

**HALL COUNTY BOARD OF COMMISSIONERS
MINUTES**

Georgia Mountains Center

301 Main Street SW

Gainesville, Georgia

April 9, 2009

5:00 P.M.

Commissioners present: Chairman Tom Oliver, Vice Chairman Ashley Bell, Commissioner Bobby Banks, Commissioner Billy Powell, and Commissioner Steve Gailey.

Others present: County Administrator Charley Nix, County Attorney Bill Blalock and Commission Clerk Heather Bennett.

Meeting called to order by Chairman Oliver at 5 p.m. in the Georgia Mountains Center, Room B, 301 Main Street, Gainesville, GA 30501.

1. Invocation by Reverend John Kinsey, Central Hall County Fire Chaplain

2. Pledge of Allegiance

3. Proclamation recognizing April 2009 as Civitan Awareness Month

Commissioner Powell presented a proclamation to the Hall County Civitan Group.

4. Consent Agenda:

- a. Approve March 26, 2009 Meeting Minutes.
- b. Approve authorization for County Attorney to consent to the proposal of Pilgrim's Pride to pay 2008 ad valorem taxes in installments pursuant to the order of the Bankruptcy Court.
- c. Approve the request for funding consulting services to perform a security assessment, establish disaster recovery procedures and review the operating and security policies of our management information systems.
- d. Approve race track business license renewal for Lanier National Speedway located at 5301 Winder Highway, Braselton, GA; Business Type: Race Track; Owner: Donnie Clack. Commission District One.
- e. Approve concert business license renewal for Lanier National Speedway located at 5301 Winder Highway, Braselton, GA; Business Type: concert; Owner: Donnie Clack. Commission District One.
- f. Approve the Hall County Sheriff's Department's application to the U.S. Department of Justice Office of Community Orientated Policing Services for the 2009 Hiring Recovery Program grant, approve the Grant Manager as the program designee and authorize Chairman Oliver to execute all related grant applications and acceptance documents.
- g. Approve the Hall County Sheriff's Department's application to the U.S. Department of Justice for the 2009 Edward Byrne Memorial Justice Assistance Grant (JAG) and authorization for Chairman Oliver to execute all related grant applications and acceptance documents.
- h. Approve release of \$60,000 Irrevocable Letter of Credit for Streets in Candler Business Park. Commission District One.
- i. Approve acceptance of \$5,100 Irrevocable Letter of Credit for Streets in Candler Business Park. Commission District One.

- j. Approve release of \$36,000 Irrevocable Letter of Credit for Sidewalks in Silver Creek Subdivision. Commission District Three.
- k. Approve the following bids and authorize the Chairman to execute any necessary documents:

049-29	Scott Self Contained Breathing Apparatus (Correctional Institute) – All – Fisher Scientific.	\$10,184.80
053-29	Clarks Bridge Park Boathouse Roof Repair (Parks & Leisure) – All – Parr Roofing Company.	\$28,492.00
29-005	Online Traffic Citation Payment Services (Clerk of Courts) – All – ICON Software Corporation	No County Funds

Commissioner Gailey motioned to approve the consent agenda and Chairman Oliver seconded the motion. Vote: 5-0.

5. Other Business:

a. Discussion regarding the proposed annexation on Interstate 985 and McEver Road.

Chairman Oliver stated the Commission would hold a thirty minute public hearing regarding the proposed annexation on Interstate 985 and McEver Road. Planning Director Randy Knighton then read the questions which were submitted to the City of Gainesville regarding their proposed annexation.

Gainesville City Manager Kip Padgett responded to all the questions presented to the City regarding the proposed annexations. He then stated the Commission was welcome to attend the City's public meeting regarding the annexation on 985 which will occur on May 5, 2009. Mr. Padgett then stated the request for the annexation on McEver Road had been withdrawn as the City felt it was already annexed to the City of Gainesville. County Attorney Bill Blalock stated he did not agree with the City's interpretation of the law. Chief Frank Hooper then spoke regarding the questions presented to the City as it pertained to radar and the police presence in this annexed area. He then distributed information regarding the City Police Department's record of patrolling the area and the percentage of tickets and revenue obtained by the City. Then Captain Paul Sherman spoke regarding the restraints placed on the City when there are areas of the County and City with unclear boundaries that can make emergency service by the Police Department difficult.

Chairman of the Chicopee Area Woods Park Commission Alvin Crego spoke regarding their request for annexation. Mr. Crego stated the Park Commission voted in February to bring this forward and their vote was unanimous. He then stated he did not understand what the problem was with the park submitting this request.

Becky Harrison stated she witnessed the Gainesville Police pretty consistently running speed traps going into the City of Gainesville. She then stated there was a website called speedtraps.com and the City of Gainesville was listed on that website and she felt this gave the City a bad reputation. Ms. Harrison said she and her neighborhood community had requested the City of Gainesville patrol the areas in the City for gang activity and individuals running stop signs. The City's response to the complaint was that they did not have time or personnel to monitor the individuals running stop signs. Ms. Harrison believed this was because the fine for speeding was higher than the fine for running a stop sign.

Commissioner Banks stated he knew of only approximately 7 people who sent him emails out of about 50 who disagreed with his position on the speed traps. Commissioner Gailey then stated each citizen had the right to remand their ticket to State Court which would occasionally lower the fine. Commissioner Bell then thanked the City for offering some clarity on this issue. He then reiterated the statement made by Commissioner Gailey that drivers could remand their speeding tickets to Hall County

and the fines would be paid to the County. Chairman Oliver then asked the City their opinion on the level of service offered by the Sheriff to this area and Chief Hooper stated there was no dissatisfaction and that was not the reason for the annexation.

- b. *Previously Tabled* Second reading and public hearing to consider a resolution to amend Chapter 5.30 of Title 5 of *The Official Code of Hall County, Georgia* entitled “License Fees”, by deleting section 5.30.050 in its entirety and substituting in lieu thereof a new section 5.30.050 with the same name; and to delete section 5.30.140 entitled “Minors”, in its entirety and to substitute in lieu thereof a new section 5.30.140 with the same name; and authorize Chairman to execute resolution. Commission Districts One, Two, Three & Four.**

Chairman Oliver motioned to retable this item to the May 14, 2009 meeting and Commissioner Bell seconded the motion. Vote: 5-0.

- c. *Previously Tabled* Second reading and public hearing to consider a resolution to amend Chapter 5.60 of Title 5 of *The Official Code of Hall County, Georgia* entitled “License Fees”, by deleting section 5.60.050 in its entirety and substituting in lieu thereof a new section 5.60.050 with the same name; and to delete section 5.60.140 entitled “Minors”, in its entirety and to substitute in lieu thereof a new section 5.60.140 with the same name; and authorize Chairman to execute resolution. Commission Districts One, Two, Three & Four.**

Chairman Oliver motioned to retable this item to the May 14, 2009 meeting and Commissioner Bell seconded the motion. Vote: 5-0.

- d. First reading and public hearing to consider a resolution to amend Chapter 5.30 of Title 5 of *The Official Code of Hall County, Georgia* to add sections for the additional licensing types and to add sections for the licensing of the Rowing Venue at Clarks Bridge Park; and authorize Chairman to execute resolution. Commission Districts One, Two, Three and Four.**

Business License Director Susan Rector stated the changes in these ordinances dealt with the sale of beer, wine and spirits, on premises consumption of same, and consumption catering licenses.

No public comment was given.

- e. First reading and public hearing to consider a resolution to amend Chapter 5.60 of Title 5 of *The Official Code of Hall County, Georgia* to add sections for additional licensing types and to add sections for the licensing of the Rowing Venue at Clarks Bridge Park; and authorize Chairman to execute resolution. Commission Districts One, Two, Three and Four.**

No public comment was given.

- f. Authorization to sell approximately \$4,950,000 in Bonds (Hall County Facilities Project), Series 2009A and Series 2009B and for other related purposes and authorize the Chairman to execute the agreement.**

Tread Syfan, Esq. described these bonds as necessary to construct the Animal Control facility as well as the new State Patrol facility. Bucky Kemsey with Morgan Keegan stated these were two series of bonds which total almost five million dollars which will be paid over the course of 20 years at blended rate.

Commissioner Powell motioned to adopt a resolution which approved entering into the sale agreement for these bonds and motioned to approve the bond purchase agreement with Morgan Keegan to underwrite and guarantee these bonds. Commissioner Banks seconded the motion. Vote: 5-0.

- g. 4201 Falcon Parkway, Flowery Branch – Fire Station #5.**

Commissioner Banks motioned to table this item to the April 23, 2009 meeting and Commissioner Gailey seconded the motion. Vote: 5-0.

- 6. Public Hearings to consider applications to amend the Zoning Maps of Hall County as follows:**
- a. Application of Five Way Sales for a Use Subject to County Commission approval and to vary the requirements of the Hall County Gateway Corridor Overlay District on a 1.22± acre tract located on the east side of Cleveland Highway at its intersection with SR 52; a.k.a. 5206 Cleveland Highway; Zoned H-B; Tax Parcel 12030 000010D. Proposed Use: Portable storage building sales. Commission District Three.**

Planning Director Randy Knighton stated this was an application for a use for sales of outdoor portable storage buildings.

Larry Forrester stated he was the applicant and he proposed to move this business to the location as was stated.

Commissioner Gailey stated he was concerned about the land strip conditions in this application because of the footage requirements therefore he would approve this and allow the applicant to work with him, the Chairman, and Mr. Knighton to work out a better plan for what they had proposed which would specifically affect conditions of zoning numbers 2-4.

Commissioner Gailey motioned to approve with amended conditions [listed below] and Commissioner Bell seconded the motion. Vote: 5-0.

1. There shall be no more than 20 storage sheds on display at any one time.
2. The landscape buffer will be reviewed and approved by the Planning Department at the time of site plan review.
3. The applicant shall present an engineered drawing which locates drain field lines, loading and service area, display area designated parking, and pedestrian access to display area.
4. There shall be pedestrian pathways connecting parking areas to the entrance of the display area to ensure pedestrian safety.
5. The number of required parking spaces shall be determined during the site plan review process.
6. Any new driveway locations and designs are subject to approval by the Georgia Department of Transportation and the Hall County Engineering Department and will be coordinated with any known improvements of Cleveland Highway (U.S. 129, Ga. 11).

Commissioner Powell then commented that he did not want to vary or freely change the Gateway Standards because they were adopted because they were important. Commissioner Gailey stated it was adjusted only because of the display area for the portable buildings and it would look better than what was proposed.

- b. Application of Donald M. Riccardi for a Use Subject to County Commission approval on a 7.01± acre tract located on the east side of Thompson Bridge Road, 980± ft. south of its**

intersection with Hubert Stephens Road; a.k.a. 5176 Thompson Bridge Road; Zoned H-B; Tax Parcel 11083 003001A. Proposed Use: Vehicle sales (motorcycles). Commission District Three.

Commissioner Knighton stated this was an application for vehicle sales near Hubert Stephens Road and most sales will be conducted over the internet.

Donald Riccardi stated he was the applicant and owned and operated the Murrayville Self Storage facility and he also operates a motorcycle repair business.

Commissioner Gailey motioned to approve with conditions [listed below] and Chairman Oliver seconded the motion. Vote: 5-0.

7. The operation of the proposed use shall occur in accordance with the project narrative and concept plan provided.
8. All inventory and storage of motorcycles shall be inside a display room or storage facility.

Commissioner Powell inquired if sales taxes were paid on items sold over the internet and Mr. Blalock responded that there were none due but he would owe inventory taxes. James Palmour, Esq. requested to know the hours of operation and Commissioner Gailey responded that the hours of operation would be from 9 a.m. to 6 p.m. Monday through Saturday. Mr. Palmour also wanted to know if all repairs would be conducted inside the building and Commissioner Gailey stated all of the repairs already took place inside of the building.

7. **Report from County Attorney**
8. **Report from County Administrator**
9. **Consider other business presented by members of the Commission**

Commission District Four

Commissioner Bell recognized Gainesville City Councilman Danny Dunagan and requested he address the Board. Councilman Dunagan stated in 2007 the purposed use of the jail was objected to by the City and then an agreement was worked out wherein the jail would cease to exist after 7 years but if it did not go away after 7 years the City and County would split the revenue from the jail. The City's goal was to develop the midtown area of Gainesville. Then the City passed a resolution to agree to this contract which gave the City Manager, Attorney and the Mayor authority to work out the details of a contract in a vote taken by the City on December 4. At that time, the City was told to hold off and at no time were they made aware of a deadline until their attorney saw a letter stating there was a deadline to work out this deal. Mr. Dunagan stated that after they held off on this matter, the City read about the lease with CCA in the local newspaper. He then stated the City Council was asking the commission to honor an agreement that was presented to the City in a meeting with Chairman Oliver and Commissioner Bell approximately two weeks ago and it was stated at that time we could format an agreement selling the old jail to the City and that payments would begin in January 2010 wherein the City would pay \$2 million and then in the year 2017 it would be owned by the City and no longer be used as a jail facility. The Chairman then stated that he agreed to that offer but that he was one of five commissioners and it was necessary that it be a total vote of the five commissioners. Chairman Oliver stated he and Commissioner Bell agreed to support it but that it had to be brought before the Commission but there was no deadline

set for that discussion to be held. Councilman Dunagan stated CCA needed an answer as the County's tenant because he knew they were waiting to go forward. Commissioner Bell then requested this be placed on the next Work Session Agenda. Commissioner Gailey responded by stating he would like to review the legal ramifications of the lease agreement with CCA before they discuss selling the old jail and maybe the discussion should be held in an executive session. He then stated he was not prepared to vote tonight on this item.

Councilman Dunagan then requested that Chairman Oliver and Commissioner Powell discuss the City View Plaza lawsuit so the City of Gainesville could move forward on this item. Commissioner Powell then stated that they had made seven attempts to discuss this item with the individuals involved in the lawsuit and had not been able to organize a meeting.

Commissioner Bell then motioned stating the Hall County Board of Commissioners should hereby adopt a resolution that would govern certain profitable relationships between government officials and that would require public disclosure and comment and that the county administrator speak with local municipal officials to create forms and procedures that allow compliance with these resolution provisions stating that two or more Hall County elected officials or any of it's municipalities shall not be allowed to join any business that buys, invests, brokers, markets or procures real estate within the County or any municipalities unless: (a) notice of the formation of the business or intent to partake in buying, investing, brokering, marketing, or procuring real estate in Hall County was filed with the Clerk of that jurisdiction at least 30 days from entering into a contract or understanding to do the same and during that 30 day period that jurisdiction be allowed to give public comment as to the offer or deal that was made by two or more elected officials and also name the purpose of the business along with a list of all the names of principle investors, partners, paid consultants, advisors and professionals that apply with the Clerk of that jurisdiction and that this list be kept with the Clerk of the City or the County.

Chris Fetterman, Flowery Branch City Councilman, stated when he ran for office two years ago he promised clarity and that he would not own any property within the City except for his principle residence as long as he was on the City Council. He also stated the reason he defeated his opponent in that election is because he had purchased several properties in the City of Flowery Branch.

Chairman Oliver then seconded Commissioner Bell's motion.

Commissioner Banks stated he wanted to amend Commissioner Bell's motion by adding the following to the resolution: No Commissioner or Commissioner's firm or business shall conduct business in any way with Hall County; and no Commissioners immediate relatives shall conduct business with Hall County and he defined immediate family members as wife, mother, father, brothers, sisters, children aunts, uncles, 1st cousins, and in-laws. Commissioner Banks then motioned to adopt this into the Official Code of Ethics for the Hall County Commission.

Commissioner Powell then seconded the amended motion.

Commissioner Gailey agreed with the resolution and then inquired what the resolution entailed as far as the business partnership between two elected officials and if it would apply to land purchases outside of Hall County. He then inquired of the Commission and County Attorney if this resolution was violated what would happen and who would hear the complaint because the State Ethics Board would not be involved in this type of matter.

Chairman Oliver then amended the motion again to state that the Commission would adopt Commissioner Banks and Bell's comments by placing these comments in a Joint Resolution to come

back for a final version and the Commission would employ outside writers to draft this resolution making this a preliminary vote to allow the drafting of a preliminary code of ethics to be approved by the board which would address all of these issues.

Commissioner Bell then amended the motion again which stated that no Commissioner can be in a for profit relationship with or offer services business or person employed by any business that has any matter pertaining to zoning, land acquisitions, or development within the County or that has come before the County Commission. He went on to state this ban shall be in place during the duration of that Commissioners term and any violation of this resolution would disqualify any company or person from doing business with the County for two years exceeding that Commissioner's term who violates the resolution. This would prohibit any Commissioner from voting on issues presented by a developer or architectural firm and being able to be an agent for that firm or the selling of that property, products or services. Also, all professional services or agreements with professionals to conduct professional services shall be put for bid annually through requests for proposals and all RFP's shall ask all candidates for service to disclose any potential conflicts of interest with this County.

Commissioner Gailey seconded the motion amended by Commissioner Bell. He then stated that the Code of Ethics needed to be clarified but he wanted to know who would hear these issues. Commissioner Gailey then added he thought an independent attorney should review the Code of Ethics and receive an independent opinion and get this information in writing and vote on it at that time.

Vote: 2-3 (Chairman Oliver, Commissioner Banks and Commissioner Powell voted against the motion.) Motion failed.

Chairman Oliver motioned to bring an organizational structure to this project by incorporating Commissioner Bell, Banks, and Gailey's motions to have independent council bring back a complete Code of Ethics to this Commission in 30 days and to hold an initial meeting regarding this revised Code of Ethics. Commissioner Banks then seconded the motion. Vote: 5-0. Commissioner Gailey then added to that motion that in this process of having this code drafted he would like to have someone capable of hearing a complaint like a board so if a complaint was filed against one of the Commissioners there would be someone capable of hearing it. Chairman Oliver then stated that would be part of the organizational structure of the new Code of Ethics. Vote: 5-0.

Commissioner Powell stated that the voters of this county approved SPLOST V in 2004 and at this time there remains \$2.8 million that has not been invested for a North Hall park out of that SPLOST money and because of the recent donation of land by Cool Springs, LLC to the County we now have an opportunity to bring the SPLOST V North Hall park to a reality. Commissioner Powell then motioned to allocate the remaining \$2.8 million to immediately begin the detailed design of the master plan for Cool Springs Park, apply for the permit to create the water feature and begin developing the property as far as the funds will allow. The additional funds will come from the most recently passed SPLOST VI and or impact fees as they become available to finish the park, in accordance with the conceptual master plan with allowance for modification within reason capping the request at a total of \$5 million between all of the funds. Commissioner Banks then seconded the motion. Commissioner Gailey then requested this recommendation be presented to the Parks Board so they can review this plan prior to the allocation of this money. Chairman Oliver then stated it would be voted today and then given to the Parks Board for their review. Vote 4-1 (Commissioner Bell opposed.)

Commissioner Powell then motioned to authorize Dana Maine of Freeman, Mathis and Gary to perform the research needed and to establish in writing her ruling as to the appropriateness of our vote at the

March 26, 2009 Commission Meeting. He then asked that since Ms. Maine was present if it was appropriate as determined by Mr. Blalock for the Commission to ask Ms. Maine to please give us her opinion of the appropriateness of their vote at the microphone here at the meeting. Chairman Oliver seconded the motion. Commissioner Banks then requested an in-depth study. Chairman Oliver then clarified that there were two issues; (1) we would have Ms. Maine perform a study and (2) we would have her, if Mr. Blalock agreed, share the executive comments today. Commissioner Bell then stated he felt that when the Commission hired an attorney to review certain issues and give advice that if that attorney were forced to come before the public that it would not be considered confidential from this point forward and that the attorney would have to give that confidential opinion in public. Vote: 2-3 Motion failed. (Commissioner Banks, Gailey and Bell opposed).

Commissioner Banks then motioned that Ms. Maine draft an in-depth study which would respond to the motion by Commissioner Powell and that she send this to the Commission in writing. Commissioner Gailey seconded the motion. Commissioner Banks then added it needed to be performed as quickly as possible. Vote: 5-0.

Chairman Oliver stated he was notified today by letter that there was trouble obtaining the permits for the old jail and he then requested the County Administrator Charley Nix to read the letter from CCA into the record. [This letter dated April 9, 2009 is located in the Commission file].

Chairman Oliver then motioned that the County take over all further applications, inspections and permitting necessary to authorize the continued lawful occupancy of the premises. Commissioner Banks seconded the motion. Chairman Oliver then requested that Mr. Blalock provide clarification on this issue. Mr. Blalock then stated that his knowledge was from letters written by CCA and Gainesville's attorney and that the central issue was that the City is insisting on compliance by CCA with their zoning ordinance or code in particular the issue of the barbed wire. He added that because the County owns the property, operates the Sheriff's Department there in that facility and the County has now entered into a contract with I.C.E. (the Federal Government) for the provision of detaining inmates in this facility as well as the lease and management agreement with CCA that it was, has been and will be a County property and County operation. The City attorney's letter assumes the County was making a profit on the jail because of the lease arrangement with the immigration division which makes this a proprietary operation which would cause this to fall under the City's zoning ordinance. Mr. Blalock stated he did not find any cases that take the position that this type of facility as it was still owned and operated by the County as a storage facility equals a governmental function which does not require the jail to abide by the City zoning ordinance. Commissioner Bell then requested that the Commission try to have a conversation with the City of Gainesville before making such an aggressive move. He then requested that he, the Chairman, two officials from the City and their attorneys sit down and attempt to work out a possible compromise as soon as possible. Commissioner Gailey then stated that CCA was just running this facility for the County. He then inquired if permits would be obtained from the City if the County were still operating it themselves and Mr. Blalock stated it depended on what type of permits were being obtained. Commissioner Bell then again request this item be discussed with the City and Chairman Oliver stated this vote did not take that discussion off the table but we were moving forward with the permitting already started by CCA. Vote: 4-1 (Commissioner Bell opposed).

10. Adjourn