

MINUTES OF THE LEE COUNTY COMMISSION, REGULAR SESSION, AUGUST 14, 2023

The Lee County Commission convened in regular session at the Courthouse in Opelika, Alabama, Monday, August 14, 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, Ross Morris, Gary Long, Tony Langley and Richard LaGrand. Elected Officials in attendance: Sheriff Jay Jones, Revenue Commissioner Oline Price and Coroner Daniel Sexton. News media in attendance: The Observer owner/reporter Michelle Key, Opelika-Auburn News reporter John West and WTVM reporter Rico Mitchell.

Copies of the items on the Consent Agenda sent to the Commissioners in their packets included: listings of claims, a procurement card transactions listing, a copy of the July 31, 2023, minutes, and a correction of a portion of the July 12, 2021, minutes. First reading of Harold Whatley, District 2 Representative, and Richard Newton, District 4 Representative, to the Lee County Planning Commission was made. Commissioner Cannon made a motion, seconded by Commissioner Morris, to approve the consent agenda items as presented. The motion carried unanimously.

Under old business, second reading of George Dyar, Barbara Patton, and Lee Roy Kelly to the Lee County Emergency Communications District (E911) Board was made. Commissioner Langley made a motion to approve the following Resolution reappointing the three nominees to the Lee County Emergency Communication District Board. The motion was seconded by Commissioner Cannon and carried unanimously.

BE IT RESOLVED, the Lee County Commission does hereby reappoint George Dyar, Barbara Patton, and Lee Roy Kelly to the Lee County Emergency Communications Board to each serve four-year terms ending July 24, 2027.

Judge English opened the floor on an appeal of a Noise Ordinance violation. Attorney Margaret Brown spoke representing Travis Carlisle, who was not in attendance. Ms. Brown said she has not heard the recordings and said the ordinance is a “present sense” ordinance and should be based on what deputies heard, not by recordings shown to deputies, as in this case. Ms. Brown said she would like to hear the recordings, but questioned the authentication of them, asking how it was done. Judge English asked Sheriff Jones about his meeting with Ms. Brown and whether the recordings were presented or not. Sheriff Jones said he met with Ms. Brown and the recordings were not presented. Judge English said Marie Maples and Bonnie Williams were present and have the recordings on their phones. Ms. Brown objected to the violation, asking that it be dismissed. Ms. Brown objected to her client not receiving due process. Ms. Brown asked Deputy McGuire on the authentication of the recording. Ms. Williams presented her recording made on July 14, 2023, at 10:59 p.m., and authenticated by Deputy McGuire. Next, Ms. Maples presented her recording made on June 4, 2023, at 12:32 a.m. and again at 1:05

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a.m. the same morning, which was verified by Deputy McGuire. Again Ms. Brown objected saying if it is not as cited in the citation it is not permissible. Deputy McGuire confirmed the date of June 4, 2023, at 1:23 a.m. stating Deputy Hammond took the report. Deputy McGuire said responding officers on July 14 were Deputy McClain and Deputy Spencer. Deputy Hammond was called by Judge English and asked whether the deputy did personally hear it. He said he did not. Next, Deputies McClain and Spencer came forward. Deputy McClain said he responded to Lee Road 265 and met with Bonnie Williams at 22:45 p.m. The recording depicted loud music which would cause annoyance and frustration. Deputy Spencer said he reported the same. Ms. Brown asked Deputy McClain if he looked at the date and time stamp of the recording at the time he responded. Deputy McClain answered in the affirmative. Ms. Brown asked if the recording was already made at the time he arrived and asked if he saw anyone when he arrived. Deputy McClain responded no; it was early in the morning. Ms. Brown said she has questions for Ms. Maples and Ms. Williams. Ms. Brown asked a series of questions. First, she asked Ms. Williams about the duration of the noise. Ms. Williams said it was the night of July 14. Ms. Brown asked if Ms. Williams saw Mr. Carlisle. Ms. Williams responded "No". Ms. Brown asked if she saw anyone out and about in the area. Ms. Williams responded "No". Next, Ms. Brown asked if she recorded the noise herself, and she replied "yes". Ms. Williams said the only evidence she has is the recording. Ms. Brown asked Ms. Williams if she had placed a recording in November 2020 on the Facebook page "Beauregard Community Concerns". Next, Ms. Brown questioned Ms. Maples. Ms. Brown asked if she is the same Ms. Maples who served on jury duty in April, 2022. Mrs. Maples said she chooses not to answer. Again, Ms. Brown gave the Commission two transcripts of a jury trial from April 2022. Judge English interrupted Ms. Brown saying this is an appeal of a violation citation. Commissioner LaGrand asked how far they lived from each other. Ms. Williams said she is directly across from Ms. Brown's property and Ms. Maples said she lives about ½ mile from the residence. Deputy McGuire said he responded to the residence on the 25th and did not issue a citation, but heard the music and said Mr. Carlisle verified he was working on two speakers. Ms. Brown asked Deputy McGuire whether he had responded before to music coming from another property other than hers. Deputy McGuire said he had responded but he did not recall seeing anyone then. Judge English said this discussion is addressing the appeal of the noise violation. Further stating, the Commission has authority to do what it will. Commissioner LaGrand said the discussion has been interesting to hear, but the Commission passed an ordinance that is not being enforced and questioned what good is it to have something that is not working. Commissioner LaGrand suggested tabling the item and getting feedback from other Commissioners. Commissioner Langley questioned since the Sheriff's Office has no video at the time of the alleged incident and the noise stopped before the officer's arrived saying he feels it should be tabled for further discussion. Commissioner Cannon agreed. Ms. Brown again questioned the ordinance being a present sense ordinance whereby a citizen can't sign a complaint, according to the Noise Ordinance it has to be witnessed by a sworn officer. Commissioner Long said he has a serious issue and does not want to table it; he wants to see the citations enforced. Ms. Brown interjected stating she understands he is a commissioner, but he is out of order. Judge English said the Commission has three options: 1) affirm the citation; 2) overturn the citations or 3) carry it

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forward. County Attorney added that the Commission could affirm the citation but waive the fines. Commissioner Long made a motion, seconded by Commissioner Cannon, to affirm the citations. The motion carried on a vote of 4-1 with Commission LaGrand voting “No.”

Judge English said he has two items from the IAC meeting he attended last Wednesday in Montgomery. First, he said that Madison County is joining the IAC after spending about half of its \$72 million of ARPA funds. Staff recommended they be allowed to join the IAC and the board approved it. He added that they would pay the same fees as everyone else. Also, Judge English said that the three Loachapoka Water Authority projects have looked like there will be an over-run and asked Commissioner Cannon or Mrs. Leverette how they will proceed. Commissioner Cannon said he has been told they are going to go back and look to see if they can pay the difference. Mrs. Leverette said that is her understanding with other water authorities that they are paying the difference if there is an over-run. They have been talking with Kate Jessip with the IAC. Mrs. Leverette said in the future the Commission will have to amend the Loachapoka Water Authorities Resolution to add that they would pay for any over-run on their project. Judge English said there is no action to be taken at this time.

Judge English asked the Commission to authorize him to seek an attorney general’s opinion as to whether it is permissible to identify delinquent garbage customers by name and address in response to a public records request. Commissioner Cannon made a motion, seconded by Commissioner Morris to authorize the Chairman to request an attorney general’s opinion as described in the following Resolution. The motion carried unanimously.

Whereas, the Lee County Commission, pursuant to the Code of Alabama §22-27-3(a)(2), has a mandatory participation policy regarding a county-provided system of solid waste collection and disposal, for which it charges a fee; and

Whereas, a Lee County resident has requested the name and addresses of over 6,000 garbage fee customers who are currently delinquent in paying the fees for that service. A copy of that request is attached; and

Whereas, the Lee County Commission needs to know whether that list of delinquents is a public record as defined in Code of Alabama §41-13-1, or whether providing such a list violates their rights by publicly identifying those garbage fee customers as delinquent.

Now therefore, be it resolved by the Lee County Commission, that the Chairman of the Lee County Commission is authorized to prepare and file a request for a formal opinion from the Attorney General of the State of Alabama to resolve the issue of providing the names and addresses of delinquent garbage fee customers.

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Sheriff Jones presented a transfer of a lounge retail liquor license from The Tavern at Lake Harding located in District 4. Sheriff Jones said there were no objections for the transfer of the license. Commissioner Langley made a motion to approve the following Resolution granting the license transfer. The motion was seconded by Commissioner Morris and carried unanimously.

BE IT RESOLVED the Lee County Commission hereby approves the transfer of a lounge retail liquor license for The Tavern at Lake Harding located at 8018 Lee Rd 379, Suite D, Salem, Alabama.

Sheriff Jones presented two educational reimbursement requests from Deputies Ben Causland and Jared Corbett. Deputy Causland presented reimbursement requests for three classes: 1) Special Issues in Criminal Justice (BCJ4305), First Line Supervision (BCJ3309) and 3) Courts & Courtroom Procedures (BCJ4302). Deputy Corbett presented a request for one course Constitutional Law (CMJ3309). Sheriff Jones said the courses have been reviewed and pertain to their current assigned duties. Commissioner Cannon made a motion, seconded by Commissioner Morris to approve the educational reimbursement requests as presented. The motion carried unanimously.

County Engineer Justin Hardee presented final plat approval for Zachry Howard Subdivision located in District #4 for consideration. Mr. Hardee said the subdivision has been reviewed and meets the minimum requirements of the *Lee County Subdivision and Land Development Regulations*. The proposed subdivision is located adjacent to the intersection of Lee Road 743 and Lee Road 339. Mr. Hardee said the proposed subdivision creates four lots with the smallest lot size 2.165 acres and needs no new infrastructure. Adjacent property owners were notified by letters sent out on August 3, 2023, so they may attend and voice their support, or opposition, or to obtain more information. Three citizens were in attendance to discuss the subdivision. First, Mr. James Vallone spoke concerning the use of Lee Road 936 which is not a county-maintained road by the developers. Mr. Hardee said notes on the plat indicate lots 1, 2 & 3 must access Lee Road 743 and lot 4 must access Lee Road 339. Mr. Vallone said water from lot 2 rushes across his and Jerry Love's property, asking if a ditch can be installed to help with the water run-off issue. Mr. Hardee replied that the county does not have authority to deny the subdivision plat for that reason, based on the subdivision regulations. Next, Ms. Amy Arabian said her property, lot 13, is located next to lot 1 also asked whether they would be dredging to gain access to Lake Harding. Mr. Hardee said his office has not been notified of that. Mr. Hardee said nothing could be done to harm the creek or the lake, but that those are issues for ADEM and the Army Corps of Engineers. Next, Larry Love said he understands the Commission is approving the lots to be developed but asked how he and the others can protect themselves, stating the county should have planning and zoning. Mr. Hardee said there are no zoning regulations at this time, but our Building Inspection Department would look at it from

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stormwater guidelines when looking at the building itself. Mr. Love said they are trying to be proactive and would like to talk to someone to try to prevent something in advance, instead of having to take it to court afterward. Commissioner Langley said he has concerns with the discussion of pre-construction run-off and asked Mr. Hardee if there was anything that could be done. Mr. Hardee said it is a private property issue. Mr. Hardee said Chief Building Inspector Joel Hubbard would look at run-off suggesting silt fencing, but the Highway Department does not get into that. Mr. Hardee stated the Highway Department looks at the application for final plat approval, if there are concerns the item should be tabled until the next meeting. The item was tabled without objection.

County Administrative Officer Holly Leverette said appointment of a Commission representative to the Mid-South Resource Conservation & Development Council needs to be made. Mrs. Leverette said the County Commission appoints two representatives to the council, one is a County Commissioner and the other is an At-Large member from the community. Commissioner Cannon said since Commissioner Morris is no longer serving on the Legislative Committee, he would nominate Commissioner Morris to serve on the council. Commissioner Morris agreed. Commissioner Cannon made a motion, seconded by Commissioner LaGrand to appoint Commissioner Morris to serve as the Commission representative on the Mid-South RC&D Council. The motion carried unanimously.

At approximately 6:20 p.m., Judge English announced County Attorney Stan Martin said the Commission needs to adjourn into Executive Session. Judge English said the exception to the Open Meetings Act is based upon the potential sale or purchase of real property. Commissioner Long made a motion, seconded by Commissioner Langley to adjourn into executive session. The motion carried unanimously. The following were identified as needing to attend: Mr. Hardee, Assistant County Engineer Patrick Harvill, Mrs. Leverette and Chief Financial Officer Anna-Kate Padgett. Judge English said the session should last approximately 20 minutes and formal action is anticipated at the conclusion.

Upon reconvening after the Executive Session, Commissioner Langley made a motion, seconded by Commissioner Cannon, to authorize Mr. Hardee to negotiate a real estate transaction up to the maximum price discussed in the executive session and authorize Judge English to sign any necessary documents for the transaction. The motion carried unanimously.

At approximately 6:55 p.m. Commissioner Long made a motion, seconded by Commissioner Cannon to adjourn into a budget work session. The motion carried unanimously.