

HABERSHAM COUNTY BOARD OF COMMISSIONERS
WORK SESSION MINUTES
5:00 P.M., MONDAY, MAY 15, 2023
HABERSHAM COUNTY COURTHOUSE
JURY ASSEMBLY ROOM
295 LLEWELLYN ST
CLARKESVILLE, GA 30523

The Habersham County Board of Commissioners held a work session on Monday, May 15, 2023, at 5:00 p.m. in the Jury Assembly Room of the Habersham County Courthouse located at 295 Llewellyn St, Clarkesville, GA 30523.

Present was Chairman Ty Akins, Vice Chairman Bruce Harkness, Commissioner Bruce Palmer, Commissioner Dustin Mealor, Commissioner Jimmy Tench, County Manager Alicia Vaughn, County Attorney Donnie Hunt, County Clerk Brandalin Carnes, staff, members of the media and public.

Chairman Akins called the meeting to order at 5:00 p.m.

Commissioner Palmer led the invocation.

Commissioner Tench lead the pledge of allegiance.

TOPICS OF DISCUSSION

- a. Discussion Regarding Amendment to Habersham County Code of Ordinances Chapter 2 ("Administration"), Article III ("Officers and Employees"), Division 2 ("Code of Ethics")

County Attorney Donnie Hunt addressed the Commission, stating that Commissioner Harkness had asked him to address two questions regarding this amendment to the code of ethics. The first of these questions was when would the amended code be effective? The second question was how any potential complaints against the County Manager would be handled under the amended code.

Regarding the effective date, he informed the Commission that if they make the amendments effective tonight at adoption then there would be no need to appoint/reappoint the ethics panel. If they intend to make the amendments effective at a future date than the Commissioners would need to go ahead and make the ethics panel appointments listed on tonight's agenda, as until the amended code is adopted any complaint proceedings that occur would fall under the procedures of the old code.

In regard to how complaints against the County Manager are handled, it was proposed that a modification be made in which the complaint is filed through the Chairman rather than the County Clerk as she works closely with the County Manger, which would make it difficult for her to maintain confidentiality while an investigating committee composed of two Commissioners and the County Attorney determines if the complaint warrants a public hearing. It would still be required that the complaint be in writing, signed and the signature witnessed, but the complaint would bypass the County Clerk and instead go directly to the Chairman as the Commission is the County Manager's immediate supervisor. Commissioner Akins stated that he felt this was appropriate.

County Attorney Hunt asked the Commission if they had any additional changes they felt needed to be made to the proposed amendments? Commissioner Harkness voiced his agreeance with complaints for the County Manager being initiated through the Commission Chairman and stated that he feels the same should occur with the County Attorney and County Clerk as well as they are all three employed directly by the Commission. County Attorney Hunt informed Commissioner Harkness that most counties have complaints against County Attorneys go to the state bar and asked him how he feels about this? Commissioner Harkness stated that he feels that the state bar shouldn't be involved unless it is determined that a referral is needed.

Commissioner Tench wanted to know who will pick the three attorneys or judge that will review the complaints? Attorney Hunt informed Commissioner Tench that an outside County Attorney from within the Mountain Judicial Circuit or an Adjoining Circuit would determine whether the complaint has enough merit that a review board of three outside county attorneys shall be paneled. The amended code does not state who will select the attorneys on the review board and he asked the Commission if they wish for this to be done by the Chairman, by vote of the Commission, or by the Habersham County Attorney? Commissioner Akins stated that he would be comfortable with the Habersham County Attorney choosing the three outside attorney's that makeup the review board, as the overall goal of these proposed amendments is to reduce the amount of influence the Commission has in the process. Attorney Hunt stated that he could put in a provision that the Commission must have final approval over the panel that is recommended. He went on to inform the Commission that a majority vote of 2 of the 3 attorneys on the review board would be needed to determine that the evidence is sufficient to show that a violation of the ethics code exists. The review board would then issue a written decision to the Commission as well as a recommended penalty, but the final decision rests with the Commission. Commissioner Tench asked if any of this would go on an individual's criminal record and Attorney Hunt stated that it would not, and that for there to be a criminal record one would have to be indicted through the District Attorney's Office.

Commissioner Harkness pointed out that there was an error in Sec 2-79 I(g)5 where it stated that if the review board of three attorneys determines that a violation has occurred, it moves forward to the board of ethics (ethics panel). The ethics panel is being eliminated with these new amendments and replaced with the review board of three outside county attorneys. Attorney Hunt stated that this was a typo and he would make the correction to reflect the change to a review board of three attorneys.

Commissioner Harkness asked if any compensation would be provided to the attorneys that make up the review board or would they be on a volunteer basis? Attorney Hunt stated that if compensation for these services becomes an issue that it could be discussed at a later time and that they can certainly reimburse the travel expenses if necessary. Commissioner Harkness stated that perhaps the review board could have virtual meetings and Attorney Hunt stated that is quite possible, but to keep in mind that the Commissioner who is "charged" has a right to confront witnesses and that there may exist a need for a central location for everyone to meet should doing so virtually be an issue. County Manager Vaughn asked County Attorney Hunt if a staff member would need to be assigned to assist the review board. Attorney Hunt stated that the review board is supposed to be independent and should receive no outside assistance, though he doesn't think this will be necessary. Also, should the complainant determine that they require the assistance of an attorney, it would be their own responsibility to obtain one.

Attorney Hunt asked the Commission when they wish for the amendments to the ethics code to be effective? Chairman Akins stated that he felt that the changes should be effective upon adoption at tonight's meeting.

Commissioner Akins asked Attorney if he could go over Sec. 2-76 "Exceptions" regarding situations in which a member of a Boards, Commissions or Authorities wishes to represent a "client" appearing before their respective meeting body. Attorney Hunt stated that he had reviewed the policies of other counties and that they usually do not consider this to be an issue so long as the monetary relationship between the member and their client is less than \$500, which he addresses in subsection "a". Subsection "d" states that it will not be deemed a violation of the standards of the policy for a member to recuse themselves to represent a client with an interest in a matter during the presentation phase of a meeting so long as the member excuses themselves from the chamber during deliberation and voting on the matter. They may be invited to return to the chamber to answer questions if needed but must be excused again before any discussion among the other members or voting. For this exception to be allowed, the members client must be physically present. It is not permissible for the client to be on the phone. The member cannot represent the client in their absence. Also, there must be a quorum plus one additional member in attendance at the meeting, so the quorum is not lost.

Commissioner Harkness inquired about the time limits in Sec 2-79.I.(a)&(b) for filing a complaint. He was confused as to why (a) stated that a complaint must be filed within 45 days but then (b) states that no complaint shall be filed more than 6 months from the date of the violation. Attorney Hunt explained that there may be times when a violation is not discoverable until beyond 45 days from when the violation occurred. Section (a) states that a complaint must be filed within 45 days of a known violation or 45 days from the discovery of a violation that was not initially known at the time it was committed. Section (b) gives the overall cutoff limit of 6 months regardless of when the violation is discovered.

Commissioner Harkness wanted to affirm that section (d) would be changed to include the County Attorney and County Clerk. Attorney Hunt informed him it would.

Commissioner Mealor and Commissioner Harkness both voiced that language needed to be added regarding the County Attorney being the one who selects the panel with the Commission voting to approve.

Commissioner Palmer inquired about the 6-month cutoff, asking Attorney Hunt if this meant that nothing could be done regarding a complaint older than 6 months? Commissioner Palmer was concerned about situations where a violation was not discovered until after the six months cutoff, asking if these would go unaddressed? Attorney Hunt informed Commissioner Palmer that even in criminal law, there are statutes of limitations as there is a degree of fairness in the expectation that charges are brought forth and addressed in a timely manner. Commissioner Harkness questioned whether complaints against Commissioners should have a cutoff once they leave office? Attorney Hunt stated that this was a good point, as the harshest penalty would be removal from office so if an elected official is leaving office than it is a moot point. Commissioner Mealor stated that he feels complaints against elected officials who leave office should still be heard if filed within the time limits as said individual could run for office again and any confirmed violations should be a matter of public record. Commissioner Akins and Commissioner Harkness agreed with this.

Commissioner Tench asked how it is determined as to who is “qualified” for reviewing complaints. Donnie informed him that any county attorney would be considered qualified. Commissioner Tench asked what about employees? Attorney Hunt stated that most employee offenses will be covered under the personnel policy and wouldn’t go through this same review board process. This process with the review board is meant to cover the Commissioners, other elected and upper-level officials, and appointed employees such as the County Manager, County Clerk and County Attorney. County Tench asked again about “qualified individuals” and Attorney Hunt became aware that he was referring to a portion of the old code of ethics regarding the ethics panel. He reminded Commissioner Tench that under this newly amended code the ethics panel of citizens is being replaced by a review board of three adjacent county attorneys who are not connected to the commission. If they agree to approve the amendments to the ethics code tonight, there is no need to appoint/reappoint the ethics panel.

b. Discussion Regarding CLDO Amendment to Section 68-201 “Definitions” & Section 68-1725 “Development/Project Access Improvements”

Planning Director Mike Beecham addressed the Commissioners. The Planning Commission decided at their May meeting to recommend to the Board of Commissioners the adoption of amendments to the CLDO that would limit development of subdivisions along existing county roads. These amendments define “minor subdivisions” as being four lots or less and then limit subdivision development off existing county roads to minor subdivisions. Each lot in a minor subdivision of four lots or less may have direct access through its driveway to a county road. Any subdivision that consists of more than four lots will be required to have an internal subdivision road with an entrance and exit built up to county standards. Commissioner Akins asked what the current requirements were, and Mr. Beecham informed him that currently there is no limit in how many lots in a subdivision have direct access to a county road. Commissioner Harkness asked how often this issue comes up and Mr. Beecham informed him that, though it doesn’t come up often, that there are two recent subdivisions that have brought this issue to light. Commissioner Meador asked Mr. Beecham if he was onboard with the changes being proposed and Mr. Beecham stated he feels that the amendments make sense. Some other counties have a larger number of lots for their limit, however four lots made logical sense as the cutoff for Habersham County as plats for four lots or less can be reviewed and approved by Mr. Beecham directly, while anything greater must go before the Planning Commission anyways. Commissioner Akins asked if the developer is still able to go before the Planning Commission with variance requests? Mr. Beecham stated that everything in the CLDO is subject to variance and an appeal process. Commissioner Harkness asked when these amendments would take effect, to which Mr. Beecham informed him that two readings were required, and they would take effect should they be approved after the second reading at the June Commission meeting. Commissioner Harkness asked if this would be retroactive? Mr. Beecham informed him that applications that have already been submitted are grandfathered in under the old code, which Attorney Hunt confirmed. Commissioner Meador asked how soon the second reading could be held? County Attorney Donnie Hunt informed him that at least 24 hours’ notice would be needed, which County Clerk Brandalin Carnes confirmed, stating that 24 hours’ notice is the minimum without an emergency being present. Commissioner Meador voiced his concerns that, in light of tonight’s first reading of the proposed changes, that there may be a run on the planning office of developers trying to get applications in under the old code. Commissioner Meador stated that he would be in support of a special called meeting for the sole purpose of reading and voting on this amendment as quickly as possible. Commissioner Harkness stated that he feels that the public should be given at least 10-

14 days to be aware of what is going on so it does not appear that the Commission is rushing things through. Commissioner Meador stated that he would support a moratorium on subdivisions altogether for the time being. Commissioner Meador states that this would temporarily stop or slow down things until they can take a better look at the CLDO. The Commission would still need to go back and rewrite and restructuring of the CLDO at a later time. He feels that the citizens are not happy about with the big developers and that he is in support of the citizens. Commissioner Harkness stated that he is in support of the citizens as well, however he does not want it to appear that the Commission is sliding in changes without adequately informing the public. Commissioner Akins stated that they could wait and see if the Commission wishes to have a special called meeting in a couple of weeks.

c. Discussion Regarding Proposed Addition to Habersham County Code of Ordinances:
Chapter 70 Entitled "Timber Harvesting"

Planning Director Mike Beecham stated house bill 897, which was passed in 2020 legislative session, requires the GA forestry system to develop a statewide notification system for timber harvesting. Anyone who harvests timber must register with this statewide system and the information is automatically sent to the county where the harvesting operations will occur. In addition, the bill increased the fines for people who fail to register from \$500 to \$1500 and allows the local government to charge more in bonds if the harvester damages the roads, with the first bond being allowed up to \$5,000 the next bond after damage occurs being allowed up to \$7500 and the bond for an additional instance of damage being allowed up to \$10,000. The county can't go above \$10,000 for the bond. As part of this bill, it is required to adopt a timber harvest. The model ordinance that is being presented was written by ACCG and is fully compliant with house bill 897. Two readings will be required with a vote after the second reading at the June Commission meeting.

ADDITIONAL COMMENTS: None

ADJOURN: 5:55 p.m.

Motion by Commissioner Harkness, seconded by Commissioner Meador and voted unanimously (5-0) to adjourn the work session at 5:55 p.m.

Respectfully submitted,

By: _____
Commission Chairman Ty Akins

Attest: _____
County Clerk Brandalin Carnes

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ADDITIONAL COMMENTS: None

ADJOURN: 5:55 p.m.

Motion by Commissioner Harkness, seconded by Commissioner Mealor and voted unanimously (5-0) to adjourn the work session at 5:55 p.m.

Respectfully submitted,

By: _____
Commission Chairman Ty Akins

Attest: _____
County Clerk Brandalin Carnes