



**CHEATHAM COUNTY BOARD OF ZONING APPEALS
MINUTES FOR SPECIAL CALLED MEETING JULY 19, 2016**

Chairperson Larry Nash called the meeting to order at 6:00 p.m.

Building Commissioner Franklin Wilkinson called the Roll of Members

Members Present: Roy Miles, Mark Whitworth, Mary Sneed, Burt Adcock, Larry Nash

Members Absent: None

Chairperson Larry Nash declared a quorum present.

Others Present: Michael Bligh, Rick Gregory, Henry Odem, Cynthia Odom, Cynthia Valdes, Hunter Valdes, Emily Valdes, Barbara Ann Ellis, Alex Whitfield Ellis, Diana Head, Paul Gelep, Joane Gelep, Sarah Andrews, Em Crabtree, Alexis Crabtree, Paul Mahaney, Martha Brooke Perry, Suzanne C. Hunt, Walter Weakley, Jean Wade, W. Wade, Denton Atteberry, David C. Risner, Meredith Craig, Curtis Craig, Diane Lovell, Donnie Jordon, Gary Binkley

Item to be Heard:

Chairperson Larry Nash Read a description of the item to be heard; On October 26, 2015 and November 23, 2015 the Cheatham County Board of Zoning Appeals (the "Board") conducted meetings to consider the application for a special exception under the Cheatham County Zoning Resolution to allow Calm K9, LLC to operate a business providing animal care, treatment and boarding services at 1985 Country View Drive, Chapmansboro, TN. The application was denied and Calm K9, LLC filed a lawsuit against the Board in the Circuit Court for Cheatham County. The case is *The Calm K9, LLC, acting by and through its Managing Member, Curtis Craig v. Cheatham County, Tennessee, acting by and through its Board of Zoning Appeals*, Case No. 6380. The case is set for hearing on July 25, 2016.

The Board has received a settlement offer to resolve the pending court case. The Board has scheduled a special called meeting on July 19, 2016 at 6:00 pm to consider the settlement offer. The Board has not yet discussed the offer and has not decided whether or not to accept the offer. The Board is providing this information to communicate a basic summary of what has been proposed. The proposed settlement offer may be accepted, rejected or modified at the meeting. The proposed settlement includes:

1. Granting the requested special exception to allow the business to operate for a period of one year. At the end of the one year, the matter would come back to the Board to consider whether to make the special exception permanent or to terminate it.
2. A limit on the total number of dogs that would be kept on the property. The property currently contains both dogs that belong to the owners and "client" dogs that are part of the business operations. The owners initially offered to limit the number of "client" dogs to 20. The owners have now offered to limit the total number of dogs to 35 but would need some time to reduce the total down to that number.

3. The owners have offered to allow periodic inspections of the property by County officials. It should be noted that the Board does not oversee County personnel and any inspections would be subject to the availability of County resources and the judgment of County officials. The County would additionally retain all its current rights to conduct inspections or investigations.

David C. Risner, Attorney representing the Calm K9, LLC., addressed the Board and presented a summary of the settlement offer as presented to the Board and members of the audience. Martha Brooke Perry, representing the opposition to the Calm K9, LLC addressed the Board and presented a summary of previous meetings, including points of contention including neighbor's ability to smell the dog's feces a quarter mile down the road, 68 recordings of the dogs barking, a sheriff's report from 3:30 AM, a special needs child that lives right next door with testimony from a doctor to the affect it has on this child. Her inability to sleep, anxiety level, and her stability. The real consideration is; do they deserve this special exception? This Board does not have the authority to grant a one-year temporary use and return to the Board for the request for a permanent use. The Commission would have to allocate special funds in inspect this use. Martha Brooke Perry requested that the Board not allow this special exception. Chairperson Larry Nash asked Franklin Wilkinson, Cheatham County Building Commissioner if he had any comments. Mr. Wilkinson stated that both side have presented their case and had no additional comments but he would entertain questions. Hearing none, Chairperson Nash requested comment from Cheatham County Attorney, Michael Bligh. Mr. Bligh stated that he was presented with the settlement offer and brought it before the Board. The court date is set for July 25, 2016. The board can discuss the offer and accept it or let it go to court. The decision could be upheld, the decision could be remanded to this Board, or the judge could reverse the decision and say they are entitled to the special exception. Chairperson Nash asked if the Board has the authority to grant the one-year temporary special exception. Mr. Bligh stated that the Board has the authority to grant the temporary special exception. Chairperson Nash opened the floor to the Board for discussion. Roy Miles stated that he went to the property on Sunday. The closest house was about a football field away and he did not smell anything or hear any dogs barking. The letter presented regarding the disabled child did not mention anything about disturbance from dogs barking. Mary Sneed asked if this use would fall within an agricultural use? Michael Bligh stated that it would apply to other livestock but not dogs. Mark Whitworth stated that requests for special exceptions that come before this Board are not necessarily granted. After further discussion a ****MOTION****to accept the settlement as presented was made by Mary Sneed; second by Roy Miles. The motion to accept the settlement offer failed by roll call vote. Roy Miles- yes, Mark Whitworth - no, Mary Sneed - yes, Burt Adcock - no, Larry Nash – no.

There being no further business Chairperson Larry Nash declared the meeting adjourned at 6:47 PM.

**ROY MILES III – SECRETARY
CHEATHAM COUNTY BOARD OF ZONING APPEALS**