

**Cherokee County Planning Commission
Public Hearing
Minutes
Tuesday, January 4, 2005
7:00 p.m.**

The Cherokee County Municipal Planning Commission held its regularly scheduled public hearing on Tuesday, January 4, 2005, in the Jury Assembly Room of the Cherokee County Justice Center. In attendance for the Planning Commission were Chairman Rob Cutting, Bill Jarrard, Michael Oxley, Betty Callahan, Garland Stewart and Bob Whittaker. In attendance for Cherokee County staff were Mark Mahler, County Attorney, Jeff Watkins, Planning Director, Vicki Taylor, Zoning Administrator and Vicki Mulkey, Zoning Technician. The meeting was called to order at 7:05 pm.

Mr. Mahler swore in Garland Stewart and Bob Whittaker to the Board.

Mark Mahler explained to the Board that the Zoning Signs posted had the wrong date for the Public Hearing. He stated all the Court cases that he has seen dealing with procedural issues are strict. He stated the Zoning Procedures Act states that you must advertise the date, place and time the case is to be heard. He stated our Zoning Ordinance states the same. He stated that if the County had advertised the wrong date, he thought it is a procedural defect and probably a fatal procedural defect. He stated if the Board were to proceed to hear the cases tonight he thought the applicant would be put in the position where any zoning recommendation the Board makes wouldn't be any good anyway. He stated that it wasn't that the County was so much at risk because if someone was to file a law suit the County would be named with the applicant and we would basically take the position, we give up and you win. The applicant however deals with contingency contracts, buying property, and construction loans, etc. He further stated that procedural losses have no statute of limitation, because the whole idea is, "I didn't get notice." He stated talking with the attorneys representing the cases Mr. Chambers and Mr. Huff actually representing 5 cases of the 6, they agreed whole heartedly and voluntarily stated they would wish the cases to be postponed. The 6th applicant, not represented by an attorney, in his opinion should also be postponed for their own good.

Chairman Cutting stated the cases are 05-01-001, 05-01-002, 05-01-003, 05-01-004, 05-01-005 and 05-01-006 that Mr. Mahler refers to.

Mr. Mahler stated the cases would be re-advertised, the adjacent property owners notified and signs reposted.

Chairman Cutting stated the Board would have their regular meeting on February 1, 2005 and a special called meeting would be held February 8, 2005. Then the Board of Commissioners would hear all those cases the 15th of February at their regular meeting.

Garland Stewart made a motion to postpone the cases and have those cases heard at a special meeting on Tuesday, February 8, 2005 at 7:00 pm. Seconded by Michael Oxley. Motion passed unanimously 6-0.

Chairman Cutting then recognized the resignation of Dick Hall and Marsha Lathem from the Board. He thanked them for their service.

Chairman Cutting then acknowledged the new appointments Garland Stewart and stated he was Commissioner Mahurin's appointment. Bob Whittaker is the at-large appointment. Bill Jarrard reappointed by Commissioner Hubbard.

Approval of the December 7, 2004 Minutes

Michael Oxley made a motion to approve the minutes. Seconded by Betty Callahan. Motion passed unanimously 4-0.

Mr. Jarrard stated he would like to discuss the interim land use plan brought up by Commissioner Johnston at Board of Commissioner's meeting. He stated the timeline suggested by Commissioner Johnston was that he had hoped for an approval the middle of February after a Public Hearing. Discussion ensued as to having enough time to review and recommend an interim land use plan in Commissioner Johnston's timeframe. Mr. Jarrard suggested a special call meeting for public input since this is a complex issue. Chairman Cutting suggested to discuss the interim land use plan at the Board's January and February Work Sessions and hold the public hearing in March since the February 1, 2005 meeting was a full agenda and the Board already had decided to have a special call meeting February 8, 2005 to hear the cases that were postponed tonight. Chairman Cutting stated he knew that was not in Commissioner Johnston's timeframe and stated it was a complex issue. Mr. Jarrard stated he wanted to meet Commissioner's Johnston's timeframe and thought a special call meeting was in order. Chairman Cutting stated he thought two public hearings would be warranted since even a Zoning Code change took two public hearings. He suggested the Board should go forward with the public hearing on February 1, 2005, after then consider another public hearing and then the Board would have the February Work Session. It then was decided to put the public hearing on the February 1, 2005 agenda. Garland Stewart asked Jeff Watkins to mail any information

Approved February 1, 2005

they should have from Atlanta Regional Commission (ARC) and the County's consultant to the Board for their next work session.

Garland Stewart made a motion to adjourn. Seconded by Michael Oxley. Motion passed unanimously 6-0.

Meeting adjourned at 7:20 pm