

The DeKalb County Commission met in Organizational Session on Wednesday, November 14, 2012 at 10:00 a.m. in the DeKalb County Activities Building (Courthouse Annex) in compliance with Code of Alabama, 1975, Code Section 11-3-1(d,e). Those present were Ricky Harcrow, President, Shane Wootten, Derek Caldwell, Chris Kuykendall and Dewitt Jackson. Those absent were none. (Note: During the November 6, 2012 General Election, Shane Wootten defeated Jerome Tinker for the District I Commissioner's seat and Derek Caldwell defeated Ed Nix for the District II Commissioner's seat).

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The meeting was called to order by President Harcrow with Commissioner Jackson delivering the invocation and Chris Kuykendall leading the Pledge.

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

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Mr. Harcrow notified the audience and media that this meeting was an organizational meeting as required by State Law (referenced above) at the time new commissioners are seated. The first item is to set meeting times and dates for regular Commission meetings. Mr. Harcrow recommended to the Commission that they continue to schedule meetings on the second and fourth Tuesday's at 10:00 a.m.

It was moved by Mr. Jackson, seconded by Mr. Kuykendall, all members voting affirmatively, motion carrying to set the Commission meetings for the 2<sup>nd</sup> and 4<sup>th</sup> Tuesday of each month at 10:00 a.m. in the Commission Chambers at the second floor of the DeKalb County Activities Building.

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Mr. Harcrow also notified the Commission that the Commission needed to appoint a President Pro-Tem in case of the absence of the Commission President. Mr. Harcrow recommended District 4 Commissioner Dewitt Jackson as the senior Commissioner.

It was moved by Mr. Wootten, seconded by Mr. Kuykendall, all members voting affirmatively, motion carrying to appoint Dewitt Jackson as the President Pro-tem of the County Commission

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Mr. Sharp notified the Commission that the new law (Section 11-2-20(a)) regarding Commissioner Bonds was ½ of 1% of the General Fund Budget or up to \$50,000. Mr. Sharp recommended going ahead and setting the bonds of Commissioners at \$50,000.

It was moved by Mr. Jackson, seconded by Mr. Kuykendall, all members voting affirmatively, motion carrying to set the bonds for Commissioners at \$50,000.

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Mr. Sharp recommended authorizing the County Commission to authorize a County credit card(s) with a \$2,500 limit to be used for travel purposes.

It was moved by Mr. Wootten, seconded by Mr. Caldwell, all members voting affirmatively, motion carrying to obtain a credit card for training and hotel purposes only.

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Mr. Harcrow acknowledged Janice Luther and Marilyn Gibson concerning Retired Teacher's Day. Ms. Luther and Ms. Gibson addressed the Commission. The Commission took a picture with the retirees and declared Tuesday, November 13, 2012 as Retired Teacher's Day in DeKalb County.

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Mr. Harcrow notified the Commission that three (3) new cemeteries in DeKalb County (giving a total of 35) have been added to the Historical Register. DeKalb County Historian Doug Brandon is responsible for getting the information together. The three cemeteries added are as follows:

Moore's Schoolhouse Cemetery on CR 1006,  
Old Antioch Cemetery, CR 494, Fort Payne  
Stewart Cemetery on McCurdy Loop, Fort Payne

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After welcoming our two new Commissioners, Mr. Broyles gave the following Road Maintenance Update:

- 1) Hauling/Road Improvements: Crews have finished hauling base material to the roads in District 1 that were reclaimed last year. Those roads have been treated with calcium chloride and compacted. Crews are moving into District 3 now. Mr. Jackson has some roads in District 4 that crews are hauling materials into now.
  - 2) Storage Tank: The building to house the Storage tank for liquid calcium chloride is ongoing. The trusses are up and crews are placing the purlins now. The building kit was picked up yesterday and should be should be dried in within the next couple of weeks.
  - 3) CR 306 Bridge: This wooden bridge in District 2 will be replaced by pipe. This should be completed within the next 3-4 days.
  - 4) Maintenance: Maintenance crews are mowing/bushcutting and will continue throughout the winter.
  - 5) Interstate 59 Rehab Project: Jackson Paving is the primary contractor on the I-59 rehab project from the Fort Payne Exit to the GA line. They are milling up dense grade material off the shoulders and the County can get it for about \$40/load (or about \$2/ton) compared to \$9/ton out of the quarry.
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After welcoming our two new Commissioners, County Engineer Ben Luther addressed the Commission as follows:

- 1) CR 121 Reclassification: As part of the ATRIP program, only major collector roads are eligible for these funds. Mr. Jackson has requested that a portion of CR 121 be reclassified as a major-collector road beginning at Hwy 35 across the brow of Sand Mountain to CR 27.

It was moved by Mr. Jackson, seconded by Mr. Kuykendall, all members voting affirmatively, motion carrying to authorize signing the following resolution requesting ALDOT and Federal Highway to reclassify CR 121:

RESOLUTION NO. 12-1114-01

COUNTY OF DeKALB  
STATE OF ALABAMA

**WHEREAS**, The DeKalb County Commission is desirous that the Alabama Department of Transportation and the Federal Highway Administration reclassify County Road 121, from its intersection at State Highway 35 to its intersection at County Road 27, comprising approximately 3.01 miles, as a Major Collector under the Highway Functional Classification System; and

**WHEREAS**, The DeKalb County Commission submits within the letter of transmittal and acknowledges a safety assessment report addressing the current conditions and recommendations listed in the *Alabama Department of Transportation County Road Design Policy* dated December 2006, Chapter 2 "Design Criteria for Resurfacing, Restoration, and Rehabilitation (RRR) of Existing County Roadways and Bridges for all Traffic Volumes", and

**NOW, THEREFORE, BE IT RESOLVED** that the President, and the DeKalb County Commission as the governing body, do request that County Road 121 between State Highway 35 and County Road 27 be designated as a Major Collector under the Highway Functional Classification System.

**ADOPTED AND APPROVED**, this the 14<sup>th</sup> day of November, 2012

- 2) **CR 784 Speed Limit Resolution**: Mr. Luther noted that a resident of CR 784 in the Cartersville Community between CR 141 and CR 159 had concerns with speeding this road. This is one of the roads that was reclaimed and speed on the road has increased. Mr. Luther stated that there is an intersecting road over the top of a crest, vertical curve that gives some sight distance issues and there is a potential of some problems on the road due to it being a such a narrow road. He requested the Commission to pass a resolution setting the speed limit at 30 mph.

It was moved by Mr. Wootten, seconded by Mr. Caldwell, all members voting affirmatively, motion carrying to authorize the following resolution for the speed limit on CR 784 as follows:

State of Alabama  
DeKalb County

RESOLUTION No. 12-1114-02

**WHEREAS**, the DeKalb County Commission, on the basis of an engineering and traffic investigation, determines that the maximum speed permitted under Article 8, Title 32, Chapter 5A, Code of Alabama, 1975, for County Road #784 between County Road #141 & County Road #159 is greater than is reasonable and safe under the conditions found to exist on unpaved road;

**NOW THEREFORE IT IS RESOLVED**, that the proper maximum speed for County Road #784 between County Road #141 & County Road #159 is set at 30 miles per hour at all times and no person shall operate a motor vehicle in excess of 30 miles per hour on said portion of County Road #784;

**IT IS FURTHER RESOLVED**, that any violations of this Resolution shall be unlawful and punished pursuant to Title 32, Chapter 5A, Code of Alabama, 1975.

**ADOPTED** this the 14<sup>th</sup> day of November, 2012.

Mr. Sharp notified the Commission of two damage claims. The first was from Jimmy Pence from CR 381 claiming that a County bushhog threw gravel through one of his vehicles causing about \$217 in damages. The second claim was Scotty Byrum from CR 50 claiming that his Tractor Tire was cut by a road sign post sticking up on the side of road causing \$2,800 in damages. Mr. Sharp asked the Commission to send these claims to the County's Liability Insurance company.

It was moved by Mr. Kuykendall, seconded by Mr. Jackson, all members voting affirmatively, motion carrying to forward the above damage claims to Meadowbrook/ASI for final disposition.

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Mr. Sharp requested the Commission to approve financing for the 14 Mack Trucks through BancorpSouth Equipment Financing. The terms of the lease would be 5 yr, payment in arrears at 1.9% interest rate. The County does plan to auction these trucks off at the end of one year and rotate 14 new trucks back in. The interest rate is the lowest it has been in 10 years.

It was moved by Mr. Wootten, seconded by Mr. Kuykendall, all members voting affirmatively, motion carrying to adopt the following BancorpSouth Financing Resolution:

**RESOLUTION NO. 12-1114-03**

**Resolution Authorizing and Approving Execution of a Contract  
With First Continental Leasing, a Division of BancorpSouth Bank**

WHEREAS, Board of Commissioners (the "Governing Body") of DeKalb County, Alabama (the "Buyer"), acting for and on behalf of the Buyer hereby finds, determines and adjudicates as follows:

1. The Buyer desires to enter into a Contract with the Exhibits attached thereto in substantially the same form as attached hereto as Exhibit "a" (the "Contract") with First Continental Leasing, a division of BancorpSouth Bank (the "Seller") for the purpose of presently purchasing the equipment as described therein for the total cost specified therein (collectively the "Equipment").
2. It is in the best interest of the residents served by Buyer that the Buyer acquire the Equipment pursuant to and in accordance with the terms of the Contract; and
3. It is necessary for the Buyer to approve and authorized the contract.
4. The Buyer desires to designate the Contract as a qualified tax-exempt obligation of Buyer for purposes of Section 265(b)(3) of the Internal Revenue Code of 1986 (the "Code").

NOW, THEREFORE, BE IT RESOLVED by this Governing Body for and on behalf of the Buyer as follows:

Section 1. The Contract and Exhibits attached thereto in substantially the same form as attached hereto as Exhibit "A" by and between the Seller and the Buyer is hereby approved and Matt Sharp, Administrator (the "Authorized Officer") is hereby authorized and directed to execute said Contract on behalf of the Buyer.

Section 2. The Delivery Order is being issued in calendar year 2013.

Section 3. Neither any portion of the gross proceeds of the Contract nor the Equipment identified to the Contract shall be used (directly or indirectly) in a trade or business carried on by

any person other than a governmental unit, except for such use as a member of the general public.

Section 4. No portion of the rental payment identified in the Contract (a) is secured, directly or indirectly, by property used or to be used in a trade or business carried on by a person other than a governmental unit, except for such use as a member of the general public, or by payments in respect of such property; or (b) is to be derived from payments (whether or not to Buyer) in respect of property or borrowed money used or to be used for a trade or business carried on by any person other than a governmental unit.

Section 5. No portion of the gross proceeds of the Contract are used (directly or indirectly) to make or finance loans to persons other than governmental units.

Section 6. Buyer hereby designates the Contract as a qualified tax-exempt obligation for purposes of Section 265(b) of the Code.

Section 7. In calendar year 2013, Buyer has designated \$2,000,000 of tax-exempt obligations (including the Contract) as qualified tax-exempt obligations. Including the Contract herein so designated, Buyer will not designate more than \$10,000,000 of obligations issued during calendar year 2013 as qualified tax-exempt obligations.

Section 8. Buyer reasonably anticipates that the total amount of tax-exempt obligations (other than private activity bonds) to be issued by the Buyer during calendar year 2013 will not exceed \$10,000,000.

Section 9. For purposes of this resolution, the amount of tax-exempt obligations stated as either issued or designated as qualified tax-exempt obligations including tax-exempt obligations issued by all entities deriving their issuing authority from Buyer or by an entity subject to substantial control by Buyer as provided in Section 265(b)(3) of the code.

Section 10. The Authorized Officer is further authorized for and on behalf of the Governing Body and the Buyer to do all things necessary in furtherance of the obligations of the Buyer pursuant to the Contract, including execution and delivery of all other documents necessary or appropriate to carry out the transactions contemplated thereby in accordance with the terms and provisions thereof.

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Mr. Sharp addressed the Commission and notified them of two legal claims against the County. The first is from Tammy Conkle. Her claim was received on October 31, 2012 and refers to an incident that happened on November 15, 2011. Her claim is that she was ascending Lookout Mountain on CR 81 from Highway 11 to Dogtown and due to the uneven surface, cracks and bumpy nature of the road, she lost control of her vehicle causing an accident. Her claim is for \$10,000 in lost wages; \$5,000 in medical claims and the loss of her vehicle. Her claim for pain & suffering is \$100,000. Mr. Sharp recommended sending this claim to the County's Liability Insurance carrier.

The second claim is from Samantha Johnson. Her claim is that her daughter Julia Johnson was run over by a DeKalb County School System bus driven by Calvin (Eugene) Cushen. The claim is that the bus driver stopped and allowed one student to enter the bus, but as the daughter crossed the road the bus driver ran into to her dragging her approximate 200' running over her leg in the process. This claim is for \$100,000. Mr. Sharp said he forwarded this claim to CSFO Anthony Cooper with the DeKalb County Board of Education and recommended the attorney write a letter to the claimant stating the Board of Education should be the rightful liability for this claim, instead of the County Commission.

It was moved by Mr. Jackson, seconded by Mr. Kuykendall, all members voting affirmatively, motion carrying to forward the damage claim of Tammy Conkle to Meadowbrook/ASI for final disposition and authorize the County Attorney to write a letter to the attorney representing Samantha Johnson stating that the Board of Education, rather than the County Commission, is the entity responsible for the operation of School buses within the County.

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Mr. Harcrow notified the audience that the next meeting would be on November 27<sup>th</sup>.

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It was moved by Mr. Jackson, without objection so ordered to adjourn.