

Cherokee County Board of Commissioners  
April 18, 2022 Meeting Minutes

**Board members present:** Dr. Dan Eichenbaum, Gary Westmoreland, Jan Griggs, and Cal Stiles. Commissioner Phillips participated remotely via Zoom.

**Others present:** Randy Wiggins, County Manager; Candy Anderson, Finance Director; and, Darryl Brown, County Attorney.

**Time:** 6:30 P.M.

**Location:** Cherokee County Courthouse, Room 342.

**Call to Order and Ethics Statement**

Members were advised of their duty under the Local Government Ethics Act.

**Invocation**

Invocation given by Randy Wiggins.

**Pledge of Allegiance**

Led by Chairman Eichenbaum.

**Modification of Agenda**

Motion made by Commissioner Phillips and seconded by Commissioner Westmoreland to remove New Business Item “h” “Airport Land Swap”. Motion passed unanimously.

**Agenda Adoption**

Motion made by Commissioner Griggs and seconded by Commissioner Phillips to approve the agenda as modified. Motion passed unanimously.

**Public Hearing on Road Names**

Motion made by Commissioner Phillips and seconded by Commissioner Westmoreland to open the public hearing for comments. Motion passed unanimously. There were no public comments. Motion made by Commissioner Stiles and seconded by Commissioner Griggs to close the public hearing. Motion passed unanimously. Motion made by Commissioner Westmoreland and seconded by Commissioner Griggs to adopt the following road names: Breezy Ln; Cheyenne Ln; Emersyn Rose Ln; Kamron Ln; This Way; That Way; The Other Way; Iron Wood Farm Rd; Rons Way; Refuge Mountain Trl; Valle Ridge Rd; Mila Ln; Brunner Ln; Lee Mountain Rd; Mountain Side Ln; and Rolling Meadows Way. Motion passed unanimously.

**Aaron's LLC Tax Appeal**

Presented by Jeff Talton via ZOOM. No action taken.

**Public Forum for Crypto Mining**

Several persons spoke in opposition of crypto mining business in Cherokee County, and more specifically, the Harshaw Road and Ranger Road sites, and the effects that data mining centers

have on the health and well-being of those affected. The Chairman asked the Clerk to read a statement provided to him by Exponential Digital concerning both sites. The statement is incorporated into these minutes as Appendix A. The county attorney also discussed ordinance options for regulating excessive noise.

Motion made by Commissioner Griggs and seconded by Commissioner Stiles to amend the current noise ordinance to read “anyone with noise that is constant and sustained and over 50 decibels is in violation of the noise ordinance.” Voting against the Motion was Commissioners Westmoreland and Commissioner Phillips. Motion passed 3-2.

#### **Public Forum – None**

Motion made by Commissioner Westmoreland and seconded by Commissioner Phillips to take a three-minute break. Motion passed unanimously.

#### **Budget and Finance**

- a) Budget Revision for CDC Covid Grant Funds for Health Department

Motion made by Commissioner Phillips and seconded by Commissioner Griggs to approve. Motion passed unanimously.

- b) Cherokee County Schools Request for Use of Sales Tax for Various Projects

Motion made by Commissioner Phillips and seconded by Commissioner Griggs to approve. Motion passed unanimously.

- c) Budget Revision for Southwestern Commission and Covid-19 Grant Funds Received for Senior Services

Motion made by Commissioner Griggs and seconded by Commissioner Phillips to approve. Motion passed unanimously.

- d) Budget Revision to Increase Budget for Register of Deeds, Airport, and Medical Examiner (Increase will be offset by revenues)

Motion made by Commissioner Phillips and seconded by Commissioner Westmoreland to approve. Motion passed unanimously.

- e) Non-Discrimination Policy for Coronavirus State and Local Fiscal Recovery Funds

Motion made by Commissioner Westmoreland and seconded by Commissioner Phillips to approve. Motion passed unanimously.

#### **Old Business – Airfield Lighting Project**

Motion made by Commissioner Phillips and seconded by Commissioner Westmoreland to approve the 10% local match for the airfield lighting rehab project. Motion passed unanimously.

#### **New Business**

- a) Ellen Stephens - Cherokee County Saddle Club Request

Ellen Stephens, Cherokee County Saddle Club member, came before the Board to request approval for renovating a building at the Mountain Folk Center and converting it into stables. The project would include 43 stables. The Saddle Club will be applying for Kubota's Hometown

Proud Grant to help fund the project. After discussion, a Motion was made by Commissioner Griggs and seconded by Commissioner Stiles to approve. Motion passed unanimously.

b) David Vowell – Cherokee County Arts Council

Motion made by Commissioner Stiles and seconded by Commissioner Griggs to recognize Cherokee County Arts Council as the local arts agency for Cherokee County. Motion passed unanimously.

c) Commissioner Griggs - Proclamation Recognizing April 17-23, 2022 as Volunteer Appreciation Week

Motion made by Commissioner Westmoreland and seconded by Commissioner Stiles to approve. Motion passed unanimously.

d) 2022 Senior Games and Silver Arts Proclamation

Motion made by Commissioner Stiles and seconded by Commissioner Griggs to approve. Motion passed unanimously.

e) Authorize Tax Collector to Advertise Delinquent Tax Liens

Motion made by Commissioner Phillips and seconded by Commissioner Westmoreland to approve. Motion passed unanimously.

f) Tax Releases w/Refunds Report, Tax Refund Report, and NCVTS Report

Motion made by Commissioner Westmoreland and seconded by Commissioner Griggs to approve all tax items. Motion passed unanimously.

g) Update to Southwestern Consortium Agreement - David Garrett, Workforce Director

Motion made by Commissioner Westmoreland and seconded by Commissioner Griggs to approve the updated agreement. Motion passed unanimously.

h) Planning Committee Discussion

Commissioner Griggs discussed her vision for long-term planning. Commissioner Griggs and Commissioner Stiles said they are for planning, not zoning. No action was taken on the proposed committee.

i) Fireworks Permit Request - McGuire's Millrace Farm

Motion made by Commissioner Phillips and second by Commissioner Griggs to approve. Motion passed unanimously.

**Chair/Commissioner Items**

Commissioner Stiles shared his concerns about a proposed negative easement at the airport access road and said he believes the Board should hold a public hearing. He also said that he does not believe the proposed land swap meets the criteria for fair market value.

**Closed Session**

Motion made by Commissioner Phillips and seconded by Commissioner Griggs to go into closed session to consult with the county attorney on the DSS lawsuit, and to receive legal advice concerning the earlier proposed noise ordinance. Motion passed unanimously.

## **Open Session**

After returning to open session, Commissioner Griggs made a Motion to rescind her previous Motion concerning the amendment to the noise ordinance. Motion seconded by Commissioner Stiles. Motion passed unanimously.

Motion made by Commissioner Griggs and seconded by Commissioner Stiles to amend the current noise ordinance to include the following:

*It shall be unlawful and strictly prohibited for any person, operation or facility to emit sound from said operation or facility that shall cause the ambient sound to exceed a continuous and sustained A rated sound level of 50 decibels as measured at any point not on the property of the person, operation or facility emitting the sound.*

Motion passed unanimously 3-2. Voting against the Motion was Commissioner Westmoreland and Commissioner Phillips.

Motion made by Commissioner Stiles and seconded by Commissioner Phillips to approve a last-minute tax refund in the amount of \$493.22 for Kathy Willis. Motion passed unanimously.

Motion made by Commissioner Griggs and seconded by Commissioner Stiles to retain the services of an environmental attorney to assist with updating the county's noise ordinance as it relates to crypto/data mining facilities. Motion passed.

## **Adjourn**

Motion made by Commissioner Stiles and seconded by Commissioner Phillips to adjourn. Motion passed unanimously.

## APPENDIX A

1. Comments concerning the absence of Exponential Digital employees for tonight's discussion.
  - a. During a power outage at the Ranger/Wingate Rd site, it was determined by the power company that a service line been shot, which caused a short in the power feed into the site. It was decided that for employee safety we would not have representative at tonight's meeting.
2. Comments concerning employees at both the Harshaw Rd Site and Ranger/Wingate Rd site.
  - a. All employees that handle the day-to-day functionality, maintenance, and upkeep of these locations are local residents. We are still in the process of hiring individuals to fully staff these locations to meet ongoing labor demands for maintaining these sites.
3. Comments concerning recent construction of a road on the property adjacent to the Harshaw Rd Site.
  - a. The property adjacent to the Harshaw Rd Site is not owned by Exponential Digital or any of its subsidiaries. The recent construction of an entrance into that parcel of land is for the company contracted for the state highway project to have a staging area for their materials (concretes culverts, drainage materials, gravel, etc.).
4. Comments concerning signage at both the Harshaw Rd Site and Ranger/Wingate Rd site.
  - a. The sign that reads "NOTICE, NO PHOTOS OR VIDEO ALLOWED" pertains to technicians, contractors, and/or designated visitors to the site. It is not directed at individuals that remain in the public right-of-way.
  - b. The sign that reads "CAUTION, Ear and eye protection required." pertains to technicians, contractors, and/or designated visitors to the site. It is not directed at individuals that remain in the public right-of-way.
  - c. The sign that reads "NO TRESPASSING, VIOLATORS WILL BE PROSECUTED" pertains to any individual(s) and/or group(s) that does not have explicit and advanced permission to be on the private property owned by Exponential Digital and its subsidiaries. No site managed by and/or owned by Exponential Digital and its subsidiaries is open to the public due to the confidentiality of our clients and required safety guidelines.
5. Comments concerning the sound from the Harshaw Rd Site.
  - a. Exponential Digital has been diligently working to identify ways to reduce and/or mitigate the sound at the Harshaw Rd Site. A sound survey study was conducted on December 28, 2021 to establish a baseline for the effect at several locations in the surrounding area. These locations were identified by the Cherokee County Board of Commissioner as residences

that had called with complaints about noise from the site. After the report and findings of that survey were reviewed, the current sound wall was erected to provide noise mitigation around most of the site with discussion to possibly complete the boundary pending the outcome of a follow-up sound survey. An additional sound survey was completed on April 13, 2022 at the same locations as the December 28, 2021 survey. The second sound survey showed decreases at several locations, with the only negligible increase being attributed to natural causes “such as birds, dogs, roosters, and breezes.” Before each of these sound studies, it was confirmed that equipment onsite was running at 100% of its operational capabilities to ensure levels were as consistent and accurate as possible.

- b. Technicians have developed a plan to transition away from the five (5) original containers that were installed at the Harshaw Rd Site. Although this will be a slow process to transition the machines onsite to other container/locations, work will begin on this plan early this week (week of April 18<sup>th</sup>). Onsite technicians have already established a baseline decibel reading around the boundaries of the location and will continue to monitor and record findings as changes are made throughout the movement process.