

MINUTES

Cherokee County Board of Commissioners

January 8, 2013

Regular Meeting

CHEROKEE HALL 6:00 PM

INVOCATION

Commissioner Johnston gave the invocation.

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"

Commissioner Johnston led the Pledge of Allegiance.

CALL TO ORDER

CHAIRMAN AHRENS

Chairman Ahrens called the regular meeting to order at 6:05 p.m. Those present included Commissioner Harry B. Johnston; Commissioner Raymond Gunnin; Commissioner Brian Poole; Vice Chair/Commissioner Jason Nelms; County Manager Jerry Cooper; County Attorney Ken Robbins; County Clerk Christy Black. Also present were Agency Directors/Department Heads; the media; and the public.

RATIFY CLOSURE OF EXECUTIVE SESSION

The Chairman called for a motion to ratify closure of Executive Session at 5:58 p.m.

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

AMENDMENTS TO AGENDA

None.

ANNOUNCEMENTS

Chairman to welcome new Commissioners.

Chairman Ahrens welcomed Commissioner Raymond Gunnin and Commissioner Brian Poole to the Board. He made mention of Vice-Chair/Commissioner Nelms being seated to his right rather than in District order as before.

He then commented that he hoped everyone voted earlier today, that it was a very important election for both the Senate and the House. He wished everyone a prosperous, healthy New Year. He added that as for the County, he was very optimistic and said that we are off to a good start and hopefully the economy will help us out this year.

APPROVAL OF EXECUTIVE SESSION MINUTES FROM DECEMBER 18, 2012.

As distributed by the County Manager.

Commissioner Johnston made a motion to approve; Commissioner Nelms seconded with Chairman Ahrens abstaining due to his absence at that meeting and Commissioners Gunnin and Poole abstaining as new members to the Board. The resulting vote was approval 2-0.

APPROVAL OF WORK SESSION MINUTES FROM DECEMBER 18, 2012.

Commissioner Nelms made a motion to approve; Commissioner Johnston seconded with Chairman Ahrens abstaining due to his absence at that meeting and Commissioners Gunnin and Poole abstaining as new members to the Board. The resulting vote was approval 2-0.

APPROVAL OF REGULAR MEETING MINUTES FROM DECEMBER 18, 2012.

Commissioner Nelms made a motion to approve; Commissioner Johnston seconded with Chairman Ahrens abstaining due to his absence at that meeting and Commissioners Gunnin and Poole abstaining as new members to the Board. The resulting vote was approval 2-0.

PUBLIC HEARING

The Cherokee County Board of Commissioners will hold a public hearing on Tuesday, January 8, 2013 at 6:00 p.m. in Cherokee Hall at the Cherokee County Administration Building, 1130 Bluffs Parkway, Canton, Georgia for an Exceptional Variance to the TND ordinance at 5808 Highway 92.

Commissioner Nelms made a motion to open the Public Hearing at 6:09 p.m.; Commissioner Gunnin seconded and there was unanimous approval.

Margaret Stallings gave a brief description of the property located in the Bells Ferry overlay. She said the property adjacent to the west is a residence in the Hwy. 92 overlay which would allow a restaurant anyway and the property on the other side is a body shop.

The applicant, Ms. Romtvedt, spoke about her intentions to open a sit-down restaurant to provide food to the citizens.

No one had signed up to speak at the hearing.

Commissioner Johnston made a motion to close the Public Hearing at 6:11 p.m.; Commissioner Nelms seconded and there was unanimous approval.

Commissioner Johnston read the proposed resolution. Commissioner Nelms made a motion to approve; Commissioner Johnston seconded and there was unanimous approval.

Commissioner Johnston commented that he thought a sit-down restaurant was fine but not a drive through restaurant. Margaret Stallings said that a drive through restaurant even with the approved variance would not be allowed.

PUBLIC COMMENT

One person had signed up to speak.

1. Carolyn Cosby signed up to speak about financial matters.

ZONING CASES

None Scheduled.

COMMISSION BUSINESS

CHAIRMAN

L. B. AHRENS

- A. Reminder of Retreat dates: January 17 and January 18 at Barnsley Gardens, beginning at 3:00 p.m. on January 17 and concluding by noon on January 18. Agenda topics of discussion include, but are not limited to: Review of 2012 and Outlook for 2013, Cherokee County Strategic Plan, Ethics Ordinance, Lifelong Communities and Economic Development.

The Chairman went over the dates and topics of the retreat and announced that the venue would be at the Lake Lanier Home of Commissioner Harry Johnston and there would be essentially no cost to the County, including the cost of food. He added that the directions would be posted to the County's website prior to the retreat.

B. Request to rename County road entrance to Georgia National Cemetery.

The Chairman read a letter of request by Mr. Tom Doner of the Georgia National Cemetery Advisory Council. The letter states that the property where the cemetery is located was donated by Mr. Scott Hudgens, a WWII Veteran. Therefore, the Council is requesting that the mile to mile and half roadway from GA Hwy. 20 to the actual entrance of the cemetery be renamed Scott Hudgens Drive.

Commissioner Johnston made a motion to approve the renaming of the entrance to the veterans cemetery to Scott Hudgens Drive; Commissioner Nelms seconded and there was unanimous approval.

C. Accept the resignations of three current members of the Resource Recovery Development Authority and assign three citizens to the Board with immediate effect.

The Chairman stated that to formalize the reconstitution of the RRDA, the Board was recommending the three new members of the RRDA for a vote. He said that the Board had committed in the fall to appoint the three new members on January 1 or when a new contract was executed which has not happened. He said the Board will also accept the de facto resignations of former Commissioner Hubbard and former Commissioner Bosch as well as the resignation of Commissioner Nelms.

The Chairman asked if the new Commissioners had any thoughts regarding the appointment of the new members. Neither Commissioner offered comments.

The Chairman then made a motion with immediate effect to appoint Tom Ware, Jeff Duncan and Troy Welker to the RRDA Board; Commissioner Nelms seconded and there was unanimous approval.

The Chairman added that the commitment made in the fall included to appoint the remaining two citizen members by July 1, 2013 or maybe even more than two.

D. Discussion of vacancy on the Region One DBHDD Planning Board.

The Chairman read through a few details from a notice from the Georgia Department of Behavioral Health & Developmental Disabilities regarding a vacancy on the DBHDD Region One Planning Board. He said the Board was looking for candidates with experience in particular areas and that informational packets including applications were located on the table out front. He said that if anyone were interested, they could contact the Board.

E. Etowah River Water Trails Resolution.

The Chairman began by saying the project was an effort to get an organized 163 mile water trail on the Etowah River.

He then asked Mr. Tom Kowalski of the Etowah River Water Trails Advisory Committee to speak about the proposed resolution. Mr. Kowalski said that GA water law is peculiar in that to legally float down the river if someone owns the property on both sides of the river you must be able to prove that there has been a public easement of passage for more than 20 years. The public easement of passage has to be established before the National Parks Services will help with funding and to have the local government formalize this by resolution is the easiest way. He added that this is basically formalizing something that everyone already knows you can do.

Chairman Ahrens added that other counties involved and have provided river access are Lumpkin, Dawson, Forsyth, Bartow and Floyd.

Commissioner Johnston clarified that the resolution was not creating a law, but expressing a desire of the Board to keep that passage way available and recognizing that that rights exists as a public easement of passage established by more than twenty years of regular and open travel by boat on the Etowah River in Cherokee County. He added that he had paddled down the Etowah River more than twenty years ago himself.

Chairman Ahrens then read the proposed proclamation.

Commissioner Nelms made a motion to approve; Commissioner Gunnin seconded; Commissioner Poole abstained, stating that he wanted to know a little more about it and the resulting vote was approval 4-0.

F. Review of draft reply to Grand Jury recommendations per letter dated December 2012.

The Chairman read through five or six key points of the draft response to the Grand Jury Presentments. This resolution is included and spread upon the minutes. He said that if all was in order, it would be provided to the DA in the morning, assuming that it passes tonight. He added that again, if passed, the executed resolution would be scanned and available on the County's Transparency Page tomorrow.

The Chairman asked Commissioner Johnston if he would like to comment on the CAFR (Comprehensive Annual Financial Report) related to RRDA assets and the County ledger books. Commissioner Johnston said as discussed in Work Session, where the big ledger books with entries were once used, this system has been mechanized and the County uses the software MUNIS for their accounting system which is what he thinks of as the County's ledger book. MUNIS does not include RRDA property according to government accounting standards. He added that some property was listed in the CAFR because this report consolidates the County's assets with the Development Authority's assets which is an affiliate entity.

Commissioner Johnston made a motion to approve; Commissioner Nelms seconded; Commissioners Poole and Gunnin abstained as being new members of the Board and the resulting vote was approval 3-0.

COMMISSION DISTRICT 1

HARRY B. JOHNSTON

COMMISSION DISTRICT 2

RAYMOND GUNNIN

- A. Appointments to various Boards and Committees.

Commissioner Gunnin appointed Chris Hampton to the Cherokee Recreation and Parks Advisory Board. He appointed Robert Nealey to the Fire Code of Appeals Board. He made a temporary reappointment to the Planning Commission, having Elizabeth Semler stay on until the January case is heard. He said he would make an appointment to that board possibly at the next meeting, as well as other appointments to various boards.

COMMISSION DISTRICT 3

BRIAN POOLE

- A. Appointments to various Boards and Committees.

Commissioner Poole made the following appointments: He appointed Robert Stozier to the Cherokee County Parks and Recreation Advisory Board; he temporarily reappointed Charles Kirby to the Planning Commission Board until the January case could be heard; he named Joe Long as his regular appointment to the Planning Commission Board effective after the next meeting; he appointed Nancy Carson to the Animal Control Advisory Board; he appointed Bill Long to the Cemetery Preservation Committee; he appointed Mark Marlow to the Impact Fees Appeals Board; he appointed Wayne Stewart to the Wrecker Advisory Board; he appointed Tony Perry to the Construction Board of Appeals; he appointed Lee Poole to the Fire Code of Appeals Board.

VICE CHAIR/COMMISSION DISTRICT 4

JASON NELMS

- A. Appointment to the Cherokee Recreation and Parks Advisory Board.

Commissioner Nelms appointed Scott Schug to fill the remaining term of Mark Goddard which expires on December 31, 2014.

CONSENT AGENDA

- 1.1 Consideration to approve lease of space in the Historic Courthouse for Congressman Gingrey's Office.

Mr. Cooper said that the lease before them provides for reimbursement of a prorated share of utilities, janitorial and other costs. He said that after discussion with Angie Davis, he would like to propose a lease rate versus a reimbursement of utilities in order to be in compliance with the gratuities clause of the Constitution of the state of Georgia. He said the proposed rate would be a range between \$600 and \$900 per month and that he would try to keep it as close to \$750 a month as he could. He said that the intent was to cover the County's cost and equal to a market rent.

Commissioner Johnston asked if this would be approximately \$10 per square foot. Mr. Cooper replied that it would be.

Commissioner Nelms made a motion to approve Consent Agenda; Commissioner Johnston seconded and there was unanimous approval.

COUNTY MANAGER

2.1 Consider approval of the 2013 Tax Anticipation Note (TAN) which represents a temporary loan of \$1,264,900.00 to be received in January 2013 and repaid in December 2013 with an interest rate of 4.75%.

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

2.2 Consider approval of lease agreement for the use of Trinity Church gym for the Cherokee Youth Basketball (CYB) Program for practices and games. Cost is covered within the CYB Program budget.

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

2.3 Consider approval to purchase pipe and manhole inspection camera for the Roads and Bridges Department from Environmental Products of Georgia in the amount of \$15,275.00. A second quote was received by Public Works Equipment in the amount of \$17,995.00.

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

2.4 Consider approval of Professional Services Agreement with Rhonda D. McClendon & Associates to perform a forensic audit related to the BGR/Boho Project in the

amount of \$75,000.00 with authorization for additional funds if necessary as approved by the Board of Commissioners.

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

2.5 Consider approval to award the construction contracts to the lowest responsible bidders, with the most responsive bid proposals as follows: City of Canton Etowah River Park project to Georgia Development Partners, LLC, in Atlanta GA for the proposed contract amount of \$3,385,769.99; County Park at Killian Site project to W.E. Contracting in Acworth in the proposed contract amount of \$3,139,360.00.

Mr. Cooper went over the details of this item presented as two separate motions for each project.

Commissioner Johnston made a motion to approve the construction contract for City of Canton Etowah Project; Commissioner Nelms seconded; Commissioner Poole abstained and the resulting vote was approval 4-0.

Mr. Cooper said that he also wanted to ask for approval of a contingency in the amount of \$136,782.00.

Commissioner Johnston asked if this was part of the contract. Mr. Cooper replied that it was not, that it was an amount controlled by the County.

Commissioner Johnston made a motion to approve the contingency amount as recommended by the County Manager; Commissioner Nelms seconded; Commissioner Poole abstained and the resulting vote was approval 4-0.

Commissioner Johnston made a motion to approve the construction contract for the Killian Site Project; Commissioner Nelms seconded; Commissioner Poole abstained and the resulting vote was approval 4-0.

Mr. Cooper asked for approval of a contingency in the amount of \$170,000.00.

Commissioner Johnston made a motion to approve the contingency amount as recommended by the County Manager; Commissioner Nelms seconded; Commissioner Poole abstained and the resulting vote was approval 4-0.

COUNTY ATTORNEY

3.1 City of Woodstock Annexation Notice.

Ken Robbin briefly went over the details of the annexation notice related to the application submitted by Rachael Smith requesting 5.77 acres of property currently zoned R80 to be rezoned to SLC for a proposed Senior Assisted Living Center. He added that if there are no formal objections to the annexation then no action is necessary tonight.

Chairman Ahrens made a reference for the benefit of the two new Commissioners regarding the ability of the Board to object, which is basically three criteria: 1) proposed change in zoning or land use; 2) proposed increase in density; 3) infrastructure demands related to proposed change in zoning or land use. He said that according to their definition of SLC zoning, it fits the criteria. He also referenced the 18 month window to get the plans moving and that any other intent use would require a rezoning by the City of Woodstock.

Commissioner Nelms commented that the Assisted Living Center was the right kind of project for the area.

Commissioner Johnston commented that in Work Session he said that the location was in District 3 but it is actually in District 2. Commissioner Gunnin as the District Commissioner commented that he had no objections and that it was an excellent fit for the area.

There were no objections to the annexation and no action was taken.

ADJOURN

The Chairman asked if there was any further business. Hearing none, Commissioner Nelms made the motion to adjourn at 7:15 p.m.; Commissioner Poole seconded and the motion received unanimous approval.