

Recorded In OFFREC BK 1167 PG 1381 08/23/2022 08:15:17 AM  
TOSBY L. SEAY, PROCLATE CLERK, GENEVA COUNTY, ALABAMA

The Geneva County Commission met in regular session on Monday, August 8, 2022, at 9:30 a.m. at the Geneva County Courthouse in Geneva, Alabama.

Chairman Toby Seay called the meeting to order and welcomed guests present. Commissioner Spivey 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.

Chairman Seay called the roll, and the following members were present: Commissioners Weston Spivey, Todd Brannon, Bart Wilks, and Wade Fulford. County Attorney, Phil Eldridge; County Engineer, Justin Barfield; Assistant County Engineer, Mike Shirah; Revenue Commissioner, Mary Ann Ellison; Solid Waste Director, Dawn Smith; and County Administrator, Cindy Williams was also present. The following business was transacted:

### MINUTES OF THE MEETING

#### NEW BUSINESS:

1. Approve Minutes of July 25, 2022. Commissioner Spivey made a motion to approve the minutes of July 25, 2022. Commissioner Wilks seconded the motion. Vote was 4-0.
2. Bids – Bids for hauling aggregate were opened. Two bids were received. Commissioner Brannon made a motion to award to Foshee Trucking for hauling from Saginaw/Calera and Brierfield and award Johnston Trucking for hauling from all other quarries.  
No Scrap Metal bids were received.

**Sheriff:** Sheriff Helms was not present.

**County Administrator:** Mrs. Williams stated that she had conducted the research on Holiday Pay and the four counties she contacted all paid holiday pay based on the number of hours worked in a normal day, i.e., employees working 8-hour days were paid 8 hours for holiday pay and employees working 10-hour days were paid 10 hours for holidays. Also, she had found information which stated it was mandatory for government employees to be given holidays and be paid for the holidays at their regular rate and hours worked. Commissioner Brannon made a motion to amend the Holiday Pay effective immediately. Commissioner Spivey seconded the motion. Vote was 4-0.

**County Engineer:** Mr. Barfield stated that he would continue to look for an avenue to get rid of the scrap metal at the Landfill. ADEM does not have anything against the metal pile at the Landfill, but they do make a comment on the report every time they come out for inspection. Commissioner Wilks asked if we charged for metal at the Landfill and Mr. Barfield stated there is no charge for metal.

The Road & Bridge department is currently down three (3) employees due to personal sickness or workers' compensation. There is only one (1) Motor grader Operator in one district. The reality of his employees currently is that the department only has seven (7) or eight (8) employees working on six hundred (600) miles of dirt roads. Presently they are basing work on priority unless it is a road hazard which would take top priority.

The Engineer is skeptical of receiving any bids for Right of Way Mowing. Usually, he has had calls after sending out bids, but he has not received any so far. The bids are due to be opened next Wednesday.

The ATRIPII project in Hartford has begun.

Prep work for the paving project on Goosehollow Road has begun.

Driveway pipe installation is current.

A Salesman and Representative will be coming out later this week to demonstrate the Mower Max, a new piece of equipment that was received last week. It will be used mainly on paved roads.

Engineer Barfield reminded the Commissioners that bids for the surface projects on County Roads 10 and 38 were sent out and will be opened August 17, 2022 and awarded at the August 22, 2022 Commission meeting. The bid was specific that the prices bid will be good until December 31, 2022. At current prices, his updated estimate for this nine (9) mile paving project is \$1,900,000.00. Also, the Right of Way Mowing bids went out and will be opened on August 17, 2022 and awarded on August 22, 2022.

**County Attorney:** Attorney Eldridge stated that he had inquired with Houston County about a gun policy, and they do not have a specific gun policy their policy is not different than what we currently have regarding deadly weapons. He had prepared a gun policy, provided each Commissioner with a copy, and asked that they take it with them for review and it can be discussed at the next Commission meeting. He did state that a private or public employer may prohibit an employee from carrying gun on their person on county property or while engaged in the duties of their employment except they may have one in their vehicle in a public parking area.

Chairman Seay and Commissioner Brannon had asked him about an option to purchase land around the Industrial Park. Commissioner Brannon stated the current landowner does not wish to sell just five – ten acres but would consider selling larger parcels. Also, an option to purchase the entire three hundred sixty (360) acres. Attorney stated he had prepared this option to purchase. Commissioner Brannon made a motion to renew the current option to purchase agreement. Commissioner Fulford seconded the motion. Vote was 4-0.

Mr. Eldridge stated that he had been asked by Chairman Seay to see if our current IT provider fits in the professional services category exemption from the bid law. After research of the code and AG's opinions, it appears that Foxhill Information Systems, LLC does fit into the professional services category which has an exemption of bid law per statute 41-16-51(3). He also said the auditor had told Administrator Williams that IT

services did fit into this category. The Attorney stated that the Commission should determine that they fit in this exemption, and he had prepared a proposed resolution. He went over this resolution with the Commission. He further stated that any purchases of computer equipment and/or software above \$15,000.00 would still have to be bid out. Commissioner Spivey made a motion to adopt this resolution determining that Foxhill Information Systems, LLC is a professional service. Commissioner Wilks seconded the motion. Vote was 4-0. A copy of the resolution is attached.

Attorney Eldridge requested that the County Commission go into executive session to discuss with him a controversy where litigation is imminently likely if the body pursues a proposed course of action. County Attorney stated that he is a licensed attorney of the State of Alabama and that the planned discussion fits into this category. Chairman Seay asked to convene an executive session to discuss negotiations involving matters of commerce in which the County may be in competition with other governmental bodies on the retention of a business and Chairman is involved in the retention efforts and he advised that the discussions would have a detrimental effect on the retention of the business entity in the area served by the Commission if disclosed outside of an executive session.

**Commission Chairman:** Chairman Seay stated that the evaluations at the Industrial Park have been completed by the State. He spoke with Mr. Matt Parker from the Dothan/Houston County Chamber of Commerce last week and hopefully we are down to the last few weeks on this project before a formal announcement can be made. A press release would come from the Department of Commerce and the Governor's Office. Chairman Seay and Commissioner Brannon met with JMR+H last week on information on the scope of work for the Courthouse and Farm Center renovations. JMR+H did an assessment of the projects which could be completed using ARPA funds. After review they have asked that the project be scaled back for the Courthouse and a few minor changes at the Farm Center. We are closer to being able to put a plan together for expenditure of the ARPA funds.

**EMA Director:** Mr. Smith stated that the new software that is being used by the Jail and Sheriff's department works out well for his department since he can be a user under the Sheriff's department and not require an additional license. He has acquired, at no cost, a shell that fits on the back of an F250 or F350 that the State was disposing of, that can be used as a Mobile Command at a crime scene. Mr. Smith is asking the Commission to consider a storage building or shed for items that he and Sheriff Helms are acquiring through the 1033 program. Not all items need storage, but some do require sheltering from the elements.

**Revenue Commissioner:** Ms. Ellison stated she had attended the Revenue Conference last week; beyond that she had nothing further.

**Solid Waste Director:** Mrs. Smith told the Commission she had three (3) trucks down last week which caused delays in garbage service. They did get one truck back and on the road at the end of the week. They borrowed a truck from the City of Hartford which

broke down a few hours into the day and then they borrowed a truck from the City of Geneva. There are still two (2) trucks in the shop awaiting parts for repair. They have three (3) trucks running with no spare.

There is still no delivery date on the new truck that was ordered.

Mrs. Smith stated that Chairman Seay had spoken to her regarding her office closing for lunch. She said it has been that way since she came her in 2012 but she has made it a set time from 1:00 – 2:00 and it is stated on her door, the website, and the billings. She has not had any complaints from customers about being closed for lunch. She stated there are only two people in the office and she is out at times for assorted reasons which leaves just the clerk in the office. Commissioner Wilks said he believes the office should be like all other County offices in the Courthouse and remain open, especially since we have made the four-day work week permanent. The employees can rotate their lunch hour so that someone is available all day for the public. If there is only one employee in the office, they can close the office for lunch. After discussion, all Commissioners agreed that the Solid Waste Office should remain open all day and not close for lunch unless there is only one employee in the office.

**E-911:** Not present.

**Auburn Extension:** Not present.

**Commissioner's:** Commissioners had no additional comments.

Commissioner Fulford made a motion to convene into executive session. Commissioner Brannon seconded the motion, Vote was 4-0. Chairman Seay took a verbal poll to enter executive session. Commissioner Spivey – Yes; Commissioner Brannon – Yes; Commissioner Wilks – Yes; Commissioner Fulford – Yes.

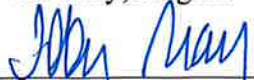
Chairman Seay took a verbal poll to enter back into regular session. Commissioner Spivey – Yes; Commissioner Brannon – Yes; Commissioner Wilks – Yes; Commissioner Fulford – Yes.

Based on discussions, Attorney Eldridge stated that a motion was needed to approve him to write a letter to Stacy Williams Company in response to their bid protest. Commissioner Wilks made a motion to authorize Attorney Eldridge to prepare a response to Stacy Williams Company. Commissioner Spivey seconded the motion. Vote was 4-0.

Based on discussions, Attorney Eldridge stated that a motion was needed to approve him to prepare and draft a resolution for Kyleigh Farms and notice for the paper. Commissioner Wilks made a motion to allow Attorney Eldridge to prepare and draft a resolution and notice for the paper for Kyleigh Farms. Commissioner Fulford seconded the motion. Vote was 4-0.

Commissioner Fulford made a motion to adjourn. Commissioner Wilks seconded the motion. Vote was 4-0.

The above constitutes the minutes of the meeting of the Geneva County Commission held on Monday, August 8, 2022.

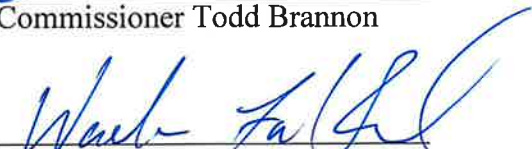
  
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Chairman, Toby Seay

  
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Cindy Williams  
County Administrator

  
\_\_\_\_\_  
Commissioner Weston Spivey

  
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Commissioner Todd Brannon

  
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Commissioner Bart Wilks

  
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Commissioner Wade Fulford

STATE OF ALABAMA

GENEVA COUNTY

RESOLUTION

**Whereas,** Geneva County desire to contract with Foxhill Information Systems LLC for information technology services for Geneva County's computer systems, including the following services: management, installation, design, support, testing, information security, training and maintenance;

**Whereas,** this requires computer technicians to perform complex computer services and requires technicians who are performing these services to possess a high degree of professional skill where the personalty of the individual play a decisive part;

**Whereas,** two members of Foxhill Information Systems' technical team are Certified Information Systems Security Professional, both hold master degrees in Information Security and Assurance, and both have over 21 years of experience in the Information Technology Industry and would be considered to be a computer engineer based on both's technical knowledge and skill. Foxhill Information Systems' technical team have performed services on Geneva County's computer systems for many years and have an in depth knowledge of the County's computer systems and their personalty have played a major role in these services;

**Whereas,** this Contract would fit within the exemption from the bid law offered in Section ALA. CODE 41-16-51(3), which provides:

"Contracts for securing services of attorneys, physicians, architects, teachers, superintendents of construction, artists, appraisers, engineers, consultants, certified public accountants, public accountants, or other individuals possessing a high degree of professional skill where the personalty of the individual plays a decisive part."

NOW, THEREFORE, BE IT RESOLVED by the Geneva County Commission that, based on the foregoing, they hereby determine that Foxhill Information Systems' Information Technology Technicians are computer engineers based on their knowledge and skill, and this Contract requires these Technicians to perform complex computer services and this Contract fits within the exemption from the requirement of the Alabama Bid Law offered in ALA. CODE Section 41-16-51(3).

Commissioner Spivey moved that the foregoing resolution be adopted and spread upon the minutes of this meeting, which motion was seconded by Commissioner Wilks, and upon the motion being put to vote, the following vote was recorded:

YEAS:

NAYS:

Commissioners:

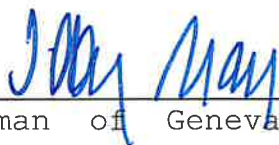
- Weston Spivey
- Todd Brannon
- Bart Wilks
- Wade Fulford

The chairman thereupon announced that the motion for adoption has been unanimously carried.

STATE OF ALABAMA

GENEVA COUNTY

I, Toby L. Seay, Chairman of the Geneva County Commission, hereby certify that the above is a true, correct and exact copy of a Resolution duly and legally adopted by the Geneva County Commission, at a meeting on the 8<sup>th</sup> day of August, 2022.

  
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Chairman of Geneva County Commission

GC16 BID-COMPUTER-EXEMPTION..RESOLUTION