

MINUTES

Cherokee County Board of Commissioners

OCTOBER 19, 2010

REGULAR MEETING

6:00 P.M.

CALL TO ORDER

CHAIRMAN

Chairman Ahrens called the regular meeting of the Cherokee County Board of Commissioners to order at 6:05 p.m. on Tuesday, October 19, 2010. Those in attendance were Vice Chair/Commissioner Harry B. Johnston; Commissioner Jim Hubbard; Commissioner Karen Bosch; Commissioner Jason Nelms; County Manager Jerry Cooper; County Attorney Angie Davis; County Clerk Sheila R. Corbin; Agency Directors/Department Heads; the media and the public.

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"

AMENDMENTS TO AGENDA

There were 4 Amendments-(1) Proclamation designating October as Community Planning Month; (2) Under Announcements – add Effective November 1, 2010 Credit Card payments will be accepted at the Development Service Center for all types of permits; (3) Under Announcements – Cherokee Parks and Recreation received "Honorable Mention" designation for the 2010 Excellence in Youth Sports Award; (4) Under Consent Agenda- add Request by District Attorney for approval of continuation of the application for "STOP VAWA" Criminal Justice Improvement Grant.

After the Chairman read the Amendments, Commissioner Bosch made a motion to approve the Amendments; Commissioner Nelms seconded and the motion received unanimous approval.

PROCLAMATION

AMENDMENT

Designating October as **Community Planning Month**

Chairman Ahrens read the Proclamation and presented to Jeff Watkins, Vicki Taylor Lee and Margaret Stallings in conjunction with National Community Planning Month to recognize the valuable contributions made by the Planning and Land Use staff.

ANNOUNCEMENTS

Advanced Disposal wants you to donate your old cell phones in honor of Veteran's Day – Advanced Disposal is teaming up with the City of Woodstock and Cell Phones for Soldiers to collect used cell phones in honor of Veteran's Day. During the week of November 8, Advanced Disposal will place Cell Phones for Soldiers donation bags in various locations around the City and the Woodstock Annex at 12453 Hwy. 92 is a designated drop-off site. The proceeds from the recycled cell phones will provide soldiers serving overseas with prepaid calling cards to communicate with their families back home. If you would like to donate old cell phones, please e-mail partnerships@AdvancedDisposal.com for the closest Advanced Disposal drop off location.

40 under 40 – Georgia's Best & Brightest

A Cherokee County resident, **Clint Mueller**, and who is the Legislative Director for ACCG (Association County Commissioners of Georgia) is among Georgia Trend magazine's 2010 group of honorees, the 14th, which showcases young achievers in business, government, politics, education and nonprofits. The 40 under 40 are individuals who are making an impact on their professions, their communities or, in some cases, the entire state and are being hailed as the cream of the crop; the individuals you will be hearing about for years to come. Clint lives in Acworth with his wife, twin boys, a 5 year old girl and another girl due this month.

AMENDMENT Effective November 1, Credit Card payments accepted at the Development Service Center for all types of permits and business licenses

AMENDMENT Cherokee Parks and Recreation received "Honorable Mention" designation for the 2010 Excellence in Youth Sports Awards from the National Alliance for Youth Sports (NAYS)

Vice Chair/Commissioner Harry Johnston announced that the new park being constructed on Alison Lane off Highway 20 will be named "Cherokee Veterans Park" in honor of the men and women who served from Cherokee County.

Commissioner Karen Bosch announced that the park being constructed at Kellogg Creek will be called "Patriots Park" in honor of the victims of 9/11.

PUBLIC COMMENT None.

APPROVAL OF WORK SESSION MINUTES FROM OCTOBER 5, 2010

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 Nelms seconded and the motion received unanimous approval.

APPROVAL OF REGULAR MEETING MINUTES FROM OCTOBER 5, 2010

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

PUBLIC HEARING

- (1) Consideration of the abandonment of a portion of East Rope Mill Road located in Land Lot 634, 15th District, 2nd Section – Geoff Morton

Commissioner Hubbard made the motion to open the public hearing at 6:16 p.m.; Vice Chair/Commissioner Johnston seconded and there was unanimous approval.

Mr. Morton explained that the request had come from the Executrix of the Estate of Geraldine Emery, Mrs. Betty Mize, through her attorney, Mr. Bobby Dyer.

Chairman Ahrens called the speakers who were for the abandonment first. Mr. Dyer was the first speaker and stated that the property on both sides of the road was owned by the estate and the portion they were asking to be abandoned was a small piece between East Rope Mill Parkway and Highway 5; a purchaser for the property located adjacent to the Chevron had asked that this small piece be included to make it easier to develop. Mr. Dyer also said that there had never been any right-of-way deeds done for the road by Geraldine Emery, that it was obvious that the original road that ran through the property was done using prescriptive right-of-way. However, the road had been previously closed and in 2005, the Cherokee Water and Sewer Authority had re-opened the road but had run the roadway away from the original roadway, at that point, and more into Mrs. Emery's property. Mr. Dyer said that Mr. Greg Schultz, who was an attorney for the developer/purchaser had also signed up to speak. Chairman Ahrens called Mr. Schultz up and when he came forward, he brought Mr. Brad Howard, an engineer, who Mr. Schultz said had made some conceptual drawings to show the board as well as a PowerPoint presentation. Mr. Schultz was not able to load the presentation, so he just did a visual explanation, using the drawings and showing various exhibits depicting the design of the roadway before and after abandonment. Vice Chair/Commissioner Johnston asked if the other property owners affected had been contacted about donating their right-of-way and Mr. Schultz said they had not.

Three had signed up to speak in opposition, the Chairman called Mr. Glenn Bishop who said he was one of the property owners who had not been contacted and he didn't know where the previous information came from, that the State had purchased the easement on that property, it had nothing to do with anyone else.

Mr. Bishop said that he and his brother, Mr. James Connell had a duplex apartment there on the property they owned and when the road was closed for a period of time, their apartment burned because the fire trucks couldn't get to them. Mr. Bishop said that the State owned the easements because it was done when they had widened the bridge on Rope Mill Road. He and his brother are definitely opposed to closing the road. The Chairman called Mr. Connell next and he said his brother had spoke for him. Chairman Ahrens called Mr. Tommy Ripley, who said he owned Rope Mill Business Park and he had never seen anything about moving the road over; he said he had 14 buildings in his park and only 1 vacancy currently. He had tried to talk to most of his tenants and they just want to keep the road open; he also said he was going to be out of town starting tomorrow for 2 weeks, so if they wanted to talk to him, it better be tonight. Mr. Ripley had someone from his business Park on the road, Mr. Jimmy Bocca, who had not been early enough to sign up, Mr. Ripley said he is not opposed to improvements on the road at all. The Chairman allowed Mr. Jimmy Bocca to come up and speak, he said he was a new tenant in the Rope Mill Business Park and had opened a auto body shop specializing in exotic cars and custom restorations. He said he had 8 employees at the time and expects to double that in 6 months and they use the road on a daily basis and are very concerned about it being closed; it is the only safe way to get to Highway 5. This was the last speaker.

Commissioner Hubbard made the motion to close the public hearing at 6:42 p.m.; Commissioner Bosch seconded and there was unanimous approval.

During discussion, Commissioner Bosch asked what would be the next step, and said that it might be a legal question, but she would be in favor of meeting with the parties to see what they could come up with. Mrs. Davis said that this was new information to her but the legal standard on abandonments was that a determination must be made that the road is not used by the public any longer and this does not meet that standard. Mrs. Davis said that the most viable option would be to meet with the parties and work a solution to benefit all concerned. Commissioner Hubbard said that was his thought when he met with some of the people on Friday afternoon. Vice Chair/Commissioner Johnston said that he would make a motion to leave the road open but we coordinate with the property owner and/or representatives to allow relocation of the road in a manner that provides equal or better access from Rope Mill Parkway to old Highway 5, with costs to be borne by the property owner and/or developer of the property. Commissioner Hubbard seconded. After lengthy discussion between board members as to whether action was necessary tonight, determining it was not necessary, Mrs. Davis asked for the withdrawal of the motion. Vice Chair/Commissioner Johnston withdrew his motion; Chairman Ahrens seconded the withdrawal.

Commissioner Hubbard made a motion to postpone a decision until November 16 to give the parties 30 days to work out a solution; Commissioner Bosch seconded and the motion received unanimous approval.

REQUEST

Request to set public hearing for November 16 to consider modification of Zoning Condition #2 of Case No. 03-11-057 Beazer Homes–Vicki Taylor-Lee

Vicki said this property was now known as Hampton Station and the request was to change Condition #2, which said all homes will be 1,600 square feet minimum to 1,300 square feet on a small piece of property in the southwest corner of the development. Vice Chair/Commissioner Johnston made the motion to advertise public hearing for November 16; Commissioner Hubbard seconded and the vote was for unanimous approval.

REQUEST

Request to set two public hearings for November 16; one is to consider changes to the Zoning Ordinance related to Zoning Districts and Permitted Uses as it relates to the implementation of the Community Agenda; the second is to consider rezoning 13.7 acres on Old Howell Bridge Road from HC to GC, specifically tax parcels 03N01 070 and 03N01 072-Margaret Stallings

Margaret came up and said she was going to briefly go through the PowerPoint presentation that illustrates the second part of the Community Agenda Implementation project; they had identified the commercial/industrial districts and the permitted uses table. During the development of the text amendments, they had done an analysis of commercial and industrial districts; developed the new table; created the reference sections; and looked for other areas of the Zoning Ordinance that would be impacted by these changes. Margaret concluded the presentation saying that the next step would be to hold the public hearing. Commissioner Bosch asked for a copy of the PowerPoint. Commissioner Hubbard made a motion to advertise the public hearing for November 16 to consider the changes to the Zoning Ordinance; Commissioner Nelms seconded and there was unanimous approval.

Commissioner Hubbard also made the motion to advertise a public hearing for November 16 for the County initiated re-zoning of the 13.7 acres on Old Howell Bridge Road; Commissioner Bosch seconded and this motion received unanimous approval.

ZONING SUMMARY FOR OCTOBER 5, 2010

CASE NUMBER : 10-08-019
APPLICANT : Lisa Armstrong
ZONING CHANGE : R-40 to AG
LOCATION : 456 Payne Drive
MAP & PARCEL NUMBER : 15N16, Parcel 075
ACRES : 2.0
PROPOSED DEVELOPMENT : Rural Residential
COMMISSION DISTRICT : Post 2
FUTURE DEVELOPMENT MAP : Suburban Living

PLANNING COMMISSION RECOMMENDATION: Denial with request for consideration of a BOC variance contingent upon documentation of adjacent property owner's permission for use as pasture and riding trails.

After Mr. Watkins read the case summary and said that as of today, their department did not have the documentation requested. Commissioner Hubbard asked if Ms. Armstrong was present, when she stood up, the Chairman told her to come up to the podium. Mr. Kenny Rivera came up with her and said that he and Ms. Armstrong had purchased the property together and he was not able to come to the Planning Commission hearing. Commissioner Hubbard asked if they had gotten documentation from their neighbor that they could use one or more acres of that property. Mr. Rivera said they had not. After some further discussion with Commissioner Bosch finally stating that what was really bothering her was the board was doing something that is not allowed for any other applicant. They go through the planning commission and have the public hearing then. There is two weeks after that the board can discuss things and now we are giving you a chance that we don't give anybody else. And she wanted to express that concern. Commissioner Hubbard made the motion to deny the rezoning to AG; Commissioner Nelms seconded and there was unanimous approval.

OLD BUSINESS

Postponed from September 21, 2010

CASE NUMBER : **10-09-020**
APPLICANT : Janice Stewart
ZONING CHANGE : R-40 to GC
LOCATION : 5742 Bells Ferry Road
MAP & PARCEL NUMBER : 15N06 Parcel(s) 104 & 105
ACRES : 16.38
PROPOSED DEVELOPMENT : Commercial Mixed Use
COMMISSION DISTRICT : Post 4

FUTURE DEVELOPMENT MAP : Bells Ferry LCI Corridor

PLANNING COMMISSION RECOMMENDATION: Denial

Mr. Watkins said that the applicant had sent a letter requesting withdrawal without prejudice. Commissioner Nelms made a motion to accept the letter of withdrawal without prejudice; Commissioner Bosch seconded and there was unanimous approval.

Postponed from August 17, 2010

CASE NUMBER : 10-08-017
APPLICANT : George & Patricia McLain
ZONING CHANGE : R-80 to GC
LOCATION : 5008 Sugar Pike Road
MAP & PARCEL NUMBER : 02N06, Parcel 017
ACRES : 5.7
PROPOSED DEVELOPMENT : Office
COMMISSION DISTRICT : Post 2
FUTURE DEVELOPMENT MAP : Country Estates

PLANNING COMMISSION RECOMMENDATION: Denial

Commissioner Hubbard made the motion to approve as O&I with the following conditions: 1) No concrete mixing, pouring, or finishing on site except in conjunction with on-site improvements; 2) No concrete trucks on-site, vehicles limited to 12 parked overnight behind installed fencing; 3) Site improvements in compliance with submitted plans dated 09-08-2010, including fencing and landscaping. Plans to be recorded (attached) to Resolution. Vice Chair/Commissioner Johnston seconded and there was unanimous approval.

COMMISSION BUSINESS

CHAIRMAN

L. B. AHRENS

Update: Regional Transportation Bill - HB 277

The Chairman said he wanted to give an order of magnitude in dollar value of this bill; year 2010-2040, the Atlanta region estimated dollar value of projects, expansion and maintenance is \$170 billion dollars.

That's about \$55 million for existing road maintenance, bridges, repair; about \$115 billion for expansion. Of the \$115 billion for expansion, half for transit and half for roads. The availability of resources, excluding Federal funding/sharing is \$65(?) so you have a \$100 billion dollar shortfall.

The second item is the Roundtable which will, effectively, term the criteria, establish an Executive Committee and eventually approve projects to be included in the list for that proposed funding. Those meetings of the Roundtable will be taking place this month on October 27, November 18 and December 17 to begin that process.

Atlanta Airport expansion - feasibility study

There is a capacity study for Atlanta Metropolitan Aviation that was started in August and will complete in March, 2011. The study is to indentify if there is one or more sites where it is feasible to build a second airport. The FAA forecasts that Hartsfield-Jackson will be at capacity before 2025. 75% of the originating passengers begin their travel to the airport from a location north of I-20. In the first phase, 29 sites were looked at. In the second phase, that number has been narrowed down to 8. The message to you here is that one of the 8 is in fact Cherokee County Airport.

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

COMMISSION POST 2 **JIM HUBBARD**

COMMISSION POST 3 **KAREN BOSCH**

Request from Northwest Georgia Region 1 EMS Council to renew the appointment of Chief Danny West, whose term will expire in January, 2011, with a new term ending date of January, 2013

Commissioner Bosch made the motion to re-appoint Chief Danny West to new term expiring in January, 2013; Commissioner Nelms seconded and the vote was for unanimous approval.

Update: SPLOST website and information

Commissioner Bosch said there is now an easier to read presentation on the SPLOST Committee's web site at www.KeepThePenny.com that makes it much simpler to find the answers to questions about the new SPLOST and what it will be used for by the County and the cities who participate.

COMMISSION POST 4 **JASON NELMS**

CONSENT AGENDA

1. Approval of budget amendment/transfer for repair/replacement of damaged Milling Machine Conveyor-from Insurance Recovery to Repairs and Maintenance \$15,228.24
2. Approval of budget amendment/transfer of 2010 Bullet Proof Vest Grant of \$15,271.33 received from Bureau of Justice Assistance for purchase of bullet proof vests
3. Consideration of execution of Quit Claim Deed for easement rights in conjunction with the abandonment of Hendrix Drive in 2009
4. Approval to renew contract with Southern Sheriff's Supply for the provision of Commissary Services for inmates at the Adult Detention Center
5. Approval to renew contract with Consolidated Telecom for the provision of telephone service and equipment for use by inmates at Adult Detention Center
6. Request approval for full replacement of LP Gas Emergency Generator for E-911 at the Public Safety radio communications tower at 1219 Univeter Road; and award bid to Power and Energy Services for \$13,803.

AMENDMENT - Request approval for continuation application for "STOP VAWA" Criminal Justice Improvement Grant for District Attorney's Office (STOP VIOLENCE AGAINST WOMEN ACT)

Commissioner Hubbard made a motion to approve the Consent Agenda; Vice Chair/Commissioner Johnston seconded and the Consent Agenda received unanimous approval.

COUNTY MANAGER

7. Request approval and award of bid and contract to Trinity Services Group, Inc. for the provision of food service to the inmates and staff of the Adult Detention Center of \$575,000.

Commissioner Bosch made the motion to approve; Commissioner Nelms seconded and the motion received unanimous approval.

8. Request approval to award bid and contract for Detention Center Lighting Controls to MW1 Electrical Contractors, Inc. for \$34,115. from the Department of Energy Conservation grant

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

9. Request approval to enter into Intergovernmental Agreement with the City of Woodstock to install County public safety radio equipment onto a city owned water tower on Neese Road

Commissioner Nelms made the motion to approve; Commissioner Hubbard seconded and the vote was for unanimous approval.

10. Consideration of approval of Intergovernmental Agreement between Cherokee County and the City of Mountain Park for the paving of an emergency access road over a dam, using Roads and Bridges, at a cost of \$13,600—contingent on approval of terms by County Attorney

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

11. Request approval of public-private partnership agreement with Goodwill Industries of North Georgia, Inc. to assist with Recycling Operations at Hobgood Park

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

12. Consideration of AFIS/NEC* Maintenance Contract for the Sheriff's Office in the amount of \$66,874.88 (NEC Automated Fingerprint Identification System)

Commissioner Nelms made a motion to approve; Commissioner Bosch seconded and the vote was for unanimous approval.

COUNTY ATTORNEY

13. Approval for a temporary pouring license for "Tomorrow's Luminaries Foundation" for a non-profit special event on October 31, 2010 at the Chukkar Farm and Polo Club on Little River Way

Commissioner Hubbard made the motion to approve; Commissioner Nelms seconded and the vote was for unanimous approval.

14. **Alcoholic Beverage Violation** – Marshal's Office requests 15 day suspension of alcoholic beverage license followed by 12 month probationary period. Alcoholic beverage sold to person under age of 21 at Jordan's Quick Mart located at 5234 Little Refuge Road. This is first offense. (Continued from September 21st)

After Mrs. Davis asked Deputy Dwayne Casteel to make his case and he explained the charge and gave the recommendation shown above, Mrs. Davis asked Mr. Billy Hasty, the attorney for the licensee, if he had any questions for Deputy Casteel. Mr. Hasty answered no, he would just like to give some background on the licensee and the Clerk who was charged, as well as their version of the event. When Mr. Hasty concluded, Vice Chair/Commissioner Johnston asked Deputy Casteel some questions regarding his recollection of events in this case. Deputy Casteel explained the actions of the person and his observations during this time period. Deputy Casteel said that if he had known some of what Mr. Hasty told before hand, he could have brought the tape because the person he sent in was wearing a wire, and it would have given a different version than what was told. He also said that Mr. Hasty had said she had pleaded nolo in Magistrate Court, but he had an order signed by Judge Drane that she had pleaded guilty. After some discussion, Vice Chair/Commissioner Johnston said he would move to motion to impose the 12 month probation, but in lieu of the 15 day suspension, he would impose a 7 day suspension, effective midnight October 19, 2010; Commissioner Hubbard seconded and there was unanimous approval.

15. **Show Cause Hearing** – Consider revocation of Business License issued for a Home Occupation to Azteca Landscape Maintenance at 462 Victoria Road, Woodstock (Postponed from September 21 to allow for final citation court date of October 12)

Deputy Kevin Roach came forward and gave a chronological timeline beginning with the issuance of a business license in August, 2004; at this time, the address was listed as 6359 Bells Ferry Road, Lot 159 in Acworth. Deputy Roach had documentation signed by Ms. Spears acknowledging the receipt of a copy of the Home Occupation Ordinance that she had read, understood and would comply with the standards for a home occupation.

There are documents from the Business License Department that show the business transferred to 462 Victoria Road on 2/1/10 under the same owner's name. Complaints started being received on January 27, 2010 that equipment and material was being stored outside the residence at 462 Victoria Road, which was visible from the roadway and adjoining properties. On the date of February 18, 2010 Deputy Roach issued a first citation to Ms. Jamye Spears, two others were issued after that for the same violations for which she pled guilty and received a fine from Magistrate Court. On August 6, a citation was issued to Jamye Spears for violation of Section 9.3-11 which states "no more than two vehicles shall be utilized" and "no commercial licensed vehicles" after observations by Deputy Roach of 3 trucks with signage for the business on them. This citation received a fine of \$675.00 and 30 days probation from the Magistrate Court.

When Deputy Roach finished, Mrs. Davis asked Ms. Spears to come forward with any information she might have for the board. Mrs. Spears said she had pictures of changes that she wanted to give to Commissioner Bosch. Commissioner Bosch said she did not have any questions. Mrs. Davis said if there were no questions, then a motion could be made.

Commissioner Bosch made the motion to accept the Marshal's recommendation to revoke the business license. Commissioner Bosch said that she would like to state that this business had outgrown the home occupation intent and while she appreciates the changes that have been made, perhaps it is time to find another location for the business. Commissioner Nelms seconded and Mrs. Davis asked to clarify a time period for removing equipment and materials from the location. Commissioner Bosch said she would amend her motion to include a 30 day time period; Commissioner Nelms amended his second and the vote was for unanimous approval.

ADJOURN

Chairman Ahrens asked if there was anything else to come before the board, hearing none, Commissioner Hubbard made the motion to adjourn the meeting at 8:14 p.m.; Commissioner Nelms seconded and the motion received unanimous approval.

These Minutes were approved at the regular meeting on November 2, 2010.