

The Russell County Commission  
Meeting Minutes  
May 25, 2011  
9:30 A.M. EST.

Public Comments: Terry Lisle discussed the jail addition bid results.

An adjourned meeting of the Russell County Commission was called to order; members present were Chairman 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 the County Administrator LeAnn Horne, who kept the minutes.

A quorum was established.

Before Commissioner Martin asked for a motion to approve the agenda, she requested to table the certificates of recognition, since all recipients were not at today's meeting. Commissioner Epps motioned to accept the agenda with the exclusion of the certificate of recognition and was seconded by Commissioner Screws. The vote was unanimous.

The invocation was given by Steven Gregg, Pastor of Trinity United Methodist Church.

The Pledge of Allegiance was led by Commissioner Lee.

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

Chair Martin requested a motion to approve the May 11<sup>th</sup>, 2011 meeting minutes. Commissioner Epps motioned to approve the meeting minutes. Seconded by Commissioner Reed. The vote was unanimous.

Chair Martin stated: Monday will be observance of Memorial Day and those who gave the ultimate sacrifice for freedom should be remembered this day and is stated in the proclamation being presented for approval. Commissioner Lee motioned to approve the Memorial Day Proclamation. Seconded by Commissioner Reed. The vote was unanimous.

The Community Action Month Proclamation was read by the County Administrator. This will be presented to the Macon-Russell Community Action Agency, Inc, by Commissioner Reed. Commissioner Reed motioned to approve the proclamation and was seconded by Commissioner Screws. The vote was unanimous.

Chair Martin stated: Those who were to receive the Certificates of Recognition are now at the meeting and asked for a motion to place this item back on the agenda. Commissioner Lee motioned to add the item back to the agenda. Seconded by Commissioner Reed. The vote was unanimous. Amanda Jenkins with the Sheriff's

Department and Bill Friend, License Inspector were presented with the certificates for their work during the P.A.L.S. Project “Don’t Drop it on Alabama”.

Administrator Horne presented the HB 414 Resolution which concerns the Alabama Retirement System. “HB 414” is a proposed act that will increase (mandatory) all contributions to the Retirement Systems— 2.5% minimum. This resolution presented today was passed at the Association of County Administrators conference last week and is supported by the Association of County Commissioners Association. The resolution requests elected officials to support an amendment that would allow it to be optional for counties to participate in these increases rather than mandatory based on their financial capabilities. As it is now, HB 414 would be a mandatory increase for the county’s match and employees. It was reported at the conference, the State needs to balance their budgets, so they are shifting the shortfall to employees is the impression that many feel.

Commissioner Dudley motioned to approve the resolution. Seconded by Commissioner Reed.

Commissioner Lee stated we are required by law for budgets to be balanced and it is known 80% of the budgets are employee benefits. Although he is in agreement, he didn’t want this to cost the county or its employees more and not knowing at this time how the resolution would affect the retirements of county employees later, he will have to abstain from the vote.

Currently HB 414 is in the Senate being presented. The Association of County Commissioners has suggested this resolution and timing is short. Some of the conversations with the Administrators’ were these are economic hard times. An employees paycheck being reduced another 2.5% additional (mandatory) and unexpected from their household incomes will hurt many families who are already struggling. Disposable incomes are down about 10% due to new Federal tax laws, cost of living expenses increasing, health care costs are increasing 20%. Then, add another 2.5% additional withheld from employees paychecks presents problems. It may not sound like a lot but for an average salary it could be \$80 to \$100 per month withheld. Employees should have a choice as we Administrators voted to support. We just wanted to send this amendment for consideration and trying to represent both Counties and employees.

The Commission was polled: District 1 (Lee) abstained; District 2 (Pugh) abstained; District 3 (Martin) voted, yes; District 4 (Reed) voted, yes; District 5 (Epps) voted, yes; District 6 (Dudley) voted, yes; District 7 (Screws) voted, yes. 4 yes votes and 2 abstentions; the motion passed.

County Attorney Kenneth Funderburk recommended going into executive session to discuss the challenge to the Jail Bid. Commissioner Dudley motioned to move into executive session and was seconded by Commissioner Reed. The vote was unanimous.

Chair Martin requested a motion to reconvene the meeting. Commissioner Dudley motioned to reconvene the meeting. Seconded by Commissioner Lee.

The vote was unanimous.

Attorney Funderburk stated: The County received a challenge concerning the Jail Bid results from Hyperion Construction Company and the legality of awarding the bid to Lisle Company, who was not the lowest bidder, but is within \$22,000 of the low bid. After the challenge, we have reviewed the law with those who specialize in such laws. Section 41-16-50 deals with work on other items and equipment and does not apply to buildings, construction and renovations. Section 39, does apply to real-estate and requires bids to be awarded to the lowest bidder. Unless you reject all the bids, or unless stated you are awarding to the lowest responsible bidder, which is not the case now. His recommendation was to rescind the vote from the last meeting and to award it to the lowest bidder which is Hyperion. Commissioner Reed motioned to approve Attorney Funderburk recommendation. Seconded by Commissioner Epps.

Commissioner Lee asked to clarify; that this does include all alternates?

Attorney Funderburk stated: That it did include the alternates.

The Commission was polled; the vote was unanimous for approval of the bid award to be rescinded and award to Hyperion.

Larry Jackson and Walter Lewis representatives from Gardnry Michael Capital gave an update on the Commission's request to release the reserve fund for the 2008 bond. The reserve fund is a requirement by the Issuer as an issuer guarantee. According to the bond council, the trust indenture had been drafted where in order for a release of the reserve fund, you must have the overall unanimous consent of all the bond holders. That presents a challenge because bonds are traded and this causes the number of bond-holders to increase. We have attempted to contact all the bond holders and inform them of the Commission's request. There was no response from the bond-holders. However, it led to the discovery of a New York company who specialize in this type of service. This company will not only contact the bond holder by letter, they will make known the wishes of the Commission for release of the reserve fund. This service will cost \$10,000. However, Walter Lewis negotiated with this company and was able to get the fee reduced to \$7,500 for their services. This is a very good price based on the amount of work that will be performed in order to get the reserve fund released. Still there is no guarantee the reserve fund will be released. Mr. Jackson asked what action the Commission would like for his company to take.

Commissioner Pugh asked, if the Commission be willing to go ahead and let the reserve fund go for a payment, could we do that and get some use out of the money without paying an outside service? Can we let that money go for a payment against our indebtedness now?

Mr. Jackson stated, the reserve fund was established in case of default and is required to be there and is the actual trust indenture was written based upon the stipulation that the insurer put forth that that time.

Commissioner Pugh asked; if it is for default; why not use the funds for an early payment for an early default?

Mr. Jackson stated; you can't and you do not want to default on your bond for the purpose of using that money. The way the trust indenture is written that reserve will make the last debt service payment when the bond matures. This fund also accumulates interest.

There was no action taken by the Commission at this time, therefore the reserve fund will be left as is.

Bill Friend requested to have a warrant served on Precision Stone located at 14 Mississippi Drive for operating without a business license. The owner has had several warnings given to him since January 2011. Commissioner Dudley motioned to approve the recommendation of Mr. Friend. Seconded by Commissioner Lee. The vote was unanimous

County Engineer Larry Kite presented the results of the dozier bid that took place May 17, 2011. Mr. Kite recommended awarding the bid to the Thompson Tractor Company, Inc for a Caterpillar D5K tract-type tractor in the amount of \$121,566. Thompson Tractor was the lowest responsible bidder meeting the specifications. He also recommended the equipment be financed through Bancorp South Equipment Finance and the proposal be signed by the Chair. This will be a three year loan payable in annual installments at 2.84%. Commissioner Dudley motioned to approve Mr. Kite's recommendation. Seconded by Commissioner Reed. The vote was unanimous.

Mr. Kite stated in order to get Federal aid funding for road projects; the project must first be initiated by a resolution from the County Commission. The Nuckols Road Project # RCP 57-001-11 is in its second phase with the first phase to be let in the fall. The second phase will begin at County Road 18 and go to County Road 24. Mr. Kite plans to use MPO funding which has to be shared with Phenix City. This fund requires a 20% match as are required with all Federal funding. He also requested to authorize the Chair to sign all project documents. Commissioner Lee motioned to approve and was seconded by Commissioner Reed. The vote was unanimous.

Mr. Kite also requested for the Engineering's outdated and unusable computers be declared as property surplus and allow those items to be donated to a charity or organization. Commissioner Lee motioned to approve Mr. Kite's request. Seconded by Commissioner Screws. The vote was unanimous.

Probate Judge Alford Harden Jr. gave an update for redistricting meetings. The State of Alabama is currently holding meetings for Congressional and Senate redistricting and should be completed in June or July. The Legislative and the State of Alabama meetings will begin immediately after. It is estimated that the county redistricting will begin late August or early September. Alabama State University has the ability and has been recommended to help counties with their redistricting. The University uses the same software and has the same information that was furnished to the State. Russell County could take advantage of this service immediately rather than waiting until September. This will increase the time span allowing voters more time to receive and respond to information they receive. There are three (3) June dates available at the Alabama State University. The University only ask for the Commission to adhere to their rules and regulations, also to set meetings up into groups of three (3). Regardless of who the Commission chooses to use, the State or the University, there are fees. The University charges a maximum of \$25,000; the State does not have a cap, therefore the maximum could be \$25,000 with no matter how long it takes. The University's rate is \$40 per hour for the technical part and requires an upfront payment of \$1,000. \$40 an hour rate is taken from the \$1,000 until the amount has been depleted. If the University is chosen and the meetings are short and productive, any money left in the original payment will be refunded to the County. Judge Harden recommended using Alabama State University since meetings could begin immediately begin and any issues could be resolved promptly. After lengthy discussion Commissioner Screws motioned to table this item. Seconded by Commissioners Epps and Reed. The vote was unanimous.

Chair Martin made announcements:

- The Courthouse will be closed, May 30<sup>th</sup> and also June 6th, for State Holidays.
- The next work session scheduled for June 6th, will also be cancelled due to the holiday, but the regular Commission Meeting will be held on Wednesday as normal.
- "May Day Celebration" will be held in the Battle Community on May 28<sup>th</sup>.
- Fort Benning Training Land Expansion Open House will be held at the Russell County High School on June 7<sup>th</sup>, from 4:00 to 7:00 p.m. EST.

Commissioner Epps welcomed back the EMA Director William Alexander, who has been working in tornado stricken areas of Alabama.

Chair Martin adjourned the meeting.