

MINUTES

Cherokee County Board of Commissioners

MARCH 2 and 16, 2010

REGULAR MEETING

6:00 P.M.

CALL TO ORDER

CHAIRMAN AHRENS

Chairman Ahrens called the combined regular meeting of March 2 and March 16 of the Cherokee County Board of Commissioners to order at 6:06 p.m. on Tuesday, March 16, 2010. Those in attendance were Vice Chair/Commissioner Harry B. Johnston; Commissioner Jim Hubbard; Commissioner Karen Bosch; Commissioner Derek V. Good; County Manager Jerry Cooper; County Clerk Sheila R. Corbin; Agency Directors/Department Heads; the media and the public. Paul Dzikowski in for Angie Davis.

PLEDGE OF ALLEGIANCE

"Veterans of U.S. military service may proudly salute the flag while not in uniform based on a change in the governing law on 25 July 2007"

Presentation of the flag and the Pledge of Allegiance was led by the Cherokee County Fire and Emergency Services Explorers Post #469 Honor Guard

The National Anthem was played by James Stokely; other members of the Honor Guard were Daniel Thatcher, Jake Byrd, Daniel Henao and Sarah Deblois.

RECOGNITION

Chairman Ahrens and the Board of Commissioners recognized the Cherokee County Fire and Emergency Services Explorer Post #469 members who once again placed first in 2 of the events at the annual Winterfest 2010 competition, one being the Advanced EMS event, marking their first year in this competition.

Training Chief Eddie Robinson thanked the Board for their continued support and then gave a summary of the activities which took place during the competition, saying they were all very proud of the Explorers.

AMENDMENTS TO AGENDA

The Chairman read the six amendments which were: (1) Under Announcements-add Nominations for RLI (ARC Regional Leadership Institute); (2) Under Announcements-add recognition of "Georgia Rides to the Capitol 2010" on Tuesday, March 23; (3) Under Chairman-brief Census update; (4) Under Requests-Approve date for advertisement for public hearing to take comments on Alcoholic Beverage Ordinance amendments;

(5) Under County Manager - add Amendments to the "Death Benefits" portion of the Defined Benefits plan; (6) Move from Requests the public hearing for GDOT 5311 Rural Transportation Program and make the third public hearing.

After the Chairman finished reading the amendments, Commissioner Hubbard made the motion to approve; Commissioner Bosch seconded and there was unanimous approval.

ANNOUNCEMENTS

Chairman Ahrens announced a Proclamation for Georgia Census Week to urge citizen participation in completing and mailing back the Census form.

Commissioner Bosch announced she is having a Town Hall meeting on Tuesday, March 23 at 6:30 p.m. in the Community Room at Cherokee County Fire Station 22, located at 9550 Bells Ferry Road, Canton; discussion will include the new park at Kellogg Creek Road and Victoria Road.

Chairman announced the availability of the ARC Regional Leadership Institute nominations. **AMENDMENT**

Chairman announced the "Georgia Rides To The Capitol" on Tuesday, March 23 to raise support for the development of a regional scale bicycle network of both on-road facilities and multi-use trails, and cycling connections to major transit facilities, activity centers, and schools. The web site is <http://www.georgiaridestothecapitol.org> for more information. **AMENDMENT**

APPROVAL OF WORK SESSION MINUTES FROM FEBRUARY 16th

When Chairman Ahrens asked for a motion to approve the Work Session Minutes as submitted by the Clerk, Commissioner Hubbard made a motion to approve; Commissioner Bosch seconded and the motion received unanimous approval.

APPROVAL OF REGULAR MEETING MINUTES FROM FEBRUARY 16th

When Chairman Ahrens asked for a motion to approve the Regular Meeting Minutes as submitted by the Clerk, Commissioner Good made the motion to approve; Vice Chair/Commissioner Johnston seconded and there was unanimous approval.

PUBLIC COMMENT

Mr. Steven Deal of 1475 Kellogg Creek Road asked to speak about property and the houses on the property that the County had purchased for parks near him that were causing considerable concern because they were in such bad shape and not secure against "squatters and rodents". **Mr. Tom Ware** said that he wanted to voice his opposition to the attempt by the City of Woodstock to annex a portion of I-575 through the legislature;

he said he felt like they were looking for another revenue generator. When the Chairman asked if anyone else wished to speak, **Mr. David Stukas** of 2435 Westland Way, stood up and said that he had signed up on the wrong sheet, but he wanted to speak about his neighbors and their attempt to be a very loud “heavy metal” band which was disturbing his peace and tranquility. Mr. Stukas said he would like to see the noise ordinance changed to reflect lowering the level of noise and the hours when there could be no disturbances.

PUBLIC HEARING

From March 2 Agenda: To consider an appeal from Justin Drive 1, LP regarding the denial by the Zoning Board of Appeals to the reduction of the required 200 foot setback (for animal care facilities) to 95 feet.

Commissioner Hubbard made a motion to open the public hearing at 6:35 p.m.; Commissioner Bosch seconded and the vote was unanimous to open. Mrs. Vicki Taylor Lee came up and explained the reason for the appeal. First to speak in favor was Jack Arnold from the Ownership Group, who owns the shopping center where the applicant wishes to open an upscale indoor animal care facility; next Ms. Lorre LaMarca, the applicant, who explained the reason for the request saying that the area she was requesting the reduction for would be used to take the dogs in her care out for potty breaks during the day. It would not be used to leave the dogs outside for any long periods of time.

There were no others in favor, so the Chairman called for the first person who had signed up in opposition, Mr. Bob Tunis, who stated that he lived on Justin Drive, and was also president of the HOA who were concerned about the possible noise and smells. When Mr. Tunis was finished, the Chairman asked Mr. Roy Taylor, who is the current Chairman of the Zoning Board of Appeals to come up. Mr. Taylor said that the members of the Zoning Board of Appeals believed that this request was not in their purview and that was why they had voted to deny. After Mr. Taylor sat down, the Chairman allowed Mr. Arnold to come back up and rebut some of the points made by the opposition. Motion to close the public hearing at 7:05 p.m. was made by Commissioner Bosch; Commissioner Hubbard seconded and the vote was unanimous to close. The board then discussed for a short time.

Commissioner Hubbard made a motion to postpone decision until April 6; Commissioner Bosch seconded and the motion to postpone was approved by a vote of 4-1 with Vice Chair/Commissioner Johnston voting nay.

March 16 Agenda: To consider a request that the official zoning map of Cherokee County be amended to rezone property owned by Cherokee County on Priest Road from R-40 to RTH. Commissioner Hubbard made a motion to open the public hearing at 7:17 p.m.; Commissioner Bosch seconded and the motion was unanimous to open.

Mr. Geoff Morton gave a brief explanation for the request, which had also been explained at the Work Session by Vicki Taylor Lee. There were no speakers. Commissioner Bosch made a motion to close the public hearing at 7:18 p.m.; Commissioner Hubbard seconded and the motion was unanimous to close.

Commissioner Bosch made the motion to approve as submitted on 2.2 acres with all original zoning conditions applicable; Commissioner Good seconded and there was unanimous approval.

AMENDMENT - Required GDOT public hearing to take comments for the GDOT 5311 Rural Transportation Program

Commissioner Hubbard made a motion to open the public hearing at 7:22 p.m.; Commissioner Good seconded and the vote was unanimous to open. Dr. Jackie McMorris gave a brief explanation for the public hearing saying that as a part of the annual application for funds from the program, it is required to advertise and take comments from the public. There were no speakers. Commissioner Hubbard made the motion to close the public hearing at 7:23 p.m.; Vice Chair/Commissioner Johnston seconded and the vote was unanimous to close. No action necessary.

REQUESTS

From March 2 Agenda

To set a public hearing for April 20th to consider the adoption of the Airport Area Master Plan as a minor amendment to the Comprehensive Plan

Commissioner Hubbard made a motion to advertise the public hearing for April 20; Commissioner Bosch seconded and the vote was for unanimous approval.

To set a required public hearing for GDOT application for 5311 Rural Transportation Program-submission of application was approved February 16 - **MOVED BY AMENDMENT TO PUBLIC HEARINGS**

AMENDMENT - Request to advertise a public hearing on April 20 to consider amendments to the Alcoholic Beverage Ordinance

Commissioner Bosch made a motion to approve; Commissioner Hubbard seconded and there was unanimous approval.

UNFINISHED BUSINESS Postponed from February 16

CASE NUMBER : 10-01-001
APPLICANT : Dean Woodall Investments, LLC.
ZONING CHANGE : AG to GC
LOCATION : Hwy 20
MAP & PARCEL NUMBER : 22N12, Parcel 036
ACRES : 55.66
PROPOSED DEVELOPMENT : Business Commercial
COMMISSION DISTRICT : Post 1
FUTURE DEVELOPMENT MAP : Suburban Growth/ Neighborhood Village/
Scenic Corridor

PLANNING COMMISSION RECOMMENDATION: Motion for approval failed.

Vice Chair/Commissioner Johnston made the motion to approve as the following: Approve the re-zoning as a mixture of General Commercial (GC) and Neighborhood Commercial (NC). GC zoning will apply to western portion of the property, specifically defined as all property lying within 1, 100 feet of the western property boundary along Upper Sweetwater Trail. The remainder of the property will be zoned NC. **Condition:** A 125 foot buffer to be left adjacent to all residentially and agriculturally zoned properties to the south of the property, with the outer 100 feet to remain undisturbed. The inner 25 feet may be disturbed and landscaped.

Commissioner Hubbard seconded and there was unanimous approval.

COMMISSION BUSINESS

CHAIRMAN L. B. AHRENS

From March 2: *Update of Legislative Activities, in particular HB 365 regarding TSPLOST*

Chairman Ahrens said that this bill would amend the SPLOST legislation to add Transportation as a specific category; and that he, Commissioner Bosch and Mr. Cooper had met with Representative Earl Ehrhart, who is a strong advocate of the bill to let him know of Cherokee County's interest in getting the bill passed.

March 16: *Request from the Board of Tax Assessors to consider the re-appointment of Larry Berry, whose term expires on March 27th and Dennis Conway, whose term expires on April 1st.*

Commissioner Hubbard made the motion to approve reappointments; Commissioner Good seconded and there was unanimous approval.

Opportunity Zone update **AMENDMENT**

Chairman Ahrens said the most recent map from DCA included almost all of the properties that we wanted. We are still negotiating for a handful of parcels that the Development Authority owns. It would be fair to say that we are 90-95% in agreement about the map.

Guns and Hoses 5K **AMENDMENT**

Chairman Ahrens stated the “Guns and Hoses Run” event this year was very successful with 407 runners competing. Sheriff’s Office or Guns had 195 signed up and their charity was CASA, who will receive \$975; the Fire Department or Hoses had 212 signed up and their charity was the Kaleidoscope House and will receive \$1060. This is the fourth year that this event has been held.

Recap of action at called meeting of Resource Recovery Development Authority - Deleted

Update on Census **AMENDMENT**

Chairman said that some 70,000 reminder cards had gone out in water bills from the Water & Sewer Authority and there were print ads planned.

VICE CHAIR/COMMISSION POST 1 **HARRY B. JOHNSTON**

COMMISSION POST 2 **JIM HUBBARD**

Appointing Joann Hamilton to Animal Control Advisory Board, effective April 1 to fill the remainder of Debra Haynes (who is moving out of state) term, which expires December 31, 2012.

Elizabeth Semler to the Planning Commission, effective April 1 to fill the remainder of Debra Haynes term, which expires December 12, 2012.

Both of these are individual appointments, therefore no action by the board is necessary.

COMMISSION POST 3 **KAREN BOSCH**

COMMISSION POST 4 **DEREK V. GOOD**

Appointing Joey Gilkey to the Cherokee Parks and Recreation Advisory Board to complete the remainder of Kenny Smoak’s term, which expires December 31, 2010
Individual appointment

CONSENT AGENDA

From March 2 Agenda:

1. Reimbursement of mileage and expenses of \$532.50 for Chairman Ahrens for the period of 9/1/2009 to 2/4/2010
 2. Approval of bid for the repair and replacement of one septic holding tank to two separate tanks for improved usage at J.J. Biello Park/Twin Creeks Softball Complex to Welch Plumbing in the amount of \$10,250
 3. Approval of bid and purchase of tilt trailer for Park Operations from Nettie Ga. Trailer Sales in the amount of \$4,195 to be used to transport scissor lift
 4. Approval of bid and purchase of core aerifier for Park Operations from Jerry Pater Turf in the amount of \$16,703.95
 5. Approval of bid and purchase of verti-cutter for Park Operations from ChemEquip in the amount of \$7,600
 6. Request to consider approval to accept five traffic signals (I-575 NB @ Towne Lake Parkway, I-575 SB @ Towne Lake Parkway, State Route 92 @ Bells Ferry Road, State Route 92 @ Robin Road, and State Route 92 @ Wade Green Road) from GDOT for operation and maintenance by Cherokee County
 7. Consideration and approval of standard agreement between Cherokee County Fire and Emergency Services and Medix College to provide clinical rotations for Medix College EMT-1 students, contingent upon County Attorney review and approval
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March 16 Agenda:

8. Consider approval of a grant of underground electric easement to Sawnee EMC at Sequoyah Park
9. Consider approval of a grant of underground electric easement to Cobb EMC at Riverside/Biello Park
10. Consider approval of a Professional Services Agreement with Quality Tire Recycling, LLC, to perform tire recycling and disposal services for the Cherokee County Fleet Services facility

After Mr. Cooper completed reading the Consent Agenda items, Commissioner Bosch made a motion to approve the Consent Agenda from March 2 and March 16; Commissioner Good seconded and there was unanimous approval.

COUNTY MANAGER

From March 2 Agenda:

11. Request to award bid and contract for new/replacement fencing for multiple County parks to Mauldin & Cook in the amount of \$299,745

Commissioner Hubbard made a motion to approve; Commissioner Bosch seconded and the motion was unanimously approved.

12. Request to renew 2011-2012 Georgia Department of Human Services (DHS) 5310 application for transportation of elderly persons and persons with disabilities

Vice Chair/Commissioner Johnston made the motion to approve; Commissioner Hubbard seconded and there was unanimous approval.

13. Request approval and acceptance of Homeland Security Grant for SWAT equipment for Cherokee Sheriff's Office in the amount of \$251,000 with no matching funds required; naming J. Robby Westbrook as Applicant's Agent.

Commissioner Bosch made the motion to approve; Commissioner Good seconded and there was unanimous approval.

14. Consider selection of Architectural/Engineering Team for the City of Canton Park Project, and award of standard professional services contract to HDR Engineering in the amount of \$275,000; contingent upon county attorney review and approval

Vice Chair/Commissioner Johnston made a motion to approve; Commissioner Hubbard seconded and the motion was unanimously approved.

15. Consider selection of Architectural Firm for design of renovations to former City Club, and award of standard professional services contract to JKH Architects in the amount of \$38,500; contingent upon county attorney review and approval

Commissioner Hubbard made the motion to approve; Commissioner Bosch seconded and there was unanimous approval.

March 16 Agenda

16. Consider approval of bid and contract from Beatty Construction Company, Inc., for the installation of three (3) CATS bus shelters in the City of Canton, in the amount of \$47,362.00. (Using ARRA funds)

Commissioner Hubbard made a motion to approve; Vice Chair/Commissioner Johnston seconded the resulting vote was for a 4-1 approval with Commissioner Good voting nay.

17. Consider approval of proposals from Mitigation Credit Sales, LCC in the amount of \$56,900.00 for purchase of stream mitigation credits, and Foxwater, LLC in the amount of \$30,750.00 for purchase of wetland mitigation credits, required to satisfy Army Corps of Engineers permitting for the construction of the Priest Road/Hunt Road Connector project

Commissioner Bosch made a motion to approve; both Commissioners Hubbard and Good seconded and there was unanimous approval.

18. Consider approval of a proposal and contract from Sunbelt Structures, Inc., for the construction of the Priest Road/Hunt Road Connector Project, in the amount of \$2,197,433.66

Commissioner Bosch made the motion to approve; Commissioner Good seconded and the result was a unanimous approval.

AMENDMENT - Request approval to amend Defined Benefit Retirement Plan, specifically an amendment to Death Benefits, changing to annuity benefit

Commissioner Bosch made a motion to approve; Commissioner Good seconded and there was unanimous approval.

COUNTY ATTORNEY

March 16 Agenda

19. Consider the revocation of Alcoholic Beverage Licenses held by Chang Chun Wu for violating Section 6-4, subsection b-5 and b-7 and Section 6-20, subsection d-4 of the Cherokee County Alcoholic Beverage Ordinance

Paul Dzikowski explained the request and then called for Dwayne Casteel, Deputy County Marshal, to come forward and give his account of the case against Mr. Wu. Before Marshal Casteel could speak, Mr. Mike Bray, attorney for Mr. Wu, said that he would like to ask for a continuance until May 15, as his client is out of the country. A majority of the board members said no, proceed with the show cause hearing.

Marshal Casteel stated that the initial violation with subsequent guilty plea goes back to 2007, when Mr. Wu was cited for violating Section 6-102, which requires that the violator maintain a manager's permit for the location. Mr. Wu was also audited for compliance with the food sales requirement must be equal to or more than 60 percent of total sales and he did not have adequate alcohol and general sales receipts to verify the same. There was a partial agreement worked out between the Marshal's Office and Mr. Wu's attorney, Mr. Bray, at the time where Mr. Bray agreed to certain conditions requiring bringing the establishment into compliance within 6 months.

Marshal Casteel said that the violations cited on December 18, 2009 were for violations to Article 1-Section 6-20(d)(4) Failure to provide requested records for audit; and for Environmental Health Not keeping facilities clean and sanitary as shown at Code Section 290-5-14.07(5)(b). On November 13, 2009 the Cherokee County Sheriff's Office carried out a search warrant on the premises at the Buffalo House located at 6889 Highway 92 in Woodstock in the course of an investigation for illegal video gambling machines and Mr. Wu was arrested as a result of that investigation and charged with operating a commercial gambling establishment. The Marshal's Office assisted the Sheriff's Office on that date for the purpose of conducting an audit on alcohol sales; Mr. Wu could not provide any daily sales receipts for food/alcohol sales to verify his monthly reports and he was told he would need to provide those records.

When Deputy Marshal Casteel finished, Mr. Bray asked him a few questions and noted to the board that he had filed Objections to all the charges against Mr. Wu. Mr. Dzikowski responded saying that Mr. Bray's objections had been noted, however they lacked merit. Following Deputy Casteel, Lt. Jamie Gianfala from the Sheriff's Office also testified to their investigation, the subsequent raid and arrest of Mr. Wu for operating a commercial gambling establishment. During the raid, the Sheriff's Office confiscated 11 electronic gaming machines and a substantial amount of cash that was used to pay the winners. Mr. Wu pled guilty in Superior Court on December 22, 2009 and was sentenced to 5 years probation and fines.

Commissioner Good made the motion to follow the Marshal's recommendation to revoke the alcoholic beverage licenses, effective midnight tonight, of Chang Chun Wu dba Buffalo House; Commissioner Bosch seconded and the motion received unanimous approval.

Commissioner Bosch said that she would like to make a statement for the record regarding Mr. Steven Deal's earlier comments about the parkland property on Kellogg Creek Road and Victoria Road. She wanted to state that the property and houses will be visited tomorrow with the intention of boarding them up, cleaning up the areas around them and ultimately taking them down, in order to alleviate the concerns of the neighbors.

ADJOURN

When the Chairman asked if there was any other business, hearing none Commissioner Hubbard made a motion to adjourn the meeting at 8:55 p.m.; Commissioner Bosch seconded and there was unanimous approval.

These Minutes were approved at the regular meeting on April 6, 2010.

