

LOUDON COUNTY COMMISSION
Loudon County, Tennessee
Tuesday January 21, 2020
County Office Building
6:00 P.M.

SPECIAL CALLED MEETING

Agenda

1. Opening of Meeting / Roll Call
2. General Public Comments
3. Consideration of Ambulance Contract
4. Money Allotment for Study on New Annex Placement
5. MOU Between Loudon County & Lenoir City
6. TDOT Resolution
7. Adjournment

Mail

Calendar

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Memorandum of Understanding
 L. Russell Johnson [lrjohnson@tndagc.org]

Sent: Tuesday, January 07, 2020 1:11 PM

To: rlbowman@kramer-rayson.com; 'gharrison0425@gmail.com'; Green, Anita; chief9021@gmail.com; nick.spangler@ag.tn.gov; zachary.hinkle@ag.tn.gov

Cc: Jeff Wicks [judge.jeff.wicks@tncourts.gov]; Robert C. Edwards [rcedwards@tndagc.org]; William J. Bassett [wjbassett@tndagc.org]

Loudon County Mayor Bradshaw

Lenoir City Mayor Aikens

Loudon County Attorney Bob Bowman

Lenoir City Attorney Gregg Harrison

Below is the email that I sent to the Attorney General's Office before Christmas. Senior Assistant AG Nick Spangler and Chief Deputy Assistant AG Zach Hinkle called me back last Friday to discuss the email. While they cannot issue a formal opinion to local government officials and cannot give Judge Wicks advice on this issue, they did confirm that they agreed with my analysis of the current statute as set forth in the email hereinbelow and essentially gave us the proverbial 'green light' to hold criminal court jury trials in the Lenoir City City Hall City Courtroom..... They agreed that it would help to have an memorandum of understanding between the County and the City that we can make part of the record setting forth all of the reasons that this arrangement is necessary and to track the language of the statute wherein it becomes a building located inside Loudon County (but outside of the City of Loudon) that the County is using for the purpose of judicial proceedings. We can then put the MOU of record in the Court and refer to it at the appropriate pre-trial hearing so that the defendant has the opportunity to object or not. The AG's office feels that this arrangement is defensible upon appeal. Judge Wicks is in the process of reaching out to the AOC for separate advice and counsel.

I know that there is a City Council meeting next Monday where this MOU can be approved, according to Mayor Aikens. I am not sure about the procedural timeline for the County. We are currently in Loudon Term with jury trials scheduled, the most important of which is

the multiple co-defendant trial referred to in the email below that is scheduled to begin January 28th.

I do not want to presume to draft an MOU to which I am not a party. I will leave that to the County Attorney and the City Attorney, but I am available as needed. - Russell Johnson

NOTE - That both AG Spangler and Hinkle are on this email as well as Judge Wicks

Russell Johnson

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From: L. Russell Johnson
Sent: Wednesday, December 18, 2019 10:58 AM
To: Robert C. Edwards
Cc: Jeff Wicks
Subject: draft request for AG opinion - please review and advise

Tennessee State Attorney General -

I am writing to request guidance in the form of an informal opinion or a formal opinion, if necessary, regarding the ability of 9th District Criminal Court Judge Jeff Wicks to use the Lenoir City - City Court Courtroom for the purpose of holding Loudon County Criminal Court including jury trials on felony cases including upcoming murder trials because the Loudon County Courthouse burned in April of 2019 and is unavailable for holding court.

The City of Loudon is the 'county town' or county seat of Loudon County. Lenoir City is a municipality in Loudon County but is, obviously, not the county seat. The Loudon County Courthouse burned in April of 2019 and that is where the only courtroom for Criminal Court, Circuit Court and Chancery Court were held before the

fire. Since the fire occurred last Spring the state trial courts have been using a modified city council meeting room in the old Loudon City Hall. This room is not large enough and the facilities are not sufficient from a space, jury comfort or inmate security standpoint, especially for several anticipated murder cases, one of which alleges gang affiliation of the co-defendants.

There is no other building suitable within the city limits of the county seat to hold these jury trials. There is a 'justice center' located outside of the city limits of the City of Loudon which location is on Hwy 11 between Loudon and Lenoir City. This justice center contains the old Loudon County Jail and the new Loudon County Jail which is still under construction. This justice center also holds two small general sessions courtrooms, neither of which is substantial enough or capable of jury trial use.

The City of Lenoir City has a larger, secure and suitable courtroom located in its City Hall. Lenoir City's Municipal (or City) Court is a court with concurrent general sessions jurisdiction. This courtroom is located in a building owned by the City of Lenoir City. This building is not currently used by Loudon County for any purpose.

The Loudon County Commission has not yet determined whether to rebuild, remodel or reconstruct the now burned courthouse. The County Commission has not yet determined whether nor where to build a new courthouse.

Issues of speedy trial and the day to day operations of the justice system in Loudon County are putting the administration of justice in peril for the citizens of Loudon County. Judge Jeff Wicks and District Attorney General Russell Johnson are seeking other options and would like for the State Attorney General to opine on the ability of the Criminal Court of Loudon County to be held, at least for jury trials, in the courtroom located in the City of Lenoir City's City Hall.

We have reviewed TCA 5-7-105, AG Opinion Nos. 03-060 and 05-122 as well as the Rules of Criminal Procedure on change of venue. Our concern is that most defendants, especially in a murder trial, are not going to voluntarily and affirmatively waive their right to be tried in a courtroom located in the county seat if refusing to waive may provide

them some procedural or tactical advantage in their trial or on appeal.

In researching the matter it appears that TCA 5-7-105(b) provides some guidance in that it was enacted in 2006 after the repeal of TCA 16-2-106 through 16-2-104 in part [which might affect the fact that the Loudon County Justice Center was built outside the county seat in 1974]. This subsection would appear to allow us to hold Criminal Court outside of the county seat of Loudon in the Loudon County Justice Center; however, as already mentioned, those two small courtrooms are not suitable for the same reason that the newly modified Loudon City Hall courtroom is also not suitable.

This same subsection would appear to allow us to hold Criminal Court in a building not located within the county seat where the County is using said building [presumably as a 'criminal justice building or facility']. The Lenoir City City Hall is not a building or facility constructed as a 'criminal justice building or facility' nor is it a building or facility that the county is using as 'criminal justice building or facility'. Instead, it is a building purchased from SunTrust Bank by the City of Lenoir City, remodeled as a city hall by the City of Lenoir City and now used by the City of Lenoir City - not Loudon County.

We may be splitting hairs and all that may be required is for the City of Lenoir City and Loudon County to enter into a memorandum of understanding for the courtroom facilities to be used as a temporary justice center for the limited purpose of Criminal Court for jury trials, juror empaneling days or for such other purposes as the Criminal Court Judge may require.

Please review this information and provide Criminal Court Judge, my office and the Loudon County Bar Association some guidance so we can move forward in January on these murder trials. Please also let me know what more information you may need.

Russell Johnson
9th District Attorney General

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