

Frank R. Dillman  
2273 County Road 54 W  
Notasulga, AL 36866

HAND DELIVERED to Chairman Maxwell during PUBLIC COMMENT of July 12, 2021 Macon County Commission meeting

July 12, 2021

Louis Maxwell  
Chairman, Macon County Commission  
101 E. Rosa Parks Avenue  
Tuskegee, AL 36083

Dear Chairman Maxwell,

Clean hands is the principle that always works best for all parties concerned.

As a multi-term public servant elected to office by the voters of Macon County, Alabama, you have accepted your Oath of Office as a contract between the State of Alabama, residents, and yourself to fulfill your ministerial and fiduciary duties faithfully, honestly, and equally for all Macon County residents; swearing your support to the United States and Alabama Constitutions and regulations to the best of your ability.

I have read most of my Open Records requests, many on multiple occasions, to the commission during public comment through October 2020 facing your indifference and willful neglect<sup>1</sup> of your Oath of Office. I have enclosed a list of outstanding requested documents that have not been addressed according to law, see Enclosure (1).

You or an agent of yours received my Registered-Return Receipt letters of October 1, 2020 and October 17, 2020 in my undertaking to resolve my physical removal from an official county meeting. Unfortunately, you chose not to reply to both pieces of correspondence.

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<sup>1</sup> Blacks Dictionary, **Willful neglect** - "A public officer's failure to perform one or more duties imposed by law."

Several recently occurred events are worthy of discussion besides my trampled unalienable rights by the Macon County Commission during the September 14, 2020 budget meeting and years' worth of denials of my verbal and written petitions for public documents.

I am requesting, within 14 days, you and I meet in an office of the Sheriff's Building away from disturbances to come forth with a resolution for each of the following issues; a) providing me with either the requested county documents as listed in the Enclosure or a written explanation why you cannot release the documents, one by one, b) misuse of county equipment, materials, and personnel, c) the county's refusal to accept my registered letters from the U.S. Post Office, d) the county commission "suspending" the Alabama Constitution, e) the county commission implementing the non-compliant yet discriminatory county Public Record policy, f) Macon County's non-compliant announcement of special meetings, and g) my physical removal from a county meeting for my refusal to adhere to the chair's order not to stream the budget meeting.

Each of us may elect to bring someone to the meeting to assist in the effort to resolve these issues.

**a)** Besides my many verbal and written applications for public records denied without justification, these samples are worthy of examination.

a.1) In the county's haste to regulate citizen access to governmental documents, the county commission unanimously ratified the county's public records policy outside of the required administrative procedures to create an ordinance.

a.2) Immediately prior to the September 21, 2017 budget session, I received a copy of the budgetary work document from the Chair which was not well received by Commissioner Robinson. It appears the Commissioners discussed the distribution of an extra copy to me during an Executive Session, declared by the Chair to "discuss" the county public records policy during the meeting. Following the Executive Session, the commission reversed its decision of me having the copy to take part in the meeting and it directed me to surrender the document. Furthermore, the Commission refused my offer to reimburse the county for the copy. The use of an Executive Session is very specific.

a.3) My multiple requests for documents pertaining to citizens cutting and bailing hay on the Road and Bridge compound for personal use is undisputed facts.

a.4) As your 2020 opponent for public service, I requested financial documents not on the Macon County website, MaconAlabama.com (which is months out of date and causing a Google Alert “Deceptive site ahead.”) such as, but not limited to, the status of bonds and federal money owed the county for flood repairs and Covid-19 expenses. The county has not provided the documents or justification for its denial of my request.

a.5) I have lost count in the number of instances where my verbal and written requests for the Macon County Garbage Ordinance has been denied, without justification.

a.6) Alabama Code § 13A-10-12 (a), Tampering of governmental documents is a Class A misdemeanor and is fraud, defined by Blacks Dictionary, “A knowing misrepresentation or knowing concealment of material fact made to induce another to act to his or her detriment. Fraud is usu. a tort, but in some cases (esp. when the conduct is willful) it may be a crime.”

**b)** The Alabama Self-Governance Act is very clear that county equipment, supplies, and personnel are not to be used to enhance personal property and not to be used for other than county services.

b.1) Commissioner **Robinson** had sole access and use of a county pickup truck parked behind his residence for an extended period. Commissioner Berry told me he had never driven the vehicle and had been urging Robinson to return the vehicle to county possession for months. The truck was returned within an “hour” according to Berry after I made an inquiry to the County Engineer.

b.2) In Commissioner **Berry’s** District 4 there are occurrences of bush hogging of residences, I have seen county dump trucks on personal property dropping loads of top-soil, and was told by other property owners’ that gravel and dirt applied to their property, including mine in 1990, as well as removal of storm damaged shrubs and trees by the county.

b.3) Macon County citizen, Mr. Jimmy McGhar, saw a dump truck leaving the Road and Bridge complex late one evening with a load of red-dirt. McGhar’s registered letter to you states he followed the truck, witnessing the driver dropping its load onto personal property. Road and Bridge employee Russ Berry called McGhar that evening, inquiring why he was following his truck. May this be the same truck

parked and stored from the elements on the Road and Bridge complex? A copy of McGhar's letter has also been hand-delivered to you this evening during public comment.

b.4) A John Deere tractor resembling Commissioner Robert Berry's personal tractor was seen stored on the Road and Bridge complex.

b.5) Publicly owned property, including vehicles, buildings, and office spaces are to be used for the benefit and equal use of all citizens. Privately owned farm equipment is used to cut and bail hay from the county owned property on Alabama Highway 199. I was told by Berry that those persons cutting and taking possession of the hay for personal use are cattle ranchers in Notasulga. My letters requesting documents such as the process in selection of farmers, revenue to the county, county liability protection, and names of those farmers have been ignored.

c) The U.S. Postal Service returned the following registered letters to me as "unclaimed" after these letters were accessible to the county for 15 days. While the below May 5, 2021 letters were "unclaimed", my letter to Thompson mailed simultaneously to Commissioners Robinson, Huffman, and Berry was returned for lack of forwarding address, which demonstrates the county was aware of the other May 5, 2021 letters.

c.1) Commissioner Miles **Robinson's** letters and respective USPS tracking numbers: May 5, 2021, 70140510000221984718 and May 27, 2021, 70180360000165454059. Unlike Commissioner Berry, Robinson ignored my email of June 21, 2021 alerting him of my May 27, 2021 letter, while the county refused acceptance of the letter.

c.2) Commissioner Edward **Huffman's** letter with its USPS tracking number: May 5, 2021, 70140510000221984725.

c.3) Commissioner Robert **Berry's** letter with its USPS tracking number: May 5, 2021, 70140510000221984749. Berry personally received my letter of May 27, 2021 on June 24, 2021 upon receiving my email of June 20, 2021 alerting him of the letter after being rejected by the county for 9 days.

The practice of residents having their written communications filtered by the Macon County administration is disconcerting, predictable, and tyrannical and not as our Founding Fathers wrote OUR Founding

Documents, both federal and state. It is my unalienable right to communicate with those elected to represent me.

**d)** You, as Chair and outside your Oath of Office, without comment or objection accepted a nomination, second, witnessed the vote to “hold” requests for public records, and complied with “suspending” the Alabama Constitution during the July 10, 2017 County meeting. Section 21 of the Alabama Constitution applies.

**e)** The implementation of the Macon County Public Records policy was outside of law and therefore is administratively non-compliant. Besides my unalienable rights, this policy violates 42 U.S. Code §1983 because the office I use has a detailed procedure with fees whereas Road and Bridge, the other county office providing public documents, has the authority to set its own policy.

**f)** I brought to the commission’s attention on at least two occasions of the county not complying with law announcing special meetings. During public comment prior to a special meeting with few citizens present, I demanded the county reschedule the public hearing to comply with statute. The chair uncaringly spoke. “point taken,” opened the session, vote conducted, and the meeting adjourned.

**g)** I began streaming county meetings, protected by the Alabama Open Meetings Act, in January 2019 and continued until April 2020 when the Chair wrote me stating only the county would stream the meetings. The County purchased equipment and had an employee on over-time streaming the meetings whereas I as a volunteer cost the citizens of Macon County nothing.

g.1) While I was not disruptive, you, as Chair, had me physically removed from the September 14, 2020 budget session for disregarding “your” illegal rule to not stream county meetings. The commissioners in silence supported your actions, and they too violated my rights by their silence. That evening’s facts were mailed to you in my October 13, 2020 letter, of which you have not replied and therefore are undisputed facts.

g.2) You used your elected public office for an unfair election advantage. After notifying me I could not stream county meetings and beginning in May 2020, you, as an incumbent and my opponent, began streaming county meetings to your personal Facebook page, where you campaigned against me in 2016. Having the sole source for citizens to participate in streamed meetings, you were funneling citizens to where the now-DELETED 2016 campaign Facebook posts existed.

- <https://www.facebook.com/louis.maxwell.33/posts/3302789489747568>
- <https://www.facebook.com/louis.maxwell.33/posts/1464265396933329>
- <https://www.facebook.com/louis.maxwell.33/posts/1464265613599974>
- <https://www.facebook.com/louis.maxwell.33/posts/1464265890266613>
- <https://www.facebook.com/louis.maxwell.33/posts/1464266343599901>
- <https://www.facebook.com/louis.maxwell.33/posts/1467752116584657>
- <https://www.facebook.com/louis.maxwell.33/posts/1473918619301340>
- <https://www.facebook.com/louis.maxwell.33/posts/1476549529038249>
- <https://www.facebook.com/louis.maxwell.33/posts/1479489488744253>

g.3) Serial meetings are addressed in the Open Meetings Act and are not to be used to circumvent conducting government business before its citizens. Several of the commissioners appeared to be aware of the March 5, 2020 confidential telephone conversation with you, County Attorney, Americans Disability Act representative, and myself regarding my ADA complaint prior to the March 10, 2020 County Commission meeting. However, there were no announced meetings between the telephone conversation and the county meeting.

g.4) The official minutes of the March 10, 2020 meeting is void of the discussion to the elimination of district meetings because of lack of funding for adequate public address system related to my ADA complaint.

You have been in office for many years and have attended numerous political conferences and seminars of your Association of County Commissioners of Alabama, Therefore; you know that you have a higher obligation than the average citizen to comply with state and federal regulations, not restricted to but including the Alabama Open Meetings Act, Alabama Open Records Act, Limited Self-Governance Act, United States Constitution, 42 U.S. Code §1983, and the Alabama Constitution.

I remind you of Article 1, Section 2, Alabama Constitution which is very clear in the people holding “all political power” in government “instituted for their benefit.”

Because of your willful negligence to uphold your fiduciary and ministerial duties to the people, you without immunity have trampled my unalienable rights to open and accountable government. I have experienced verbal abuse and mis-spoken truths from the commission, continued financial and emotional injuries, and unnecessary personal sacrifices because of your violations of your Oath of Office.

Please provide me a photocopy of your Oath of Office, policies guaranteeing faithful performance of duties relevant to your service to Macon County and provide me three dates at different hours when we may meet to discuss a resolution to each of these issues in the Sheriff's Building.

Because of the County Administration not accepting my U.S. Postal Service mail, it is necessary for me to hand-deliver this correspondence, making another 40-mile round trip to return to a county meeting for the first time since October 2020.

Respectfully, reserving all rights, known and unknown, and waiving none,

Frank Dillman

Encl: (1) Unresolved Open Records requests

CC: United States Attorney General, Merrick Garland  
Acting, United States Attorney, Middle District Alabama, Sandra J. Stewart  
State of Alabama Attorney General, Steve Marshall  
State of Alabama Secretary of State, John Merrill  
Fifth Judicial Circuit District Attorney, D. Jeremy Duerr  
Macon County Sheriff, Andre Brunson  
Reporters Committee for Freedom of the Press

Unresolved Open Records requests, submitted in letter and designated county form and read, some multiple times, to the commission during its official county business meetings during public comment.

2015-11-19	WEX Purchase Activity and Site Summary Reports
2016-03-22	2015 county licensed business in electronic format, follow-up on April 11, 2016.
2017-08-24	Wireless microphone equipment.
2017-09-21	Verbal request for FY2017 budget papers you granted me minutes before the budget session and ordered its return minutes into the session. added requests on October 10, 2017, November 13, 2017, and December 11, 2017 for the approved FY2018 budget.
2017-10-17	Financial Report provided commissioners for October 2017 meeting.
2017-12-11	Financial Reports provided commissioners for October, November, December 2017 and January 2018 meetings.
2017-12-18	Requestors of public records.
2018-02-12	Financial Report provided commissioners at the March 2018 meeting.
2018-05	Garbage Ordinance, verbally on court-house steps, email follow-up on May 13, 2018, and verbally again during public comment at the June 11, 2018 county meeting.
2019-03-11	FY2019 budget, verbally and verbally again on July 8, 2019.
2020-03-12	and April 13, 2020 for telephone records of March 5, 2020 to March 10, 2020. Your reply on April 21, 2020 “The County does not have any records that will show the person or number called, since all calls coming out the county system will only show the Caller ID as (334) 727-5120,,there were no calls or texts between the Chairman and any Commissioner during the period in questioned [sic],” No discussion or records provided for incoming calls during March 5, 2020 to March 10, 2020 as requested.
2020-09-15	County financial status documents, bond contracts with remaining balances, and amount of state and federal funding owed the county.
2020-09-15	Documents related to the possible arson of a dump truck.
2020-09-15	County property in possession of citizens.
2020-09-15	Possible dove shoot
2020-09-20	Live stream requestors for county meetings.
2020-09-28	FY2021 budget
2020-12-14	Authority to remove me from public county meeting.
2020-12-14	Authority to forbid citizens from live streaming county meetings.
2021-01-07	Minutes of County official meetings since August 10, 2020 and FY2021 budget as requested on 28Sep2020 because not on county website.
2021-04-05	Assigned county mobile phone and corresponding county invoices for December 2020 to May 2021
2021-04-06	Corrected 5Apr2021 request for December 2020 to March 2021