

**HABERSHAM COUNTY BOARD OF COMMISSIONERS
REGULAR MEETING MINUTES
6:00 P.M., MONDAY, MARCH 20, 2023
HABERSHAM COUNTY COURTHOUSE
JURY ASSEMBLY ROOM
295 LLEWELLYN STREET, CLARKESVILLE, GA 30523**

A meeting of the Habersham County Board of Commissioners was held on Monday, March 20, 2023 at 6:00 p.m. in the Jury Assembly Room of the Habersham County Courthouse located in Clarkesville, GA.

Present was Commission Chairman Ty Akins, Commissioner Bruce Harkness, Commissioner Dustin Mealor, County Attorney Donnie Hunt, County Manager Alicia Vaughn, County Clerk Brandalin Carnes, County Department Directors, Individuals from the Media and Public.

Commissioner Bruce Palmer and Commissioner Jimmy Tench were physically absent from the meeting due for medical reasons but were able to remotely attend via teleconference.

Chairman Akins called the meeting to order at 6:02 p.m.

Commissioner Harkness lead the invocation.

Commissioner Mealor lead the pledge of allegiance.

ADOPTION OF AGENDA

Motion by Commissioner Mealor, seconded by Commissioner Harkness and voted unanimously (5-0) to approve the agenda with the following changes:

- Removal of executive session from the agenda.
- Addition of item “f. Consider/Approve Amendment to Magistrate Judge Pay Supplement” to New Business.
- Addition of item “g. Consider/Approve IGA with City of Baldwin for Animal Control Services” to New Business.

PRESENTATIONS/ANNOUNCEMENTS:

- a. Condolences Extended to Family of Melvin Smith
- b. Recognition of 10-U Girls All Star Basketball Team
- c. Welcome Extended to Piedmont University President Marshall Criser
- d. Employee Spotlight: Jay Mull & Kevin Ivester
- e. Recognition of E911/EMA Director Lynn Smith’s Receipt of 2023 Georgia Association of Public-Safety Communications Officials (APCO) President’s Award
- f. Proclamation Declaring April 9th through April 15th as Public Safety Telecommunications Week

PUBLIC HEARINGS:

- a. **CU-23-01:** Application by Jeremy Miller Seeking Conditional Use for Construction of Commercial Sign Shop to be Located at 1118 Cody Rd in the Low Intensity (LI) District (Parcel 130-041)

County Planner Troy Dills spoke on behalf of the Planning Department as Planning Director Mike Beecham was unable to attend the meeting. Mr. Dills informed the Commission that the application CU-23-01 was made by Jeremy Miller, who seeks a conditional use for the construction of a commercial sign shop on 10.80 acres that he purchased (Parcel# 130-041) located on Cody Road in the Low Intensity (LI) District. Mr. Miller already has an existing business in downtown Clarksville but wishes to relocate. The proposed structure will be a 6,000 square foot metal building that will be used for fabrication. All machinery will be located inside the building, which would keep noise limited. Mr. Miller states there is little traffic expected, though truck deliveries of materials will periodically occur. Staff expressed concerns over the location of the driveway as there is a blind curve on the northwest corner of the property at the intersection with Bill Canup Rd. Concerns were expressed by citizens who attended the Planning Commission meeting regarding the intrusion of commercial property into a residential area, potential traffic on the road and potential impact on Hazel Creek. The Planning Commission feels that the proposed commercial sign shop will have little impact on the neighbors and that the property could alternately be used for the development of up to 10 homes, the impact of which would be much greater than the proposed commercial use. In addition, any development would have to meet the setback requirements from state water which is 150 feet in this area. Further discussion was had by the Planning Commission regarding the curve on Cody Road. Several residents expressed their concerns regarding the dangers of this curve. The Planning Commission agreed that driveway would need to be moved further down Cody Road from the curve. They asked Mr. Miller if he would be willing to give right-of-way in case a future safety improvement was ever needed on the Cody Road curve. Mr. Miller stated that he would be willing to donate the right-of-way depending on the request. Planning staff met with the Public Works Department regarding how much right-of-way would be required for potential future safety improvements, however the Public Works Department expressed that they do not have the needed funds to make these improvements at this time. The Planning Commission has forwarded CU-23-01 to Board of Commissioners with the recommendation of approval with the following conditions:

1. Sight distance of the driveway must meet County minimum standards.
2. The driveway must be constructed to commercial driveway standards.
3. Right-of-way be deeded to the County for potential safety improvements.

The third condition was requested so the county would not have to purchase the right-of-way should it ever be needed. It was requested that the amount of right of way needed be determined prior to the March 20, 2023 Board of Commissioners meeting so that the applicant would have time to make a decision regarding the donation, however it is now unknown if the response from Public Works regarding not having the funding for the safety improvements has made this last condition obsolete.

Commissioner Harkness asked if a zoning change was being requested for the property? Mr. Dills stated that the zoning for the property is Lower Intensity (LI) and that no zoning change is being requested, just a conditional use to allow for the property to be used for the requested purpose. Commissioner Harkness asked what if part of the property went on to be sold? Mr. Dills informed him that the conditional use is for the sign shop only and essentially stays with the business. If someone else purchases part of the property and wants a conditional use they would need to make a separate application.

Commissioner Tench mentioned that he had read the minutes from the Planning Commission meeting in which this application was discussed, and he is concerned the Planning Commission Chairman Bill Gresham recused himself from the meeting only to later speak on behalf of the applicant. County Attorney Donnie Hunt agreed that if Mr. Gresham had recused himself that he should have left the room and not participated

in the portion of the Planning Commission meeting in which the application was discussed, however the Planning Commission acts in an advisory capacity in that they make recommendations to the Board of Commissioners so this flaw in their meeting does not effect the consideration by the Board of Commissioners. Commissioner Akin mentioned that several members of the Planning Commission are also Developers and that there are often situations that come up in which they may need to recuse themselves. He requested that County Planner Troy Dills and/or Planning Director Mike Beecham discuss with the Planning Commission the need to leave the room if they recuse themselves from a decision.

The meeting was turned over to County Attorney Donnie Hunt for conduction of the public hearing.

County Attorney Hunt asked for comments in favor of the application. Bill Gresham was present to speak on behalf of Conditional Use Application CU-23-01. He listed himself as an applicant and primary contact as he has known Mr. Miller for quite some time, and Mr. Miller asked for his assistance. Mr. Gresham is the owner of Gresham Planning and Development. Mr. Miller was caught in traffic and couldn't attend the meeting, so he has asked Mr. Gresham to represent him on his behalf. Mr. Miller's father started the sign business, but he has since expanded it. Mr. Miller will be part of the rebranding process from Northeast Georgia Medical Centers takeover of Habersham Medical Center. The bulk of his business is manufacturing of vinyl lettering for signs. When Mr. Gresham went over the site plan with Mr. Miller, he told Mr. Miller that they would need to be flexible with the driveway and he states that Mr. Miller is very open to doing whatever it takes to get the conditional use application approved.

County Attorney Donnie Hunt asked for comments in opposition of the application. There was no one present who wished to speak against Conditional Use Application CU-23-01.

Chairman Akins asked for clarification on the right-of-way situation. Public Works Director Jerry Baggett stated that he is not opposed to the acquisition of the right-of-way, however he has concerns with the stipulation regarding a "potential safety improvement project". His concern is that if he gets funds for a safety project that he feels like it would need to be earmarked for a road that effects several thousand people. He estimates the cost of straightening the curve, extending Bill Canup Rd and moving utilities would cost between \$250,000 to \$500,000. Chairman Akins asked Mr. Baggett if he feels comfortable that if the driveway was moved to the other side of the creek just outside the 150' setback it would be sufficient? Mr. Baggett stated that he agrees and that they could look at potentially clearing the trees if the applicant agrees to provide a better sight distance around the curve.

Discussion was had among the Commission regarding whether to include the donation of the right-of-way as a condition for approval. The main point of concern was making sure that by accepting the right-of-way that the county was not agreeing that there are any immediate plans or commitments that safety improvements be made by the county. County Attorney Donnie Hunt informed the Commission that anytime a right-of-way is acquired by the County it should be for public safety or purposes, and that the word "potential" does not commit or bind the county in any way.

Motion by Commissioner Mealor, seconded by Commissioner Harkness to approve CU-23-01 with the condition of sight distance of the driveway must meet county minimum standards, the driveway must be moved to allow for the sight distance as determined in the Planning Commission meeting, the driveway must be constructed to commercial driveway standards and the county will be accepting right-of-way for a potential (not shovel ready) safety improvement if required to be revisited in the future. Motion carried 4-1 with Commissioner Tench dissenting.

PUBLIC COMMENTS:

- a. Keith Canup: Mr. Canup stated that he attended the last Planning Commission meeting and the revamping of the CLDO was discussed. He would like to urge the Commission to push this forward with revising the CLDO as he feels that it is a way to alleviate tensions from recent commercial developments in the county and address citizen concerns. Commissioner Mealor wanted to make Mr. Canup aware that there will be town halls held to gather public input for the Comprehensive Plan.
- b. ~~Elaine D. Mobley: Criteria for Homestead Exemptions:~~ Ms. Mobely called prior to the meeting and informed that she no longer wished to be on the agenda for public comment.

CONSENT AGENDA:

Commissioner Harkness wanted to make everyone aware that he was not present for the Special Called meeting that occurred on March 02, 2023 but he has reviewed the minutes and he has no issue with them.

Commissioner Harkness wanted to make an inquiry regarding “e. Consider/Approve Airport Hangar Lease Agreements”. He asked Airport Manager Will Regan what type of hangars these are? Mr. Regan informed him that they are County-owned hangars and that there are three different types of hangars: a open air hangar that rents for \$100/month, an older pole barn style hangar that rents for \$200/month and then the newer metal sliding door hangar that rent for \$300/month. Commissioner Harkness asked if we have reviewed the hangar rents to see if they are comparable to other airports? Mr. Regan informed him that this has been done. Commissioner Harkness brought up that the last lease agreement for Shawn Brautigan does not have the term or rate filled out. County Clerk Brandalin Carnes informed Commissioner Harkness that last month he was provided a blank copy of the lease agreement and a list of names of those who turned in the new lease. The only reason the actual lease agreements were provided this time was because, there being so few of them, it was just as simple as printing out the blank template that is being used for every tenant. Commissioner Harkness stated that he will not vote for it in the future unless it is completely filled out.

Commissioner Tench wanted to make an inquiry regarding the consent agenda item “Consider/Approve Agreement and Grant through SARP for Stream Bank and Riparian Enhancements”. He asked if this is in regard to the Soque river? County Manager Alicia Vaughn informed that this is for the Chattahoochee River. Commissioner Akins stated that it is his understanding that this grant is for repairing and replanting the riverbanks to keep them from washing out. He informed that no County funds are being used for the project, the grant is just passing through the County. Commissioner Tench stated that he feels like this item should be tabled. County Attorney Donnie Hunt stated that the agenda had already been adopted so tabling the item is not an option at this time.

Motion by Commissioner Mealor, seconded by Commissioner Harkness and voted 4-1 to approve with Commissioner Tench dissenting.

- a. Consider/Approve Minutes for February 20, 2023 Work Session
- b. Consider/Approve Minutes for February 20, 2023 Regular Meeting
- c. Consider/Approve Minutes for February 20, 2023 Executive Session
- d. Consider/Approve Minutes for March 02, 2023 Special Called Meeting
- e. Consider/Approve Airport Hangar Lease Agreements
- f. Consider/Approve Contract with GDOT For ROFA Project & Terminal Expansion Project

- g. Consider/Approve GDOT Update to List of Roadways Covered by Speed Zone Ordinance
- h. Consider/Approve Courthouse Security/Video Surveillance System Upgrade
- i. Consider/Approve Agreement and Grant through SARP for Stream Bank and Riparian Enhancements
- j. Consider/Approve Surplus of Obsolete Sheriff Vehicle and Sale to Habersham County Board of Education for \$5,000
- k. Consider/Approve Alcohol License:
 - 1) Bingo Foodmart, LLC located at 305 Panther Brook Lane- Malt Beverage and Wine Package Sales

REPORTS:

- a. Manager's Report: Alicia Vaughn

APPOINTMENTS:

DEVELOPMENT AUTHORITY 6-year term

- Brent Edwards (Resignation) 02/17/2026- Commissioner Akin's Appointment

Motion by Commissioner Akins, seconded by Commissioner Harkness and voted 4-1 with Commissioner Tench dissenting to approve appointment of Jim Butterworth to the Development Authority.

RECREATION BOARD 5-year term

- Kerri Davis (Resignation) 12/31/2023- Commissioner Tench's Appointment

Motion by Commissioner Tench, seconded by Commissioner Akins and voted unanimously (5-0) to appoint Joe Elam to the Recreation Board.

UNFINISHED BUSINESS: NONE

NEW BUSINESS:

- a. Consider/Approve IGA with Board of Education for Recreation Facilities Use

Parks and Recreation Department Director Brook Whitmire addressed the Commission. The county has had previous IGA's for facilities use with the Board of Education however these older versions did not reflect what is currently being done. This new IGA has been approved by both parties and provides clarification between about the current facilities they provide to one another.

Commissioner Tench asked Ms. Whitmire how many applications for tournaments have been made with the Recreation Department so far? Ms. Whitmire stated that they had received an email from a company named "Titan Tournaments" requesting a day for which they already had another event booked, but to her knowledge this has been the only tournament request.

Motion by Commissioner Mealor, seconded by Commissioner Harkness and voted 4-1 to approve with Commissioner Tench dissenting.

b. Consider/Approve Contract for Parks and Recreation Concession Services

Finance Director Tim Sims addressed the Commission. Finance had been requested to put out an RFP on behalf of the Recreation Department for concession services. The concession stand use to be ran by volunteers of the organizations that oversaw the sports programs. With the Recreation Department having absorbed several youth sports programs (softball, baseball, volleyball) there is no one to operate the concession stand. They put it out to bid and recommend Merit Concessions out of Toccoa. They are offering to pay the county 25% of the profits. This is a better outcome for the county than running the concession stand itself as previous experiences of the county running the concession stand in the aquatic center result in the county only breaking even by the time they pay for the staffing and purchasing supplies. Contracting this out will provide enhanced services as well as potential extra revenue to the county.

Commissioner Palmer stated that in the past it has not been in the counties best interest to accept a deal involving a percentage of profits because there was no way to track what the County should be paid by the vendor. He wanted to know what is in place to prevent this from happening. Finance Director Tim Sims that Parks and Recreations new RecDesk software includes a Point of Sales system that will track concession stands sales.

Motion by Commissioner Harkness, seconded by Commissioner Mealor and voted unanimously (5-0) to approve the contract with Merit Concessions for concession services.

c. Consider/Approve Repair to Engine on Dump Truck #6301 for Road Department

Public Works Director Jerry Baggett addressed the Commission. He stated that Dump Truck #6301 was skipping, and upon daily pre-use inspection water was discovered in the engine oil. The dump truck was hauled down to Yancy's for inspection/service/repair. Mr. Baggett informed the Commission that the dump truck was purchased in 2000 for \$75,925 and that it has 148,444 miles on it. A adjuster has appraised the current value of the dump truck as being \$38,488 retail. Mr. Baggett had several options and their pricing that he presented to the Commission, however the one that he recommends is a platinum rebuild kit of the engine plus the turbo and oil cooler for \$29,870.88. This comes with new heads, all new packs, injectors, water pump, oil pump, and all gaskets resealed (12-month warranty for parts & labor included).

Commissioner Akins stated that he isn't a diesel mechanic, but isn't 148,444 miles low for a diesel engine to be having these kinds of problems? Mr. Baggett agrees, however unfortunately it does happen.

Commissioner Akins asked how many operational dump trucks the Road Department has available? Mr. Baggett stated that he has five, but one of these has been borrowed from the landfill.

Commissioner Mealor asked where the money comes from for this and Mr. Baggett stated that it would come from the Road Departments Parts & Repairs budget. Commissioner Mealor asked how this would affect that budget and Mr. Baggett informed him that it would put him over in that part of his budget. Commissioner Mealor agreed that at current prices, it is much more cost effective to fix the existing dump truck than to try to sell it and purchase a new one.

Commissioner Tench expressed concerns regarding having Yancy's do the work on the dump truck because of previous problems that occurred with one of the landfills dozers. Commissioner Palmer stated that the issue with that dozer didn't have to do with Yancy. The fuel tanks were not flushed out, just the outside painted. The filters kept getting stopped up with dirty fuel and the fuel tanks had to be pulled back off and flushed out.

Motion by Commissioner Mealor, seconded by Commissioner Harkness and voted to approve the platinum rebuild kit of the engine plus the turbo and oil cooler for \$29,870.88. Motion carries 4-1 with Commissioner Tench dissenting.

d. Consider/Approve Change Order with Croft for Animal Shelter Design

Public Works Director Jerry Baggett addressed the Commission. The original RFP for design services stated that it was for 7,560 square feet, however that the final square footage would be determined after the architect works with the county to evaluate the needs. The 7,560 square feet was based solely on what was needed for 45 dog kennels at 90 square feet each and 80 cat kennels at 45 square feet each. This change order increases the square footage to 15,628 which takes into account administrative areas, intake and adoption areas, isolation areas for both cats and dogs, a surgery room for spays and neuters, laundry room, restrooms for the public and staff, electrical and mechanical rooms, food preparation rooms, a freezer and a crematory furnace. The original design fee for the 7,560 square feet was \$164,900 (\$21.56/designed square foot). CROFT has agreed to only charge an additional \$100,276 for the 7,978 square foot increase in the design, which equates to only \$12.57/designed square foot for the increase.

Commissioner Akins inquired as to how the fact that the shelter would need additional space aside from kennels for things like administrative areas and bathrooms was missed? Mr. Baggett stated that the RFP listed that all of these things were needed while simultaneously stating that the total square footage would be 7,560. Mr. Baggett went on to say that this was something that none of the five bidders asked this, however it would have been difficult for any of them to have known what the county intended/wanted until the details were further discussed as part of the design process. Once this change order is approved it will allow them to proceed with the site plan.

Commissioner Mealor wanted to know if the fee increase associated with this change order would come from SPLOST? Finance Director Tim Sims stated yes.

Commissioner Harkness wanted to remind the public that the money for this project is coming from sales tax, not property taxes.

Motion by Commissioner Mealor, seconded by Commissioner Harkness to approve. Commissioner Tench asked to abstain from the vote but was informed by County Attorney Donnie Hunt that he is unable to abstain and that a vote to abstain is a vote to approve. Commissioner Tench stated his opposition to the motion. Motion carries 4-1 with Commissioner Tench dissenting.

e. Consider/Approve Resolution Appointing Chairman Ty Akins as Representative for the New Opioid Settlements

County Attorney Donnie Hunt addressed the Commission. This is mass tort litigation. Last year all of the states and their respective participating counties agreed to settle with Jansen and National Distributor. This new settlement is with Walgreens, Walmart, CVS, Teva and Allergan. There is a trustee that holds the fund and an application process that it is necessary to execute to receive the funds. This item is requesting to designate Commissioner Akins as the representative to sign the paperwork needed for the county to receive its portion of the settlement. The state of Georgia is choosing to settle and has made the recommendation to its counties to settle as well.

Motion by Commissioner Harkness, seconded by Commissioner Mealor and voted unanimously (5-0) to approve.

f. Consider/Approve Amendment to Compensation Agreement for Magistrate Judge Amy Thomas

County Manager Alicia Vaughn addressed the Commission. Amy Thomas served assisted the county by serving as magistrate judge while Judge Gerald Johnson was suspended. Back in November of 2022 the Commission had approved a supplement for Amy Thomas as she had been serving as the interim magistrate judge. The supplement expired on January 31, 2023 when a new Chief Magistrate Judge was appointed. The intention of the supplement at the time was to compensate her for the additional duties she took on during the whole time that she served. They asking that they amend the agreement to make it retroactive back to November 01, 2021 to provide her for an additional year of pay at that increased rate.

Commissioner Akins wanted to emphasize the fact that Ms. Thomas was the assistant magistrate judge at the time she assumed the role of interim magistrate judge, and that she was having to do the work of both positions most of that time until they were able to get some relief from another counties magistrate judge on a part time basis. He feels that this is fair.

Motion by Commissioner Harkness, seconded by Commissioner Mealor and voted unanimously (5-0) to approve.

- g. Consider/Approve IGA to Reinstate Animal Control Services Within the Incorporated City Limites of the City of Baldwin .

County Manager Alicia Vaughn addressed the Commission. The City of Baldwin cancelled their animal control services effective November 30, 2022. County staff met with representatives of the city of Baldwin last week to discuss reinstatement of these services. Both parties agreed to reinstate the services through the end of the fiscal year for a flat rate of \$4200 and then bring up a new IGA for the next fiscal year.

Commissioner Akins wanted to thank Finance Director Tim Sims for all of the work he did in breaking down the numbers regarding the cost of providing these services.

Commissioner Mealor stated that back when he served on the Baldwin City Council they use to have their own animal control and officer, howere they suspended this and started an agreement with the county which has been an on again off again relationship for years. He is glad that we have finally come to an agreement between both parties.

A member of the press asked if this agreement is for the Habersham County side of Baldwin only? County Manager Alicia Vaughn stated that this agreement provides services for the entire incorporated area of Baldwin regardless of if the call falls on the Banks County or Habersham County side.

Motion by Commissioner Mealor, seconded by Commissioner Harkness and voted unanimously (5-0) to approve.

ADDITIONAL COMMENTS

Commissioner Harkness wanted to thank everyone for coming. He realizes that some of the topics can be boring, however knowing how they are spending everyone's taxes is important. He wanted to thank the staff at the Recreation Department and stated he is proud of what is done for the children of the county. He reminded everyone that he is their elected official and they can call him at any time.

Commissioner Mealor stated that he respects and appreciates the fact that Commissioner Tench and Commissioner Palmer put forth an effort to attend the meeting remotely even while feeling under the weather. He reminded everyone that Easter is coming up soon and for everyone to remember the reason for the holiday and enjoy fellowship with their friends and family.

Commissioner Palmer wanted to thank everyone who comes out and plays an active role in their local government. He stated that he noticed that we have had an increase in applications for county boards, commissions and authorities and he appreciates how many people have shown interest in getting involved. He informed that the Town Hall meeting that was scheduled for Monday, March 27th is cancelled.

Commissioner Akins stated that he realizes they have had a lot of people who have stated their concerns recently regarding property use and zoning and land use. The comprehensive plan gets revised every 10 years and they want to represent the interests of the citizens of Habersham County. We didn't arrive at the zoning point we are at now by accident. When the county was more sparsely populated, the sentiment was "Don't tell me what to do with my property". Now that the county is growing and is getting more crowded, he hears a lot of people stating that their needs to be control over this. He reminded we can't change zoning laws without changes to the comprehensive plan, and that we need citizen input when the time comes up for it so that any changes represent the interests of the citizens.

ADJOURN

Motion by Commissioner Mealor, seconded by Commissioner Harkness and voted unanimously to adjourn at 7:54 p.m.

Respectfully submitted,

By: _____

Commission Chairman Ty Akins

Attest: _____

County Clerk Brandalin Carnes