

Cherokee County Board of Commissioners Meeting
Held on March 4, 2019 at 6:30 P.M.
Cherokee County Courthouse
Board Meeting Minutes

Members present: Gary Westmoreland, Chairman; Roy Dickey, Vice-Chairman; Cal Stiles, member; Dr. Dan Eichenbaum, Member; and C.B. McKinnon, member.

Staff present: Randy Wiggins, County Manager; Candy Anderson, Finance Officer; Maria Hass, Assistant County Manager and Clerk to the Board; and Darryl Brown, County Attorney.

Meetings can be viewed on the website of Local TV 4 and WKRK Radio's Facebook page.

I. Call to order by Chairman

The Chairman reminded the Board of their duty under the Local Government Ethics Act.

II. Invocation

III. Pledge of Allegiance

IV. Modification of Agenda

Motion made by Commissioner McKinnon to remove item "d" and "f" (Saddle Club Request and Folk School Request) under New Business. Motion seconded by Commissioner Eichenbaum. Motion passed unanimously.

V. Agenda Adoption

Motion made by Commissioner McKinnon to adopt the agenda as modified. Motion seconded by Commissioner Stiles. Motion passed unanimously.

VI. Minutes

Motion made by Commissioner Dickey to approve the February 18, 2019 minutes. Motion seconded by Commissioner Stiles. Motion passed unanimously.

VII. Finance and Budget Items

Motion made by Commissioner Eichenbaum to approve a budget revision for receipt of a donation for Andrews Home Delivered Meals (no county match). Motion seconded by Commissioner Dickey. Motion passed unanimously.

Motion made by Commissioner McKinnon to approve a budget revision for use of designated fund balance to replace the roof on Andrews Health Department Building. Motion seconded by Commissioner Stiles. Motion passed unanimously.

Motion made by Commissioner Stiles to approve a budget revision for receipt of additional Smart Start Grant Funds (no county match). Motion seconded by Commissioner Dickey. Motion passed unanimously.

Motion made by Commissioner Eichenbaum to approve a budget revision for Cherokee County Schools Request for Use of Designated Article 46 Sales Tax for Multiple School Projects, minus the request for Bus Garage Camera System and Ranger School Bus Camera System, pending additional information. Motion seconded by Commissioner McKinnon. Motion passed unanimously.

Motion made by Commissioner Stiles to approve a budget revision for carry-forward of previously budgeted funds and VFW grant match for a DAV van. Motion seconded by Commissioner Dickey. Motion passed unanimously.

Copies of budget revisions are available for public inspection in the Cherokee County Finance Office.

VIII. New Business

Motion made by Commissioner Eichenbaum to approve tax releases. Motion seconded by Commissioner Dickey. Motion passed unanimously.

Motion made by Commissioner Dickey to approve tax refunds. Motion seconded by Commissioner Eichenbaum. Motion passed unanimously.

There was no action taken by the board on the request by Highway to Hedges Ministry for use of the old Andrews Health Department building for providing services to those battling drug addiction.

Cherokee County Jury Commission applicant, Donna Ware, came before the board for introduction.

Cherokee County Tourism Development Authority applicants, Aurelia Stone and Phylis Blackmon came before the board for introductions.

Motion made by Commissioner Stiles to approve the 2019 Senior Games Proclamation. Motion seconded by Commissioner Eichenbaum. Motion passed unanimously.

Motion made by Commissioner Stiles to approve a resolution supporting a request for an increase in state funding to ensure Juvenile Crime Prevention Council program expansion and successful implementation of the Juvenile Justice Reinvestment Act Raise the Age Legislation. Motion seconded by Commissioner Westmoreland. Motion passed unanimously.

Motion made by Commissioner McKinnon to approve a resolution declaring Cherokee County, NC a gun sanctuary. Motion seconded by Commissioner Eichenbaum. Voting in favor of the Motion was Commissioners McKinnon, Eichenbaum and Dickey. Voting against the Motion was Commissioners Stiles and Westmoreland. A copy of the resolution was sent to all North Carolina counties, as well as, Cherokee County's legislative representatives. Motion passed 3-2. A copy of the resolution is herein incorporated as a part of these minutes as Attachment A.

IX. Chairman/Commissioner Items

Commissioner Westmoreland gave an update on the courthouse cupola.

Commissioner McKinnon asked if there was an update on the Tri-County Community College Contract. Commissioner Westmoreland said that he would contact Graham County and follow-up.

Commissioner McKinnon gave an update on the recent meeting with USFS and TVA concerning Hanging Dog Campground, and Commissioner Westmoreland gave an update on the Hanging Dog boat ramp paving project.

X. Closed Session

Motion was made by Commissioner Stiles to go into closed session, pursuant to 143-318.11 (3) to preserve attorney-client privilege between the attorney and the board; and, pursuant to 143-318.11 (5) to establish the position to be taken by the board concerning acquisition of real property. Motion seconded by Commissioner Eichenbaum. Motion passed unanimously.

Matters discussed during closed session were, 1) Hogan vs. Cherokee County; and 2) Acquisition of real property for EMS station.

Motion made by Commissioner McKinnon to return to open session. Motion seconded by Commissioner Eichenbaum. Motion passed unanimously.

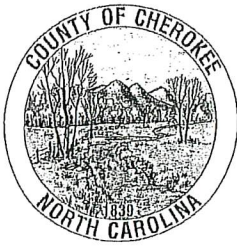
XI. Open Session

There was no action taken after returning to open session.

XII. Adjournment at 8:15 P.M.

**THESE MINUTES WERE APPROVED AT A REGULAR MEETING OF THE
CHEROKEE COUNTY BOARD OF COMMISSIONERS ON APRIL 1, 2019.**

ATTACHMENT A



CHEROKEE COUNTY

75 Peachtree Street
Murphy, NC 28906
828-837-5527

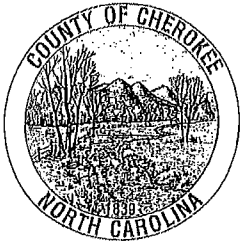
Randy Wiggins, County Manager
Candy R. Anderson, CPA, Finance Officer
Darryl R. Brown, County Attorney

Board of Commissioners
Gary Westmoreland, Chairman
Roy Dickey, Vice-Chairman
Cal Stiles, Member
C.B. McKinnon, Member
Dr. Dan Eichenbaum, Member
Maria Hass, Clerk to Board

A RESOLUTION DECLARING CHEROKEE COUNTY, NC, A GUN SANCTUARY COUNTY

On behalf of the citizens of Cherokee County, North Carolina, the Cherokee County Board of Commissioners state and accept as true the following:

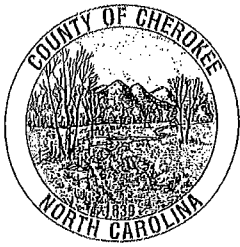
1. The Declaration of Independence states that people are "endowed by their Creator with certain unalienable Rights, . . . to secure these rights, Governments are instituted among Men . . . deriving their just powers from the consent of the governed"
2. John Adams wrote in 1A Dissertation on the Canon and Feudal Law (1765): *"I say RIGHTS, for such they (the people) have, undoubtedly, antecedent to all earthly government, Rights, that cannot be repealed or restrained by human laws, Rights derived from the great Legislator of the universe."*
3. Natural Law Rights, given to each of us by Our Creator, are the basis of our Constitution by which they are protected and secured to each of us. Natural Law Rights, including that of self-protection, are guaranteed by our Laws, our History, and our Traditions
4. It is the natural tendency of civil government to expand beyond the limits of its rightful Constitutional authority and to usurp powers which have not been given to it through the delegated consent of the governed.
5. Whenever the uses of government are perverted, individual sovereignty is overtly endangered or threatened, and all other means of redress are ineffective, the People may, and in fact ought to, force the reestablishment of the original constitutional limits of government.
6. Resistance against arbitrary power and oppression is the obligation of every Patriot, as not to do so is destructive to the good and happiness of mankind. In fact, it is the duty of the People of Cherokee County, through the actions of their lesser magistrates, namely local elected officials and sheriffs, to challenge the civil government when and where it exceeds or threatens to exceed its bounds.
7. The Constitution of the United States is the Supreme Law of our nation
8. The Second Amendment to the Constitution of the United States of America states: "A well-regulated Militia being necessary to the security of a free State, the right of the people to keep and bear arms shall not be infringed"



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9. The U.S. Supreme Court found in *Miranda v. Arizona* (1966) stated that "Where rights secured by the constitution are involved, there can be no rule making or legislation which would abrogate them."
10. The U.S. Supreme Court in the *District of Columbia v. Heller* (2008) decision affirmed that the Second Amendment right to keep and bear arms is not connected in any way to service in a militia
11. The U.S. Supreme Court in *United States v. Miller* (1939) stated that firearms that are part of ordinary military equipment with use that could contribute to the common defense are protected by the Second Amendment
12. The Fourteenth Amendment to the Constitution of the United States, Section 1, states: "No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."
13. The U.S. Supreme Court in the *McDonald v. City of Chicago* (2010) decision affirmed that a person's Second Amendment rights to "keep and bear arms" is further secured by the "due process" and the "privileges and immunities" clauses of the Fourteenth Amendment. The decision also protects rights closely related to the Second Amendment, namely the right to manufacture, transfer, purchase, and sell firearms, accessories, and ammunition.
14. The North Carolina Constitution, Article I, Section 5, states: "Every citizen of this State owes paramount allegiance to the Constitution and government of the United States, and no law or ordinance of the State in contravention or subversion thereof can have any binding force"
15. The North Carolina Constitution, Article I, Section 30, states: "A well-regulated militia being necessary to the security of a free State, the right of the people to keep and bear arms shall not be infringed; and, as standing armies in time of peace are dangerous to liberty, they shall not be maintained, and the military shall be kept under strict subordination to, and governed by, the civil power. Nothing herein shall justify the practice of carrying concealed weapons, or prevent the General Assembly from enacting penal statutes against that practice:
16. The North Carolina Constitution, Article I, Section 16 states: "Retrospective laws, punishing acts committed before the existence of such laws and by them only declared criminal, are oppressive, unjust, and incompatible with liberty, and therefore no ex post facto law shall be enacted. No law taxing retrospectively sales, purchases, or other acts previously done shall be enacted"
17. The Tenth Amendment to the Constitution of the United States of America states: "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people."



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18. The U.S. Supreme Court found in *Prinz v. United States* (1997) that the Federal government cannot compel law enforcement officers of the states to enforce federal laws as it would increase the power of the federal government far beyond that which the Constitution intends

Therefore, the people of Cherokee County, North Carolina, through their duly elected officials on the Board of Commissioners resolve that Cherokee County, North Carolina is hereby designated a "**Gun Sanctuary County**" in order to preserve for the People of, on, and in Cherokee County:

1. The unalienable right to keep and bear arms, as specified in the Second Amendment to the US Constitution, the Constitution of North Carolina, and further upheld by subsequent decisions of the US Supreme Court
2. The right, as originally written and understood, to keep and bear arms for self-defense, personal safety, protection of one's family, and in defense of one's community and county
3. The right to manufacture, transfer, purchase, and sell firearms and ammunition designed for those purposes outlined above, rights guaranteed by the US Constitution and the Constitution of North Carolina.

Furthermore, any regulation of the right to keep and bear arms or affiliated firearm rights that violates the Second, Ninth, Tenth, or Fourteenth amendments to the US Constitution, that violates Article I, Sections 5, 16, and 30 of the North Carolina Constitution, or that violates numerous related US Supreme Court Decisions including those listed above shall be regarded by the People of, on, or in Cherokee County to be unconstitutional, a transgression of the Supreme Law of the Land and its spirit of individual sovereignty, and, therefore by necessity, unenforceable and invalid from the outset.

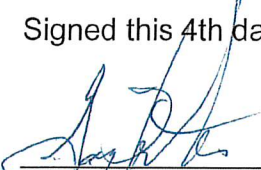
Moreover, the criminal misuse of firearms is due to the fact that criminals do not obey laws and this is not a reason to abrogate or abridge the unalienable, constitutionally-guaranteed rights of law abiding citizens. The last protectors of the US Constitution are We the People of the United States and our ability to fulfill that role successfully rests on our Second Amendment rights.

Therefore, the Cherokee County Government will not authorize or appropriate government funds, resources, employees, agencies, contractors, buildings, detention centers or offices for the purpose of enforcing or assisting in the enforcement of any element of such acts, laws, orders, mandates, rules or regulations, that infringe on the right by the people to keep and bear arms as described and defined in detail above.


This resolution was assembled and written by Dr. Dan Eichenbaum, Cherokee County Commissioner, using constitutional law Internet references and is based in part on similar ordinances and resolutions from Columbia and Josephine Counties, Oregon.

THIS RESOLUTION WAS ADOPTED BY A VOTE OF 3-2.


Signed this 4th day of March, 2019.




Chairman



Vice-Chairman




Commissioner



Commissioner

Commissioner

ATTEST:



Clerk to Board

Copies to our NC reps, NC federal Rep and Senators, NC county commissions, Sheriff