

**CULLMAN COUNTY COMMISSION MEETING**  
**April 27, 2010**

**CALL TO ORDER AND WELCOME**

Chairman James Graves called the Commission Meeting to order at 10:00 a.m. and welcomed the visitors.

**CALL OF ROLL TO ESTABLISH QUORUM, INVOCATION AND PLEDGE OF ALLEGIANCE**

Charlotte Slatton, County Clerk, called the roll; present were Chairman James Graves, Commissioner Doug Williams, Commissioner Wayne Willingham, and County Attorney Dan Willingham. The invocation was given by Dan Willingham. Commissioner Williams asked a veteran from the audience to lead the Pledge of Allegiance in his place.

**APPROVE MINUTES OF THE APRIL 12, 2010 MINUTES, APPROVE APPROPRIATIONS, EXPENDITURES, REQUISITIONS, TRAVEL EXPENSES; AND APPROVE ALL JOURNAL ENTRIES TO BE POSTED.**

Commissioner Williams made the motion to approve the April 12, 2010 minutes, approve appropriations, expenditures, requisitions, travel expenses and approve all journal entries to be posted. Commissioner Willingham seconded the motion, and upon a voice vote, the motion carried unanimously.

**PUBLIC COMMENTS**

Wiley Kitchens, former Chairman of the County Commission, stepped forward stating according to law he was presenting a petition concerning a government utilities board. He presented the petition for adoption stating he felt this would take the political pressure off the Commission concerning water. He stated, "I want to give the petition to the Commission to adopt and look at."

Chairman Graves accepted the petition and stated, "I will give it to the attorney first, let him review it and advise us on it and we will take any action he recommends afterwards."

Commissioner Williams, "This is a resolution approving the application permission to incorporate a public corporation under provisions of Alabama Code. It has three signatures; Wiley Kitchens, Ron Stone Dennis Haynes. It asks the Commission, application in writing, for permission to apply for incorporation under the Alabama Code, The Government Utility Service Corporation of Cullman County with the proposed application with it."

"I am very familiar with this. I have read over all of it. They have included an authorizing resolution. The resolution that authorizes the incorporation, the Commission has duly reviewed the contents of the application and grants permission and authority to such persons filing the application to organize The Governmental Utility Services Corporation of Cullman County and by filing for record in the office of the Probate Judge of said county, the corporation in accordance with provisions of Section 11-97-4 of the Code of Alabama. The resolution is made a part of the minutes of the Cullman County Commission at which final action upon said application has been taken and by the Clerk to authorize such record."

"Mr. Chairman, I am extremely familiar with this. I've worked on it for a long, long time, almost over a year, and I make the motion to allow these gentlemen to incorporate."

Commissioner Willingham seconded the motion.

Chairman Graves, "Before proceeding further, I think we need legal counsel on it, to advise us on it. I know nothing of it. If you two know about it and are familiar with it and are ready to make a decision, I think you are not in compliance with the open meeting act that states this is to be discussed publically before the County Commission before we bring it here." He gave his copy of the document to Attorney Willingham stating, "I won't take any action on it at this timeframe. We will discuss it and vote on it at the next commission meeting but we can't do it at this commission meeting."

Commissioner Williams, "Myself and Commissioner Willingham have not be in violation of any open meetings law, I can assure you of that. This is something I have been working on. We have a motion on the floor and a second."

Chairman Graves, "How can you have a motion and a second if neither of you have worked on this and discussed it previously and agreed to support it?"

Commissioner Willingham, "On my own, I have read it."

Chairman Graves addressed the County Attorney, "I have a problem with this coming before the Commission at this timeframe. I think this should be tabled and brought up at the next Commission Meeting." He asked for Attorney Willingham's opinion.

Attorney Willingham stated he was somewhat familiar with the utility board as he represents the Hanceville utilities, but this is somewhat different. He asked which utilities, all utilities or specific utilities, were affected, noting the Beech Avenue address.

Commissioner Willingham, "Water, I believe."

Chairman Graves, "I ask for this to be tabled till we can discuss this collectively amongst ourselves with your (attorney's) advise and input and then we take it up for action after that."

Attorney Willingham, "Procedurally Chairman, a motion to table is appropriate at any time, make a motion to table, however if you do not have a second."

Ron Stone attempted to be recognized from the audience. Chairman Graves refused stating he was waiting for the County Attorney to advise him.

Attorney Willingham, "Of course we don't have a procedure, agendas, anything can come up before the Commission if the Commissioner or the Chairman brings it before the Commission."

Chairman Graves, "But you can't bring it up for action when all three of us are not familiar with the situation. Evidentially the associate commissioners are very familiar with what is being done here, which means they have considered it and talked about it and agreed before hand on the matter and are now trying to pass it in. This is troubling. The Alabama open meeting act says all actions are to be publically stated and the news media is to be notified, we are to discuss this thing and we have not done that."

Commissioner Williams, "I have a motion on the floor and a second. I have a motion on the floor and have been accused of doing something that is wrong. I do not have a promise or a consideration from the other commissioner as to whether he would say yea or nay on this at all."

Chairman Graves, "Why would you want to bring it up?"

Commissioner Williams, "I think it is a very good idea and I've worked very hard on it for the last year trying to make sure we protect the people of Cullman County and I believe this does that."

Chairman Graves, "You have worked on it all by yourself and Commissioner Willingham doesn't know anything about it."

Commissioner Williams, "Commissioner Willingham knows about it."

A member from the audience attempted to speak, but Chairman Graves would not recognize him.

Attorney Willingham stated the application in his possession was not signed and asked if there was a signed copy.

Commissioner Williams stated the copy he has is signed by Mr. Stone, Mr. Kitchens and Mr. Haynes. "It is a request from the public to form a corporation and I don't feel we can deny it and I have a motion on the floor that request that and a second."

Attorney Willingham, "I think they can do that Chairman."

Chairman Graves, "If I carry that through Commissioner Williams ...I do not care to participate in it Commissioner Williams. All I can say is that since last year there has been multiple actions by the County Commission that's been done, as far as I'm concerned, in violation of the Alabama Open Meeting Act. And one in particular started in the application for permit at Smith Lake. All this was done behind the scenes, it was discussed between the commissioners, agreement was made, letters were issued, and approval was taken which is in total violation of Alabama Open Meeting Act. You can not meet in secret and take these actions and am I correct County Attorney?"

Attorney Willingham, "The Open Meeting Act would preclude.... of course there's the definition of what a meeting is, but you can not have a meeting to discuss and persuade one another to vote in a certain fashion on issues. You're correct there."

Chairman Graves, "And take action. Because I think the open meeting act also requires that the media be notified, public be notified of a hearing before it comes before the County Commission for approval. There hasn't been action one since last year sometime on a variety of issues dealing with Smith Lake and other entities involving it that has come before the County Commission where action is taken. It is my intention to go to Montgomery either Wednesday or Thursday this week and approach the Attorney General for an opinion on this because I think the County Commission is in total violation, I think the associate commissioners are in violation of the open meeting act in action they have repeatedly taken over and over including various correspondence they have issued under their names on County stationery and sent out to various entities type thing. A meeting was never held, the news media was not notified and it never came before the County Commission for consideration type thing. First time I've heard of this!"

Commissioner Williams, "It has been posted in the front of the courthouse in the hallway for several days. According to the law the statute's been followed..."

Chairman Graves, "Newspaper was notified?"

Commissioner Williams, "The statute has been followed."

Chairman Graves, "Why didn't we discuss it before the Commission Meeting in our normal procedure back here where we discuss matters, not to vote on, but discuss it so we are all familiar with it, before we ask for a vote on it."

Commissioner Williams, "Well, you just said a few seconds ago that is a violation of the law."

Commissioner Willingham, "Yep".

Chairman Graves, "Not to discuss matters, it is not."

Commissioner Williams, "That's all we've done on any of these things is discuss."

Chairman Graves, "You have issued letters and signed them and sent them out. You applied to Alabama Power for a permit."

Commissioner Williams, "We have never done anything where we have deliberated and that's what the law says. I have a motion and a second on the floor."

The Chairman did not respond.

Commissioner Williams, “Do you want to relinquish the chair?”

Chairman Graves, “For this motion, yes, you can take that.”

Commissioner Williams, “Thank you. I have a motion. Any other discussion?”

Commissioner Willingham, “No.”

Commissioner Williams called for a voice vote. Commissioners Williams and Willingham both voted “aye”.

Commissioner Willingham immediately made a motion for a 45 minute recess to “discuss this and give Dan (Attorney Willingham) time to look at it.” Commissioner Williams seconded the motion.

Commissioner Williams asked the Chairman, “Do you want the chair back?”

Chairman Graves, “At this time, yes. Again, I have not been notified of your actions you’re trying to take here and do this on this matter. I think it is very futile.”

Commissioner Willingham, “Well we are in recess now where we can go.”

Chairman Graves, “We met for an hour earlier, why didn’t we discuss it then, Commissioner Willingham?”

Commissioner Willingham, “We didn’t meet for an hour.”

Commissioner Williams, “We have a motion and a second on the floor for a recess,”

Chairman Graves called for a voice vote on the motion to recess. Both associate commissioners voted for a 45 minute recess. Chairman Graves recessed the meeting to “accommodate the two associate commissioners and their attorney.” The meeting was recessed at 10:15 a.m.

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James D. Graves, Chairman

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J. Douglas Williams  
Associate Commissioner

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Wayne Willingham  
Associate Commissioner