

CHEROKEE COUNTY

STATE OF GEORGIA

GRAND JURY PRESENTMENTS

TO:

**The Honorable Frank C. Mills, III
Chief Judge, Superior Court
Cherokee County, Georgia**

**The Honorable N. Jackson Harris
Judge, Superior Court
Cherokee County, Georgia**

**The Honorable Ellen McElyea
Judge, Superior Court
Cherokee County, Georgia**

FILED IN OFFICE
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CHEROKEE COUNTY, GA
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PATTY BAKER, CLERK

We, the members of this Grand Jury, chosen and sworn to serve the September 2012, term of the Superior Court of Cherokee County, hereby submit the following report and recommendations.

We, the September 2012, Grand Jury heard 227 bills of indictment, returned 227 true bills and 0 no bills.

PRESENTMENT 1

The September 2012, Grand Jury commends Superior Court Chief Bailiff Jane Johnson, Bailiff Johnny Champion and all bailiffs for their diligent assistance in arranging materials for Grand Jury proceedings, managing the schedule for cases to be presented, coordinating Grand Jury payroll, and ensuring that proceedings run smoothly.

PRESENTMENT 2

The September 2012, Grand Jury commends District Attorney Garry Moss for his 30 years of selfless and faithful service to the citizens of Cherokee County and we wish him many healthy and happy retirement years.

PRESENTMENT 3

We, the September 2012, Grand Jury commend District Attorney-Elect Shannon Wallace, each Assistant District Attorney and each law enforcement officer and investigator associated with the cases brought before the Grand Jury.

PRESENTMENT 4

The September 2012, Grand Jury sincerely expresses its appreciation to the directors and staff of the Anna Crawford Children's Center in recognition of the tremendous assistance and comfort provided to at-risk and victimized children in our community.

PRESENTMENT 5

The September 2012, Grand Jury sincerely expresses thanks to Cherokee County Chief Financial Officer Janelle Funk for her well-planned and professional explanation of the Homestead Option Sales Tax.

PRESENTMENT 6

The September 2012, Grand Jury sincerely expresses thanks to Clerk of Court Patty Baker for a thorough and knowledgeable overview of juror and bailiff compensation.

PRESENTMENT 7

The September 2012 Grand Jury sincerely expresses thanks to Cherokee County Sheriff Roger Garrison, Captain Karen Johnson, and the staff of the Sheriff's

Office and Adult Detention Center for hosting an informative tour. The Detention Center was found to be well-lit, clean and effectively managed.

PRESENTMENT 8

The September 2012, Grand Jury sincerely expresses thanks to Investigator Randy Reagan for his assistance with the Grand Jury's IT requirements.

PRESENTMENT 9

The September 2012, Grand Jury sincerely expresses thanks to Judge Ellen McElyea for her professional and informative empanelment and orientation of this Grand Jury.

PRESENTMENT 10

The September 2012, Grand Jury sincerely expresses thanks to Mr. Lamar Barton for his many years of service on the Cherokee County Tax Equalization Board.

PRESENTMENT 11

We, the September 2012, Grand Jury, recommend pay for Petit (Traverse) Jurors and bailiffs be maintained at its current level. The Grand Jury recommends pay for Grand Jurors be reduced from the current rate of \$50.00 per day to \$45.00 per day. This reduction is intended to bring Cherokee County in line with other counties in Georgia and to practice fiscal responsibility in light of current economic conditions.

PRESENTMENT 12

We, the September 2012, Grand Jury, recommend that the Cherokee County legal organ be changed to include both the Cherokee Tribune and The Cherokee Ledger / News to ensure the widest possible dissemination of the official business of Cherokee County.

PRESENTMENT 13

We, the September 2012, Grand Jury, appoint a liaison committee consisting of the following current Grand Jury members to meet with the January 2013 Grand Jury for a continuance of knowledge of the RRDA / BGR matter. The Liaison

Committee members are: Val Frazier, Pete Dean, Jon Flaig, Clark Blackwell and Michael Ameye.

PRESENTMENT 14

We, the September 2012, Grand Jury, in a previous interim presentment appointed Val Frazier, James Rigsby, Pete Dean, Gerald Wright and Jon Flaig to a special Committee for the purpose of investigating and further reviewing the status of the Resource Recovery Development Authority of Cherokee County (RRDA) in the aftermath of the May 2012, Chapter 11 bankruptcy of the tenant Mr. Jimmy Bobo, et al / Ball Ground Recycling, LLC (BGR).

The Committee interviewed the following county officials: County Commission Chairman L.B. 'Buzz' Ahrens, Commissioners Harry Johnston, Karen M. Bosch, Jason Nelms, and Jim Hubbard (BOC). The above individuals also comprise the current board of the RRDA.

The Committee interviewed Cherokee County Manager Jerry Cooper.

The Committee also interviewed former County Attorney Mark Mahler, private citizen Steve Marcinko, and former Development Authority of Cherokee County / Cherokee Office of Economic Development (DACC/COED) member Larry Lusk.

The Committee reviewed and abstracted all available documents related to the dealings between the BOC / RRDA / County Management and Mr. Jimmy Bobo, et al / BGR.

The Committee reported to the Grand Jury. Based upon the Committee's report the Grand Jury Found:

Findings

The Grand Jury found no evidence of another RRDA in the state of Georgia having been created for the purpose of relocating a private business from one location to another, nor has this Committee found an example of another RRDA established for the purpose of "recovering" a waste substance that did not adversely affect public health.

The Grand Jury found the circumstances surrounding the original discussions and agreements between the BOC and Mr. Bobo which led to the formation of the

RRDA and the establishment of the new recycling facility to be murky and virtually undocumented.

The Grand Jury found that in 2006 Mr. Bobo, et al had purchased 61.21 acres of contiguous property on Ball Ground Highway at a total cost of \$3,531,537. This acreage was to be used as the new operations site of BGR.

The Grand Jury found that in 2007 the BOC / RRDA purchased a 35.85 acre portion of the aforementioned 61.21 acre assemblage at a price of \$3,684,999. The unencumbered ownership of the remaining 25.36 acres was retained by Mr. Bobo, et al.

The Grand Jury found that at the property sale closing Mr. Bobo et al, was reimbursed for the interest carry on the original 2006 loans to purchase the property in the amount of \$323,763. Mr. Bobo et al, was further reimbursed \$239,446 for the closing costs associated with those original loans.

The Grand Jury found language in the Bond Documents between the RRDA and BGR / Mr. Bobo, et al that appointed BGR / Mr. Bobo, et al to be the "true and lawful agent" for Cherokee County in this arrangement, such appointment being accepted by Mr. Bobo's signature.

The Grand Jury found language in the Bond Documents between the RRDA and BGR / Mr. Bobo, et al that arguably prohibited the lessee (BGR / Mr. Bobo, et al) from realizing a profit on the sale of land to Cherokee County / RRDA. This is the position taken by the BOC / RRDA in its current civil lawsuit against Mr. Bobo, et al.

The Grand Jury found that a verbal request from the BOC / RRDA to the County Manager Mr. Jerry Cooper established Mr. Cooper as the de facto project administrator on behalf of the RRDA for the construction oversight of the BGR facility. The Grand Jury further found that the County Manager was solely responsible for validating the criteria for the disbursement of funds for the BGR construction. The Grand Jury found that the County Manager disbursed the construction funds on the basis of the design architect's signature alone. The Grand Jury found that the design architect was hired by Mr. Bobo et al and was not contracted by Cherokee County.

The Grand Jury found that there was a free resource available (the Association of County Commissioners of GA (ACCG) Construction Guidelines) to the BOC /

RRDA and County Manager that outlined step by step the way to set up and manage a construction project of this scope. However, it appears that the BOC / RRDA and County Manager did not use this resource in developing and managing the project.

The Grand Jury found that the BOC / RRDA and County Manager in managing the construction draw process, failed to adhere to the Association of County Commissioners of GA (ACCG) Construction Guidelines which follow O.C.G.A. §§ 36-91-1–36-9-2, §§ 36-91-20–36-91-22, §36-91-40, §§ 36-91-50–36-91-54, §§ 36-91-70–36-91-72, and §§ 36-91-90–36-91-95, the Georgia State laws governing Local Government Public Works Construction.

The Grand Jury found that the assets of the RRDA were not carried on the Cherokee County ledger books from 2007 until present and thus were not subject to audit.

The Grand Jury found that in 2009 the Cherokee Office of Economic Development (COED) purchased from Mr. Bobo et al, a 53 acre site at Highway 92 & James Dupree Road at a cost of \$5,273,730.

PRESENTMENT 15

The Grand Jury was informed by law enforcement agencies that no investigation of the RRDA and Ball Ground Recycling matter would be possible without a forensic audit of the concerned parties. The Grand Jury was further informed that after the completion of the forensic audit any subsequent investigation by law enforcement agencies would not be automatic.

Recommendations

Recommendation 1: The Grand Jury recommends that Cherokee County Board of Commissioners (BOC) not limit the cost of the forensic audit of the RRDA / BGR matter. A comprehensive audit may require more than the \$75,000 currently authorized.

Recommendation 2: The Grand Jury recommends that the BOC pay the cost to publish the full and complete results of said audit in the county legal organ and in the Cherokee Ledger News as soon as the results are presented.

Recommendation 3: The Grand Jury recommends that any investigation conducted pursuant to the aforementioned forensic audit be pressed to the fullest extent.

Recommendation 4: The Grand Jury recommends that the BOC continue its civil suit against Mr. Bobo et al.

Recommendation 5: The Grand Jury recommends that the BOC / RRDA continue the previous May 2012 Grand Jury recommendation to add equal number of non-elected citizen members to the RRDA who are not county employees.

Recommendation 6: The Grand Jury recommends that the County Administration include the complete assets of the RRDA on the county books and subject those assets to complete and routine audits.

Recommendation 7: The Grand Jury recommends that the January 2013 Grand Jury continue the investigation and fact finding into the RRDA / BGR matter.

Recommendation 8: The Grand Jury recommends that the January 2013 Grand Jury investigate the circumstances surrounding the Cherokee Office of Economic Development's purchase of 53 acres at Highway 92 & James Dupree Road from Mr. Bobo et al.

Recommendation 9: The Grand Jury recommends that those recommendations of the previous May 2012 Grand Jury that have not been accomplished be continued.

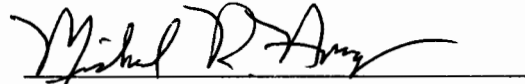
Recommendation 10: The Grand Jury recommends that BOC employees be held accountable and or disciplined for their actions in the RRDA / BGR matter.

Recommendation 11: The Grand Jury recommends that the citizens of Cherokee County be diligent in their oversight of their elected officials.

Recommendation 12: The Grand Jury recommends that before any new real estate is purchased by any entity of Cherokee County government that an appraisal, by a licensed appraiser independent of purchaser or seller, be performed to assure that Cherokee County is paying market prices.

Recommendation 13: The Grand Jury recommends that **ALL** new capital assets purchased by Cherokee County be immediately added to the county ledger books.

Recommendation 14: The Grand Jury recommends that research be done to ensure that all current county capital assets are presently carried on the county ledger books.

A handwritten signature in black ink, appearing to read "Michael R. Ameye", written over a horizontal line.

Michael Ameye
Grand Jury Foreman

CHEROKEE COUNTY

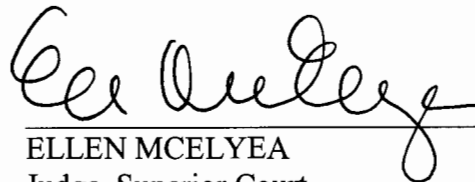
STATE OF GEORGIA

ORDER

It is ordered that the within and foregoing Grand Jury Presentments having been read and considered, the same be filed.

It is further ordered that a copy of the Presentments along with a copy of this Order be sent to the Cherokee Tribune for publication and the usual fees paid thereon.

This the 18 day of December, 2012.



ELLEN MCELYEA
Judge, Superior Court
Blue Ridge Judicial Circuit