

The DeKalb County Commission met in regular session on Tuesday, September 14, 2010 at 10:00 a.m. in the DeKalb County Activities Building (Courthouse Annex). Those present were Sid Holcomb, President, Ricky Harcrow, Ed Nix, Chris Kuykendall and Dewitt Jackson. Those absent were none.

The meeting was called to order by President Holcomb with Commissioner Harcrow leading the Prayer followed by the Pledge.

It was moved by Mr. Harcrow, seconded by Mr. Nix, all members voting affirmatively, motion carrying to dispense with the reading of the minutes and to accept them as presented in written format.

Mr. Holcomb asked Mr. Mauney to address the Federal Inmate Contract.

Mr. Mauney: I understand that there might be considered to be a motion made today regarding that contract and I'm prepared to do whatever the County instructs me to do.

Mr. Kuykendall: There is a distinct disagreement between the DeKalb County Commission and Sheriff Harris concerning the validity and legality of the contract between Sheriff Harris and the Federal Government. Some members of the DeKalb County Commission believe the contract to be illegal and at the very least, invalid because the contract was not signed by a representative of local government - construed by Commission members or legal counsel and Attorney General's opinion to mean a member of the DeKalb County Commission. Sheriff Harris signed said contract as local government undoubtedly implying he believed he was local government and was authorized to sign the contract. No resolution of the dispute can be negotiated until a legal ruling on the legality or the validity of the current contract is established. Therefore, I move the DeKalb County Commission instruct its legal counsel to file suit in the appropriate court having legal jurisdiction requesting declaratory judgment of the validity and legality of the contract existing between Jimmy Harris and the Federal Government as regards to the Federal Inmate Program.

It was moved by Mr. Kuykendall, seconded by Mr. Harcrow, no objections, with Mr. Kuykendall, Mr. Jackson and Mr. Harcrow voting affirmatively, Mr. Nix abstaining motion carrying to instruct its legal counsel to file suit in the appropriate court having legal jurisdiction requesting declaratory judgment of the validity and legality of the contract existing between Jimmy Harris and the Federal Government as regards to the Federal Inmate Program. (Note: Mr. Nix remained silent during the President's call for the yeas and the neas. He clarified after the meeting that he voted neither for or against the motion, therefore his official vote will be considered an abstention).

Road Superintendent Tom Broyles gave the Commission the following Road Maintenance Update:

- a) Agri-Center: The ribbon cutting at the Agri-Center was this past Sunday afternoon. The work on the parking lots is about 80% complete. Their first event is booked for September 24. Crews should have those parking lots finished before that date.
- b) Field School: Crews are moving along on the project at the Little River Canyon Field School on Lookout Mountain. The road has been cleared and the stumps and brush removed. The

roadbed may need to be undercut and place base material down. The excavator is being serviced, but should be ready to continue the work out there tomorrow.

c) Herbicide: District 1 spraying should be completed today and then crews will be moving down into District 4. In another two weeks, that second application should be completed.

d) Paving Contractor: The paving contractor said he would be back in the County this week. He said it should take about 3-4 days to complete everything.

e) Asphalt Paving Machine: Delivery is scheduled for Monday, September 20.

Mr. Jackson said the Agri-Center Board expressed their thanks to Tommy Broyles and the Road Department for all they were doing out there and they gave thanks to the Commission for allowing it to happen.

Mr. Sharp addressed the Commission regarding the FEMA Disaster debris invoice owed to D&J Enterprises out of Auburn. He noted that the County had paid \$1.4 million of the \$2.7 million invoice. He requested the Commission to make a payment of \$50,000 from Capital Improvement Funds. He said the status was still the same on the funding of this work. Congress appropriated the funds and the President has signed it; however, the funds have not yet been sent to the State level yet (Note: Following the meeting, Mr. Sharp was notified that the State had received \$2.1 million on September 13 toward the debris cleanup; however, since this is the last month of the fiscal year, the State would be holding the check until mid-October).

It was moved by Mr. Harcrow, seconded by Mr. Jackson, all members voting affirmatively, motion carrying to pay \$50,000 on the debris removal invoice out of the Capital Improvement money.

Mr. Jackson notified the Commission that the Highpoint Voting location (Precinct 4, Box 9) has been held at the Wilborn Community Center owned by Roy Wilborn. Mr. Wilborn has been going through cancer treatments and having a hard time and it's not working out to have the voting location at his facility any longer. The board of Registrars called and the Hawkins Chapel Church near Wilborn's Community Center may be a possible location. It's located less than one-half mile from the current location. Mr. Jackson said he had called the pastor, Chris Boggs and he said they would meet tomorrow night to vote on allowing the church to be used as a voting location during the November 2 General Election.

Mr. Holcomb asked if we were within the time constraints of moving a voting location. Mr. Sharp said State law prohibits moving a voting location within 90 days of an election. He stated that they had talked with Ed Packard of the Secretary of State's Office and he said preclearance with the USDOJ was still required; however, since this was an emergency there shouldn't be a problem getting it approved. Mr. Packard also recommended the Commission to send a letter asking for "expedited" processing.

It was moved by Mr. Jackson, seconded by Mr. Kuykendall, all members voting affirmatively, motion carrying to pass a resolution moving the Highpoint Voting location (Precinct 4, Box 9) from Wilborn's Community Center to the Hawkins Chapel Church, pending approval by the church delegation and preclearance by the USDOJ Civil Rights Division:

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**RESOLUTION NO. 10-0914-01
HIGHPOINT VOTING LOCATION
PRECINCT 4, BOX 9**

WHEREAS, the DeKalb County Commission is the elected representation of the citizens of DeKalb County; and

WHEREAS, the privately owned Wilborn's Community Center (located at 6747 CR 121, Fort Payne, AL 35967) is no longer available for use as a polling place; and

WHEREAS, the Hawkins Chapel Baptist Church (located at 19 CR 598, Fort Payne, AL 35967) is located within one-quarter mile of Wilborn's Community Center and could be used as a polling place for the November 2010 General Election; and

WHEREAS, the DeKalb County Commission is authorized by Code Section 17-6-3 and 17-6-4 to select polling places for each precinct; and

WHEREAS, Wilborn's Community Center currently serves as the Voting Location for Precinct 4, Box 9;

NOW, THEREFORE seeing good and just cause to move the polling place for Precinct 4, Box 9; and acknowledging that the new polling place is within one-quarter mile from the current location,

IT IS RESOLVED that the DeKalb County Commission does hereby authorize the polling place for Precinct 4, Box 9, to be moved from Wilborn's Community Center to the Hawkins Chapel Baptist Church, subject to pre-clearance by the U.S. Justice Department.

DONE THIS 14th day of September 2010

(NOTE: On Wednesday, September 15, the Hawkins Chapel Church declined to allow the church to be used as a voting location citing separation of church and state – a new resolution will have to be made in the next meeting moving the Highpoint voters to another, as yet undetermined location).

Commissioner Harcrow acknowledged the recent death of DHR Board Member Garvis Moore. He recommended that Gary Carlyle of Sylvania be appointed to fill the vacancy left by Mr. Moore.

It was moved by Mr. Harcrow, seconded by Mr. Jackson, all members voting affirmatively, motion carrying to appoint Mr. Gary Carlisle to the DHR Board to fulfill the remainder of the term of Mr. Garvis Moore.

Mr. Holcomb requested the Commission to declare 10-12 vehicles as surplus and to be sold at Mitchell's auction this Saturday in Centre.

It was moved by Mr. Harcrow, seconded by Mr. Nix, all members voting affirmatively, motion carrying to authorize the sale of surplus vehicles at an upcoming auction.

Mr. Sharp gave a brief update of the 2011FY Budget. He stated that he would be placing proposed budget packets in each Commissioner's mailbox later in the week. He said he had talked with most of the County's departments and all of the major departments and said most of those are fairly satisfied with what we are going to do. There should be very little difference from the current 2010FY Budget.

He noted that the budget needed to be passed by September 30, so he welcomed the Commissioners to come in at any time to discuss the budget.

Mr. Nix: Mr. Chairman, before we adjourn, can I back up to Commissioner Kuykendall's question on our discussion?

Mr. Holcomb: Sure.

Mr. Nix: Chris, I don't understand what you're talking about. I want to know what we're talking about on what we authorized our Attorney to do.

Mr. Kuykendall: On which premise?

Mr. Nix: On the one you made a motion on. What is this for?

Mr. Kuykendall: Authorized him to file suit to determine whether or not the contract that Sheriff Harris signed is legal and valid.

Mr. Nix: OK.

Mr. Kuykendall: We need to know that to have a starting point to any kind of meaningful discussion and resolution to the problem.

Mr. Nix: I understand that.

Mr. Kuykendall: From what I understand, it'll be months anyway, so this will be for the next group of Commissioners and the next Sheriff whoever that might be to resolve this. I know it won't be done quickly.

Mr. Nix: I understand. I just wanted to be sure what we're doing because there's a lot of stuff floating around you know, that I didn't understand and I hadn't heard this discussed so that's why I was asking the question.

Mr. Kuykendall: I understand.

Mr. Nix: We are just authorizing him to see if this is a legal binder or not.

Mr. Kuykendall: That is basically what this is.

It was moved by Mr. Jackson, seconded by Mr. Kuykendall, all members voting affirmatively, motion carrying to adjourn.

Sid Holcomb, President

Ricky Harcrow, Commissioner District I

Ed Nix, Commissioner District II

Chris Kuykendall, Commissioner District III

Dewitt Jackson, Commissioner District IV