

Pine Haven Street Partial Street Closure Public Hearing
April 25, 2018
9:30 A.M.

The Public Hearing for the closure of Pine Haven Street was called to order by Chair Martin.

There were no public comments for the closing of Pine Haven Street.

The public hearing was closed.

The Russell County Commission
Meeting Minutes
April 25, 2018
9:30 A.M. E.S.T

An Adjourned meeting of the Russell County Commission was called to order by Chair Peggy Martin.

The approval of the Agenda was voted on and the comments by the Commissioners were that the Resolution stated Pine Haven Street and they think it is Pine Haven Road. County Attorney Funderburk stated to leave it as Pine Haven Street because that is what was on the map.

Commissioner Corbett made a motion to approve the agenda. Seconded by Commissioner Currington. County Administrator polled the Commission; the vote was unanimous.

The invocation was given by Reverend Marty Holley, Director of Russell Baptist Association.

The Pledge of Allegiance to the U.S. flag was led by Commissioner Cattie Epps.

Administrator Horne called the Commission roll. Members present were Chair Peggy Martin, Vice Chair Carl Currington, Gentry Lee, Ronnie Reed, Cattie Epps, Chance Corbett and Larry Screws. Also present was the County Attorney Kenneth Funderburk and County Administrator Horne who kept the minutes.

A quorum was established.

Commissioner Corbett motioned to table the April 11, 2018 meeting minutes to the next meeting due to no work session on Monday April 9, 2018 due to the observance of The Jefferson David Confederate Memorial Day. Seconded by Commissioner Currington.

County Administrator polled the Commission; the vote was unanimous.

Proclamations and Resolutions:

Commissioner Epps and Chair Martin presented a Proclamation to Mr. Mel Long for the service he gives the community. Commissioner Epps stated that Mel is one of those people you can go to if you're not feeling well and he will make you feel good. He always has encouraging words and the same laugh. Mel is a servant to the people of Russell County and that includes from Phenix City all the way to Hurtsboro. He will meet and greet anyone that comes along whether he works with them not matter what.

Attorney Funderburk stated there needs to be a vote to vacate Pine Haven Street. Commissioner Epps made the motion. Seconded by Commissioner Reed.

Resolution: A written petition dated March 14, 2018, was filed with the Russell County Commission by West of 165, LLC it being all of the landowners adjoining and/or butting a portion of right-of-way for a county road described therein and commonly known as Pine Haven Street.

County Administrator Horne polled the Commission. The vote was unanimous.

Discussion Items:

Commissioner Corbett brought up the discussion concerning the Crawford Park Walking Trail. The county is about to start the construction part of the walking trail which is being paid by funds that were received with a grant by the Wiregrass RC&D. Commissioner Corbett wanted to make everyone aware the portion of the project which was about to begin was the grant portion.

Business Items:

Commissioner Corbett stated the Parkman Pointe Subdivision was started back in 2009. He hasn't got the actual recorded date that it started. This subdivision is located off Camp Parkman Road in District 6. The road was initially paved; it had an initial surface on it. It was brought to my attention about a week ago from a resident there. Then I had received a message to call another resident about the same issue. This subdivision when it was built and permitted was within the 5-mile planning jurisdiction of Phenix City. I don't ever see Phenix City gaining ground to move out into that area. I would doubt that would ever happen. The City is the entity in which the bonds were taken out. There were two different bonds. I am not the expert on this, but one bond was on the wearing surface which would be on the last surface of the paved roads in the subdivision. There was another bond for other incidental issues that were in there.

Unfortunately, what I am hearing from the citizens, they were told that they had to get to 80% before they would put the last layer of asphalt on the road by the standards of the city which the city laid out for them. They just received recently the 80% by putting in another house. They called the Mayor of Phenix City and he said they sent a letter to the County Commissioner in that area that used to be there, but he is not there anymore. The County never took the project or bonds over. They pulled their planning jurisdiction from 5 miles to 2 ½ miles. They had spoken to many people at the City. They told them there was nothing they could do. Upon further research the City let the wearing surface bond expire without claiming it and making the surface complete. This is what the County should do if we had a subdivision that the contractor had failed to finish or put the wearing surface on. It appears they let that bond expire. The City then went out a week and a half before the second bond was to expire and did an inspection. Came back with a list on their letter-head (we have a copy of it) of things that need to be done. If they weren't done in a week, they were going to close on the bond and have those things done and they let that bond expire as well. So unfortunately, there is no bond in effect to remedy this situation. The bigger problem now is the road is in the County. The fortunate thing is the road is in better shape even without the final surface that some of the roads we have in the County. The people in that subdivision built those homes and built that neighborhood up thinking it would be accepted by the County at one point. There was a failure in the city government to claim the bonds and get the work done as should have. With that being said, from what I am understanding the City claims the County failed to take it over. I do not believe that is the case. In fact, I would really like for that to stop being the message that is portrayed by the homeowners. Even though as a Commissioner, I wasn't the Commissioner at the time, but it is still my area. I am glad I am aware of it now. We need to move forward on it. I met with Shawn and Ben to talk about this issue. I then met with some of the other property owners. Now, I have email contacts with all the property owners. I told them we are going to work to see whatever we can do to make this right. I think at this point there have been conversations about the citizens wanting to get together and file a civil suit against the City for this. The problem is ultimately this is going to be the County's issue with these roads now being back in the County and the County having to maintain them.

I would like to make a motion that our Attorney work with our Engineer to gather the facts, communicate with the City and come up with good course of action to make sure this final wearing surface gets installed on this road and that any other issues brought up to code per our subdivisions regulations. Seconded by Commissioner Lee.

Commissioner Lee asked: Is there any estimate of what this wearing surface would cost? Commissioner Corbett stated, the initial estimate is \$75,000 to \$80,000. There are pot holes and other wearing issues on it and probably from construction. I think by the time they fix that and do the wearing surface it could be upwards to \$100,000.

County Attorney Funderburk stated, what we have filed legally covers this in general. Where the flaw is the County has a planning jurisdiction which overlaps with the Cities who has their planning jurisdiction outside their City Limits. The City actually has the

primary responsibility unless they abandoned it. In this case they did not abandoned it before they approved all of this. The law is not your primary responsibility to accept these roads for maintenance. However, for the City to be primary and do what they did they would have to notify the Engineer about the plans. The Engineer would be involved to make sure they were constructed according to the County standards, and any bonds would have to be made payable to the County. This means, if they did not do any of that the City was wrong. I actually have that in the case generally. I've already filed a discovery on Parkman Pointe. The real issue is how we address it as in the suit or make it an amendment. I can state that publicly because the case is on record. The discovery is on record, so you can go to the file and see it. It may be necessary for the County to sue the City for the failure to provide the bond and try to force them to go out and do what they were required to do by law. In my opinion, they are still required to do it.

Commissioner Corbett stated: The one thing that was brought to my attention a couple of times that was the administration at the City was telling the people out there the County failed to take over the bond. I understand we can't take over the bond. That upsets me a little bit. The bond was made with the City of Phenix City.

Commissioner Corbett would like to provide the citizens with a resolution. I want to tell these people that we are going to fix this road and/or take it over. I can't see any reason why we wouldn't take the road over; the road is better than some of the County roads we maintain today. We owe it to those people and the future development of that subdivision because it is going to be very hard to get a mortgage, to build, and do things on a private road.

Attorney Funderburk stated: The City is going to have to bear some responsibility whether it is to the County. You can't take a bond over. The bond by law for them to have done this, if they did it right, which they didn't, has to be payable to the County. So, if they didn't perform, the County would receive the money and could do the work.

Commissioner Corbett stated: When the City pulled their jurisdiction back they abandoned that process and turned it over to the County they indicated. But well beyond that time, the City was still inspecting that subdivision site and giving letters on their letterhead.

Commissioner Epps asked if the City sent a letter the Commissioner's Office would a copy be on file? Do we have that letter on file?

County Attorney Funderburk stated: That is not legal.

Commissioner Corbett stated he understood what Commissioner Epps asked. If they sent a letter which they said they sent to a single Commissioner, that is not the correct process. In my mind, I don't know which Commissioner. It could be Commissioner Dudley who was in office in 2008, 2009 & 2010. I don't know the date they pulled the

jurisdiction back. But I believe they thought this was in District 2 because they told one of the ladies to call their Commissioner and they gave them Commissioner Currington's number. They're not sure which district it is in.

Commissioner Epps is concerned that the road is in good condition. I have no problem with the County doing the road. But I think it is going to be unfair to those people who have been waiting to get their roads paved that we have on our list that we have overlooked them. I am not going to say to not put it on our list to be paved, but I think the other roads on the list for paving should come first.

Commissioner Corbett stated: That he would not be saying or insinuating that we should resurface this road. I think if we accept this road, we accept it as is and it becomes graded as any other road in the County. At the time, it becomes eligible for resurfacing then it would be.

Commissioner Screws asked: Does the County Attorney think the County needs to get with the City before anything is done?

County Attorney Funderburk stated: No, sue them. It is generally covered now but I think we are going to need to amend and update the suit with a special account.

Commissioner Lee stated: The motion on the floor was for the County Attorney to get with the County Engineer then come back to us.

County Attorney Funderburk stated: The only way to straighten this out is for them to pay some money on something they did wrong under the law. Starting out to protect them is probably not the way to start.

Commissioner Corbett asked County Attorney Mr. Funderburk, would you be opposed to first sending them a letter and addressing the issue. See if they will even give a response to your letter? If they don't we pursue it legally.

County Attorney Mr. Funderburk stated: That when I heard this, I have already changed the production request to include everything there is regarding this. That is due in 30 days. I will send them a letter.

Commissioner Corbett repeated his motion which is for the County Attorney to work with the County Engineer to get all the details of this case and then communicate that with the City and then bring it back to us with some findings. Seconded by Commissioner Lee.

Commissioner Lee asked the County Attorney Mr. Funderburk if a Government pulls back a jurisdiction or does whatever they said they did, they should have a copy of what they sent to the County?

County Attorney Mr. Funderburk stated: Once you take it, and you withdraw after; accepting it, that that doesn't untake it.

County Commissioner Epps suggested, that they call for the vote.

County Administrator LeAnn Horne polled the Commission. The vote was unanimous.

Chair Martin announced the Ad for the Annual Horse Show that is sponsored by the Phenix City Exchange Club. It will be June 2nd, and they are requesting an Ad for \$225. What is your pleasure?

Commissioner Corbett made a motion to approve. Seconded by Commissioner Currington.

County Administrator LeAnn Horne polled the Commission. The vote was unanimous.

Allen with Engineering addressed the Appropriation of \$3000 to the Fort Mitchell Fire Department for the safety and improvement for the playground.

Commissioner Corbett asked does that mean fences?

EMA Director Bob Franklin requested to address the issue. When the Fire Department did the lease with the County and the Fire Department; we requested the County to put a fence across the front of Hwy 165. We have observed children running towards the highway. The total cost of the fencing is \$6000. The Fire Department wants to pay half and the County to pay half.

Commissioner Epps stated there was \$3000 in the budget left-over from the playground equipment budgeted and she would like to allocate that money to go to the fencing.

Commissioner Epps motioned to accept this recommendation. Seconded by Commissioner Lee. County Administrator LeAnn Horne polled the Commission. The vote was unanimous.

Greg Smith asked for a Budget Transfer to pay for a repair. The Building Inspections vehicle that was in a minor collision. He would like to move funds from line 223 and line 251. The total cost of the repairs is \$2,400. He would like to move \$14,00 from line 223 and \$1,000 from line 251.

Commissioner Lee motioned to approve. Seconded by Chair Martin. County Administrator LeAnn Horne polled the Commission. The vote was unanimous.

County Attorney Funderburk announced that at the last meeting he was asked to prepare some documents on the Hurtsboro Walking Trail. I have completed that. We have the survey. I have not gotten with Attorney Rick Chancey on the Lease to make sure he approves of it. But, I plan to.

Commissioner Corbett wanted to make it clear that he did look back at the Public Notice and the Resolution and it is just the dirt portion that will be vacated for Pine Haven.

Commissioner Lee stated: It is our policy that when there is a request to vacate County property the Petitioner or a representative need to be present to state the case or it should be tabled until they can be present.

Announcements were made.

Commissioner Lee motioned to adjourn. Seconded by Commissioner Currington.