

MINUTES OF THE LEE COUNTY COMMISSION, REGULAR ADJOURNED MEETING, JAN. 30, 2023

The Lee County Commission convened in regular adjourned session at the Courthouse in Opelika, Alabama, Monday, January 30, 2023. 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, Gary Long and Tony Langley. Absent: Commissioner Ross Morris. District 5 Commissioner John Andrew Harris passed away on January 15, 2023, and that seat is currently vacant. Elected Officials in attendance: Sheriff Jay Jones and Revenue Commissioner Oline Price. News media in attendance: Opelika-Auburn News reporter John West and WTVM reporter Amaya Graham.

Lee County Health Department East Central District Administrator Tim Hatch and Assistant District Administrator James Hardin appeared before the Commission to introduce themselves and update the Commission on the local department's post COVID reemergence. First, Mr. Hatch thanked the Commission for their annual appropriation for continued support. Mr. Hatch presented numbers from the 2021 Annual Report, looking at visitors over that year. Mr. Hatch reported out of 2,700 patient visits, only 1,110 were billable or 59% of visits were uncompensated cases. Mr. Hatch said \$475,000 was paid out for service. Mr. Hatch said they had 119 STD visits, 1,600 food inspections, 750 onsite permits for septic tanks, 100 rabies investigators, over 2,300 participants on the WIC Program, as well as working currently on garbage exemptions for the county. Mr. Hatch thanked Building Maintenance Director Jerry Lynch for help with the building and EMA Director Rita Smith for their assistance. Mr. Hatch stated he is based out of Montgomery and Mr. Hardin is based out of Lee County. Judge English thanked them for the update.

Judge English presented the following Resolution honoring Commissioner John Andrew Harris upon his untimely passing on January 15, 2023, recognizing his dedicated service to the citizens of Lee County.

**RESOLUTION CELEBRATING THE LIFE AND LEGACY OF
COMMISSIONER JOHN ANDREW HARRIS**

WHEREAS, with greatest respect, we celebrate the life and legacy of John Andrew Harris who proudly served the constituents of Lee County as District 5 Commissioner until he passed away January 15, 2023; and

WHEREAS, Commissioner Harris was born January 18, 1951, in Lee County, Alabama; and

WHEREAS, he first began his political service in 1986 when he became one of the first African-Americans elected to the Opelika City Council and continued that service following his election to the Lee County Commission in 1994 representing the constituents of District 5 for 24 years before leaving office in 2018; and

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WHEREAS, Commissioner Harris felt he had more to offer, ran again for District 5 winning reelection in 2022; and

WHEREAS, in addition to serving as a City Council member and County Commissioner, he retired from the Auburn City Schools having worked for 34 years in the School Nutrition Program and he previously owned a grocery store in Opelika for 15 years; and

WHEREAS, during his many years of dedicated service Commissioner Harris worked tirelessly to make sure every citizen was registered to vote often providing transportation to the polls; served as the Chairman of Political Action for the NAACP of Alabama; helped to reactivate the local NAACP Branch 5038 in 2019; received numerous awards and recognitions including the Barack Obama Lifetime Achievement Award, the Dr. Martin Luther King Jr. Community Service Award and the Champion of Change Political Action Award; and

WHEREAS, Commissioner Harris is survived by six children: John Andrew Harris, Jr; Wesley (Winona) Harris; Monique Harris; Andrew Harris; Andrea (Tyree) Henderson; and Reneka Harris; two sisters, Jacqueline (Ephesians) Strickland and Selina Dillard; stepsister, Ida (Marshall) Carter; sister-in-law, Willie Ella Harris; seventeen grandchildren, three great-grandchildren; a host of nieces, nephews, cousins and friends.

NOW THEREFORE, BE IT RESOLVED by the Lee County Commission, that, while mourning the death of Commissioner John Andrew Harris, we are grateful for his life and tireless service to others, and we offer this resolution in highest tribute to his legacy, as well as in heartfelt sympathy to his family.

Environmental Services Director John McDonald gave an update on the solid waste billing department. Mr. McDonald said they have hired a chief billing clerk and a billing clerk, with a second billing clerk starting February 13. Mr. McDonald said they also have two temporary employees assisting. Mr. McDonald stating Solid Waste is working with 13 fewer positions than a year ago. Mr. McDonald said the second quarter billing will be going out next week. Mr. McDonald stated this billing will include a full sheet with a return envelope since some of the postcards mailed on the first billing were overwritten by postage. Commissioner Cannon thanked Mr. McDonald and his staff for the job they are doing. Commissioner Long thanked Mr. McDonald for helping him cope with the customers. Judge English thanked Mr. McDonald too.

Copies of the items on the Consent Agenda sent to the Commissioners in their packets included: listings of claims, a procurement card transactions listing, and the January 9, 2023 minutes. Commissioner Cannon made a motion, seconded by Commissioner Long to approve the consent agenda items as presented. The motion carried unanimously.

Kevin Humphres appeared before the Commission again to discuss Lee Road 196. Mr. Humphres asked the Commission to make a determination on the north portion of Lee Road 196,

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which was never formally vacated, so he can access his property. Mr. Humphres said he purchased the property in 2008. Mr. Humphres said after having a key for access for many years, he was denied access to his property several years ago and was told it was because of liability issues. Mr. Humphres said Dudley Lumber acquired the property formerly held by Mead which lies to the south of his. In 2015 the property to the west side of his was acquired by Dudley Lumber and it changed entities to JRBC Holdings in 2017. Mr. Humphres said the Commission asked him to work with Joey Massingill to work out a solution, stating they talked one time with no consensus. Mr. Humphres said he did not cause the problem, saying things continue to change since he acquired his property. Mr. Humphres said the road had to be public, since no formal action has been taken to vacate it. Mr. Humphres said the County Commission must determine the nature of the road stating his access has been suspended. Attorney Blake Oliver representing JRBC Holdings presented a map showing old Lee Road 198 which was vacated by the County for Mead on February 24, 1997. Mr. Oliver said a petition to vacate was filed in April 2022 but has been withdrawn since Dixie Pipeline was not given proper notice. Mr. Oliver said a new petition went to the Highway Department on January 26, 2023. Mr. Oliver clarified that Mr. Humphres has never had access to his property on Lee Road 196. Commissioner Langley asked how Mr. Humphres got to his property if has no access. Mr. Oliver stated Mr. Humphres was trespassing. Commissioner Cannon questioned if the county maintained the road at any time. Mr. Hardee responded yes but that the road commissioners at that time made the decisions on road maintenance stating there are no records that far back. Mr. Hardee stated he had talked with the former highway maintenance supervisor who stated it was maintained in 1997, stating county maintenance stopped in the late 90's. Mr. Oliver said Lee Road 196 used to run to Lee Road 198, a portion of which was vacated in 1997, saying there has never been a road connecting 196 to Mr. Humphres' property. Commissioner Cannon questioned if Mr. Humphres had deeded access to his property when he purchased it. Mr. Humphres said he had no deeded access. Commissioner Long questioned if he was landlocked. Mr. Oliver said the land has always been landlocked. Commissioner Cannon questioned if Mead gave Mr. Humphres access. Commissioner Long questioned if easements run with property no matter who gives it. Commissioner Cannon questioned if Mr. Humphres had any other way to access his property. Mr. Humphres answered no. Mr. Joey Massingill stated the problem is that Mr. Humphres' property does not touch the road anywhere in regard to the north end of Lee Road 196. Mr. Massingill said he wanted the road vacated since he maintains the road for JRBC Holdings. Mr. Massingill stated if the road is opened there would be trash all over the property and it would be a straight liability issue for him. Judge English questioned that when the gate was locked, didn't they both have a key? Mr. Humphres answered in the affirmative for 13 years. Mr. Massingill stated he provided the key, but since then they have purchased all the land on both sides of the road. Commissioner Cannon questioned the number of acres. Mr. Massingill said 6,748 acres. Mr. Humphres said he has 112 acres. Mr. Massingill said the property owned by JRBC Holdings is in a trust. Judge English questioned if the road is vacated, how would Mr. Humphres access his property. Mr. Massingill said it would not be accessible unless he built a bridge over the creek.

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Revenue Commissioner Oline Price appeared to present the following Tax Abatement Resolution for ADC300, LLC. Mrs. Price said the company is planning to construct a 70,000 square foot distribution center on Lee Road 2231 in Auburn with an investment of \$5,150,000 which will initially employ 10 people. It has an estimated placed-in-service date of October 30, 2023. Mrs. Price presented an Abatement Application, Tax Abatement Agreement, Sales and Use Tax Certificate of Exemption and the following Resolution for consideration. Mrs. Price stated the abatement request is from Howard Porter who is in attendance if anyone has questions. Commissioner Cannon asked about the number of employees. Mr. Porter stated the number may go up. Commissioner Langley questioned which taxes are exempt. Mrs. Price said all non-educational taxes, excluding hospital and dependent children, are exempt for a 10-year period. Commissioner Cannon made a motion to adopt the following resolution, seconded by Commissioner Long, and carried unanimously.

RESOLUTION NUMBER 0130-2023

This Resolution is made this 30th day of January 2023 by the Lee County Commission (the Granting Authority), to grant a tax abatement to ADC300 LLC (the Company).

WHEREAS, the Company has announced plans for a new project located within the jurisdiction of the Granting Authority; and

WHEREAS, pursuant to the Tax Incentive Reform Act of 1992 (Section 40-9B-1 et seq., *Code of Alabama 1975*) (the Act) the Company has requested from the Granting Authority an Abatement of:

- all state and local noneducational property taxes, excluding Hospital and Dependent Children taxes
- all construction related transaction taxes, except those local construction related transaction taxes levied for educational purposes or for capital improvements for education

WHEREAS, the Company has requested that the abatement of state and local noneducational property taxes (if applicable) be extended for a period of 10 years, in accordance with the Act; and

WHEREAS, the Granting Authority has considered the request of the Company and the completed applications filed with the Granting Authority by the Company, in connection with its request; and

WHEREAS, the Granting Authority has found the information contained in the Company's application to be sufficient to permit the Granting Authority to make a reasonable cost/benefit analysis of the proposed project and to determine the economic benefits to the community; and

WHEREAS, the construction of the project will involve a capital investment of \$5,150,000; and

WHEREAS, the Company is duly qualified to do business in the State of Alabama, and has powers to enter into, and to perform and observe the agreements and covenants on its part

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contained in the Tax Abatement Agreement; and

WHEREAS, the Granting Authority represents and warrants to the Company that it has power under that constitution and laws of the State of Alabama (including particularly the provisions of the Act) to carry out the provisions of the Tax Abatement Agreement.

NOW THEREFORE, be it resolved by the Granting Authority as follows:

Section 1. Approval is hereby given to the application of the Company and abatement is hereby granted of:

- all state and local noneducational property taxes, excluding Hospital and Dependent Children taxes
- all construction related transaction taxes, except those local construction related transaction taxes levied for educational purposes or for capital improvements for education

as the same may apply to the fullest extent permitted by the Act. The period of abatement for the noneducational property taxes (if applicable) shall extend for a period of 10 years measured as provided in Section 40-9B-3(a)(12) of the Act.

Section 2. The governing body of the Granting Authority is authorized to enter into an abatement agreement with the Company to provide for the abatement granted in Section 1.

Section 3. A certified copy of this Resolution, with the application and abatement agreement, shall be forwarded to the Company to deliver to the appropriate local taxing authorities (if applicable) and to the Alabama Department of Revenue in accordance with the Act.

Section 4. The governing body of the Granting Authority is authorized to take any and all actions necessary or desirable to accomplish the purpose of the foregoing of this resolution.

Sheriff Jones had to leave the Commission meeting, so Judge English presented the educational reimbursement request for Deputy Ben Causland. Judge English said the Sheriff approved the request and upon the successful completion of the course with a “B” or better the tuition will be reimbursed upon request. Commissioner Long made a motion, seconded by Commissioner Cannon to approve the educational reimbursement request as presented for Investigator Causland. The motion carried unanimously.

County Engineer Justin Hardee presented an application for the 2023 Rebuild Alabama Act (RAA) Annual Grant Program. Mr. Hardee said an annual grant program for which city and county governments may apply was created with the passage of the Rebuild Alabama Act in 2019. The act stipulates that ALDOT shall create an annual grant program for no less than \$10,000,000; and projects will be awarded through a competitive project selection process administered by ALDOT. ALDOT has capped the maximum funding available to any project in FY2023 at \$250,000, and the funds are available for one year from notice of award. The deadline for application is February 10, 2023. Mr. Hardee stated with a relatively short time frame to design, let the bid, and award the project, the Highway Department would like to apply

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for funding to replace a collapsed bridge on Lee Road 245 for which a hydraulic analysis has been performed and the design and plan assembly can be completed in-house. Mr. Hardee said he is asking the Commission to authorize the Chairman to sign a letter of intent to apply for the RAA Grant Program funds. Commissioner Langley made a motion, seconded by Commissioner Cannon to authorize the Chairman to sign a letter of intent to apply for the RAA Grant Program funds as presented. The motion carried unanimously.

Next, Mr. Hardee presented the following Resolution for the resurfacing of Lee Road 240, from the bridge over Hospilika Creek to the Russell County line, approximately 4.77 miles. Once the Resolution is approved, the Highway Department will be able to initiate this project through the Columbus-Phenix City Metropolitan Planning Organization (MPO). Mr. Hardee said if the project is approved, it will be funded on an 80/20 split, with 80% of the funding from the Columbus-Phenix City MPO and 20% match by Lee County. Commissioner Long made the motion, seconded by Commissioner Langley to authorize the Chairman to sign the Resolution as presented. The motion carried unanimously.

RESOLUTION

WHEREAS, the County Commission of Lee County, Alabama is desirous of constructing or improving, by force account, by contract or both, a section of road included in the Lee County Road System and described as follows:

Resurfacing on CR-240 from the Hospilika Creek Bridge (BIN 019670) to the Russell County Line (approximately 4.770 miles)

WHEREAS, the County agrees to all of the provisions of the County-wide agreement executed between the State and the County covering preliminary engineering by State forces and equipment on the project, and

WHEREAS, the County intends to apply for Federal Aid funds for the construction of the above referenced project, and

WHEREAS, the County agrees to all of the provisions of any agreement which has been executed or will be executed covering the construction of the project.

Last, Mr. Hardee presented a request from a citizen to decrease the speed limit on the paved portion of Lee Road 262 located in District 4. Mr. Hardee said the Lee County Highway Department has conducted a traffic study and recommends that the speed limit be reduced from 45 mph to 35 mph. Mr. Hardee said the Highway Department recommends this as a reasonable and safe maximum speed limit. Commissioner Langley made a motion, seconded by Commissioner Cannon to reduce the speed limit from 45 mph to 35 mph as presented. The motion carried unanimously.

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Governmental Relations/Safety Coordinator Wendy Swann presented the ACCA Liability Self-Insurance Fund Longevity Resolution for Commission consideration. Mrs. Swann stated this is a three-year contract beginning in 2024. The early commitment to participate for the next three years will allow the Fund to provide a substantial one-time bonus so the county can use it during the 2022-2023 budget year. Commissioner Long questioned if it would go through 2026. Mrs. Swann concurred. Commissioner Cannon made a motion, seconded by Commissioner Long authorizing the Chairman to sign the Resolution as presented. The motion carried unanimously.

RESOLUTION

WHEREAS, Lee County is a member of the Association of County Commissions of Alabama Liability Self-Insurance Fund, Inc. ("Liability Fund") for the contract period ending December 31, 2023; and

WHEREAS, the County's participation in the Liability Fund has been a significant benefit to the County since becoming a member; and

WHEREAS, the representation and service provided by the Liability Fund continues to be in the best interest of Lee County and its officials and employees; and

WHEREAS, Lee County would benefit by agreeing to extend its participation in the Liability Fund for an additional three-year period beginning January 1, 2024 and concluding December 31, 2026.

NOW, THEREFORE, BE IT RESOLVED by the Lee County Commission that it renews its participation in the Liability Fund for calendar years 2024 through 2026 and hereby directs its Chairman to immediately execute the 2024-2026 ACCA Liability Self-Insurance Fund, Inc. Participation Agreement.

At approximately 6:05 p.m., Judge English announced that County Attorney Stan Martin said the Commission needs to adjourn into Executive Session concerning two litigation matters. Mr. Martin said County Engineer Justin Hardee and Chief Administrative Officer Holly Leverette needed to attend. The session is expected to last approximately 30 minutes and formal action afterward is not anticipated. Commissioner Long made a motion, seconded by Commissioner Cannon to adjourn into Executive Session. The motion carried unanimously.

Upon reconvening at the conclusion of the Executive Session, at approximately 6:55 p.m., Commissioner Long made a motion, seconded by Commissioner Cannon to adjourn. The motion carried unanimously.