

The Russell County Commission
Special Called
Meeting Minutes
April 7th, 2011
9:30 A.M. EST

Commissioner Lee: Madam Chair I would like to ask a question and would like for it to be on the record and for the protection of all of the Commission. Has the proper requirements of the Open Meeting Law been followed in the calling of this meeting. That is: Place, date, time, notification of the media 5 days notice and order to call the meeting a signed agenda approved by a majority of the Commission and posted? I just need an answer from the Attorney or the Administrator.

Administrator Horne: The notice included the location, time, date, and with 5 days notice and sent to the media.

Commissioner Lee: Did 4 Commissioners sign an order.

Administrator Horne: 4 Commissioners verbally asked for me to set up the meeting.

Commissioner Lee: Under the rules that the Commission operates under, a telephone or verbal cannot be used in an official capacity. I'm just doing this because, action that is taken today, if not followed by the rules will be challenged and any decision will be overturned. I'm not trying to stop the proceedings. I'm just trying to make sure it's done according to the law.

Administrator Horne: I did not realize there had to be signatures I was following the Chair's instruction.

Commissioner Lee: Code of Alabama section 11-3-8 (B): The County Commission may schedule a special meeting when determined necessary, in writing by a majority of the members of the Commission or in case of an emergency by the Chair.

Commissioner Epps: The County Commissioner can call a special meeting, but the meeting has to be posted 5 days in advance. I don't know if it has to be in writing, but it was posted and that would be in writing.

Commissioner Lee: All I want is someone to say that procedure has been followed.

Attorney Funderburk: They were followed.

Commissioner Pugh: I want to know who contacted the Commissioners.

Administrator Horne: I talked to Commissioner Lee, Martin, Epps, Screws and Reed. I don't know if Commissioners' contacted each other.

Commissioner Lee: Yes, I was contacted, but not in agreement.

Commissioner Pugh: For the record, I was not contacted.

Commissioner Dudley: Neither was I.

Commissioner Lee: I just wanted to know if procedure was followed and our Attorney stated that it was. It is just normal to have on record that the rules were followed or the meeting could be challenged.

Administrator Horne: I just wanted to say for the record, for the 11 years that I know of when the Commission had a special meeting there was not an agenda signed by Commissioners. If it is an error I apologize. Again, I was following the normal procedure that we have always followed at the Chair's request.

Commissioner Lee: The way you can do that is if, and all the other meetings we have had have been for budget and they were set at a regular meeting. If you do that, you do not have to go through all of this. You have to vote on it.

Chair Martin: Then we will proceed.

We do have a public comment from the Revenue Commissioner Naomi Elliott.

Mrs. Elliott read a statement discussing the responsibilities of her job.

An adjourned meeting of the Russell County Commission 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 gave the invocation.

Attorney Funderburk stated that he has distributed a letter scheduling an executive session, due to a recent Attorney General opinion as well as other Attorney General opinions. I recommend the executive session, after, if action needs to be taken, we will return to the chambers.

I recommend there only be the Commissioners and myself be in the session.

Commissioner Reed motioned to move into executive session. Seconded by Commissioner Epps. The vote was unanimous.

Chair Martin requested a motioned to reconvene the meeting. Commissioner Dudley motioned to reconvene the meeting. The vote was unanimous.

Count Administrator stated: She had researched the procedure and read the procedure for the record confirming Commissioner Lee's information.

Attorney Funderburk gave a brief history on the issues which have come up several times concerning who has authority to do what relative to the hiring in the Revenue Department regarding the function of the County and the County does have oversight responsibility as set out by statute. The issue is always raised if these rules apply to this department or that department. As you know, we have special local acts passed dealing with example the Engineering Department and we have special local acts dealing with the Revenue Department; where the law was changed and the Department of the Assessor was merged in 1986. In 1986 the oversight function is in Section 3 states: Subject to the approval of the Russell County Commission, the County Revenue Commissioner shall appoint and fix duties and compensation of a sufficient number of deputies and clerks to perform the duties of the office. There has never been a dispute about what the law states. The law provides that every hire the Revenue Commissioner makes shall have to come before the Commission for approval or denial.

The Commission waved that for a time and the recommendation today is to reassert that power granted to the Commission in Section (3) of the 1986 law. One reason to do this; the Russell County Commission has had to deal with certain complaints, which raises the issue, regarding who has the ultimate authority if there are complaints. The Commission's oversight authority is necessary due to Title 40 Section 40-7-67 of the Alabama Code, where if the State Revenue Department decides the County Appraisal Office is not staffed by proper certified people they can try to correct the problem but if there is a problem the State may come into a County and hire qualified/certified people; or, contract it out which would be at the expense of the County's General Fund and Commission. Due to litigations over many years, the State has a duty to have some uniform appraisal system. There is a suit pending at this time. If the department is not handled correctly, the State will become involved to make sure the County is in compliance. These laws were established as oversight functions. This will not rescind actions previously done; but from this point forward, the recommendation is for the County Commission to require the Revenue Commissioner to follow, Section (3); submitting all information to the Commission necessary so that the Commission can make approvals or denials on hiring.

Commissioner Reed motioned to accept the County Attorney's recommendation. Seconded by Commissioner Screws.

Commissioner Lee asked: If this applies only to the Appraisal Office or the whole Revenue Commission Office.

Attorney Funderburk stated the language is different from the language in the 1976 law. The 1976 law provided the County Commission hire the people.

Commissioners Lee stated that law was written just for the Appraisals Office.

Attorney Funderburk disagreed, the 1986 was not. Section (3) refers to the combining both offices. This refers to checks and balances and being in compliance with the State law.

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. With 4 yes votes and 3 no votes; the motion passed.

Commissioner Lee motioned to adjourn the meeting.

The meeting was adjourned.