

May 23, 2011

The Marshall County Commission met in regular session on Monday, May 23, 2011 at 10:00 a.m. in the Marshall County Commission Chambers.

PRESENT WERE:

James Hutcheson, Chairman  
William H. Strickland, III, Dist. 1 Commissioner  
James Maze, Dist. 2 Commissioner  
Richard Kilgore, Dist. 3 Commissioner  
Tamey Hale, Dist. 4 Commissioner  
Nancy R. Wilson, Chief Administrative Officer  
Tammy Bearden, Administrative Assistant  
Bob Pirando, County Engineer  
Karen Young, Engineer Clerk  
Clint Maze, County Attorney

Chairman Hutcheson called the meeting to order and ask Commissioner Hale to deliver the invocation, he then ask Commissioner Kilgore to lead the Pledge of Allegiance.

CONSENT AGENDA

A motion was made by Commissioner Kilgore, duly seconded by Commissioner Strickland and so carried to approve the consent agenda as ready by Chairman Hutcheson.

DISTRICT 4 – GRANT EASEMENT TO MOUNTAIN LAKES RESORT FOR SANITARY SEWER

A motion was made by Commissioner Hale, duly seconded by Commissioner Kilgore and so carried that once the paperwork is approved/reviewed by the County Attorney we will grant the easement to Mountain Lakes Resort for sanitary sewer.

DISTRICT 3 – APPROVE TRAVEL REQUEST FOR COMMISSIONER KILGORE, JUNE 2, 2011 – JUNE 3, 2011 AUBURN, ALABAMA

A motion was made by Commissioner Maze, duly seconded by Commissioner Strickland and so carried to approve the travel request for Commissioner Kilgore June 2, - 3, 2011 in Auburn, Alabama.

APPROVE NATIONAL EMERGENCY GRANT

A motion was made by Commissioner Strickland, duly seconded by Commissioner Maze and so carried to follow the recommendation of the County Administrator and approve the National Emergency Grant.

APPROVE REQUEST TO FEMA FOR REIMBURSEMENT FOR PRIVATE PROPERTY DEBRIS REMOVAL THROUGH OPERATION CLEAN SWEEP PROJECT

A motion was made by Commissioner Strickland, duly seconded by Commissioner Maze and so carried to approve the Resolution authorizing Operation Clean Sweep and also approve the letter being sent to Mr. Byrne requesting this.

STATE OF ALABAMA            )  
  )  
MARSHALL COUNTY            )

**RESOLUTION AUTHORIZING OPERATION CLEAN SWEEP**

**COMES NOW** the County Commission of Marshall County, Alabama, and, in its regularly scheduled meeting on the 23<sup>rd</sup> day of May, 2011, does adopt the following resolution authorizing Operation Clean Sweep. The County Commission of Marshall County, Alabama finds as follows:

**WHEREAS**, certain areas of Marshall County, Alabama, on both public and private property, sustained severe damage during a tornado outbreak and episodes of straight-line winds on April 27, 2011; and

**WHEREAS**, as a result of the said storm damage, many residential structures have been badly damaged and tremendous amounts of vegetative, construction and demolition debris has been deposited on county rights of way and on private property; and

**WHEREAS**, in many instances, the debris: 1.) contains dead animals and animals acting as vectors of disease, and/or 2.) is causing buildings, yards, premises or places to become menaces to the public health, and/or 3.) contains unsanitary clothing, bedding, furniture, vehicles, containers, receptacles, appliances, and/or 4.) contains unwholesome, decayed and/or infected meat, fish, fruits, or other foods, medicines, drugs, chemicals, or substances which are likely to become a menace to the public health; and

**WHEREAS**, to the extent that such debris remains on private property for an extended period of time, it constitutes a threat to the public health and safety, prevents adequate economic recovery and is preventing the immediate placement of temporary housing for displaced disaster survivors; and

**WHEREAS**, counties have the authority and responsibility, pursuant to section 11-3A-2 of the Code of Alabama, to abate health and safety hazards; and

**WHEREAS**, pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act, as amended, the President of the United States has directed the U.S. Army Corps of Engineers (“USACE”) to work with local governments to remove such debris in “Operation Clean Sweep”; and

**WHEREAS**, Operation Clean Sweep authorizes targeted Direct Federal Assistance for the debris removal at a 90% Federal cost share and will require the expenditure of local funds for the 10% local cost share; and

**WHEREAS**, Operation Clean Sweep is only available in areas designated by the National Geospatial-Intelligence Agency as having extensive or catastrophic damage; and

**WHEREAS**, the County Commission of Marshall County, Alabama desires to request that the Federal Coordinating Officer authorize Operation Clean Sweep in those certain areas within Marshall County, Alabama designated by the National Geospatial-Intelligence Agency as having extensive or catastrophic damage.

**NOW, THEREFORE**, the County Commission of Marshall County, Alabama, does hereby declare that it is in the public interest of the citizens of Marshall County, Alabama at large to authorize Operation Clean Sweep and to expend public funds to have debris removed from certain qualified private property in those certain areas within Marshall County, Alabama designated by the National Geospatial-Intelligence Agency as having extensive or catastrophic damage in Operation Clean Sweep. To this end, we, the County Commission of Marshall County, Alabama, do hereby do hereby ratify, authorize and direct the following:  
The expenditure of County funds for the 10% cost share is authorized.

The Chairman, the County Administrator and/or their designated representatives are authorized to execute any and all written request to the Federal Coordinating Officer as required by Operation Clean Sweep and to fully comply with the requirements, specifically including but in no way limited to the indemnification requirement, of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, as amended, codified at 42 U.S.C. § 5173, *et seq.*

The County Engineer and/or his designated representative shall determine, for structures that are heavily damaged and/or have been deemed to be a complete loss by the property owner and an insurance adjustor/FEMA representative, what of the structure is debris that qualifies for removal under Operation Clean Sweep.

The County Engineer and/or his designated representative, with the assistance of the County Attorney and/or USACE, shall obtain fully executed and specific Rights of Entry from the property owner of the property where the USACE will engage in debris removal.

May 23, 2011

RESOLUTION CONTINUED

**IN WITNESS WHEREOF**, We have hereunto set my/our hand this 23rd day of May, in the year two thousand eleven.

Attest:

s\ Nancy R. Wilson

Nancy R. Wilson, Administrator

s\William H. Stricklend

William H. Stricklend, District 1 Commissioner

s\Richard Kilgore

Richard Kilgore, District 3 Commissioner

s\ James Hutcheson

James Hutcheson, Chairman

s\James Maze

James Maze, District 2 Commissioner

s\Tamey Hale

Tamey Hale, District 4 Commissioner

May 25, 2011

Michael F. Byrne

Federal Coordinating Officer DR 1971 AL

417 20<sup>th</sup> North

Birmingham, Alabama 35203

**RE: DR 1971 AL Removal and Disposal of Debris from Private Property in Marshall County, Alabama.**

Dear Mr. Byrne:

Pursuant to FEMA Disaster Assistance Policy (DAP) 9523.13, *Debris Removal from Private Property*, Marshall County, Alabama hereby requests FEMA to arrange for the removal of debris from eligible private property in Marshall County, Alabama.

Determination of Public Interest

Marshall County, Alabama has determined it is in the public interest to have debris removed from private property in order to protect and preserve property or public health and safety, and to ensure the economic recovery of the community. Due to the severity and extent of the damage, Marshall County, Alabama is unable to perform, or contract to perform, this work in a timely manner.

Documentation of Legal Responsibility

In accordance with 44 CFR 206.223(a)(3) and DAP 9523.13, in order to be eligible for FEMA Public Assistance funding, we understand that Marshall County, Alabama must have the legal responsibility to perform the work at issue – in this case, removing debris from private property. As noted above, the damage cause by the April 2011 tornados and severe storms in Marshall County, Alabama was extensive. At a meeting of the Marshall County Commissioners on May 23, 2011, the following determinations have been made:

1. Removal of residential debris resulting from the April 27, 2011 storms from private property is necessary and in the public interest to eliminate immediate threats to life, public health and safety as determined by the State of Alabama Department of Public Health as transmitted in a letter to Michael Byrne dated May 11, 2011 which declared a Public Health Nuisance emergency (Attachment A).

2. The Marshall County commission certifies that under laws of the State of Alabama as set out in the opinion of the State of Alabama Attorney General as transmitted in a letter to Michael Byrne FEMA, Federal Coordinating Officer (FCO), dated May 12, 2011 (Attachment B), we have the legal responsibility, duty and authority to remove debris from private property.

3. Based upon "1" and "2" above, we determined to exercise these authorities to enter onto private property in order to abate the declared public health nuisance and safety emergency by removal of the tornado – generated debris.

4. We certify that before we initiate removal we shall have satisfied all the legal processes and received all legal permissions to carry out these actions of debris removal on private property through the use of Rights of Entry with indemnity clauses signed by the property owner.

5. We will recognize and be mindful of all laws and regulations that concern historic preservation and environmental protection.

6. In the unusual circumstance that we desire to remove solitary standing walls as debris we certify that: a. our local and Alabama law concludes that such solitary standing walls are defined as debris; b. that we have obtained a Right of Entry to the subject property that includes specific permission to remove the standing wall and states that if there was insurance, the adjuster has inspected the property; c. that the solitary wall has no historic significance; and d. that the work necessary to remove the wall will not involve any additional contracting, equipment or any other change in the contract scope of work.

Indemnification

As required by section 407(b) of the Stafford Act (42 U.S.C. 5173(b)), Marshall County, Alabama hereby agrees that it shall indemnify and hold harmless the federal government and its respective employees, agents, contractors, and subcontractors from any claims arising from debris removal. Marshall County, Alabama hereby acknowledges that in accordance with section 305 of the Stafford Act (42 U.S.C. § 5148), the Federal Government shall not be liable for any claim based upon the exercise or performance of or the failure to exercise or perform a discretionary function or duty on the part of a Federal agency or an employee of the Federal Government in carrying out the provisions of the Act.

Duplication of Benefits

To avoid duplication of benefits pursuant to section 312 of the Stafford Act (42 U.S.C. § 5155) Marshall County, Alabama will obtain from private property owners information and documentation relating to insurance coverage, proceeds and settlements and provide this to the state and the FCO.

The point of contact for Marshall County, Alabama is Bob Pirando who may be contacted at 256.571.7712 if you require additional information.

By affixing my signature hereto, I represent that I have been duly authorized by the Marshall County Commission to make this request on its behalf.

Sincerely,

James Hutcheson, Chairman

Concurrence:  
State of Alabama

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Governor's Authorized Representative

May 23 2011

AWARD COURTHOUSE GRILL BID

A motion was made by Commissioner Stricklend, duly seconded by Commissioner Kilgore and so carried to follow the recommendation of the County Engineer and award bid 80- 10 to Neena Drake for \$400.00 per with the contract we have drawn up.

Chairman Hutcheson reminded everyone that a public hearing will be held on June 13, 2011 @10:00 a.m. in the Commission chambers concerning the vacating of a road in Boaz.

ADJOURNMENT

There being no further business; a motion was made by Commissioner Stricklend, duly seconded by Commissioner Hale and so carried to adjourn.

MEETING ADJOURNED

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James Hutcheson, Chairman

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William H. Stricklend, District 1 Commissioner

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James Maze, District 2 Commissioner

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Richard Kilgore, District 3 Commissioner

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Tamey Hale, District 4 Commissioner