

May 7, 2013
Statesboro, GA

Regular Meeting

The Board of Commissioners met at 5:30 p.m. in the Community Room of the North Main Annex. Chairman Nevil welcomed guests and called the meeting to order. Commissioner Simmons gave the invocation and the pledge of allegiance.

Ms. Christy Strickland, Clerk of the Board, performed the roll call of the commissioners and staff. The following commissioners were present: Chairman Nevil, Commissioner Mosley, Commissioner Simmons, Commissioner Ethridge, Commissioner Rushing, and Commissioner Thompson. The following staff were present: County Manager Thomas Couch, County Attorney Jeff Akins, Developmental Services Director Andy Welch, Chief Financial Officer Harry Starling, Tax Commissioner James Deal, Public Safety Director Ted Wynn, Chief Deputy Jared Akins, Fire Chief Christopher Ivey, County Engineer Kirk Tatum and Zoning Administrator Randy Newman.

After Roll Call, Chairman Nevil opened the meeting for Public Hearings regarding Zoning and Land Use matters. Chairman Nevil called on Zoning Administrator Randy Newman to present the first item of business. Zoning Administrator Randy Newman presented Item #1 which was an application submitted by Joseph Akins for a text amendment to the Zoning Ordinance to amend the definition of a Boarding House and allow a Boarding House as a Conditional Use in an AG-5 (Agricultural 5 acres) and R-80 (residential 80,000 square feet) zoning district. The Planning and Zoning Commission recommended approval of the request. County Attorney Jeff Akins stated originally Mr. Joe Akins submitted an application for a text amendment and conditional use request to allow a fraternity house on his property located on Cawana Road but had withdrawn the conditional use request because he was going to file an application with City of Statesboro for annexation. He stated the County wanted to go forth with the text amendment because the current ordinance has a definition for boarding house but it is not allowed in any zoning districts. Mr. Akins stated the definition may change when the group home definition is amended. After hearing additional discussion on the definition of Boarding House, Commissioner Simmons offered a motion to approve the Text Amendment to allow a Boarding House as a Conditional Use in the AG-5 and R-80 Zoning Districts (See Exhibit #2013-036). Commissioner Mosley seconded the motion, and it carried unanimously with Commissioner Ethridge,

Commissioner Mosley, Commissioner Simmons, Commissioner Rushing, and Commissioner Thompson voting in favor of the motion.

Zoning Administrator Randy Newman presented zoning agenda item #2 which was an application requesting a text amendment to the Zoning Ordinance to add a definition for Solar Electric Power Generation and make it a Conditional Use in an AG-5 (Agricultural 5 Acres) Zoning District. The Planning and Zoning Commission recommended approval of the request. Mr. Newman stated there have been several inquiries concerning having a solar electric power generation facility and he wants to be prepared if an application is submitted. County Manager Tom Couch stated the staff had researched different counties and also nationwide and this is going to become a more common use. After additional discussion on Solar Generations Facilities, Commissioner Ethridge offered a motion to approve the text amendment request to add a definition for Solar Electric Power Generation and make it a Conditional Use in an AG-5 Zoning District. (See Exhibit #2013-037) Commissioner Mosley seconded the motion. Chairman Nevil asked if there was any further discussion. Commissioner Rushing stated that he would recuse himself because he has a contract with a company to locate a solar electric power generation facility on his property. Hearing no further discussion, the motion carried unanimously with Commissioner Ethridge, Commissioner Mosley, Commissioner Simmons, and Commissioner Thompson voting in favor of the motion.

Sign-in sheets for Zoning Matters are shown in Exhibit #2013-038.

Chairman Nevil closed the Public Hearing regarding Zoning and Land Use matters, and asked for amendments or modifications to the General Agenda. County Manager Tom Couch requested to modify the General Agenda by adding under New Business Agenda Item # 8 for Discussion/Action to adopt a Resolution to Approve Stop-loss Insurance for the Employee Health Plan. Commissioner Thompson requested to add under New Business Agenda Item # 9 for Discussion concerning Fingerprint Metric Time Clocks. After hearing no further modifications, Commissioner Mosley offered a motion to approve the General Agenda with the modifications recommended by the County Manager and Commissioner Thompson. Commissioner Ethridge seconded the motion, and it carried unanimously with Commissioner Ethridge, Commissioner Simmons, Commissioner Mosley, Commissioner Rushing, and Commissioner Thompson voting in favor of the motion.

Next, Chairman Nevil asked for public comments from the audience at large or in writing. County Manager Tom Couch and Clerk of the Board Christy Strickland both stated

that there were no formal requests or petitions received in writing. Hearing none, Chairman Nevil moved on to the next item.

Chairman Nevil stated the next item was to approve the Consent Agenda as follows: (1) To approve the minutes of the Regular Meeting and Executive Session held on April 16, 2013; (2) To accept the lowest bid of \$15,862.00 to Smith Steel Structures, Inc. for the building renovation/addition for the Brooklet EMS Station (See Exhibit # 2013-039). Commissioner Simmons offered a motion to approve the Consent Agenda as presented. Commissioner Mosley seconded the motion, and it carried unanimously with Commissioner Ethridge, Commissioner Simmons, Commissioner Mosley, Commissioner Rushing, and Commissioner Thompson voting in favor of the motion.

Chairman Nevil stated the first item under New Business was for Discussion/Action to authorize a sole source procurement for Voice Over Internet Protocol (VOIP) telecommunications and computer software for the North Main Annex and Building/Zoning Departments. He called on County Manager Tom Couch to initiate discussion on the matter. Mr. Couch stated the computer network and servers in the North Main Annex were recently upgraded and centralized to enhance productivity and security. He stated with the upgrades in place, he recommends that a VOIP solution be installed as recommended and negotiated with Georgia Technologies of Statesboro. Mr. Couch stated it is estimated that the VOIP system would save the county 50% in telephone billing and will reduce construction and phone relocation cost at the new administration facility. He stated Georgia Technologies installed a pilot VOIP system at the Magistrate Court in 2012 and provides technology support to the Sheriff's Department. Mr. Couch stated the hardware/software would cost approximately \$35,000 to \$38,000 and recommends taking it out of SPLOST 07 Building and Facilities fund. Developmental Services Director Andy Welch stated the VOIP systems would be in the Annex and Zoning/Building Departments and hopefully in the future they can put one in the Courthouse and Judicial annex. He went over some of the costs with the current telephone bills with Frontier and stated the VOIP system would save the county a significant amount of money. Mr. Welch introduced three (3) representatives with Georgia Technologies: David Rogers, Joseph Eason and Sean Kent. Mr. Eason briefly went over what has been installed in the Magistrate Court and the plans Mr. Couch, Mr. Welch and the Georgia Technologies Representative have made for the Annex and Zoning/Building Departments over the past year. Mr. Welch stated currently the Frontier bill for the Annex & Zoning/Building Departments runs at approximately \$34,000 a year and with the VOIP

system it should run approximately \$14,000 a year. Chairman Nevil asked if there is a problem with the system, would they be able to service it immediately or will there have to be a work order put in. Georgia Technologies Representative David Rogers stated they are a local company and service will be available immediately when needed. After hearing no further discussion, Commissioner Mosley offered a motion to approve the sole source procurement for Voice Over Internet Protocol (VOIP) telecommunications and computer software for the North Main Annex and Building/Zoning Departments (See Exhibit # 2013-040). Commissioner Simmons seconded the motion, and it carried unanimously with Commissioner Ethridge, Commissioner Simmons, Commissioner Mosley, Commissioner Rushing, and Commissioner Thompson voting in favor of the motion.

Chairman Nevil stated the second item under New Business was for Discussion/Action for approval of the cost for the Park and Ride at the corner of Highway 67 and Highway 46. He called on County Engineer Kirk Tatum to initiate discussion on the matter. Mr. Tatum stated business owner Dan Adams had approached him because of the commuters that are parking in the parking lot of his businesses. He stated that Mr. Adams has said there could be anywhere from 20-30 cars a day and wanted to know if the abandoned right of way could be used as a Park and Share. Mr. Tatum stated he contacted the Department of Transportation (DOT) and they were in agreement and said they would do the work if the County would pay for the materials. Mr. Couch stated the estimated cost for the materials are \$11,715.00 and would be taken from Road SPLOST. Chairman Nevil asked how many parking spots would this make available. Mr. Tatum stated as of now the design provides for 26 regular parking spaces and 3 handicap accessible spaces. Hearing no further discussion, Commissioner Thompson offered a motion to approve the cost of materials in the amount of \$11,715.00 for the Park and Ride at the corner of Highway 67 and Highway 46 (See Exhibit # 2013-041). Commissioner Rushing seconded the motion, and it carried unanimously with Commissioner Ethridge, Commissioner Simmons, Commissioner Mosley, Commissioner Rushing, and Commissioner Thompson voting in favor of the motion.

Chairman Nevil stated the third item under New Business was for Discussion/Action for cable franchise audit to collect fees owed. He called on County Manager Tom Couch to initiate discussion on the matter. Mr. Couch stated he needed some guidance on how to address collecting the fees. He stated the cable franchise auditor, Howell Group LLC, has recommended recovery of underpaid franchise fees by Northland Cable and Bulloch Telephone but that Bulloch Telephone is disputing the amount they have to pay based on a

narrow interpretation of the definition of gross revenue. Mr. Couch explained that the practice in the industry is to pass through the franchise fee to the customer, and the franchise fee is then included in gross revenue for the purpose of calculating the 5% of gross revenue that the franchisee pays to the local government. He stated that this is commonly called “fee-on-fee.” Mr. Couch then explained that, while Bulloch Telephone has passed through the franchise fee to their customers, it has not included the franchise fee in gross revenue for the purpose of calculating the 5% franchise fee it pays to Bulloch County. Mr. Couch stated that according to the auditor, Bulloch Telephone owes approximately \$52,000 in unpaid franchise fees, but if the fee-on-fee is not assessed it would leave them owing about half of that amount. He stated Northland Cable owes approximately \$1,100.00 in unpaid franchise fees according to the audit, but that Northland Cable has been paying franchise fees based on the fee-on-fee calculation. Mr. Couch stated if the Commissioners decide not to charge Bulloch Telephone for the fee-on-fee then the County would need to reimburse Northland Cable for their fee-on-fee charges. He stated County Attorney Jeff Akins had some concerns about the definition of gross revenue in the franchise agreement. Mr. Akins stated the franchise fee is included on the bill and is paid by the customer, and is therefore included in gross revenue as defined in the federal cable act according to case law. Mr. Akins stated that he thought a franchise agreement could further restrict the definition of gross revenue, and he explained that Bulloch County’s franchise agreements do have a more restrictive definition of gross revenue. He stated that the definition in the franchise agreement might be interpreted to exclude franchise fees from gross revenue, specifically the following part of the definition: “excluding, except where expressly required by federal law to be included, any refunds or credits made to subscribers or any taxes or fees imposed on the services furnished by Grantee or collected by Grantee on behalf of any governmental entity.” Mr. Akins stated that after discussing it with Mr. Howell, he understood that the franchise fee is not imposed on the services furnished nor collected by Bulloch Telephone on behalf of the County because it is a fee imposed on gross revenue and must be paid whether or not it is passed through to the customer. He further stated that according to Mr. Howell everyone in the industry nationwide follows the fee-on-fee concept and Bulloch Telephone is an isolated exception in that regard. Mr. Akins concluded that consequently there is a good argument that Bulloch Telephone should be calculating its franchise fee based on the fee-on-fee concept. Mr. Couch stated after discussing it with staff there are a few options; (1) Pursue full collection; (2) Choose not to collect the fee-on-fee revenue right now and start collecting it from this

point forward; or (3) Waive the fee-on-fee assessment until franchise renewals in 2017 and amend the definition of gross revenue in the new franchise agreements. He stated he is seeking guidance of the Board on what route to go in enforcing collection. Commissioner Rushing asked if Bulloch Telephone is allowed to calculate the way it chooses would it be the only cable franchisee not paying based on the fee-on-fee concept. Mr. Couch stated that is his understanding from the explanation given by the auditor. Commissioner Ethridge asked how often the cable franchisees are audited. Mr. Couch stated audits are done every five (5) years, but the last one only included Northland Cable because, at that time, it was the only provider of cable television in the County. County Attorney Jeff Akins suggested talking to Bulloch Telephone and explaining that fee-on-fee is the procedure within the industry and our consultants are advising us this is the way it needs to be done and it needs to be calculated this way from now on. Chairman Nevil stated the fees needed to be implemented before 2017 and he would like for the staff to discuss the situation with Bulloch Telephone and see if an agreement could be made. Commissioner Thompson stated as of right now he would not be in agreement to the fee-on-fee charge and would like to try to renegotiate with Bulloch Telephone. Chairman Nevil asked what Bulloch Telephone's unpaid franchise fees consisted of other than the fee-on-fee charges. County Attorney Jeff Akins stated the remaining unpaid franchise fees were primarily owed on monthly rental charges for boxes that are necessary to provide cable service. Mr. Akins stated his opinion that these charges are clearly within the franchisee agreement's definition of gross revenue. Commissioner Thompson suggested having a representative from Bulloch Telephone come to a Commissioners meeting and explain why it feels the fees are not owed. After additional discussion on the matter, there was an informal consensus for the staff to go back to Bulloch Telephone and offer to waive the unpaid franchise fees attributable to the fee-on-fee calculation, but to require Bulloch Telephone to start calculating and paying its franchise fees based on the fee-on-fee calculation on a date certain that is agreeable to both parties. There was also an informal consensus not to waive any of the other unpaid franchise fees identified in the audit. Commissioner Ethridge left the meeting during this discussion.

Chairman Nevil stated the fourth item under New Business was for Discussion/Action to approve a building program for the new Administrative Annex. He called on County Manager Tom Couch to initiate discussion on the matter. Mr. Couch stated that Palmer Architects is concluding their pre-design study on this project and it is proposed for the Board to authorize Palmer Architects to proceed with full design and issuance of

construction documents. He stated there is an attachment in the agenda packet of the estimate for the building program. Mr. Couch stated the initial budget estimate based on 13,000 gross square feet is for \$2 million and it is expected that the cost can be reduced after competitive bidding, value engineering and use of county work forces for site work and landscaping. He stated with the combination of remaining funds in the 1997 and 2007 SPLOST, funds are available for the project. Mr. Couch introduced Kevin Palmer and Garth Long with Palmer Architects. Mr. Palmer and Mr. Long presented a power point presentation about their conceptual design of the project. Commissioner Thompson stated the employees should be satisfied with the plan and offered a motion to approve the building program for the new Administrative Annex. (See Exhibit # 2013-042). Commissioner Simmons seconded the motion. Chairman Nevil asked for any further discussion. Mr. Couch stated he wanted to make the Board aware there is a meeting Thursday, May 9, 2013 at the Statesboro Herald with some members of the Historical Society to discuss some issues concerning the building. County Attorney Jeff Akins asked if there is a contract for the next phase. Mr. Long stated the RFP was written with the option for the County to extend the contract if they chose to. Mr. Akins asked if there was a fee. Mr. Palmer explained the fee is based on the percentage. Hearing no further discussion, the motion carried unanimously with Commissioner Simmons, Commissioner Mosley, Commissioner Rushing, and Commissioner Thompson voting in favor of the motion.

Chairman Nevil stated the fifth item under New Business was for Discussion/Action to authorize a sole source contract to Palmetto Fire Apparatus for NFPA service and inspection on county fire apparatus. He called on County Manager Tom Couch to initiate discussion on the matter. Mr. Couch stated after deliberate research and negotiation the County Fire Chief Christopher Ivey has proposed a sole source contract with Palmetto Fire Apparatus to provide NFPA apparatus testing. He stated they have been used in the past intermittently, but this contract would enable more regular inspections at a lower overall cost. He stated this does not include any necessary repair costs that may be needed but that the current rural fire budget is capable of absorbing the cost. Mr. Couch asked if the proposal which was given by Palmetto Fire Apparatus on December 5, 2012 in the amount of \$23,925.00 annually was still the correct fee. Mr. Ivey stated it had not changed and they have been using the work camp for basic maintenance, but that does not take care of any of the detailed maintenance. After hearing no further discussion, Commissioner Thompson offered a motion to authorize a sole source contract to Palmetto Fire Apparatus for NFPA

service and inspection on county fire apparatus in the amount of an annual fee of \$23,925.00. (See Exhibit # 2013-043). Commissioner Rushing seconded the motion and it carried unanimously with Commissioner Simmons, Commissioner Mosley, Commissioner Rushing, and Commissioner Thompson voting in favor of the motion.

Chairman Nevil stated the sixth item under New Business was for Discussion/Action to dispense with the reading and adopt a resolution amending and restating the Employee Retirement Plan for the 401(a) defined contribution program and delegating certain administrative responsibilities to ACCG. He called on County Manager Tom Couch to initiate discussion on the matter. Mr. Couch stated that the recommendation of the employee retirement committee and the staff is to transfer 401(a) assets from the Nationwide/CBIZ investment platform to the GEBCORP investment platform, which will require the amendment and restatement of the 401(a) plan in ACCG's format and the delegation of administering the plan to ACCG. He explained that there will not be any financial impact to the County. Mr. Couch stated the benefits are to increase investment options and decrease fees charged to employee participants. After hearing no further discussion, Commissioner Simmons offered a motion to adopt a resolution amending and restating the 401(a) defined contribution plan document and delegating certain administrative responsibilities to ACCG or its designees (See Exhibit #2013-044). Commissioner Mosley seconded the motion and it carried unanimously with Commissioner Simmons, Commissioner Mosley, Commissioner Rushing, and Commissioner Thompson voting in favor of the motion.

Chairman Nevil stated the seventh item under New Business was for Discussion/Action to authorize the County Manager to waive the bid policies to solicit formal but not sealed bids for a rescue truck body. He called on County Manager Tom Couch to initiate discussion on the matter. Mr. Couch stated last month the county experienced some unforeseen accidents with the emergency vehicles including a rescue truck. He stated after speaking with Public Safety Director Ted Wynn it was determined that the most cost-effective solution is to purchase a rescue truck body and place it on an existing chassis of a former ambulance taken out of service after a wreck on I-16 last year. Mr. Couch stated the current estimate for the rescue truck body is approximately \$70,000 versus buying a complete truck package for \$115,000 or more. He stated he has consulted with US Bank to request amending the master lease to include the item and a third ambulance approved at a recent meeting. He stated upon receiving the expedited bid results for the rescue truck body, he would request authorization to appropriate funds from 2007 and 2013 SPLOST funds, via the

capital equipment master lease as proposed due to it being an emergency situation. Mr. Couch stated he asked Fire Chief Christopher Ivey to work with Purchasing Director Kenny Trapnell and get at least three (3) quotes. After hearing no further discussion, Commissioner Thompson offered a motion to authorize the County Manager to waive the bid policies to solicit formal but not sealed bids for a rescue truck body. Commissioner Rushing seconded the motion and it carried unanimously with Commissioner Simmons, Commissioner Mosley, Commissioner Rushing, and Commissioner Thompson voting in favor of the motion.

Chairman Nevil stated the eighth item under New Business was for Discussion/Action to adopt a Resolution to Approve Stop-loss Insurance for the Employee Health Plan. He called on County Manager Tom Couch to initiate discussion on the matter. Mr. Couch stated final quotations for the stop-loss insurance for the employee health plan for the 2013-2014 plan year have been received. He stated that the third-party administrator for the health plan, Covenant Administrative Services, recommends for approval of Reliance Standard as the lowest and most advantageous proposal. County Attorney Jeff Akins stated it is about a 6.37% increase in the premium, which was excellent compared to some of the other quotations that had been received. After hearing no further discussion, Commissioner Rushing offered a motion to approve the resolution to approve the Stop-Loss Insurance quotation from Reliance with a specific deductible of \$75,000.00. (See Exhibit # 2013-045). Commissioner Mosley seconded the motion and it carried unanimously with Commissioner Simmons, Commissioner Mosley, Commissioner Rushing, and Commissioner Thompson voting in favor of the motion.

Chairman Nevil stated the ninth item under New Business was for Discussion on Fingerprint Metric Time Clocks. He called on Commissioner Thompson to initiate discussion on the matter. Commissioner Thompson stated that due to time he would request to postpone the discussion until the next scheduled regular meeting.

Next, Chairman Nevil asked each Commissioner to take thirty seconds for any general comments or statements. Commissioner Simmons, Commissioner Mosley, Commissioner Rushing, and Commissioner Thompson thanked Kevin Palmer and Garth Long with Palmer Architects for all their time and efforts in the design of the new administrative annex; they also thanked the Staff for all their hard work and dedication. Chairman Nevil stated the Development Authority would be having a luncheon at noon on May 14, 2013 following a tour that would be given around 11:15 A.M if anyone would like to attend.

Next, Chairman Nevil asked for comments from the Staff. Mr. Couch stated Commissioner Ethridge had requested a workshop to discuss finance and budget issues and he would notify everyone when he set a date and time.

Chairman Nevil asked if there were any further comments from the Commission or Staff. Hearing no further comments from the Board or Staff, Chairman Nevil stated that there was no further business expected for the open session of the regular agenda, and the Board must close the meeting and enter into Executive Session to discuss Personnel Matters. Chairman Nevil stated that at the conclusion of the Executive Session, which was expected to last about fifteen minutes, the Board would reconvene and in all likelihood move for adjournment. Chairman Nevil called for a motion to adjourn into Executive Session in accordance with the provisions of O.C.G.A. 50-14-3 and other applicable laws, pursuant to the advice of the County Attorney, Jeff Akins, for the purpose of discussing Personnel Matters. Without further discussion, Commissioner Simmons offered a motion to enter into Executive Session to discuss Personnel Matters (See Exhibit #2013-046). Commissioner Mosley seconded the motion, and it carried unanimously with Commissioner Simmons, Commissioner Mosley, Commissioner Rushing, and Commissioner Thompson voting in favor of the motion.

Chairman Nevil asked if there were any further comments from the Commissioners or Staff. Hearing none from the Board or Staff, Chairman Nevil asked for a motion to adjourn. Commissioner Rushing offered a motion to adjourn the meeting. Commissioner Thompson seconded the motion, and it carried unanimously with Commissioner Simmons, Commissioner Mosley, Commissioner Rushing, and Commissioner Thompson voting in favor of the motion.

J. Garrett Nevil, Chairman

Attest: Christy Strickland, Clerk of the Board