

The Geneva County Commission met in regular session on Monday, May 26, 2020 at 9:30 a.m. at the Geneva County Courthouse in Geneva, Alabama.

Commission Chairman Toby Seay called the meeting to order and welcomed guests present. Commissioner Wilks opened the meeting with prayer. Chairman Seay led the group in the Pledge of Allegiance.

There were no elected officials requesting to make public comment.

There were no citizens requesting to make public comment.

Commission Chairman Seay called the roll and the following members were present: Commissioners Todd Brannon, Sandy Hammer, Weston Spivey, and Bart Wilks. The County Engineer, Justin Barfield; EMA Director, Eric Johnson; Revenue Commissioner Mary Ann Ellison; Solid Waste Director, Dawn Smith; County Administrator Marietta Webster and Assistant County Administrator Cindy Williams were also present. The following business was transacted:

MINUTES OF THE MEETING

NEW BUSINESS:

1. Approve Minutes of May 11, 2020. Commissioner Hammer made a motion to approve the minutes of May 11, 2020. Commissioner Brannon seconded the motion. Vote was 4-0.
2. Proclamations: N/A
3. Bids: Phillip Santora with Northstar Engineering was present to open bids for the Spec Building at the Industrial Park. Three bids were received for the project.

| | | |
|----------------------|-----------------------|--------------|
| MidSouth Paving | Base bid on Building | N/A |
| | Add on Alternate | N/A |
| | Base bid on Sitework | \$212,260.00 |
| | Add on Alternate | \$ 39,430.00 |
| Hughes Brothers | Base bid on Building | \$806,538.00 |
| | Add on Alternate | \$ 20,000.00 |
| | Base bid on Sitework | N/A |
| | Base bid on Alternate | N/A |
| S&E Site Development | Base bid on Building | N/A |
| | Add on Alternate | N/A |
| | Base bid on Sitework | \$146,687.00 |
| | Add on Alternate | \$ 53,187.00 |

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Toby L. Seay, Probate Judge, Geneva County, Alabama

The base bid for the site work was for the dirt work for the actual site, outlet structure, utilities to the building, retention pond, erosion control and grassing. The add on alternate for the site work was for asphalt and stripping in the front of the building. The base bid for the building was for the construction of the building. The add on alternate for the building was adding the front cover and the stonework and columns at the front entrance. Mr. Santora will take all bids and do a bid tab and pull together all advertising and send back as a written recommendation.

4. Board Appointments: N/A

OLD BUSINESS:

1. The salary study and handbook review has been received from Jacksonville State University. Had a zoom meeting last week to go over the reports. Would like to have a work session after the next Commission meeting to review the reports and make recommendations to the Commission.
2. Jail Construction. Landscaping is scheduled to begin today after lunch. Other construction is still ongoing and on time. Commissioner Hammer asked whether any information had been received from the Contractor regarding the LD's. Chairman Seay stated he had not received any, but he would reach out to Mr. Eubank to see if he has heard anything from Bear Brothers.
3. Chairman Seay stated the Board Appointments for Southeast Alabama Regional Planning & Development were up for reappointment. Currently William Birdsong and Kevin Ammons are the appointees. Mr. Ammons was recently appointed but that was to complete the term vacated by Gail Hughes. Commissioner Wilks made a motion to reappoint William Birdsong and Kevin Ammons to the Southeast Alabama Regional Planning & Development Board. Commissioner Spivey seconded the motion. Vote was 4-0.
4. Spec Building.

REPORTS OF STAFF:

Sheriff: Not present

County Administrator: Chairman Seay stated that current County Administrator Marietta Webster is retiring, and this would be her last meeting. The Commission presented Mrs. Webster with a plaque. Chairman Seay also stated there would be a reception following the Commission meeting in the Commission office.

County Engineer: Engineer Justin Barfield stated he had received the right of way drawings for the ATRIP II project in Hartford last week and had sent out letters to the utility providers. Gas, Power and Water utilities will have to be moved. Moving utilities comes from County funds but he is hopeful the City of Hartford will offer some assistance since the project is in the City limits.

The MPO project on County Road 49N in District 1 has been and inspected and approved by ALDOT.

Surface treatment has been completed for the Rebuild Alabama project on County Roads, 16, 34, 678, 70, and 105. Wiregrass Construction is scheduled to come back in and continue work on this project, but it will depend on the weather.

His department will be doing some intersection work at Leslie Road and Bethel Road.

Mr. Barfield spoke about the C&D Landfill again regarding the usage by the City of Geneva. They are averaging 100 tons per month and at this rate the new cell will be full long before a new cell can be dug. The Landfill had to be shut down for a few weeks when the current cell was being dug. Chairman Seay stated he has spoken to the City Clerk with the City of Geneva and they are aware of the issues. Hopefully they will begin looking for a property. Mr. Barfield stated he had received information from Mrs. Williams in the Commission office for the city's usage over the past three years and he asked the Commission to limit the tonnage for municipalities to 15 tons per month, per municipality. Commissioner Wilks made a motion that each municipality be limited to dumping 15 tons per month in the Landfill, beginning July 1, 2020. Commissioner Spivey seconded the motion. Vote was 4-0.

If weather permits his department will begin herbicide spraying next week

County Attorney: Not present.

Chairman Seay: Asking for approval from the Commission that he be allowed to apply for funds from the CARES Act for supplies for the upcoming election. The funds can be used to purchase disinfectant cleaning supplies, masks, gloves, PPE, hand sanitizer, alcohol wipes, etc. The funds will also reimburse the Absentee Manager during this time and will pay an additional \$25.00 per poll worker. This is for the Primary Run-Off Election scheduled to be held in July. The County will have to pay for this upfront and then can seek reimbursement from the CARES Act. Commissioner Hammer made a motion to allow Chairman Seay to apply for reimbursement funds from the CARES Act for the Primary Run-Off Election. Commissioner Brannon seconded the motion. Vote was 4-0. Commissioner Brannon stated that all the polls enjoyed having students assist with the elections last time and had requested they be able to use them again. He stated this would go through the schools and students would be recommended by the faculty of the school. Poll worker school is set for July 7.

The Industrial Park was designated as an Advantage Site. This has to be recertified every four years and it is that time. Chairman Seay introduced Jonathan Tullis, the county's Economic Development liaison with the Wiregrass Economic Development Corporation and asked him to speak about this. This organization is a 501-C6 no-profit which assists municipalities to increase their tax base through job retain and creating new jobs in the area. In the past few years there have been six or seven companies that have looked specifically at Geneva County. The Advantage Site certification assists Wiregrass

Economic Development Corporation in marketing the site. There are currently 55 Advantage Sites in the state- wide Economic Development Partnership of Alabama. A lot of places have the land available for companies and some would give it away for industry but are the right buildings available, and utilities (power, water, sewer). Are the roads accessible?

Currently the Industrial Park has Phase I evaluation but the land surrounding the Park is not in the certification. It will need to be evaluated to see what the cost would be to add the roughly three-hundred sixty acres surrounding the Industrial Park to the certification. This could help market the site. In 2008 there was a long-range regional transportation study conducted that identified highest priority, shortest time frame road projects that would better the economic development in Southeast Alabama. The two highest in our area were Highway 84 and 167. About one year ago his agency worked with the University of Alabama's Transportation Institute to study the economic impact of improving Highway 167. The economic impact from the Florida line to Enterprise was over two million dollars. His agency is a big proponent of continuing the four lane of Highway 52 from Malvern through Geneva. Another thing is companies looking for the right workforce. That is why they are partnering with G-Tech, Enterprise State and Wallace Community College to be able to show that our area has the necessary workforce or the ability to train workers.

Chairman Seay stated that the County had a Strategic Plan prepared and one of the priorities was Economic Development and some of the short fallings were land and infrastructure and the land we believe is remedied with the option to purchase the three-hundred and sixty acres surrounding the Industrial Park and now attempting to work on the infrastructure with the Spec Building in hopes it will pay off for the County. He stated if we do not invest in our County, we cannot expect anyone else to invest in us. Commissioner Wilks made a motion to redesignate the Industrial Park as an Advantage Site. Commissioner Hammer seconded the motion. Vote was 4-0.

Census 2020 is still ongoing and has been extended through August. At our current rate of participation rate of 54.2, we are in danger of losing a Congressional seat, federal and state funding. Asking all Commissioners to please encourage citizens to complete the Census.

Sheriff: Not present.

Revenue Commissioner: Nothing to report.

EMA Director: Eric Johnson stated there have now been thirty-five confirmed cases of the Coronavirus in Geneva County. There are currently ten active cases. There were twenty new cases in the last two weeks. There were approximately thirty-five people tested last week. Most citizens are going out of the county for testing. We are currently 58th in the state. There are still no cases in the Wiregrass Medical Center. Overall the state is on an upswing in the number of cases as the state is opening back up for business. All EMS departments are doing a great job and are prepared for all situations.

Solid Waste: Mrs. Smith state that her department had used funds from the budget to purchase a new pick-up truck. She had \$30,000 set aside for a new software system but

had been able to update her current software system and avoid having to purchase a new system, so she used those funds to make the purchase of the new vehicle. This will replace an old F150 pick-up in her department. Commissioner Wilks made a motion to allow Mrs. Smith to put the old F150 pick-up on GovDeals. Commissioner Spivey seconded the motion. Vote was 4-0.

Has sent out information requesting bids on new garbage trucks that she can use for the new budget year.

E-911: Not present.

Auburn Extension: Their office was closed from March 16 through May 8, 2020 due to Covid19. They have been back at work since May 11 but have not been open to the public. If citizens call for soil sample packets, they can pick those up at the office. The first Farmers Market will be June 6, 2020 at the Farm Center. It will be called Sweet Grown Alabama. She is asking the Commission for assistance in purchasing sanitizing supplies for the Farmers Market. The cost is approximately \$80.00. Each Commissioner gave to this project and Commissioner Spivey said his business would donate some signage.

Commissioner Brannon: Thank Mrs. Webster for her years of service to the County.

Commissioner Hammer: Appreciated Mrs. Webster and her service to the County.

Commissioner Spivey: Thanked Mrs. Webster for her service.

Commissioner Wilks: Thanked Mrs. Webster for her service and wished her well in retirement.

Commissioner Hammer made a motion to recess until Friday morning at 8:00 am to discuss the bids for the Spec Building. Commissioner Brannon seconded the motion. Vote was 4-0.

Chairman Seay called the meeting back in session. Present were Commissioner Brannon, Commissioner Hammer, and Commissioner Wilks. Commissioner Spivey was not present. Also present was County Attorney Phil Eldridge and Assistant Administrator Cindy Williams.

Bids were presented at the Commission meeting on Tuesday for the sitework and Spec Building at the Industrial Park. This continued meeting is to make a decision regarding the bids. After much discussion and debate Commissioner Hammer made a motion to reject all bids for the sitework and Spec Building to try to get more participation and competitive bidding and a lower price. Commissioner Wilks seconded the motion. Vote was 3-0.

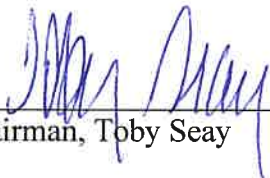
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Chairman Seay stated the County was currently paying \$497.00 per month to the Solid Waste department for garbage cans. He has quotes from MDI and Waste Management for two dumpsters, one 6 cubic yard and one 8 cubic yard. The quote from MDI is the least at \$180.00 per month for both dumpsters. This was a flat fee which included dumping. This will save the County \$4,200.00 per year. He will verify the quotes are correct and all costs are included and present at the next Commission meeting before asking for a vote.


Chairman Seay is asking for permission to get a quote on a metal building or pole barn to be built adjacent to the maintenance shop to house all the equipment that is currently sitting in the weather. Commissioner Brannon made a motion to allow Chairman Seay to obtain quotes on a metal building or pole barn to house county equipment. Commissioner Wilks seconded the motion. Vote was 3-0.

Commissioner Hammer made a motion to adjourn. Commissioner Brannon seconded the motion.

The above constitutes the minutes of the meeting of the Geneva County Commission held on Tuesday, May 26, 2020.




Chairman, Toby Seay



Marietta Webster *Cindy Williams*
Chief Administrative Clerk *Asst Administrator*



Commissioner Weston Spivey



Commissioner Todd Brannon



Commissioner Bart Wilks



Commissioner Hammer



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May 28, 2020

Honorable W. Phil Eldridge
Attorney, Geneva County Commission
Post Office Box 338
Hartford, Alabama 36344-0338

Roads, Highways, and Bridges – Projects –
Counties – Sales Tax – Use Tax –
Revenues – Equipment – Salaries

The excess proceeds of the one percent sales and use tax levied by the Geneva County Commission pursuant to section 45-31-241.02 of the Alabama Code may be used by the Road and Bridge Department for maintenance projects such as resurfacing projects, blading projects on dirt roads, bush-hogging and limb trimming projects, ditch pulling projects, or similar projects. The excess proceeds may also be used to pay for the necessary equipment and employee salaries required to accomplish these projects.

The excess proceeds of the one percent sales and use tax may be used for a broad range of undertakings related to roads and bridges (including construction, maintenance, modification, or planning, etc.) so long as they fall within the common definition of "project."

Honorable W. Phil Eldridge
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Dear Mr. Eldridge:

This opinion of the Attorney General is issued in response to your request on behalf of the Geneva County Commission.

QUESTIONS

(1) Can the excess proceeds of the one percent sales and use tax levied by the Geneva County Commission pursuant to section 45-31-241.02 of the Alabama Code be used by the Road and Bridge Department for maintenance projects such as resurfacing projects, blading projects on dirt roads, bush-hogging and limb trimming projects, ditch pulling projects, etc., and if so, can the excess proceeds be used to purchase the necessary equipment to accomplish these projects and to pay salaries for Department employees working on these projects?

(2) If the proceeds of the one percent sales and use tax being levied by the Geneva County Commission pursuant to section 45-31-241.02 cannot be used for these type of projects, what road and bridge projects can they be used for and what type of expenses for such projects can be paid for from the excess proceeds?

FACTS AND ANALYSIS

Section 45-31-241.02(c)(2) of the Code of Alabama provides that the Geneva County Commission may use excess proceeds from the one percent sales and use tax for "road and bridge projects." ALA. CODE § 45-31-241.02(c)(2) (Supp. 2019). You ask if these purposes include maintenance projects such as resurfacing projects, blading projects on dirt roads, bush-hogging and limb trimming projects, ditch pulling projects, and other similar projects and, if so, if the excess proceeds may be used to pay for equipment and employee salaries necessary for completing these projects. You further ask, if the excess proceeds cannot be used for these types of projects, for what purposes may they be used.

Because the context of section 45-31-241.02(c)(2) does not reveal any specialized or technical definition of "road and bridge projects," this Office

must rely on the plain meaning of these terms. In construing a statute, effect must be given to the legislative intent as expressed in the words used in a statute. *Ex parte Rogers*, 544 So.2d 1120 (Ala. 1989). Where plain language is used in a statute, that language must be interpreted to mean exactly what it says. *Tuscaloosa County Commission v. Deputy Sheriff's Association*. 589 So.2d 687 (Ala. 1991). The relevant plain meaning of "project" is "a planned undertaking: as . . . a large usu[ually] government-supported undertaking." *Project*, WEBSTER'S SEVENTH NEW COLLEGIATE DICTIONARY 681 (1976). In its opinion to Honorable Richard S. Manley, Speaker Pro-Tem, State of Alabama, House of Representatives, dated February 11, 1980, A.G. No. 80-00204, pp. 2-3, quoting 73 C.J.S., *Project*, p. 127 (emphasis added), this Office relied on a substantially similar definition of "project" to designate which highway projects had to be referred to the joint highway committee:

The word 'project' in these latter years of state and federal construction of public works, has a well known and generally recognized connotation which carries the meaning of *a planned undertaking*, a definitely formulated scheme or proposal, and the term 'projects' has a recognized designation for public works and improvements...."

Likewise, we must rely on the plain meanings of the basic terms "road" ("an open way for vehicles, persons, and animals") and "bridge" ("a structure carrying a roadway over a depression or obstacle"). *Road*, WEBSTER'S SEVENTH NEW COLLEGIATE DICTIONARY 743 (1976); *Bridge*, WEBSTER'S SEVENTH NEW COLLEGIATE DICTIONARY 104 (1976).

Based on these definitions, it is evident that section 45-31-241.02(c)(2) authorizes a very broad range of uses for the excess proceeds of the one percent sales and use tax. In the *Manley* opinion, this Office held that "highway projects under commonly accepted definitions concerns the construction, *maintenance*, or modification or the planning therefore for specific public works or improvements which involve the highways of this state." *Manley*, p.3 (emphasis added). Although these terms were set out in the statute at issue in *Manley*, this Office recognized that the listed activities, including maintenance, fell within common definitions of "project." Consequently, excess proceeds of the one percent sales and use tax may be used for maintenance projects, including resurfacing, bush-hogging, limb trimming, and ditch pulling, so long as such projects relate to roads and bridges located within Geneva County.

You also ask if the excess proceeds may be used to purchase the necessary equipment to carry out road and bridge maintenance projects and to pay the salaries of employees who work on such projects. In its opinion to Honorable

Martin R. Pearson, Attorney, Town of Millry. Dated August 22, 2014, A.G. No. 2014-084, pp. 2-3, this Office held that four and five cent gasoline taxes which could only be used for "resurfacing, restoration, and rehabilitation of roads, bridges, and streets" could be used to pay the cost of a backhoe used for such purposes. If the backhoe was to be used for other purposes in addition to these, then the gasoline taxes could be used "for a proportionate or prorated share of the monthly cost and maintenance of the backhoe." *Id.* at p. 3. *See also* opinion to Honorable Greg Morris, Attorney, City of Irondale dated April 13, 2006, A.G. No. 2006-083 ("A municipality may use the proceeds of the seven-cent gasoline tax to purchase a leaf vacuum truck."); and opinion to Honorable Boyd Graben, Mayor, Town of Fyffe, dated January 5, 1990, A.G. No. 90-00084 ("Town of Fyffe may use proceeds from seven-cent gasoline tax to purchase tractor to be used for purpose of maintaining municipal streets and roads.").

Similarly, in its opinion to Honorable T.J. Carnes, Attorney at Law, dated May 27, 1991, A.G. No. 91-00267, p. 5, this Office held that gasoline taxes authorized by a Marshall County local act to be used for "the construction, improvement, maintenance and supervision of highways, bridges and streets" could be used to pay for the labor costs of employees who performed such work, including salaries, cost-of-living pension increases, and medical insurance premiums for retired employees who "spent their lives actually working to build Alabama's roads." Like tax proceeds used to pay for equipment used for road and bridge projects, proceeds used to pay for labor costs must be prorated to reflect the percentage of each employee's labor devoted to completing such projects. *Id.*

CONCLUSION

The excess proceeds of the one percent sales and use tax levied by the Geneva County Commission pursuant to section 45-31-241.02 of the Alabama Code may be used by the Road and Bridge Department for maintenance projects such as resurfacing projects, blading projects on dirt roads, bush-hogging and limb trimming projects, ditch pulling projects, or similar projects. The excess proceeds may also be used to pay for the necessary equipment and employee salaries required to accomplish these projects.

The excess proceeds of the one percent sales and use tax may be used for a broad range of undertakings related to roads and bridges (including construction, maintenance, modification, or planning, etc.) so long as they fall within the common definition of "project."

Honorable W. Phil Eldridge
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I hope this opinion answers your questions. If this Office can be of further assistance, please contact John Porter of my staff.

Sincerely,

STEVE MARSHALL
Attorney General
By:



BEN BAXLEY
Chief, Opinions Section

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