

The Russell County Commission  
Meeting Minutes  
October 13, 2010  
9:30 A.M. EST.

Public Comments:

- Ricky Turner discussed what Bio-Solids are, their use and the safeness of this product.
- Wanda Lamb presented the wishes of employees and citizens who favor the renewal of the County Administrator LeAnn Horne's contract.

The Russell County Commission Meeting was called to order. Members present were Chair Peggy Martin, Vice Chair Gentry Lee, Tillman Pugh, Ronnie Reed, Cattie Epps, Mervin Dudley and Larry Screws. Also present were County Attorney Kenneth Funderburk and County Administrator LeAnn Horne, who kept the minutes.

A quorum was established.

Chair Martin requested an amendment of the agenda, moving the award presentation Commissioner Reed had planned under Proclamations and Resolutions instead of Announcements. Also to add an Executive Session under the County Attorney's Items. Commissioner Dudley motioned to approve agenda amendments. Seconded by Commissioner Reed.

Commissioner Pugh: May I asked what the purpose is of the executive session?

County Attorney Funderburk: It deals with a personnel matter. You still will have to vote on going into executive session. All this is doing is placing it on the agenda and it does pertain to a personnel matter; the Administrator's contract renewal.

Commissioner Pugh: Normally we are made aware of these things prior to the meeting. We will work through this agenda.

The vote was unanimous to approve the agenda.

The invocation was given by Marvin Minton, Pastor of the Crawford Road Baptist Church.

The Pledge of Allegiance was led by Commissioner Screws.

Chair Martin welcomed elected officials, department heads, media and visitors.

Chair Martin requested approval of the September 22, 2010 meeting minutes. Commissioner Dudley motioned to approve the minutes and was seconded by Commissioner Reed. The Commission was polled. District 1(Lee) voted, yes; District 2 (Pugh) voted, yes; District 3 (Martin) voted, yes; District 4 (Reed) voted, yes; District 6 (Dudley) voted, yes; District 5 (Epps) and District 7 (Screws) abstained due to their absence from the meeting. 5 yes votes and 2 abstentions. The motioned passed.

Commissioner Epps introduced Mattie Arrington, Director of Children and Family Services, who requested a resolution of support from the Commission for creation of The Coalition of Human Services and Community Foundation. The City signed a resolution in support of their efforts of establishing this coalition/foundation already. She hopes to begin meetings in November 2010 and requested for a County representative for the planning of the coalition/foundation to attend meetings. This is for all human service providers in Russell County to make certain that families in this county get all the services that they need. This will be a benefit to all agencies, knowing the provisions of each, so services are not duplicated and families are guided to the agencies that can be of service to their situation.

Commissioner Pugh: I had a question, when you came before us before, have you made contact with other non-profits organizations and had feedback from them. We need that, because as I see it you will have control all monies coming from several government entities and you will have the power to pass that money on once it is in your coalition as ya'll see fit as a committee. With that being said, I need to know how the other non-profits that we donate to feel about this.

Mrs. Arrington: This is why we are moving forward with a November meeting so they will know they have the right to be a part of this foundation. This is extended to all agencies. We are trying to gather strength to go for regional, as well as federal dollars, for to this county and for our families. We have not talked to everyone, but are inviting everyone to our first meeting. We also are soliciting the support of strategic planner from Auburn and Troy Universities to conduct the venture.

Commissioner Pugh: I'm in favor of giving you a resolution of support that does not mean final results are approved. If we approve the resolution today for you to go forward; will you bring the finished product back to discuss with the Commission?

Ms. Arrington: Yes, and as I said before; I would like for the Commission to appoint someone to be on the agency's planning committee, so the Commission will always know what we are doing. We are only looking for the best solution for this County.

Commissioner Dudley: There are multiple services in this county already that are doing measurable work. This is a great idea, but it is not a new idea. There are big agencies and different volunteers, which are very powerful. This entails many issues and multiple legal issues. The organizations that are already in operation are 501C (3) and are already into entities working to progress and promote this county.

Commissioner Lee: In my opinion, we are going in the wrong direction. All the agencies that you presented to us at your last presentation have not contacted me or stated they had a need for an organization to be over all of them. I said before; it's hard for me to support something when I don't know what this is. Once you have drawn up your by-laws and contracts and have organizations willing to come in; then, I may be able to support it. At this time I could not support it, because I don't know where it is going. It's too vague.

Commissioner Epps: What I believe Mrs. Arrington is saying; there are a lot of agencies, they are trying to pull together under one umbrella. Also the County will be represented more and can get more grants and funding for these agencies. Right now each agency has to come before the County Commission and ask for an appropriation. However, if we can get all organizations under one umbrella, this county would have a better chance to get grants and federal monies to support all services in Russell County. This has not been formed yet and may not get off the ground. The only thing she is asking: Will the Commission provide a letter to support the process. She is not asking for money or a building, only support to establish a program.

Commissioner Reed motioned to approve the resolution of support. Seconded by Commissioner Epps. District 1(Lee) voted, no; District 2(Pugh) voted, no; District 3 (Martin) voted, yes; District 4 (Reed) voted, yes; District 5 (Epps), voted, yes; District 6 (Dudley) voted, no; and District 7 (Screws) voted, yes. 4 yes votes and 3 no votes. The motioned passed

County Administrator LeAnn Horne presented and read the resolution of support for amendment #1 (ad valorem). This amendment is to correct the technical language that could redistribute the cost and preserves the formula currently used today.

Commissioner Dudley motioned to approve the resolution of support. Seconded by Commissioner Reed. District 1(Lee) voted, yes; District 2(Pugh) abstained; District 3 (Martin) voted, yes; District 4 (Reed) voted, yes; District 5 (Epps), voted, yes; District 6 (Dudley) voted, yes; and District 7 (Screws) voted, yes. 6 yes votes and 1absention. The motioned passed.

Commissioner Reed presented a certificate of recognition to Gary Davis who recently retired from the Homeland Security/EMA Department with over 23 years of service to Russell County.

Laura Weaver, Program Director of Yellow Dot Program, presented the program and explained that it was created to help emergency personnel identify trauma victims who have special medical requirements. She discussed how the program works and how to implement a program for the County Sheriff.

Commissioner Reed wanted to make the Commission aware of Act No. 2010-542 (Coroner) which went into effect October 1, 2010. Expenses occurred from autopsies or the storage of bodies at the state forensic lab will be the responsibility of the agency that requests those autopsies.

Commissioner Epps provided information concerning the impact of illegal immigration at the County level. If the State does not keep up with the census of illegal immigrants this will fall back on the local governments. Counties must come up with the means of how to handle this issue. Commissioner Epps asked for suggestions that could be taken back to the ACCA meeting in December. Who is tracking illegal immigrants in Russell County?

Commissioner Epps also discussed problems the County has with pre-trial detainees. There is a need to eliminate housing inmates who have been arrested for minor offenses for long lengths of time due to the backlog of our Judges. The County is liable for injuries and medical procedures which occur while awaiting trial. Commissioner Epps suggested talking with the Judges and create a program that would not only lessen the population of detainees awaiting trial, but also require those inmates to be constructive during this time. Sheriff Elect Heath Taylor discussed how the overhead at the jail would also decrease if a program could be implemented. Sheriff Taylor and Commissioner Epps will meet to discuss further.

County Engineer Larry Kite stated Commissioner Screws had been contacted by a citizen who requested for the County look at the condition of Sandpit Road. The County does not maintain the portion in question. The entire road is approximately 3,300 feet long; the section in question is about 400 feet. The road portion looks as if it had been maintained, but not in several years due to the that property being vacated. Mr. Kite stated, since that section was a platted right-of-way and had been previously County maintained and serves three property owners; he would like to resume maintenance of this portion if there were no objections from the Commission.

Commissioner Pugh: Are there objections from the other two residents on Sandpit Road? Do the other two owners have access to this portion and are they objecting?

Mr. Kite: I have not spoken with the other two owners.

Commissioner Lee: This is a deeded right-of-way?

Mr. Kite: Yes.

Commissioner Lee: Was the road officially closed or did we just stop maintaining it?

Mr. Kite: I can not determine if it was actually closed.

Commissioner Pugh: Being this is a discussion item, why don't you get with the other landowners there and bring back a recommendation.

County Attorney Kenneth Funderburk: I asked the County Engineer to bring this to the Commission just to inform you, because it really doesn't require any action. It is a dedicated road and in the past has been maintained. I asked Mr. Kite just to make sure, since he had been requested to resume maintenance and is a public road, to make sure the Commission knew that it would be returning to the maintenance schedule.

Commissioner Pugh: All I'm asking is that we be informed. If we are going to get sued by someone; I would like a notice. If there is no problem with other people having access, then I have no problem.

Kenneth Funderburk: The fact that it is dedicated; legally we can maintain the road.

Commissioner Pugh: Legally you are telling me we abandoned the road.

Kenneth Funderburk: No, we did not abandon the road. The County simply maintained it for a while and has not maintained it for a period of time. We are not sure for how long either. We legally have the right to maintain that road and should. To abandon the road, we would have to close the road.

Mr. Kite: It is open and being used by the public.

Commissioner Pugh: How long have we failed to maintain this road?

Mr. Kite: I can not determine an exact date, but it has been several years. The water meter is located down this section of road. The water company will not run water lines down a non-county right-of-way— it is County right-of-way.

Commissioner Pugh: My concern is we are subject to be sued by either side. All I'm asking is for more clarification. I'm asking you check with those people who have been using the road for access; to put them on notice that Engineering will maintain that road again. If I'm going to get into a law suit, I need to know what my legal options are and talk with our attorney again.

Commissioner Screws: We met with Mr. Johnson, who feels he owns that section of the road. He is willing to sign over whatever it takes to have the road maintained again. We are not talking about a long stretch of road, only 400 feet. The houses are on the other side. If the residents for those additional houses have to come through us, if we don't do it now, they will request maintenance later.

Commissioner Pugh: Maybe you don't understand my concern. If we have not been maintaining that road and let's say for instance, a developer has interest in that property. He may be inadvertently be getting us to improve that property, which we may have to force him to do. I want to get a few things documented so I will feel ok with this. If the Engineer wants to get that documentation, and if the Attorney is correct; He has to file to do it, so be it. At least we have put ourselves in the position to defend that suit.

Kenneth Funderburk: I don't think there is a problem to do that. That is why I wanted to bring it to you. I don't think there should be a problem getting a copy of the plat and doing what you are asking.

Commissioner Lee: As long as the road was not officially abandoned by the Commission; it's still a road and belongs to the Commission.

Kenneth Funderburk: It is a public road.

E-911 Board appointment for District 2 was tabled again by Commissioner Pugh until he requests it to placed back on the agenda again.

Probate Judge Alford Harden Jr. requested approval for the expansion of the Cemetery located at Canaan AME Church. Commissioner Dudley motioned to approve the expansion of the cemetery. Seconded by Commissioner Reed. The vote was unanimous.

Engineer, Larry Kite requested approval of an addendum to the PBS&J engineering agreement. The addendum is for the existing agreement for an inspection services on the County Road 4 Project, which is required by the ALDOT. The services are to be 100% reimbursed, but are required to go through the county system first. The project was estimated to be completed by the end of last fiscal year, but due to issues with bridge construction and retesting, this project will probably run through this calendar year. The amount of the inspection service changed for these reasons. The amount of the addendum is \$55,800.92. Due to the project being placed on hold \$ 23,199.08 was not paid in last year's budget for the total of \$79,000; therefore, a budget transfer is as follows:

Increase 111 44222 830	Engineering and Inspection	\$79,000
Increase 111 53100 304	Contract Services	\$79,000

Commissioner Screws motioned to approve the addendum. Seconded by Commissioner Epps. The vote was unanimous.

Sheriff Elect Heath Taylor presented a request for the purchase of 8 new H&K 9 mm revolvers, magazine holders, holsters and 30 additional magazines for the amount of \$10,431 for the new deputies and to replace weapons that have been in service that need replacing due to daily wear and tear. The motion was made by Dudley and seconded by Commissioner Lee. The vote was unanimous.

County Administrator LeAnn Horne presented a renewal contract for RDS. This company formally know as, Ala Tax, collects the county's sales and use tax. The County Attorney has reviewed the three year contract presented to the Commission today. They charge \$2.68 per account or 1.9% of gross collected which ever is lower. Commissioner Lee motioned to approve the RDS renewal contract and was seconded by Commissioner Reed.

Commissioner Pugh: What is the hourly rate? The contract states we are billed on an hourly rate and we will guarantee RDS a 3% increase for 3 years in a row. I need to know what the hourly rate is.

Ms. Horne: My understanding is it is based on transaction per account at \$2.68 or are you talking about audit services.

Ms. Horne: I am uncertain as to what you are asking? Are you referring to the Consumer price index?

Commissioner Pugh: That is an increase per year.

Ms. Horne: This contract fixes the rate at \$2.68 per transaction once approved for three years.

Commissioner Pugh: I read that, but they are talking about an hourly rate, so I was trying to figure what it was so I would know.

Commissioner Lee: That is for an audit.

Commissioner Pugh: I want to know exactly what 3% amounts to over a three year period.

Ms. Horne: I think you are referring to the audit section which the Commission would have to approve before they could go forward with an audit and RDS would have to report back to us. It states \$70.00 per hour.

Commissioner Pugh: If we approve this contract they have the right to. I'm not against the contract. I just need to know exactly what I'm doing.

Ms. Horne: Based on what the contract reads, unless the County Attorney disagrees, it states the hourly rate of \$70 is for audit services which is what the contract reflects; or 3% or an amount based on consumer price index.

Commissioner Pugh: Under the audit service, item 3; states it will increase 3% at the anniversary each year.

Commissioner Lee: 3% or the consumer price index, which in the last three years has been no increase. That is just for an audit, not the normal services.

Kenneth Funderburk: We have to ask them to do that and did ask RDS last year to audit some builders and suppliers.

Chair Martin asked the Administrator to poll the Commission. The vote was unanimous.

The County Administrator LeAnn Horne reported; based on the bid laws, there has been confusion regarding the Jail Project. Money was placed in the budget and approved for this project for 2010/2011. However, based on the previous minutes, the Commission asked for the architect to bring back the specs when it was prepared and ready for bidding. Today my recommendation is that we ratify the bid specs and dates for the record. The advertisements for bids are in your packets. This is just to make sure we are in compliance with the bid law.

Sheriff Elect Heath Taylor stated that Sheriff Boswell thought the approval was for the bid to be let, not approval of the bid specs. He requested at this time to approve for the bid to be let and the bid opening to be held October 21, 2010 at 2:00 p.m. EST in the Commission Chambers. The Sheriff will return to the Commission for the approval of the bid results of the Jail Locking System. Commissioner Lee motioned to ratify and was seconded by Commissioner Dudley. The vote was unanimous.

County Attorney Kenneth Funderburk gave a report on the Judicial Center. The bids have been let and the Architect is working with the low bidder on contracts. The project had a target price and as soon as that has been worked out, he will return with for the bid and contract approval.

County Attorney Kenneth Funderburk recommended going into executive session concerning the contract for the County Administrator. Commissioner Lee motioned to convene into executive session. Seconded by Commissioner Dudley. The vote was unanimous.

Announcements were given before the Commission moved into executive session:

- Sheriff Elect Heath Taylor announced the award of the CHRP Grant to Russell County. This program allows the Sheriff's Department to hire 2 deputies. Their salary and benefits will be paid thru this program for three years after which the County will become responsible for their salary and benefits. There were 13 cities and municipalities awarded this grant. Russell County was the only Sheriff's Department in Alabama that received this grant. The amount of the award was for \$256,000.
- Chair Martin discussed Amendment #3, which would allow withdrawals from the rainy day trust fund for road improvements. Over a ten year period each county would share in the \$1 billion revenue for road and bridge construction. Russell County is in need of road improvements and Mrs. Martin urges all voters to consider this amendment which will be on the November Election Ballot.

Chair Martin requested a motion to reconvene the Commission Meeting from executive session. Commissioner Epps motioned to reconvene and was seconded by Commissioner Lee. The vote was unanimous.

County Attorney Kenneth Funderburk recommended extending the existing County Administrator's contract for 1 year and we do need to adjust the timeframe in the termination section; that is my recommendation. Chair Martin asked for clarification on recommendation. County Attorney Funderburk stated: My recommendation is...it is actually automatic; however, we do need to change the language to reflect the one year contract which will be automatic. Commissioner Epps motioned to accept the recommendation of the County Attorney. Seconded by Commissioner Reed.

Commissioner Pugh authorized Commissioner Lee to speak. Commissioner Lee stated: As I stated with Mrs. Horne three or four months ago in executive session, I have come to the realization and conclusion employment contracts between the employees and the Commission do not serve any advantages to the Commission. So in the future, I will not be in favor of any employment contracts. State Law says that the employees of the County, unless provided a contract, serve at the pleasure of the Commission. I think that is what we need to go under. I'm not in favor of terminating anybody. I don't want

anyone to take that as I am in favor of getting rid of somebody; I am just not in favor of contracts. So my vote will reflect that.

Commissioner Pugh: I have some questions on the termination part of the contract, before it had an 18 month dead kill against the Commission. I'm concerned; we did not really get a copy of the contract before coming to the meeting. Something of this nature should have absolutely have been discussed and given us an opportunity to review over much more time than one day. For that reason, I will not be in favor of it. I have to ask of the contract so I will know if for some reason she is terminated, the language in here says almost she can do a criminal act and get terminated but we still have to honor the contract. Are you changing that language?

Mr. Funderburk stated: Yes, the contract will reflect for the remaining months of the one year contract extension is what will be clarified.

Commissioner Lee stated: For the remaining months.

Mr. Funderburk: Yes, it is the remaining months so that would have to be clarified.

Commissioner Pugh: That compensation is only for that time also?

Commissioner Lee: The remaining months for the one year contract.

Commissioner Pugh: For the record, this is the worst contract I have ever seen in my life the one we are under here for the Commission and taxpayers. It is absolutely gorgeous or wonderful for the person who held it but for the citizens of this county; it is terrible.

Commissioner Reed: I think Commissioner Pugh needs to abstain anyway. He really doesn't need to be voting. It is a conflict of interest if you ask me.

Commissioner Pugh: I think we need to vote, Commissioner Reed.

Commissioner Reed: You should abstain all together. You were tied in the court. This is a conflict of interest with you anyway. This County can be sued if we are not careful and I know this. Kenneth Funderburk has already advised you that this is a conflict of interest with you anyway.

Commissioner Epps requested to call for the vote.

Commissioner Pugh: Anything that we say in executive session that is brought back and said out of context and used against another Commissioner is a violation and I do not appreciate it. I want that part of the record.

Chair Martin asked that Ms. Horne to poll the Commission. District 1 ( Lee) voted, no; District 2 (Pugh) no; District 3 (Martin) voted, yes; District 4 (Reed) voted, yes; District 5 (Epps) voted, yes; District 6 (Dudley) voted, no; District 7 (Screws), voted, yes. 4 votes yes and 3 votes no the motion passed.

Commissioner Reed asked before meeting is adjourned for him to be allowed to present an award. Commissioner Reed presented an award to Ms. Horne her for 11 years of service and doing an outstanding job.

County Administrator stated that she appreciates the vote and the approval of the contract extension. She will continue to work hard for the County and for the County Commission.

Chair Martin stated that there was no salary increase with the contract approval.

The meeting was adjourned.