

CLAYTON COUNTY BOARD OF COMMISSIONERS

Regular Business Meeting
7:00 P.M.

April 13, 2010

POST SUMMARY MINUTES

PRESENT: Chairman Eldrin Bell, Vice-Chairman Wole Ralph, Commissioner Sonna Singleton, Commissioner Michael Edmondson, Commissioner Gail B. Hambrick, and Clerk Shelby D. Haywood.

1. Chairman Bell called the meeting to order.
2. Invocation led by Bishop Joel D. Trout of Harvest Time Apostolic Ministries in Riverdale, Georgia. Pledge of allegiance to the flag led by Chairman Bell.
3. Amended the agenda by adding a proclamation entitled "Clayton County Recognizes National Donate Life Month April 2010" (presented to LaCynthia Baskin of the Hospital Authority Board) and adding an appointment to the Tax Assessors Board to fill the unexpired term of Mike Barnes (resigned), at the request of Commissioner Hambrick. Vote unanimous.
4. Approved the April 6, 2010 Regular Business Meeting minutes. Vote unanimous.
5. PROCLAMATION: Clayton County Proclaims April 2010 as "Fair Housing Month – 2010" (presented to Lance Crawford, Clayton County Housing and Community Development Director; Peryenthia Hudson, Clayton County Housing and Community Development Office Manager; and staff).

PROCLAMATION: Clayton County Recognizes "National Date Life Month April 2010" (presented to LaCynthia Baskin of the Clayton County Hospital Authority Board).

NOTE: Clerk Haywood read both proclamations for the benefit of the audience. Group photos were also taken.

6. PRESENTATION: Census Update for Clayton County (presented by Gloria Soleman of the U.S. Census).

Ms. Soleman identified herself as a Partnership Specialist who is assisting with the 2010 census count in Clayton County. She knew everyone was aware of the census forms that are being mailed to homes now and stressed that completing the forms would entitle this county as well as the State of Georgia to invaluable resources. Per Ms. Soleman, her mission was to get everyone in Clayton County to participate by completing the census forms and mailing them back expeditiously. She then provided a brief update on participation in and/or response to completing the census forms in this county. Due to an initial slow start, extra efforts were made to deploy volunteers to go door-to-door and encourage persons to complete the 2010 census

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form and explain the importance of having everyone counted. As of today, Clayton County has a 58% participation rate in returning the census form which means that out of 100% of the persons who actually received the census forms in their homes, 58% have returned them. Ms. Soleman added that county percentages in the State of Georgia could be viewed on www.2010.census.gov. Comparatively, she gave the following participation rate breakdown of the State of Georgia and some surrounding counties: State of Georgia (65%); Henry County (70%); Butts County (68%); Rockdale County (66%); Spalding County (68%); and Newton County (68%). Ms. Soleman emphasized that she was reporting these counties because they encompass the areas in which she works. Today's city participation rates are: Riverdale (61%); Jonesboro (58%); Lake City (47%); Forest Park (57%); and Morrow (54%). (NOTE: These rates change daily at 4:00 p.m. as a result of the updating process.)

Ms. Soleman admitted that the county does have areas that need improvement. This past weekend, activities were staged around the town to stimulate response and meet the challenge; i.e., "March to the Mailbox," T-Shirt/Hat distributions, and door-to-door neighborhood solicitations. She reiterated that the census campaign is all about representation which secures dollars and resources to communities. The deadline to return census forms to be counted in the participation rate for the county is this weekend (for the first mailing phase). Once everything is computed around the 1st of May, Ms. Soleman stated she and her workers will do what is known as a "Non-Response Follow-up" which means enumerators will be knocking on doors to determine who has not returned the census forms, and they will then obtain information from households to facilitate getting everyone counted. She encouraged the commissioners and the audience to assist her efforts by alerting persons that if they have not yet returned the census forms, they can expect to see enumerators very soon knocking on their doors to get the necessary information (which amounts to answering ten [10] questions). Ms. Soleman concluded that her goal was to ensure that everyone in Clayton County and the State of Georgia will be counted to get resources into the communities. She thanked the Board for giving her the opportunity to speak and announced that she was available to answer any questions and/or concerns.

Commissioner Singleton expressed appreciation for Ms. Soleman's prompt response last week to three (3) homeowner associations that had contacted her regarding concerns about not receiving the census forms. Unfortunately, Commissioner Singleton stated that she is still receiving complaints about residents not receiving forms. She asked Ms. Soleman what she was currently doing to resolve that problem. Ms. Soleman responded that several mechanisms are in place to

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address that type of problem; however, she could not answer the question of “why” the residents did not get a census form. She acknowledged that she herself did not get a census form but, as a U.S. Census employee, she was equipped to resolve that oversight. In fact, there are several “Be Counted” centers in places throughout the communities; i.e., churches, community centers, and libraries, which have boxes in designated areas with the census forms in them. Persons can also call a central number and have the forms sent to them. Ms. Soleman voiced that it is best for persons to complete the form that is mailed to their homes because it is geo-coded for their address, and this makes it easier to compile data. There are also question assistance centers that are manned with employees who can assist persons (including non-English speaking and illiterate individuals) with completing the census forms. Commissioner Singleton questioned where those assistance centers were in Clayton County. Ms. Soleman replied that she did not have that list with her tonight; however, persons needing such information could access www.2010.census.gov and find the home page with participation rates on the right hand side and go to the question assistance centers. They should then type in their city and/or zip code to locate those centers. She stated that she would send the county a listing of the assistance centers to post in appropriate places so that the public will know where they are.

Commissioner Singleton recognized the presence of the county’s Complete Count Committee Chairperson, Kim Siebert (also Director of County Extension Service). She urged Ms. Soleman to work closely with Ms. Siebert to get a better census response rate in the near future. Ms. Soleman promised to contact Ms. Siebert to move the census process forward.

7. Rod Gray, Director of Central Services, presented the following item which resulted in this action:

1) Approved a Pet Food Annual Contract (RFB Pkg. #10-04; 3/8/10) for the county, as requested by the Central Services Department. The recommendation is to award a contract to Swint’s Feed and Garden Supply, located in Jonesboro, Georgia, whose firm is the sole bidder. Vote unanimous.

8. Approved Resolution 2010-93 authorizing Clayton County to enter into an amendment to the Clayton County Neighborhood Stabilization Program Asset Management Team Agreement with Southern Crescent Habitat for Humanity which will provide for additional terms and conditions to Article II, Section H “Anatomy of a Clayton County NSP Real Estate Transaction” of the Agreement dated January 11, 2010. Vote unanimous.

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9. Approved Ordinance 2010-94, an Ordinance to amend the Code of Clayton County, Georgia, as amended, specifically Part II, Code of Clayton County, Georgia, Chapter 22, Businesses, Article VII, "Taxicabs and Taxicab Drivers," Subsection (d) of Section 22-463, Taxicab Driver's Application Generally; so as to amend said Section 22-463 so that the applicant must have and maintain automobile insurance in the same amounts as are required of all vehicles by the State. Vote unanimous.

Michael Smith, Chief Staff Attorney, noted that taxicab driver applicants must have an insurance policy providing automobile coverage equal to or in excess of the following amounts: 1) For bodily injury to each person, \$50,000.00; 2) For bodily injury to all persons sustained in any one accident, \$50,000.00; and 3) For property damage and liability for baggage of passengers, \$25,000.00 covering the taxicab driver and the vehicle used by him or her as a taxicab. This policy must be in effect at all times during the operation of the taxicab business.

10. ZONING PETITION: MT. ZION BAPTIST CHURCH, INC./T-MOBILE SOUTH, LLC
(REZ/CUP 201002-01)

1. Petition of Mt. Zion Baptist Church, Inc./T-Mobile South, LLC for 68.117 acres at 7102 Mt. Zion Boulevard, Jonesboro, GA in Land Lot 83 of the 12th District in Clayton County, Georgia (Commission District 4/Michael Edmondson).

Petitioner requests a rezoning from NMX/RS-180 to NMX/RS-180 w/CUP.

Proposed use of property is for a Telecommunication Tower.

Land Use Plan amendment – NONE.

Zoning Advisory Group recommendation is denial.

Carolyn Gould, an agent with T-Mobile South, LLC, announced her business location address as Four Concourse Parkway, Suite 300, Atlanta, Georgia 30328. As an agent, Ms. Gould stated that she represented the neighborhood mixed use application for the wireless telecommunication tower facility located on property owned by the Mt. Zion Baptist Church, Inc. at 7102 Mt. Zion Boulevard in Jonesboro, Georgia. At this time, she apologized for not being able to provide a power-point presentation as planned due to technical difficulty. Although the commissioners

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had received information along with exhibits in their packages regarding this presentation, she had wanted to give the power-point presentation for the audience to view. Ms. Gould then asked the Board how it wished her to proceed. Chairman Bell replied that Ms. Gould could either proceed for the entire ten (10) minutes allocated or take five (5) minutes and leave five (5) minutes for rebuttal if she so chose. He further stated that the Board already had packages and would follow along with her verbal presentation. Ms. Gould thanked the Board and then submitted some documents to the Clerk for the official record : 1) an RF Emissions Compliance Report by Sitesafe, Inc./prepared by a Licensed Professional Engineer; a statement by the engineer which indicated that the particular antennas utilized at this site meet or exceed permissible standards by large percentages and 2) valuation studies conducted by Greystone Valuation Services, Inc. that were already on file in the county's Planning & Zoning Office.

According to Ms. Gould, the demand for wireless service is increasing in the world – ranging from the genius of high-tech gadgets to an integral part of the way everyone lives, works, and plays. Statistically, more than 80% of all Americans subscribe to wireless service (which is rapidly replacing their land-line phones). Such services are utilized in personal activities, business ventures, and for safety purposes. This service is also critical for meter readers, EMT's on route to hospitals, and doctors in hospitals or on route to hospitals (transmitting live data to medical databases). Ms. Gould pointed out that federal law requires licensed carriers to provide E-911 service to the entire licensed area. She explained that this is enhanced 911 service that allows emergency service providers to pin-point emergency calls within fifty feet, which is a life-saving service. T-Mobile South, LLC is actively expanding and enhancing its service in Clayton County. A significant coverage gap is located in an area bounded by Mt. Zion Circle to the north, Fielder Road and Highway 138 to the south, Mt. Zion Parkway to the east, and Wright Circle to the left. Existing sites providing coverage to the surrounding area are northwest on Commercial Drive, northeast at Maddox Road, east of Fielder Road, and west of Old Morrow Road. Ms. Gould acknowledged that T-Mobile South, LLC is unable to modify these locations to provide the significant gap she described earlier. Additionally, T-Mobile always attempts to co-locate its equipment on existing structures. Over 75% of the sites covering Clayton County (within and outside) are actually co-locations on existing structures. In the initial search of a site to cover the gap, T-Mobile looked at a small crown tower to the east of the prescribed area and also some existing power lines, but they were inadequate for the proposed coverage. At that point, a radio frequency engineer developed a search area based on criteria within which a site was required to provide coverage to this area. Site Acquisition/Real Estate carefully researched

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the area to locate a site to satisfy the engineering requirements as well as the terms and conditions of the county's ordinance. T-Mobile South, LLC entered into a lease agreement with Mt. Zion Baptist Church, Inc. and the subject site sufficiently closes the existing coverage gap and meets all zoning requirements. Next, T-Mobile South, LLC leased a 100 foot by 100 foot leased area at Mt. Zion Boulevard along the existing road south to the proposed site. The closest property lines from the antenna structure (on the currently submitted site plans) would be 558 feet from the south, 252 feet to the east, and the closest residential structure is 361 feet. Improvements will be made to a 50 X 60 foot area only. The remaining portion of the 100 foot by 100 foot area will be wooded at this time. There will also be a 30 foot by 40 foot fenced area to contain all of the antenna structures and transmitting/receiving equipment. A required 10 foot landscape buffer will surround the fenced area.

Ms. Gould expressed that the original site location positioned the site 160 feet south of where it is now. After meeting with the community and looking at various locations for this property, T-Mobile South, LLC submitted a compromised location (as presented in the site plans before the Board tonight). The site has very low visual impact, and T-Mobile South, LLC accepts moving the site as well as changing the design of the structure to what is commonly known as a mono-pine structure (where branches are added to the mono-pole and the pole itself is painted brown to blend in with the environment). Ms. Gould added that T-Mobile South, LLC believes there will be no detrimental impact to the health, safety, or welfare of the community, but there will be a benefit of providing wireless services and helping the church to provide services to the community. Lastly, T-Mobile South, LLC meets all of the requirements of the Clayton County ordinance and it respectfully requests approval. Ms. Gould then acknowledged the presence of Mr. Butler Fevrier, a T-Mobile radio frequency engineer, as well as Mr. Frank Romeo, a T-Mobile real estate manager. All of them were available to answer any questions from the Board at this time.

Chairman Bell asked if there were anyone present in opposition to this petition. There was one gentleman in the audience who raised his hand. Chairman Bell invited him to come forward and submit his name to the Clerk (if he had not already done so).

Mr. John Askew, a 15-resident of Weybridge Subdivision and a 28-year resident in Clayton County, stated that he opposed this zoning petition. His family roots in the county go back to the 1920's, and his family has stayed in the county because it realized a lot of potential here. This is

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the first time in five (5) years or so that a cell tower has encroached upon his neighborhood. In the past, his subdivision has been able to have cell towers placed in more commercial venues. The most important aspect that the Board should consider tonight is that the county sets the pattern for future cell towers. Other concerns include T-Mobile South, LLC's notification mailings and the balloon test. Mr. Askew said he personally canvassed the neighborhood and discovered that only a few people received the notification mailing and hardly anyone had heard of the balloon test or knew what it was. It is obvious that during the summer, the cell tower will not be visible to the public. During the winter, however, leaves will have fallen off the trees and the cell tower will be visible from his dining room and kitchen windows.

Mr. Askew had a hard time believing there would be a major impact on cell tower availability to T-Mobile South, LLC's customers if the tower were moved another 200 yards. He opined that moving the tower another 200 yards would be acceptable to virtually everyone in his subdivision. After talking to many people in the neighborhood, he discovered that there is a split in opinion. The Homeowner's Association is in favor of the cell tower, but a lot of his neighbors on Surrey Lane (who would end up seeing it in their back yard) oppose it. If T-Mobile South, LLC moved the tower up to Mt. Zion Road which has slightly elevated land, it would be much more acceptable and he urged the Board to consider this matter. Another concern was the impact on property value. He had yet to hear any detailed report concerning the impact of cell towers on property values and wondered how much research has been done on this subject. Mr. Askew admitted that he had done some research on this subject and it did not look promising. He requested the commissioners to think outside the box and to show the people they represented that they were concerned about their safety, welfare, and property values. Ms. Gould had stated that the cell tower poses no health risk to the community, so T-Mobile South, LLC should have no problem with this issue. Since this is a conditional use permit, any condition can be placed on it. Mr. Askew asked the Board to require that T-Mobile South, LLC sign a statement saying that if it is determined that cell phone towers pose a health risk to the community in the future, it will agree to buy the property from the property owner of any property that falls within the health hazard range. It is obvious that any property that falls within a health hazard region would have a declining value, and no one would want to live in the region. Although the commissioners may consider this to be a radical approach, it will show that the Clayton County Board of Commissioners is concerned about the safety, health, and welfare of people they represent. Should T-Mobile South, LLC be willing to sign a statement,

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then it will prove itself to be a good community neighbor. The commissioners have several options tonight – approve as is and give the message to investors/developers that the county does not care about them and will allow their investment to be at risk or approve this with the restriction that the tower should be located near Mt. Zion Road which is more suitable to the community. If the commissioners can protect the community and all parties are in agreement, then everyone will be satisfied. It is time for the representatives of the people to listen to them and represent them. Lastly, the commissioners should make it a number one priority to involve Congressman David Scott and Georgia's two (2) senators in the repeal of Section 704 of the Cell Communications Act of 1996 which takes away the power of the Board of Commissioners to handle local zoning issues. Per Mr. Askew, zoning issues should be the issues of people who live in the neighborhood, not bureaucrats in Washington. He concluded that this should be a very high priority of the commissioners and thanked them for the opportunity to speak tonight.

Mr. Thomas Board, a resident of Weybridge Subdivision, inquired about the height of the cell tower. He noted that the area described for the tower was no more than several hundred square miles, so the tower should be 90 to 100 feet. Ms. Gould replied that the structure will be 175 feet, and the overall height is 182 feet with branches. The existing structure of the power lines was 85 feet and did not provide any of the coverage necessary to the required area.

Noting that there were no further questions from anyone, Chairman Bell turned the floor over to Commissioner Edmondson to announce his decision regarding this petition. Commissioner Edmondson then made the following statement (**verbatim**):

Ladies and Gentlemen of the Commission:

I've been involved in this for the last few months. I want to address a few of the issues. I worked with our Zoning Administrator through the Planning and Zoning Department over the last three months and even proposed some alternative sites on county property in terms of what might be best for the community. I met with our Economic Development Department in terms of any commercial impact it would have on the Mt. Zion corridor because that is a large commercial corridor and, just before Easter, I actually met with about seven or eight representatives of the Homeowners' Association -- Mr. & Mrs. Hawkins, Mr. (Billy) Williams, Pastor Jackson, Mr. & Mrs. Doran, Mr. Askew (himself), and a few others talked about some of their concerns. I was able to go back and speak with two of the seven Zoning Advisory Group (ZAG) members about the

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Zoning Advisory Group denial that took place last month, and ultimately was able to sit down with a compromise. T-Mobile agreed that it would be able to push the initial proposed location back 166 feet and would paint within the federal guidelines a brown natural color as well as make the top thirty feet of it tree-like (mono-pine). It seems reasonable to me and I had a follow-up meeting this week with Pastor Reynolds of Mt. Zion Baptist Church, several members of the Homeowners' Association, and T-Mobile South, LLC (including its property representative, Mr. Frank Romeo). It was a good coming together; it was a good conversation about what the concerns were, what was reasonable, what was compromised, what they could support; and I feel comfortable saying that through all of that most of the concerns that Mr. Askew just voiced have been addressed. In particular, T-Mobile supplied us last week via e-mail a property value analysis regarding the impact of cell phone towers. What Ms. Gould didn't point out – when she said by a large number – there is an RF Emissions Compliance Report that T-Mobile provided from its engineer. Talking about safety standards, the cell phone tower is 50,000 times less than the safety standards set by federal policy in terms of health concerns. To move the tower any further, the property would be outside the zone of coverage that it needs to cover, so having gone through all the homework and looking at all the things that the county can do – in addition to some of the new and innovative things that T-Mobile has agreed to do – which is not to cut down the trees on the entire 100 foot by 100 foot, but just the portion that is necessary. I don't see any reason why this is not very reasonable, acceptable, and to the best of my knowledge supported by the surrounding Homeowners' Association. If there are no other concerns or comments, I'd like to use that as a justification to make a motion to approve as submitted. (NOTE: Vice-Chairman Ralph seconded the motion, and the vote was unanimous.)

11. Approved the appointment of Mr. Gbenga Osagie to the Tax Assessors Board to fill the unexpired term of Mr. Mike Barnes (resigned). The term will commence immediately and expire on October 25, 2010. Vote unanimous.

PUBLIC COMMENT:

1) NOTE: Abdul Mohammed (representative of Quick Ride Taxi) and Olu Kalu (representative of Payless Taxi) signed up for public comment, but they were not present when called to speak before the Board of Commissioners.³³