYLOR:
 02:26:35 19 No more than we have normally
 02:26:37 20 done.
 02:26:37 21 MR. WASHER:
 02:26:38 22 So as that property extends
 02:26:40 23 northward you don't use any of that for
 02:26:44 24 parking right now?
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02:26:46 1 MR. TAYLOR:
 02:26:48 2 No.
 02:26:48 3 MR. WASHER:
 02:26:48 4 Could we not maybe move that down
 02:26:50 5 some, maybe somewhere on top of the
 02:26:53 6 larger piece back beyond there, somewhere
 02:26:53 7 in there? Could we not bring that
 02:26:56 8 request back down to there and allow you
 02:26:57 9 to do what you want?
 02:26:59 10 MR. TAYLOR:
 02:27:12 11 Yes.
 02:27:12 12 MS. PHILLIPS:
 02:27:12 13 May I say something?
 02:27:12 14 MR. WASHER:
 02:27:15 15 No, or we are going to be out of
 02:27:16 16 our rules if we --
 02:27:16 17 MS. PHILLIPS:
 02:27:16 18 This won't take a minute to
 02:27:16 19 answer.
 02:27:16 20 MR. TAYLOR:
 02:27:34 21 Let me see the piece you want to
 02:27:36 22 back down to?
 02:27:37 23 MR. WASHER:
 02:27:37 24 That is what we are discussing.
 02:27:37 25 We need to identify what we are going to
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02:27:40 1 back it down to.
 02:27:41 2 MR. TAYLOR:
 02:27:42 3 You can go up to the top of the
 02:27:45 4 larger piece where the corner was right
 5 there. I understand right up in that
 02:27:49 6 area where the laser went from to we do
 02:27:54 7 use that for a little picnic area at
 02:27:50 8 times.
 02:27:57 9 MR. WASHER:
 02:27:57 10 But you can still do that.
 02:27:57 11 MR. TAYLOR:
 02:27:57 12 Yes.
 02:27:57 13 MR. WASHER:
 02:27:59 14 Could we not bring it back to the
 02:28:02 15 top of the other piece just south of the
 02:28:06 16 breezeway, can we not bring it back right
 02:28:08 17 there?
 02:28:08 18 MR. TAYLOR:
 02:28:09 19 Yes, we can do that.
 02:28:09 20 MR. WASHER:
 02:28:09 21 Thank you, sir. We will consider
 02:28:09 22 that hearing closed.
 02:35:08 23 Next case today is Case No.
 24 16-053-PC — City of Biloxi — an
 25 application to consider a Text Amendment
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02:35:41 1 to the Land Development Ordinance (LDO)
 02:35:43 2 to facilitate the Establishment of new
 02:35:45 3 Waterfront Design Standards and
 02:35:45 4 Guidelines Overlay District Zones -
 02:35:45 5 [addition of Section 23-6-14(G) to the
 02:35:45 6 existing LDO text].
 02:35:45 7 MR. BLESSEY:
 02:35:45 8 I will be a lot shorter than the
 02:35:45 9 last time.
 02:35:45 10 Walter "Buzzy" Bolton and my
 02:35:50 11 office and Jerry Creel and the staff has
 02:35:52 12 been working on this for many months and
 02:35:54 13 it has nothing to do with the earlier
 02:35:56 14 things.
 02:35:56 15 This is an idea that the Mayor
 02:35:59 16 has asked to consider and go forward in
 02:36:02 17 keeping with the overall master plan for
 02:36:04 18 rejuvenating the Waterfront. So
 02:36:07 19 essentially it boils down to two
 02:36:09 20 concepts; there is a group of design
 02:36:13 21 standards for all Waterfront
 02:36:15 22 developments, regardless of the zone,
 23 commercial, not residential. I should
 02:36:19 24 make that clear. All commercial zones.
 02:36:21 25 Then there is waterfront
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02:36:23 1 guidelines. The guidelines are most of
 02:36:25 2 what this Ordinance is about. So they
 02:36:29 3 are not required. They are trying to
 02:36:31 4 show examples here. Well, the short
 02:36:47 5 version is the guidelines have been under
 02:36:49 6 way for many months.
 02:36:52 7 Buzzy Bolton and my office and
 02:36:58 8 Jerry Creel and the staff have tried to
 02:37:03 9 set guidelines for architects and
 02:37:04 10 engineers before they ever come to the
 02:37:08 11 DRC to get an idea of what an iconic
 02:37:10 12 Biloxi storybook looks like, not
 02:37:12 13 requiring them to do it but showing
 02:37:14 14 examples. Most architects pick up on
 02:37:15 15 examples and say okay, we see what you
 02:37:19 16 mean, especially if they are from Atlanta
 02:37:21 17 or someplace.
 02:37:22 18 In the guide then you have
 02:37:24 19 standard, a few of the standards are
 02:37:25 20 requirements. Of course you can have
 02:37:26 21 variances on them too. For instance, if
 02:37:26 22 you look at subsection -- it is on page 3
 02:37:36 23 down at the bottom. So we are talking to
 02:37:39 24 encourage public access of the 25-foot
 02:37:42 25 setbacks along the water to encourage
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02:37:45 1 both private and this is apprised of the
 02:37:48 2 City's property as well. Like the Salt
 02:37:53 3 Grass property, we touched on this, and
 02:37:54 4 it is good to encourage boardwalks and
 02:37:58 5 things along the Waterfront. The 25-foot
 02:38:00 6 setback does not make you do it, but the
 02:38:02 7 setback is like any other no-build
 02:38:02 8 setback so that you make it available.
 02:38:07 9 There is some other safety things
 02:38:09 10 that are required. For instance, so we
 02:38:11 11 don't have the tragic accident that
 02:38:14 12 happened in Gulfport with the sailor
 02:38:18 13 whose sailboat hit a power line.
 02:38:20 14 If you notice down on page 4 one
 02:38:22 15 of the requirements is all the public and
 02:38:24 16 private utilities shall be installed
 02:38:29 17 underground, except for lift stations,
 02:38:29 18 transformers and other elements of
 02:38:29 19 utility systems that may need to be
 02:38:29 20 installed aboveground but not up in the
 02:38:32 21 air. And then no laser lights or
 02:38:34 22 spotlights. And I know there was some
 02:38:37 23 concern about pictures in the newspaper
 02:38:39 24 about laser lights. This whole idea is
 02:38:42 25 to have lighting that is more traditional
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02:38:46 1 with shining down and not up. So those
 02:38:46 2 are the requirements.
 02:38:50 3 The general Waterfront Guidelines
 02:39:01 4 really are, if you look on page 4,
 02:39:01 5 subsection 6, says "Where possible,
 02:39:01 6 access to the land from the water by boat
 02:39:01 7 is encouraged". In other words, to try
 02:39:01 8 to encourage the water access not just
 02:39:04 9 highway and vehicular, motor vehicle
 02:39:07 10 cars. It's encouraged both ways.

02:39:10 11 So here -- now the map as you can
 02:39:12 12 see should be Commercial Waterfront
 02:39:16 13 District. This cover is almost on the
 02:39:17 14 Peninsula.

02:39:19 15 Eric, go to the guidelines. I am
 02:39:22 16 not going to go over ever one, but they
 02:39:24 17 are in your packet. I think you have
 02:39:26 18 pictures of some of the iconic examples.

02:39:30 19 Now the old Biloxi Yacht Club,
 02:39:34 20 for instance, which unfortunately got
 02:39:36 21 swept away, but that was the focal piece
 02:39:39 22 of a lot of tourism, Waterfront tourism.
 02:39:41 23 That's the schooner races and thousands
 02:39:45 24 of people lining the Waterfront there.
 02:39:47 25 Now to Buzzy's credit, the new Biloxi

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02:39:52 1 Yacht Club looks a lot like this. So
 02:39:54 2 this is what we are trying to encourage
 02:39:57 3 to any others that come along with
 02:39:58 4 influence, regardless of what -- at least
 02:40:00 5 seen as encouragement, not a requirement
 02:40:03 6 but encouragement. No fencing permitted
 02:40:06 7 within the 25-foot setbacks. I'm sorry.
 02:40:09 8 That's one of the requirements.

02:40:11 9 So let's go to the next picture.
 02:40:15 10 Here is the old photo of the Buena Vista
 02:40:24 11 Pavillion over the water encouraging
 02:40:26 12 public access to the pavillion over the
 02:40:27 13 water. And you can see Buena Vista on
 02:40:30 14 the north side.

02:40:36 15 Did you skip one? Go back up.
 02:40:39 16 Before that. I'm sorry. Go ahead.
 02:40:52 17 There is the pavillion that was basically
 02:40:57 18 an outdoor dance hall with music and
 02:41:01 19 everything. It was very popular and a
 02:41:03 20 great tourist attraction. A lot of
 02:41:06 21 people from New Orleans would come over
 02:41:08 22 here for that.

02:41:12 23 So this is the Biloxi Small Craft
 02:41:12 24 Harbor before Hurricane Camille. You can
 02:41:16 25 see the outdoor awnings that overhang so

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02:41:18 1 that people can gather and get out the
 02:41:20 2 sun and rain. Go ahead. The Small Craft
 02:41:24 3 Harbor again showing something. Go
 02:41:27 4 ahead.

02:41:32 5 Now this is an example of what
 02:41:33 6 not to do. One negative. This is the --
 02:41:38 7 see the old Factory Restaurant before the
 02:41:41 8 Isle of Capri came. This is all of
 02:41:45 9 course before the Waterfront Plan and
 02:41:48 10 before the Marina. You can see junk and
 02:41:48 11 boats just piled up. So there is nothing
 02:41:51 12 wrong with that other than that it is not
 02:41:54 13 very attractive and you can do it better
 02:41:57 14 without hurting small boat owners.

02:42:00 15 So this is a kind of boardwalk we
 02:42:03 16 are encouraging. This is the Riverfront
 02:42:05 17 in New Orleans. Go to the next one. And
 02:42:08 18 another view of that traditional
 02:42:13 19 lighting. And here is another example of
 02:42:15 20 the restaurant like Salt Grass. You want
 02:42:18 21 to have people come to the outdoors to
 02:42:21 22 sidewalk cafes and other things along the
 02:42:23 23 water's edge. This picture does not show
 02:42:27 24 you but the water is to the right. Next
 02:42:30 25 one that is another example of a

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02:42:33 1 waterfront restaurant. Go ahead.
 02:42:35 2 This is a much bigger project,
 02:42:36 3 but it just indicates what we can do to
 02:42:41 4 create walks and marketplace with old
 02:42:45 5 traditional ships around it and so forth.
 02:42:48 6 Next one. That is another view of a
 02:42:52 7 similar kind of protrusion out into the
 02:42:55 8 water that invites pedestrian and retail
 02:43:00 9 and so forth. Next one.

02:43:01 10 Here is a beautiful example of a
 02:43:03 11 boardwalk that has two steps. You see
 02:43:06 12 you can actually get to the water's edge
 02:43:09 13 where you can get in a skiff or rowboat
 02:43:12 14 or kayak or whatever and it floats up and
 02:43:16 15 down with the bollards on the end.

02:43:19 16 Here is an example of an outdoor
 02:43:24 17 pavillion for concerts and things. Okay.
 02:43:30 18 This is kind of more like the old
 02:43:31 19 factories. It is environmentally
 02:43:38 20 friendly and environmentally sensitive
 02:43:38 21 because you are talking about long
 02:43:43 22 overhanging porches.

02:43:53 23 Another example of the kind of
 02:43:53 24 example to be able to get your feet in
 02:43:55 25 the water. Years ago I said -- I should

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02:43:59 1 say before the sand beach we had a lot of
 02:44:02 2 seawall. It was like this right on the
 02:44:05 3 seawall and you could put your feet in
 02:44:07 4 the water and go soft-shelling or
 02:44:12 5 whatever. So it's easy in and out to
 02:44:16 6 catch crabs and so forth. We have a few
 02:44:18 7 places like that but not many.
 02:44:19 8 Now, these are activities. I am
 02:44:21 9 not going to go through the activities,
 02:44:24 10 but these are just suggestions for the
 02:44:27 11 activities. The design is to consider to
 02:44:30 12 take advantage of the water's edge and
 02:44:34 13 the old traditional fun things that we
 02:44:37 14 still do a little but could encourage
 02:44:39 15 more, particularly to young people and
 02:44:41 16 children and young adults using the
 02:44:44 17 waterborne recreation and waterborne
 02:44:47 18 transportation and boats and vessels of
 02:44:51 19 all kinds so that you could tie up to a
 02:44:54 20 marina, not just for big yachts and
 02:44:58 21 boats, which are fine, but also the small
 02:45:00 22 ones.
 02:45:04 23 I know it has been a long day, so
 02:45:07 24 unfortunately this ended up on the same
 02:45:10 25 day. I tried to spend a lot more time
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02:46:11 1 of things there and the City would
 02:46:14 2 encourage that. Not require, but
 02:46:16 3 encourage.
 02:46:17 4 MS. BANKSTON:
 02:46:19 5 P It could be a beautiful pier
 02:46:21 6 like we used to have over there.
 02:46:21 7 MR. BLESSEY:
 02:46:21 8 Exactly.
 02:46:21 9 MR. WASHER:
 02:46:21 10 Any other questions of Mr.
 02:46:23 11 Blessey? Thank you.
 02:46:33 12 Anyone in the audience want to
 02:46:33 13 speak in favor of the applicant's
 02:46:37 14 request? No one speaking in favor,
 02:46:39 15 anyone speaking in opposition?
 02:46:41 16 MR. DYAL:
 02:46:47 17 Jonathan Dyal, 1310 25th Avenue,
 02:46:50 18 Gulfport, Mississippi on behalf of Balch
 02:46:54 19 & Bingham, on behalf of the State of
 02:46:54 20 Mississippi. I am very impressed how
 02:46:57 21 y'all do this every two weeks. I cannot
 02:46:59 22 imagine how y'all sit through this and I
 02:46:59 23 appreciate your patients today.
 02:47:02 24 Yesterday when I was getting
 02:47:03 25 ready for this other hearing I came up
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02:45:07 1 and answer questions. But I hope you
 02:45:10 2 will vote on this today so we can get it
 02:45:11 3 on to City Council.
 02:45:12 4 The staff, and my staff, the
 02:45:13 5 Mayor's staff has spent a lot of time on
 02:45:17 6 it. It is mostly encouraging people to
 02:45:20 7 design things the right way, but putting
 02:45:23 8 a few design standards in there to have a
 02:45:26 9 minimal requirement especially the safety
 02:45:28 10 requirements and setbacks. And we
 02:45:31 11 request that you consider adopting it and
 02:45:37 12 sending it forward.
 02:45:39 13 MS. BANKSTON:
 02:45:39 14 I have a question. Does this
 02:45:41 15 include anything at the Marine Education
 02:45:44 16 Center property? You know, by the Ocean
 02:45:47 17 Springs Bridge all that parking area?
 02:45:49 18 MR. BLESSEY:
 02:45:49 19 It does. That is a great
 02:45:51 20 opportunity to do what you just saw and
 02:45:58 21 there is joint ownership but that would
 02:46:01 22 be a good project to work on. Of course
 02:46:09 23 no one is expecting to see it, it's a
 02:46:10 24 great green space and it could be a
 02:46:10 25 wonderful public space with those kinds
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02:47:05 1 and Mr. Creel did a great deal of walking
 02:47:09 2 me through like the procedures and things
 02:47:10 3 and I realized the other two items for
 02:47:13 4 this afternoon directly affect the
 02:47:17 5 current issue that we discussed this
 02:47:20 6 morning, at least as it relates to Public
 02:47:23 7 Trust Tidelands. So I have just got to
 02:47:26 8 make my record for this as it relates to
 02:47:33 9 Public Trust Tidelands or Fast lands that
 02:47:36 10 were owned by the State of Mississippi.
 02:47:37 11 I will make my point. One we
 02:47:40 12 have a map I would like to introduce as
 02:47:59 13 Exhibit 1. Exhibit No. 2, what we talked
 02:48:02 14 about earlier. This is limited
 02:48:04 15 jurisdiction of municipalities over state
 02:48:06 16 land. It can only be for public safety
 02:48:08 17 and for elimination of public nuisance.
 02:48:12 18 And this particular ordinance as it
 02:48:15 19 relates to Fast lands or Public Trust
 02:48:20 20 Tidelands cannot have the effect of
 02:48:22 21 prohibiting the state agency of
 02:48:24 22 fulfilling statutory obligations. So I
 02:48:24 23 will make that No. 2.
 02:48:46 24 Mr. Blessey said the City has
 02:48:48 25 been working on this for months. I found
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02:48:50 1 out about it yesterday. The State has
 02:48:52 2 not been put on notice as it relates to
 02:48:54 3 these regulations and setbacks,
 02:48:56 4 especially the 25-foot setbacks from the
 02:49:00 5 water's edge, as Mr. Blessey discussed is
 02:49:04 6 one of the issues. The current developer
 02:49:06 7 that we are negotiating with wants to
 02:49:08 8 build a marina and they want to build at
 02:49:10 9 the water's edge meaning this is going to
 02:49:12 10 effect not just the State of Mississippi
 02:49:14 11 but every potential land owner throughout
 02:49:16 12 the whole map that I see that has been
 02:49:18 13 drawn all the way from the City of Biloxi
 02:49:20 14 all the way around Point Cadet. And I
 02:49:22 15 don't think any of them have been
 02:49:24 16 specifically put on notice. But I want
 02:49:26 17 to preserve that the State has not been
 02:49:28 18 put on notice unless I discovered the
 02:49:30 19 record yesterday. So we would object
 02:49:32 20 based on that ground.

I did on limited jurisdiction,
 the City of Biloxi can't enact an
 Ordinance. We are here with the State's
 statutory authority to make decisions
 governing the Public Trust Tidelands.

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02:50:48 1 or if you do, do not pass it as it
 02:50:50 2 related to tidelands or public or fast
 02:50:52 3 land. Any questions?
 02:50:54 4 (Secretary of State's Exhibits 1
 02:50:56 5 through 4 were marked for identification
 02:50:58 6 by the court reporter and said exhibits
 02:51:00 7 are attached hereto.)

MR. WASHER:

Any questions? Thank you, sir.
 Anyone else speaking in opposition? No
 one else speaking in opposition we will

MR. DYAL:

I do want to put in the AG
 Opinion and the case law as Exhibit 3 and
 Exhibit 4.

MR. BLESSEY:

Mr. Dyal is not correct on the
 law. First off, it did say that the
 setbacks was in the required standards,
 so he may have misheard me, if he did or
 I misspoke, sorry about that. But it is
 in the required standards just like
 setbacks are required in subdivisions.

Text amendments, when you do text
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02:49:44 1 And that was specifically stated in the
 02:49:46 2 City's proposal and the 25 foot no-build
 02:49:48 3 setbacks to all redevelopment,
 02:49:50 4 redevelopment and certain control over
 02:49:52 5 existing standards of Waterfront property
 02:49:54 6 interferes with development of Public
 02:49:56 7 Trust Tidelands.

We would object as it relates to
 Public Trust Tidelands or Fast lands and
 ask that you continue that issue until we
 have enough time to figure out how this
 can effect what we are trying to do with
 the developer on Public Trust Tidelands
 or any other Public Trust Tidelands or
 Fast lands in the City of Biloxi.

Can you give me one second?

Yes, one other thing Mr. Blessey
 stated, is that you don't have to have
 the 25-foot setbacks. But according to
 my reading in a very short timeframe here
 it says "shall have a 25 foot setback
 from the water's edge" which would
 directly interfere with how you use the
 Public Trust Tidelands or Fast lands.

So I would ask that you table it
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02:52:01 1 amendments you are not required to notify
 02:52:03 2 every property owner in the City of
 02:52:05 3 Biloxi. When you change the code and
 02:52:07 4 setbacks in your standards for
 02:52:09 5 subdivisions you are not required to
 02:52:11 6 notify every landowner or subdivision.
 02:52:13 7 Those are the basic code guidelines for
 02:52:15 8 development, generally speaking.

Now, I guess the State has a
 right to object if they want to. It
 sounds like now they are going to start
 controlling architectural design in
 Biloxi. This is not prohibited from
 having a marina. You are talking about
 us having public access, that is what
 this is for. The Secretary of State is
 supposed to be for public access. That
 is the point of having setbacks so
 someone can't come in, including the
 State, and prohibit public access. There
 is nothing in this Ordinance that
 prohibits him from carrying out his
 public duties. In fact, his public
 duties are exactly some of the things we
 are trying to encourage him to do. He

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02:51:06 1 ought to be applauding this instead of
 02:53:08 2 opposing it. But it seems like he thinks
 02:53:10 3 he is supposed to get notice of over
 02:53:14 4 decision that is made by this planning
 02:53:18 5 commission. I guess you better start
 02:53:21 6 sending the Secretary of State your
 02:53:25 7 agendas. And how about every other
 02:53:30 8 agenda of every other city on the Gulf
 02:53:31 9 Coast. I mean it is really astonishing
 02:53:34 10 that the Secretary of State now wants to
 02:53:38 11 oppose the opportunity to make the
 02:53:40 12 Waterfront more accessible and more
 02:53:43 13 attractive by design guidelines and
 02:53:44 14 standards. And, you know, he has a right
 02:53:45 15 to do that.
 02:53:49 16 It is kind of interesting that it
 02:53:51 17 seems like Biloxi is the only one that
 02:53:55 18 seems to want to pay attention to you. I
 02:53:57 19 urge you to vote for this today. If he
 02:54:00 20 wants to appeal it he can appeal it to
 02:54:01 21 City Council. It gets a whole new
 02:54:02 22 hearing there. He can put whatever he
 02:54:04 23 wants in the record. But please go ahead
 02:54:08 24 and let's go forward with this. This
 02:54:08 25 applies to every development all around

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02:55:17 1 whole idea was to encourage trade and
 02:55:20 2 commerce and the use of the water and the
 02:55:22 3 water's edge so the sovereign a trustee
 02:55:26 4 on behalf of not the State of Mississippi
 02:55:27 5 by itself but the people of Mississippi
 02:55:29 6 for the purpose of the Trust, which
 02:55:31 7 includes upland owners total rights to
 02:55:34 8 build piers and wharfs and things, which
 02:55:38 9 is what he is supposed to be doing to.
 02:55:39 10 Not objecting to it.
 02:55:42 11 MR. WASHER:
 02:55:43 12 We will consider that hearing
 02:55:44 13 closed.
 14 Our next Case No. 16-055-PC --
 15 City of Biloxi -- This is an application
 16 to consider a Comprehensive Zoning Map
 17 Amendment to identify those specific
 18 parcels which could become part of the
 19 new Waterfront Design Standards and
 20 Guidelines Overlay District Zones
 21 proposed via tandem Zoning Text Amendment
 00:02:29 22 Case No. 16-053-PC. This case was also
 00:02:30 23 advertised on September 29th,
 00:02:32 24 October 6th, and October 13th.

02:58:34 25 We have the maps. You want to
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02:54:11 1 the Back Bay and all of that so we get
 02:54:12 2 the benefit of the best thinking that
 02:54:15 3 your staff and Mr. Bolton and others have
 02:54:19 4 put together here. This was not dreamed
 02:54:22 5 up and has nothing to do with the
 02:54:25 6 Secretary of State.
 02:54:25 7 I just want to make one more
 02:54:30 8 comment about tidelands. For years, I
 02:54:33 9 think the older ones remember, if you
 02:54:34 10 look at the old pictures of Biloxi prior
 02:54:38 11 to the '47 hurricane, even prior to
 02:54:41 12 Camille you had piers all lined up and
 02:54:45 13 down the front beach. Encouraging
 02:54:48 14 tourism and commerce on the waterfront
 02:54:50 15 that is the use of the Public Trust For
 02:54:53 16 Tidelands. It is a partnership. It is
 02:54:55 17 not a dictatorship. It is a partnership
 02:54:59 18 between the sovereign, the state and the
 02:55:01 19 private landowners and the public. And
 02:55:03 20 it has been designed. It came down
 02:55:05 21 namely so that the king could not tell
 02:55:07 22 you you could not get on the water's
 02:55:12 23 edge. And so the people who owned the
 02:55:15 24 water's edge you could not say to the
 02:55:15 25 king nobody else could be here. The

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02:58:38 1 look at the maps quickly. I think you
 02:58:42 2 eluded to this in the last hearing.
 02:58:45 3 MR. BLESSEY:
 02:58:48 4 Yes, I'm sorry. It is two
 02:58:49 5 separate pieces, a map amendment and
 02:58:50 6 overall zoning amendment. These are
 02:58:54 7 overlay districts, by the way, not down
 02:58:57 8 zoning or changing the zoning. It is a
 02:59:01 9 guide for hopefully a good design that
 02:59:04 10 will be good for everybody.

02:59:06 11 MR. WASHER:
 02:59:07 12 Thank you.
 02:59:07 13 MR. BLESSEY:
 02:59:08 14 These are overlay districts not
 02:59:11 15 downgrading the zoning or changing the
 02:59:14 16 zoning the underlying zoning there. So
 02:59:20 17 thank you.
 02:59:20 18 MR. WASHER:
 02:59:20 19 Thank you. Anyone else in the
 02:59:27 20 audience speaking in favor?

02:59:28 21 MR. BOLTON:
 02:59:30 22 Walter Bolton, Architect in
 02:59:41 23 Biloxi, office is 124 Fayard Street. I
 02:59:45 24 worked with Gerald on organizing and
 02:59:48 25 putting together the Ordinance. And two

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02:57:50 1 of the main factors we put in the
 02:57:53 2 Ordinance together was the location best
 02:57:56 3 suited for public use as far as citizens,
 02:58:01 4 tourists and businesses. The idea of
 02:58:09 5 dividing a restaurant or nightclub or
 02:58:11 6 hotel from the Waterfront by this
 02:58:14 7 ordinance is totally misunderstood. The
 02:58:19 8 Ordinance gives -- where the upward
 02:58:22 9 landowner cannot build to the water's
 02:58:25 10 edge and block access to the public.

02:58:25 11 Back the late 80s and early 90s I
 02:58:29 12 was doing architectural work for the
 02:58:31 13 Biloxi Port Commission at that time, it
 02:58:33 14 is now the port division with the City.
 02:58:37 15 And we traveled to numerous waterfront
 02:58:39 16 cities to study their thoughts because
 02:58:41 17 the casinos were getting ready to come in
 02:58:44 18 and change our waterfront. We went to
 02:58:53 19 San Francisco, Seattle, Boston,
 02:58:53 20 Baltimore, New Orleans. And in those
 02:58:56 21 studies in reviewing the developers and
 02:59:03 22 their governmental agencies. The
 02:59:05 23 strongest item that was always brought up
 02:59:08 24 was the tidelands issue and use by the
 02:59:19 25 public. Some of the agencies, the main

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03:00:28 1 the waterfront belongs to the people. So
 03:00:31 2 we are out here to try to find a way that
 03:00:36 3 anytime you want to you can walk any
 03:00:41 4 distance you want and always be on the
 03:00:42 5 water's edge. If you want to stop and
 03:00:44 6 fish stop and fish. Like Mr. Blessey
 03:00:47 7 said, sit down and put your feet in the
 03:00:50 8 water if you want to.

03:00:51 9 The Idea of block access to
 03:00:55 10 development for marinas, as I mentioned,
 03:00:58 11 the only thing they can't do is block the
 03:01:02 12 access from one property line to the
 03:01:04 13 other. Excuse me, I need water. But
 03:01:06 14 that was the general idea. To go to the
 03:01:09 15 map on the area we are talking about it
 03:01:15 16 has been divided up into five sections.
 03:01:19 17 Some is seawall and sand beach and trying
 03:01:22 18 to make that still a walking area. A lot
 03:01:28 19 of West Biloxi is already concrete
 03:01:29 20 walkways made and we are hoping to get
 03:01:32 21 the county and city to work together with
 03:01:32 22 a there is a continuous walkway.

03:01:34 23 Way on the East end of Biloxi
 03:01:36 24 since most of it is developed we are
 03:01:40 25 looking at areas starting hopefully with

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02:59:19 1 one would be the City of Boston passed
 02:59:19 2 regulations so strict that nothing can be
 02:59:21 3 built on the waterfront without allowing
 02:59:24 4 public access. If someone wants to build
 02:59:28 5 a 20-story condominium, and I want to pay
 02:59:35 6 \$5 million to sit on the water's edge,
 02:59:35 7 the public is going to be walking between
 02:59:37 8 me and the water. They have a marina
 02:59:39 9 full of boats, but the general public can
 02:59:42 10 walk passed and have access to the water.

02:59:44 11 We came back and sat with the
 02:59:48 12 casinos and the first thing they started
 02:59:49 13 screaming was "security, security,
 02:59:51 14 security". So all these nice Highway 90
 02:59:55 15 sidewalks were built to allow you to
 02:59:57 16 bypass a casino to go from one section to
 03:00:01 17 the next section of beach.

03:00:03 18 In this Ordinance and hopefully
 03:00:07 19 some designs in the future we want to try
 03:00:09 20 to open all that Waterfront back up
 03:00:12 21 again. For some of the casinos it is
 03:00:15 22 going to be next to impossible, but to
 03:00:21 23 try to make it as little separation as
 03:00:21 24 you can. Because as it has been
 03:00:25 25 mentioned by the State and Mr. Blessey

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03:01:45 1 Point Cadet area and the plaza down there
 03:01:47 2 and that area, say from the Palace Casino
 03:01:50 3 around to almost the small craft harbor.
 03:01:54 4 A few places we can't get into because of
 03:01:57 5 industrial and it is a life-safety
 03:01:59 6 factor. And other areas, a casino there
 03:02:05 7 does not have a means to going around it,
 03:02:06 8 so we just go to it and work something
 03:02:10 9 decorative where people still enjoy their
 03:02:12 10 walk. But the areas that you see the
 03:02:15 11 mustard yellow is the West Biloxi from
 03:02:18 12 the lighthouse to Debuys Road. A
 03:02:21 13 majority of that, like I said, is already
 03:02:25 14 developed into walkways. There is a few
 03:02:27 15 spaces we hope to fill into. When you
 03:02:30 16 get to the Small Craft Harbor let's say
 03:02:33 17 from the lighthouse to the Small Craft
 03:02:37 18 Harbor some of that already has walkways
 03:02:40 19 down the seawall and around the loop, but
 03:02:43 20 then you have to go back to the sidewalks
 03:02:47 21 to get past the casinos. And we are
 03:02:50 22 hoping to work with them and find some
 03:02:51 23 way to make that detachable, if not all
 03:02:55 24 the way most of the way for residents and
 03:02:58 25 tourists.

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03.02.29 1 Point Cadet is another one that
 03.03.01 2 is the same way, a lot of it is open now.
 03.03.05 3 If we don't take advantage of it now it
 03.03.07 4 may be lost. It has to go from the
 03.03.13 5 Palace casino around to the Small Craft
 03.03.16 6 Harbor, probably 80 percent of that is
 03.03.18 7 possible to make it into a walkway. And
 03.03.22 8 the other 20 is what the casinos are
 03.03.25 9 willing to do to help make that a full
 03.03.26 10 walkway.

03.03.26 11 The last part of the back bay
 03.03.28 12 running from the railroad bridge around
 03.03.31 13 to the Isle of Capri Casino -- IP Casino,
 03.03.33 14 excuse me. About 40 percent is
 03.03.41 15 residential, which means we will stay
 03.03.43 16 away from it and it would just be
 03.03.45 17 residential sidewalks. On that area that
 03.03.48 18 is actually on the waterside of the
 03.03.51 19 residents it may be across the road from
 03.03.57 20 the water, but at least it has a view of
 03.03.58 21 the water. Then you get to the more
 03.04.00 22 industrial areas and you have to be
 03.04.02 23 careful because of the danger. And we
 03.04.04 24 have talked to some of those owners about
 03.04.06 25 the possibility and they are not in favor

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03.05.22 1 audience speaking in favor of the
 03.05.22 2 applicant's request? No one speaking in
 03.05.25 3 favor, anyone speaking in opposition?
 03.05.25 4 MR. DYAL:
 03.05.26 5 Jonathan Dyal, 1310 25th Avenue,
 03.05.29 6 Gulfport, Mississippi on behalf of the
 03.05.32 7 State of Mississippi. I would like to
 03.05.35 8 introduce Exhibit 1, the map. Now I have
 03.05.51 9 to do this because it is two separate
 03.05.51 10 copies.

03.05.53 11 Exhibit 2 is the Limited
 03.05.53 12 Jurisdiction of Municipalities Over State
 03.05.55 13 Land and can only be done for public
 03.05.55 14 safety or for elimination of public
 03.06.01 15 nuisance. And while reasonable zoning
 03.06.02 16 restrictions aimed at public safety may
 03.06.03 17 be enforced, a municipality and/or county
 03.06.03 18 may not enact an ordinance that would
 03.06.03 19 have the effect of prohibiting the State
 03.06.16 20 agency from fulfilling its statutory
 03.06.16 21 obligations.

03.06.16 22 All I would ask for to you think
 03.06.16 23 about is either continue or deny this
 03.06.16 24 application and map as it relates to
 03.06.21 25 Public Trust Tidelands and Fast lands.
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03.04.09 1 of crossing their property, but the idea
 03.04.13 2 of building overviews where people can
 03.04.15 3 see how the boats come in and deliver the
 03.04.19 4 shrimp or oysters or whatever they
 03.04.22 5 deliver. They can't let them in the
 03.04.24 6 process part, the preprocess to be able
 03.04.28 7 to view. But then when you get a little
 03.04.30 8 farther you are going down Bayview and
 03.04.33 9 industrial and that waterfront is
 03.04.35 10 somewhat open except for two factories
 03.04.38 11 and one casino to get you to IP.

03.04.48 12 That is the thought and the
 03.04.47 13 breakdown of the area of a five-year
 03.04.51 14 graphical takes you from Debuys Road
 03.04.54 15 around to the IP Casino. Everything west
 03.04.58 16 of IP is residential so we have not
 03.05.01 17 looked past by the Back Bay Bridge. Any
 03.05.05 18 questions?

03.05.09 19 MR. WASHER:
 03.05.10 20 Any questions of Mr. Bolton?
 03.05.11 21 Thank you.

03.05.11 22 MR. BOLTON:
 03.05.11 23 Thank you.

03.05.11 24 MR. WASHER:
 03.05.11 25 We'll ask is anyone in the
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03.06.24 1 We were not given notice to this. We
 03.06.29 2 just found out about it yesterday. Mr.
 03.06.31 3 Creel was assisting me in getting ready
 03.06.33 4 for this meeting today and it affects not
 03.06.37 5 only Public Trust Tidelands and Fast
 03.06.41 6 lands, but no notice, I believe, were
 03.06.42 7 ever given to any landowner effected by
 03.06.44 8 the proposed amendment or and other
 03.06.47 9 landowner within 200 feet of this land.
 03.06.50 10 So a lot of landowners may or may not be
 03.06.54 11 happy with this particular proposal that
 03.06.56 12 affects their land. And all I suggest is
 03.06.57 13 notice needs to be given.

03.06.59 14 The City of Biloxi, we talked
 03.07.01 15 about the limited jurisdiction and others
 03.07.03 16 that cannot enact an Ordinance to where
 03.07.06 17 it would interfere with the Secretary of
 03.07.07 18 State's statutory authority to make a
 03.07.08 19 decision governing the Public Trust
 03.07.10 20 Tidelands of Fast lands. This is
 03.07.10 21 specifically stated in the City's
 03.07.12 22 proposal. And, of course, I believe that
 03.07.15 23 this map is to be read in conjunction
 03.07.21 24 with the previous application, which was
 03.07.22 25 the text amendment. This is showing the

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03:07:25 1 areas where they are trying to have this
 03:07:27 2 come into play which would effect Public
 03:07:28 3 Trust Tidelands and Fast lands. And all
 03:07:28 4 I submit to you the Commissioners is to
 5 please continue this and/or deny this as
 03:07:35 6 it relates to Fast lands or Tidelands.
 03:07:57 7 These are Exhibit 3 and 4, the AG Opinion
 03:08:04 8 and the case law.

9 (Secretary of State's Exhibit 1
 10 through 4 were marked for identification
 11 by the court reporter and said exhibits
 12 are attached hereto.)

13 MR. WASHER:

14 Anyone else speaking in
 15 opposition? No one else speaking in
 03:08:25 16 opposition, Mr. Blessey.

03:08:25 17 MR. BLESSEY:

03:08:25 18 Nothing we are proposing
 03:08:29 19 prohibits the Secretary of State of
 03:08:33 20 Mississippi from carrying out their
 03:08:34 21 statutory obligations. They need to
 03:08:36 22 follow the rules and regulations of the
 03:08:38 23 City of Biloxi regarding building codes.
 03:08:42 24 To use his logic, every time the building
 03:08:45 25 code changes you have to give them and

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03:10:07 1 have at it. But I think sometimes you
 03:10:09 2 have to draw the line on whether the
 03:10:13 3 Secretary of State is really carrying out
 03:10:15 4 his duty to the people of Mississippi by
 03:10:18 5 prohibiting the public access and usage
 03:10:23 6 of rules and regulations of the local
 03:10:28 7 communities. That is an extraordinary
 03:10:28 8 change in the law from what it is today.
 03:10:29 9 And I don't believe legislature intended
 03:10:32 10 that, nor does the Public Trust for
 03:10:37 11 Tidelands intend that.

03:10:37 12 MR. WASHER:

03:10:38 13 Thank you. We will consider that
 03:10:39 14 hearing closed.

03:10:41 15 No tree hearings today.

03:10:42 16 City Council action, Mr. Shambra?

03:10:44 17 MR. SHAMBRA:

03:10:45 18 No updates.

03:10:48 19 MR. WASHER:

03:10:48 20 Any old business come before us?

03:10:47 21 Any new business?

03:10:48 22 We will open the floor for any
 03:10:49 23 citizen comments if anyone has anything
 24 to bring to our attention. No citizens
 25 comments.

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03:08:47 1 everybody with property in Biloxi notice
 03:08:51 2 and that is not correct. There is no
 03:08:51 3 zoning change here that changes the use
 03:08:59 4 of this property. In fact, everything he
 03:09:00 5 suggested he wants to do with this
 03:09:03 6 property is not only compatible with what
 03:09:05 7 we are proposing it is encouraged by what
 03:09:08 8 we are proposing. So, I mean, you know
 03:09:12 9 if you use his logic, keep in mind the
 03:09:16 10 mean high tide line, wherever it is,
 03:09:21 11 seaward the submerged lands that is
 03:09:25 12 tidelands. By his logic every time the
 03:09:28 13 City of Biloxi and for that matter any
 03:09:31 14 Coastal city dealing with a zoning change
 03:09:34 15 he is supposed to get notice and he can
 03:09:37 16 come object if he does not like what is
 03:09:40 17 happened, public or private. That is not
 03:09:43 18 the law. The law he has put in there has
 03:09:45 19 a whole different purpose. He is not
 03:09:47 20 being prohibited from carrying out his
 03:09:50 21 duties. And he is not entitled to notice
 03:09:54 22 of every text change that occurs on the
 23 waterfront of Biloxi and Pascagoula.

03:10:02 24 Now, if he wants to object and
 03:10:05 25 take it to the Mississippi Supreme Court

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1 Just a reminder, our next meeting
 2 will be here on Thursday, November 3rd.
 3 Let's go back and look at the
 4 cases we've heard and see if we can't
 5 render a decision on those.

03:11:05 6 In regard to Case No. 16-050-PC
 03:11:10 7 City of Biloxi.

03:11:13 8 MR. SHAMBRA:

9 This an application to consider a
 10 Comprehensive Zoning Map Amendment and
 11 other matters to be presented at the
 12 hearing on this request involving twenty
 13 (20) Tax Parcels, and also including
 14 those certain parcels located south of
 15 Beach Boulevard, east of Pine Street,
 16 west of Cedar Street, up to the east
 17 property line of the City of Biloxi's
 18 parcel situated west of and adjacent to
 19 the Golden Nugget Casino site,
 20 collectively totaling approximately 23.3
 21 Acres (More or Less) of property located
 22 within the eastern section of the City of
 23 Biloxi, which parcels have been selected
 24 for a suggested change in Zoning District
 25 Classification from NB-Neighborhood

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1 Business and WF Waterfront District to
 2 CB- Community Business.
 03:11:46 3 As discussed, I think we should
 03:11:48 4 continue A and C, which are the two areas
 03:11:54 5 which are the properties south of Highway
 03:11:57 6 90. And we are going to suggest that you
 03:12:01 7 adopt Option 1, which is to approve those
 03:12:05 8 properties in Parcel B, which are
 03:12:09 9 presently the 11 parcels situated north
 03:12:10 10 of Highway 90, east of Pine Street, west
 03:12:10 11 of Cedar Street and south of First
 03:12:14 12 Street. And the staff feels that is the
 03:12:16 13 appropriate zoning for this.

03:12:16 14 MR. WASHER:

03:12:16 15 I believe that both the City of
 03:12:19 16 Biloxi and the Secretary of State is in
 03:12:23 17 agreement with that. So we will
 03:12:25 18 entertain a motion to let us continue
 03:12:25 19 those on A and C for the next meeting and
 03:12:26 20 to vote on B today. And your
 03:12:31 21 recommendation for B is to approve as
 03:12:33 22 recommended.

03:12:33 23 MR. HARRISON:

03:12:34 24 Approve as recommended.

03:12:34 25 MR. PARKER:

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03:13:27 1 of property they had to have two acres or
 03:13:30 2 they had to be continuing a zone that
 03:13:34 3 already existed; in other words, just a
 03:13:46 4 continuation. You know, in this
 03:13:46 5 application we are talking 23 acres and
 03:13:46 6 we advertised it and considered it as a
 03:13:46 7 Comprehensive zoning change not a spot
 03:13:49 8 zoning.

03:13:49 9 With a project like what is being
 03:13:54 10 proposed they clearly have over five
 03:13:57 11 acres, and by having over five acres
 03:14:01 12 involved in the project if the zoning is
 03:14:03 13 CB they can actually present this project
 03:14:05 14 as a PDC Planned District Commercial
 03:14:12 15 project which typically a project with
 03:14:14 16 this scope and scale comes to us as a
 03:14:16 17 Master Plan or as a PD.

03:14:19 18 Now, the reason I bring that up
 03:14:21 19 is because it was mentioned about the
 03:14:24 20 height restriction. When you do a
 03:14:26 21 project and propose the project as a PD
 03:14:28 22 there are no height restrictions other
 03:14:34 23 than those of Keesler of course.
 03:14:35 24 Density, parking, all of those things are
 03:14:38 25 not held to the stringent requirements of

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03:12:37 1 Second.
 03:12:38 2 MR. WASHER:
 03:12:38 3 Any discussion?
 03:12:40 4 MR. CARRON:
 03:12:40 5 Do we need to see a timeframe on
 03:12:43 6 that?

03:12:46 7 MR. WASHER:

03:12:46 8 We will continue to the next
 03:12:47 9 meeting, and continue the meeting until
 03:12:48 10 it seems like it is not going to be
 03:12:49 11 resolved and then we might dispose of it
 03:12:52 12 at that time.

03:12:53 13 MR. CREEL:

03:12:54 14 Mr. Chairman, very briefly, and I
 03:12:57 15 will not get into the legal aspects of
 03:12:59 16 this, but something the Planning
 03:13:01 17 Commission needs to consider until they
 03:13:04 18 bring this back up at a future meeting.

03:13:06 19 The question about CB Zoning, CB
 03:13:10 20 Zoning is our tourism and entertainment
 03:13:13 21 district zoning. Now, that is one reason
 03:13:15 22 it is being considered. This is not spot
 03:13:22 23 zoning. In the previous Ordinance in
 03:13:25 24 order for a property owner to make an
 03:13:25 25 application to change a zoning on a piece

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03:14:41 1 just the zoned district.
 03:14:43 2 The project is evaluated and
 03:14:47 3 approved based on the collective value of
 03:14:52 4 the entire project. So it essentially
 03:14:55 5 gives you a lot of flexibility with
 03:14:58 6 regard to height, density, parking and
 03:15:02 7 setbacks.

03:15:04 8 In this particular case the
 03:15:07 9 Keesler height, that I previously
 03:15:09 10 mentioned, is not an issue because in
 03:15:10 11 that part of town it is not in the
 03:15:12 12 training area of Keesler. This has
 03:15:16 13 already been addressed, but I heard
 03:15:20 14 yesterday that there was a statement made
 03:15:21 15 that a marina would not be allowed in CB
 03:15:27 16 zoning and that is not true. A marina is
 03:15:31 17 allowed as a conditional use in CB zoning.

03:15:34 18 Also, the consideration that Mr.
 03:15:35 19 Blessey mentioned during his
 03:15:38 20 presentation, Waterfront zoning is in
 03:15:43 21 addition to being the gaming zoning for
 03:15:44 22 the City is also the adult entertainment
 03:15:47 23 zoning, and certain adult uses are
 03:15:51 24 allowed as a use permitted by right.
 03:15:56 25 Permitted uses subject to the distance

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03:15:59 1 requirements from residential zoning and
 03:16:02 2 some other things. So changing the
 03:16:04 3 zoning to CB would lessen the chance that
 03:16:08 4 we would have an adult entertainment
 03:16:14 5 operation moving in right next to the
 03:16:17 6 family entertainment being proposed. And
 03:16:20 7 someone said that is not realistic to
 03:16:22 8 consider that, but we have that very
 03:16:25 9 situation on Veterans Avenue right now
 03:16:28 10 where we have family entertainment and an
 03:16:33 11 adult use abutting it.

03:16:33 12 This is just some things from the
 03:16:35 13 LDO that I thought that you needed to
 03:16:38 14 know before you consider this. So that's
 03:16:40 15 the end of my list.

03:16:42 16 MR. WASHER:

03:16:42 17 Thank you, Jerry. Any other
 03:16:44 18 discussion?

03:16:46 19 We have a motion and second on
 03:16:47 20 the floor recommending approval as
 03:16:48 21 requested in regards to Parcel B. It
 03:16:55 22 says that A and C will be continued to
 03:16:57 23 the next meeting. We ask all those in
 03:16:58 24 favor of approval raise your hand,
 25 please.

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03:17:51 1 but can appreciate a lodge does exist
 03:17:55 2 there and it is physically situated on
 03:17:58 3 the property and identified as 636 Esters
 03:18:01 4 Boulevard. So the staff can support the
 03:18:03 5 rezoning to NB for 636 Ester property.
 03:18:10 6 We suggest you remove the 230 Nixon
 03:18:13 7 property since it does encroach into the
 03:18:16 8 neighborhood and also the unnumbered
 03:18:18 9 property since those were not really part
 03:18:20 10 of the application at this time. The
 03:18:21 11 staff feels it is appropriate, that the
 03:18:28 12 zoning is appropriate.

03:18:31 13 MR. WASHER:

03:18:31 14 With that applicable is that what
 03:18:32 15 you are recommending?

03:18:35 16 MR. SHAMBRA:

03:18:36 17 Basically takes the property
 03:18:39 18 which is subject north --

03:18:42 19 MR. WASHER:

03:18:43 20 To the breezeway.

03:18:56 21 MR. SHAMBRA:

03:18:58 22 That's correct.

03:18:58 23 MR. CREEL:

03:18:59 24 I would suggest an alternate
 03:19:01 25 recommendation that we just limit the

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03:16:59 1 Mr. Harrison; Ms. Thompson; Mr.
 03:16:59 2 King; Mr. Stanovich; Mr. Carron; Mr.
 03:17:10 3 Delahousey; Ms. Bankston; Ms. Humphries;
 03:17:10 4 Mr. Lechner; Mr. Parker; Mr. Snow;
 03:17:10 5 myself, David Washer.

03:17:10 6 Let the record show that vote was
 03:17:10 7 unanimous.

8 In regard to Case No. 16-047-PC --
 9 Clarence Taylor for the Vernon Gilbert
 10 Elks Lodge #576.

11 MR. SHAMBRA:

12 This is an application requesting
 13 a Zoning Map Amendment, to consider a
 14 change in zoning for three parcels of
 15 land collectively measuring approximately
 16 1.67 acres (more or less) in overall
 17 size, from their current zoning district
 18 classification of RM-20 Medium-Density
 19 Multi-Family Residential to NB
 20 Neighborhood Business, for those
 21 properties identified as 636 Esters
 22 Boulevard, 230 Nixon Street, and an
 23 un-numbered property having no street
 24 frontage.

03:17:49 25 The staff has concerns about this

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03:19:02 1 zoning change to just the corner piece of
 03:19:03 2 property where the lodge is located, and
 03:19:07 3 leave the properties around it. They are
 03:19:09 4 using it for parking but it creates
 03:19:13 5 transitional zoning.

03:19:14 6 MR. SHAMBRA:

03:19:14 7 That is it.

03:19:14 8 MS. THOMPSON:

03:19:14 9 Second.

03:19:14 10 MR. WASHER:

03:19:18 11 Motion on the floor, second by
 03:19:20 12 Ms. Thompson. Any discussion?

03:19:26 13 MRS. HUMPHRIES:

03:19:26 14 What about the lady that was
 03:19:28 15 disturbed by late hours; how close is she
 03:19:32 16 to that?

03:19:32 17 MR. WASHER:

03:19:32 18 She will be north of there. This
 03:19:32 19 won't get to her property.

03:19:37 20 MRS. HUMPHRIES:

03:19:38 21 So the property close to her will
 03:19:38 22 remain and they won't be able to use that
 03:19:43 23 property --

03:19:43 24 MR. SHAMBRA:

03:19:43 25 As part of this application.

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03 19 45 1 MR. WASHER:
 03 19 45 2 Any other discussion?
 03 19 48 3 Motion and second on the floor
 03 19 48 4 recommending approval of the southern
 03 19 52 5 portion of that property as stated by Mr.
 03 19 52 6 Shambra. All those in favor of approval
 7 raise your hand.
 8 Mr. Harrison; Ms. Thompson; Mr.
 9 King; Mr. Stanovich; Mr. Carron; Mr.
 10 Delahousey; Ms. Bankston; Ms. Humphries;
 11 Mr. Lechner; Mr. Parker; Mr. Snow;
 03 16 59 12 myself, David Washer.
 03 16 59 13 Let the record show that vote was
 03 17 10 14 unanimous.
 03 20 08 15 In regard to Case No. 16-053-PC —
 16 City of Biloxi.
 17 MR. SHAMBRA:
 18 This is an application to
 19 consider a Text Amendment to the Land
 20 Development Ordinance (LDO) to facilitate
 21 the Establishment of new Waterfront
 22 Design Standards and Guidelines Overlay
 23 District Zones - [addition of Section
 24 23-6-14(G) to the existing LDO text].
 02 28 41 25 You heard the presentations and
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03 21 25 1 this and suggests option one to approve.
 03 21 27 2 MR. LECHNER:
 03 21 28 3 Motion to approve.
 03 21 28 4 MR. PARKER:
 03 21 31 5 Second.
 03 21 31 6 MR. WASHER:
 03 21 33 7 Any other discussion? All those
 03 21 35 8 in favor of approval raise your hand.
 03 21 35 9 Mr. Harrison; Ms. Thompson; Mr.
 03 21 35 10 King; Mr. Stanovich; Mr. Carron; Mr.
 03 21 35 11 Delahousey; Ms. Bankston; Ms. Humphries;
 03 21 35 12 Mr. Lechner; Mr. Parker; Mr. Snow;
 03 21 04 13 myself, David Washer. Let the record
 03 21 04 14 show that was unanimous.
 03 21 52 15 That being said, we will adjourn
 16 the Planning Commission and immediately
 17 convene the Board of Zoning Adjustments.
 18 (Planning commission adjourned at 5:28 p.m.)
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03 20 39 1 feel it is appropriate and staff can
 03 20 41 2 support option one, which is to approve.
 03 20 44 3 MR. LECHNER:
 03 20 44 4 I'd like to make a motion to
 03 20 44 5 approve.
 03 20 44 6 MR. SNOW:
 03 20 46 7 Second.
 03 20 46 8 MR. WASHER:
 03 20 46 9 Motion by Mr. Lechner
 03 20 47 10 recommending approval and seconded by Mr.
 03 20 49 11 Snow. Any discussion? All those in
 03 20 52 12 favor of approval raise your hand.
 03 20 52 13 Mr. Harrison; Ms. Thompson; Mr.
 03 20 52 14 King; Mr. Stanovich; Mr. Carron; Mr.
 03 20 52 15 Delahousey; Ms. Bankston; Ms. Humphries;
 03 20 52 16 Mr. Lechner; Mr. Parker; Mr. Snow;
 03 21 04 17 myself, David Washer. Let the record
 03 21 04 18 show that was unanimous.
 03 21 04 19 In regards to Case No. 16-055-PC
 03 21 04 20 — City of Biloxi.
 03 21 04 21 MR. SHAMBRA:
 03 21 05 22 This is the companion case to
 03 21 18 23 consider the comprehensive Zoning Map
 03 21 18 24 Amendment that would become part of the
 03 21 18 25 new standards. Staff again considered
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1 **C E R T I F I C A T E**
 2 **STATE OF MISSISSIPPI**
 3 **COUNTY OF HARRISON**
 4 I, Crystal L. Morris, CSR and Notary
 5 Public, duly commissioned for the County of
 6 Harrison, State of Mississippi, do hereby
 7 certify:
 8 That on the 20th day of October, 2016
 9 there appeared before me the City of Biloxi
 10 Planning Commission, and that the preceding
 11 pages contain a full, true, and correct copy of
 12 my stenotype notes, later reduced to
 13 typewritten form by computer-aided
 14 transcription, of the testimony of said
 15 proceedings;
 16 That I am not related to or in anywise
 17 associated with any of the parties to this
 18 cause of action, or their counsel, and that I
 19 am not financially interested in the same;
 20 IN WITNESS WHEREOF, I have hereunto set
 21 my hand, the 28th day of October, 2016.
 22
 23
 24 CRYSTAL LYNN MORRIS, CSR
 MY COMMISSION EXPIRES: 2-07-2020
 25
 CRYSTAL LYNN MORRIS, CSR
 (228) 424-2047 E-MAIL ICAPTION4U@AOL.COM

1 BILOXI BOARD OF ZONING ADJUSTMENTS
 2 OCTOBER 20, 2016
 3 Dr. Martin Luther King, Jr. Municipal Bldg,
 4 676 Dr. Martin Luther King, Jr. Boulevard
 5 Biloxi, Mississippi
 6 COMMISSION MEMBERS PRESENT:
 7 Mr. David Washer, President
 8 Mr. John Snow
 9 Mr. August Parker
 10 Mr. Gary Lachner
 11 Ms. Joann Humphries
 12 Ms. Kaye Bankston
 13 Mr. Steve Delahousey
 14 Mr. Kyle Carron
 15 Mr. David Stanovich
 16 Mr. Joe King
 17 Ms. Cheryl Thompson
 18 Mr. Curtis Harrison

12 OTHERS PRESENT:

13 Mr. Jerry Creel,
 14 Director of Community Development
 15 Mr. Ed Shambra,
 16 Executive Planner
 17 Mr. Peter Abide,
 18 Commission Attorney
 19 Ms. Felicia Serpas,
 20 Planning Technician,
 21 Ms. Caryle Lena,
 22 Planning Technician
 23 Mr. Tim Cipolla,
 24 Code Enforcement
 25 Mr. Eric Nolan,
 City Arborhist

24 REPORTED BY:

25 CRYSTAL LYNN MORRIS, CSR
 CRYSTAL LYNN MORRIS, CSR
 (228) 424-2047 E-MAIL ICAPTION4U@AOL.COM

1 (5:29 p.m.)

2

3

PROCEEDINGS

4

5

MR. WASHER:

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7

Let's call the Board of Zoning
 Adjustments meeting to order, please. We'll
 record the members present.

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Mr. Harrison; Ms. Thompson; Mr. King;
 Mr. Stanovich; Mr. Carron; Mr. Delahousey;
 Ms. Bankston; Ms. Humphries; Mr. Lechner; Mr.
 Parker; Mr. Snow; myself, David Washer; Ed
 Shambra, Executive Planner; Peter Abide,
 Commission Attorney; Jerry Creel, Director of
 Community Development; Felicia Serpas,
 Planning Technician; Caryle Lena, Planning;
 Tim Cipolla on video; Eric Nolan, City
 Arborist; and our court reporter is Crystal
 Morris.

Ask if all members received a copy
 of the minutes? Any additions or
 corrections? If not, we'll entertain a
 motion to accept the minutes as presented.

MR. Lechner:

So moved.

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MS. THOMPSON:
 Second.
 MR. WASHER:
 All these in favor say Aye. Any
 opposed? Thank you.
 We have no committee reports.
 No continued public hearings.
 No new public hearings.
 Any old business?
 Any new business?
 Again our next meeting will be
 here on November 3rd. We will stand
 adjourned.

(Board of Zoning adjourned at 5:30 p.m.)

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C E R T I F I C A T E

STATE OF MISSISSIPPI

COUNTY OF HARRISON

I, Crystal L. Morris, CSR and Notary Public, duly commissioned for the County of Harrison, State of Mississippi, do hereby certify:

That on the 10th day of October, 2016, there appeared before me the City of Biloxi Board of Zoning Adjustments, and that the preceding pages contain a full, true, and correct copy of my stenotype notes, later reduced to typewritten form by computer-aided transcription, of the testimony of said proceedings;

That I am not related to or in anywise associated with any of the parties to this cause of action, or their counsel, and that I am not financially interested in the same;

IN WITNESS WHEREOF, I have hereunto set my hand, the 15th day of October, 2016.

CRYSTAL LYNN MORRIS, CSR
MY COMMISSION EXPIRES: 2-27-2018

CRYSTAL LYNN MORRIS, CSR
1166 421-1017 E-MAIL: CCAMP@MSRBAD.COM