

**CITY OF CALHOUN
REGULAR CITY COUNCIL MEETING
DEPOT COMMUNITY ROOM
109 SOUTH KING STREET
CALHOUN, GA
MAY 23, 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 Works/Public Safety
Cathy Harrison, City Administrator**

1. Mayor James F. Palmer called the meeting to order and welcomed everyone in attendance. Councilman Crowley gave the invocation.
2. Mayor James F. Palmer led the group in the Pledge of Allegiance to the United States Flag.
3. Following review, minutes of the May 9, 2005 regular City Council meeting they were approved as written.
4. Mayor's comments:
 - a. Mayor Palmer reminded the Council of the second budget hearing scheduled for June 13, 2005 at 7:00 p.m.
 - b. Mayor Palmer reminded the Council of the change for the second Council Meeting in June, normally scheduled for June 27, 2005 amended to June 20, 2005.
 - c. Mayor Palmer reminded the Council of the annual GMA Conference on June 25-29, 2005. He stated that it would be necessary for a voting delegate and an alternate to be selected for the GMA Conference both to serve at the district conference and for the annual meeting. He recommended Mayor Pro Tem Potts be the voting delegate and Councilman Hammond the alternate. Councilman Crowley made a motion to appoint Mayor Pro Tem Potts and Councilman Hammond as voting delegate, and alternate for the GMA meetings. The motion was second by Councilman Denmon, with Councilman Crowley, Councilman Denmon, Councilman Hammond and Mayor Pro Tem Potts voting affirmatively, motion carried. Mayor Palmer stated that at the annual meeting there would be election for Board Members for the Municipal Electric Authority. One of those members will be Director Cornwell. He will be running for re-election on the MEAG Board. Mayor Palmer recommended Larry Vickery as the voting delegate and Council Crowley as the alternate. Following review Mayor Pro Tem Potts

made a motion to appoint Larry Vickery as the voting delegate and Councilman Crowley as the alternate for the Municipal Electric Authority Meeting. The motion was second by Councilman Hammond, with Mayor Pro Tem Potts, Councilman Hammond, Councilman Denmon, and Councilman Crowley voting affirmatively, motion carried.

d. Mayor Palmer stated the following zoning hearings would be held in June and he asked Mayor Pro Tem Potts to review:

- 1) A request for A-1 zoning and annexation of two applications totaling approximately 48 acres owned by Elizabeth Box at 650 Nelson Lake Rd.
- 2) A request of R-1A zoning and annexation of approximately 146 acres owned by Brent and Cheryl Box in Land Lots 92, 118, 119, 122, and 123 of the 15th district 3rd section, Gordon County, Georgia.
- 3) A zoning variance request of the Civil Air Patrol to establish permanent offices at the Tom B. David Airport by utilizing three mobile structures on a site designated by the Airport Authority Board.
- 4) A request of R-2 zoning and annexation by Gary W. Bailey for 4 existing apartment units at 103 Parker drive. Mayor Palmer stated that after confirmation with the applicant the City had determined that the request filed by Gary W. Bailey is actually apartments that were annexed in the late 80's, so they are currently in the City and that request is withdrawn. He stated the first two requests as read by Mayor Pro Tem Potts would be heard on June 20, 2005, and the third item would be heard on June 13, 2005.

5. Public Hearings and Comments:

a. Mayor Palmer announced public hearings on zoning matter would now be held. The public would have the opportunity to make pro and con comments with a ten minute maximum time limit on each matter and each person speaking having filed a financial disclosure statement if required and with each person giving their name and address. Mayor Palmer inquired if it had been necessary for any elected official to file a disclosure statement regarding ownership or special interest in any of the agenda items. The response was negative from each. 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 the 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) An R-1B zoning and annexation request of Terry Brumlow, as agent for Gerald W. and Edith King for approximately 48 acres in Land Lot 122, at the 15th district, 3rd section of Gordon County, Georgia located on Nelson Lake Rd. A public hearing was opened. Harrison reported that notices to the adjoining property owners, signs on the property and notices to the local legal organ had been completed. Mayor Pro Tem Potts stated the Zoning Advisory Board had heard this matter on May 5, 2005 and the request was a continuation of a request approved a few weeks earlier. Based upon all of the considerations that had been reviewed at that time, the Zoning Advisory Board had recommended the zoning of R-1B and annexation. Mayor Palmer asked if there were any comments by the applicant. Terry Brumlow, representing the applicant, stated this represented an additional 49.14 acres owned by Mr. and Mrs. King. It is a request of annexation to allow both areas to be utilized. Mayor Palmer asked if there were any comments by the public. There were none. He asked if there were any comments by the Council. There were none. The public hearing was closed.

STANDARDS GOVERNING THE EXERCISE OF ZONING POWER

- (1) The zoning proposal will permit a use that is suitable in view of the use and development of adjacent and nearby property.
- (2) The zoning proposal will not adversely affect the existing use or usability of adjacent or nearby property.
- (3) The property to be affected by the zoning proposal has a reasonable economic use as currently zoned.
- (4) The zoning proposal will result in a use which could cause additional use of existing streets, transportation facilities, utilities or schools.

- (5) The capital costs for capital improvements to serve the area will be paid by the developer.
- (6) The zoning proposal is in conformity with the policy and intent of the land use plan.
- (7) There are no other existing or changing conditions affecting the use and development of the property which give supporting grounds for the approval or disapproval of the zoning proposal.
- (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.

Mayor Pro Tem Potts made a motion to waive the third and fourth readings and approve the request for R-1B zoning and annexation. The motion was second by Councilman Crowley, with Mayor Pro Tem Potts, Councilman Crowley, Councilman Denmon, and Councilman Hammond voting affirmatively, motion carried.

- 2) An industrial and R-1B residential zoning and annexation request of Clarence B. King for approximately 105 acres, located at Union Grove Road and a small portion fronting on Hensley Rd. The industrial portion being approximately 102 acres, and the R-1B area being approximately 3 acres. A public hearing was opened. Harrison reported that notices to the adjoining property owners, signs on the property and notices to the local legal organ had been completed. Mayor Pro Tem Potts stated that the Zoning Advisory Board had also met on this matter on May 5, 2005 and that based upon their findings it was determined that the adjoining property was industrial property. The small portion of the tract on the south end had been requested for residential zoning since it abuts a residential community and based upon that criteria they had recommended zoning of industrial and R-1B and annexation. Mayor Palmer inquired if there were any comments by the applicant. There were none. He inquired if there were any comments by the public. There were none. He asked if there were any comments by the Council. There were none. The public hearing was closed.

**STANDARDS GOVERNING THE EXERCISE OF ZONING
POWER**

- (1) The zoning proposal will permit a use that is suitable in view of the use and development of adjacent and nearby property.
- (2) The zoning proposal will not adversely affect the existing use or usability of adjacent or nearby property.
- (3) The property to be affected by the zoning proposal has a reasonable economic use as currently zoned, but will be enhanced by rezoning.
- (4) The zoning proposal will not result in a use which could cause additional use of existing streets, transportation facilities, utilities or schools.
- (5) The capital costs for capital improvements to serve the area will be paid by the developer.
- (6) The zoning proposal is in conformity with the policy and intent of the land use plan.

- (7) There are no other existing or changing conditions affecting the use and development of the property which give supporting grounds for the approval or disapproval of the zoning proposal.
- (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.

Mayor Pro Tem Potts made a motion to waive the third and fourth readings and to zone the property industrial and R-1B and to approve annexation. The motion was second by Councilman Hammond, with Mayor Pro Tem Potts, Councilman Hammond, Councilman Denmon, and Councilman Crowley voting affirmatively, motion carried.

- 3) A zoning variance request by Carrie Smith as agent for Ronald and Landa Culberson, for a 30-foot variance to the setback on the north and south sides of the property to allow construction of an emergency veterinary clinic, at 1318 Hwy 41 South. A public hearing was opened. Harrison reported that notices to the adjoining property owners, signs on the property and notices to the local legal organ had been completed. Mayor Pro Tem Potts stated the Zoning Advisory Board had also heard this matter on May 5, 2005. She stated the Zoning Advisory Board had determined that the request would be approximately a 60% variance to the existing ordinance and that based upon this and other findings, it was their recommendation to deny the request. Mayor Pro Tem Potts stated the city had received a petition signed by several in the immediate community, requesting the variance not be granted, and she asked that the petition become a part of the official record. Mayor Palmer asked if there were any comments by the applicant. Carrie Smith, agent for Ronald and Landa Culberson stated the property at 1059 South Wall Street area is zoned commercial and property across the road is industrial. She stated that in view of the meeting of the Zoning Advisory Board, she had looked at other property that might be available for this type of operation. She stated that fourteen of those properties were too small and two were too expensive. She stated that the proposed request does not include any outside pens, and that it is the aim of the veterinarian, who will own and operate the business, to work in conjunction with the veterinarians within the area. The business would be targeted for animals that are ill and in need of emergency attention, at night or on weekends when other veterinarian services are closed. She stated that Dr. Neal Brackett had been working on this project for approximately twelve months. Mayor Palmer asked if there were any other comments.

Wilton Baker, a resident who lives in the immediate area, stated that his property is currently outside the city. He has lived on the property for the last 38 years. He had purchased it from his father-in-law and that his house had been built by his father. He stated that his neighbor to the south had also lived in his home for 28 years and the neighbor to the north, 38 years. Even though two of those were zoned commercial they are still used for residential purposes. He stated the Housing Authority is located, east of their property. He stated that the variance request is extensive according to the city's own ordinance. It would increase traffic at night, and that the property has other uses and value. Dr. Neal Brackett, who

proposes to purchase the property and build the structure, stated that it is his intent to be a good neighbor, be a member a Chamber of Commerce, and to gain support of the local veterinarian community in order that they might work with them and not compete. He stated that he expects 8-9 cases at night. His service would provide care for sick animals that needs supervision through the night and they would be removed in the morning to go to their regular vet. He stated that this type of facility would be perfect for the Calhoun area since it would be the only one located between Chattanooga and Marietta. He stated that he does not propose to have any outside pens, and will not be boarding any animals. Mayor Palmer asked if there were any other comments. There were none. The public hearing was closed.

VARIANCE CONSIDERATIONS (ONE OR MORE)

- (a) There are no 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 will not allow construction as proposed.
- (c) Such conditions are peculiar to the particular piece of property involved, due to residential use continuing in the area.
- (d) Relief, if granted, would 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.

Mayor Pro Tem Potts stated that she understood the information that had been related from Mr. Baker, Mr. Brackett and Carrie Smith. However, she stated the request does represent a substantial variance, a major deviation from the city's current zoning ordinance, and that she would make a motion to deny the request for the variance. The motion was second by Councilman Denmon, with Mayor Pro Tem Potts, Councilman Denmon, Councilman Crowley and Councilman Hammond voting affirmatively, to deny.

b. Other Hearings and Public Comments:

- 1) Mayor Palmer opened the public hearing on the beer pouring license request of Christine O'Mahony for the new restaurant established at 100 Peters Street Suite One formally known as Pasquales. Mayor Palmer stated that the Police report was clear and that this would be a new location and met the new location criteria. Mayor Palmer asked if there were any comments by the public. There were none. Mayor Palmer closed the public hearing. Councilman Hammond made a motion to approve the request, the motion was second by Councilman Crowley, with Councilman Hammond, Councilman Crowley, Councilman Denmon, and Mayor Pro Tem Potts voting affirmatively, motion carried.

c. Mayor Palmer stated that Mr. Bill Davis and Mr. Tim Bockholt of Supervision Services requested permission to discuss the city's decision to bring probation services for the municipal court, in house. Bill Davis reviewed the history of probation services that they had provided for the City of Calhoun, approximately

ten years with the city being their first probation court. He stated that over the years their services had grown and that they now serve twelve courts. They have ten, full-time employees and have offices in Calhoun, Rome and Cartersville. Tim Bockholt distributed a listing of the services that are currently providing to the City of Calhoun. He stated that he felt the city had insufficient information to have made the decision. He stated he would be available to review the information he had provided, which included detailed duties but also the monies that had been collected by Supervision Services, over the past ten years. Mr. Davis stated they had brought with them Mr. Bill Pardue, who is a criminal justice consultant. Mr. Pardue reviewed the requirements for a private probation company, which is held to higher standards than an in house municipal probation service. He also stated that there are several private probation services in the North Georgia area and that competition makes it a healthy situation and keeps the market in check. He stated that the city had voted to move the probation services in house and that he would ask that the services be reviewed periodically. If they are found to be less than expected, he asked that Supervision Services be considered again. Mayor Palmer asked if there were any questions or comments by the Council. Mayor Palmer stated that the city's decision to move probation services in house was not the result of any dissatisfaction with Supervision Services Inc. It was a decision that was based upon a separation of the municipal court from the police department, allowing the city to provide a full range of services for the municipal court and this had been the reason for the Council's decision to move probation services in house. He also stated the city would also allow cases to run out with Supervision Services, allowing the new personnel more time to become familiar with the routine.

6. Old Business:

- a. Councilman Crowley stated that the city had received a proposed contract from Temple-Inland Inc., for a renewal of the beacon located on their property for the Airport Authority. He stated the original 20 year contract had been with the City of Calhoun, and that Temple-Inland had preferred to keep the contract with the city. He stated that Temple-Inland had agreed to the request that had been made by the Airport Authority, for a ten year contract for \$1,000 rent per year with an opportunity to have 90 days, to opt out of the contract for either party. Mayor Palmer asked if there were any questions. There were none. Councilman Crowley made a motion to approve the contract and to authorize the Mayor to sign. The motion was second by Councilman Denmon, with Councilman Crowley, Councilman Denmon, Councilman Hammond, and Mayor Pro Tem Potts voting affirmatively, motion carried.

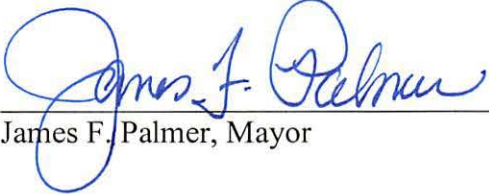
7. New business:

- a. Mayor Palmer stated that Frank and Mitzi Hutchinson had requested permission to borrow an amount equal to the payoff of the Tammy West, d/b/a Thurston's for their revolving loan with the retention of seven full-time jobs and two part-time positions. The couple proposes to fund the additional equity from another source. Mayor Palmer stated that this would not be any new money to the dispersed, but it would be a payoff and a new loan of the exact amount of funds needed for the payoff. He stated that the public hearing on this matter would be held on June 20, 2005.

- b. Mayor Palmer gave a first reading of a pawn license request of Larry E. Knight for 408 Court Street. He stated that the earliest date for a public hearing would be June 13, 2005 at 7:00 p.m. Councilman Crowley made a motion to set the public hearing for that date and time, second by Councilman Hammond, with Councilman Crowley, Councilman Hammond, and Councilman Denmon and Mayor Pro Tem Potts voting affirmatively, motion carried.
 - c. Mayor Palmer gave a first reading for a variance request of Barnes Quality Signs for Ruby Tuesday Inc., for a height variance, to allow a sign to be located on Hwy 53, at I-75. The height requested being 125 feet. Mayor Palmer stated the earliest possible date for a public hearing would be June 20, 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 Denmon, with Mayor Pro Tem Potts, Councilman Denmon, Councilman Crowley, and Councilman Hammond voting affirmatively, motion carried.
8. Other written items not on the agenda:
- a. Harrison stated that approximately three years ago, when the City of Calhoun issued school bonds, that were to be repaid by the educational SPLOST taxes, it had taken bids and set up an investment account for the SPLOST taxes until such time as they were needed for debt service. She stated that Georgia Bank and Trust had won the bid at that time. Interest rates were extremely low, and the bank had used a roll over investment for nightly investment. However, this method had proved to be very time consuming for both the bank and the city. The bank had approached the city with a request that they be allowed to change the account to an interest bearing account at the same rate or better than the existing format. The account would be fully covered by the FDIC or other Collateral. Harrison stated that based on this information and the fact that it would reduce the paperwork for the City of Calhoun, but not jeopardize the revenue she would recommend approval. Councilman Crowley made a motion to approve the request, the motion was second by Councilman Hammond, with Councilman Crowley, Councilman Hammond, Councilman Denmon, and Mayor Pro Tem Potts voting affirmatively, motion carried.
10. Work Reports:
- a. Director of Utilities Kelly Cornwell provided the Mayor and Council with an audit of the South 41 Sewer Project. He stated that due to the time frame for the project, his staff had not been able to test the final phase of the project, for rock to the extent needed. As a result extensive rock was found, over running the project by more than \$530,000.00. He stated that part way through the project the city had increased its Georgia Environmental Facilities Loan by \$250,000. He asks for a final request to issue a change order for the remaining overage of \$280,217.28 and to authorize the staff to seek and provide an addition to the GEFA Loan in this amount. Following review, Councilman Hammond made a motion to approve the change order for \$280,217.28, to authorize the addition to the Georgia Environmental Facilities Loan and to authorize the Mayor to sign all documents necessary to complete the transaction. The motion was second by Councilman Denmon, with Councilman Hammond, Councilman Denmon, Councilman Crowley, and Mayor Pro Tem Potts voting affirmatively, motion carried.

- b. Eddie Peterson, Director of Public Safety / Public Works stated the Mohawk Road Project is moving well and without any unforeseen circumstances, he expects phase one of that project to be ready by the time Mohawk has need of the road.
10. Mayor Palmer asked if there was any need to move to Executive Session. The reply was negative.
11. Mayor Pro Tem Potts made a motion to adjourn, second by Councilman Hammond, with Mayor Pro Tem Potts, Councilman Hammond, Councilman Denmon, and Councilman Crowley voting affirmatively, motion carried.

Approved:



James F. Palmer, Mayor

Submitted:



Cathy Harrison, City Administrator

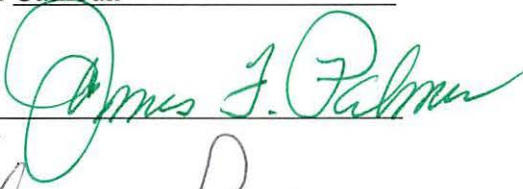
**CITY OF CALHOUN
RESOLUTION**

BE IT RESOLVED by the Mayor and City Council of the City of Calhoun that Larry Vickery is hereby appointed to serve as this City's voting delegate on the Municipal Electric Authority of Georgia's Election Committee, with the authority to cast all votes to which this city is entitled. George R. Crowley, is appointed as alternate voting delegate.

This 23 day of May, 2005.

City of Calhoun

By: _____
Mayor



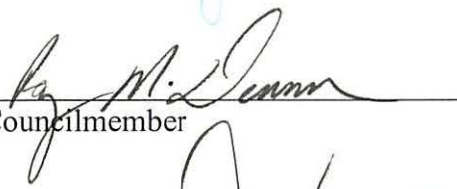
Mayor ProTem



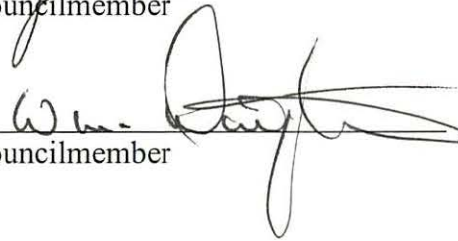
Councilmember



Councilmember



Councilmember



Attest:



City Administrator / Clerk

[SEAL]