

**GORDON COUNTY BOARD OF COMMISSIONERS
WORK SESSION MINUTES
SEPTEMBER 19, 2017**

The Gordon County Board of Commissioners held a Work Session Tuesday, September 19, 2017 at 5:45 p.m. in the conference room of the Administration Building.

MEMBERS PRESENT

**BECKY HOOD, COMMISSIONER
CHAD STEWARD, COMMISSIONER
NORRIS SEXTON, COMMISSIONER
KEVIN CUNNINGHAM, COMMISSIONER
M. L. BUD OWENS, COMMISSIONER**

OTHERS PRESENT

**JIM LEDBETTER, COUNTY ATTORNEY
ANNETTE BERRY, COUNTY CLERK
12 GUESTS**

Chairman Hood called the meeting to order.

County Attorney/Administrator Ledbetter discussed with the Board each item on the Agenda for the Regular Meeting and one item was added to the agenda later in the meeting.

James Bennecker and another representative from Crane Eater Church spoke to the Board and explained their application requesting to hold a 5K and a 10K road race in October for a fund raiser. The route to begin at the Crane Eater Church and go on to Pine Chapel Road to Moss Road and to Hunts Gin Road. They answered questions from the Board and there was a consensus of the Board to add this item to tonight's agenda for Board approval.

Commissioner Sexton made a motion to adjourn the Work Session. Commissioner Cunningham seconded the motion and all voted aye.

There being no further business, the Work Session adjourned at 5:55 p.m.

Becky Hood, Chairman

Annette Berry, County Clerk

**GORDON COUNTY BOARD OF COMMISSIONERS
REGULAR MEETING MINUTES
SEPTEMBER 19, 2017**

The Gordon County Board of Commissioners held their Regular Meeting on Tuesday, September 19, 2017, at 6:00 p.m. in the conference room of the Administration Building.

MEMBERS PRESENT

**BECKY HOOD, CHAIRMAN
CHAD STEWARD, VICE CHAIRMAN
KEVIN CUNNINGHAM, COMMISSIONER
NORRIS SEXTON, COMMISSIONER
BUD OWENS, COMMISSIONER**

OTHERS PRESENT

**JIM LEDBETTER, COUNTY ATTORNEY
ANNETTE BERRY, COUNTY CLERK
MEDIA
12 GUESTS**

Chairman Hood called the meeting to order.

INVOCATION AND PLEDGE OF ALLEGIANCE

Invocation was led by Rev. John Allen. The pledge of allegiance was led by Chairman Hood.

APPROVAL OF MINUTES

Chairman Hood asked if there are any additions, omissions, or deletions to the Minutes for the Work Session September 5, 2017, and the Regular Meeting September 5, 2017. Commissioner Cunningham made a motion to approve the minutes. Commissioner Owens seconded the motion and Commissioners Cunningham, Sexton, Steward, and Owens voted aye. Motion approved.

ADMINISTRATOR'S REPORT

County Administrator Ledbetter read the report (copy attached).

COMMISSIONERS' REPORT

Commissioner Owens reported that he attended the General Administration Committee meeting and stated that he is always impressed by the quality of our County leadership team.

Commissioner Owens welcomed Courtney Taylor back to Gordon County after he was stranded for several days below the recent hurricane when returning from a cruise.

Commissioner Owens made a motion to open the public hearing for a malt beverage license. Commissioner Steward seconded the motion and Commissioners Owens, Steward, Cunningham, and Sexton voted aye.

**PUBLIC HEARING ON AN APPLICATION FOR A MALT BEVERAGE LICENSE ON RNR,
CALHOUN FOR ZAHID RASHID**

County Administrator/Attorney Ledbetter advised that this is the application of Zahid Rashid for RNR Calhoun, Inc. This is the property on Shope Lake Road and this matter came before the Board back in February when the application was denied. Under the ordinance, when it is denied, the Board gives the applicant a chance to have a full hearing on the application, this is that hearing.

Attorney Ledbetter called Mr. Don Evans, the applicants attorney, to come before the Board on

behalf of his client. Mr. Evans stated that he hopes each of the Board members have had a chance to go into his client's store and to see that it is a quality construction and no expense has been spared in putting it together. His client has done his best to minimize the adverse effects of selling alcohol for any persons who might object to that. The beer is located in the store in a segregated area and several thousand dollars was spent on a beer cave which keeps the malt beverages in a separate place. The builder got a survey before getting the building permit, to make sure that they complied with the distance requirements. The ordinance does become a little unclear of where to measure from, you were supposed to indicate where the property lines are and measure property line to property line and further on the restrictions contain that the measurement is to be from the main structure of the school or recreation department. The main structure is the thing that we are to measure to from the store, and if you look at the satellite image of the store, it shows that the store property is 1,530 feet from the edge of the property of the school and more than 1,000 feet away from the driveway going into the recreation property. Which of the various structures of the recreation department would be considered the main structure and the point that you are to measure 1,000 feet from? If you go to the skating area, which is the closest feature to the store, and if you measure from the driveway, the only way you could actually enter the recreation area from the store, that is an area which is more than 1,000 feet away. Not only can't you walk to the store from the corner of the skating area, its surrounded by a fence. So my client meets the distance requirement and that was the thing that my client and the contractor were planning for during the construction phase of this project. My client has spent about \$700,000 on the building alone and that's a substantial investment, plus the price of the land, bringing the total over \$1 million. He is going to be paying that back over 30 years one lottery ticket and one coke at a time, there is not a revenue stream that he can give up and come out on this major investment. It is our hope that the commission will grant the license because when you categorize all of the revenue streams that comes from a convenience store, gasoline is certainly one but not the biggest thing, the things sold inside are, to actually come out; and he needs to have the ability to compete with other convenience stores. The ordinance cites a number of personal criteria we have included in the information, my client operates four other stores in Gordon County, none of them have been the site of any disturbance or police call. There was one public drunk, the police were called. He has never been cited for unlawful sale to anybody, or misuse of any alcohol license that he has at any location. One location that he has is located only 740 ft. from a high school. He supervises his employees and he is not going to let anything threaten his livelihood and his business and he is not going to take chances. He has not, in the past eleven years that he's has operated in this county without getting himself afoul of the law and he's not going to chance that here. Convenience stores are where state troopers stop off and get a cup of coffee, he has a very good relationship with all of them, he sees a lot of them in his store. He's a U.S. citizen, never been in trouble, never had any criminal charges brought against his person. He meets all the personal criteria for granting a license, and the fiscal structure does. One commissioner had raised a concern about traffic and whether the location of a convenience store at that point of the highway would create traffic congestion, particularly given the juxtaposition next to the school and the recreation department. That was studied and handled by the D.O.T. The driveway concern changed from the highway 53 entrance to a public road entrance. The driveway concern was handled during the building process. Mr. Martin Horner, the contractor, is here to answer any questions the Board may have. Mr. Evans stated to the Board that his purpose is to let the Board know the amount of investment that has been made and the steps that were taken to comply with the rules. Also, the steps that have been taken by his client in other stores to makes sure that he is a benefit to the community and not negative in any way. This is a wonderful location for a convenience

store in so many respects, it is located next to an area with athletic competition, people need sports drinks, they need water. Beer sales being only to adults coming into the store. It is an amenity to folks living in that area, and hopefully the Board will see it that way and will vote this time to approve the application.

Chairman Hood asked Attorney Ledbetter if our ordinance says building to building. Attorney Ledbetter said, it does, there are several parts of the ordinance I am going to review with the Board. The ordinance in one respect says that the store has to be 1,000 feet from the school, measured to the main structure of the school from the main structure of the store. There is no doubt that the property of the Gordon County Board of Education is more than 1,000 feet from this store. The Board had an appeal earlier this year that went to Superior Court. I wasn't served any notice, but it has gone to the Court of Appeals, without me knowing. The Superior Court Judge that heard this, takes structure to structure to mean what it says, school structure to store structure. But he affirmed your decision under other provisions of the ordinance that are more subjective but, as I read the law, they still count, in your discretion. In affirming you on that instance we looked at this provision which says "no license shall be issued for a location not suitable in the judgment and discretion of the commission because of traffic congestion, general character of the neighborhood, or because of the effect such establishment would have on adjacent and surrounding properties". "The Board of Commissioners shall give consideration to such other factors as may affect the health and general welfare of the unincorporated areas of Gordon County to include the type of license applied for, the effect that that license will have on the schools, public parks, and churches in the area, the effect granting the license will have on existing land uses in the area, the character of the area and its peculiar suitability for the particular use sought, and the congestion of roads and streets."

In this case, we have Mr. Holley here who is prepared to explain or I am prepared to read his information. Mr. Holley is not trying to influence your decision, he is here to provide what we basically have already made recognition of and that is, the recreation department as shown on Mr. Evans' Exhibit 2, I would consider the main structure of the recreation department the gymnasium and skate park, I think I can affirm would measure out within 1,000 feet from the store. We know that the recreation department is used probably daily for baseball practice and home games, volley ball practice, tennis, school tennis for Redbud Middle school, Sonoraville High school, Ashworth Middle school baseball games and home games, Sonoraville High school basketball practice, Sonoraville High school soccer practice, Redbud Middle school practice, annual events such as Sonoraville High school prom and homecoming dance, youth baseball camp, youth basketball camp, youth volleyball camp, high school testing, high school multi-cultural day, and the Board of Education. You are to take into account what Mr. Evans has said, I don't dispute his actual statement as to distances, and so forth or Mr. Rashid's and Mr. Horner's efforts, but the fact is that in our code we do have the section about 1,000 feet from the school structure to structure, that's not the only provision, because it also includes the other provisions that I read to you about the effect the license would have on schools, parks, and churches in the area. It is obvious that the park exists, across the street, a recreation facility, from where Mr. Rashid built. It is either fortunate or unfortunate that he made this kind of investment.

Chairman asked how far the store is from the church, County Attorney Ledbetter said that the Exhibit 1 shows 2,800 feet. Mr. Evans stated that he doesn't disagree with anything Attorney

Ledbetter says, as far as it goes. The application process requires that a survey point out the distance to the property line of a church property or a school property or where a recreation park if it is used in a way that it could be considered school. But the actual measurement is to the main structure and becomes ambiguous in context because when you are talking about the area. When you look at a school you can pretty much tell the main structure of the school but when you consider a recreation area to be a school, which part is the main part? The only close part is the skating area. I spoke to the Director before we started just to confirm that the recreation area, that skating area, is surrounded by a fence and they do not permit anyone to exit the property except through the main driveway. I would urge the Commission to consider looking at the only permissible way in is the best measure of the 1,000 feet of where you would measure to, where the main structure of a recreation facility is not otherwise clear, and we certainly meet that requirement. As to the subjective requirements, remember that malt beverage license are personal to the owner. Mr. Rashid has for eleven operated four stores, you can count on him handling, with the same level of responsibility here, to make sure there is not a problem for anyone in the neighborhood.

Commissioner Owens pointed out that the Google map, unless Google map is wrong here, that 1,000 feet would actually, in a direct line, would line his property, his building, up to the northwest corner of the main structure on the recreation department property, which is the gymnasium. Attorney Ledbetter advised that he had done that with our measurement tool on GIS and 1,000 feet takes you about into the middle of that building. Mr. Evans asked, is that the concern. I would share it, if distance and proximity is considered to be a draw for people who might be prone to violate underage drinking laws. If someone is playing basketball and they are thirsty and someone gets the bright idea to try to go over and get some beer, that would be underage alcohol. Well that's not going to happen under Mr. Rashid's operation because he runs a tight ship, number one and number two., you can't get there. If you just leave out of the gym, you would be violating the rules of the park to go out anywhere but the driveway. In fact, there is a fence to prevent you from taking a direct route to the store. I believe it would be in the commission's discretion to look at the distance requirements exactly the way that I do, particularly where it is a little ambiguous about where is the main structure.

Attorney Ledbetter explained to the Board that having heard the presentation today, if you choose to affirm the denial that you made before and you have any factual findings that are considered to be useful in the exercise of your discretion it would be helpful for us to know that. In other words, it's ok to state your mind and your reason if it's a legal and sound discretion. If you decide to reverse yourself and approve this application you don't have to have a specific findings. If you make a motion to allow the license be granted, that's all you need to do. If you make a motion to deny the license be granted, then specific factual findings would be helpful.

commissioner Steward made a motion to deny the application for a license on the basis that the RNR convenience store is too close in proximity to the main structure of the recreation department that is used on a daily basis for school activities. Commissioner Sexton seconded the motion and Commissioners Steward, Sexton, Cunningham, and Owens voted aye. Motion passed.

Commissioner Sexton made a motion to close the public hearing. Commissioner Owens seconded the motion and Commissioners Sexton, Owens, Steward, and Cunningham voted aye. Motion passed.

CONSIDERATION OF UNFINISHED BUSINESS

None

CONSIDERATION OF NEW BUSINESS

AGREEMENT WITH THE SUGAR VALLEY BAPTIST CHURCH FOR VOTING PRECINCT

Chairman Hood advised that this is an agreement with Sugar Valley Baptist Church to be used as a voting precinct.

Commissioner Steward made a motion to approve the agreement. Commissioner Cunningham seconded the motion and Commissioners Owens, Steward, Cunningham, and Sexton voted aye. Motion passed.

DECLARATION OF SURPLUS PROPERTY FROM THE LANDFILL FOR A 2001 KOMATSU D61EX DOZER AND A 2003 DRESSER TD20H DOZER

Chairman Hood advised that this is a declaration for surplus property from the landfill for a 2001 Komatsu D61EX dozer and also a 2003 Dresser TD20H dozer.

Commissioner Sexton made a motion to declare these items from the landfill surplus property. Commissioner Steward seconded the motion and Commissioners Owens, Cunningham, Steward, and Sexton voted aye. Motion passed.

APPLICATION FROM CRANE EATER CHURCH FOR A 5K AND A 10K ROAD RACE

Chairman Hood advised that this item came from the Work Session and is an application from Crane Eater Church to close the road on Pine Chapel and Moss Road for a 5K and a 10K road race.

Commissioner Owens made a motion to approve the application form Crane Eater Church. Commissioner Sexton seconded the motion and Commissioners Owens, Sexton, Steward, and Cunningham voted aye. Motion passed.

ADJOURNMENT

Commissioner Owens made a motion to adjourn the meeting. Commissioner Cunningham seconded the motion and all voted aye. There being no further business, the meeting was adjourned at 6:44 p.m.

Annette Berry, County Clerk

Becky Hood, Chairman

**GORDON COUNTY BOARD OF COMMISSIONERS
SPECIAL MEETING
SEPTEMBER 25, 2017**

The Gordon County Board of Commissioners met in a Special Meeting at 6:00 p.m. in the Conference Room of the Administration Building.

MEMBERS PRESENT

**BECKY HOOD, CHAIRMAN
CHAD STEWARD, VICE CHAIRMAN
KEVIN CUNNINGHAM, COMMISSIONER
BUD OWENS, COMMISSIONER
NORRIS SEXTON, COMMISSIONER**

OTHERS PRESENT

**JIM LEDBETTER, COUNTY ADM/ATT
ANNETTE BERRY, COUNTY CLERK**

Chairman Hood called the meeting to order.

RESOLUTION

Attorney Ledbetter advised that the purpose of the meeting is for the Board to approve a resolution to establish the Gordon County 2017 tax levy to approve the millage rate. All legal requirements have been completed and complied with. Gordon County government operations declares that the gross mills would be 13.070 mills, less the local option sales tax reducing it by 3.241 mills, with the mandatory rollback that takes place because of the digest numbers, and results in net mills of 9.829 for government operations.

Commissioner Owens made a motion to establish the 2017 millage rate at 9.829 mills. Commissioner Sexton seconded the motion and Commissioners Owens, Sexton, Steward, and Cunningham voted aye. Motion passed.

Commissioner Sexton made a motion to adjourn the meeting. Commissioner Steward seconded the motion. There being no further business, the Special Meeting adjourned at 6:02 p.m.

Becky Hood, Chairman

Annette Berry, County Clerk