

**MADISON COUNTY BOARD OF COMMISSIONERS
MINUTES
REGULAR BUSINESS MEETING
DECEMBER 5, 2011
6:30 P.M.**

MEMBERS PRESENT:

Commission Chairman Anthony Dove
District 1 Commissioner Stanley Thomas
District 2 Commissioner John Pethel, Sr.
District 3 Commissioner Mike Youngblood
District 4 Commissioner Dewitt Bond
District 5 Commissioner Jim Escoe

MEMBERS ABSENT:

None

MEDIA PRESENT:

Zach Mitchem, Madison County Journal
Erin France, Athens Banner Herald

STAFF PRESENT

Linda Cox, County Clerk

Chairman Dove called the meeting to order at 6:30 pm and led in the pledge to the American flag. Wayne Douglas, Chairman of P&Z, gave the invocation. Chairman Dove asked the Board to remember Albert Vaughn and Paul Burroughs who recently passed away. Also, the missing child in Canton, GA was found today in a dumpster.

Item No. 1. Approval of Minutes:

Minutes of Regular Business Meeting of November 7, 2011 and Agenda Setting Meeting of November 28, 2011.

Minutes have been distributed.

On motion by Commissioner Bond and second by Commissioner Youngblood, the Board unanimously approved the above minutes.

Item No. 2. Business Involving Guests, Groups or Multiple Visitors.

There were none.

Item No. 3. Chairman's Report (Chairman Dove)

Chairman Dove presented two (2) right-of-way requests from Windstream. They were:

1. Right-of-way of county road Shiloh & Hollaway & Van Manley Roads, and
2. Right-of-way of county road Booger Hill & J Davis Road.

On motion by Commissioner Bond and second by Commissioner Thomas, the Board unanimously approved both right-of-way requests.

Linda Fortson, Zoning Administration, read a statement from Marie Drake who presented the Board with a new Cemetery book compiled by the Heritage Foundation.

Chairman Dove recognized Commissioner Thomas who stated that the Sanford Neese VFD wants to build a new station which would have space for trucks, etc. Commissioner Thomas recognized John Seagraves, Fire Chief of the VFD. Mr. Seagraves stated they want to purchase five (5) acres from Raymond Boswell. Mr. Boswell has agreed to sell the five (5) acres for \$25,000.00 however the property is in conservation and does not want to breach the conservation. Mr. Seagraves asked if the Board could buy the property then sell it to the VFD in order not to breach the conservation and Mr. Boswell would not have to pay the penalty. The VFD would immediately pay the county the full price of \$25,000.00.

On motion by Commissioner Thomas and second by Commissioner Bond, the Board unanimously approved for county attorney, Mike Pruett, to prepare the contract for the Board of Commissioners to purchase the land for the purpose of the Neese Sanford VFD.

Chairman Dove recognized Donna Sisk, Human Resource Director, who presented the application of Lydia T. Chitwood for the part-time call-in position at the Transfer Station. The employee previously in this position resigned due to health conditions.

On motion by Commissioner Bond and second by Commissioner Youngblood, the Board unanimously approved Lydia Chitwood for the position.

Item No. 4. Hearings and Actions on Rezone Matters, Special Use Permits, Etc. (Linda Fortson and Wayne Douglas)

- 1. Oscar Harper is requesting to rezone 4.83 acres from A2 to RR to allow his medical hardship permit to become an ADU permit. The property is located on Map 13, Parcel 27 on Adams Clarke Rd. in District 1.**

Chairman Dove recognized P&Z Chairman, Wayne Douglas, who explained the request and stated that the P&Z Board voted 5 to 0 to approve.

No one came forward to speak in favor or in opposition to the rezone.

On motion by Commissioner Thomas and second by Commissioner Escoe, the Board unanimously approved the rezone.

2. Deborah Burdette is representing Patricia and Jerry Cronic. They are requesting to rezone a 2.709 ac. lot from RR to A2 to combine with the adjoining parcel. The property is located on Map 52 Parcel 5 on Miller McElreath Rd. in District 4.

3. Deborah Burdette is representing Patricia and Jerry Cronic. They are requesting to rezone a 2.456 ac. lot from RR to A2 to combine with the adjoining parcel. The property is located on Map 52 Parcel 5-01 on Miller McElreath Rd. in District 4.

Wayne Douglas explained the P&Z Board took Items 2 and 3 as one item and stated the P&Z Board voted 5 to 0 to approve both items.

On motion by Commissioner Bond and second by Commissioner Youngblood, the Board unanimously approved the rezone for Items 2 and 3.

Item No. 5. Statements and Remarks from Citizens on agenda items.

No one came forward to speak.

Item No. 6. Consent Agenda.

There were no items for the consent agenda.

OLD BUSINESS:

None.

NEW BUSINESS:

Item No. 7. Consider establishing meeting dates for the 2012 BOC meeting calendar. (Donna Sisk)

Donna Sisk, HR Director, presented the Board with the 2012 meeting calendar. Adjustments to regular dates were made due to ACCG training dates for Commissioners.

On motion by Commissioner Bond and second by Commissioner Thomas, the Board unanimously approved the 2012 BOC meeting calendar.

Item No. 8. Consider recommendation for plumbing installation at the soccer field for the Recreation Dept. (Grady Autry)

Two bids were received as follows:

Perry's Plumbing & Electric	\$4400.00
Wayne Chandler Plumbing & Well	\$3600.00

Mr. Autry stated there was a discrepancy in Mr. Chandler's bid where he inadvertently put a photocopy of the required affidavit in the bid and it did not have the raised notary seal on it. It will be up to the Board whether to accept or reject this bid. Chairman Dove stated that this

would be a legal issue and referred to Mike Pruett, county attorney. Mr. Pruett stated the law requires you to have the affidavit with the bid or you cannot consider that bid and the affidavit is job specific to a particular job and you have to have one for each job. If you do not want to reject a bid the other option is to reject both bids and let them resubmit but I don't know if you have time to that. Mr. Autry stated that they really don't have time. Chairman Dove asked if the affidavit was stamped. Mr. Autry stated that the original was stamped and had a raised seal on it but the photocopy that she put with the bid rather than the original did not. Mr. Pruett asked if he had gotten the original affidavit. Mr. Autry stated "yes". Mr. Pruett asked if he got the original by the deadline of the submission date. Mr. Autry replied "no". Chairman Dove asked what the law states on what papers you have to have to be in compliance with the law, does it say affidavit with raised seal? Mr. Pruett stated, "No, it says a signed notarized affidavit. It does not say raised seal". There are not many raised seals any longer. Mr. Pruett asked if he has since obtained the original and compared the copy you have to make sure they are the same. Mr. Autry stated that he has it with him. She brought it to him within five minutes after I called her. Mr. Pruett stated that under those circumstances he thinks it was accompanied by a signed notarized affidavit which was not an original but Mr. Autry has verified it was a true and correct copy after the fact so he thinks that satisfies the intent of the law. Bottom line is they want to make sure we don't consider bids unless someone has committed to follow the immigration law. Mr. Pruett stated that he would feel comfortable making the opinion that if you had a photocopy of a valid affidavit that would satisfy him.

Chairman Dove stated that it was up to the pleasure of the Board since we have the attorney's opinion on that.

Commissioner Pethel asked how long it would delay the project to rebid. Mr. Autry stated about two (2) months. Commissioner Pethel asked if the affidavit was on file or did he bring one in. Chairman Dove stated he had it in the bid but it was a photocopy and the county clerk noticed that it was a photocopy and that is the reason we are getting the attorney's opinion on it. Chairman Dove said it could be rebid or the Board can accept the higher bid which is \$800.00 more. Mr. Pruett stated that obviously the safe course of action would be to either rebid or to accept the one that had the affidavit. If the Board wants to go with the lower one, in his opinion it satisfies the intent of the law, however nothing says this is right because it has never been challenged. Commissioner Bond asked if a motion was made and there was a second, then it would be up for discussion? Chairman Dove stated yes.

On motion by Commissioner Bond to accept the lowest bid that did not have the raised seal submitted by Wayne Chandler and second by Commissioner Pethel in order to get to discussion. Chairman Dove opened the motion for discussion.

Commissioner Pethel stated that he was concerned. He stated that we put in the bid everything they need to turn in and if they don't then the bid is not valid so if we overlook that and rebid, he thinks it is unfair to the one that did have all the paperwork together. He stated that he does not think we need to rebid it or give it to the low bid. Chairman Dove asked if he would like to give an alternate motion. Commissioner Pethel stated that as much as he likes to save money for the county, he thinks we would be in trouble if we didn't.

On motion by Commissioner Pethel and second by Commissioner Bond to accept Perry's Plumbing & Electric bid. Chairman Dove opened this motion for discussion.

Commissioner Thomas stated that as much as he would like for us to save that money he thinks the thing to redo that could come back and cost us more. Not necessarily in this case but in other cases in legal fees and we would be setting an example that, well, this time you accepted that and this time you didn't. That opens us up for more litigation on down the road and I think it is spelled out how it is suppose to be. It is very hard for me to vote \$800 away but the bidding process is suppose to be fair and to follow certain rules and regulations and when you start bending and twisting and playing favorites. He stated that he thinks you will run into some real issues not only in this one but on down the line when you have other votes you have to. It's spelled out and if we hold off 2 months how much is that going to cost us on down the line on what we're trying to accomplish? Setting the project into the winter and can't do the work you need to do and holding up the people.

Chairman Dove asked if there were any other discussion.

Commissioner Pethel stated that he certainly would not be playing favorites on this that Marc is a friend of his and so is Wayne. Both are very good and live in the county. He thinks it is just a matter of getting things like they should be.

There was no further discussion.

Chairman Dove stated that this is the motion to accept the Perry bid.

The Board unanimously approved to accept the bid submitted by Perry's Plumbing & Electric.

Chairman Dove asked Commissioner Bond if he would like to withdraw his motion. Commissioner Bond withdrew his motion with no objection from the Board.

Item No. 9. Consider recommendation for installation of septic pump system at the soccer field for Recreation Dept. (Grady Autry)

Mr. Autry stated that two (2) bids were received as follows:

Haley Trucking and Grading	\$19,500.00
Perry's Plumbing & Electric	\$17,500.00

Both bids contained the correct affidavits as required by law. Chairman Dove asked for a motion.

On motion by Commissioner Escoe and second by Commissioner Bond, the Board unanimously approved Perry's Plumbing & Electric.

Item No. 10. Consider any changes to speed limit signs in District 3. (Commissioner Youngblood)

Chairman Dove stated that some were on the road report given by Commissioner Youngblood that he asked for last week except we cannot do anything without DOT approval on some of those that was asked for. Therefore, there is not anything needed.

Item No. 11. Consider amendment to the General Policy to clarify change order procedures. (Mike Pruett)

This amendment would give the Chairman in his sole discretion to approve and execute binding changes orders not to exceed 10% of the original contract sum or \$10,000, whichever is less for public works construction and/or for road work.

The Board discussed the amendment in length regarding the amount and safety issues. After further discussion, Chairman Dove advised the Board not to adopt this Resolution and the Board would be advised of a meeting to approve a change order. Chairman Dove also stated that if there was a safety issue involved he would make the decision.

Commissioner Bond made a motion to accept the Resolution. Chairman Dove asked for second three (3) times. There was no second on the motion. The motion failed for a lack of a second.

Item No. 12. Consider 2012 Madison County Beer and Wine License applications. (Chairman Dove)

The Board had been given a list of all the applicants that had complied for a Beer and Wine License. They were:

**Adams Clover Farm
Balihai Food Mart
Boutier Winery
CVS Pharmacy #7782
Country Superette
Diamond Hill Grocery
Food Mart
Golden Pantry #37**

**Ingles Market #450
Jai's County Corner
Kwik Chek
Neese Grocery
Paoli Junction
Poca Grocery
Quick Pick
Tiny Town Minit Mart**

On motion by Commissioner Escoe and second by Commissioner Youngblood, the Board unanimously approved the above licenses.

Item No. 13. Roads Update.

The Board received a report from the Road Department on work performed from November 7, 2011 through December 2, 2011. Chairman Dove took requests from the Board for maintenance on roads in their districts.

Item No. 14. Urgent Matters.

There were no urgent matters.

Item No. 15. Statements and Remarks from Citizens.

None.

Item No. 16. Executive Session to discuss land acquisition, personnel matters and/or potential litigation (if needed).

There was no need for executive session.

Item No. 17. Adjourn.

On motion by Commissioner Pethel and second by Commissioner Thomas, the Board unanimously approved to adjourn at 7:30 pm.