

AGENDA

GREENE COUNTY LEGISLATIVE BODY

Monday, November 19 2012

6:00 P.M.

The Greene County Commission will meet at the Greene County Courthouse on Monday, November 19, 2012 beginning at 6:00 p.m. in the Criminal Courtroom (Top Floor) in the Courthouse. Caucus meetings will begin at 5:00 p.m. There will be a Purchasing Committee Meeting after the Commission Meeting.

Call to Order

- *Pledge to Flag
- *Invocation
- *Roll Call

Public Hearing

- Proclamation for Zachary Britton

Approval of Prior Minutes

1. Sauerman called on Larry Parnon - School system, tax increase

Reports

Reports from Solid Waste Dept.
Committee Minutes

Old Business

The Commission will consider a formal ethics complaint filed against Commissioner Tim White on the recommendation of the Greene County Ethics Committee. The Commission will review the documents related to the ethics complaint, included in this package, and hear comments from members of the Commission. Attorney Lauderback will answer questions from members of the Commission. The Commission will then decide what action, if any, to take in response to this formal ethics complaint.

Election of Notaries

Resolutions

- * A*
- A. A resolution requesting the General Assembly to amend T.C.A. #12-8-101(i) to allow or permit a Local Government who owns and operates a hot mix asphalt plant or facility to sell hot mix asphalt to municipalities and other entities, departments or agencies of county government all within the county where the hot mix asphalt plant or facility is located; *-ADD Ted Henkel's Statement to the minutes*
- B. A resolution authorizing the County Mayor to execute and record a Notice of Land use restrictions for the Wetlands in proximity to the Wal-Mart Regional Distribution Center;
- C. A resolution to budget additional funds for the fiscal year 2012-2013 for the school board;
- D. A resolution to amend the 2012-2013 fiscal year General Purpose School fund's budget to budget for capital outlay projects;
- E. A resolution to budget for a transfer from the Capital Projects Fund to the General fund for fiscal year ending June 30, 2013;
- F. A resolution to amend the General Fund 2012-2013 fiscal year budget for revenues from the sale of scrap metal and paper and increase appropriations to allow for the expenditure of the funds received;
- G. A resolution to amend the General fund budget for revenues received by the emergency Medical Services Department;
- H. A resolution to amend the 2013 fiscal year General Fund's to budget donations to the Sheriff's Dept.;
- I. A resolution to budget for purchase of truck replacement in the Solid Waste Department from the Solid Waste Fund Balance.
- J. A resolution to make a contribution to the T. Elmer Cox Genealogical Library to purchase acid free folders;
- K. A resolution allocating the revenues received from the sale of surplus real property to the General Debt Service Fund

Other Business

Commission Quillen read statement

Adjournment

CERTIFICATE OF ELECTION OF NOTARIES PUBLIC
 AS A CLERK OF THE COUNTY OF GREENE, TENNESSEE I HEREBY CERTIFY TO
 THE SECRETARY OF STATE THAT THE FOLLOWING WERE ELECTED TO THE OFFICE OF
 NOTARY PUBLIC DURING THE NOVEMBER, 19 2012 MEETING OF THE GOVERNING BODY:

NAME	HOME ADDRESS	HOME PHONE	BUSINESS ADDRESS	BUSINESS PHONE	SURETY
1. ALBERT KEITH LIVINGSTON	95 RIVER TRACE LANE GREENEVILLE TN 37743	423-638-7251	114 SOUTH MAIN STREET GREENEVILLE TN 37743	423-639-6824	10,000.00
2. ANGELA RENEE PROCTOR	206 EAST BROYLES STREET GREENEVILLE TN 37745	423-620-2995	523 TUSCULUM BLVD GREENEVILLE TN 37745	423-798-9161	Sentry Select Insurance
3. NECOLE K BROWN	250 SNAKE RD MOSHEIM TN 37818	423-620-8175	311 CCU BLVD GREENEVILLE TN 37745	423-639-6131	MCINTURFF MILLIGAN & BROOKS
4. CAROL JUNE WELLS	90 AMITY ROAD GREENEVILLE TN 37743	423-639-9708	237 W. SUMMER ST. GREENEVILLE TN 37743	423-639-5171	Notary At Large
5. DAVID A. NIEHOFF	1372 MILLIGAN GROVE RD SEVIERVILLE TN TN 37876	423-972-2178	2815 NEWPORT HWY GREENEVILLE TN 37743	638-2925	
6. TWYLA TRETT	204 N CULTER ST GREENEVILLE TN 37745	798-1738	204 N CULTER ST GREENEVILLE TN 37745	798-1738	
7. PATRICIA H DAUGHERTY	143 HORSE CREEK PK RD CHUCKEY TN 37641	423-426-8075	810 W CHURCH ST GREENEVILLE TN 37745	798-1749	
8. BONNIE HENSLEY	955 BOLTON RD GREENEVILLE TN 37745	620-7708	2456 AJ HWY STE 2 GREENEVILLE TN 37745	787-0111	
9. STEPHEN D RUTHERFORD	203 UNAKA ST GREENEVILLE TN 37743	638 6477	201 UNAKA ST GREENEVILLE TN 37745	639 1661	

SIGNATURE

CLERK OF THE COUNTY OF GREENE, TENNESSEE

DATE

**RESOLUTION REQUESTING THE GENERAL ASSEMBLY TO AMEND T.C.A §12-8-101(i) TO
ALLOW OR PERMIT A LOCAL GOVERNMENT WHO OWNS AND OPERATE A HOT MIX
ASPHALT PLANT OR FACILITY TO SALE HOT MIX ASPHALT TO MUNICIPALITIES AND
OTHER ENTITIES, DEPARTMENTS OR AGENCIES OF COUNTY GOVERNMENT ALL WITHIN
THE COUNTY WHERE THE HOT MIX ASPHALT PLANT OR FACILITY IS LOCATED**

WHEREAS, T.C.A. § 12-8-101(i), provides that asphalt produced in a facility operated by any local government pursuant to the authority granted in this section shall be used exclusively for paving of public streets, roads or highways under the discretion and control of that unit of local government; and

WHEREAS, Greene County, pursuant to the provisions of T.C.A. § 12-8-101(i) constructed and is presently operating a hot mix asphalt plant for the use by the County Highway Department to improve and maintain county roads; and

WHEREAS, other county entities including particularly the Greene County Board of Education and other municipalities in Greene County have expressed an interest and desire to purchase hot mix asphalt from Greene County at significant savings which would endure to the benefit of the citizens of the municipalities and Greene County; and

WHEREAS, with the present prohibition as provided in T.C.A. 12-8-101(i), Greene County is expressly prohibited from selling asphalt to a municipality within the county or any other County Department or entity; and

WHEREAS, it would be most advantageous to the municipalities and other county entities if the statutory provisions of T.C.A. § 12-8-101(i) are amended to permit local government (counties) to sell hot mix asphalt to other municipalities and county entities within the county; and

WHEREAS, after carefully reviewing the situation and consulting with officials within the municipalities in Greene County and officials with the various other county entities, departments and agencies, the County Legislative Body has determined that it would be manifestly in the best interest of the citizens of Greene County and its municipality to request

A.

that our State Representatives and State Senator introduce legislation to amend T.C.A. §12-8-101(i) to allow Greene County and other counties similarly situated to sell hot mix asphalt to municipalities and other governmental entities located in their respective counties.

NOW THEREFORE, BE IT RESOLVED, by the Greene County Legislative Body meeting in regular session on the 19th day of November, 2012, a quorum being present, a majority voting in the affirmative requesting that they sponsor and support legislation that would amend T.C.A. § 12-8-101(i) to allow a local government (county) to sale hot mix asphalt to other municipalities and governmental entities located within the local government (county).

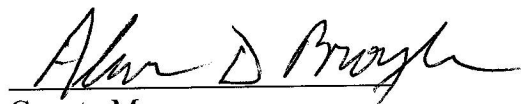
BE IT FURTHER RESOLVED, that upon passage of this Resolution the County Clerk forward a copy of this Resolution to the elected members of the State Senator and the State Representatives representing Greene County requesting their sponsorship and support of the proposed amendment to T.C.A. 12-8-101(i) as outlined above.

Highway Committee _____

Sponsor



County Clerk


County Mayor

County Attorney

**RESOLUTION AUTHORIZING THE COUNTY MAYOR TO EXECUTE AND
RECORD A NOTICE OF LAND USE RESTRICTIONS FOR THE WETLANDS IN
PROXIMITY TO THE WAL-MART REGIONAL DISTRIBUTION CENTER**

WHEREAS, in conjunction with the location of the Wal-Mart Regional Distribution Center in Western Greene County on Potterstown Road, Greene County owns and agreed to protect certain wetlands in close proximity to the Wal-Mart Distribution Center as part of its agreement with the Tennessee Department of Environment and Conservation and the United States Corps of Engineers to permit the Wal-Mart Regional Distribution Center to locate and construct its buildings and parking lots on the property it now occupies; and

WHEREAS, as part of that agreement Greene County agreed by Resolution to preserve the integrity and natural beauty of the County and protect the species of floral and transient, migratory and year-round resident fauna; indigenous to such wetland habitats on the property owned by Greene County and further specifically described in the deed attached as Exhibit "A" to this Resolution; and

WHEREAS, in order to protect said wetlands as per the agreement above referenced a Notice of Land Use Restrictions, attached as Exhibit "B" to this Resolution, needs to be executed by the County Mayor and recorded in the Register of Deeds' office for Greene County, Tennessee to insure that the wetlands are forever protected and is subject to the restrictions in said Notice of Land Use Restrictions.

NOW THEREFORE, BE IT RESOLVED, by the Greene County Legislature Body meeting in regular session on the 19th day of November, 2012, and a quorum being present, a majority voting in the affirmative that Alan Broyles, Greene County Mayor is authorized to execute a Notice of Land Use Restrictions (Exhibit A) for the property owned by Greene County (Exhibit B) in proximity to the Wal-Mart Regional Distribution Center.


B

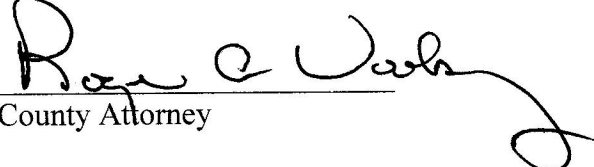
Roger A. Woolsey
County Attorney
204 N. Cutler St.
Suite 120
Greeneville, TN 37745
Phone: 423/798-1779
Fax: 423/798-1781

BE IT FURTHER RESOLVED, that the County Mayor is directed to record said Notice of Land Use Restrictions in the Register of Deeds' office for Greene County, Tennessee in order to ensure that the wetlands shall be forever protected as provided in said Notice of Land Use Restrictions herein authorized and approved by this Legislative Body.

Sponsor


County Clerk


County Mayor


County Attorney

NOTICE OF LAND USE RESTRICTIONS

Notice is hereby given that pursuant to Tennessee Code Annotated (T.C.A.) Section 68-212-225, the Commissioner of the Tennessee Department of Environment and Conservation ("TDEC") has determined that land use restrictions are an appropriate remedial action at the below-described property. Pursuant to T.C.A. Section 68-212-225(d) the register of deeds shall record this Notice and index it in the grantor index under the names of the owners of the property.

WITNESSETH:

WHEREAS, Greene County, Tennessee (Grantor), is the owner of the real property described in a Deed of record with the Greene County Register of Deeds, Book 22A, Page 5, herein after referred to as the "Property"; and,

WHEREAS, on or about October 19, 1995 the Commissioner of the Department of Environment and Conservation (TDEC) issued Aquatic Resource Alteration Permit (ARAP) Number 95-495 to Grantor; and,

WHEREAS, the referenced ARAP requires that certain uses of the Property be restricted.

NOW, THEREFORE, in consideration of the foregoing, the Grantor hereby declares that the Property should be held, sold, and conveyed subject to the following land use restrictions. Said land use restrictions shall run with the land and shall be binding on all parties having any right, title, or interest in the Property or any part thereof, their heirs, successors, successors-in-title, and assigns, and shall inure to the benefit of each owner thereof and to TDEC and the respective successors and assigns of such parties:

Land Use Restrictions:

- A. (Vegetation) There shall be no removal, destruction, cutting, trimming, mowing, alteration or spraying with biocides of any vegetation, nor any disturbance or change in the natural habitat in any manner, except to control invasive exotic vegetation. Control of exotic invasive vegetation can only be conducted with approval of the Division of Water Pollution Control. There shall be no planting or introduction any vegetation other than that described in the Aquatic Resource Alteration Permit NRS # 95-495 for this project.
- B. (Uses) There shall be no agricultural, commercial, or industrial activity undertaken or allowed; nor shall any right of passage across or upon the Protected Property be allowed or granted if that right of passage is used in conjunction with agricultural, commercial activity.
- C. (Animals) No dogs, cats, or other domestic or exotic animals be raised on the Protected Property.
- D. (Topography) There shall be no filling, excavating, dredging, mining, or drilling; no removal of topsoil, sand, gravel, rock, minerals or other materials, nor any

dumping of ashes, trash, garbage, or of any other material, and no changing of the topography of the land in any manner.

- E. (Building) There shall be no construction or placing of buildings, mobile homes, advertising signs, billboards, or other structures.
- F. (Roads) There shall be no building of new roads or any other rights of way nor widening of existing roads.
- G. (Waters) There shall be no disruption of flow pattern by damming, dredging or construction in any free flowing water body, nor construction of any weirs, groins nor dikes in any marshland, nor any manipulation or alteration of natural water courses, fresh water lake and pond shores, marshes, or other water bodies nor any activities or uses detrimental to water purity.
- H. (Vehicles) There shall be no operation of dune buggies, motorcycles, all terrain vehicles, or any other types of motorized vehicles.
- I. (Construction) There shall be no construction or placing of temporary or permanent buildings, docks, bridges, piers or other structures.

Enforcement:

Any owner of the land or any unit of local government having jurisdiction over any part of the subject property may enforce this Notice of Land Use Restrictions by means of a civil action. The Commissioner of TDEC may enforce this Notice of Land Use Restrictions through the issuance of an Administrative Order or by means of a civil action, including one to obtain an injunction against present or threatened violations of the restriction. Pursuant to T.C.A. Section 68-212-213, any person who fails, neglects or refuses to comply with a land use restriction commits a Class B misdemeanor and is subject to the assessment of a civil penalty of up to ten thousand dollars (\$10,000) per day.

Term:

This Notice of Land Use Restrictions shall run with and bind the Property unless/until this Declaration shall be made less stringent or canceled as set forth under the paragraph entitled "Amendment and Termination."

Amendment and Termination:

This Notice of Land Use Restrictions may be waived, amended, modified, or terminated at any time by the Commissioner of TDEC for cause. No amendment to of this Notice of Land Use Restrictions shall be effective until such amendment or instrument terminating this Notice of Land Use Restrictions is recorded in the Register's Office for Greene County, Tennessee.

Severability:

Invalidation of any of these covenants or restrictions by judgment or court order shall in no way affect any other provisions, which shall remain in full force and effect.

IN WITNESS WHEREOF, the undersigned has executed this instrument this _____ day of _____, 20____.

Grantor

STATE OF TENNESSEE
COUNTY OF GREENE

Personally appeared before me, the undersigned, a Notary Public having authority within the State aforesaid, ALAN BROYLES, Greene County Mayor, with whom I am personally acquainted, and who acknowledged that he executed this instrument for the purposes herein contained, and that he is authorized to execute this instrument pursuant to a Resolution by the Greene County Legislative Body dated the 19th day of November, 2012.

WITNESS my hand, at office, this _____ day of _____, 20____.

Notary Public

My Commission Expires: _____

EXHIBIT

WARRANTY DEED

A

FOR AND IN CONSIDERATION of the sum of \$1.00 and other good and valuable considerations in hand paid, the receipt of which is hereby acknowledged, we, FRED CANSLER and wife, LUCILLE CANSLER, and TWENTIETH CENTURY HOLDING COMPANY, a Limited Liability Company, have this day bargained and sold, and do hereby transfer and convey unto GREENE COUNTY, TENNESSEE, the following described property, to-wit:

SITUATE in the 19th Civil District of Greene County, Tennessee, and described as follows:

BEGINNING on an iron rod set in the Northerly right of way line of Southern Railway; thence leaving the line of the railroad, North 07 deg. 15 min. 21 sec. East, 2160.60 feet to an iron pin; thence South 70 deg. 33 min. 26 sec. East, 855.39 feet to an iron pin; thence South 07 deg. 31 min. 41 sec. West, 1985.35 feet to an iron rod set in the Northerly right of way line of Southern Railway; thence with Southern Railway, North 82 deg. 23 min. 02 sec. West, 853.86 feet to the point of BEGINNING.

BEING the same property conveyed to Fred Cansler and wife, Lucille Cansler, by deed of The Industrial Development Board of the Town of Greeneville, of record in Deed Book No. 144, page 761, Register's Office for Greene County, Tennessee. Also being a portion of the same property conveyed to Twentieth Century Holding Company L.L.C., by deed of record in Deed Book No. 461, page 680, and also being a portion of the same property conveyed to Fred Cansler and wife, Lucille Cansler, in Deed Book No. 301, page 44, said Register's Office.

TO HAVE AND TO HOLD said property to the said GREENE COUNTY, TENNESSEE, its successors and assigns forever, in fee simple.

We covenant that we are lawfully seized and possessed of the property conveyed, have full right, power and authority to convey same, and that it is free from all encumbrances. We further covenant and bind ourselves, our heirs, successors and



I, the undersigned, do hereby swear or affirm that the actual consideration for this transfer or value of the property transferred, whichever is greater is \$ except which amount is equal to or greater than the amount which the property transferred would command at a fair voluntary sale.

Subscribed and sworn before me this

the 29 day of Dec, 1995

Charles B. Murrell
Notary Public or Register

My commission expires _____

John S. Waddell
Affiant

5

The person or agency responsible for the payment of the taxes is:

Greene County
Greenville, TN 37743

Address

Map 87 of CS Parcel 15
PROPERTY ASSESSOR GREENE COUNTY
The 29 day of DEC 19 95

This Instrument
Prepared By
A. KEITH LIVINGSTON
Attorney at Law
Greenville, Tennessee

representatives, to warrant and forever defend title thereto, to the said GREENE COUNTY, TENNESSEE, its successors and assigns, against the lawful claims of all persons whomsoever.

WITNESS our hands this 27th day of September, 1995.

Fred Cansler
FRED CANSLER

Lucille Cansler
LUCILLE CANSLER

TWENTIETH CENTURY HOLDING COMPANY,
A Limited Liability Company

By: Fred Cansler
FRED CANSLER, President

STATE OF TENNESSEE)

COUNTY OF GREENE)

Personally appeared before me, FRED CANSLER and wife, LUCILLE CANSLER, with whom I am personally acquainted, and who acknowledged that they executed the within instrument for the purposes therein contained.

WITNESS my hand at office this 27th September, 1995.

Kath S. Dentry
Notary Public

My Commission Expires: Aug. 1, 1999.

STATE OF TENNESSEE)

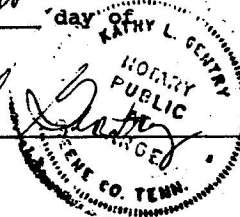
COUNTY OF GREENE)

Personally appeared before me, FRED CANSLER, with whom I am personally acquainted, and who acknowledged that he executed the within instrument for the purposes therein contained, and who

further acknowledged that he is the President of the maker or a constituent of the maker and is authorized by the maker or by its constituent, the constituent being authorized by the maker, to execute this instrument on behalf of the maker, TWENTIETH CENTURY HOLDING COMPANY, a Limited Liability Company.

WITNESS my hand at office this 27th day of
September, 1995.

Kathy L. Gentry
Notary Public



My Commission Expires: Aug. 1, 1999.

Recorded of Greene County

BOOK ☒
FILE ☐

CASH ☐
FILE ☒

State of Tennessee, Greene County Register's Office

This instrument recorded in Book 22A Page 5

Recorded for record at 9:30 A M on the 9 day of Jan 1996

State tax CF Rec'd Fee 12.00 Total 12.00

Noted in Book 6 Page 68 R No. Carolyn B. Morrell, Reg

R # 58695 Deputy