



# Baldwin County Commission

## Legislation Text

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**Meeting Type:** BCC Regular Meeting

**Meeting Date:** 4/6/2021

**Item Status:** New

**From:** Matthew Brown, Interim Planning and Zoning Director

**Submitted by:** Matthew Brown, Interim Planning and Zoning Director

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### **ITEM TITLE**

Planning (Zoning) District 11 Election - Making Judge of Probate Order Part of the Record

### **STAFF RECOMMENDATION**

Make a part of the record the attached Order from Baldwin County Judge of Probate setting the date for the Planning (Zoning) District 11 election for May 4, 2021, to be held at:

New Beginning Christian Fellowship Church  
13672 County Road 55  
Foley, Alabama 36535

### **BACKGROUND INFORMATION**

#### **Previous Commission action/date:**

March 2, 2021 - BCC Regular Meeting - Pursuant to Alabama Code §45-2-261.07, take the following actions: 1) Make part of the record the Commission's prior determination that it is not feasible to utilize the Voting Precinct 36 boundary as the Planning (Zoning) District 11 boundary; and 2) Adopt Resolution #2021-056 which certifies the accuracy of the petition for the proposed Planning (Zoning) District 11; and 3) Instruct the Judge of Probate to provide a Zoning Election for Planning (Zoning) District 11, to be held no later than May 31, 2021.

January 5, 2021 - BCC Regular Meeting - Adopt Resolution #2021-039, which rejects the petition for an election that was accepted by the Baldwin County Planning and Zoning Department staff on December 1, 2020, regarding Planning (Zoning) District 11 as said petition does not have the required and minimum amount of petitioners equaling ten percent of the qualified electors (registered voters) of Planning (Zoning) District 11 as required by Section 8 of Act No. 91-719, as amended.

August 4, 2020 - BCC Regular Meeting - Approve the boundaries for the proposed Planning District to be known as Planning (Zoning) District 11.

July 7, 2020 - BCC Regular Meeting - Accept the notice of intent to form a Planning (Zoning) District

and request a referendum for Planning and Zoning purposes for the proposed Planning District to be known as Planning (Zoning) District 11.

**Background:** In 2020, citizens residing in an area north of the Town of Magnolia Springs and north of Planning District 20, approached the Planning and Zoning staff regarding the formation of a new Planning (Zoning) District and the request for a referendum for Zoning in this new district.

The citizen driven effort was led by local citizens Kristin and Hadley Weaver. Alabama Code §45-2-261.07 requires that a new planning district “correspond to a voting precinct or precincts in the county unless the county governing body determines that the use of voting precinct boundaries is not feasible.”

The proposed Planning District 11 lies within Voting Precinct 36. However, it is not feasible to utilize Voting Precinct 36 for the new Planning District 11 boundary because Voting Precinct 36 already contains four areas that are separately zoned, including Planning District 20, Planning District 21, the Town of Magnolia Springs, and portions of the City of Foley.

Because Voting Precinct 36 is not a feasible boundary, Planning and Zoning staff considered other factors to establish an appropriate boundary for the proposed Planning District 11. These factors included:

- The southern boundary is generally contiguous with existing zoned areas (Planning Districts 20 & 21 and the Town of Magnolia Springs) along US Highway 98;
- The eastern boundary generally aligns with properties along the Magnolia River and is limited by the City of Foley municipal limits (note: the eastern boundary line was drawn along the east lines of sections 14, 23, and 26 of T7S R3E);
- The western boundary is County Road 9, which is the border of the Town of Magnolia Springs Extraterritorial Jurisdiction;
- The northern boundary is Underwood Road which is also the northern boundary of Voting Precinct 36;
- The boundary was drawn to focus on protecting the watershed of the Magnolia River.

Based on these factors, Planning and Zoning staff recommended the County Commission approve the proposed Planning District 11 boundaries at the Commission’s August 4, 2020, regular meeting. Planning and Zoning staff recommends the details regarding the infeasibility of using the Voting Precinct 36 boundaries and the considerations used to create the proposed boundary be made part of the record.

A map showing the boundaries of the proposed district is attached to this agenda item.

The steps for exercising Planning and Zoning authority are found in Alabama Code §45-2-261 and the proceeding sections.

1) A party or parties seeking to file a petition shall notify the County Commission in writing that the parties will petition for the formation of a Planning District and the proposed boundaries of the district.

**(COMPLETED)**

2) Within 15 days of notice to the County Commission, the Judge of Probate shall give a preliminary estimate of the number of signatures needed to call the election. Ten percent of the qualified electors residing within the proposed planning district will need to sign the petition. Planning and Zoning staff will notify the Judge of Probate. **(COMPLETED)**

3) The County Commission shall notify the principal party in writing, within 30 days of written notification of intent to request a referendum, that the proposed district is acceptable for planning, zoning and voting purposes, and shall furnish forms for use in seeking the required signatures. **(COMPLETED)**

4) The party or parties will have 120 days to gather the signatures and file the petition. Upon receipt, the County Commission and Judge of Probate will have 45 days to certify or reject the accuracy of the petition. If the number of signatures is not sufficient, the party or parties will have an additional 60 days in which to obtain signatures and have the petition certified. **(COMPLETED)**

5) Upon certification, the County Commission shall instruct the Judge of Probate to provide for an election within the district no later than 90 days after certification. If the petition is not certified, a new petition cannot be refiled for two years. **(COMPLETED)**

Baldwin County Planning and Zoning staff have coordinated with the Judge of Probate and his staff to find an appropriate polling location for the Planning District 11 election. On March 9<sup>th</sup>, 2021, staff met at New Beginning Christian Fellowship Church at 13672 County Road 55 Foley, Alabama 36535, which has been volunteered as a polling location.

The polling location was found to be suitable by the Judge of Probate in coordination with the Baldwin County Building Maintenance staff. On March 10, 2021, the Judge of Probate, Harry D'Olive, issued the attached Order for Planning and Zoning District 11 Election, setting the date of the election for May 4, 2021, at New Beginning Christian Fellowship Church.

The Probate office is running a notice of election in the paper from March 24, 2021 to April 14, 2021.

Planning and Zoning staff will send out notice letters to all registered voters within the district (according to a list provided by the Probate office) and will coordinate with the Baldwin County Public Information Officer to ensure that notice of the election is posted on County social media accounts.

Staff recommends making the Judge of Probate's Order part of the record.

**FINANCIAL IMPACT**

**Total cost of recommendation:** N/A

**Budget line item(s) to be used:** N/A

**If this is not a budgeted expenditure, does the recommendation create a need for funding?**  
N/A

### **LEGAL IMPACT**

**Is legal review necessary for this staff recommendation and related documents?**  
N/A

**Reviewed/approved by:** N/A

**Additional comments:** N/A

### **ADVERTISING REQUIREMENTS**

**Is advertising required for this recommendation?** N/A

**If the proof of publication affidavit is not attached, list the reason:** N/A

### **FOLLOW UP IMPLEMENTATION**

**For time-sensitive follow up, select deadline date for follow up:** N/A

**Individual(s) responsible for follow up:** Commission Administration Office

**Action required (list contact persons/addresses if documents are to be mailed or emailed):**  
Make Judge of Probate's Order part of the record.

**Additional instructions/notes:** Planning and Zoning Department - Provide support as needed, including required mailings and preparation of ballots.