

AGENDA

LAWRENCE COUNTY BOARD OF COMMISSIONERS
SPECIAL SESSION
JULY 9, 2002
5:00 P.M.

CALL TO ORDER BY THE CHAIRMAN

ROLL CALL

INVOCATION

PLEDGE

SPECIAL CALL RESOLUTIONS TO BE ACTED UPON

1. RESOLUTION #01070902
Resolution to refund solid waste disposal fees collected pursuant to resolution #11052599 and #03092899 adopted by the Lawrence County Legislative Body

APPROVED:



STEVE HILL, COUNTY EXECUTIVE



KENNETH WEATHERS, COUNTY CLERK

COUNTY COMMISSION, LAWRENCE COUNTY
KENNETH WEATHERS COUNTY CLERK

RESOLUTION #	Call to Order: Steve Hill, Chairman Roll Call: Beverly McDow, Chief Deputy County Clerk		Invocation: Pledge:	PRESENT	ABSENT
	BAILEY, JACKIE	9th District	762-3716 411 6th St L' Burg, TN 829-2358	X	
	BENEFIELD, RONALD	7th District	91 Benefield Ln Ethridge 762-5501	X	
	BRAZIER, OLAN	5th District	175 Reed Patch Rd L' Burg 762-3167	X	
	BUJE, JIM	9th District	508 8th St L' Burg 964-3404	X	
	BURNS, FRANKLIN	6th District	383 LBurg Henryville Eth. 852-2211 762-1531	X	
	DOSS, BARRY	3rd District	66 Shoally Br Rd Leoma 762-7118	X	
	DRYDEN, JERRY	4th District	12 Ingram Rd Leoma 852-2899	X	
	GABEL, JIM	1st District	2773 Hwy 43 POBox 176 Leoma 852-2221 762-1016	X	
	GOWEN, JIM	3rd District	114 Richardson RD Leoma 853-6709	X	
	GREEN, ROBERT L	2nd District	404 N Military PO BX 224 Loretto 853-7221 766-1500	X	
	MOORE, BOB	2nd District	11 Samuel Ln Loretto 762-5501	X	
	MOORE, W. T.	5th District	305 Ford Field Rd West Point 762-8078 762-3217	X	
	NIEDERGESES, MARK	4th District	4202 Marie Ln L' Burg 762-8007	X	
	PERRY, TIM	6th District	1136 Eth.Red Hill Rd Ethridge 852-2870	X	
	SHANNON, KEVIN	1st District	2757 Hwy 43S Leoma 829-2490	X	
	TURNER, HENRY	7th District	37 Mint Spring Rd Ethridge 766-1040	X	
	WOODALL, GLENN E	8th District	1401 Hart Ave L' Burg 762-7419	X	
	WRAY, JOE R	8th District	1403 Beckham Ave L' Burg	X	
				18	

Total Members present: 18 absent: 0

DATE July 9, 2002

AMENDED RESOLUTION NO. 01070902

RESOLUTION TO REFUND SOLID WASTE DISPOSAL FEES COLLECTED
PURSUANT TO RESOLUTION NO. 11052599 AND NO. 03092899
ADOPTED BY THE LAWRENCE COUNTY LEGISLATIVE BODY

WHEREAS, on May 25, 1999, the Lawrence County legislative body enacted its Resolution No. 11052599 entitled "Resolution to Receive the Report of the Utilities Committee Regarding Implementation of a Utility Bill for the Disposal of Solid Waste" by which resolution the Lawrence County legislative body intended to impose and collect a Solid Waste Disposal Fee upon residences, commercial establishments, churches, etc.; and

WHEREAS, on September 28, 1999, the Lawrence County legislative body enacted Resolution No. 03092899 entitled "Resolution Adopting System for the Collection of Past Due Solid Waste Disposal Fees" by which resolution the County Commission enacted a procedure for collecting past due Solid Waste Disposal Fees; and

WHEREAS, on December 28, 1999, the Lawrence County legislative body enacted Amended Resolution No. 07122899 entitled "Resolution Authorizing Monetary Penalties to be Added to Delinquent Solid Waste Disposal Accounts and Ratifying Resolution No. 11052599" by which resolution the Lawrence County legislative body set forth a specific fee schedule for Lawrence County residents, set forth penalties for unpaid fees and ratified the May 25, 1999, Resolution No. 11052599; and

WHEREAS, on July 22, 1997, the Lawrence County legislative body enacted Resolution No. 18072297 entitled "Resolution Requiring that All Proposed Resolutions be Presented to the County Attorney" by which the Lawrence County legislative body acknowledged T.C.A. §5-6-111 authorizes the County Attorney to prepare resolutions for passage by the legislative body and further required that all proposed resolutions and/or the information needed in order to draft proposed resolutions be submitted to the County Attorney before the meeting in which the resolutions is to be presented for vote; and

WHEREAS, Lawrence County filed lawsuits against those individuals who failed to pay the Solid Waste Disposal Fee in an attempt to collect past due Solid Waste Disposal Fees and penalties, particularly, the case styled *Lawrence County v. Jerry Brewer*, No. SW0042, *Lawrence County v. Debbie Bailey*, No. SW0075, *Lawrence County v. Terry W. Gray*, No. SW0252, and *Lawrence County v. Lee Whitley*, No. SW0531, all in the Circuit Court for Lawrence County, Tennessee, which cases were consolidated for trial and which trial resulted in a finding by the court the Lawrence County legislative body was authorized to impose and collect a Solid Waste Disposal Fee, but the aforementioned Resolution No. 11052599 as drafted did not impose any Solid Waste Disposal Fee on the residents of Lawrence County and the trial court dismissed said lawsuits;

WHEREAS, upon the advice and encouragement of former county attorney, Jane Jennings, Lawrence County appealed the decisions in the aforementioned causes of action to the Tennessee Court of Appeals and in the opinion filed by the Court of Appeals on June 27, 2002, the Tennessee Court of Appeals affirmed the trial court's finding that the aforementioned resolutions failed to enact a Solid Waste Disposal Fee; and

WHEREAS, the Lawrence County legislative body has been advised that it has sixty days from June 27, 2002, in which to file an application for permission to appeal to the Supreme Court for the State of Tennessee; and

WHEREAS, since the trial court rendered its opinion in the above-referenced causes of action, there have been two lawsuits filed against Lawrence County, namely, *William Thomas Courtwright, et al., individually and on behalf of all persons similarly situated vs. Lawrence County, Tennessee*, Lawrence Circuit No. CC-909-00, and *David Dollar, et al., individually and on behalf of all persons and businesses similarly situated v. Lawrence County, Tennessee*, Lawrence Circuit No. CC-913-00, which lawsuits seek, among other things, certification as class action lawsuits, a declaration that any fees paid pursuant to Resolution No. 11052599 be

declared illegally assessed, and a refund of such fees with interest; and

WHEREAS, because of (1) the opinion rendered by the Tennessee Court of Appeals, (2) the unlikely chance the Supreme Court of Tennessee would grant permission to Lawrence County to appeal to that court, (3) the unlikelihood of success on appeal, and (4) because Lawrence County government has made financial provisions in the budget in the event the decision of the Tennessee court of Appeals affirmed the trial court, the Lawrence County legislative body deems it in the best interest of Lawrence County government and the citizens, residents, businesses and industries of Lawrence County to refund, with interest, the solid waste fees collected pursuant to the resolutions enacted May 25, 1999, being Resolution No. 11052599, September 28, 1999, being Resolution No. 03092899, and December 28, 1999, being Amended Resolution No. 07122899, including penalties assessed and amounts recovered by judgment or otherwise and further to enter such orders as necessary to satisfy any default judgments or unpaid judgments previously entered in the Circuit Court of Lawrence County because of collection efforts for said 1999 Solid Waste Disposal Fees.

NOW, THEREFORE, be it resolved by the Lawrence County Board of Commissioners meeting in special session this 9th day of July, 2002, that the County Executive is directed to immediately and forthwith:

1. Refund to the residents, commercial establishments, industries, and any other individual and/or entity (including the personal representative or surviving spouse of a deceased individual) that paid a Solid Waste Disposal Fee pursuant to Resolution No. 11052599, Resolution No. 03092899, and Amended Resolution No. 07122899, the fee actually paid including the refund of any penalty actually paid and/or court costs actually paid, said refunds to be made from the Lawrence County General Fund, Line Item 51100.505.
2. Dismissing with prejudice any lawsuits filed in the Circuit Court for Lawrence County seeking collection of Solid Waste Disposal Fees pursuant to Resolution No. 11052599, Resolution No. 03092899, and Amended Resolution No. 07122899 and likewise causing to be filed any pleadings necessary to set aside or satisfy any judgments, default or otherwise, previously entered in such lawsuit.
3. Adding an additional amount to any refund of a Solid Waste Disposal Fee as set forth herein including any court costs and/or penalties actually paid, for interest at the rate of six (6) per cent per annum, said interest to be paid from the Lawrence County General Fund, Line Item 51100.505.
4. Subject to the approval of the Lawrence County Board of Commissioners, establish guidelines for refunds due to residents, commercial establishments, industries, and any other individual and/or entity, the County is unable to locate due to death, relocation, change of address, or cessation of business.

This resolution will take effect upon its passage, the public welfare requiring it.

This the 9th day of July, 2002.



STEVE HILL, COUNTY EXECUTIVE

ATTEST:



KENNETH WEATHERS, COUNTY CLERK

COUNTY COMMISSION, LAWRENCE COUNTY
KENNETH WEATHERS COUNTY CLERK

RESOLUTION #	As Amended	MOTION	SECOND	AYE	NAY	PASS	PRESENT	ABSENT
01070902	Resolution to refund solid waste disposal fees collected pursuant to resolution #11052599 and #03092899 adopted by the Lawrence County Legislative body							
BAILEY, JACKIE	9th District 762-3716 411 6th St. L'Burg, TN 829-2358			X				
BENEFIELD, RONALD	7th District 91 Benefield Ln Ethridge 762-5501			X				
BRAZIER, OLAN	5th District 175 Reed Patch Rd L'Burg 762-3167			X				
BUJE, JIM	9th District 508 8th St L'Burg 964-3404			X				
BURNS, FRANKLIN	6th District 383 LBurg Henryville Eth. 852-2211 762-1531			X				
DOSS, BARRY	3rd District 66 Shoally Br Rd Leoma 762-7118			X				
DRYDEN, JERRY	4th District 12 Ingram Rd Leoma 852-2899			X				
GABEL, JIM	1st District 2773 Hwy 43 POBox 176 Leoma 852-2221 762-1016			X				
GOWEN, JIM	3rd District 114 Richardson RD Leoma 853-6709			X				
GREEN, ROBERT L	2nd District 404 N Military PO BX 224 Loretto 853-7221 766-1500			X				
MOORE, BOB	2nd District 11 Samuel Ln Loretto 762-5501			X				
MOORE, W. T.	5th District 305 Pond Field Rd West Point 762-8078 762-3217		X	X				
NIEDERGESES, MARK	4th District 4202 Marie Ln L'Burg 762-8007			X				
PERRY, TIM	6th District 1136 Eth.Red Hill Rd Ethridge 852-2870	X		X				
SHANNON, KEVIN	1st District 2757 Hwy 43S Leoma 829-2490			X				
TURNER, HENRY	7th District 37 Mint Spring Rd Ethridge 766-1040			X				
WOODALL, GLENN E	8th District 1401 Hart Ave L'Burg 762-7419			X				
WRAY, JOE R	8th District 1403 Beckham Ave L'Burg			X				
				18				0

Motion to approve resolution as amended made by Tim Perry; seconded by W. T. Moore

Motion approved by roll call vote. Voting AYE: 18 NAY: 0

DATE July 9, 2002

COUNTY COMMISSION, LAWRENCE COUNTY
KENNETH WEATHERS COUNTY CLERK

MOTION	SECOND	AYE	NAY	PASS	PRESENT	ABSENT
RESOLUTION # 01070902 Amendment I Motion to accept amendments proposed by Charlie Holt, County Attorney, specifying General Fund Account number refunds are to be paid from; addition of personal representative or surviving spouse of a deceased individual.						
BAILEY, JACKIE 9th District 762-3716 411 6th St L' Burg, TN		X				
BENEFIELD, RONALD 7th District 829-2358 91 Benefield Ln Ethridge		X				
BRAZIER, OLAN 5th District 762-5501 175 Reed Patch Rd L' Burg		X				
BUIE, JIM 9th District 762-3167 508 8th St L' Burg		X				
BURNS, FRANKLIN 6th District 964-3404 383 L' Burg Henryville Eth.		X				
DOSS, BARRY 3rd District 852-2211 762-1531 66 Shoally Br Rd Leoma		X				
DRYDEN, JERRY 4th District 762-7118 12 Ingram Rd Leoma		X				
GABEL, JIM 1st District 852-2899 2773 Hwy 43 POBox 176 Leoma		X				
GOWEN, JIM 3rd District 852-221 762-1016 114 Richardson RD Leoma		X				
GREEN, ROBERT L 2nd District 853-6709 404 N Military IO BX 224 Loretto	X	X				
MOORE, BOB 2nd District 853-721 766-1500 11 Samuel Ln Loretto		X				
MOORE, W. T. 5th District 762-5501 305 Ford Field Rd West Point		X				
NIEDERGESES, MARK 4th District 762-8078 762-3217 4202 Marie Ln L' Burg		X				
PERRY, TIM 6th District 762-8007 1136 Eth.Red Hill Rd Ethridge	X	X				
SHANNON, KEVIN 1st District 852-2870 2757 Hwy 43S Leoma		X				
TURNER, HENRY 7th District 829-2490 37 Mint Spring Rd Ethridge		X				
WOODALL, GLENN E 8th District 766-1040 1401 Hart Ave L' Burg		X				
WRAY, JOE R 8th District 762-7419 1403 Beckham Ave L' Burg		X				
		18				0

Motion to approve made by Robert L. Green; seconded by Tim Perry.

Motion approved by roll call vote. Voting AYE: 18 NAY: 0

DATE _____

COUNTY COMMISSION, LAWRENCE COUNTY
KENNETH WEATHERS COUNTY CLERK

MOTION	SECOND	AYE	NAY	PASS	PRESENT	ABSENT
RESOLUTION # 01070902 Amendment II Amended resolution should read to cover any court cost plus interest and any penalties plus interest and also to delete from paragraph 5 "as drafted by former County Attorney, Jane Jennings"						
BAILEY, JACKIE 9th District 762-3716 411 6th St L'Burg, TN		X				
BENEFIELD, RONALD 7th District 829-2358 91 Benefield Ln Ethridge		X				
BRAZIER, OLAN 5th District 762-5501 175 Reed Patch Rd L'Burg		X				
BUIE, JIM 9th District 762-3167 508 8th St L'Burg		X				
BURNS, FRANKLIN 6th District 964-3404 383 LBurg Henryville Eth.		X				
DOSS, BARRY 3rd District 852-2211 762-1531 66 Shoally Br Rd Leoma		X				
DRYDEN, JERRY 4th District 762-7118 12 Ingram Rd Leoma		X				
GABEL, JIM 1st District 852-2899 2773 Hwy 43 POBox 176 Leoma	X	X				
GOWEN, JIM 3rd District 852-2221 762-1016 114 Richardson RD Leoma		X				
GREEN, ROBERT L 2nd District 853-6709 404 N Military PO BX 224 Loretto		X				
MOORE, BOB 2nd District 853-7221 766-1500 11 Samuel Ln Loretto	X	X				
MOORE, W. T. 5th District 762-5501 305 Ford Field Rd West Point		X				
NIEDERGESES, MARK 4th District 762-8078 762-3217 4202 Marie Ln L'Burg		X				
PERRY, TIM 6th District 762-8007 1136 Eth.Red Hill Rd Ethridge		X				
SHANNON, KEVIN 1st District 852-2870 2757 Hwy 43S Leoma		X				
TURNER, HENRY 7th District 829-2490 37 Mint Spring Rd Ethridge		X				
WOODALL, GLENN E 8th District 766-1040 1401 Hart Ave L'Burg		X				
WRAY, JOE R 8th District 762-7419 1403 Beckham Ave L'Burg		X				
		18				0

Motion to approve made by JimGabel; seconded by Bob Moore.

Motion approved by roll call vote. Voting AYE: 18 NAY: 0

DATE _____

COUNTY COMMISSION, LAWRENCE COUNTY
KENNETH WEATHERS COUNTY CLERK

ADJOURNMENT		MOTION	SECOND	AYE	NAY	PASS	PRESENT	ABSENT
BAILEY, JACKIE	9th District	762-3716 411 6th St L' Burg, TN						
BENEFIELD, RONALD	7th District	829-2358 91 Benefield Ln Ethridge						
BRAZIER, OLAN	5th District	762-5501 175 Reed Patch Rd L' Burg						
BUJE, JIM	9th District	762-3167 508 8th St L' Burg						
BURNS, FRANKLIN	6th District	964-3404 383 LBurg Henryville Eth.						
DOSS, BARRY	3rd District	852-2211 762-1531 66 Shoally Br Rd Leoma						
DRYDEN, JERRY	4th District	762-7118 12 Ingram Rd Leoma						
GABEL, JIM	1st District	852-2899 2773 Hwy 43 POBox 176 Leoma						
GOWEN, JIM	3rd District	852-2221 762-1016 114 Richardson RD Leoma						
GREEN, ROBERT L	2nd District	853-6709 404 N Military PO BX 224 Loretto	X					
MOORE, BOB	2nd District	853-7221 766-1500 11 Samuel Ln Loretto						
MOORE, W. T.	5th District	762-5501 305 Pond Field Rd West Point						
NIEDERGESES, MARK	4th District	762-8078 762-3217 4202 Marie Ln L' Burg						
PERRY, TIM	6th District	762-8007 1136 Eth.Red Hill Rd Ethridge	X	X				
SHANNON, KEVIN	1st District	852-2870 2757 Hwy 43S Leoma						
TURNER, HENRY	7th District	829-2490 37 Mint Spring Rd Ethridge						
WOODALL, GLENN E	8th District	766-1040 1401 Hart Ave L' Burg						
WRAY, JOE R	8th District	762-7419 1403 Beckham Ave L' Burg						

Motion to adjourn made by Robert L. Green; seconded by Tim Perry.

DATE July 9, 2002