

WHITE COUNTY BOARD OF COMMISSIONERS

MINUTES FROM REGULAR MEETING HELD

JANUARY 9, 2007, AT 5:30 P.M.

The White County Board of Commissioners met in a regular session at 5:30 P.M. in the Grand Jury Room of the White County Courthouse, Cleveland, Georgia. Present were: Chairman Chris R. Nonnemaker, 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 Jean Welborn.

Chairman Nonnemaker called the meeting to order. Chairman Nonnemaker welcomed Joe R. Campbell, the newly elected Commissioner. After the pledge to the flag, Rev. David Gravitt, Pastor of Cleveland United Methodist Church, brought the invocation.

Upon motion made by Commissioner Bryant, seconded by Commissioner Campbell, the minutes from the Regular Meeting held December 5, 2006 were unanimously adopted.

The Board of Commissioners issued a Certificate of Appreciation to Barbara Head in recognition of her fourteen years of service as Chief Voter Registrar of White County.

The report on the Bean Creek Water Project was postponed until the February meeting.

Upon motion made by Commissioner Bryant, seconded by Commissioner Campbell, the following Consent Agenda items were unanimously approved:

1. Adopted the following Resolution:

“WHITE COUNTY BOARD OF COMMISSIONERS

RESOLUTION NO. 2007-1

A RESOLUTION ESTABLISHING A CODE OF CONDUCT FOR ELECTED OFFICIALS OF WHITE COUNTY, GEORGIA

The members of the **WHITE COUNTY COMMISSION** recognize that, when acting as a body, they are the governing authority of **WHITE COUNTY, GEORGIA**. As a Commission they possess the full power of local government, both legislative, executive and quasi-judicial, within the parameters established by the Constitution and laws of the State of Georgia. As individual commission members, however, each member acknowledges that he has no legal power or authority, and that official action can exist only by majority vote of the Commission. Accordingly, it is important and in the public interest to establish a code of conduct for elected officials that addresses conduct both during and outside of public meetings. This Resolution is adopted in order to preserve the integrity of local government, to promote the efficiency with which local government services are provided, and to protect **WHITE COUNTY, GEORGIA** from exposure to liability due to conduct that is unauthorized or in excess of an elected official's authority.

NOW THEREFORE, it is hereby **ORDAINED** by the **WHITE COUNTY, GEORGIA COMMISSION** that this Code of Conduct for elected officials is hereby adopted:

- I. CONDUCT DURING MEETINGS.** During the public portions of Public Meetings and Public Hearings, elected officials of **WHITE COUNTY, GEORGIA** shall not:
 - (1) Speak without first being recognized by the Chair;
 - (2) Interrupt anyone who has the floor;
 - (3) Use profanity during the public portion of any meeting;

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- (4) Refuse to yield the floor, or argue with the Chair, if he is ruled out of order by the Chair;
- (5) Make disparaging remarks about any person's character during the public portion of any meeting. By way of example, it would be permissible to say "I don't believe that" or "I cannot accept that," but it is improper to say "He's a liar," or "He can't be trusted." Remarks should be limited to the subject under discussion, and shall not address the character of the persons involved. Nothing herein shall limit or restrict the free and open debate of these matters in executive or closed sessions.
- (6) Confront anyone about a prior statement in an accusatory manner during the public portion of any meeting. By way of example, it would be permissible to ask someone if something different had been said on a prior occasion, and the question should be phrased "Did you tell me _____?" or "Do you remember telling me _____?" It is impermissible to say "Didn't you tell me _____," or "Why did you tell me _____ before the meeting?" The purpose of the public portion of a meeting is to allow each elected official, town representatives and members of the public to state their positions in an orderly fashion; it is not a trial where persons are to be cross-examined, interrogated, belittled or held out to public ridicule or embarrassment. Nothing herein shall limit or restrict the free and open debate of these matters in executive or closed session.
- (7) State during the public portion of any meeting that a county employee has not done his or her job, or has not done his or her job properly. By way of example, it would be permissible to ask if a county employee did or did not do a specific task, but the question must be phrased in such a way that a simple "yes" or "no" answer is all that is requested. It would also be permissible to state or comment that a job was not done, or that it was not done correctly, so long as the person responsible is not singled out for blame; remarks concerning the subject of job performance are proper, but negative references to the person responsible are not. It is not proper to accuse county employees of not doing their jobs, or doing them improperly, during the public portions of the meeting. County employees shall not be placed in the position of responding to accusations of wrongdoing by an elected official during the public portion of a meeting (unless the meeting has been called as a hearing for the express purpose of determining disciplinary action), nor shall their integrity or competency be challenged by an elected official during the public portion of any meeting. Nothing herein shall limit or restrict the free and open debate of these matters in executive or closed session.
- (8) Represent their personal position or beliefs as being the position or beliefs of the Commission as a whole. By way of example, unless and until a majority vote has been obtained on a specific issue, an elected official shall not state that the Commission will or will not do something, nor shall an elected official state what the Commission's vote will be on an issue. No single elected official can speak on behalf of the Commission unless specifically authorized by majority vote to do so.

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- (9) Refuse to recognize the validity of action approved by majority vote of the Commission. By way of example, an elected official is free to state that he does not agree with the majority vote, or that he would like to see the majority reconsider its action and vote a different way. However, an elected official shall not refuse to sign any ordinance, resolution, contract or other legal document because he did not vote for the action taken. The minutes shall reflect his opposition to the majority's decision, but he shall not be authorized to withhold his signature on the basis that he did not vote for the action taken.
- (10) Divulge the subject matter of any confidential information, legal advice, or strategy discussions revealed during an executive session called for the purpose of discussing actual or potential litigation against the county or any county employee. There may be occasions when an elected official will be asked to make a specific commitment to this rule in connection with a particular case. If an elected official is unwilling to pledge his commitment to the other members of the Commission, he shall be excluded from participating in that portion of the executive session.

II. CONDUCT OUTSIDE OF MEETINGS. An elected official of Commission shall not:

- (1) Direct any department head or county employee to do a job or perform a task. All such requests shall be made to the County Administrator. Once such a request is made, the elected official shall follow up with the County Administrator regarding the performance of the work, not with the department head or county employee whom the elected official expects to do the job. If the job is not performed to the elected official's satisfaction, this shall be taken up with the County Administrator first; if the elected official is still not satisfied, the matter shall next be discussed with all members of the Commission in executive session, under the exemption to the Open Meetings Act for discussion of employee performance. There shall be no criticism or disparaging remarks made about any county employee in a public meeting unless and until all of these steps have been exhausted.
- (2) Publicly state that he intends to fire or discipline any county employee. No single elected official has the authority to hire or fire county personnel.
- (3) Reprimand any county employee. If an elected official believes a county employee should be reprimanded he shall so inform the County Administrator. If an elected official believes the County Administrator should be reprimanded he shall notify the other members of the Commission. No single elected official has the authority to discipline county personnel.
- (4) Use profanity, insulting or demeaning words about a county employee in the presence of that employee, or in the presence of any other county employee.
- (5) Call into question the qualifications or competency of a county employee in the presence of that employee, or in the presence of any other county employee. Concerns of this nature shall be addressed in the stages outlined in Section II, Rule 1, above.

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- (6) Demand that the County Manager or any department head stop what he or she is doing and immediately attend to the elected official's business. If the County Manager or a department head requests that the elected official schedule a time to discuss a matter that is mutually convenient to all concerned, the elected official shall honor that request.
- (7) Agree to buy or sell anything of value on behalf of the county without advance approval by a majority vote of the County Commission.
- (8) Attempt to negotiate county business with any private party or any representative of another governmental unit without the advance approval of a majority of the County Commission. By way of example, it is permissible for any elected official to discuss county business in general terms with private parties and representatives of other governmental units (unless there is actual or threatened litigation against White County, Georgia by the parties involved). However, an elected official shall not make any written offers, draft any agreements, edit or revise any proposed agreements or plans, or suggest or propose (whether orally or in writing) any specific terms concerning money or services to be provided or received by the county unless that elected official has received express authorization in advance by a majority vote of the County Commission. The fact that the subject matter involves property or persons in an elected official's district is of no consequence, as an elected official has no additional legal authority over a matter simply because it is in his district.
- (9) Speak to any representative of the news media on behalf of the county or the Commission without advance approval by majority vote of the Commission. By way of example, an elected official is free to express his personal views or opinions to anyone. However, an elected official shall not make a statement in the name of the County Commission or in the name of White County unless he has been authorized in advance to do so by majority vote of the County Commission.
- (10) Speak with any other commissioner about county business outside of a regular work session or regular Commission meeting that is in any way in violation of the "Sunshine Law of the State of Georgia." This in no way prevents two or more commissioners from being together at social functions or being together without others present, as long as what is commonly called the Sunshine Law of the State of Georgia is not violated.

III. PENALTIES. The County Commission shall have the responsibility to police itself and to enforce this Resolution. Any elected official shall have the right to bring a suspected violation of this Resolution to the attention of the full Commission. Any such accusation may be deliberated upon in Executive Session, but a vote upon any penalty to be imposed must be taken in open, public session, with all members of the Commission present. If the Commission determines by majority vote that a violation of this Resolution has occurred, the Commission shall have the authority to impose one or more of the following penalties upon the offending elected official:

- (1) A verbal censure that shall be noted in the Minutes without further elaboration;

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- (2) A written censure, to be made a part of the Minutes, specifically outlining the facts underlying the violation;
- (3) Removal of the elected official from membership on any committee, association or group in which the offending elected official is involved in his capacity as a White County elected official; removal shall take place by the delivery of a letter, signed by the Commission, to the head of such committee, association or group, stating that the offending elected official is no longer authorized to represent White County. This sanction shall last for a period of Up to one year from the date of offense.
- (4) A fine, not to exceed \$500 per offense, which shall be paid by the offending elected official to the general fund of White County, Georgia within ten (10) days of the Commission's vote establishing a violation; if the offending elected official fails to make this payment within the time specified herein, the amount of the penalty shall be withheld from the offending elected official's compensation as an elected official.

The decision of the White County Commission on any question concerning a violation of the Resolution, or the penalty imposed, shall be final, it being the express intent of all the elected officials to govern themselves, and not to abdicate this responsibility to any other person or entity.

This Resolution shall take effect immediately. It shall remain in effect for so long as the current membership of the White County Commission remains unchanged. It is acknowledged that the enforceability of this Resolution is authorized by and dependant upon the consent of the undersigned, who hereby agree to be bound by the Resolution. Therefore, this Resolution shall terminate upon the addition of any new person to the White County Commission. This Resolution may thereafter be re-adopted upon the consent and affirmative vote of the members of the Commission as it is then constituted, subject to this termination and re-adoption provision, for all future commissions.

SO ORDAINED, this the 9th day of January, 2007.

WHITE COUNTY BOARD OF
COMMISSIONERS

s/Chris R. Nonnemaker
Chris R. Nonnemaker, Chairman

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

s/Craig Bryant
Craig Bryant, Post 2"

2. Adopted the following Bank Resolution:

WHITE COUNTY BOARD OF COMMISSIONERS

RESOLUTION NO. 2007-2

A RESOLUTION

WHEREAS, the Board of Commissioners wishes to amend the authorization for signatures on the accounts held by White County at Regions Bank of White County, Habersham Bank, Stephens Federal, Community Bank and Trust, United Community Bank, and Mountain Valley Community Bank;

THEREFORE, IT IS HEREBY RESOLVED THAT: The records of Regions Bank of White County, Habersham Bank, Stephens Federal, Community Bank and Trust, United Community Bank, and Mountain Valley Community Bank be amended to show that any Certificates of Deposit, withdrawals or checks written out of the Commission Accounts must bear signatures as follows:

1. On any payroll checks or on any payroll-related checks, any TWO of the following:

CHRIS R. NONNEMAKER, COMMISSION CHAIRMAN;
JOE R. CAMPBELL, POST 1 COMMISSIONER;
CRAIG BRYANT, POST 2 COMMISSIONER;
ALTON E. BROWN, COUNTY MANAGER; OR
JEAN WELBORN, COUNTY CLERK;

2. On checks, other than payroll checks or payroll-related checks, in any amount, TWO of the following, with ONE signature being that of one of the County Commissioners:

CHRIS R. NONNEMAKER, COMMISSION CHAIRMAN;
JOE R. CAMPBELL, POST 1 COMMISSIONER;
CRAIG BRYANT, POST 2 COMMISSIONER;
ALTON E. BROWN, COUNTY MANAGER; OR
JEAN WELBORN, COUNTY CLERK.

IT IS FURTHER RESOLVED that each of the above designees could affix his/her signature to such checks with a signature facsimile stamp, with each designee having the sole possession and control of his/her signature stamp.

Let the Clerk prepare an extract of these minutes for the records of Regions Bank of White County, Habersham Bank, Stephens Federal, Community Bank and Trust, United Community Bank, and Mountain Valley Community Bank.

ADOPTED, this 9th day of January, 2007.

s/Chris R. Nonnemaker
Chris R. Nonnemaker, Chairman

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

s/Craig Bryant
Craig Bryant, Post 2

ATTEST:
s/Jean Welborn
Jean Welborn, County Clerk"

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Chris Hollifield of Rushton and Company presented the County Audit Report for fiscal year ending June 30, 2006. Commissioner Campbell recognized Clay Pilgrim of Rushton and Company who had grown up in White County.

Mr. Hollifield recognized the great job being done by Vickie Neikirk and the Finance staff, Alton Brown and his office, Jean Welborn, and all the staff. Mr. Hollifield stated that they were always pleased with every department. Mr. Hollifield stated that this was another good year for White County; that the revenues had gone up; that the County had maintained its reverses, which meant that the county had not overspent the increase in revenues; that the County had created a surplus for the future; that in the 2007 fiscal year budget, the County had taken about \$1.3 million from reserve to put into the budget to help fund future expenditures to keep down taxes and other fees.

Mr. Hollifield stated that the County had a Clean Opinion Letter; that there was nothing that came to their attention during the audit that would cause them not to be able to issue a Clean Opinion Letter; that there were some comments or suggestions for improvements but none serious enough that would prevent a Clean Opinion Letter.

Mr. Hollifield gave a brief overview of the audit (see copy on file).

Mr. Hollifield stated that he had issued a letter that had some comments for suggestions that the Board of Commissioners should have and he encouraged the Board of Commissioners to read through those comments in order for them to be aware of the suggestions.

Vickie Neikirk, White County Chief Financial Officer, presented the monthly Financial Report (see copy attached). Chairman Nonnemaker asked everyone to remember Vickie Neikirk because she was going to be out for surgery.

Commissioner Bryant asked Mr. Brown what the amount of difference was in the present contract amount on the Smithgall Woods Animal Shelter and the amount requested by Smithgall Woods. Commissioner Bryant stated that he thought it was \$9,000. Sharon Mauney stated that they had asked for \$83,600 and that the Board of Commissioners had funded \$75,000, with a difference of \$8,600. Commissioner Bryant stated that this had been dragging on for so long. Commissioner Bryant made a motion to pay to Smithgall Woods Animal Shelter the sum of \$8,600 to be taken out of contingency and let Alton Brown and the Smithgall Woods representatives start working on next year's contract; that the Shelter was doing more work and taking in more dogs. Jean Welborn, County Clerk, asked for a clarification if the \$8,600 was a lump sum or spread out over the contract period. Commissioner Bryant stated that it could be however it needed to be worked out.

Nancy Hashimoto stated that another contract, taking into consideration the new SOP's and other minor changes, had been placed before the Board of Commissioners. Chairman Nonnemaker commended Nancy Hashimoto for the job that they were doing and for getting the numbers to them. Chairman Nonnemaker stated that they were not voting on the contract but just the change in the funding; that they needed to get together soon to hammer out the details of the contract. Commissioner Campbell asked if the extra \$8,600 would get the Animal Shelter through to the next budget year. Ms. Hashimoto stated that it would. Commissioner Campbell seconded the motion to increase the funding under the Smithgall Woods Animal Shelter contract for the extra \$8,600 to be taken from contingency and to be paid over the next six months.

Ms. Sharon Mauney asked for a clarification of the motion. Ms. Mauney stated that they were being paid a monthly rate of \$75,000 divided by 12 or \$6,250 per month and asked if they were going to continue to get that amount plus the \$8,600. Commissioner Bryant stated that they had originally requested \$83,600; that they had funded \$75,000; that his motion was to authorize the payment of the \$8,600 in order to make the total under the contract for the year \$83,600 as originally requested. Chairman Nonnemaker stated that

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the \$8,600 would be added to the payments over the next six months. Commissioner Campbell stated that they would be getting an additional amount over the original contract amount of \$75,000.

The vote to grant the additional \$8,600 to the Smithgall Woods Humane Society as above set out was unanimous.

Upon motion made by Commissioner Bryant, seconded by Chairman Nonnemaker, Commissioner Joe R. Campbell was elected Vice Chair for the Commission for the calendar year 2007.

Upon motion made by Commissioner Campbell, seconded by Commissioner Bryant, the TENTH EDITION OF ROBERT'S RULES OF ORDER NEWLY REVISED was unanimously accepted as parliamentary procedure for White County Commission meetings so long as it did not supersede the 1988 Enabling Acts of White County. County Attorney David Syfan stated that the Board of Commissioners could adopt Robert's Rules of Order with an understanding that whatever the intent of the majority of the board wanted to do in taking action would control over the technical rules of Robert's Rules. It was stated that if there was a conflict, the Enabling Acts would rule.

Chairman Nonnemaker stated that there was a movement among several of the Northeast Georgia counties, spearheaded by Lamar Paris in Union County and Steve Gooch in Lumpkin County; that Chairman Nonnemaker had been representing White County; that several counties were getting involved; that the movement was to fight the 150-foot blanket buffer mandated by EPD to the Counties; that there had been several meetings with EPD Boards in Atlanta; that they were making some headway; that they were trying to fight to have them reduce those buffer sizes down to 50 for trout streams instead of the blanket 150-foot buffer; that he had received an email from Lamar Paris asking for \$2,000 from each county to help fund an Attorney from an Atlanta firm that specializes in state buffer requirements.

Commissioner Campbell stated that it was his understanding that because of all the controversy that was coming up about set-backs and elevations, the State recently had a meeting at St. Simons or Jekyll and brought in six State Attorneys to give their interpretations of what the state standards would be; that he did not think that the State had made the results public; that his understanding was that the State would have its standards and that anything that was above those state standards would be null and void; that to make the regulations more stringent than the state standards, it would have to go under private covenants. Commissioner Campbell stated that he was very much for fighting to get set backs reduced but did not know what the State was going to do. Chairman Nonnemaker stated that it did not look like the State was going to bend; that the Northeast Georgia counties were trying to recoup part of the costs of the law firm; that they had given around \$1,000 in November as seed money to hire the law firm. Chairman Nonnemaker stated that he told the other county representatives that he would ask the Board for the \$2,000 from contingency to help with the legal fees. Jean Welborn asked for a clarification on the buffer. Tom O'Bryant stated that it was for watershed; that presently for 7 miles above the intake the state required 150-foot set back from the center line of the streams; that it was an undisturbed set back, which would apply also to all tributaries; that agriculture and forestry were exempt but no buildings could be built in the set back. Chairman Nonnemaker stated that White County had Turner Creek Watershed and the watershed on the Chattahoochee above the Demorest water intake. David Syfan suggested that the Board of Commissioners table this item because he had somewhat of a problem with the use of public funds for lobbying activity, but he was not quite sure that the proposed activity could be described as lobbying; that he would like to have some clarification on how the money was to be used; that he understood that there was a general prohibition of counties using public funds for lobbying. Chairman Nonnemaker stated that he would send David Syfan the email from Lamar Paris.

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Jerry Nicholson stated that 7 miles above a reservoir was a lot of property; that as a citizen and taxpayer of White County, he supported the effort to reduce the set back. Chairman Nonnemaker stated that the 150-foot setback was so arbitrary and that there was no scientific data to support the need for that much setback.

Upon motion made by Commissioner Campbell, seconded by Commissioner Bryant, it was unanimously voted to appropriate the amount of \$2,000 from contingency toward attorney's fees in a joint effort with other counties to have the 150-foot setback on watersheds reduced by the State, provided that the County Attorney, David Syfan, advised that it was legal for the County to do so. *(Note: On January 11, 2007, Mr. Syfan advised in an email that it was his opinion that it was fine for the county to participate financially in this effort.)*

The Board of Commissioners announced that a public hearing would be held in conjunction with the February meeting to hear public comment on the proposed abandonment of a portion of the Herman Winkler Road.

Bill Kokaly of Long Mountain Motor Sports off Friendship Road gave an update. Mr. Kokaly stated that he had attempted to be good neighbors with the campground; that they had previously banned 4-wheelers; that they were now working with Hope for Hungry, collecting over 100 cans of canned goods to help less fortunate in North Georgia; that things were going mediocre; that they had had some issues with the campground next door; that the Sheriff's deputies had been out there because some of the riders had called the Sheriff because a neighbor in the campground was video taping their children on the Kiddie Track; that Deputy Ferguson came out and got that stopped; that last week an issue did arise that he felt needed to be addressed; that last week they had some rain; that, as part of the rain on Thursday, he was attempting to remove storm water from an area on their facility that holds storm run-off water; that what they were doing was prepping; that they did remedial and preventive maintenance. Mr. Kokaly stated that one of the things that they were very aware of was the creek; that they watch the creek; that the creek was getting better and better as they pulled more and more trash out of it; that they were pumping some water out of the area and pumping it up on their land; that it flowed into a drainage ditch; that the drainage ditch about 200 feet down past their property ran into the stream. Mr. Kokaly stated that the Code Enforcement people had been called; that he assumed a complaint had been filed with Mr. O'Bryant's office; that Code Enforcement Office Mr. Tooley responded; that this actually disappointed him quite a bit; that they were not doing anything wrong; that he had been in contact with EPD and that they were allowed to do these types of activities; that they were going to make more adjustments; that they were going to add some gravel to the creek and some hay bales to further reduce any impact, but this was storm runoff water; that they were asked to cease the pumping activity, which they did; that the issue that he had was that in October when he first came to the Commissioners' meeting, they were told that not everybody was going to be happy with the results of the meeting; that apparently, their neighbors were still not happy; that, at that point, they had placed with the Code Enforcement Office four formal complaints of code violations on their neighbors' property; that on the form, it asked that feedback be provided; that to date, no feedback had been provided; that it seemed to be that there might be two sets of rules.

Alton Brown stated the correct procedure for Mr. Kokaly's complaint would be through Ringo McCollum, the Chief Building Inspector, and himself; that he knew that the study had been done; that they did not find any violations; that if Mr. Kokaly had a problem, he should get with Mr. McCollum and get with him, they would try to resolve; that if they could not resolve it, then certainly, the Board of Commissioners would be next. Mr. Kokaly stated that he had asked several times for responses. Mr. Brown stated that he had not asked him. Mr. Kokaly stated that he would get with Mr. Brown.

Upon motion made by Commissioner Campbell, seconded by Commissioner Bryant, **WILLIAM C. SUTTON, JR.** was unanimously appointed for the balance of a term to

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expire June 30, 2008 on the **White County Chamber of Commerce Board** (position created by the resignation of Donald Nelligan).

Chairman Nonnemaker announced the next work session of January 30, 2007, at 4:30 P.M.

The next meeting was re-scheduled due to the conflict with the ACCG Legislative Conference. A date and time would be announced at a later date. (*Note: The date and time was later set for February 8, 2007 at 5:30 P.M.*)

Upon motion made by Commissioner Bryant, seconded by Commissioner Campbell, it was unanimously voted to enter Executive Session to discuss Personnel Issues. (See Closed Meeting Affidavit attached.)

Upon motion made by Commissioner Bryant, seconded by Commissioner Campbell, it was unanimously voted to exit Executive Session.

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

Chris R. Nonnemaker, Chairman

Joe R. Campbell, Post 1

Craig Bryant, Post 2

Jean Welborn, County Clerk