

HARRIS COUNTY BOARD OF COMMISSIONERS
REGULAR SESSION
September 16, 2008
7:00 PM

Commissioners Present: J. Harry Lange, Charles Wyatt, Joey M. Loudermillk, 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**
 - A. **Appeal Hearing of West & Delia Moore of September 2, 2008.** The motion to approve the minutes of the September 2 Appeal Hearing of West & Delia Moore was made by Commissioner Manning, seconded by Commissioner Whearley, and passed unanimously.
 - B. **Regular Session of September 2, 2008.** The motion to approve the minutes of the September 2 Regular Session pending review of the missing pages by the County Manager (last two pages were not included in packet) was made by Commissioner Loudermillk, seconded by Commissioner Wyatt, and passed unanimously.
 - C. **Called Session of September 8, 2008.** The motion to approve the minutes of the September 8 Called Session was made by Commissioner Manning, seconded by Commissioner Whearley, and passed with four in favor (Manning, Whearley, Lange, Wyatt), no opposition, and one abstention (Loudermillk, who was not present during the Called Session).
3. **OLD BUSINESS**
 - A. **Second Reading: Application of Abla Dagher for Beer & Wine On Premises at Club D, located at 609 Butts Mill Road.** Chairman Lange read the specifics of the application and said that it has been recommended for approval by the Sheriff's Office based on no criminal history, for disapproval by the Health Department based on there being no kitchen in the building (required for on-premise alcohol licenses), and for disapproval by the Community Development Department based on there being no room for and not marked for 20 parking spaces, the distance of 160 feet to a residence, no kitchen, and the business license for same not being in Abla Dagher's name. Bechara Dagher, son of Alba Dagher and manager of the Carriage & Horses Restaurant, appeared before the Board and said that business, to be called "Club D", will not be a nightclub, but a place for weddings, parties, and overflow from his restaurant; that his clientele is age 50 and up; that his operation is good; and he invited everyone to visit. Chairman Lange asked if anyone wished to speak in favor of this application. [Note: for descriptive purposes, the term "Carriage & Horses" means Mr. Dagher's existing restaurant, and "Club D" means the proposed restaurant.]

Frank Boykin, citizen, appeared before the Board and said that Mr. Dagher had previously leased property from him and that he never had any problems with Mr. Dagher, who treats everyone with respect, is a decent person and a man of his word.

Harry Boyd, citizen, appeared before the Board and said that he has known Mr. Dagher since he came to Pine Mountain; that Mr. Dagher runs a quality restaurant (Carriage & Horses) with continental cuisine, is an asset to the community, and needs more space for weddings and business parties; that Club D is really part and parcel of a fine quality restaurant; that the residence in question is Mr. Dagher's home; that there is a tremendous parking area; and that the application should be approved.

Ken Smith, citizen, appeared before the Board and said that he has known Mr. Dagher about 15 years; that he often refers the clientele of his bed and breakfast to Carriage & Horses; that he has never heard complaints about the restaurant; that Mr. Dagher runs a quality establishment, has a license to serve beer and wine there, and he should be able to do so at Club D.

Robert Taylor, citizen, appeared before the Board and said that he has been in Carriage & Horses on many occasions; that he has enjoyed the food, wine and ambience; that the atmosphere is pleasant, peaceful and quiet; that he believes Club D would be run in the same manner; and he asked that the permit be granted.

Steve Cavett, citizen, appeared before the Board and said that he is retired from the LaGrange Police Department; that he has known Mr. Dagher a couple of years and

has been to Carriage & Horses several times; that he has never observed any loudness or misbehavior there; that there is adequate parking for Club D; that he has been in Club D and it is not a dance bar, but an addition for the accommodation of weddings and banquets; and he asked that the Board take this into consideration in granting the license.

Antonio Lutterbach, citizen, appeared before the Board and said that he has known Mr. Dagher for a while, helps him with his horses almost everyday, and drives a carriage at Carriage & Horses on Fridays and Saturdays at no charge to the customers; and that Carriage & Horses has good food, good atmosphere, good service, and is quiet.

Nancy Epstein, citizen, appeared before the Board and said that Mr. Dagher and his family have been her personal friends for at least 8 years; that Mr. Dagher is very loving to every senior citizen who has visited Carriage & Horses; that Carriage & Horses is first-class with the clientele ranging from age 40 to 90; that beer and wine is currently served at Carriage & Horses and should be served in Club D since it is on the same property; that large groups frequently visit Carriage & Horses and additional space is needed; and that Mr. Dagher supports Harris County and has done more for children than any other business in Harris County.

Chip Stevens, citizen, appeared before the Board and said that Mr. Dagher's property is about one-half a mile from any other home and has been improved and expanded over the past 10 years; that Mr. Dagher has spent almost a year improving the barn for special events; that he doesn't know anyone who has contributed more to the Chambers of Commerce, the Catholic Church, and to various charitable events than Mr. Dagher; that Mr. Dagher used to live upstairs over Carriage & Horses and his mother still lives there; that he finds it hard to believe that Mr. Dagher would build something that would cause problems; that his residence should not be an issue; that Carriage & Horses is first-class; and that the license for Club D should be granted.

Jacqueline Dagher, daughter of Bechara Dagher, appeared before the Board and said that her father's main focus is the community; that businesses have their Christmas parties at Carriage & Horses; that everything for Club D is for the community; that the clientele of Carriage & Horses is not rowdy and loud; and that she goes to college, but lives at home and goes to bed at 10 or 11 at night and noise is never an issue.

Huck Camp, citizen, appeared before the Board and said that he lives about 600 yards from Carriage & Horses, where he and his wife often eat, is first-class and caters to high-end folks who want a nice, quiet dinner; and he asked the Board to approve the license for Club D.

There being no further comments in favor, Chairman Lange asked if anyone wished to speak in opposition.

Dan Ertle, citizen, appeared before the Board and said that he doesn't have problems with Mr. Dagher, who is a nice person, easy to get along with and always happy, his personality or character or Carriage & Horses; that the problem is that until today, Club D has been presented as a nightclub, a club, a place to socialize after hours and is less than 50 feet from his (Ertle's) property line; that a 16' barrier fence has been erected; that he toured Club D while it was being built and was shown a dance floor, a bar, and pool table, not a foyer, a tea room and a sitting room, and in conversations regarding Club D, he never heard references to a tea room, a sitting room, a foyer or a place where people can go into to sit; that until recently there were no chairs and tables inside; that if approved, nothing will prevent the tables and chairs from being removed and becoming a full-fledged nightclub with people leaving at 2:00 in the morning; that horse lessons are given almost daily to girls, teenaged and under, who have been abused; that not only can he hear when someone coughs on Mr. Dagher's property, he can hear the radio playing; that his primary problem is the advertisement as a nightclub and not as a restaurant, a tea room, or any other "feel good, political, push-it through wording" with the hours of a nightclub; and that "if it walks like a duck, talks like a duck, it's a duck". At the request of Commissioner Loudermilk, Mr. Ertle pointed out the barns (shown on an aerial photo) on his property which are used for the horse lessons and shows.

Jill Reynolds, citizen, appeared before the Board and said that the problem is not anything about Mr. Dagher or Carriage & Horses, but with Club D; that based on Mr. Dagher's description of Club D - receptions, weddings, and parties - she questions whether it is going to be open to the public or exclusive for special events; that she doesn't believe many of the over-50 clientele of Carriage & Horses can make it until 2:00 AM; that Mr. Dagher's character, business and products is not the question; and that from what she has heard and seen, it sounds like Club D will be a bar, rather than just a place to go and sit to have wine after dinner. Commissioner Whearley

commented that Mr. Dagher has not indicated the establishment would be open until 2:00 AM, and Commissioner Wyatt said that the Ordinance allows those hours.

Leigh Ellen Roberts Ertle, citizen, appeared before the Board and said that the issue is not about Mr. Dagher's character or Carriage & Horses, but about how Club D has been advertised as a nightclub; that if the license is approved, Mr. Dagher can do anything he wants; that the area is agricultural; that Club D will attract the wrong kind of people, is too close to a residence and there is no kitchen; that pool tables are in the building; that there is no need for Club D as an over-flow from Carriage & Horses for late-night activities; that if approved, Club D will be an intrusion for her family to accept next door; that Carriage & Horses is fine and she has no problems with it and appreciates the fact the property has been improved. In response to a question from the Board, Mrs. Ertle said she has not had any problem with Mr. Dagher but with others from the property.

Mary Ellen Roberts, citizen, appeared before the Board and said that she believes in following Ordinances, and if it is bent for one person, it has to be bent for others; that Ordinances should be followed; and that people shouldn't be allowed to push their way through.

Ronnie Roberts, citizen, appeared before the Board and said that the discussion is not about Mr. Dagher's character and the good food at Carriage & Horses, but for a license for which he has to meet certain requirements; that the applicant is not a US citizen, which is enough to deny the license; that he can't understand why Mr. Dagher can't use Carriage & Horses for special events and use the barn (Club D) for overflow; that Club D could be used without the beer and wine license; that Mr. Dagher's residence is too close to Club D; that if the license is granted, he can do what he wants; that he (Roberts) doesn't have any issues with Mr. Dagher but with having Club D approved; and he asked that the application be denied.

There being no further comments in opposition, Chairman Lange asked Mr. Dagher for rebuttal.

Mr. Dagher said that he is a very nice person; that Club D was never meant to be a nightclub; that originally it was to be an extension of Carriage & Horses, but that to make business you sometimes have to advertise big things; that when he made the application, he was asked for a name so he named it "Club D", but it is not a nightclub; that to make use of the barn he got a permit for renovation, but did not know he needed a different type of permit to remodel the barn; that he is not trying to attract people from the road; that Carriage & Horses is open Thursday, Friday and Saturday; that Club D has a big-screen TV and a pool table, which he can remove; that he obeys the law; that he has worked hard to get where he is; that he came to the US more than 20 years and had his green card before marrying an American woman; that he respects everyone and is not putting in a nightclub; that he has improved the property; that he has a family business; that he has spent over \$40,000 to improve the barn; that he is ready to put in a kitchen if the license is approved; that the Health Department said he doesn't need a kitchen and can serve in the new establishment from the restaurant (under Health Department regulations); that there is noise from the horse shows, but he wants them to be prosperous, and the program for abused girls is wonderful; and that he believes in America, is proud to be in America, and respects his community. In response to questions from the Board, Mr. Dagher said that Carriage and Horses is open at 6:00 PM and finished by 9:30 or 10:00 and sometime people stay a little later, but by 11:00 PM, people are gone; that tables and chairs are in Club D as is a big-screen TV and a pool table; that the chairs are French chairs; and the place is very nice, elegant and is just an extension of Carriage and Horses.

There being no further comments, Chairman Lange asked John Taylor, County Attorney, to review the issues raised in regard to the Ordinance. Mr. Taylor said that under the Ordinance, the County does not license bars, nightclubs, or lounges, but licenses beer and wine to be sold in restaurants, and he read the definition for same. He said that Club D cannot be an extension of an existing facility, and is a stand-alone establishment for the purposes of this Ordinance and must comply with all aspects of the Ordinance; that if Club D is only for special events, there is a special events permit that could possibly be applied for; that the Ordinance does not allow for discretion - if it meets the requirements, the license can be granted, but if it does not meet the requirements, the license cannot be granted; that an establishment cannot be closer than 200 yards from a residence and the Ordinance does not make any distinction for who lives in the residence; and that distance is measured via the traveled roadway from the building to a residence.

Chairman Lange asked for a motion. The motion to disapprove the application was made by Commissioner Manning on the grounds that Club D does not meet the requirements of the Alcohol Ordinance, and the motion was seconded by

Commissioner Loudermilk. Discussion included that Section 6-59(a) of the Ordinance reflects the applicant must be a US citizen and a resident of the State of Georgia, and that while the building could possibly be used as a Special Event Facility, it cannot be licensed for same because it has to also meet the distance requirements. Chairman Lange asked for a vote on the motion to disapprove. The motion passed with four in favor (Manning, Loudermilk, Lange, Whearley), no opposition, and one abstention (Wyatt).

Chairman Lange said that the application was denied; that the Ordinance has to be followed; and that while he and others have enjoyed meals at Carriage & Horses and can attest as to the kind of establishment Mr. Dagher runs, the license could not be granted. Mr. Dagher asked if he could open a restaurant without serving beer and wine, and the Board indicated a restaurant could be operated as long as all the requirements and regulations of the Health Department and County are met.

3. NEW BUSINESS

A. **Proclamation: American Business Women's Association Day.** Chairman Lange read the document proclaiming September 22 as American Business Women's Association Day in Harris County. The motion to approve the proclamation was made by Commissioner Wyatt, seconded by Commissioner Loudermilk, and passed unanimously. Joan Holder, President, and Susan Brazeale, a membership chairman, of the local chapter of the American Business Women's Association, were present and thanked the Board for recognizing their organization.

B. **Proclamation: Constitution Week in Harris County.** Chairman Lange read the document proclaiming September 17-23 as Constitution Week in Harris County. The motion to approve the proclamation was made by Commissioner Loudermilk and seconded by Commissioner Whearley. Commissioner Loudermilk commented that as an attorney for 30 years, he appreciates the Constitution; that this is one of the most important historical documents, is the foundation of all the laws in the United States, established the governments in the United States, and from the document comes the three branches of government, checks and balances, due process of law, the right to bear arms, the freedoms under the Bill of Rights, and trial by jury; that it has been amended 27 times; and that the State of Georgia was the fourth state to ratify the Constitution on January 2, 1788 by unanimous vote. The motion to approve this proclamation passed unanimously. Marilyn Waller, of the Oglethorpe Chapter of the Daughters of the American Revolution, was present and thanked the Board for approving the proclamation and said that copies will be placed in the local schools.

C. **DOAS Surplus Property Documents: Designation of Officials/Selectors and Non-Discrimination Assurance.** Chairman Lange said that these documents are adopted by the Board every two years; that there are a couple of changes since the last documents were approved - replacing Carol Silva's name with Danny Bridges and replacing Jimmy Evans' name with Allen Culpepper. The motion to approve the documents was made by Commissioner Wyatt, seconded by Commissioner Whearley, and passed unanimously.

D. **Development Authority Budget (July 08 - June 09).** Chairman Lange said that the Chairman of the Development Authority, who could not be here tonight, has requested that this matter be tabled to the October 7 meeting.

4. COUNTY MANAGER

A. **Bid Award: Modular Home.** Danny Bridges, County Manager, said that bids were received for the modular home presently located on property in the Northwest Harris Business Park, as follows:

Bidder	Bid Amount
Mildred Hovey	\$ 550.00
Ronnie Baxley	\$ 1,052.00

Mr. Bridges reminded the Board that it had declared the modular home as surplus property and that it would cost about \$5,000 to have the home removed. The motion to award the bid to Ronnie Baxley for the high bid of \$1,052.00 was made by Commissioner Wyatt, seconded by Commissioner Loudermilk, and passed unanimously. Regarding the condition of the property on which the home is located, there should be no issues regarding same since it will have to be graded and cleared before the County can do anything with the property.

B. **Vehicle Auction.** Danny Bridges, County Manager, reminded the Board that it had

declared a number of vehicles and equipment as surplus; that Wayne Evans has contacted the County about included the items in an auction taking place in Columbus; that Mr. Evans will take the vehicles to Columbus, bring back those that don't sell, and won't cost the County anything since his fee comes from the 10% buyer's premium; that this might be a better option for the County rather than trying to have its own auction since more people would attend the larger auction; and that Mr. Evans has estimated we have between \$35,000 and \$40,000 worth of items. The motion to have the surplus items included in the auction taking place in Columbus and being conducted by Wayne Evans was made by Commissioner Loudermilk, seconded by Commissioner Wyatt, and passed unanimously.

- C. **Letter of Support for Georgia Association of Code Enforcement.** Danny Bridges, County Manager, said that a request has been made for a letter of support, and he asked Nancy McMichael, County Clerk, to explain the request. Mrs. McMichael said that the GACE is asking for a letter of support in their quest to have the State of Georgia recognize the training that they provide through the University of Georgia's Carl Vinson Institute as the official training for code enforcement officers. Following a short discussion, Commissioner Manning tabled this matter until the October 7 meeting.

5. **COUNTY ATTORNEY**

- A. **Resolution: Cable Franchise Fee (statewide).** John Taylor, County Manager, said that this Resolution has been tabled several times; that a law was passed to allow cable companies to apply for a statewide franchise through the office of the Secretary of State; that once a cable company applies for and receives approval for a statewide franchise, the local franchise is no longer applicable; and he reminded the Board that the County's local franchise fee is 2%. Following discussion, the motion to approve the Resolution to adopt a Statewide Franchise Fee in the amount of 2% was made by Commissioner Manning, seconded by Commissioner Loudermilk, and passed unanimously.

6. **OTHER**

- A. **Commission Gentlemens' Agreement.** Commissioner Manning said that last week a matter came up about some road work in his district that was initiated by another Commissioner, and he would like the Board to have a "Gentlemens' Agreement" whereby the Commissioner in whose district something is taking place as a result of another Commissioner is notified about what is going on rather than finding out after the fact. Chairman Lange said he agrees with Commissioner Manning about such notification and reminded the Board that in the job description of the County Manager, it indicates that the County Manager is responsible for issuing directives to Department Heads; that as elected members of the government, it is unfair for a Commissioner to issue an order to a Department Head/employee because that individual may feel pressured into doing something that is scheduled for a later time or for which there may be circumstances as to why the matter should not be dealt with at that time; that such directives should go through Danny Bridges, County Manager, so that he can contact the Department Head; and that in this instance a Commissioner was contacted by a constituent who lives in his district but who owns property in another district. Chairman Lange said that Mr. Bridges will discuss this topic during his next Department Head meeting. Commissioner Wyatt said that six weeks down the road, he doesn't want to hear any "crap" about a Commissioner doing something because someone called that Commissioner, which is what he did in this particular instance; that this type of thing has been going on for the six years he has been in office, and it will probably happen again; and in this instance, he did go through Mr. Bridges, who was told that the work had been done when it hadn't. Chairman Lange said that he may not have all the facts surrounding this instance, but if that was the case, then it should be up to Mr. Bridges to find out why the work was not done, as he had been told, and to handle any disciplinary action that may be necessary.

7. **ADJOURNMENT.** The motion to adjourn was made by Commissioner Manning, seconded by Commissioner Wyatt, and passed unanimously.

J. Harry Lange, Chairman

Attest:

Nancy D. McMichael, County Clerk

