

WHITE COUNTY BOARD OF COMMISSIONERS

MINUTES FROM REGULAR MEETING HELD

MONDAY, APRIL 6, 2009 AT 4:30 P.M.

The White County Board of Commissioners met in a regular session at 4:30 P.M. in the Main Court Room of the White County Courthouse, Cleveland, Georgia. Present were: Chairman Travis C. Turner, Post 1 Commissioner Joe R. Campbell, Post 2 Commissioner Craig Bryant, County Attorney David Syfan, County Manager Alton Brown, Chief Financial Officer Vickie Neikirk, and County Clerk Shanda Smallwood.

Chairman Turner called the meeting to order. After the pledge to the flag Dean Dyer brought the invocation.

Upon motion made by Commissioner Bryant, seconded by Commissioner Campbell, the minutes from the Regular Meeting held on March 2, 2009, the Public Meeting held on the Bean Creek Water Grant on March 6, 2009, the Called Meeting held on March 16, 2009 and the Called Meeting held on March 30, 2009 were unanimously adopted.

The Board of Commissioners declared the week of April 12 through April 18, 2009 as National "Telecommunicators Week in White County".

Chairman Turner asked for a show of hands as to how many people were present regarding Chris Mote's pending permit with the Georgia State Environmental Protection Division (EPD) for Land Application System (LAS) to apply treated wastewater in the Paradise Valley area of White County, Georgia - with the large majority identifying themselves as present regarding this issue the Board of Commissioners approved moving the citizen participation portion of the meeting forward on the meeting agenda.

Chairman Turner assured the public that the Board of Commissioners are working as diligently as possible regarding the issue and asked County Attorney David Syfan to summarize the avenues the County is examining as possibilities to address the pending Mote's land application system project. Attorney Syfan explained the County has investigated their options for regulating land application systems facilities such as the Mote's project, as well as in the prior circumstances with LHR Farms – however explained the state statute which identifies the Environmental Protection Division (EPD) as the entity which regulates these types of operations. Attorney Syfan further explained the hierarchy of the legal system relative to Federal, State, and Local law – which would preempt the control on these types of facilities and prohibit the County from passing an ordinance that violates the regulations of the states, therefore limiting the County's ability to regulate this type of facility. Attorney Syfan further explained that a zoning ordinance would allow the restrictions on the placement of these types of facilities, however since White County does not currently have a zoning ordinance and to date the majority of the voters have been against such an ordinance, we are not able to enforce such restrictions. He noted that however there are measures the County is researching in accordance with the existing state statute such as a system of monitoring (paid for by the business owner) through testing wells, tests of compliance with state and federal law in the treatment and application of the sludge, and testing of materials being brought into the facility. Also noted were potential legal issues of preemption since the state is requiring a testing plan as a condition of the permit, however case law shows the state can set the minimum requirements and the county could implement more stringent requirements for testing. Further Attorney Syfan spoke of the possibility of enacting a limited zoning ordinance applicable to the location of these types of facilities, however he cautioned there is case law which would reflect that applications are judged based on the regulations in effect at the time of application which would result in the Mote operation, as well as LHR Farms, being grandfathered into the ordinance – although this

would regulate against similar operations coming into other residential areas of White County. Lastly Attorney Syfan explained that he and the planning staff are working on comments to be issued to the EPD as a request that these comments be incorporated as permit conditions imposed by EPD for the operation of the Mote facility. These comments include the treatment facility be one thousand (1000) feet from a residence, property line, or creek - as well as enclosing the initial treatment facility and several other conditions that the county sees are reasonable and would allow the facility to operate, but would seek to minimize and mitigate the effects on the area residents. In summary Attorney Syfan emphasized the Board of Commissioners concern regarding the proposed project, however the County is limited due to the preemption of the state regulations for these types of facilities although the county will work to set up a monitoring ordinance and a pretesting ordinance within the next month or so, which would be possible to apply to Mote Pumping.

Chairman Turner emphasized the importance of residents contacting the EPD to express their opposition to the Mote permit. He indicated that he had sent a letter last week to Jane Hendricks at the EPD on behalf of the Board of Commissioners expressing the community's outrage over this proposed project. He encouraged citizens to take advantage of the thirty (30) day public comment period by sending a letter to the EPD.

Commissioner Campbell informed the citizens that over \$115,000 in taxpayer money was spent last year in opposition to LHR Farms –making the County's position on these types of operations in White County very clear. He expressed his support for the current State Representatives, however urged citizens to become knowledgeable on the issues being considered at the state level and to be aware of where those who are representing White County at the State level stand on issues that affect our County.

Chairman Turner opened the meeting for citizen participation – with numerous citizens addressing the Board of Commissioners with their concerns regarding the operation of the Mote Pumping facility in the Paradise Valley area. Citizen comments taken were as follows:

Tallulah Liscar 780 Eden Circle Paradise Valley – addressed the importance of contacting the EPD and Representatives regarding this matter and spoke of the health problems she experienced while living in close proximity to LHR Farms.

Leon Hillsgrove 53 Carl Drive – owns twenty (20) acres in the Paradise Valley Area, having five (5) rental properties within four hundred (400) feet of the proposed operation. Tenants have informed him if they experience odor problems from this facility that they will vacate the rental properties – therefore negatively affecting his livelihood. Mr. Hillsgrove said he had met with Mr. Mote who had explained the operation; this conversation led him to believe odor would be an issue during the treatment process and further explained that he already experiences complaints from his tenants regarding the odor when Mr. Mote pumps the sewage into holding tanks from his septic pumping business. He was in the process of selling one of his properties last week and the prospective buyer canceled the contract due to this potential operation, resulting in a loss of \$85,000 to Mr. Hillsgrove.

Madelyn Lewis 2413 Paradise Valley Road – Ms. Lewis read a letter expressing her concerns regarding potential negative health effects and pollution issues if the Mote operation is allowed to operate in a heavily residential area and in close proximity to streams.

Jeff Cougar 3246 Paradise Valley Road – Presented a petition to the Board of Commissioners with hundreds of signatures opposing the Mote Pumping operation. He also presented a calculation of 7.2 million to 14 million gallons of waste which would be processed at this facility in a one year time period.

(Name Unclear) Gold Ditch Road Resident – Asked the commissioners how property value adjustments would be made if this operation is permitted. Commissioner Campbell explained

that the Board of Commissioners does not adjust property values; however it is the State who requires periodic property re-evaluations.

Gary Esler 450 Mill Trace Court – Addressed County Attorney David Syfan regarding the possibility of requiring Mote to have a bond or liability insurance policy to cover any damages resulting from his operation. Attorney Syfan indicated this was a possibility which he would research.

Diane West 37 Gold Ditch Road – Asked for clarification on the time period for the thirty (30) day public comment period. Attorney Syfan explained the comment period began on the date of the public notice publication, which was April 2, 2009. Ms. West also questioned the appropriate perk for the land application area and any changes that may have resulted from the heavy rains experienced recently. She also noted that this commercial operation would be operating off an easement, and addressed that this property had been under tax conservation status for the past four years, resulting in an additional four years before this property could be developed without being penalized.

Russell Pruitt 673 Paradise Valley Road – Indicated that he owns the easement which this commercial operation would be using to gain access to the facilities and asked what his options were in restricting access to Mr. Mote. Commissioner Campbell stated that he would have Tom O’Bryant, Director of Community and Economic Development, look into the matter of the easement.

Commissioner Campbell reemphasized that the Board of Commissioner would research all legal options available to prohibit or regulate this type of operation, however he explained that we must do this within legal limits or the County would be at risk for legal implications – which would result in tax dollars being spent to defend a lawsuit. Commissioner Campbell asked County Manager Alton Brown to research the voting records of the State Archives and to make public the records of which legislators voted in support of local control being taken away in the operation of land application systems.

Chairman Turner closed the citizen participation portion of the meeting urging citizens to contact State Senators and State Representatives to express their concerns regarding this potential operation in the Paradise Valley Area.

Alton Brown, County Manager, reviewed the details of a “Summary of Motes Study” which noted the limitations of the County due to state preemption and the lack of zoning restrictions within the County, recommendations of copies of manifests ordinances (determining what materials are being brought into the facility to make sure they are operating in accordance with state regulations), monitoring ordinances (to measure the quality of water in the area), location restrictions (setbacks), and permit amendments relating to treatment, monitoring, and location /operation restrictions. Mr. Brown further explained that he personally is not very optimistic that the EPD will be receptive to the recommendations of White County, since this facility has already met the criteria of the EPD for this type of operation, thus having been permitted and it is rare for recommendations to be implemented at this point. Mr. Brown informed that the location of the Mote facility is not in the Town Creek Watershed District and Tom O’Bryant, Director of Community and Economic Development, noted it was approximately one half mile from the site to Town Creek.

There was question from the audience regarding the Agri-cycle facility, which a judge was able to “shut down” and if White County would have access to that procedure. Attorney David Syfan explained that Agri-cycle, in Jackson County, was “shut down” because they had multiple violations of their permit, some of which were major violations – therefore without multiple violations, as long as the facility is within compliance of their permit, there is very little which can be done to cease their operation.

Commissioner Campbell closed the portion of the meeting discussing the EDP permit of the Mote Land Application System project by summarizing that the Board of Commissioners will be researching county regulations, property guidelines, setback guidelines, and watershed guidelines - everything within their power to not assist this project or any other projects of this type in operating within White County.

Upon motion made by Commissioner Campbell, seconded by Commissioner Bryant it was unanimously approved for the Board of Commissioners and County Staff to do everything possible to stop the Mote Land Application Project.

Chairman Turner questioned Attorney Syfan and Alton Brown as to whether the county could tax Mote Pumping on a per gallon basis for the waste which he brings into his facility. Attorney Syfan indicated that he would have to research the options available to the county in this area.

Commissioner Bryant expressed his support for the citizens and his disapproval for the Mote operation in the Paradise Valley Area.

Upon motion made by Commissioner Campbell, seconded by Chairman Turner, it was unanimously voted to impose a temporary moratorium on the siting of any new land application of sludge facilities in the unincorporated areas of White County for ninety (90) days to allow the County an opportunity to impose regulations within its authority to enact, and subject to any legal limitations as determined by the White County Attorney.

County Manager, Alton Brown presented the matter of the sale of the Oak Springs School Property and indicated to the Board of Commissioners that a decision needed to be made as to whether to take sealed bids on the property and building located at this site or to have the building demolished and take sealed bids on the property alone. He noted the cost of the asbestos removal from the building was \$27,550.00 with an additional \$14,650.00 for building demolition. Mr. Brown explained that according to the Assessor's Office records - the value on the building is \$283,540.00 and the value on the land is \$338,990.00, for a total estimated value of \$622,530.00.

Upon a motion made by Commissioner Campbell, seconded by Commissioner Bryant it was unanimously voted to accept sealed bids on the Oak Springs School Property - with the option to refuse all bids - to give ninety (90) days after acceptance of the bid for the owner to bring the building up to county code or to dispose of the building, at their expense, and according to EPD guidelines.

Upon a motion made by Commissioner Bryant, seconded by Commissioner Campbell the consent agenda was approved, containing the following items:

- Authorizing the execution of the Inmate Medical Agreement with ACCG;
- Authorizing the execution of the Department of Justice's COPS Hiring Recovery Program (CHRP) 100% grant application;
- Authorizing the execution of the Department of Justice's Byrne Grant application in the amount of \$11,000 with a 10% in-kind county match;
- Authorizing the renewal of the Transfer Station contract with Waste Management, with the condition of assisting the elderly when possible and keeping the litter picked up at entrance way to the facility;
- Awarding the contract on the guardrail construction for certain county roads to Martin Robbins Fence Company in the amount of \$110,555.82 – not to vary more than 5% in total cost.
- Authorizing the widening and application of petroleum based dust control on the portion of Virgil Hunt Road from Tesnatee Gap Valley Road to Jess Hunt Road in cooperation with the Chestatee – Chattahoochee RC&D Council, Inc.;
- Approving the source of funding for correction of drainage problems at the Sports Complex with an expense of \$5,933.76 for equipment usage being charged to Public

Works SPLOST, an expense of \$5,796.85 for labor being charged to the Public Works SPLOST, an expense of \$887.66 for material being charged to contingency, and an expense of \$6,875.00 for contractor costs being charged to contingency – for a total cost of \$19,513.27.

- Authorizing the acceptance of RFQ's (Request for Qualifications) for the White County Detention Center expansion project.

Vickie Neikirk, Chief Financial Officer presented the County's Financial Report for February 2009 (see attached). Ms. Neikirk expressed that she felt that White County was in a good financial status.

Chairman Turner expressed his appreciation to County Department Heads in their diligence to keep expenses down as much as possible during the difficult economic times.

Bob Parsons' wife, who resides at 627 Yonah Valley Road (name unclear), expressed her concern regarding a county project involving a bridge from the White County Recreation Park across Turner Creek to the property which White County leases from the State of Georgia. She understood this project would include bicycle and walking trails through the wooded area adjacent to her property. Mrs. Parsons said they had been contacted by Natalie Culp who works with White County Economic Development, regarding the need to bring a concrete truck across their property in order to construct the bridge. Chairman Turner emphasized that the Board of Commissioners have not approved any portion of the project in question. Tom O'Bryant, Director of Community and Economic Development, indicated that planning on this project was very preliminary at this time and Alton Brown stated that any comments made to the Parson's regarding this project were made very prematurely.

Upon a motion made by Commissioner Campbell, seconded by Commissioner Bryant it was unanimously voted to contact the County Surveyor, Eddie Hood, in order to have a survey done on the portion of property adjacent to the White County Senior Center, which has been offered as a donation from Jere Westmoreland to the White County Senior Center. Sheriff Neal Walden asked the Commissioners to make sure they stay mindful on the entrance to the White County Sheriff's Office when planning for the Senior Center expansion. The Board of Commissioners noted there would be no interference with his area in the project and they would remain mindful of this during the planning phase.

Maria Flynn, Manager of Cleveland Better Hometown, expressed her appreciation to the Board of Commissioner for their support and invited the Board of Commissioners to the Fabulous 50's Day to be held on May 16, 2009 on the Cleveland Square. Ms. Flynn indicated that the Board of Commissioners would be recognized on this day of their support for the Cleveland Better Hometown organization.

Upon a motion made by Commissioner Campbell, seconded by Commissioner Bryant, the meeting was adjourned.

s/Travis C. Turner
Travis C. Turner, Chairman

s/Joe R. Campbell
Joe R. Campbell, Post 1

s/Craig Bryant
Craig Bryant, Post 2

s/Shanda Smallwood
Shanda Smallwood, County Clerk