

**Planning Board / Board of Adjustments and Appeals**

**Regular Meeting**

**May 23, 2017**

**Minutes**

The Okeechobee County Planning Board/Board of Adjustments and Appeals met in regular session on Tuesday, May 23, 2017 at 6:00 p.m. in the Okeechobee County Health Department Auditorium, 1728 NW 9<sup>th</sup> Avenue, Okeechobee, Florida.

Board members present were Joey Hoover, Ted Kelchner, Debra Sales, Mack Worley, Jr. and Ron Zobel. Board members Mitchell Hancock and Rob Willson were absent. Also in attendance were Planning Director Bill Royce, County Attorney John Cassels, Planner Ty Hancock, Planner Jennifer Busbin and Administrative Secretary Tammy Beard.

**Chairman Ted Kelchner called the meeting to order at 6:02 p.m. and the Pledge of Allegiance was recited.**

**Agenda Item #1. Public Comment.**

There were no comments from the public.

**Agenda Item #2. Approval of Minutes.**

**Mack Worley, Jr. moved to approve the April 25, 2017 Minutes as submitted by staff. Debra Sales seconded the motion. The motion passed unanimously.**

**Agenda Item #3. Public Hearing, Petition S-2017-0755, Special Exception. SBA Towers IX, LLC, property owner and applicant. Request for a special exception to allow a 300-foot radio tower to be converted to a telecommunication tower in an Agriculture (A) zoning district. The property address is 11235 US Highway 98 North.**

Bill Royce presented the petition and described the surrounding area. He noted the property as being approximately 11 acres in area and is developed with a 300-foot guyed radio tower and is surrounded on all sides by properties in agricultural uses. Mr. Royce stated that SBA Tower purchased the property and would like to convert the radio tower to a telecommunications tower. He explained that County regulations had been updated since the installation of the radio tower and a special exception is now needed because the tower does not meet the required setback from the nearest property under separate ownership for a telecommunications tower. Mr. Royce stated that staff recommends that the Board of Adjustments and Appeals grant the request for a special exception to allow for a 300-foot

guyed telecommunications tower (antenna support structure) subject to several conditions that he reviewed with the Board.

Chairman Ted Kelchner asked for comments from the Board.

The Board briefly discussed the current regulations and the proposed conditions to be placed on the requested special exception.

**Chairman Ted Kelchner opened the public hearing.**

There were no comments from the public.

**Mack Worley, Jr. moved to close the public hearing. Ron Zobel seconded the motion. The motion passed unanimously.**

**Joey Hoover moved to grant the special exception to allow the 300-foot radio tower to be converted to a telecommunication tower based on the staff report and recommendations and subject to the following conditions as originally presented.**

- 1. The tower may be a guyed tower and shall not exceed 300 feet in height;**
- 2. Landscaping shall be provided around the base of the tower; and**
- 3. The site shall be maintained at all times.**

**Ron Zobel seconded the motion. The motion passed unanimously.**

**Agenda Item #4. Public Hearing, Petition S-2017-0754, Special Exception. Cattlemen's Market of Okeechobee, LLC, property owner and applicant. Request for a special exception to allow a livestock auction with a restaurant in an Agriculture (A) zoning district. The property address is 1849 NW 160<sup>th</sup> Street.**

Bill Royce presented the petition and described the surrounding area. He noted the subject property is approximately 100 acres in area and is zoned Agriculture (A). He stated the property has about 2,100 feet of frontage along the north side of NW 160<sup>th</sup> Street, a County-maintained collector road that connects two arterial highways, US Highway 441 North and US Highway 98 North. He stated the surrounding parcels are all zoned Agriculture (A) and are in agricultural uses, but that there is a residential area zoned Residential Mixed (RM) located about 2/3 of a mile to the west which is known as Edwards Subdivision. Mr. Royce stated that the proposed use is consistent with county regulations and with the adopted comprehensive plan. Mr. Royce stated that staff recommends that the Board of Adjustments and Appeals grant the special exception subject to several conditions that he reviewed with the Board.

Chairman Ted Kelchner asked for comments from the Board.

Attorney John Cassels spoke to the Board members noting that the Board was to base their decision solely on current land regulations and the proposed use of the property and that their personal interactions with the applicant or those in opposition were not to be considered as a basis for their decision in the matter.

**Chairman Ted Kelchner opened the public hearing.**

Court Reporter, Deborah Carmela Dew, FPR of Atlantic Reporting, was in attendance for the purpose of recording the meeting at the request of opponent Okeechobee Livestock Market.

Virginia Sherlock, attorney for applicant Greg Isbell, Cattlemen's Market of Okeechobee, LLC, addressed the Board. She stated she and the applicant both agreed with the staff report that was presented.

County Attorney John Cassels stated that since there were attorneys for both sides that the attorneys should decide whether they want those speaking on behalf of each side to be sworn in. Both attorneys stated they would like each speaker to be sworn. Mr. Cassels then swore in the potential speakers for both sides.

Attorney Sherlock called applicant Greg Isbell. Mr. Isbell stated the application that was submitted was true and correct and that he agreed to abide by the conditions recommended in the staff report.

Steve Dobbs, Steve Dobbs Engineering, addressed the Board on behalf of the applicant. He stated that the application that was submitted was true and correct.

Kathleen Berkey, attorney for the Okeechobee Livestock Market, addressed the Board. She stated that the use is inconsistent with the Okeechobee County Comprehensive Plan. She stated she is a planner and stated that she had reviewed the application, staff report and the submittals that went with it, and the comprehensive plan and zoning codes. She stated she believes the applicant has failed to meet the requirements and to show that they have complied with the requirements for obtaining a special exception.

County Attorney John Cassels stated that what the attorneys say is not testimony nor is it evidence to be considered in the Board's decision to vote for or against allowing the special exception. Board Member Mack Worley, Jr. clarified with County Attorney Cassels that the Board's job is to look at the land development regulations and not reputations or personalities of the applicant, opposition or speakers.

Kathleen Berkey continued, stating that she is also an attorney but is appearing in the capacity of a planner. Ms. Berkey submitted a written report to be entered into the record of her findings and in support of her testimony. Applicant attorney Virginia Sherlock objected to the admission of the report and requested five minutes to review the material.

Chairman Ted Kelchner recessed the proceedings for five minutes.

Chairman Ted Kelchner called the meeting back to order and recognized attorney Virginia Sherlock. Attorney Sherlock stated she objects to the admission of the report and to the testimony of Planner Kathleen Berkey stating it appears to be an attempt by opposition to counter the staff analysis and also that Ms. Berkey's qualifications to do so are not known.

Attorney Kate English, on behalf of an opponent to the petition, addressed the Board to properly voir dire Kathleen Berkey and requested that she be allowed to present her as an expert witness.

Planner Kathleen Berkey addressed the Board and presented her credentials and education as a Planner as well as an attorney along with her curriculum vitae. Ms. Berkey then reviewed her findings with the Board stating the current Okeechobee County Land Development Regulations do not support the applicant's request for a special exception and further that the area roads will not support such a business.

Jeff Clemons addressed the Board with regard to the economic impacts of a second livestock market in the county. Mr. Clemons discussed the topic and stated that the local economy will not support a second market.

Todd Clemons addressed the Board in opposition to the special exception with regard to the economic impacts of a second livestock market in the county. He presented specific numbers as to sales and commissions at the current livestock market of which he is currently part owner. Mr. Clemons also discussed the amount of and weight of vehicles and trailers used to haul livestock to and from the market and its affects on traffic and roadways. He stated that the site proposed for the new livestock market is on a county road and would have to be maintained by the county whereas the current livestock market is on a state highway and is maintained by the state at no additional costs to the Okeechobee taxpayers.

I.E. "Jim" Byrd addressed the Board. Mr. Byrd stated he is a professional cattle buyer and opposes a second livestock market in Okeechobee for economic reasons.

Hobart McCollum addressed the Board. Mr. McCollum stated that he opposes the addition of a second livestock market due to the impacts of the heavy vehicles on the road. He also expressed concerns over traffic speed and safety to other drivers with the addition of heavier weighted traffic and more traffic in general. Mr. Collum also noted the lack of turn lanes on the county road which would allow access to the new livestock market and the lack of road shoulders.

Tommy Rucks, Jr. addressed the Board. Mr. Rucks stated he opposes the addition of a second livestock market. Mr. Rucks stated he and his family own dairies on this road and often times there are slow moving vehicles such as tractors on the road. He stated with the current traffic, the road would be unsafe to travel with the addition of a livestock market at that location.

Carolyn Douglas addressed the Board. Ms. Douglas questioned the future land use and asked if it included a restaurant in the area. She asked if it did not, whether a change in

zoning would be required to accommodate a restaurant. Mr. Royce stated that zoning wouldn't necessarily have to be changed for the restaurant since it would be only an accessory use to the primary use of the livestock market.

Board Member Joey Hoover stated he noticed on the application that the restaurant is noted as being an accessory use. He stated it would seem that it would be more than an ancillary use since it is to be open more than just at the times the livestock market itself would be operating. There was some discussion about the restaurant and its status and whether it could be open five days a week. Mr. Hoover stated this could be problematic and that it needs to be addressed and should be operated as an ancillary use and not as a stand alone restaurant.

Amber Lindstrom addressed the Board. Ms. Lindstrom expressed her concerns regarding noise, traffic, decreased property values and lack of road shoulders. Ms. Lindstrom stated she is opposed to the livestock market at the proposed location.

Chairman Kelchner called for a five minute recess.

Chairman Kelchner called the meeting to order and asked if there is anyone else that would like to address the Board.

Colleen Harty addressed the Board. Ms. Harty stated she does not oppose the new livestock market and there are currently a lot of large and heavy vehicles that travel this road. She also stated she supports the livestock market restaurant as a nearby restaurant for the locals to patronize.

Woody Larson addressed the Board. Mr. Larson stated he opposes the addition of a second livestock market due to economic reasons stating he does not believe the current market will support a second market. He stated there is a limited number of cattle to market and this area will not support a second market. Mr. Larson stated that the cattle producers are the ones who will ultimately be hurt by a second market. He expressed concerns including freight charges with having a livestock market open on Thursdays since it would cause the people hauling the cattle to haul through the weekend in order to get to there destinations and that will cost more.

Angelina Ruiz addressed the Board. She stated she opposes the livestock market due to traffic concerns.

James Colgan addressed the Board. Mr. Colgan stated he opposes the livestock market due to traffic concerns. He also stated this is a commercial operation rather than an Agriculture use operation and should not be allowed for that reason.

Jeff Clemons addressed the Board for a second time. He stated that the application notes the dates of the founding of the cattle markets in Florida but four of dates are incorrect. He then proceeded to discuss the founding of several markets.

Attorney Kate English addressed the Board, stating that the Okeechobee County Land Use Regulations do not allow for a livestock market at this location and that zoning regulations have no authority to allow a special exception to do so for that reason. She stated the applicant has not provided competent evidence to support their application whereas the opposition has supplied multiple testimonies with competent evidence in support of not allowing such a market.

Attorney Virginia Sherlock addressed the Board regarding her client's application requesting the special exception. Ms. Sherlock stated that staff has recommended the approval of the special exception. She stated it is important to remember that this meeting is for the approval of a special exception and this development still has to pass the site plan review phase which will deal with ingress and egress, buffers and setbacks, and building heights. Attorney Sherlock again stated that this meeting is only for the special exception and nothing else.

There were no further public comments.

**Mack Worley, Jr. moved to close the public hearing. Joey Hoover seconded the motion. The motion passed unanimously.**

Board members continued to discuss the request for the special exception. Discussions continued at length on the topics of economic impact to the area and to the county, traffic, ingress and egress, the ancillary use of the restaurant, impacts and costs to maintain the county road on which the livestock market is to be located. There was continuing discussion on traffic impacts, noting that no traffic study had been submitted and discussing whether turn lanes into the property were warranted.

**Joey Hoover moved to table Petition S-2017-0754 and requested that staff and the applicant prove their point and clarify the adequacy of existing ingress and egress as well as the need for a turn lane and what the DOT engineer would recommend for the length and design of turn lanes for this type of heavy industrial use.**

**Debra Sales seconded the motion. The motion passed unanimously.**

Attorney John Cassels discussed with the Board a time certain for the petition to be presented a second time. After some discussion, it was the consensus to bring the petition back to the next regularly scheduled meeting in June.

**Joey Hoover moved to amend his motion to table the discussion on Petition S-2017-0754 until the next scheduled meeting on June 27, 2017, requesting an update on the status of the traffic study at that meeting.**

**Debra Sales seconded the amended motion. The motion passed unanimously.**

There being no additional business, the meeting adjourned at 8:42 p.m.

  
\_\_\_\_\_  
Ted Kelchner, Chairman

6-27-17  
Date of Approval

  
\_\_\_\_\_  
Tammy Beard, Secretary to the Board

6/27/17  
Date