



# Cherokee County Board of Commissioners MINUTES

**December 6, 2016**

**Regular Meeting**

**Cherokee County Admin Complex, Cherokee Hall 1130 Bluffs Parkway, Canton, GA30114 6:00 PM**

## **INVOCATION**

**Mike Martin with Biblical Counseling Solutions in Woodstock will give the invocation.**

Mike Martin gave the invocation.

## **PLEDGE OF ALLEGIANCE**

Commissioner Gunnin led the 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"*

## **1. CALL TO ORDER**

Vice Chair Brian Poole called the regular meeting to order at 6:21 p.m. Those present included Commissioner Steve West; Commissioner Raymond Gunnin; Commissioner Scott Gordon; County Attorney Angie Davis; County Clerk Christy Black. Also present were Agency Directors/Department Heads; the media; and the public. Absent: Chairman Ahrens and County Manager Jerry Cooper.

Commissioner Poole commented that Chairman Ahrens was out due to attending the 75th Anniversary event at Pearl Harbor, adding that the Chairman's father-in-law was a crew member of the first plane shot down there.

## **2. RATIFY CLOSURE OF EXECUTIVE SESSION**

Vice Chair Brian Poole called for a motion to ratify closure of Executive Session at 6:10 p.m.

Raymond Gunnin made a motion to approve; Steve West seconded. The resulting vote was Passed, 4-0. Absent: Ahrens

## **3. PRESENTATIONS / PROCLAMATIONS**

## **4. AMENDMENTS TO AGENDA**

## **5. ANNOUNCEMENTS**

### **5.1. Arts Leaders of Metro Atlanta (ALMA) Spring 2017 Applications now open.**

Applications are now open for the 2017 Arts Leaders of Metro Atlanta class. For more

information, visit [www.atlantaregional.com/alma](http://www.atlantaregional.com/alma) or contact Josh Phillipson at [jphillipson@atlantaregional.com](mailto:jphillipson@atlantaregional.com) or 404-463-3217.

**5.2. SR 20 Improvements - Public Information Open House - December 15, 2016 - 5:00-7:00 PM - Calvary Baptist Church, Ball Ground, Georgia.**

GDOT announces that they will be holding a Public Information Open House - PIOH - on Thursday, December 15, 2016 from 5:00 - 7:00 PM for the SR 20 Improvements Project - Canton to Cumming.

**5.3. Drought Response Level 2.**

On November 17 the Georgia Environmental Division declared a "Level 2" drought response for 52 counties in North GA, including Cherokee County, which remains in effect.

**6. APPROVAL OF MINUTES**

**6.1. Consider approval of Work Session, Executive Session and Regular Meeting Minutes from November 15, 2016.**

Steve West made a motion to approve; Scott Gordon seconded. The resulting vote was Passed, 3-0. Abstain: Gunnin Absent: Ahrens

Commissioner Gunnin abstained due to being absent from the November 15, 2016 meeting.

**7. PUBLIC HEARING**

**7.1. Ordinance to amend Article 7.7-12 of Cherokee County Zoning Ordinance.**

Conduct a Public Hearing on proposed ordinance to amend Article 7.7-12 of Cherokee County Zoning Ordinance

Scott Gordon made a motion to open the Public Hearing at 6:23 p.m.; Raymond Gunnin seconded. The resulting vote was Passed, 4-0. Absent: Ahrens

Jeff Watkins stated that there are several different places within the ordinance where amendment is requested. He stated that starting at 7.7-12 (a) is where the telecommunications tower regulations begin. He stated that at the end of paragraph 1(iii) the reference to pre-existing towers or pre-existing antennas will be deleted and introduced back into the ordinance in section (3)(g). He stated that most of the changes are under (3) "Permitted Uses" for the AG district and relates to the districts within and where cell towers can be erected.

Mr. Watkins stated that at paragraph (i) under "General" the first sentence will be deleted because it refers to a Section C which is an incorrect section. The addition to the ordinance is "all towers and antennas permitted by this Subsection (a) (3) shall comply with all other requirements of the zoning ordinance, including, but not limited to, Sections 7.7-12a(2)(iv), 7.7-12a(2)(v) and 7.7-12a(2)(vi).

Mr. Watkins stated that under paragraph (ii) "specific permitted uses" will be replaced with "location of tower or antennas". In paragraph "a" under (ii) the only thing that is changing is the insertion of the words "is permitted" to show that it is permitted in GC, NC, CP, OI, OD, HI and LI zoning districts. The remainder of the paragraph previously existed. Mr. Watkins mentioned that OD is in the code, but suggested deleting it when making a motion because an OD district doesn't exist any longer.

Mr. Watkins stated that there is the addition of a new paragraph "b" under "Permitted Uses" that states that "locating a tower or antenna, including the placement of additional buildings

or other supporting equipment used in connection with said tower or antenna, is permitted in AG zoning district; provided that” and then listed are points (1), (2) and (3) which are new additions as well. Point (1) states that “such tower and antenna be set back from any property line a distance equal to the height of the tower or antenna”; Point (2) states that “such tower or antenna shall be an alternative tower structure as defined in Article 4”; and Point (3) states “such tower or antenna may not be located on AG property located in a platted residential major subdivision as defined in Article 4”.

Mr. Watkins stated that another change under (3) “Permitted Uses” is adding a new paragraph and renaming it from (a) to (c) with the new paragraph stating “locating a tower or antenna, including the placement of additional buildings or other supporting equipment used in connection with said tower or antenna, is permitted in the PUD zoning districts; provided, however, that the tower shall be located on portions of the property designated and approved for non-residential use and shall be set back from any property line a distance equal to the height of the tower or antenna. No tower or antenna may be located on portions of PUD zoned property designated, approved or used for residential or amenity purposes. “Amenity Purposes” shall mean passive and active recreation areas, including, but not limited to, swimming pools, tennis courts, basketball courts, athletic fields, parks, playgrounds, golf courses, pedestrian trails, and reserved greenspace, intended for the enjoyment and benefit of residents in close proximity of the property being used for amenity purposes”. He stated that this section is necessary because the PUD is a mixed use zoned district and has areas designated as non-residential in residential areas. He stated that under that same heading, (b) was renamed (d) and prohibits the location of towers and antenna and supporting buildings in residential districts R-80, R-60, R-40, R-30, R-20, R-15, RM-10 and RM-16. Mr. Watkins stated the new addition is RD-3, RZL, RA, RTH to the list of districts because they were left out in the original ordinance. He stated the rest of the paragraph is deleted and deals with alternative towers structures. He stated that paragraph (e) is mostly existing verbiage with the addition of “may be installed” as it refers to the existence of a structure other than a tower. Paragraph (f) is also existing verbiage with the addition of “may be installed” as it refers to any existing tower so long as the addition adds no more than twenty (20) feet to the height of the existing tower. Lastly, the addition of paragraph (g) which is an entirely new section dealing with “nonconforming towers and antennas” and which is brought back from paragraph (1)(iii) of this ordinance relating to existing towers. Mr. Watkins stated that this new paragraph reads “any tower or antenna lawfully existing on the effective date of the adoption of this ordinance or an amendment thereto, and any tower or antenna for which a permit has been properly issued shall be considered a legal nonconforming use of the property on which it is permitted and erected and shall be allowed to remain despite otherwise failing to comply with the use restrictions and performance standards of the zoning district in which it is located even if such property should be rezoned in the future to a district that does not permit the tower or antenna; provided, however, notwithstanding the designation as a lawful nonconforming use, any addition or modification of equipment or antenna shall conform to the requirements of this section”. Mr. Watkins stated that the section is necessary because there may be situations where a tower may be sitting on a commercially zoned property that gets rezoned to residential or may be sitting on an AG piece of property that gets rezoned to a residential use and has been prohibited within those residential districts. He also stated that it will allow flexibility with those towers remaining.

No one had signed up to speak.

Scott Gordon inquired if there were any comments or if anyone signed up for the meeting. Mr. Watkins responded that he did not have any calls or any questions asked.

Scott Gordon made a motion to close the Public Hearing at 6:31 p.m.; Steve West seconded. The resulting vote was Passed, 4-0. Absent: Ahrens

Scott Gordon stated that this was discussed in detail at Work Session and

complimented staff on a great job working with the County Attorney in making some necessary changes to the ordinance for clarification.

Scott Gordon made a motion to adopt the ordinance as presented, including the removal of 'OD' zoning. Ms. Davis interjected and suggested leaving it in there just to be on the safe side. Jeff Watkins stated that he did not know of any OD zonings but that it certainly wouldn't hurt to leave it. At that, Scott Gordon said he would restate his motion.

Scott Gordon restated his motion to adopt the ordinance as presented, retaining 'OD' for safety's sake; Steve West seconded. The resulting vote was Passed, 4-0. Absent: Ahrens

## **8. PUBLIC COMMENT**

One person signed up to speak.

Patricia Lake signed up to speak about 160 Olivia Lane.

## **9. ZONING CASES**

### **9.1. Exceptional Variance for a Wall Sign in Bells Ferry Overlay. (BOC Dist. 4)**

Consider request to grant an exceptional variance per Article 8 of Zoning Ordinance for a wall sign.

Mr. Watkins stated that the first case on the Agenda is a zoning decision that needs to be made for an exceptional variance.

Mr. Watkins stated that the applicant, Altair Sign and Light, came before the Board at the last meeting and had a public hearing regarding property located at 803 Bascomb Commercial Parkway located in the Bells Ferry Overlay District. He stated that the Bells Ferry Overlay was laid out in neighborhoods by a regulating plan developed under the TND ordinance which is Article 8. Within Article 8 there are different requirements for signage and buildings and are assigned to different neighborhood zones. The applicant requested to erect a wall sign on a property located in a Neighborhood General zone within the Bells Ferry Overlay for a commercial business and that Neighborhood zone doesn't allow for a wall sign. The sign standards allow for one address no more than six inches, one blade sign and no signs in addition to those listed. TND also allows for an exceptional variance where it may be justified. He stated that this comes before the Board as a public hearing and zoning decision and that it comes expressly to the Board and not to the Zoning Board of Appeals. He described surrounding zoning and character areas. He recalled the conditions that were proposed. He stated there was a public hearing, the hearing was closed and delayed the decision until this meeting. He stated that there was a representative present from Altair Sign and Light.

Scott Gordon thanked everyone for giving the extra time for allowing the location to be looked at once again. He stated that he visited the area a couple of times in the evening to see what the character area looked like and he agreed that without the signage and without the illumination there is a significant disadvantage to the business compared to other businesses located there. He stated that the sign is a conservative sign. He recalled that Mr. Wilson stated at the Public Hearing that he has been at this location for over 25 years and Commissioner Gordon stated his desire for Mr. Wilson to continue his business at this location. He stated that it is many years away from the character area that the Overlay suggests will be there and there is no intention to handicap businesses while waiting for that transition to occur.

Scott Gordon made a motion to approve; Steve West seconded. The resulting vote was Passed, 4-0. Absent: Ahrens

**9.2. Case #16-09-025 Georgia-Tennessee Development Partner, LLC (BOC Dist. 2)**

Consider the request by Georgia - Tennessee Development Partner, LLC to rezone 78 +/- acres at 300 Collett Drive from AG to R-20 for a conservation subdivision.

Mr. Watkins provided a brief overview the case. He stated the rezoning was for 78 acres at 300 Collett Drive from AG to R-20 for development of a residential subdivision. He stated the public hearing was held September 6, 2016 and Planning Commission's recommendation was for denial. He recalled the conditions that were proposed which are listed as the rezoning to R-20 to be done as a Conservation Design; have 120 days to get a road improvement agreement with Cherokee County and without approval, the property would revert back to its AG zoning classification; total number of 123 total lots or 1.57 dwelling units per acre; development design shall maintain a minimum of 50% of the total acreage in protected conservation greenspace; that neighborhood development shall include a mandatory homeowners' association with responsibility for homeownership and maintenance of the permanent conservation greenspace; design and development shall protect all impounded waters on the property; and development of the property shall include certification by a wetland specialist for the compliance with best management practices to wetlands and ecological areas. He described surrounding zoning and character areas.

Raymond Gunnin stated that this was in his district and that there were some issues that had come up over the last couple of days that will require further review of this case. He stated that some of the issues were legal and some were other matters. Commissioner Gunnin recommended that the request be tabled without a date set until issues are worked through. He stated that once issues are worked through it will be advertised on the website as to when it will be brought before the Board again.

Raymond Gunnin made a motion that the request be tabled without a set date; Steve West seconded. The resulting vote was Passed, 4-0. Absent: Ahrens

**9.3. Case #16-11-035 Meritage Homes of Georgia, Inc. (BOC Dist. 3)**

Applicant is requesting to rezone 0.47 acres at 469 New Light Road from AG to RZL for two (2) single family residential lots.

Mr. Watkins provided a brief overview the case. He stated the rezoning was for .46 acres on New Light Road from AG to RZL for development of two residential lots. He stated the public hearing was held November 1, 2016 and the Planning Commission's recommendation was for Approval as R-20. He stated that the Applicant requested postponement for decision to the January 17 meeting as of the last meeting. He described surrounding zoning and character areas. He recalled the conditions that were proposed.

Brian Poole stated that the proper paperwork was submitted requesting the postponement, so he was in agreement with the request.

Brian Poole made a motion for postponement until January 17; Raymond Gunnin seconded. The resulting vote was Passed, 4-0. Absent: Ahrens

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**10. COMMISSION BUSINESS**

**10.1. Chairman Ahrens: Consider 2017 Board of Commissioners' Meeting Dates.**

**10.2. Chairman Ahrens: Reappointment to Region 1 EMS Board.**

Consider the reappointment of Danny West to the Region 1 EMS Board for another two-year term expiring in January 2019.

Brian Poole made a motion to reappoint Chief Danny West to the Region 1 EMS Board; Steve West seconded. The resulting vote was Passed, 4-0. Absent: Ahrens

**10.3. Chairman Ahrens: Reappointment to Cherokee County Board of Health.**

Consider the reappointment of Russ Flynn to the Cherokee County Board of Health for another six-year term expiring December 31, 2022.

Brian Poole made a motion to reappoint Russ Flynn to the County Board of Health; Raymond Gunnin seconded. The resulting vote was Passed, 4-0. Absent: Ahrens

**10.4. District 3, Vice Chair Brian Poole: Topics for Delegation.**

Discussion on topics to submit to State Delegation.

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**11. CONSENT AGENDA**

**11.1. Sheriff's Office Motorcycle Donation.**

Consider authorizing Sheriff's Office donation of two motorcycles to Ellijay Police Department that are no longer of use to the Sheriff's Office.

**11.2. CCFES Surplus and Transfer of Hose and Nozzles.**

Consider approval to transfer surplus hose and nozzles to Iron City Volunteer Fire Department.

**11.3. Surplus of CCFES Equipment.**

Consider approval to surplus and disposal of miscellaneous communication equipment and fire equipment that is not being used, is permanently damaged and/or does not meet NFPA safety standards.

**11.4. Surplus Items for ITS and Public Safety.**

Consider authorizing the surplus of obsolete equipment from Public Safety and Information Technology Services.

Scott Gordon made a motion to approve; Steve West seconded. The resulting vote was Passed, 3-0. Abstain: Poole Absent: Ahrens

Commissioner Poole abstained due to certain laws pertaining to commissioners who were not reelected.

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**12. COUNTY MANAGER**

**12.1. Woodstock Trails Towne Lake Pass Award**

Approval to award the Cherokee County standard construction services agreement to the lowest responsible bidder, with the most responsive bid proposal for construction of the Woodstock Trails: Towne Lake Pass: From Woodstock Dog Park (150 Dupree Road) to Towne Lake Hills South, to Integrated Construction & Nobility, Inc., in the grand total amount of \$2,647,711.48; for acceptance of the base bid proposal amount of \$2,287,334.20, inclusive of all Unit Prices, and acceptance of ADD Alternate A and B in the combined total of \$360,377.28. Alternate C is not required and not accepted. A contingency account (to be controlled by Cherokee County Capital

projects) in the amount of \$215,340.98 (8.13% of the recommended contract sum) is also requested.

Total amount requested for BOC approval of construction and contingency: \$2,863,052.46.

Scott Gordon made a motion to approve; Steve West seconded. The resulting vote was Passed, 4-0. Absent: Ahrens

**12.2. Solicitor General's VOCA Grant for FY17**

Consider accepting federal grant award for annual funding in the amount of \$210,395 and authorize a Budget Amendment in the amount of \$116,284.

Steve West made a motion to approve; Raymond Gunnin seconded. The resulting vote was Passed, 4-0. Absent: Ahrens

**12.3. District Attorney VOCA Grant**

Consider accepting annual Victim of Crime Act Block Grant in the amount of \$228,812 on behalf of the District Attorney.

Scott Gordon made a motion to approve; Steve West seconded. The resulting vote was Passed, 4-0. Absent: Ahrens

**12.4. Heard Road Extension - Award of Feasibility Study.**

Consider approval of proposal and award of Professional Services Agreement to VHB for completion of the Heard Road Extension Scoping Study and Conceptual Design project in the amount of \$48,400.00.

Raymond Gunnin made a motion to approve; Steve West seconded. The resulting vote was Passed, 4-0. Absent: Ahrens

**12.5. Automatic Aid and Mutual Aid Intergovernmental Agreement with Forsyth County.**

Consideration of Automatic Aid and Mutual Aid Intergovernmental Agreement between Cherokee County and Forsyth County.

Raymond Gunnin made a motion to approve; Steve West seconded. The resulting vote was Passed, 4-0. Absent: Ahrens

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**13. COUNTY ATTORNEY**

**ADJOURN**

Vice Chair Brian Poole asked if there was anything else to come before the Board. Hearing none, Raymond Gunnin made a motion to adjourn at 6:57 p.m.; Steve West seconded. The resulting vote was Passed, 4-0. Absent: Ahrens