

MINUTES OF THE LEE COUNTY COMMISSION, REGULAR SESSION, FEBRUARY 12, 2024

The Lee County Commission convened in regular session at the Courthouse in Opelika, Alabama, Monday, February 12, 2024. 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, and Tony Langley. Absent: Commissioners Gary Long and Richard LaGrand. Elected Officials in attendance: Circuit Court Judge Jeff Tickal, District Court Judge Steve Speakman, Sheriff Jay Jones, and Coroner Daniel Sexton. News media in attendance: None.

Hal Gandy and Haley Shufflebarger with PH&J Architects made a presentation regarding the courtroom renovations at the T.K. Davis Justice Center. Renovations would be made to the first and second floors comprised of the District and Circuit Courtrooms and associated ancillary areas. The renovations would update the courtrooms and bring all areas to be ADA compliant as well as adding additional space such as enlarging the jury rooms, holding areas, and adding a parole room. The base bid scope of work includes mechanical system, lighting, and ceiling replacements; paint and flooring upgrades; new first floor waiting area, pardons and parole offices, AV server room, law library; and complete renovation of the four original courtrooms. The base bid is estimated to be \$6.361 million; an alternate bid for scope of work includes first and second floor detention cells, complete renovation of second floor jury rooms and replacement of electrical distribution panels at an estimated cost of \$441,000. The total cost of both would be \$6.802 million with a recommended contingency of 3% which would be \$200,000. Time allotted for the construction would be two years; one year for the upstairs in phase 1 and one year for the downstairs in phase 2. Given the cost of the project, Judge English asked how much could come from ARPA funds. Ms. Leverette stated that \$1.3 million had been allocated towards mechanical as well as another energy efficient grant to update lighting that would cover an additional \$75,000. LATCF grant monies in the amount of \$100,000 will also be used to update camera systems.

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 minutes of the meeting on January 29, 2024, and a correction to the minutes on January 8, 2024. Commissioner Cannon made a motion, seconded by Commissioner Morris, to approve the consent agenda items as presented. The motion carried unanimously.

In old business, Kate Jessup and Courtney Lane with IAC/ACCA provided an update regarding the broadband funding and projects. Ms. Lane stated the Commission allocated \$4.4 million in ARPA funding to broadband projects within the county to provide coverage to unserved areas. Sain Associates performed a broadband study and identified four major areas where there was a significant portion of the population that was unserved. An application for ISPs was created for those areas. Through that process she stated that three broadband contracts

MINUTES OF THE LEE COUNTY COMMISSION, REGULAR SESSION, FEBRUARY 12, 2024

had been designated to be awarded but the fourth prospective area already had service. At this time total funding to be committed to the three projects is \$984,431.27 with is significantly below the amount conditionally allocated. Ms. Lane further stated that additional analysis has not identified many contiguous areas that are unserved. She stated that should the Commission wish to continue looking at unserved areas, it would mean looking on a much smaller project by project basis. Ms. Jessup then provided two options the Commission could consider if it moved to pursue a Phase 2: potentially identify the smaller areas that could be classified as unserved/underserved using already provided information; or revamp the application to allow the ISPs to identify what areas fit within that definition. She noted that option 2 could take a considerable amount of time and the amount of money that could be attributed unknown. Commissioner Morris stated he would like to allow every person/home that is unserved to be served. Judge English asked for Ms. Jessup to explain the cost per mile/cost per house. She said that ARPA does have federal parameters for spending the funds and federal uniform guidance applies so every project must have a “reasonableness” component – an identified need and that money spent on that need is proportionate and that information on potential future projects is not known. Commissioner Cannon asked if that was something IAC could provide; Ms. Jessup stated based on the current information no and that information would have to come from the ISPs. She stated that would mean a Round 2 which would be a several month-long process which would mean that information wouldn’t be available until August/September, and all funds have to be completely obligated by December 31, which means bid out and under contract, not just voted by the Commission. If not, funds will revert back to the U.S. Treasury. Commissioner Morris asked how to expedite the Round 2 and do it in May or June instead. Ms. Jessup said the Commission would need to decide how to move forward with Phase 2 – identify areas, revamp applications, etc. Commissioner Cannon said he would like to look at moving forward. Ms. Jessup said IAC will then revamp the application and bring it back before the commission at a meeting in March for approval and then advertisement.

Mr. Hardee then presented a proposed plat for the redivision of Lot 4 in the Stillwaters Subdivision which had been presented at the last meeting. At that meeting, Commissioner LaGrand had requested the item be tabled given citizen concerns. Mr. Hardee stated he and Commissioner LaGrand have met with the citizen subdividing the property and the citizens that had been concerned. He stated in his last meeting with Commissioner LaGrand, the Commissioner was ready to move forward with approval. In his absence, Mr. Hardee stated it was up to the pleasure of the commission whether to move forward or table again. Commissioner Cannon made a motion to approve the final plat as presented. The motion was seconded by Commissioner Morris and passed unanimously.

Mrs. Leverette presented the Commission with a request to amend a resolution allocating ARPA funds to the Beulah Utilities District for projects in the amount of \$2,697,986.77. She stated that due to emergent issues regarding repairs, Beulah had asked to amend the projects and

MINUTES OF THE LEE COUNTY COMMISSION, REGULAR SESSION, FEBRUARY 12, 2024

allocate funds instead to these higher priority projects. The allocation amount would not change, but they are requesting to replace 1,600 water meters and replace 60,760 linear feet of service tubing to address water pressure issues and fix leaks within the system. Commissioner Langley made a motion to approve and authorize the Chairman to sign the amended Resolution. The motion was seconded by Commissioner Morris and carried unanimously.

**AMENDED RESOLUTION TO AUTHORIZE THE REALLOCATION OF
AMERICAN RESCUE PLAN ACT FUNDS FOR ELIGIBLE WATER INFRASTRUCTURE
PROJECTS TO BEULAH UTILITIES DISTRICT**

WHEREAS, Lee County, Alabama (the "County") has received American Rescue Plan Act fiscal recovery funds ("ARPA funds") and is charged with ensuring that such funds are expended in accordance with state and federal law; and

WHEREAS, ARPA funds may be used for necessary investments in water and sewer infrastructure ("eligible water and sewer ARPA infrastructure projects"); and

WHEREAS, pursuant to of the ARPA, PL 117-2, March 11, 2021, 135 stat4, the County may transfer ARPA funds to municipalities, water and sewer authorities, and other public third-party providers ("third-party providers") in order to make these necessary investments; and

WHEREAS, consistent with Code of Alabama (1975) 11-88-13, the County may provide funds to a water authority to provide for the planning, development, undertaking, construction, extension, improvement, operation, or protection of water systems; and

WHEREAS, by way of resolution dated November 28, 2022, the Lee County Commission conditionally allocated up to \$2,697,986.77 of its ARPA funds to Beulah Utilities District to carry out six eligible water projects; and

WHEREAS, since that time, due to numerous service line breaks and meter repairs, Beulah Utilities District has identified a more urgent need for its system to replace approximately 1,600 water meters and approximately 60,760 linear feet of service tubing in order to increase water pressure and reduce leaks in the system (the "Project"); and

WHEREAS Beulah Utilities District has requested that the funding previously allocated for the water projects be reallocated to this more emergent Project; and

WHEREAS, with assistance from a third-party consultant, the County has confirmed that this new Project is an eligible use of ARPA funds; and

MINUTES OF THE LEE COUNTY COMMISSION, REGULAR SESSION, FEBRUARY 12, 2024

WHEREAS, the Commission has considered the request from Beulah Utilities District, to substitute this Project for the previous projects and agrees that the reallocation of these funds is in the best interest of the County; and

WHEREAS, the County has determined that the projects are a necessary, eligible, and reasonable use of these funds; and

WHEREAS, the County will conduct an updated risk assessment of Beulah Utilities District and develop a monitoring plan for the ARPA infrastructure project.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNTY as follows:

1) The County hereby amends its previous resolution dated November 28, 2022, and conditionally allocates up to \$2,697,986.77 of its ARPA funds to Beulah Utilities District to cover necessary costs relating to the Project.

2) This allocation is conditioned upon meeting federal requirements as set forth in paragraph 3.

3) Following the successful completion of an updated risk assessment and development of a monitoring plan, the County is hereby directed to negotiate with the Beulah Utilities District to a subrecipient agreement consistent with this Resolution, the terms and conditions of the County's ARPA Award, and state and federal law.

4) The Chairman is hereby delegated to enter into the subrecipient agreement if the agreement is consistent with this Resolution and if, in his discretion, the terms and conditions are in the best interest of the County.

5) Upon execution of the subrecipient agreement, the Chairman is hereby authorized to expend ARPA funds for costs of the projects in accordance with the terms of this Resolution and the subrecipient agreement.

6) Expenditure of these funds, as authorized by this Resolution, shall be contingent on the continued appropriation and availability of ARPA funds for this purpose and in no event shall be used for any costs associated with the projects that are not obligated on or before December 31, 2024, and expended on or before December 31, 2026.

IN WITNESS WHEREOF, the Lee County Commission has caused this Resolution to be executed in its name and on its behalf by its Chairman on the 12th day of February 2024.

MINUTES OF THE LEE COUNTY COMMISSION, REGULAR SESSION, FEBRUARY 12, 2024

Mrs. Leverette then presented a request to amend the resolution awarding ARPA funding for broadband grants for the Loachapoka area. As discussed in previous meetings, the projects in Loachapoka had to be amended due to service already in place by another ISP provider on certain identified project roads. Further, Mrs. Leverette asked the Commission to authorize the Chairman to enter into the agreement with the ISP providers for the projects in the three identified areas. Commissioner Cannon made motion to amend the resolution and authorize the Chairman to enter into agreements with the ISP providers. The motion was seconded by Commissioner Morris and carried unanimously.

AMENDED RESOLUTION AWARDING LEE COUNTY AMERICAN RESCUE PLAN ACT (ARPA) FUNDED BROADBAND EXPANSION GRANTS

WHEREAS, Lee County, Alabama has received American Rescue Plan Act fiscal recovery funds ("ARPA funds") and is charged with ensuring that such funds are expended in accordance with state and federal law; and

WHEREAS, following completion of a broadband feasibility study performed to identify & priority unserved and underserved areas where the county should expand broadband fiber optic infrastructure, the Lee County Commission voted unanimously to allocate up to \$4,392,071.00 of ARPA funds for the expansion of broadband fiber optic infrastructure in unserved and underserved portions of Lee County and subsequently approved the advertisement and solicitation of applications for four broadband expansion grants to be funded with ARPA funds; and

WHEREAS, following receipt of grant applications for three of the advertised broadband expansion grants and recommendations for approval from a team of county officials and employees who carefully reviewed and scored each regional application received based upon the objective criteria in the application, the Lee County Commission award the solicited broadband expansion grants as follows:

(1) A broadband expansion grant in the amount of \$345,129 to Point Broadband for the Loachapoka Region.

(2) A broadband expansion grant in the amount of \$169,532.74 to R.M. Greene, Inc., dba BEAM for the Salem Region.

(3) A broadband expansion grant in the amount of \$469,769.45 to R.M. Greene, Inc., dba BEAM for the South-Central Region broadband expansion project; and

WHEREAS, following the above-referenced award of grants, the Lee County Commission and Point Broadband discovered that portions of the proposed project area in the Loachapoka Region grant application already contained adequate broadband fiber optic infrastructure and that slight adjustments to the project plan were warranted to best serve the

MINUTES OF THE LEE COUNTY COMMISSION, REGULAR SESSION, FEBRUARY 12, 2024

community and ensure the proposed construction and expansion of broadband infrastructure within the project area to be performed pursuant to the awarded grant would take place in currently unserved portions of the Loachapoka Region; and

WHEREAS, representatives from Lee County and Point Broadband met to refine the locations within the Loachapoka Region where Point Broadband should perform its services as outlined in the grant application, and following said meeting, Point Broadband submitted a revised project plan with the revised proposed locations for construction and expansion within the Loachapoka Region project area previously approved by the Lee County Commission; and

WHEREAS, upon review and agreement that the revised project plan submitted by Point Broadband complies with the requirements of the original grant proposal for the Loachapoka Region, the Lee County Commission agrees to the amended project plan for broadband expansion in the Loachapoka Region and seeks to amend its original approval dated November 13, 2023 to so do.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNTY as follows:

1. The County hereby amends its previous resolution dated November 13, 2023 and rescinds the approval of the broadband expansion grant to Point Broadband for the Loachapoka Region as set out in their original grant application.

2. The County approves and awards a broadband expansion grant in the amount of \$278,983.80 to Point Broadband for the Loachapoka Region as outlined in the revised Point Broadband project plan submitted to the Lee County Commission on February 12, 2023.

3. The County reaffirms the approval of a broadband expansion grant in the amount of \$169,532.74 to R.M. Greene, Inc., dba BEAM for the Salem Region as set out and proposed by the Lee County Commission in its grant application.

4. The County reaffirms the approval of a broadband expansion grant in the amount of \$469,769.45 to R.M. Greene, Inc., dba BEAM for the South-Central Region broadband expansion project as set out and proposed by the Lee County Commission in its grant application;

5. The County is hereby directed to negotiate with both R.M. Greene, Inc., dba BEAM and Point Broadband to establish subrecipient agreements covering the above-listed projects consistent with this resolution and the terms and conditions of the County's ARPA Award;

MINUTES OF THE LEE COUNTY COMMISSION, REGULAR SESSION, FEBRUARY 12, 2024

6. The Chairman is hereby delegated to enter into subrecipient agreements with the respective parties if the agreements are consistent with this resolution and if, in his discretion, the terms and conditions are in the best interest of the County.

7. Upon execution of the subrecipient agreement, the Chairman is hereby authorized to expend ARPA funds for costs of the projects in accordance with the terms of this Resolution and the subrecipient agreements.

8. Expenditure of these funds, as authorized by this Resolution, shall be contingent on the county appropriation and availability of ARPA funds for this purpose and in no event shall be used for any costs associated with the projects that are not obligated on or before December 31, 2024, and expended on or before December 31, 2026.

BE IT FURTHER RESOLVED that a copy of this resolution be spread upon the minutes of the February 12, 2024, meeting of the Lee County Commission.

IN WITNESS WHEREOF, the Lee County Commission has caused this Resolution to be executed in its name and on its behalf by its Chairman on this the 12th day of February, 2024.

Under New Business, Ms. Christine Berry and son Mr. Christopher Berry presented to the Commission information regarding an incident which occurred on Nov. 24, 2023, and took issue with the Lee County Sheriff's Office handling of said incident. Ms. Berry stated she feels her son was racially profiled and wanted to bring it to the attention of the Commission since she feels the Sheriff's Office has not been responsive as they have not returned phone calls made asking for information and clarification regarding the incident in question. Judge English explained the reason the Commission does not manage the Sheriff's employees because the Sheriff as a state constitutional officer has a sovereign immunity that the Commission does not enjoy.

Prior to presenting a salary variance request, Sheriff Jones stated that the Sheriff's Office had reached out to Mr. Berry regarding the incident and had offered the opportunity to view the evidence concerning the case, but his office has not been contacted. Sheriff Jones stated that a formal complaint has not been filed, but a verbal from Ms. Berry has been stated. Sheriff Jones also stated the department does not racially profile and any such behavior is not tolerated.

Sheriff Jones presented a salary variance request. Sheriff Jones said Dennis Harrell was recently promoted to Captain within the School Resource Division; and policy allows a salary increase of 5%. However, even with the increase he would still be below the salary of some of his subordinates, so the Sheriff is requesting a 10% salary increase due to his experience. Sheriff Jones said this would bring him to a salary above his subordinates. Commissioner Morris made a motion to approve the 10% salary increase above his current salary. The motion was seconded by Commissioner Langley and passed unanimously.

MINUTES OF THE LEE COUNTY COMMISSION, REGULAR SESSION, FEBRUARY 12, 2024

Sheriff Jones presented an off-premise retail beer and off-premise retail table wine application from Dollar General Store 25153 Store located in District 3, southeast of the Smiths Station city limits off Auburn Road. Commissioner Cannon made a motion, seconded by Commissioner Langley to approve the following Resolution to approve the application for Dollar General Store 25153.

BE IT RESOLVED the Lee County Commission hereby approves the license application for The Dollar General Store 25153 located at 10135 Lee Road 240, Phenix City, Alabama.

Next, Sheriff Jones presented educational reimbursement requests from Deputies Jeff Snyder, Shawn McDevitt, and Hayden Greenlee. Sheriff Jones said the courses pertain to their current job assignments. Commissioner Langley made a motion, seconded by Commissioner Morris, to approve the educational reimbursement requests as presented. The motion carried unanimously.

Judge English presented a proposed job description for an accountant position pay grade 114 within the Probate Office. The position would manage all financial aspects of the office, taking over duties currently being done by the Chief Clerk, an outside bookkeeper, and several of the probate clerks. This in turn would allow the clerks to provide additional customer service and would prevent the need to hire additional clerks. Commissioner Cannon made a motion to approve the accountant position as presented at a Pay Grade 114. The motion was seconded by Commissioner Morris and carried unanimously.

Mr. Hardee said the Highway Department had been approached by a citizen regarding a traffic study request on US Highway 29N and Lee Road 270. The citizen had initially made the request to ALDOT, however ALDOT rules state traffic study requests must come from County Commissions on behalf of citizens. Mr. Hardee stated a draft letter to ALDOT from Lee County was included in the packets which he asked the Commission to authorize the Chairman to sign. Mr. Hardee said the citizen requested the study because of concern regarding traffic backing up on the roadways during peak hours. Commissioner Langley made a motion authorizing the Chairman to sign the traffic study on US Highway 29N and Lee Road 270 as presented. The motion was seconded by Commissioner Cannon and passed unanimously.

Next, Mr. Hardee presented a final plat approval for Mill Creek East, Revision of Lot 1. Mr. Hardee said the plat has been reviewed and meets the minimum requirements of the *Lee County Subdivision and Land Development Regulations*. The subdivision is located off existing roads of Lee Road 334 and 336 in District 4. It is taking a parent lot and subdividing it into 10 smaller lots with the smallest being 3 acres in size. Adjacent property owners were notified of the

MINUTES OF THE LEE COUNTY COMMISSION, REGULAR SESSION, FEBRUARY 12, 2024

development by letters sent out February 1, 2024, so they may attend and voice their support, opposition or to obtain more information. Judge English asked if anyone was present to address the issues, and no one was there. Mr. Hardee also stated it will use existing frontage and no additional infrastructure is required to be built or maintained by the county. Commissioner Langley made a motion to approve the final plat for Mill Creek East, Revision of Lot 1, seconded by Commissioner Morris, and carried unanimously.

Mrs. Leverette presented a budget adjustment request for Fund 117 (RRR). Upon reviewing the financials, Fund 117 currently has more than the \$1.5 million threshold for emergency bridge and road repairs. Mrs. Leverette said the Highway Department is asking to recognize \$750,000 of the unassigned fund balance so the department can add projects to the current 2024 resurfacing project list. Mrs. Leverette requested the Commission recognize \$750,000 from the unassigned budget balance of Fund 117 to place into this year's budget for expenditures. Mrs. Leverette said these funds are highly restricted and can only be used for roads and bridges. Assistant County Engineer Patrick Harvill stated the roads to be added to the project list would most likely be Lee Roads 344 and 435. Commissioner Morris made a motion to approve the \$750,000 budget adjustment for Fund 117. The motion was seconded by Commissioner Langley and carried unanimously.

Mrs. Leverette presented the following Resolution regarding Amendment 1 which will be on the 2024 Primary Election ballots. Currently the Alabama Legislature is required to adopt the two main state budgets before any other legislation. They often use a problematic procedural workaround called a Budget Isolation Resolution (BIR), but that requires a higher number of votes to pass. As a result, a number of local measures die at the end of the session from year to year. Amendment 1 would allow for items of local legislation and constitutional amendments to be considered without the Alabama Legislature having to adopt a BIR vote, hopefully reducing legal challenges to local laws. The resolution encourages citizens to read and be aware of what items are on the ballot and vote accordingly. Commissioner Cannon made a motion, seconded by Commissioner Morris, to approve the following Resolution and authorize Judge English to sign it. The motion passed unanimously.

RESOLUTION

WHEREAS, voters will soon consider Amendment 1, which will be on the ballot during the 2024 Primary Election held on March 5, 2024; and

WHEREAS, the Legislature regularly passes local laws and local constitutional amendments that impact the services provided to the county's residents, as well as the mechanisms for funding these services; and

MINUTES OF THE LEE COUNTY COMMISSION, REGULAR SESSION, FEBRUARY 12, 2024

WHEREAS, some of these taxpayer-funded services include law enforcement, education, fire protection, ambulance services, the regulation of alcoholic beverages, and economic development; and

WHEREAS, since 1984, the Alabama Constitution has required that no legislation be considered by the Legislature until both of the State's annual budgets are passed and delivered to the Governor; and

WHEREAS, there is an exception that allows the Legislature to consider other matters ahead of the budgets by adopting a "Budget Isolation Resolution" (BIR) by a vote "of not less than three-fifths of a quorum present"; and

WHEREAS, the language of this exception has been interpreted various ways since 1984 and has generated lawsuits in recent years over how many votes are needed to adopt a BIR; and

WHEREAS, if a court finds that a local law's BIR was adopted improperly, it could result in that local law being challenged on procedural grounds, even if the local law otherwise passed both chambers and became law; and

WHEREAS, Amendment I would allow local bills and local constitutional amendments to be considered by the Legislature without the adoption of a BIR, removing a procedural step from the legislative process; and

NOW, THEREFORE, BE IT RESOLVED BY THE LEE COUNTY COMMISSION that it encourages the citizens of the county to go to the polls on March 5, 2024, and make their voices heard on Amendment 1.

IN WITNESS WHEREOF, the Lee County Commission has caused this Resolution to be executed in its name and on its behalf by its Chairman on this the 12th day of February, 2024.

Mr. Hardee asked for an item to be added to the agenda which was a request for the county to join with 30 other counties to participate in pursuing a planning grant through the USDOT Bridge Investment program. Letters of support are necessary from the participating counties. Mr. Hardee stated if approved, the grant funds would be used to replace a bridge located on Farmville Road that was built in 1967. Commissioner Cannon made a motion to add the item to the agenda with Commissioner Morris seconded. The motion passed unanimously, and the item was added. Commissioner Cannon then made a motion to approve the request presented

MINUTES OF THE LEE COUNTY COMMISSION, REGULAR SESSION, FEBRUARY 12, 2024

by Mr. Hardee to participate in pursuing a planning grant through the USDOT Bridge Investment program. The motion was seconded by Commissioner Morris and the motion carried unanimously.

Judge English said under advice of Attorney Jamie Frawley the Commission needs to adjourn into Executive Session concerning a matter of current litigation. Judge English said County Attorney Stan Martin needed to attend. The session may last 25-30 minutes, and no official action is anticipated at the conclusion. Commissioner Langley, at approximately 6:15 p.m., made a motion to adjourn into executive session. The motion was seconded by Commissioner Cannon and carried unanimously.

Upon reconvening after the Executive Session, at approximately 7:00 p.m. Commissioner Cannon made a motion to adjourn. The motion was seconded by Commissioner Langley and the motion carried unanimously.