

MINUTES OF THE LEE COUNTY COMMISSION, REGULAR TERM, JANUARY 11, 2021

The Lee County Commission convened in regular session at the Courthouse in Opelika, Alabama, Monday, January 11, 2021 at 5:00 p.m. The Pledge of Allegiance was recited, followed by an invocation by Commissioner Ham.

During citizens' communication, Billy U. Allen appeared before the Commission to introduce himself as the President of the Lee County Branch #5038 of the NAACP. Mr. Allen stated the branch plans to become involved in certain issues and concerns. Mr. Allen stated they plan to monitor, plan to support and plan to assist in these concerns.

Next, Wesley Downs spoke to the Commission concerning the quarry. Mr. Downs stated he would like to address Creekwood Resources and put them on notice. Mr. Downs stated he and his wife were fortunate enough to purchase 15½ acres off Halawakee Creek in 2017 and he plans to keep the property in his family over many decades. Mr. Downs stated he has placed equipment on his property to monitor the water quality and to monitor the air quality and, also, he is having his house appraised. Mr. Downs stated he would like Creekwood Resources to take the quarry and their investment somewhere else. Lastly, Mr. Downs asked the company to play by the rules like every other business. Mr. Downs stated further that he will be monitoring their activities and will file suit if necessary.

Last, Donald Pitts appeared concerning the Eddins Creek Subdivision issue. Judge English stated the item is on the Agenda and asked Mr. Pitts to wait until then to discuss it.

The Chairman declared a quorum and officially opened the meeting with the following members recorded as being present: Judge Bill English, Chairman, and Commissioners Doug Cannon, Sarah Brown, Gary Long, Robert Ham and Richard LaGrand. Elected Officials in attendance: Sheriff Jay Jones, and Opelika City Council member Erica Norris. News media in attendance: Opelika Observer reporter Hannah Lester, Opelika-Auburn News reporter Mike Eads and WTVM Channel 9 reporter Amaya Graham.

County Engineer Justin Hardee recognized the Environmental Services Department for their work over the holidays. Mr. Hardee stated even with the department being short-staffed and some out due to the coronavirus, the department was able to handle the increased trash from the holidays and he wanted to recognize Environmental Services Director John McDonald and his entire staff for the outstanding job they did. Mr. Hardee emphasized that the transfer station is not open on Sundays or on the holidays, so the containers had to be set back until they could be hauled; Mr. Hardee noted that the department ran out of containers due to this reason. Mr. Hardee stated several supervisors within the Highway Department helped out the

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Environmental Services department since they only had five drivers able to drive the roll-off trucks. Commissioner Ham stated that much more material was due to the fact that more people are staying at home and cleaning up, which equates to more trash plus the normal holiday increase. Mr. Hardee agreed more loads are typical in December.

Next, Mr. Hardee stated a spreadsheet was included in the packets for the Rebuild Alabama Fund Annual Report. He said no action is necessary but that this step is for informational purposes as required. Mr. Hardee stated in accordance with *Code of Alabama §23-1-433(f)*, at the first meeting in January of each year following the creation of the Rebuild Alabama fund, the county engineer shall present to the County Commission a written report detailing the expenditures made from the fund the previous fiscal year; and, the report shall be entered into the minutes of the County Commission meeting and shall be made available to the public for inspection, including posting on the county's website. Mr. Hardee stated the report was developed by the Association of County Engineers of Alabama (ACEA) which meets the accountability requirements. Mr. Hardee stated the report will be posted on the county's website as well as located at the Lee County Highway Department.

Last, Judge English stated after attending a Microsoft Team Meeting today with EAMC, he was asked to announce that anyone 75 or older that resides in Lee, Chambers or Macon counties are eligible to receive the COVID-19 vaccine. They should register by going online at EAMC.org to schedule an appointment. They indicated that phone calling the hospital or the health department are not effective.

Copies of the items on the Consent Agenda sent to the Commissioners in their packets included: listing of claims, p-card transaction listing and minutes of the December 14 meeting. In addition, a list of claims for ratification was placed on each Commissioners desk prior to the meeting. First reading to reappoint Dick Key to the Smiths Water and Sewer Authority Board was made. Commissioner Long made a motion, seconded by Commissioner Ham to approve the consent agenda items as presented. The motion carried on a vote of 4-0-1 with Commissioner Brown abstaining due to her absence at the previous meeting.

Danielle Ritch, Tara Brumfield, and Lynne Abernathy spoke to the Commission at length concerning the proposed quarry in the Beulah area. First, Danielle Ritch appeared before the Commission stating she and others are residents of the county and looking to the Commission for their assistance in this matter. Mrs. Ritch asked the Commission to help in their opposition to the quarry by the following: 1) to ask state legislators for their help by showing support in opposition to the quarry; and 2) to hire legal representation by retaining the same firm hired by the City of Opelika. Commissioner Ham questioned Judge English about

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hiring an attorney to represent the county, and Judge English said he had contacted the firm in Birmingham that was involved in the previous quarry effort. Commissioner Ham stated he would suggest that Opelika participate in the same manner as the county did on the proposed quarry on the north side of Opelika and indicated he has talked to Auburn Mayor Ron Anders asking Auburn to match whatever Opelika does. Judge English stated he reached out to the same firm that represented Opelika and is waiting on a written proposal from them. Commissioner Long agreed that the same firm should be retained to represent the county in the matter. Commissioners Cannon and Brown agreed to proceed with legal representation. Commissioner LaGrand stated he is 210% against the quarry stating he will fight it all the way. Commissioner Long questioned if the Commission would agree to allow Judge English to draft a letter to the Legislators asking for their support.

Next, Tara Brumfield appeared before the Commission stating the two entities they are opposing are CreekWood Resources and Weyerhaeuser, the company leasing the land to CreekWood Resources. Mrs. Brumfield stated the Beulah community is drastically smaller than the City of Opelika, but that 2,700 individuals signed a petition in opposition to the quarry. Mrs. Brumfield stated she would like to make the following requests of the Commission: 1) to assemble a leadership team with local legislators; 2) to request that ADEM hold a public hearing on the application; and 3) to obtain legal representation in opposition to the quarry. Mrs. Brumfield pleaded with the Commission to protect the citizens of Beulah. Mrs. Brumfield stated they asked the Commissioner to help and he purchased signs and showed his presence at the second community meeting. Mrs. Brumfield stated he was elected as a representative for the people, elected by the people, not to work against them. Judge English questioned Commissioner Ham if he would like to address the statements. Commissioner Ham only stated what Mrs. Brumfield said was not true. Commissioner Ham questioned who had contributed over \$1,000 to the cause. Other than Commissioner Ham, only Mrs. Brumfield raised her hand.

Last, Lynne Abernathy addressed the Commission concerning the quarry. Ms. Abernathy stated the first location picked by CreekWood Resources was withdrawn over community concerns, now they have moved approximately six miles as the crow flies from the first location to the Beulah community because they don't have any big business nearby and the property is not able to be annexed by a city. Ms. Abernathy questioned who is CreekWood Resources; since there are at least 10 companies associated with Jeff Majors who is listed as the managing member of CreekWood Resources. Ms. Abernathy also stated that a ready-mix plant and an asphalt plant are proposed at the same location as the quarry. Ms. Abernathy stated not only will it entail trucks going in and out of the quarry, but additional truck traffic will be generated from those two plants as well. Ms. Abernathy stated there are 68 families who will be affected in Sentinel Hills Subdivision, which does not include others traveling the road on a daily basis. Lastly, Danielle Ritch appeared again stating that air & water permits have been applied for by CreekWood Resources. Commissioner Ham stated he is keeping the line of communication open with CreekWood. Mrs. Ritch stated the people of the Beulah community want the quarry stopped and asked for support from the entire Commission. Commissioner Ham stated when he was on the Planning Commission prior to coming on the County Commission, citizens made it clear to him that they do not want zoning and questioned Mrs.

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Ritch how far her home was located from the quarry. Mrs. Ritch stated she didn't know. Commissioner Ham stated it was approximately 2.5 miles because he used to be her neighbor, and he was building a home about three miles from the site, stating he is not happy either.

Mr. Hardee again presented final plat approval for Eddins Creek Subdivision. Judge English recognized Donald Pitts concerning this item. Mr. Pitts questioned Mr. Hardee about minimum lot requirements of a subdivision stating he is concerned with 6 houses being built on a 10-acre lot. Mr. Pitts stated he is not against the builder, but, is concerned about the number of houses and their lot size adjacent to his home. Mr. Pitts thanked Mr. Hardee for sending him the letter addressing the issue. Mr. Pitts questioned what is considered a subdivision tract. Mr. Hardee answered five acres or larger is exempt from the subdivision regulations, further the Health Department dictates the minimum lot size. Commissioner Ham stated he would like to discuss it further with the county engineer again before approving it. Commissioner Long questioned whether it is legal to keep holding off if it meets the standards. Mr. Hardee stated the plat has been reviewed and meets the minimum requirements of the *Lee County Subdivision and Land Development Regulations*. Mr. Hardee stated the information provided at the December 14, 2020 meeting has been reviewed concerning restrictive covenants for *The Backwaters* subdivision. Mr. Hardee said the proposed subdivision, Eddins Creek, is a subdivision of parcel number 43-12-07-26-0-000-010.000. This parcel was not created by *The Backwaters* subdivision; nor is it subject to the restrictive covenants recorded in deed book 2465, page 967, which are incorporated into Mr. Pitts' deed. After further review, the parcel is not subject to any restrictive covenants on record. Mr. Hardee stated according to Attorney General Opinion 2006-063, the approval of a subdivision by the County Commission is not subject to restrictive covenants. The covenants may be enforced by the private parties involved but not by the county. Judge English stated the Commission cannot enforce covenants. Commissioner Ham stated that is a civil matter. Mr. Hardee stated he would be happy to go over the subdivision regulations with Mr. Pitts if he wanted. Commissioner Ham stated he would be happy to talk with Mr. Pitts as well and gave him his business card. After more discussion, Commissioner Ham made a motion, seconded by Commissioner Long to grant final plat approval for Eddins Creek Subdivision. The motion carried unanimously.

Commissioner LaGrand made a motion to approve the following Resolution to appoint Cheryl Benford-Piner to the Lee County Recreation Board. The motion was seconded by Commissioner Cannon and carried unanimously.

BE IT RESOLVED, the Lee County Commission hereby appoints Cheryl Benford-Piner to the Lee County Recreation Board as the District 5 Beauregard representative to fulfil the unexpired term of John L. Johnson from January 11, 2021 until October 14, 2024.

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Peter Byrd again discussed a personal concern with East Alabama Medical Center. Mr. Byrd stated he was erroneously billed by EAMC. Mr. Byrd stated the hospital took off the charge for anesthesia but did not remove the recovery room charge. Mr. Byrd read about 10 pages of notes to the Commission with concerns ranging from Medicare fraud by the hospital submitting fraudulent bills to patients and to the Medicare system to accusations of collecting taxpayer money to pay for suits against the hospital, all stemming from his personal issue over a bill for services received he believes is in error. Mr. Byrd discussed that the Commission appoints hospital board members, but an amendment to the Articles of Incorporation in 2015 changed the way that board members are appointed. Further, Mr. Byrd stated he has been denied access to his medical records. Commissioner LaGrand questioned Mr. Byrd of them denying access to his records. Mr. Byrd said they stated it was due to COVID concerns. Mr. Byrd asked if the Commissioners had any questions. Hearing none, no action was taken by the Commission.

Mr. Rendleman presented a Warrant Resolution for Judge English to authorize the issuance of the General Obligation Warrants Series 2021 to refinance the original 2013 Warrants issued for the Justice Center expansion. Mr. Rendleman recognized Bob Young of Frazer Lanier. Mr. Young stated the final numbers yielded more savings of approximately \$500,000 over the next 13 years indicating the closing will take place Wednesday. Mr. Young thanked the Commission for once again allowing them to be a part of the refinancing. Mr. Young thanked Mr. Rendleman and his staff and thanked Attorney Stan Martin for working with the firm of Maynard Cooper on the bond issue. Commissioner Ham made a motion, seconded by Commissioner Brown for Judge English to authorize the issuance of the General Obligation Warrants Series 2021. The motion carried unanimously.

Mr. Rendleman presented Professional Services Agreements with Foresite Group to provide additional services with Phase I projects at the parks in Beauregard and Beulah. Mr. Rendleman stated the additional services include design revision for concession and restroom facilities, and stormwater and drainage design for future phases. Commissioner Ham made a motion, seconded by Commissioner Long to authorize Judge English to sign the Professional Services Agreement with Foresite Group for Phase I projects at the Beauregard Park and the Beulah Park. The motion carried unanimously.

Human Resources Director Erica Norris presented educational reimbursement requests for Monica Holloway of the Maintenance Department and Sheriff's Deputy Heather Freeman. Ms. Norris stated the requests have been approved by their appointing authorities and meets the minimum requirements. Commissioner Long made a motion, seconded by Commissioner LaGrand to approve the educational reimbursement requests as presented. The motion carried unanimously.

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Judge English indicated the Commission needs to adjourn into executive session to discuss potential litigation. Judge English stated Mr. Rendleman and County Attorney Stan Martin need to attend, and asked Mr. Hardee to be available if needed. Judge English stated the executive session will last approximately 30 minutes to an hour and action is anticipated at the conclusion. At approximately 7:09 p.m., Commissioner Long made a motion, seconded by Commissioner Brown to adjourn into Executive Session. The motion carried unanimously.

Upon the conclusion of the Executive Session at approximately 7:30 p.m., Commissioner Ham made a motion, seconded by Commissioner LaGrand, to authorize Judge English to engage legal services on the quarry issue, write letters to the members of the Lee County Legislative Delegation seeking their assistance, and to ADEM requesting a public hearing on the permit applications to be held in Lee County. The motion carried unanimously.

Commissioner Brown made a motion at approximately 7:35 p.m. to adjourn. The motion was seconded by Commissioner Cannon and carried unanimously.