

**CITY OF CALHOUN  
REGULAR CITY COUNCIL MEETING  
DEPOT COMMUNITY ROOM  
109 SOUTH KING STREET  
MARCH 28, 2005, 7:00 P.M.**

**MINUTES**

**PRESENT: James F. Palmer, Mayor  
Lorene Potts, Mayor Pro Tem  
Ray M. Denmon, Councilman  
George R. Crowley, Councilman  
David Hammond, Councilman**

**ALSO: William P. Bailey, City Attorney  
Kelly Cornwell, Director of Utilities  
Eddie Peterson, Director of Public Safety and Public Works  
Cathy Harrison, City Administrator**

1. Mayor Palmer called the meeting to order and welcomed everyone in attendance.
  - a. Councilman Crowley gave the invocation.
2. Mayor Palmer led the group in the Pledge of Allegiance to the United States Flag.
3. Following a review of the minutes of the March 14, 2005 regular City Council meeting minutes, Mayor Pro Tem Potts made a motion to approve as written, second by Councilman Denmon, with Mayor Pro Tem Potts, Councilman Denmon, Councilman Hammond, and Councilman Crowley voting affirmatively, motion carried.
4. Mayor's comments:
  - a. Mayor Palmer reminded the council of the first budget work session scheduled April 11, 2005 following the regular City Council meeting at the Depot Community Room, and a second meeting on the evening of April 12, 2005 at 6:30 p.m.
  - b. Mayor Palmer congratulated Michael C. Davis on his appointment as the new City School Superintendent by the School Board March 15, 2005. He stated Mr. Davis had been employed by the school system for approximately four years and welcomed him as an official member of the management staff of the City School System.
  - c. Mayor Pro Tem Potts reviewed the public hearings scheduled for April 2005:
    - 1) A zoning change request by Sam Edwards for rezoning of tract 5, less one house and lot, of property located at the corner of Highway 136 and Camelot Circle from R-2 to R-1A, for development of single-family housing. (Hearing – April 11, 2005)
    - 2) A request by John Wayne Hall for rezoning from Industrial H to R-1B for tract number 2, consisting of 13.4 acres on Beamer Circle and New Zion Road, and tract number 3, consisting of 5.1 acres on Beamer Circle. (Hearing – April 11, 2005)

- 3) A request by Moss Family, Inc., Truett Moss, Sr, President, for a 10-foot rear setback variance to accommodate an addition to an existing building at Challenger Carpet on Highway 41 South. (Hearing – April 25, 2005)
- 4) A request for rezoning from R-1 to C-N by Jason Sloan of Flipper McDaniel & Associates as agent for Barbara Roland for property at 171 Richardson Road. (Hearing – April 11, 2005)
- 5) A variance request by Melinda K. Smith, agent for Shaw Industries, to allow construction of a covered entryway into the office building of Shaw Industries on South Industrial Boulevard. (Hearing – April 11, 2005)
- 6) A request for zoning of C-2 and annexation of 1.66 acres at the intersection of Curtis Parkway and Kent Lane by Donald D. Taylor, as agent for J. Haley Stephens, Mary Lynne Kelly and Kristina Robertson. (Hearing – April 25, 2005)
- 7) A request for zoning of R-1B and annexation of a lot at 1174 McDaniel Station Road, between McDaniel Station and the railroad, on the corner of Salem Church Road, by Terry Brumlow as agent for Ruth Ann Logan. (Hearing – April 25, 2005)
- 8) A request for zoning of R-1B and annexation of 2.927 acres on McDaniel Station Road, directly across from the end of Salem Church Road, by Terry Brumlow as agent for B & J Development Company, LLC. (Hearing – April 25, 2005)
- 9) A request for zoning of C-2 and annexation of 1.624 acres on McDaniel Station Road, just south of Salem Church Road, by Terry Brumlow as agent for Kevin Vaughn. (Hearing – April 25, 2005)
- 10) A request for zoning of R-1 and annexation by the City of Calhoun for property 2.82 acres on McDaniel Station Road just south of the Salem Church Road intersection, which contains a 6 million gallon water reservoir. (Hearing – April 25, 2005)
- 11) A request for zoning of R-1B and annexation by Terry Brumlow as agent for Gregory Leonard and Carla J. Saunders of 16 acres on Nelson Lake Road. (Hearing – April 25, 2005)
- 12) A request for zoning of R-1B and annexation of a parcel approximately 100 x 2,000 feet off of Nelson Lake Road by Terry Brumlow as agent for Gerald King. (Hearing – April 25, 2005)
- 13) A request for zoning of R-1B and annexation of 70.659 acres off McDaniel Station Road by Terry Brumlow as agent for B & J Development Company, LLC. (Hearing – April 25, 2005)

5. Public Hearings and Comments:

- a. Mayor Palmer stated at this time, public hearings on zoning matters would be held. The public would have the opportunity to make pro and con comments with a ten-minute maximum time limit for each side of the matter. Each person speaking would be required to have filed a Financial Disclosure Statement five days prior to the hearing, and each person would be required to give their name and address before speaking. An inquiry was made to determine if any of the elected officials had filed or needed to file a disclosure statement regarding ownership or special interest in the agenda items. The response was negative.

Mayor Palmer reviewed the Standards Governing the Exercise of Zoning Power, as follows:

**STANDARDS GOVERNING THE EXERCISE OF ZONING POWER**

- (1) Whether the zoning proposal will permit a use that is suitable in view of the use and development of adjacent and nearby property.
- (2) Whether the zoning proposal will adversely affect the existing use or usability of adjacent or nearby property.
- (3) Whether the property to be affected by the zoning proposal has a reasonable economic use as currently zoned.
- (4) Whether the zoning proposal will result in a use which will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities or schools.
- (5) Whether there will be capital costs for capital improvements to serve the area. Capital costs shall include water mains, sewer mains, new street pavement or widening, new fire stations or equipment, new police stations or equipment, and other like costs.
- (6) Whether the zoning proposal is in conformity with the policy and intent of the land use plan.
- (7) Whether there are other existing or changing conditions affecting the use and development of the property which give supporting grounds for their approval; or disapproval of the zoning proposal.
- (8) Whether there are other factors relevant to balancing the interest in promoting the public health, safety, morality or general welfare against the right to the unrestricted use of property.

**VARIANCE CONSIDERATIONS (ONE OR MORE)**

- (a) There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape or topography.
- (b) The application of this ordinance to the particular piece of property would create an unnecessary hardship.
- (c) Such conditions are peculiar to the particular piece of property involved.
- (d) Relief, if granted, would not cause substantial detriment to the public good or impair the purposes and intent of this ordinance, provided, however, that no variance may be granted for a use of land or building or structure that is prohibited by this ordinance.

- 1) Mayor Palmer stated the first was a request for zoning of R1-B and annexation by Roxie W. Holland for a house and lot of 102 Georgia Drive.
  - a) A public hearing was opened.
  - b) Harrison reported that notification to adjoining property owners had been completed, signs had been placed on the property and notices had been forwarded to the local legal organ for publication.
  - c) Mayor Pro Tem Potts stated that the Zoning Advisory Board had heard this matter on March 10, 2005. The request would add to an infill area and would be similar to previous recent annexations in the area. It was their recommendation to approve.

- d) Mayor Palmer inquired if there were any comments by the public. There were none.
- e) Mayor Palmer asked if there were any comments by the Council or applicant. There were none and the hearing was closed.
- f) The findings of the Council based on zoning criteria were as follows:

**STANDARDS GOVERNING THE EXERCISE OF ZONING POWER**

- (1) The proposal would permit a use that is suitable in view of the use and development of adjacent and nearby property.
- (2) The proposal would not adversely affect the existing use or usability of adjacent or nearby property.
- (3) The property as currently zoned does have a reasonable economic use as currently zoned in the county.
- (4) The zoning proposal will not result in a use which would cause an excessive burden on existing streets, utilities or schools, since the lot is presently built out.
- (5) There are no capital improvements planned since services have been previously extended to the lot.
- (6) The proposal is in conformity with the policy and intent of the land use plan and will infill an area.
- (7) There are no existing or changing conditions affecting the use and development of the property.
- (8) There are no other factors relevant to balancing the interest in promoting the public health, safety, morality or general welfare against the right to the unrestricted use of property.

- g) Mayor Pro Tem Potts made a motion to waive the third and fourth reading and approve the request for zoning R-1B zoning and annexation by Roxie W. Holland for the house and lot at 102 Georgia Drive. The motion was seconded by Councilman Crowley, with Mayor Pro Tem Potts, Councilman Crowley, Councilman Denmon, and Councilman Hammond voting affirmatively, motion carried.
- 2) Mayor Palmer stated a request had been filed by Russell Owen for rezoning from PRD to C-2 of property at 405 Belwood Road for future commercial development.
- a) A public hearing was opened.
  - b) Harrison reported that notification to adjoining property owners had been completed, signs had been placed on the property and notices had been forwarded to the local legal organ for publication.
  - c) Mayor Pro Tem Potts stated the Zoning Advisory Board also heard this matter on March 10, 2005. Based upon information from the Zoning Committee and based upon previous notification by Mr. Owen at the time he annexed and zoned the area PRD that he would request this particular lot be rezoned for commercial

development, the Zoning Advisory Board had recommended the zoning change from PRD to C-2.

- d) Mayor Palmer inquired if there were any comments by the applicant. There were none.
- e) Mayor Palmer asked if there were any comments by the public or Council. There were none and the hearing was closed.
- f) The findings of the Council based on zoning criteria were as follows:

**STANDARDS GOVERNING THE EXERCISE OF ZONING POWER**

- (1) The proposal would permit a use that is suitable in view of the use and development of adjacent and nearby property.
- (2) The proposal would not adversely affect the existing use or usability of adjacent or nearby property.
- (3) The property would have a more reasonable economic value following rezoning.
- (4) The zoning proposal would not result in a use which would cause an excessive burden on existing streets, utilities or schools.
- (5) The capital improvement costs associated with the development of the lot will be borne by the developer.
- (6) The proposal is in conformity with the policy and intent of the land use plan and adjoins other commercially developed property to the west.
- (7) There are no other existing or changing conditions affecting the development of the property.
- (8) There are no other factors relevant to balancing the interest in promoting the public health, safety, morality or general welfare against the right to the unrestricted use of property.

- g) Based on these findings, Mayor Pro Tem Potts made a motion to waive the third and fourth reading and approve the request for zoning of PRD to C-2 the motion was second by Councilman Hammond, with Mayor Pro Tem Potts, Councilman Hammond, Councilman Denmon, and Councilman Crowley voting affirmatively, motion carried.

b. Other hearings and public comments:

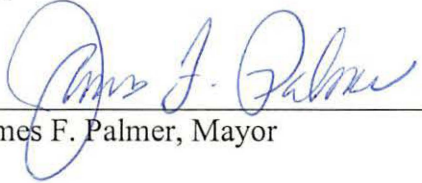
- 1) A public hearing was opened on the readoption of the zoning ordinance as currently established and on the amended zoning map as amended to cover changes through January 2005 for annexations and zoning changes.
  - a) Mayor Palmer inquired if there were any questions or comments by the Council. There were none.
  - b) Mayor Palmer asked if there were any questions or comments by the public. There were none and the hearing was closed.
  - c) Councilman Denmon made a motion to readopt the zoning ordinances currently established and to approve the amended zoning map and accept it as the official zoning map of the city

- containing changes through January 2005 for annexation and zoning changes.
- d) The motion was second by Councilman Hammond with Councilman Denmon, Councilman Hammond, Councilman Crowley and Mayor Pro Tem Potts for the voting affirmatively, motion carried.
- 2) Mayor Palmer opened a public hearing on two proposed changes to the current zoning ordinance. The first regarding factory fabricated transportable buildings and a time frame for approval and proposed amendments for setbacks along Curtis Parkway.
- a) Attorney Bailey reviewed the two items in the proposed changes to the zoning ordinance, providing information as to the reasons for the proposed changes. He also stated that the city would welcome any comments from property owners or developers along Curtis Parkway.
  - b) Mayor Palmer inquired if there were any questions or comments by the public. There were none. He stated the hearings would continue on April 11, 2005 and April 25, 2005.
- 3) A public hearing was opened on a proposed amendment to the potentially dangerous dog ordinance. Attorney Bailey reviewed the reason for the changes citing a recent case handled by the City of Calhoun, as well as recent telecasts from the Atlanta area regarding dangerous dogs that attack children. He stated the purpose of amending the ordinance is to prevent similar situations within the city limit area.
- a) Mayor Palmer inquired if there were any comments by the public. There were none.
  - b) Mayor Palmer inquired if there were any comments by the Council. There were none.
  - c) Mayor Palmer announced that the hearing would be extended to April 11, 2005 and April 25, 2005.
6. Old business:
- a. Mayor Palmer stated the Georgia Environmental Facility Authority has approved the city's request to increase the South sewer interceptor loan by \$250,000.00 to cover additional rock and tunneling costs associated with the project. He stated that in order for the documents to be signed and forwarded to Georgia Environmental Facility Authority, it would require official action.
    - 1) Councilman Crowley made a motion to approve the additional loan and to authorize the Mayor and Administrator to sign all required documents for the process.
    - 2) The motion was second by Councilman Hammond with Councilman Crowley, Councilman Hammond, Councilman Denmon, and Mayor Pro Tem Potts for the affirmatively motion carried.

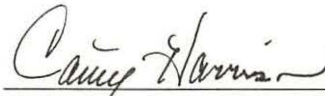
7. New business:
  - a. Mayor Palmer stated the partnership for a taxi license business of Oscar Gonzales and Andres Hernandez had been severed and that Mr. Hernandez requested to run the business as a proprietorship along with a request to relocate the office to 1114 Red Bud Plaza. Following review Mayor Pro Tem Potts made a motion to approve the license strictly for Mr. Hernandez with an approval for relocation to 1114 Red Bud Plaza. The motion was second by Councilman Denmon, Mayor Pro Tem Potts, Councilman Denmon, Councilman Hammond, and Councilman Crowley voting affirmatively motion carried.
  - b. Mayor Palmer stated a traditional parade request had been filed by the Echota Vann Shrine Club for a parade on June 4, 2005 at 11:00 a.m. He stated should this traditional parade be approved, it would need to be approved subject to DOT approval. Following consideration Councilman Hammond made a motion to approve the request subject to DOT approval. The motion was second by Councilman Denmon, with Councilman Hammond, Councilman Denmon Councilman Crowley and Mayor Pro Tem Potts voting affirmatively, motion carried.
  - c. Mayor Palmer gave the first reading of a beer pouring license request of Won Shil K. Wiltcher doing business as China Panda, a restaurant located at 474 Red Bud Road, a new location. Mayor Palmer stated the earliest date for a public hearing would be April 25, 2005 at 7:00 p.m. Councilman Crowley made a motion to approve the public hearing for that date and time. The motion was second by Councilman Hammond, with Councilman Crowley, Councilman Hammond, Councilman Denmon and Mayor Pro Tem Potts voting affirmatively, motion carried.
  - d. Mayor Palmer gave the first reading of the zoning variance request by the Moss Family Inc. for a 10 foot setback variance on the west side (rear) of the property located on Highway 41 South a request to expand the Challenger Carpet facility. Mayor Palmer stated the earliest date for a public hearing would be April 25, 2005 at 7:00 p.m. Mayor Pro Tem Potts made a motion to set the public hearing for that date and time. The motion was second by Councilman Hammond with Mayor Pro Tem Potts, Councilman Hammond, Councilman Denmon, and Councilman Crowley voting affirmatively, motion carried.
8. Other written items not on the agenda:
  - a. Mayor Palmer stated that he would like to read a proposed proclamation for the Council to consider adopting. The proclamation would be to declare the month of April 2005 library month. Following review Councilman Hammond made a motion to adopt the proclamation and authorize the Mayor to sign. The motion was seconded by Councilman Denmon, with Councilman Hammond, Councilman Denmon, Councilman Crowley, and Mayor Pro Tem Potts voting affirmatively, motion carried.
9. Work reports:
  - a. Kelly Cornwell, Director of Utilities: **no report.**
  - b. Eddie Peterson, Director of Public Safety and Public Works: **no report.**
10. Mayor Palmer stated it was not necessary to move to Executive Session.

11. Mayor Pro Tem Potts made a motion to adjourn, second by Councilman Crowley, with Mayor Pro Tem Potts, Councilman Crowley, Councilman Denmon, and Councilman Hammond voting affirmatively, motion carried.

Approved:

  
James F. Palmer, Mayor

Submitted:

  
Cathy Harrison, City Administrator