

# **WHITE COUNTY BOARD OF COMMISSIONERS**

## **MINUTES OF THE REGULAR MEETING HELD**

**MONDAY, FEBRUARY 8, 2010 AT 4:30 P.M.**

The White County Board of Commissioners met for a Public Hearing and Regular Meeting on Monday February 8, 2010 at 4:30 P.M. in the Grand Jury Room of the White County Courthouse Cleveland, GA. Present at this meeting were Chairman Travis Turner, Post 1 Commissioner Joe Campbell, Post 2 Commissioner Craig Bryant, County Manager Carol Jackson, County Attorney David Syfan, Finance Officer Vickie Neikirk, and County Clerk Shanda Smallwood.

Chairman Turner called the meeting Public Hearing to order.

Chairman Turner explained the Board of Commissioners was conducting a public hearing in order to receive public input on the adoption of text amendments to the ordinance governing the location of facilities engaging in the land application of human waste and septage, or commercial waste, or both.

Chairman Turner asked County Manager Carol Jackson to provide a synopsis of the amendments being proposed. Ms. Jackson provided the following summary:

This memorandum will provide a brief synopsis regarding the amending ordinance to the Land Application System Ordinance, and the amendments that are being made to the ordinance. The synopsis shall attempt to cover all substantive amendments to the ordinance, but the general public should read the amending ordinance in its entirety, including the restated ordinance, in order to have a clear understanding about the Land Application System Ordinance, as amended.

The amending ordinance amends the Land Application System Ordinance as follows:

(1) The ordinance corrects certain typographical and grammatical errors within the original ordinance. The correction of these errors does not make a substantive change in the ordinance, but merely has the ordinance read correctly. The amending ordinance also makes certain numbering corrections that again do not result in a substantive change to the ordinance but merely corrects the numbering of the ordinance, as well as the numbering of a prior amendment to the ordinance. The “therefore ordained” paragraph has corrections to the numbering. Section 50-4 has certain grammatical corrections in order to have said section read correctly, but these grammatical corrections were not substantive.

(2) Section 50-7(a), the first paragraph, has a correction to the August 2009 amendment, to have the paragraph correctly numbered.

(3) Section 50-7(a)(3)a. has a correction to change “major” arterial roadway to “minor” arterial roadway, in order to be consistent with the first reference to the minor arterial roadway.

(4) Section 50-7(a)(5) through (16) each were modified by the inclusion of provisions that provide that a violation of a condition of the permit referenced within the subsection is due cause for suspension or revocation of the permit after notice and hearing in accordance with Section 50-10.

(5) Section 50-7(a)(10) was clarified that the Planning Director does not have discretion regarding the approval of a system, but merely verifies that the system of the applicant is in accordance with applicant's EPD application for an EPD permit, or is in accordance with the EPD permit.

(6) Section 50-7(a)(17)a. was corrected to provide that White County will run the legal ad regarding an application and hearing, and the applicant pays for the legal ad. The subsection was also corrected to have the ad be prominently displayed, and not appear in the legal classifieds.

(7) Section 50-7(a)(19) was clarified that the Planning Department would send out notice to the applicant as to the decision of the Board of Commissioners on the application. The subsection was also clarified to provide a right of appeal by way of a writ of certiorari. This subsection was also clarified to provide that the applicant must comply with all ordinances of White County that are applicable, in order to get a permit.

(8) Sections 50-7(a)(20) and (21) had clarifications to the permit, and clarified that the permit is a one-year permit, and applicant has to do a renewal application every year.

(9) Section 50-7(a)(23) was clarified that the non-conforming use permit is a one-year permit, and must be renewed every year. The provisions also were clarified to be subject to due process notice and a hearing, and also be subject to a right of appeal by way of a writ of certiorari.

(10) A new Section 50-8 was added to provide that untrue or misleading information contained in an original or renewal application is due cause for the denial or refusal of a permit.

(11) Section 50-9 was added to clarify that the permit is a grant of a privilege, and not a right.

(12) Section 50-10 was added to provide for a due process hearing after notice regarding the suspension or revocation of a permit, or the denial of a renewal permit due to a violation of a proposed condition to the permit, or a permit condition.

(13) Section 50-11 was added to add provisions for an emergency suspension of a permit when necessitated by a need to protect the public health.

(14) Section 50-12 was added to provide for appeals of revocations, or suspensions of the permit, or the denial of a renewal permit, by a writ of certiorari.

Ms. Jackson noted the synopsis is only to give a quick guide as to the substantive changes to the ordinance, and the general public should carefully review the amending ordinance and the restated ordinance for a complete understanding of the ordinance.

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Attorney David Syfan stated he would like to submit for the record the legal basis for the ordinance and related provisions. Mr. Syfan submitted the following:

- Georgia Constitution Article 9, § 2, ¶ IV – Planning and Zoning
- Georgia Constitution Article 9, § 2, ¶ III – Supplementary Powers
- Georgia Administrative Code Title 391-3-6.24 – Regulation of Commercial Waste Originators, Pumpers, Transporters, Processors, and Disposal Facilities
- O.C.G.A. § 12-5-30.3 - Regulation of sludge land application systems
- O.C.G.A. § 2-1-6 – Prohibition on regulation of farm production by local governments
- O.C.G.A. § 41-2-1 – Abatement of Nuisances Generally

Chairman Turner stated the public hearing would be held in accordance with the adopted administrative hearing procedures – providing a time for both those in favor and those not in favor of the amendment to express their comments.

Chairman Turner opened the floor for comments in favor of the proposed amendments.

With there being no comments in favor of the proposed amendments, Chairman Turner opened the floor for any comments against the proposed amendments.

With there being no comments against the proposed amendments, Chairman Turner stated the Public Hearing would remain open for an additional twenty (20) minutes as the Board of Commissioners entered into the Regular Meeting – this would be done in order to meet the statutory requirements for zoning related matters.

Chairman Turner called the Regular Meeting of Monday, February 8, 2010 to order.

Following the pledge of allegiance, Pastor Paul Flynn of Union Grove Congregational Holiness Church provided the invocation.

Upon a motion made by Commissioner Bryant, seconded by Commissioner Campbell there was a unanimous vote to approve the minutes of the January 4, 2010 Regular Meeting, the January 19, 2010 Called Meeting, and the January 19, 2010 Executive Session minutes (sealed) regarding land acquisition.

Upon presentation of proclamation, the week of February 7-13, 2010 was declared “National FBLA-PBL Week in White County.”

Upon presentation of proclamation, the week of February 7-13, 2010 was also declared “National FCCLA Week in White County.”

Upon a motion made by Commissioner Campbell, seconded by Commissioner Bryant there was a unanimous vote to approve the consent agenda containing the following items:

- Approval of the City of Cleveland’s request for a perpetual easement for the purpose of constructing, installing, maintaining, operating, repairing, reinstalling, and relocating water lines within the county-owned right of way of Hilltop Street; and

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- Extension of the current ninety (90) day suspension for building permit fees for an additional ninety (90) days – through April 30, 2010; and
- Adoption of a surplus resolution for the White County Fire Department’s sale of a 1995 GIO Van (VIN# 1GCDG15Z23SF175093); and
- Approval for CW Matthews to perform deep patching on a portion of Ray Palmer Road (Hwy 254 to Hulsey Mill Road) at the cost of approximately \$50,000, to be paid from SPLOST funds – in coordination with the GDOT resurfacing of this portion of roadway; and
- Approval for London Land Surveyors to conduct survey work in the amount of \$1,950.00 and Luke Williams Engineering to provide engineering services in the amount of \$3,500.00 for Post Road culvert replacement (between Allen Anderson road and Tom Teague Road) bid document preparation; and
- Approval of a request from the Superintendent of Elections, Judge Garrison Baker, to change the Blue Ridge polling location from White County Fire Station #6 to the Mount Pleasant Methodist Church Fellowship Hall, with this change being effective during the July 2010 Primary Election; and
- Increasing the project budget amount for the White County Detention Center Construction Project from \$8.5 million to \$9.0 million; and
- Approval of Plan Option B for the White County Detention Center Construction Project, as presented by Architect Larry Goldberg, including a unified law enforcement center and jail (160+ bed capacity with expansion options) – with additional administrative space and beds to be added within the maximum total project cost of \$9.0 million.

-End of Consent Agenda-

Attorney Brian Smith with Harben, Hartley, and Hawkins presented a tax levy resolution on behalf of the White County Board of Education relative to the SPLOST approved in the election held on November 3, 2009 and the purchase of bonds for approved projects.

Commissioner Bryant stated he was concerned about the wording within the resolution and asked Mr. Smith for confirmation that if the SPLOST collections were not sufficient to pay the bonds, this resolution would provide for the Board of Education to increase property taxes in an amount to satisfy the bonds. Mr. Smith confirmed this was correct and further stated this was standard language required by bond underwriters for tax levy resolutions.

Commissioner Campbell asked if the Board of Education could designate funds from future SPLOST to cover any shortfall of the SPLOST approved November 2009. Mr. Smith confirmed this could be done, however this would not cover any shortfall since the bonds had to be paid off on an annual basis.

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Upon a motion made by Commissioner Campbell, seconded by Chairman Turner there was a vote to approve the Tax Levy Resolution, being County Resolution Number 2010-05. Commissioner Bryant opposed this vote.

With the completion of the required twenty (20) minutes time period for the public hearing for input on the adoption of text amendments to the ordinance governing the location of facilities engaging in the land application of human waste and septage, or commercial waste, or both the public hearing was officially closed with there being no comments in favor or in opposition of the proposed text amendments.

Upon a motion made by Commissioner Campbell, seconded by Commissioner Campbell there was a unanimous vote to approve the second and final reading and adopt the text amendments to the ordinance governing the location of facilities engaging in the land application of human waste and septage, or commercial waste or both – being County Ordinance Number 2010-04 and restated County Ordinance 2009-12.

Commissioner Turner stated he would like for the staff to research the possibility of amending the land application ordinance to revise the section which addresses if the business ceases operation for one (1) month that the business would lose the right to continue operations and possibly amending this to read sixty (60) days.

Doug Dockery, Director of Public Works, stated the low bid received on February 4, 2010 for the construction of a retaining wall on the property adjacent to the White County Senior Center was submitted on behalf of Complete Concrete in the amount of \$59,525.00 and he recommended awarding the bid to Complete Concrete.

Chairman Turner asked Vickie Neikirk if the funds for this project would be available from the new SPLOST account. Ms. Neikirk affirmed the funds were available and this project would fit into the requirement of the SPLOST designation.

Ms. Neikirk stated another possibility for funding would be through the collections which have been made for the Senior Center expansion through fundraising. Chairman Turner stated he personally wanted to see those funds used for the actual building and not construction of a parking area.

Upon a motion made by Commissioner Campbell, seconded by Commissioner Bryant there was a unanimous vote to award the contract in the amount of \$59,525.00 to Complete Concrete for construction a retaining wall on the property adjacent to the White County Senior Center and for the this project to be paid from the “new” SPLOST funds.

Upon a motion made by Commissioner Campbell, seconded by Commissioner Bryant there was a unanimous vote to approved the contact with Charles Black Construction Company, Inc. for Construction Manager at Risk on the White County Detention Center Construction Project.

Upon a motion made by Commissioner Campbell, seconded by Commissioner Bryant there was a unanimous vote to approve a term of ten (10) years for the bonds issued for the construction of the White County Detention Center with the option of early payback without penalty.

Commissioner Bryant stated his desire is to have the bonds paid back within five (5) years if SPLOST collections are as projected, however he felt the ten (10) year term would give the County more flexibility.

Chairman Turner stated he wanted to reiterate that the bonds were to be structured in a way that principal reduction could be made through access of general funds.

Carol Jackson stated in her conversations with Bill Johnson, with Raymond James, that she had been assured this language would be in the contract to be presented for the Board of Commissioners consideration.

Carol Jackson presented a memorandum of agreement on behalf of the White County Industrial Building Authority relative to the Authority's issuance of bonds for the White County Detention Center Construction Project. Ms. Jackson stated the Industrial Building Authority had met on January 25, 2010 and approved the associated resolution and memorandum of agreement.

Upon a motion made by Commissioner Bryant, seconded by Commissioner Campbell there was a unanimous vote to approve the memorandum of agreement with the White County Industrial Building Authority as presented.

Carol Jackson presented a resolution for the Board of Commissioners consideration which would be a request to the Georgia General Assembly to introduce and pass local legislation to create the White County Building Authority.

Chairman Turner explained this would be a new authority, which could be used as the mechanism for the issuance of bonds on behalf of the County in the future.

Upon a motion made by Commissioner Bryant, seconded by Commissioner Campbell there was a unanimous vote to adopt the resolution requesting the Georgia General Assembly to introduce and pass local legislation to create the White County Building Authority, being County Resolution Number 2010-06.

Chairman Turner asked the agenda item regarding the bid award for the general operating account be table until he could obtain additional information. He noted bids were received from Mountain Valley Community Bank, United Community Bank, and Regions Bank. Chairman Turner asked Vickie Neikirk what the interest rate for the public funds account was based on. Ms. Neikirk responded that this was an internal rate tied to the Treasury Bill. Chairman Turner asked how often this rate changed. Ms. Neikirk stated she did not have this information; however she would research the answer. Chairman Turner stated the proposals submitted also included both Mountain Valley Bank and United Community Bank paying interest on all accounts and Regions would not pay interest on the payroll account. He further stated the payroll account was a flow account and whether interest was paid on this account or not was not a major concern however he did want to see the county funds maximized. Chairman Turner stated he would be speaking Ms. Neikirk in order to obtain additional information.

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Vickie Neirkirk, Chief Financial Officer, presented the monthly financial report for December 2009 (see attached).

Chairman Turner opened the floor for public comment.

Mr. Ray Davis addressed the Board of Commissioners concerning the funds which had been raised for the White County Senior Center Expansion. He indicated that upon the Board of Commissioners agreeing to use SPLOST funds for the expansion project that it had been determined that the funds collected by the senior center committee would be used to furnishings and other items which may be needed – not the actual construction portion of the expansion project - and any expenditures of these funds would have to be approved by the senior center committee.

Upon a motion made by Commissioner Campbell, seconded by Commissioner Bryant there was a unanimous vote to adjourn the meeting.

The minutes of the February 8, 2010 are hereby approved as stated this the 1<sup>st</sup> day of March, 2010.

WHITE COUNTY BOARD OF COMMISSIONERS

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