

A REGULAR MEETING  
OF THE  
CHEROKEE COUNTY  
BOARD OF COMMISSIONERS  
April 20, 2015

A regular meeting of the Cherokee County Board of Commissioners was held in the Commissioners Boardroom, also known as Multi-Purpose Room 342, of the Cherokee County Courthouse in Murphy, North Carolina on the 20th day of April, 2015 at 6:30 o'clock p.m.

The following Commissioners were present for the meeting: C.B. McKinnon, Chairman; Cal Stiles, Vice-Chairman; Dan Eichenbaum, member; Gary Westmoreland, member; and Roy Dickey, member. Also present were the following: Randy Wiggins, County Manager; Maria Hass, Assistant County Manager/Clerk to the Board; Candy Roberts Anderson, County Finance Director; and, R. Scott Lindsay, County Attorney/Assistant Clerk to the Board.

Media present were the Cherokee Scout and Local TV4. DVD copies of commission meetings may be purchased at Local TV4.

Chairman McKinnon read the boards adopted ethics statement.

The invocation was given by Randy Wiggins.

The Pledge of Allegiance was led by all.

**Modification of Agenda:** None

**Agenda Adoption:**

A Motion was made by Commissioner Eichenbaum to adopt the agenda. Motion seconded by Commissioner Dickey. Motion passed unanimously.

**Public Hearing on Proposed Adult Entertainment Ordinance:**

A Motion was made by Commissioner Stiles to open the floor for the public hearing. Motion seconded by Commissioner Dickey. Motion passed unanimously.

In a standing room only, representatives of several area churches were in attendance and questioned the board as to why the proposed ordinance did not include adult bookstores. Commissioner McKinnon and Commissioner Eichenbaum said the board had agreed to look at that as a separate issue, and that is why it was not included. Commissioner Stiles said that he would like to have had adult bookstores included in the proposed ordinance. He said that the board had agreed to hold a work session in the near future, hopefully in June, to work on a separate adult bookstore ordinance. Several pastors and church members spoke and encouraged the board to include adult bookstores in the proposed ordinance, or to at least commit to an additional ordinance that would address adult bookstores. They encouraged the board to do all it can do to preserve the morals of our community.

The board assured those in attendance that they would hold a work session soon to discuss an adult bookstore ordinance.

A Motion was made by Commissioner Dickey to close the public hearing. Motion seconded by Commissioner Stiles. Motion passed unanimously.

A Motion was made by Commissioner Eichenbaum to adopt the proposed ordinance. Motion seconded by Commissioner Stiles. Motion passed unanimously, and adopted upon first presentation.

**Public Forum:**

Mayor Nancy Curtis of Andrews invited the board to Andrews Earth Day, which will be held on

April 22nd.

Also, during public forum, several members of the high school swim teams, along with parents, coaches and Silver Sneakers members, encouraged the board to continue funding the operation of the Hiwassee Valley Pool and Wellness Center. Several in attendance held up signs in support of pool funding.

There were also members of the public that were opposed to spending tax dollars to fund the pool and wellness center. They asked the board to continue being conservative and encouraged the pool board and the foundation board to develop a strategic plan and look for ways for the facility to break even.

Chairman McKinnon said it is very important that citizens have an opportunity to speak, and thanked everyone for being respectful to one another during the public forum.

### **Approval of Minutes:**

A Motion was made by Commissioner Stiles to approve the regular meeting minutes of April 6, 2015. Motion seconded by Commissioner Westmoreland. Motion passed unanimously.

### **Old Business:**

- The board denied a request, made by Steve Jordan at the April 6<sup>th</sup> meeting, asking the board to waive the Cherokee Scout advertising fees from his tax foreclosure notices. The board explained that cost have been incurred by the county and cannot be waived.
- Dr. Brian Mitchell of the Hiwassee Valley Recreation Foundation came before the board to present a check for \$49,000 to the county for continued operations of the Hiwassee Valley Pool and Wellness Center through June 30, 2015. Dr. Mitchell gave a history of the foundation board and said that the mission of the foundation board has been to provide for the capital needs of the facility and provide financial support to those who cannot afford memberships. He said that the foundation has an endowment fund that supports the mission, and that the foundation has on-going grants and individual contributions. Dr. Mitchell said that the foundation board wants to ensure that the facility will remain open for years to come. Dr. Mitchell made a proposal to the board that the Foundation would pay 50% of the fuel costs for the pool in the 15-16 budget year, if the county would pay 50%. He said that the foundation board requests the commissioners to provide continued support for the facility, and requested that the county return to the foundation board the \$49,000 when the facility begins making a profit. Commissioner Westmoreland made a motion to accept the proposal. Motion seconded by Commissioner Stiles.

Commissioner Dickey said that he is not opposed to the pool and wellness center as accused, but would like to see it maintained and kept up. He said he would like to see a plan of what the operating board and foundation board are going to do, and how that plan will work. Dr. Mitchell said that the foundation board will be meeting with the operating board next week and that they are going to specifically request a detailed plan for how an assessment is going to be made in terms of membership fees, overhead, hours of operation, and staffing, and also wants a plan of new business model that can reduce future budget shortfalls. Dr. Mitchell said they would also want the operating board to provide details of qualifications that the operating board will be looking for in a new director.

Commissioner Dickey asked interim pool director Barbara Vicknair if she has worked on any of these things and to give an update of what she has done. Ms. Vicknair said that she has a lot of ideas and has experience, because she has been involved with the pool since inception. She said she is working on things and assessing the situation. She said she is ready to do what it takes to get the facility headed in the right direction. Commissioner Dickey asked when the board could expect to see a plan. Ms. Vicknair said two weeks. Commissioner Dickey then asked Ms. Vicknair what she thought the biggest problem has been for the facility. Ms. Vicknair said "mismanagement", and that she will correct that.

Commissioner Stiles talked about the amount of funding provided for ball fields and used that as an example of recreation that the county provides funding for and shared an analysis of users. He said that he supports funding the pool and wellness center. He said that he has talked to realtors and that the facility is a "good selling piece" for the county

when others are looking at locating here; and added that it is also an economic piece. He said that there is over two million dollars invested in the facility and that he thinks that if the county has to provide a few thousand dollars a year to keep it functioning, then he supports that. He discussed the \$50,000 loss and said that one penny of property tax generates \$300,000, and said when you look at the \$50,000 loss, it equates to 1/6<sup>th</sup> of a penny that the county would be losing. He said he doesn't like to lose money, but that it isn't a huge amount. Commissioner Stiles admitted that there is something wrong with the plan, and said that the business model needs to be worked on. He said that closing the facility now, according to projections, would create a loss of over \$100,000.

Commissioner McKinnon said that he has been communicating with the operating board about the business plan for over a year, and has asked that they bring the facility to a break-even situation. He said that he is only asking that the facility to pay for its operations, and said that he has done a lot to help. He said that once the boards have expended their funds that he will then look to see what progress has been made. He said that is the only commitment that he is willing to make. He said that in his two years on the commission board that he has made a lot of commitments to the facility, commitments in the amount of 1.1 million dollars. Commissioner McKinnon encouraged those supporters in attendance to volunteer, and to also talk to their neighbors and get them to join the facility. He said the problem is that the facility is underused and that is why it is in the situation it is in. Commissioner McKinnon said that there is 27,400 plus citizens in the county and 500 that use the facility. He said that if the 500 members paid \$150 more a year, then the shortfall would be met. He thanked the Foundation for providing the funding to keep it open, and said that he would be willing to revisit when changes are made and when he sees progress. He encouraged the operating board and Foundation to listen to the new director if they have ideas of how to make it work, and not to fight against that person.

Commissioner Eichenbaum thanked those in attendance for being present and speaking. He said he appreciated the passion that he is seeing in the room. He said that this issue made him take a look at the pool issue and shared a PowerPoint titled "Promises made, promises broken, and tough love". He said, contrary to popular belief, there is no money tree behind the courthouse. He said he thinks, "this is the most important thing that we can try and discuss here", and added that the county is facing a lot of tough issues in the year ahead. He said that he says that to say, "That the government cannot give you anything that it does not first steal from someone else". He said that there is no such thing as a "free lunch". He discussed the commissioner's responsibilities of handling taxpayer dollars and said that is the real issue. Commissioner Eichenbaum shared a recent poll from the Cherokee Scout showing that 72% of respondents said that the facility should support itself. He said that is what the community is saying. He said that while those in the room are in favor of the pool, that there are obviously a lot of people in the county who do not agree. He asked why 72% of the community wants the facility to stand on its own. He shared commission meeting minutes from May 15, 2001 which showed that the county recreation committee at that time, encouraged commissioners not to take on responsibility for a new facility, because there were more pressing needs at that time. Commissioner Eichenbaum also shared documentation from an Advantage West grant, where the Foundation stated that a phone survey had been conducted of 400 people and that the survey showed "great interest" in the proposed facility and that projected memberships would "more than cover the cost of operation". It was also estimated in the grant document that user fees developed in the financial plan would generate 1.2 million dollars in annual revenue, "well beyond" the operating costs estimates in the business plan. The estimated operating costs were \$600,000.

Commissioner Eichenbaum shared minutes from a 2007 commission meeting where someone in public forum questioned why citizens had to pay a fee to use the facility. David Sumpter, commissioner at that time, told the resident that the facility was a county-owned facility, but that no tax dollars had been expended, nor was it the intention of the board to expend county tax dollars for the facility. He said that the county had secured a loan for a portion of the cost of construction and that the facility must generate revenue to run the facility and pay for the debt service secured by the county. Commissioner Eichenbaum said that, to him, that was the operating model when the pool and wellness center was about to open seven years ago. He shared that since that time that the county has spent 1.4 million taxpayer dollars, or an average annual taxpayer "bailout" of \$75,000. He said that this amount is the equivalent to the annual salary of two deputies, two teachers, or two paramedics. He added that previous county commissioners used

taxpayer dollars to enable a failed business plan. He said that county taxpayers are paying for a recreation facility that most of them cannot afford to use. Commissioner Eichenbaum said that the facility needs a dose of tough love, and that the Foundation needs to spend the \$95,000 that it has in the bank to bailout the pool and wellness center. He called for immediate change in the business model to cut expenses now; innovate ways to generate revenues now; and called for fundraising from private individuals to subsidize current and future deficits. He said that most importantly that there are three lessons: 1) Public entities should not compete with private businesses; 2) Bailouts enable a failed business to linger on without correcting its mistakes, and then only until the next bailout; and 3) Charity is voluntary, taxes are not.

After all board member discussions, the Chairman called for the remaining vote. Voting against the Motion was Commissioners McKinnon, Eichenbaum, and Dickey. Motion failed 2-3.

- After discussion, a Motion was made by Commissioner Eichenbaum to approve the "Application to Sell" and the "Rules and Regulations" for the Farmer's market at the Mountain Folk Center. Motion seconded by Commissioner Stiles. Motion passed unanimously.

#### **New Business:**

- John Worden, drag racing enthusiast and editor of Eastern Hot Rodder Magazine, came before the board to propose holding a drag race at Western Carolina Regional Airport. After discussion, the board felt that the liability would be too great and denied the request.
- Ralph Crisp, of the Cherokee County Tomorrow Committee, presented the board with a final draft of the Cherokee County Tomorrow Plan. Mr. Crisp asked the board to take the draft and review it. Members of the committee spoke and gave their opinions of the plan. Commissioner Stiles made a Motion for the committee to continue as a voluntary advisory group and go back and fine tune the rough draft and work on the inadequacies. Motion seconded by Commissioner Dickey. Voting in favor of the Motion was Commissioners Westmoreland, Stiles and Dickey. Voting against the Motion was Commissioners Eichenbaum and McKinnon. Motion passed 3-2. The committee will modify the plan and bring back to the board.

#### **Chairman/Commissioner Items:**

Commissioner McKinnon and Commissioner Westmoreland talked about a proposed Spotlight Ordinance for consideration at a future meeting.

#### **Executive Session:**

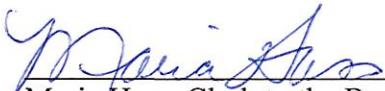
Pursuant to §143-318.11 (a) (3), a Motion was made by Commissioner Dickey to go into executive session to consult with the county attorney concerning the pending lawsuit by former sheriff, Keith Lovin. Motion seconded by Commissioner Stiles. Motion passed unanimously. While in closed session, the county attorney updated the board on the case.

After returning to open session, there was no action taken on matters discussed in executive session.

#### **Adjourn:**

There being no further business to come before the Board, a Motion was made by Commissioner Stiles to adjourn. Motion seconded by Commissioner Eichenbaum. Motion passed unanimously. The meeting adjourned at 9:40 o'clock p.m.

  
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C.B. McKinnon, Chairman

  
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Maria Hass, Clerk to the Board