

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

Hand delivered this **Declaration of Facts** during Monday, April 11, 2022 Public Comment segment of the Macon County Commission meeting.

April 11, 2022

Ernest Magruder
District 3 Macon County Commissioner
101 E. Rosa Parks Avenue
Tuskegee, AL 36083

Dear Commissioner Magruder,

The legal doctrine, Clean Hands is the principle that always works best for all parties involved.

During the November 8, 2021 County Commission meeting, I verbally requested county documents supporting Chairman Louis Maxwell's 200 fuel purchases, amounting to \$4,899.61, see enclosure.

Previously, I have brought to your attention the Alabama Open Records Act requires government to provide access and copies of government business associated documents to its citizens.

The Alabama Supreme Court held because government bears the burden to furnish its documents to the public, it is incumbent upon government to provide a justification of denial should the request not be satisfied.

To date, the Commission has not provided the travel itinerary documents nor an explanation of denial.

The Oath of Office you accepted is the same as the Oath of Office accepted by other members of the Commission. Accordingly, you are responsible for upholding laws as the other members of the Commission.

Therefore, I request you ensure the fulfillment of my Open Records request with the documents mailed to me at 2273 County Road 54 West, Notasulga, AL 36866 for receipt or a written justification of denial of the records by Wednesday, April 20, 2022.

Best,

Frank R. Dillman

Encl: Open Records request of March 14, 2022 for fiscal accountability for Chairman Louis Maxwell's fuel purchases.



COUNTY PUBLIC RECORDS REQUEST FORM

Macon County Courthouse: 101 E Rosa Parks Avenue, Tuskegee, Alabama 36083

Date:	Time:	Received by: (initials)

Information Requested:

Copies of supporting county documents justifying fuel purchases with WEX card(s) assigned to Chair as delineated in attached letter. REQUEST docs NLT Dec 8, 2021. Further REQUEST the county's intent of fulfilling this request NLT Nov. 16, 2021. Mail the county's intent & documents to me at the below address.

THE FOLLOWING MUST BE COMPLETED

Name: (please print legibly)	Frank Dillman	Phone:	334.740.4217
Address:	2273 C.R. 54 W.	City/State/Zip:	Notasulga, AL 36866
Signature:		Organization:	NONE, a concerned citizen. Hand delivered to chair during Macon County Nov 8, 2021 mtg public comment.

- **COST:** The County is permitted by law to recoup reasonable costs incurred in providing public records which can include retrieval, research, and duplication and preparation time. The requestor will be provided in advance with estimated cost for materials, labor, and shipping or delivery.
- **INSPECTION OF PUBLIC RECORDS:** When a public inspection of records is requested, a custodian of those records must oversee inspection, retrieval, and re-filing. Appointments must be scheduled in advance. A labor charge will be imposed as set out herein.
- **MATERIALS:** The cost of copies sized 8.5 x 11 or 8.5 x 14 inches is **\$1.00 per page**. Charges for maps, plats, and other large documents are set by the applicable department. Fees are due whether the records are provided by paper or emails.
- **LABOR:** No labor charge is imposed when a nominal amount of staff time is needed to respond to a request. Charges for requests requiring more than **15 minutes** of staff time are based upon the hourly based rate of pay for the least-paid employee of the applicable department who can respond to the request, multiplied by the actual time worked, and is computed on the basis of quarter hours, rounded up. Labor charges are in addition to the per page or DVD costs specified above and are due and payable even if no records responsive to the request are located, or in the event the requested records are subsequently determined to be exempt from disclosure.
- **DEPOSIT:** A deposit is required when the **Office of the County Administrator** determines that more than **one (1) hour** of staff time will be needed to respond to a request. If the final cost is less than the deposit, the difference will be refunded; if greater, the additional cost must be paid prior to delivery or review of the records.
- **FORM OF PAYMENT:** Deposits and final costs for records may be paid by cashier check, or money order.

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

Hand-delivered during public comment, Macon County Commission meeting on Monday, March 14, 2022.

March 14, 2022

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.

During the public comment on November 8, 2021, I hand-delivered to you a Statement of Facts concerning your fuel purchases and an Open Records Request for supporting county documents the county required travel necessitating the purchases of fuel.

I am writing for the second time to afford you the opportunity to correct or dispute any of these facts stated in the November 8, 2021 document and to provide the requested documents and the document contained,

“Per Open Records Act, I want the county travel documents supporting travel prompting the purchases of fuel on the following dates and locations.

Date	Fuel Type	Location
Nov 17, 2012	Premium	Macon County
Nov 17, 2012	Regular	Lee County
Dec 25, 2012	Premium	Lee County
Dec 26, 2012	Regular	Macon County*
Dec 31, 2012	Regular	Macon County
Jan 21, 2013	Premium	Macon County
Jan 29, 2013	Premium	Lee County
Jan 31, 2013	Premium	Lee County
Feb 8, 2013	Premium	Lee County
Mar 1, 2013	Premium	Lee County
Mar 6, 2013	Premium	Lee County
Mar 12, 2013	Diesel	Montgomery
Arp 3, 2013	Regular	Macon County*

Apr 10, 2013	Premium	Montgomery*
Apr 14, 2013	Premium	Lee County*
Apr 20, 2013	Premium	Montgomery*
Apr 27, 2013	Premium	Lee County*
May 2, 2013	Premium	Lee County*
May 2, 2013	Regular	Lee County*
May 17, 2013	Premium	Lee County
Aug 7, 2013	Premium	Lee County
Nov 4, 2013	Regular	Lee County
Nov 11, 2013	Premium	Montgomery
Dec 24, 2013	Regular	Pike Road
Dec 30, 2013	Regular	Macon County
Dec 31, 2013	Premium	Lee County*
Feb 8, 2014	Premium	Pike Road*
Feb 16, 2014	Premium	Lee County*
Feb 16, 2014	Regular	Macon County
Feb 18, 2014	Regular	Greenville, MS
Feb 18, 2014	Regular	Maplesville, AL*
May 8, 2014	Regular	Montgomery
Jun 8, 2014	Regular	Lafayette, AL*
July 30, 2014	Regular	Pike Road
Aug 4, 2014	Regular	Stapleton, AL
Aug 10, 2014	Regular	Pike Road*
Aug 13, 2014	Regular	Pike Road*
Oct 3, 2014	Regular	Pike Road*
Nov 14, 2014	Regular	Pike Road
Nov 27, 2014	Regular	Pike Road
Dec 18, 2014	Regular	Town Creek, AL
Jan 11, 2015	Regular	Macon County
Jan 11, 2015	Regular	Macon County*
Jan 13, 2015	Diesel	Lee County
Jan 13, 2015	Regular	Macon County
Jan 19, 2015	Other Fuel	Macon County
Jan 21, 2015	Regular	Lee County
Jan 21, 2015	Regular	Macon County
Feb 5, 2015	Regular	Macon County
Feb 5, 2015	Regular	Macon County
Feb 12, 2015	Regular	Macon County
Feb 12, 2015	Regular	Macon County
Mar 6, 2015	Regular	Montgomery
Apr 16, 2015	Regular	Kennesaw, GA
Apr 17, 2015	Regular	Tuscaloosa
Apr 29, 2015	Regular	Montgomery

Apr 29, 2015	Premium	Lee County
May 7, 2015	Regular	Montgomery

“*” are purchases made between 6:01 pm and midnight

These purchases are from 200 county purchases between November 5, 2012 and May 26, 2015 made with a gas card assigned to you. Of the 200 purchases 140 were in Macon County (\$3,342.76), 25 were in Lee County (\$419.51) and 28 were in Montgomery County (\$716.66) for a total of \$4,879.61. The volumn of purchases may appear to be overwhelming, therefore, please provide the purpose of county related travel no later than **December 8, 2021**.

I respectfully request you inform me no later than **November 16, 2021** of your intentions, ability, and estimate cost to retrieve the data and copies to fulfill this request for public documents.

I look forward to your supporting documents mailed to Frank Dillman, 2273 County Road 54 West, Notasulga, AL 36866.“

To date, I have not received your reply.

Alabama Open Records Act §36-12-40 which provides “[e]very citizen has a right to inspect and take a copy of any public writing of this state, except as otherwise expressly provided by statute.

Having sworn to “perform and discharge the duties” of Chairman, Macon County Commission, which includes the responsibility to either provide the requested document or a justification of denial.

“[B]ecause there is a presumption of required disclosure, the party refusing disclosure shall have the burden of proving that the writings or records sought are within an exception and warrant nondisclosure of them,” [and] “[t]he Stone exceptions were not intended, nor shall they be used, as an avenue for public officials to **pick and choose** (emphasis applied) what they believe the public should be made aware of.” **Blankenship v. City of Hoover, 590 So. 2d at 245 (1991)**.

I look forward to, should you desire, receiving your written comments and disputing any of the above facts and the requested public documents in compliance with the Open Records Act and case law at 2273 County Road 54 West, Notasulga, AL 36866 by Tuesday, March 29, 2022.

Best,

Frank Dillman