

BE IT REMEMBERED that the Legislative Body Session for Hamblen County, Tennessee met at its regular monthly meeting on July 15, 1996 at 5:00 p.m. in the Hamblen County courthouse with the Honorable Herbert Harville presiding.

The Legislative Body was opened by Sheriff Charles Long.

Invocation was given by Rev. Greg Grant.

Upon roll call the following members were present:

| | |
|------------------|------------------|
| Larry Baker | Herbert Harville |
| Maudie Briggs | Keith Horner |
| Eldridge Bryant | Bud Jones |
| Guy Collins | Frank Parker |
| Stancil Ford | Bobby Reinhardt |
| Doyle Fullington | Joe Spoone |

Absent: Willie Osborne
Tony Sizemore

MINUTES APPROVAL

Motion by Eldridge Bryant, seconded by Joe Spoone that the minutes of the previous meeting be approved.

Voting for: all
Voting against: none

NOTARIES AND BONDSMEN

Motion by Frank Parker, seconded by Guy Collins that the following notaries and their bondsmen be approved.

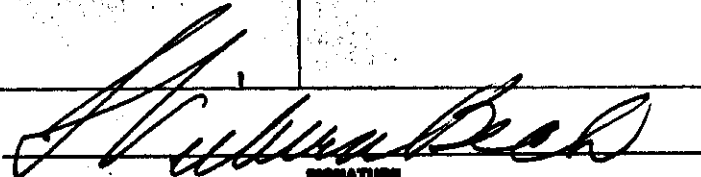
Voting for: all
Voting against: none

CERTIFICATE OF ELECTION OF NOTARIES PUBLIC

As CLERK OF THE COUNTY OF July Hamblen, TENNESSEE,

I HEREBY CERTIFY TO THE SECRETARY OF STATE THAT THE FOLLOWING WERE ELECTED TO THE OFFICE OF NOTARY PUBLIC DURING THE July, 19 96 MEETING OF THE GOVERNING BODY:

| NAME (PRINT OR TYPE) | HOME ADDRESS AND PHONE (INCLUDE ZIP AND AREA CODES) | BUSINESS ADDRESS AND PHONE (INCLUDE ZIP AND AREA CODES) |
|--|---|---|
| 1 Joy Hedrick Bonding Co. | 392 N. Chucky Pike Jefferson City, Tn. 37760 423-475-7649 | Kelley HINSLEY, Esq. 435 W. 1st. North ST. Morr.Tn. 423-587-1131 37814 |
| 2 Kimberly D. Nelson Bonding Co. | 1834 Russell ST., Morr.TN. 423-585-0491 37814 | United Realty Assoc. 3750 W. Andrew Johnson Hwy Morristown Tn. 37814 423-586-1100 |
| 3 Teresa P. Trent Bonding Co. | 810 Bear Springs Rd. Morristown, TN. 37814 423-587-2574 | WSCC 1307 Davis Street, Morristown, Tn. 423-587-9532 |
| 4 Charles R. Byerley Bonding Co. | 1173 O'Accord Morristown, TN. 37814 423-586-0079 | J. R. Byerley Const. P.O. Box 692, Morristown, TN. 37814 423-586-3062 |
| 5 Shannon W. Greene L. Samuel Mullins Alan C. Greene | 1699 Wind Chase Dr. Talbot, Tn. 37877 423-475-5531 | ABC Caulking Inc. P.O.Box 1757, Morristown, TN. 37814 423-587-1757 |
| 6 Janice G. Greene Alan C. Greene L. Samuel Mullins | 1699 Wind Chase DR. Talbot, Tn. 37877 423-475-5531 | ABC Caulking Inc. P.O. Box 1757, Morristown, TN. 37814 423-587-0638 |
| 7 Michael L. Cox Bonding Co. | 290 Navaho Trail Talbot, Tn. 37877 423-586-8308 | Berkline SAV. ASSOC. P.O.Box 703, Morristown, TN. 37814 423-585-1736 |
| 8 Karen Lynn Harris Bonding Co. | 5151 Old 11E Hwy, Morristown Tn. 37814 423-586-8119 | Gary Brewer & Steven Terry P.O. Box 2046, Morr.Tn. 37814 423-587-2730 |
| 9 Marlene Luttrell Bonding Co. | 2125 Asbury RD. Knoxville, TN. 37914 423-637-5839 | Air-Ride, Inc. 2415 Davy Crockett Pkwy Morristown, TN. 37814 423-587-4861 |
| 10 Allison Marie Hanna Bonding Co. | 513 Lennie Ave. Morristown, Tn. 37814 423-586-6067 | Blazer Financial Services In 1329 West Andrew Johnson Hwy Morristown, TN. 37814 423-586-3521 |
| 11 Clifford O. Knight Bonding Co. | 3620 Halifax Cir., Morr.Tn 423-581-7220 37814 | Stubblefield Funeral Home P.O.Box 30, Mooresburg, TN. 423-272-3031 37811 |
| 12 Joseph M. High Bonding Co. | 1446 Royal Dr. Jefferson City, Tn. 37760 | Morr. Shedder, Inc. P.O.Box 672, Mor |
| 13 | | |
| 14 | | |
| 15 | | |
| 16 | | |
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| 18 | | |
| 19 | | |


SIGNATURE

CLERK OF THE COUNTY OF Hamblen, TENNESSEE

July 15, 1996

DATE

(SEAL)

PLANNING COMMISSION BOARD MEMBER

Herbert Harville appointed Doyle Fullington to serve as a board member on the planning commission.

Voting for: all
Voting against: none

SOLID WASTE BOARD MEMBER

Motion by Larry Baker, seconded by Guy Collins to appoint David "Rusty" Rouse to serve as a member on the solid waste board.

Motion by Joe Spoone, seconded by Guy Collins that nomination cease and David Rouse be elected by acclamation.

Voting for: all
Voting against: none

BILLS

Motion by Stancil Ford, seconded by Eldridge Bryant that all of the following bills be approved and paid.

Voting for: all
Voting against: none

BILLS APPROVED AND PAID - July 15, 1996

| | | | | | |
|----------------------------|-----|----------|-----------------------------|-----|----------|
| A&W Office Supply | HD | 216.31 | Evans Office City | Inv | 259.50 |
| | HC | 22.48 | | Inv | 59.40 |
| | T | 10.24 | | CE | 85.00 |
| | CnC | 4.08 | | CRC | 50.96 |
| | WP | 4.75 | | CRC | 12.49 |
| | | | | CM | 41.00 |
| Acme Printing Company | WP | 272.00 | | CM | 379.00 |
| | | | | SD | 85.00 |
| Adrian Hale Pest Control | HD | 19.00 | | HD | 1.58 |
| | CH | 59.00 | | HD | 19.23 |
| | JC | 38.00 | | HD | 83.94 |
| Allison-Erwin Company | HD | 1,440.00 | Express Lane | SD | 100.00 |
| Bradley's Hardware | CH | 169.00 | Flav-o-rich | SD | 645.12 |
| Capps, Cantwell, & Capps | CA | 3,771.67 | Flowers Baking | SD | 600.07 |
| Carpet Brokers | CH | 1,085.73 | Free Service Tire Co. | SD | 721.53 |
| Carroll Snyder Plumbing | SD | 709.84 | Gall's Inc. | SD | 214.21 |
| Citizen Tribune | CE | 402.55 | Graybar | HD | 58.10 |
| | | | | HC | 557.85 |
| Clement Communications | T | 84.15 | | | |
| | | | Hamblen Co. Sheriff's Dept. | THF | 194.00 |
| Comptroller of Treasury | A | 316.18 | | | |
| | | | Hasson-Bryan Hardware | SD | 383.04 |
| County Record Services | RD | 417.28 | | | |
| | | | Hayter Stockyards Printing | CM | 125.00 |
| Creative Framing | SD | 130.00 | | | |
| | | | Hill, Robert | CC | 225.00 |
| Davis, Eddie R. | CC | 350.00 | | | |
| | | | Industrial Paper & Pkg. | Inv | 1,050.00 |
| Discount Paging | SD | 48.16 | | | |
| | Juv | 13.76 | Jemy's Automotive | SD | 5.95 |
| | CRC | 6.88 | | | |
| | EMA | 13.76 | Jimmy's Auto Parts | SD | 152.12 |
| Doctor's Hospital Pharmacy | SD | 434.56 | Kay Uniforms | SD | 62.00 |
| Doka, Steve DDS. | SD | 80.00 | Kinser, John H., M.D. | SD | 101.50 |
| | | | | CC | 920.00 |
| Douthat, Marsha | SD | 2,916.67 | | | |
| | | | Lakeway Regional Hospital | SD | 826.24 |
| LogOn Computer Services | WP | 95.00 | Landcheck, Inc. | A | 44.00 |
| | Juv | 50.00 | | | |
| | | | Leonard's Office Equip. | Ext | 5.60 |

BILLS APPROVED AND PAID - July 15, 1996

| | | | | | |
|-----------------------------|-----|-----------|-----------------------------|-----|----------|
| Morristown Hamblen Hosp. | SD | 209.20 | Sunrise Distributors | THF | 14.85 |
| Mathis Company | CM | 244.15 | Suntrust | GS | 21.99 |
| Microvote Corporation | EC | 154.00 | Tenn-Two-Way | SD | 147.06 |
| Mitchell-Hodge Electric | SD | 284.44 | TN Dept. of Finance | HC | 6,583.37 |
| Murrell Burglar Alarm | CH | 20.00 | TR Systems | HD | 2,544.00 |
| National Business Furniture | A | 388.00 | Trustee of Hamblen County | EMA | 28.81 |
| Newman, Jim | T | 217.92 | Uarco Incorporated | HC | 298.48 |
| Oakwood Nursery | CH | 497.55 | Ultramax | SD | 666.60 |
| Otis Elevator Company | CH | 272.75 | Viking Office Products | HC | 45.52 |
| Owens & Minor, Inc. | HD | 21.31 | Wal-Mart | THF | 105.27 |
| | | | | JC | 38.82 |
| Pitney Bowes | CnC | 74.00 | | JC | 110.16 |
| | | | | HD | 99.96 |
| Purkey, Joseph | PC | 45.36 | | HD | 45.75 |
| Quill Corporation | EC | 157.00 | Ward Printing | CRC | 94.00 |
| R. Chatfield Co. | CRC | 557.03 | Ward's Natural Science Est. | Ext | 50.20 |
| Radar-Knoxville | HD | 37.88 | West Publishing | GS | 53.50 |
| | CRC | 140.54 | | | |
| | | | Yardley Printing & Binding | T | 610.00 |
| Rental Uniform Service | CH | 136.92 | | RD | 860.00 |
| | JC | 152.68 | | | |
| | SD | 17.00 | | | |
| Robert Orr/Sysco | SD | 8,863.97 | Garbage Department | | |
| | | | Ball, Edward T. | | 54.75 |
| Shannon's Produce | CH | 94.00 | Bradley's Hardware | | 109.47 |
| | | | Free Service Tire | | 1,431.46 |
| Shelby Williams Industries | HD | 12,897.40 | Hamblen Farmers Coop | | 89.95 |
| | | | Jimmy's Auto | | 326.54 |
| Steinberg's | Juv | 500.00 | Kenworth of TN | | 552.87 |
| | | | NAPA | | 17.64 |
| | | | Wayne's Boot Store | | 90.00 |
| | | | Wheels and Brakes | | 44.22 |

BILLS RECOMMENDED FOR PAYMENT - July 15, 1996

| | | |
|--------------------|-----|-----------|
| Bridge Computer | CnC | 3,993.75 |
| Food City | Ext | 6.84 |
| Ford Motor | SD | 73,752.87 |
| Interspace Design | HD | 1,105.00 |
| Johnson, Reginald | CRC | 500.00 |
| Laser Scan eXpress | EMA | 45.00 |
| Liberty Academy | JUV | 5.00 |
| Pitney Bowes | CRC | 135.00 |
| ROCIC | SD | 300.00 |
| Search & Seizure | SD | 68.97 |
| Wal-Mart | SD | 357.94 |

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|----------------------------|-----|
| Assessor | A |
| Attorney General | AG |
| County Coroner | CC |
| County Executive | CE |
| Courthouse | CH |
| Clerk & Master | CM |
| County Clerk | CnC |
| Commission | Com |
| Circuit Court | CRC |
| Election Commission | EC |
| Emergency Management | EMA |
| Extension Office | EXT |
| Garbage | G |
| General Sessions | GS |
| Hamblen County | HC |
| Health Department | HD |
| Inventory | INV |
| Jail | J |
| Justice Center | JC |
| Juvenile Court | Juv |
| Medical Examiner | ME |
| Planning Commission | PC |
| Register of Deeds | RD |
| Sheriff's Department | SD |
| Trustee | T |
| Temporary Holding Facility | THF |
| Veterans Service Office | VSO |
| Work Program | WP |

NOT APPROVED
(Received after meeting)

| | | |
|---------------------|----|----------|
| High Desert Systems | HD | 9,991.00 |
| J R Byerley Const | HC | 5,645.00 |
| Lanier | HC | 264.89 |

CLEANING SERVICE-HEALTH DEPARTMENT AND JUSTICE CENTER

Motion by Bud Jones, seconded by Eldridge Bryant that the bid from Safe-N-Klean for \$875.00 per month for cleaning services for the Health Department and a bid of \$996.71 per month from Dave's Leaning Service for the Justice Center cleaning be accepted.

Voting for: all
Voting against: none

AUCTION SERVICE FOR SALE OF HEALTH DEPARTMENT BUILDING

Motion by Bobby Reinhardt, seconded by Guy Collins to accept the bid from Ray D. Hall Auction Company & David M. Dickerson & Ritchie Broyles Auction Company to sale the old health department building. This sale will be of no cost to the county.

Voting for: all
Voting against: none

ROOF REPAIR FOR COURTHOUSE

Motion by Guy Collins, seconded by Frank Parker to authorize the county executive to have the roof repaired at the Hamblen County Courthouse.

Voting for: all
Voting against: none

COUNTY AUDITOR RECOMMENDATION

Motion by Maudie Briggs, seconded by Eldridge Bryant to accept the recommendation of the county auditor that any county employee with knowledge of irregularities or potential illegal acts be required to notify the county auditors and alert them to the problem.

Voting for: all
Voting against: none

RESOLUTION

A RESOLUTION TO AMEND THE ZONING MAP OF HAMBLEN COUNTY, TENNESSEE BY REZONING PARCEL 059.00 OF THE STELLA JO & FRANK D. RICH PROPERTY LOCATED AT 4140 BRIGHTS PIKE.

WHEREAS, The Hamblen County Planning Commission heard the request to amend the zoning map from R-1 to A-1 on Parcel 059.00 owned by Stella Jo & Frank D. Rich; and

WHEREAS, The Hamblen County Planning Commission does hereby recommend for the rezoning request:

NOW, THEREFORE, BE IT RESOLVED that the Hamblen County Board of Commissioners does hereby approve the rezoning and map amendment from C-1 to A-1 according to the attached map.

Motion was made by Joe Spone seconded by Keith Horner.

Voting For:

All

Voting Against:

None

ATTEST:

Herbert H. Hainle

AUTHENTICATED:

Daniel W. Hulse

DATE:

RESOLUTION

A RESOLUTION TO AMEND THE ZONING MAP OF HAMBLLEN COUNTY, TENNESSEE BY REZONING PARCELS 109 & 111 OF THE WALLACE HARDWARE/SEVEN WHEELS PROPERTY LOCATED AT 855 WITT RD.

WHEREAS, The Hamblen County Planning Commission heard the request to amend the zoning map from R-1 to C-1 on Parcels 109 & 111 owned by Wallace Hardware/Seven Wheels; and

WHEREAS, The Hamblen County Planning Commission does hereby recommend for the rezoning request:

NOW, THEREFORE, BE IT RESOLVED that the Hamblen County Board of Commissioners does hereby approve the rezoning and map amendment from C-1 to A-1 according to the attached map.

Motion was made by Joe Spoons seconded by Stancil Ford.

Voting For:
All

Voting Against:
None

ATTEST:

Hester Hamill

AUTHENTICATED:

Daniel W. Tubbs

DATE:

Motion by Joe Spoons, seconded by Frank Parker to make the following opinion a part of the minutes. Voting for: all Voting against: none

LAW OFFICES

Capps, Cantwell & Capps

SUITE 201, SunTrust Bank Building
400 WEST MAIN STREET
MORRISTOWN, TENNESSEE 37814

PAUL R. CAPPS (OF COUNSEL)
FRANK P. CANTWELL, JR.
CHRISTOPHER P. CAPPS

MAILING ADDRESS
P. O. BOX 1897
MORRISTOWN, TENN. 37816-1897
(423) 586-3083
FAX 586-0513

DAVID S. BYRD

June 24, 1996

Mr. Herbert Harville, Chairman
Hamblen County Board of Commissioners
845 Spencer Hale Road
Morristown, TN 37813

RE: REGULATION OF USE OF COUNTY ROADS BY COUNTY GOVERNMENT

Dear Herbert:

At the June meeting of the Hamblen County Board of Commissioners, I was asked to render an opinion with regard to the legality of Hamblen County regulating the use of its county roads, especially with with regard to truck traffic on narrower county roads.

As usual, it must be borne in mind that county governments only have such powers as are granted to them by the Tennessee legislature.

The general law with regard to the regulation of roads by county government was initially set out in the case of Sumner County v. Interurban Transportation Company, 141 Tenn. 493 (1918). This case involved a suit by a county against a transportation company in an attempt to obtain damages to the county's highways and bridges for excessive or unreasonable use by heavy, loaded trucks. The Tennessee Supreme Court held that a "public road" is a way open to all people, without distinction, for passage and repassage at their pleasure. It went on to state as follows:

"The authorities make it clear that any road which is not for the use of the people is not a public road . . .

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This being the established nature of a public road, the county court would have no power to exclude any member of the public from its reasonable use without legislative authority. So far as we are advised, the legislature not only has not forbidden the use of motor vehicles, without regard to weight or load, upon public highways, but has authorized their use by levying a tax upon them . . .

It follows, therefore, that the attempt of the county court to restrict the size of vehicles and the weight of their loads is void, because the legislature has not authorized such action."

In 1978, the Tennessee Supreme Court modified its previous position as set out in the Sumner County case in the case of Town of Newport v. Ambrose Brewer d/b/a Ambrose Brewer Grading Contractor, 566 S.W. 2d 873, a case involving damage to the city streets caused by the defendant's operation of a fleet of large heavy dump trucks which the defendant was aware was destroying the city's pavement. In finding for the city, the Court stated as follows:

"The knowing subjection of a public street, highway or bridge to a use or load that it cannot accommodate and for which it was not designed by one who is aware that such use is inflicting substantial damage thereto, must, in our opinion, be regarded as an unreasonable and, therefore, negligent use for which the user may be held liable." (Emphasis added)

Following the Sumner County case cited above, the Tennessee legislature enacted legislation governing the size, weight and load of vehicles that may be operated on state highways. The purpose of this legislation is to limit the damage to the surface or foundation of state streets, roads, highways and bridges. Through a series of statutes found in Title 55 of Tennessee Code Annotated, the state regulates the size, weight and load of motor vehicles, provides for special permit fees if the maximum size, weight or load is exceeded and provides for penalties if the same are violated.

Tennessee Code Annotated § 55-7-205(i) provides as follows:

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". . . The authorized county authorities . . . may issue permits, but always consistently with rules and regulations prescribed by the commissioner, for movements over any and all roads (except city streets) within the limits of the county for which they are acting."

It would therefore appear that county governments may regulate the size, weight and loads of motor vehicles traveling on county roads to the same extent and by the same method as the state regulates its roads and highways. Bear in mind that these statutes deal with the destruction, damage or injury to the surface or foundation of roads and do not apparently deal with general safety considerations, although these regulations would also seem to enhance the safety of road use.

It should be pointed out that "authorized county officials" is not defined in the statutes. It would appear to the undersigned that the authorized officials would include the chief administrative officer of the county highway department in counties under the Uniform Highway Law and the road commission in counties where the road commissioners are elected by popular vote. Due to the ambiguity of this term, it would also be advisable that the county commission authorize the chief administrative officer and the road commission to regulate the size, weight and load of motor vehicles traveling on county roads in conformity with state law. The scope of this opinion does not deal with the costs of implementing such a program within the county or what equipment would be necessary to ascertain the weight of motor vehicles driven on county roads.

In conclusion, the ability of counties to regulate the type of traffic used on its county roads is limited to that authority vested in them by the Tennessee legislature. The Tennessee legislature has granted to counties the very same authority to regulate the size, weight and load of motor vehicles traveling on its roads as it has given to the Tennessee Department of Transportation with regard to Tennessee highways. In addition, it would appear that, after the fact, counties may recover damages from those who knowingly operate vehicles which are injurious to the surface and foundation of county roads.

Capps, Cantwell & Capps

Mr. Herbert Harville, Chairman
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If you have any questions concerning any of the matters contained herein, please do not hesitate to contact me.

Very truly yours,

Frank P. Cantwell, Jr.

FPC, JR/dm

cc: Mr. David Purkey, County Executive

BUDGET AMENDMENT

Motion by Joe Spoone, seconded by Eldridge Bryant to approve a budget amendment for the garbage department in the amount of \$1288.00 for raises for two employees.

Voting for: all
Voting against: none

SOLID WASTE BOARD CONTRACT WITH TIDI WASTE

Motion by Joe Spoone, seconded by Frank Parker that the Solid Waste Board and the Public Improvements Committee meet and try to get an agreeable contract with Tidi Waste. In the mean time, no garbage will be accepted into the Hamblen County Landfill from Coker County.

Voting for

Guy Collins
Stancil Ford
Doyle Fullington
Herbert Harville
Keith Horner
Frank Parker
Bobby Reinhardt
Joe Spoone

Voting against

Larry Baker
Maudie Briggs
Eldridge Bryant
Bud Jones

THEREUPON MEETING ADJOURNED.