

**CULLMAN COUNTY COMMISSION
SECOND RECESSED MEETING
October 7, 2010**

Chairman Graves called the recessed meeting to order at 12:53 p.m.

Commissioner Williams began by stating "I would like to continue with the items that were added to the agenda before the meeting, the items that were part of the agenda and formally go through those."

The Chairman stated he denied the items were part of the agenda and the commissioners were trying to add them to the agenda.

Commissioner Williams stated they were submitted in writing so they would be more understandable and that the Chairman decided to "hide out and not put them on the agenda." He contended he has followed procedure and is protecting the right of future commissioners that they have the right to put things on the agenda. He further contended that two commissioners have the right to put something on the agenda stating "two commissioners make the decisions, that's why there are three of us, and the Chairman is the tie-breaker if one of us disagrees with the other."

The Chairman contended all three commissioners must vote to add something to the agenda.

Commissioner Williams stated he had contacted the ACCA and the attorney general's office with regard to how to add something to the agenda because he does not want us "to be out of procedure but to follow procedure."

The commissioners continued the discussion concerning the agenda with Commissioners Williams and Willingham contending items in question were part of the agenda and the Chairman stating the items were not part of the original agenda.

The Chairman then began a discussion of the budget. Commissioner Williams stated "One of the items we have sitting here is to discuss the budget, one of the things that was on this list to be put on there. And you didn't want to do it. Now you want to do it. You want to pick and choose what you do and don't do. That doesn't make sense." Commissioner Williams protested that the Chairman was violating procedure.

The Chairman went on to review the budgets of the Revenue Commissioner's office, the Road Departments, CARTS, Industrial Development Office, Sheriff's Department, Jail, Juvenile Detention, County Commission, Probate Judge, funding for the school board, election expenses, audit expenses, EMA office, Animal Control and the appropriations to numerous outside agencies. He stated revenues for 2010 from gas tax was down therefore projections for 2011 have been lowered. Along with the large increase in health care cost, \$175,000 for the Sheriff's Department and Jail alone, the general fund budget expenses are currently \$600,000 over projected revenues. He commended the County Administrator for his work on the budget.

The Chairman read the items Commissioner Willingham had requested be placed on the agenda.

1. Consider approval of the fiscal year 2011 budget.
2. Consider awarding Bid #1057 for emulsified asphalt microsurfacing.
3. Resolution to donate \$25,000 to the Governor Hunt Library and Museum from tourism fund.
4. Resolution to donate \$50,000 to the Veterans Park from the tourism fund.

The Chairman stated he feels he is over the budget and finance of the County. Working with the County Administrator, he will present a budget when he feels it is ready. He stated he should have probably lowered revenue expectation in the 2010 budget, but it was anticipated the economy would pick up by this time however it has not. He again stated he would try to have a budget ready for the October 26th meeting.

Chairman Graves stated in regard to the Governor Hunt Library, the attorney is to draw up the necessary resolution for Holly Pond to consider. Chairman Graves went on to say a \$50,000 donation to the Veterans Park is not needed at this time since the public has donated approximately \$20,000 toward the park development. The County has already spent money toward the park, including work done by the road departments. If additional funds are needed down the road, they can be appropriated at that time.

Commissioner Williams wanted to go ahead and approve giving the money to Holly Pond for the museum. Chairman Graves contended when money was appropriated for the Baileyton project, the plans and paperwork were required before the appropriation was approved. He did not feel like municipalities should be treated differently in what the County requires when considering appropriations.

Commissioner Willingham stated it was his understanding Holly Pond would get the appropriation after October

1. Chairman Graves stated he had agreed it would be in the next fiscal year.

Chairman Graves stated Commissioner Williams has submitted a letter requesting authorization obtaining a \$500,000 supersedeas bond be added to the agenda.

The Chairman stated "Under advise of attorney, Cullman County is not involved with this. This is the water department and Johnson, Barton, Proctor and Rose dealing with this issue, not the Cullman County Commission. This has never come before us, we never voted on it. You two both stated publically and in court that you never got together and agreed to do any of this. This has never formally come before the County Commission for us to approve having anything to do with these people. And, I can not see how we are responsible for doing any of these things. It would behoove me not to go forward because it would be an illegal transaction. They are not party with the County Commission."

Commissioner Williams stated, "We are defendants in that case. We are named defendants in that case, as a commission."

Chairman Graves stated, "They have never been hired." [referring to the law firm of Johnson, Barton Proctor and Rose]

Commissioner Williams stated, "The bond has nothing to do with that. We have been named defendants. All we are asking for is to go ahead through resolution and put up a bond, which is a letter of credit through the bank and a bonding company that protects everything. It protects the water system."

Chairman Graves stated, "It protects the co-op maybe."

Commissioner Williams stated, "And it protects us as defendants."

Chairman Graves stated, "I am adamantly opposed to the co-op. I am not going to have anything to do with getting money toward those folks. To me it is illegal. We have never hired them. We don't have any kind of contract with them. We don't have anything in relationship with these people, except through the collusion. They [the GUSC and SCCD] were created to try to take our water department away from us and to try to sell it to a private entity. Then you wouldn't have a water department. We did a bond issue last spring that I don't have any revenue for, technically. If the co-op got it back, I wouldn't have any revenue to pay it back. That's a \$7 million bond issue. The County Commission has a contract with the [Cullman] City to buy water. The co-op doesn't have a contract. And as far as I know, as it stands right now, my understanding of what the Supreme Court has said and done, and even your own attorneys, is that everything in relationship to this is on hold pending mediation and we are not to do anything."

Commissioner Williams stated, "This particular bond issue was set not only by the Circuit Court but also by the Supreme Court."

Chairman Grave stated, "But after that is when mediation came into effect and I am not going to be party to doing something that is illegal. I don't want to get myself in trouble. You two can face the consequences of what you have done in the past, but I am not going to have anything to do with it."

Commissioner Williams replied, "Then you can step aside."

Chairman Graves replied, "I will not put this on the agenda and I will not allow it to go forward. It is illegal. It is wrong. You are getting the Cullman County Commission involved in something that is illegal."

Commissioner Williams stated, "It is not illegal."

Chairman Graves replied, "You can sit here and promise me, Commissioner Williams, all you want to, but I'm sorry, I'm not going to take your word on it based on what you have done from April forward. I will not. I can not. If my name goes on this, I become party to this."

Commissioner Williams stated, "I'm not asking you to put your name on it."

Chairman Graves stated, "You are asking to allow it to go forward and to vote on it. I am not going to allow it on the agenda. It is illegal. I see the guy is here, that you are wanting to get this bond issue done today. I think it is illegal and you are trying to rip the people of Cullman off and I will not have anything to do with it."

Commissioner Williams stated, "All I'm trying to do is follow the order of the Circuit Court and the Supreme Court."

Chairman Graves stated, "This is under mediation and we are not supposed to do anything until the mediation has run its course."

Commissioner Willingham stated, "Not till we post this bond."

Commissioner Williams agreed, "We have to post the bond to have mediation."

Chairman Graves stated, "As far as I'm concerned, the County Commission is not going to have anything to do with it. As long as I'm involved and breathing, I will not have anything to do with it or allow it to be voted on and have us obligate \$500,000 in order for the co-op to get control of the water department back. I'm not going to do it. And as I have said, if you want to sue me and take me to court upstairs and have one of those judges upstairs listen to it and they rule against me, that is fine and dandy. I will comply. Judge Hardeman, Judge Brunner, Judge Chaney, Judge Nicholas – any one of the four, just take your pick. Until they tell me it is legal, I will not put it on the agenda and will not call for a vote on it. I don't care how long we sit here."

Commissioner Willingham stated, "I don't think you have a choice."

Chairman Graves stated, "Yes I do. I'm the one that calls it up for a vote. You may make a motion on something, but I'm the one that calls it for a vote. I will not call it for a vote as it is an illegal transaction and I will not allow it as long as I am Chairman and you can put that in your pipe and smoke it. We can sit here all day and all evening, but I will not allow it to be called for a vote."

Commissioner Williams asked if the Chairman wanted to go on down the list of items he had requested be put on the agenda stating, "Everybody is worried the water board is going to sell the water system. I've got a contract from the water system that says we won't do it. We will not do it and we will continue to pay the water bills and we will continue to buy water from the City of Cullman and won't go outside that or anything else. That's what everybody has been worried about. All that does is memorialize that and put it in there it ain't gonna happen. That's one of the other things I wanted on the agenda and it on the agenda as far as I'm concerned because it was presented before hand."

Chairman Graves stated, "Is there anything else to be added to the agenda, other than these things?"

Commissioner Williams stated, "These things were not wanted to be added, they were put on the agenda before the meeting started. They were presented to be put on the agenda."

Chairman Graves stated, "It is my interpretation they were wanted to be added to the agenda and that's where I will stand on it."

Commissioner Williams stated, "Your interpretation is wrong and I want to make sure that is in the minutes. These were presented before hand."

Chairman Graves stated, "That may be your opinion on it and that's my opinion. And I think I have the backing of the judges upstairs."

Commissioner Williams stated, "You've already been upstairs."

Commissioner Willingham stated, "They've already ruled on this. We have the right to participate in the agenda. We presented this before the meeting."

Chairman Graves stated, "You do have the right, but I disagree with you."

Commissioner Willingham replied, "That's common."

Chairman Graves asked if there was anything else to be added to the agenda other than these items. No other items were mentioned. The Chairman then declared the meeting adjourned.

Both Commissioners Williams and Willingham objected stating the meeting could not be adjourned.

Chairman Graves stated under Robert's Rules of Order, if there was nothing else to add to the agenda, then the meeting is adjourned. The Chairman again declared the meeting adjourned stating any further business could be taken up in the October 26th meeting. The Chairman again stated he had asked if there was anything to add to the agenda and since there was nothing to add he declared the meeting adjourned under Robert's Rules of Order.

Commissioners Williams and Willingham objected stating Robert's Rules had not been followed for the entire meeting.

The Chairman left the podium.

James D. Graves, Chairman

J. Douglas Williams
Associate Commissioner

Wayne Willingham
Associate Commissioner