

**HARRIS COUNTY BOARD OF COMMISSIONERS
REGULAR SESSION**

August 19, 2008
7:00 PM

Commissioners Present: J. Harry Lange, Charles Wyatt, Joey M. Loudermilk, Joe F. Manning, Patrick Whearley. Staff Present: Daniel B. Bridges, County Manager; John M. Taylor, County Attorney, Nancy D. McMichael, County Clerk.

1. **CALL TO ORDER.** Chairman Lange called the Regular Session to order.
2. **MINUTES.** The motion to approve the minutes of the August 5 Regular Session was made by Commissioner Loudermilk, seconded by Commissioner Wyatt, and passed unanimously.
3. **APPEARANCE OF CITIZENS**
 - A. **Property Tax Assessment: Charles Hart.** Charles Hart, citizen, appeared before the Board, and said that he and other concerned citizens are going to step back and wait until the tax bills come out, which should be in October. He also distributed listing of the 33 counties in Georgia that have some type of tax freeze in place and said that those counties are near large cities (Macon, Atlanta, Columbus, Savannah, etc.).
4. **OLD BUSINESS**
 - A. **Decision: Ordinance to Amend Section 3.5-3(b) of Article I, Chapter 3.5 of the Code of Ordinances to Prohibit Smoking and Tobacco Products in County Public Parks and/or Recreation Areas.** Chairman Lange said that two public hearings had been held and that action was tabled until this meeting in order to determine if there were better locations within the recreation areas for smoking, but because of health issues, John Magazu, Recreation Director, has been unable to meet with Danny Bridges, County Manager, regarding same. He asked that the Board again table action until the September 2 meeting.
 - B. **Second Reading: Ordinance to Amend Section 2-32(a) of Article II, Chapter 2 of the Code of Ordinances Regarding Review of Background Checks for Adult Volunteers in Recreation Programs.** Chairman Lange said that this is the second reading of an amendment to change the procedure regarding the review of background checks from the County Attorney to the County Manager and the County Clerk. John Taylor, County Attorney, said that one minor change had been made since the First Reading, and that was to insert wording to the effect that the County Manager or the County Clerk would consult with the County Attorney in notifying individuals who are disqualified of their disqualification. Chairman Lange asked if anyone in attendance wished to speak in favor of or in opposition to this amendment. There being, the motion to approve this amendment was made by Commissioner Whearley, seconded by Commissioner Loudermilk, and passed unanimously.
 - C. **Tax Assessment Letter to State Senator and Representatives.** Chairman Lange said that during the August 5 meeting, Commissioner Loudermilk made the motion to approve the letter and Commissioner Whearley tabled action to this meeting, and he asked for a second in order to continue discussion. Commissioner Wyatt seconded the motion. Discussion included that it needed to be clear as to limiting any assessment to 3% per year so that property not assessed one year won't receive an assessment of 6% the next year; and that the 3% cap does not apply if there is a change in the property (i.e. sale, major improvements), in which case the property would be reassessed according to fair market value current at that time. Following discussion, Commissioner Manning called for the question, which passed with a unanimous vote. Commissioner Loudermilk amended his motion to include rewording the letter to clarify the limitation on the cap, and Commissioner Wyatt amended his second. The motion passed unanimously.
 - D. **Property Tax Freeze.** Chairman Lange said that Commissioner Manning had requested that this be on the agenda. Commissioner Manning said that with the previous discussions (see 3A and 4C), no further discussion was needed.
 - E. **Resolution: Cable Franchise Fee Increase.** John Taylor, County Attorney, explained that the County currently receives franchise fees of 2% from cable companies; that the State recently changed the law to allow companies to go through the State for statewide franchises, and in doing so, counties are permitted to

receive franchise fees of up to 5% of the gross revenue generated within the jurisdictions of each county; that the County can choose to either leave the local franchise fee at 2% and approve the statewide franchise fee at 2%, make both franchise fees 5%, or leave the local at 2% and approve the statewide at 5%; and that during the past five years, the County has received \$235,777 in local franchise fees. Discussion included that the higher the franchise fee the County receives, the more the consumer will pay for the cable service.

Discussion was halted in order to hold the scheduled Public Hearing at 7:30 PM

5. **PUBLIC HEARING @ 7:30 PM**

- A. **Conflict of Interest Forms.** The Conflict of Interest forms were completed at the request of Chairman Lange.
- B. **Public Hearing Procedures.** Chairman Lange explained the procedures involved with the Public Hearing.
- C. **Application of George Montgomery for a Special Use Permit to add an additional 150 acres to Oakhill Cemetery at 13109 Georgia Highway 85, Waverly Hall.** Chairman Lange called Public Hearing to order, read the specifics of the application, and said that the Zoning Staff had recommended approval without conditions. George Montgomery, applicant, appeared before the Board and said that he desires to add the 150 acres during his lifetime so that the future growth of the cemetery is secure. There was a brief discussion regarding the buffer between the cemetery and Highway 85, after which Chairman Lange asked if anyone wished to speak in favor of or in opposition to this application. There being none, he closed the Public Hearing and asked for a motion. The motion to approve this Special Use Permit for the additional 150 acres was made by Commissioner Wyatt, seconded by Commissioner Whearley, and passed unanimously.

6. **OLD BUSINESS (CONTINUED)**

- E. **Resolution: Cable Franchise Fee Increase (continued).** Discussion continued regarding the proposed increase to include that a 5% fee would bring in more revenue, but it would be at a cost to the citizens since it would be passed on to them by the cable companies; and that we should determine if the cable companies build in the 5% fee which would mean more of a profit for them if the County opts to collect 2%. Chairman Lange tabled action to September 2.

7. **NEW BUSINESS**

- A. **Request for Tax Refund: Rita D. Williams.** Chairman Lange said that Rita Williams, citizen, had requested a hearing regarding her request for a refund of taxes and asked Mrs. Williams to explain her request. Mrs. Williams, appearing before the Board, said that her husband sold 4.02 acres of property in 1992 but the acreage was never deleted from their property, so she has been paying taxes on the 4.02 acres since then, that the new owners of the 4.02 acres have also been paying the taxes, and that she would like a refund of whatever money is due her. Discussion included that by State law, no more than three years of taxes can be refunded, and that the Tax Assessor's office had calculated that the taxes on the property, under conservation, came to \$88.55. The motion to approve the refund in the amount of \$88.55 was made by Commissioner Wyatt, seconded by Commissioner Manning, and passed unanimously.
- B. **CDBG Health Department Update.** Katie Howard, of the Lower Chattahoochee Regional Development Center (RDC), appeared before the Board and said that everything is progressing smoothly with the Health Department addition; that bids regarding same will open on the 29th; and that completion should be in March of 2009.
- C. **CDBG Prospective 2009 Applications.** Katie Howard, of the Lower Chattahoochee Regional Development Center (RDC), appeared before the Board and said that the applications for CDBG projects is due by April 1, 2009, but the sooner a decision is made as to whether or not the County wants to apply and for what, the sooner the RDC can get started with writing same. She reminded the Board to keep in mind that applications can be for up to \$500,000 and that the percentage of low-to-moderate income citizens benefitting from the project must be 70%, and that while grants can be for road improvements, \$500,000 will pave about a half-mile. Discussion included the possibility of extending the County's water line from where it now ends on Highway 116 east to Shiloh City Limits, for which the citizens of Shiloh could possibly be counted as benefitting from same, and possibly

a project to benefit low-to-moderate income citizens near the Northwest Harris Business Park . There was no consensus regarding a project, and Chairman Lange advised the Board to contact Danny Bridges, County Manager, with other possible projects for future discussion by the Board.

- D. **Financial Statement: June 2008.** Chairman Lange said that all departments, with the exception of one, came in under budget, and that the one department that went over did so by \$493.50. The motion to approve the June 2008 financial statement was made by Commissioner Wyatt, seconded by Commissioner Whearley, and passed unanimously.
- E. **Safety Discount Verification.** Chairman Lange said that this was the usual annual documents that needed to be approved in order to receive a 7.5% discount on our Workers' Compensation insurance. The motion to approve this document was made by Commissioner Whearley, seconded by Commissioner Wyatt, and passed unanimously.
- F. **Railroad Right-of-Way Acquisition.** Chairman Lange said that the Board would be having an Executive Session later in the evening concerning this matter, but that a citizen had signed up to talk about same. He then recognized Bobby Haralson and asked him for his comments.

Bobby Haralson, citizen, explained some of the history regarding the railroad right-of-way and action that has been taken by the Federal Government regarding same to include rail banking as a means to circumvent agreements between property owners and the railroad. He said that citizens, through whose land the railroad runs, should be told they can appeal to the Federal Government as a means to regain title to the railroad right-of-way, and that citizens should have been given a vote or say regarding the use of taxpayers' money being use to purchase the right-of-way. He also briefly discussed the recent property assessments and the tax increase associated with same.

8. **COUNTY MANAGER**

- A. **SPLOST Road List.** Danny Bridges, County Manager, said that the list provided in the meeting packet is of paved roads that are in the worst shape and need repair and resurfacing, and that bids for same will be requested as one project. There was a brief discussion regarding the need for a two-inch overlay for Hart Road, but a one-and-a-half-inch overlay for the other 17 roads. The motion to approve the list was made by Commissioner Wyatt, seconded by Commissioner Manning, and passed unanimously.
- B. **Surplus Property.** Danny Bridges, County Manager, said that a revised list of surplus property had been distributed prior to tonight's meeting, and reviewed same to include that the modular home currently on property in the Northwest Harris Business Park has been determined to be of no use to the County; that while the garbage truck runs, it is very old and not feasible to repair; that the remaining equipment/vehicles may or may not be in running/operating order; that there are title issues regarding the 1989 Blazer and 1987 Toyota, which may or may not be resolved in a timely manner. He recommended that the modular home be sold by sealed bid; that the remaining equipment and vehicles be sold by auction; that the 1973 Jeep Wrecker be donated to the Military Vehicle Club to whom similar vehicles were donated a few years ago; and that the County hold its own auction on a Saturday, for which he would contact auctioneers who live in Harris County regarding their charges/commission. The motion to declare the items on the list as unserviceable and surplus and to approve the recommendations of the County Manager, was made by Commissioner Manning, seconded by Commissioner Loudermilk, and passed unanimously.
- C. **Proposal Agreement: GEC Subsurface Evaluation (Daehan Site).** Danny Bridges, County Manager, reminded the Board that the County agreed to provide a pad-ready site for the Daehan building and part of that is to make certain that the compaction is right; and that GEC will perform the evaluation and certify the compaction. The motion to approve this agreement was made by Commissioner Wyatt, seconded by Chairman Lange, and passed with four in favor (Wyatt, Lange, Loudermilk, Whearley) and one opposed (Manning). (Document can be found in "Contracts & Agreements" file as C&A #08-37).
- D. **Development Authority Website.** Danny Bridges, County Manager, reminded the Board that the Development Authority retained funds from the sale of some County property but that the Board must approve the use of those funds; that at the last Development Authority members, at their last meeting, voted to spend \$5,625 for the development of its website; that an invoice has been received for \$2,812.50,

which is 50% of the total cost; and that the Board must approve same before the invoice is paid. The motion to approve the \$5,625 for the website development was made by Commissioner Wyatt, seconded by Commissioner Whearley, and passed unanimously.

- E. **Melody Lakes Park.** Danny Bridges, County Manager, said that citizens in Melody Lake have begun to get more organized and be more involved in their community; that they would like the County to consider participating in the building of a park inside Melody Lakes; that they are looking at \$30,000 to \$40,000; that should the Board go forward with participating, there will be other communities coming forward making the same requests; that if the County does participate, it is suggested that it become a public/private partnership where the community and the volunteer fire department would get private donations that the County could possibly match; and the question tonight is whether this is something the Board would be interested in moving forward with and helping to improve the community. Ben Reeves, citizen of Waverly Hall, said that they hope to get donations and possibly \$10,000 to \$20,000 from the County, to get started; that the property would need to be filled in and that the old swimming pool has already been filled in; that the largest cost will be playground equipment around \$10,000; and that they don't yet have all the costs. There was discussion regarding ownership of the property on which the park is planned during which Bill Waltman, Chief of the Melody Lakes VFD, said that the property may be owned by the County. Commissioner Loudermilk said that he is impressed with what Melody Lakes has been doing; they have organized a neighborhood watch; that the morale in the community is higher than it has been for some time; that the park is a very worthwhile project, but more work is needed as far as figuring out exactly how to do it; that private funds can be raised; and that he is in favor of the project. Following discussion, Mr. Reeves was asked to complete the plan and work with Mr. Bridges, who is also to find out about the property ownership.
- F. **Rodeo Access via Ansley Farm Road.** Danny Bridges, County Manager, said that the realignment and paving of Highway 116 near/on the Agri-Center property is causing problems with access to the Agri-Center property; that there is a road, called Ansley Farm Road, on the east side of the Agri-Center property and used by two or three families that live on that road; that the DOT project has basically taken all the parking from the Agri-Center property as well as making ingress to same very difficult; that it was suggested that an access road be cut from the Agri-Center property to Ansley Farm Road, which is not a County road on the road register and not maintained by the County, but is actually on County property; that the families that live on Ansley Farm Road have been maintaining the road for those years; that the Agri-Center would like the access to be used by the participants of the Rodeo and have the visitors to same use the parking lot near the Soccer fields. He distributed photos showing views of Ansley Farm Road and from that road looking north and south on Georgia Highway 116. He said that if the Board decides to allow the access, some minor improvements will be necessary because Ansley Farm Road is a one-lane road, but there is a safety issue in the curve where Ansley Farm Road intersects with Highway 116 so a deputy may be needed, and that because of the design of the realigned Highway, after the project is complete there will still be a challenge to get trucks and horse trailers in and out of the property; that the access to Ansley Farm Road could be temporary; that it is not being suggested for it to be permanent, but when the Highway project is complete, the site distance will be improved and may be safer; and that it may be necessary to put up a gate between the Agri-Center property and Ansley Farm Road; and then after the project is complete, the Board could re-evaluate the road situation. Mr. Bridges said that several individuals signed up to speak about this matter.

Chris Butzon, citizen, appeared before the Board and said that he has lived at Ansley Farm since 1975; that Ansley Farm Road has been used as their exclusive means of getting to and from their property on a full-time basis since 1975 and on a part-time basis in 1963 when the land came into the Luce (his wife's) family; that his family, the Luce family, and the Shumate family have been exclusively responsible for the maintenance of the road since 1976; that they mow it, pick up trash, grade it, and put gravel on it; that as far as he is concerned it is their road; that he understands that the road was placed on County property, but through the principles of adverse possession, it is their road; that he feels at a minimum they have an easement to and rights to the road; that they have lived in privacy for many years and opening up the mouth of the road will invite the public to venture further; that the natural vegetative buffer between his property and the rodeo has been removed; that they can hear what is going on during the rodeo better than those attending the event; that they want to be a good neighbor to the rodeo association; that they understand there are plans to increase the number of activities at the Agri-Center; that they were unaware of the access road until they saw it being constructed; that using Ansley Farm Road for one year for access to the rodeo is acceptable, but then

afterwards, they would like to see the access road removed and the buffer replanted; that having deputies to handle traffic sounds great in principle, but rodeo participants start arriving about five days before the event and stay about five days afterward; that they are glad the State is straightening Highway 116; and that having the access road on a one-time basis is okay, but not on a permanent basis. He also asked if, because they have been maintaining the road for years, will they be reimbursed for same. Discussion included that what is now Ansley Farm Road used to go through the middle of County property, and it was moved to the edge of the County property; that the roads divides the County's property from the Shumate property for about 300 yards and then from Ansley Farm for about 300 yards; that Mr. Butzon has a right to use the road, but that adverse possession or prescriptive rights do not run against a governmental entity; that the road (in its former location) used to go through to Mountain Springs to Morgan Copeland Road and on to Shiloh.

Morris Shumate, citizen, said that Mr. Butzon pretty well covered his concerns.

Phil Shumate, citizen, said that when he built his house about five years ago, he contacted Jimmy Evans, Public Works Director, to make sure it was okay to use Ansley Farm Road to get to his house, and Mr. Evans said that it wasn't a County road.

Discussion included accessing Ansley Farm Road from the Agri-Center property for this year; that to do so would require some upgrading because it is a one-lane road; that when Highway 116 is completed, Ansley Farm Road will be extended out to the new location; that there is not a lot of traffic showing up prior to the rodeo except on Friday. Following discussion, the motion to access Ansley Farm Road from the Agri-Center property for this year, upgrade the front section to allow for two-lanes of traffic, and then revisit the matter to fully resolve the situation once DOT has completed the realignment project was made by Commissioner Wyatt, seconded by Commissioner Loudermilk, and passed unanimously.

9. COUNTY ATTORNEY

- A. **Agreement: DOT Inmate Work Details.** John Taylor, County Attorney, said that this is essentially the same agreement the Board has had with DOT for two inmate work details; that it should actually be between the County and DOT rather than the Prison and DOT; that DOT provides the transportation, tools and equipment, and pays the County \$39,500 for each of the two Correctional Officers. The motion to approve this agreement was made by Commissioner Loudermilk, seconded by Commissioner Wyatt, and passed unanimously. (Document can be found in "Contracts & Agreements" file as C&A #08-38.)
- B. **Agreement: School Resource Officer.** John Taylor, County Attorney, said that this agreement is between the School Board, the County, and the Sheriff concerning the Resource Officer, a deputy employed by the Sheriff's Office, who will be at the high school during the school year (180 days); that the School Board will pay the deputy's full annual salary of \$40,453 even though she will not work at the school during the summer months, and will be performing other deputy duties through the Sheriff's Office; that the deputy will not be permitted to take vacation during the school year, but must do so during the summer; and that he recommended approval of same. The motion to approve this agreement was made by Commissioner Whearley, seconded by Commissioner Loudermilk, and passed unanimously. (Document can be found in "Contracts & Agreements" file as C&A #08-39.)
- C. **Agreement: Third Amendment to Intergovernmental Agreement with Development Authority and Warranty Deed from the County to the Development Authority (re: Hoover).** John Taylor, County Attorney, said that this is the third amendment to the Intergovernmental Agreement with the Development Authority, the entity having power to undertake economic development and will hold title to the property in order to develop same; that the original agreement stipulates that pieces of property will be transferred to the Authority from time to time pursuant to an amendment to the agreement; that the Authority has approved the agreement; that this amendment is to transfer the fee simple title of 26 acres in the Northwest Harris Business Park; that the Authority will hold the property and lease same to Hoover Universal for commercial industrial development; that the Authority will construct a building on the property with industrial development bonds which have been validated; that this agreement will continue throughout the period of time the Authority owns the property; and that any net proceeds, in the event Hoover exercises the option to purchase the property, comes back to the County for reimbursement of money expended to purchase the business park and any other expenses. He said that the first two amendments dealt with the Dollar General store in Cataula and with Xpress Materials, and that there is one in the hopper for

Daehan. Discussion included that Hoover Universal, maker of the car seats for Kia, is a wholly-owned subsidiary of JCI who owns all the stock in Hoover. Mr. Taylor recommended approval of the agreement and of the warranty deed to transfer the 26 acres stipulated in the agreement. The motion to approve both the agreement amendment and the warranty deed was made by Commissioner Wyatt, seconded by Commissioner Loudermilk, and passed by a vote of four in favor (Wyatt, Loudermilk, Lange, Whearley) and one opposed (Manning). (Documents can be found in "Contracts & Agreements" file as C&A #08-40.)

9. **RECESS FOR EXECUTIVE SESSION.** The motion to go into Executive Session for the purpose of discussing real estate acquisition was made at 9:16 PM by Commissioner Wyatt, seconded by Chairman Lange, and passed unanimously.
10. **RESUME REGULAR SESSION.** The motion to go back into Regular Session was made by Chairman Lange, seconded by Commissioner Wyatt, and passed unanimously.
11. **OTHER**
 - A. **NACO Prescription Cards.** Commissioner Whearley asked about the status of the prescription cards from NACO. Nancy McMichael, County Clerk, said that she had not had time to check on the status since the last meeting but will make certain she does so prior to the September 2 meeting.
 - B. **Animal Shelter with the Humane Society of Harris County.** Commissioner Whearley asked about the status of the lease with the Humane Society of Harris County for the site at the Landfill. Nancy McMichael, County Clerk, said that the original lease was with Morning Star; that the Board approved that document, but execution by Morning Star was delayed by not having the plat and then the re-organization of Morning Star, which became the Humane Society of Harris County; that after the plat was received, the acreage for the shelter was increased, which required a plat revision that was recently received; and in November 2007, the Board directed her to make the appropriate name changes, to the size of the property, and revising the dates, then to send to the Humane Society, who now has it, to review before it comes back to the Board for reapproval with all the changes. Commissioner Wyatt said that from what he understands, the prospective donors for the organization are scared of the 20 year lease, and John Taylor, County Attorney, explained the reason for having an initial 20 year lease with automatic renewable five-year terms is more advantageous for the County to maintain control over same, plus the agreement includes reasons for termination of the agreement.
12. **ADJOURNMENT.** The motion to adjourn was made by Commissioner Wyatt, seconded by Commissioner Manning, and passed unanimously.

J. Harry Lange, Chairman

Attest:

Nancy D. McMichael, County Clerk