

Cleburne County Commission Meeting  
Cleburne County, Alabama  
July 18, 2011

**MINUTES**

- Regular Commission Meeting The Cleburne County Commission met in regular session on Monday, July 18, 2011, at 4:00 p.m. in the Commission Meeting Room, Room 207 of the County Courthouse, Heflin, Alabama.
- Chairman Ryan Robertson called the meeting to order and open for business.
- Roll Call There were present:  
Chairman Ryan Robertson  
Commissioner Joel Robinson  
Commissioner Emmett Owen  
Commissioner Benji Langley  
Commissioner Rex Nolen
- There were absent:  
None
- Public Comment from Citizens No one met the Thursday noon prior to the meeting deadline for being allowed to speak to the Commission.
- Public Comment from Other Elected Officials Cleburne County Chamber of Commerce Executive Director Emily Brown, President Mark Laminack and member Courtney Brown were present to give an update to the Commission.
- Awards and Presentations The Commission presented Mr. Lowell White with a service award for years served on the Board of Registrars.
- Commission Discussion The Commission addressed items of the consent agenda from the agenda of today's meeting: a) Approve the Commission meeting minutes of June 2011 as presented; b) Approve June 2011 check register; c) Approve to retract the requirement to provide an acceptable irrevocable first draw letter of credit, certified cashier's check, or bond in the amount of \$5,000 for tracts over 50 acres in size which was in order to insure damages to the public roadway by the logging operation are remedied and paid by the operation; d) Approve at the request of Mrs. Sharon Johnson, to initiate the vacation process for the section of CR 685 north of CR 112; e) Approve to authorize the County Engineer to solicit bids, as needed, for the following annual maintenance items: signs, crushed aggregate, hot mix, cold mix, gas & diesel fuel, metal pipe, concrete box culvert, concrete pipe, traffic striping, bituminous treatment resurfacing, and plant mix in-place; f) Approve to accept resolution to impose an additional fee in the amount of thirty dollars to be assessed and taxed as costs on each traffic case filed in the Circuit Court, District Court, or any municipal court in Cleburne County, effective August 1, 2011; g) Approve resolution for a continuing agreement due to CoBridge Telecom, LLC entering into an asset purchase agreement with Zito Alabama, LLC for providing cable systems services in the county; h) Approve to appoint Jennifer Green Swafford to the Calhoun / Cleburne Mental Health Board. Item c was moved to New Business of today's meeting for further discussion.
- Resolution # 4365 On a motion by Commissioner Benji Langley and seconded by Commissioner Emmett Owen, the Commission passed the following resolution:**
- Be it resolved by the Cleburne County Commission to approve the following resolutions from the items of the consent agenda:**
- 4365-1 The Commission resolves to approve the June 2011 minutes as presented,**
- 4365-2 The Commission resolves to approve the June 2011 check register,**
- 4365-3 Whereas, the Cleburne County Commission recognizes the need to occasionally evaluate the infrastructure system of the county to better serve its citizens;**
- Whereas, various roads within the Cleburne County infrastructure are no longer useful as vital links within the transportation system and should be considered for vacation by the Cleburne County Commission to allow the county to better expend its resources;**

Whereas, the Code of Alabama 1975 grants the Cleburne County Commission the legal authority to vacate public roads;

Therefore, at the request of Mrs. Sharon Johnson, owner of property on CR 685, the Cleburne County Commission intends to initiate the vacation process for the section of CR 685 north of CR 112. The hearing and decision on the proposed vacation will be at the regularly scheduled meeting on August 8<sup>th</sup>, 2011. The property owners adjacent to the section of roadway to be closed are as follows:

Mrs. Sharon Johnson, 609 West College Street, Bowdon, GA 30108.

4365-4 Whereas, the Cleburne County Commission recognizes the need to continually provide the public with the safest conditions possible when traveling the infrastructure of the county;

Whereas, the Cleburne County Commission requires the use of vendors to supply materials, and companies to perform various construction activities for the improvement of the infrastructure of the county, an annual bid is utilized;

Therefore, the Cleburne County Commission authorizes the County Engineer to solicit bids, as needed, for the following annual maintenance items: signs, crushed aggregate, hot mix, cold mix, gas & diesel fuel, metal pipe, concrete box culvert, concrete pipe, traffic striping, bituminous treatment resurfacing, and plant mix in-place. Bids are to be opened during the Commission meeting in August of 2011 and awarded in September of 2011.

4365-5 Whereas, the Alabama State Legislature enacted the following law on June 2<sup>nd</sup>, 2011 at the request of the Cleburne County Commission for the purpose of deriving additional revenue towards the improvement of the county's road and bridge infrastructure:

Relating to Cleburne County; providing for additional court costs in traffic cases in the county in order to provide additional financial support for county services.

**BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:**

Section 1. In addition to any court costs and fees now or hereafter authorized in Cleburne County, the Cleburne County Commission may impose by resolution of the commission an additional fee in an amount not to exceed thirty dollars (\$30) to be assessed and taxed as costs on each traffic case filed in the Circuit Court, District Court, or any municipal court in Cleburne County. These fees shall not be waived by any court unless all other fees, assessments, costs, fines, and charges associated with the case are waived.

Section 2. The additional fees when collected by the clerks or their collection officers of the courts shall be paid into the General Fund of Cleburne County. Notwithstanding the foregoing, if a municipal court is established in any municipality in the county, the additional court costs from cases in the municipal court shall be collected by the municipal court clerk and deposited in the general fund of the municipality.

Section 3. This act shall become effective immediately following its passage and approval by the Governor, or its otherwise becoming law.

Therefore, the Cleburne County Commission hereby imposes by this resolution an additional fee in the amount of thirty dollars to be assessed and taxed as costs on each traffic case filed in the Circuit Court, District Court, or any municipal court in Cleburne County, effective August 1st, 2011.

4365-6 Whereas, CoBridge Telecom, LLC ("Grantee") currently holds Resolution No. 4321-6 dated October 12, 2010 granted by Cleburne County (the "Community") to own and operate a cable system in the Community(as amended to date, the "Franchise");

Whereas, on April 19, 2011, Grantee entered into an asset purchase agreement (the "Agreement") with Zito Alabama. LLC ("Assignee") whereby Assignee will purchase and acquire certain cable system assets, including the Franchise, from Grantee (the "Transaction");

Whereas, Grantee and Assignee have filed an FCC Form 394 with the Community, and have provided to the Community all information regarding the Transaction required by applicable

law (collectively, the “Application”); and

Whereas, the Community has reviewed the Application and has determined that the Assignee meets the legal, technical, and financial criteria to operate the cable system under the Franchise and all applicable local, state, and federal laws.

Therefore, the Community does resolve:

1. The Community concrete to the Transaction as and if required by the terms of the Franchise;
2. The Community confirms that (a) the Franchise is valid and outstanding and in full force and effect; (b) Grantee has properly invoked its franchise renewal rights under Section 626 of the Cable Communications Policy Act of 1984; (c) Grantee is in compliance with the provisions of the Franchise; (d) there are no defaults under the Franchise, or events which, with the giving of notice or passage of time or both, could constitute events of default there under; and (e) effective upon the closing of the Transaction (the date upon which such closing occurs, the “Closing Date”). Assignee will be entitled to all rights and privileges granted by the Community pursuant to the Franchise.
3. The Community releases Grantee, effective upon the Closing Date, from all obligations and liabilities under the Franchise that accrue on and after the Closing Date; provided that Assignee shall assume and be responsible for any obligations and liabilities under the Franchise that accrue on and after the Closing Date.
4. This resolution shall have the force of a continuing agreement with the Community, Grantee, and Assignee, and the Community shall not amend or otherwise alter this resolution without the written consent of Grantee and Assignee.
5. This Resolution shall take effect upon its passage and publication in accordance with applicable law.

**4365-7 Board Appointments –**

The Cleburne County Commission resolves to appoint:

**Jennifer Green Swafford**

**to the Calhoun / Cleburne Mental Health Board with a term ending July 2016.**

**All members present voted for the resolution and none against. The motion carried.**

**Commission Discussion**

The Commission discussed items of New Business on the agenda of today’s meeting: a) Item #3 from the consent agenda of today’s meeting - Approve to retract the requirement to provide an acceptable irrevocable first draw letter of credit, certified cashier’s check, or bond in the amount of \$5,000 for tracts over 50 acres in size which was in order to insure damages to the public roadway by the logging operation are remedied and paid by the operation. Commissioner Rex Nolen requested to add the discussion of tobacco tax to the agenda of today’s meeting.

**Resolution # 4366**

**On a motion by Commissioner Emmett Owen and seconded by Commissioner Rex Nolen, the Commission passed the following resolution:**

**Be it resolved by the Cleburne County Commission to approve the following resolution from the items of new business on the agenda of today’s meeting transferred from the consent agenda of today’s agenda:**

**Whereas, the Commission has enacted logging regulations that require an acceptable irrevocable first draw letter of credit, certified cashier’s check, or bond in the amount of \$5,000 for tracts over 50 acres in size in order to insure damages to the public roadway by the logging operation are remediated and will be paid by the operation, and**

**Whereas, the Commission has now determined it to be in the best interest of the public to modify this requirement to provide an alternate and preferred method for collection of damages to the public’s roadways due to the conducting of logging operations,**

**Therefore, the Commission retracts the above stated requirement and authorizes the County Engineer to assess any damages that might occur on any given logging operation and any size tract and to work with the county attorney to see that the party responsible for damaging the public's roadway be held financially responsible for the remediation of the roadway by whatever legal means available. In addition, the County Engineer shall provide monthly reports to the Commission as to the status of actions being undertaken to restore the public's road infrastructure investment. Commissioners Joel Robinson, Emmett Owen, Rex Nolen voted for the resolution and Commissioner Benji Langley abstained. The motion carried.**

Commissioner Rex Nolen made a motion and Commissioner Joel Robinson made a second to add to the agenda of New Business of today's meeting the discussion of tobacco tax. Commissioner Joel Robinson, Benji Langley, Rex Nolen voted for the resolution and Commissioner Emmett Owen voted against. The resolution does not pass, due to the unanimous vote requirement.

Commission  
Discussion

Reports from staff were as follows: A) County Administrator Steve Swafford informed the Commission that the environmental update for landfill well monitoring cost is an estimate of \$6,000.00. Mr. Swafford asked the Commission to add to the agenda of today's meeting to authorize the landfill well testing and to modify the budget line item for the expense; B) County Engineer Shannon Robbins was present for the meeting to give the Commission updates of current projects; C) County Attorney Doug Ghee discussed and advised the Commission to seek an outside independent consultant to review concerns about the financial condition of the Cleburne County Nursing Home and Cleburne County Emergency Medical Service.

**Resolution # 4367 On a motion by Commissioner Emmett Owen and seconded by Commissioner Benji Langley, the Commission passed the following resolution:**

**Be it resolved by the Cleburne County Commission to approve to add to the agenda of today's meeting the request of the County Administrator to discuss the environmental update for landfill well monitoring and the estimate of \$6,000.00 for the cost of the well testing. All members present voted for the resolution and none against. The motion carried.**

**Resolution # 4368 On a motion by Commissioner Emmett Owen and seconded by Commissioner Benji Langley, the Commission passed the following resolution:**

**Be it resolved by the Cleburne County Commission to authorize the landfill well testing and to modify the budget line item for the expense. All members present voted for the resolution and none against. The motion carried.**

There was no further business to come today before the Commission for the meeting.

**Resolution # 4369 On a motion by Commissioner Emmett Owen and seconded by Commissioner Joel Robinson, the Commission passed the following resolution:**

**Be it resolved by the Cleburne County Commission to approve to adjourn the meeting All members present voted for the resolution and none against. The motion carried.**