

**HARRIS COUNTY BOARD OF COMMISSIONERS  
REGULAR SESSION**

February 17, 2009  
7:00 PM

Commissioners Present: J. Harry Lange, Charles Wyatt, Joey M. Loudermilk, Patrick Whearley. Absent: Joe F. Manning (mother's surgery). 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 February 3, 2009, Regular Session was made by Commissioner Loudermilk, seconded by Commissioner Wyatt, and passed unanimously.
3. **NEW BUSINESS**
  - A. **Resolution of Appreciation: Jimmy Evans.** Chairman Lange read the resolution honoring Jimmy T. Evans, Jr., for his commitment to the County during his employment as Heavy Equipment Operator and as Warden/Public Works Director. The motion to approve the Resolution was made by Commissioner Wyatt, seconded by Commissioner Loudermilk, and passed unanimously.
  - B. **Minor in Possession of Alcohol: Mike Jolley.** At the request of the Board, Sheriff Mike Jolley discussed his request for a County Ordinance mirroring the State Law concerning a minor in possession of alcohol. Following discussion, there were no objections to John Taylor, County Attorney, moving forward with drafting an Ordinance for consideration by the Board.
  - C. **Video Game/Poker Machines: Mike Jolley.** At the request of the Board, Sheriff Mike Jolley discussed his request for a County Ordinance banning video game/slot/poker machines. Following discussion, there were no objections to John Taylor, County Attorney, looking into this matter and reporting back to the Board.
  - D. **County Right of Way and Four Wheelers/ATVs.** Commissioner Wyatt said that since the rail line right of way is almost cleared, individuals on four-wheelers and ATVs have been going up and down the rail line and that something needed to be done regarding same. Discussion included that dirt bikes are also using the rail line and that the County currently has an ordinance regarding damage to right of way by such vehicles, which can be amended to prohibit such vehicles on the rail line; that when the ordinance specifically related to the rail line is drafted, it would also include similar, if not the same, prohibition; and that violations are difficult to enforce unless citizens are willing to testify that specific individuals were seen/are damaging right of way or riding the rail line. Following discussion, John Taylor, County Attorney, was directed to draft the necessary amendment to the appropriate Ordinance.
  - E. **Financial Statement: December 2008.** The motion to approve the financial statement of December 2008 was made by Commissioner Wyatt, seconded by Commissioner Whearley, and passed unanimously.
  - F. **Error & Release Requests.** Chairman Lange read the Error & Release requests as follows:
    - (1) Ellerbee, Summer: Digest Total of \$18,831 corrected to zero (delete from pre-bill and add to homestead digest)
    - (2) Fuson, Bruce: Digest Total of \$11,036 corrected to zero (mobile home removed off digest several years ago)
    - (3) Miller, Rex: Digest Total of \$26,530 corrected to zero (delete from pre-bill and add to homestead digest)
    - (4) Spenwell Properties, LLC: Digest Total of \$15,206 corrected to zero (duplicate - included with Georgia Power's utility return)

The motion to approve these four Error & Release requests was made by Commissioner Loudermilk, seconded by Commissioner Wyatt, and passed unanimously.
  - G. **Request for Tax Refund.** Chairman Lange said that a refund of \$330.48 has been requested by Robert Nyswaner because his two boats are not domiciled in Harris County but in Forsyth County and that taxes were paid in both counties. The motion to approve the request was made by Commissioner Wyatt, seconded by Commissioner Whearley, and passed unanimously.

#### 4. COUNTY MANAGER

- A. **Northwest Harris Business Park: Second Entrance.** Danny Bridges, County Manager, distributed revised information showing that the cost for the second entrance for the Northwest Harris Business Park (from Georgia Highway 103 to the JCI/Hoover building) is estimated to be \$850,460.78 and said that this project would be done as a change order on the existing contracts for mass grading and road work in the business park and that SPLOST funds are available to pay for same. The motion to approve the second entrance as change orders to the two contracts at an estimated total cost of \$850,460.78 with the funds coming from SPLOST was made by Commissioner Wyatt, seconded by Commissioner Loudermilk, and passed unanimously. [Documents can be found in "Contracts & Agreements" file as C&A #09-16 (Mass Grading) and C&A #09-17 (Road Improvements).]
- B. **Agreement: Fourth Amendment to Intergovernmental Agreement with Development Authority and Warranty Deed from the County to the Development Authority (re: Prospective Business).** John Taylor, County Attorney, said that this is the fourth amendment to the Intergovernmental Agreement with the Development Authority, the entity having power to undertake economic development; that the original agreement stipulates that parcels of property will be transferred to the Authority from time to time pursuant to an amendment to the agreement; that this amendment is to transfer the fee simple title of 10.11 acres in the Northwest Harris Business Park to the Authority who will, in turn, sell same to the prospective business for \$75,000 and includes the Board's agreement to exceptions to the covenants for the prospective business; and that the Warranty Deed has been prepared for approval and execution by the Board in order to transfer the property to the Authority. Discussion included that the exceptions to the covenants are due to the economy and will allow more time for the business to meet the covenants. The motion to approve this document was made by Commissioner Loudermilk, seconded by Commissioner Wyatt, and passed unanimously. (Documents can be found in "Contracts & Agreements" file as C&A #09-11.)
- C. **Sanitary Sewer Line Route for The Grove.** Chairman Lange recognized Eric Barton, an attorney with Seyfarth Shaw LP, who signed up to speak on this matter. Mr. Barton said that he represents the Willis Jackson and Jacqueline Cornett properties through which the proposed sewer line would enter Harris from Muscogee County; that they object to the installation of the sewer line across the property to include the power of eminent domain to acquire a right of way for the line, the basis of which is that the line will serve a private developer and does not have sufficient needs as required by State law. Chairman Lange asked Danny Bridges, County Manager, for any comments. Mr. Bridges said that the question is whether the route for the sewer line will continue up Fortson Road or go via James Road through Popular Place subdivision; that going via James Road will save approximately \$300,000 to \$350,000 because the distance is shorter; and that a decision needs to be made so that design and engineering of the route can take place. Chairman Lange said that there may be more information needed regarding this matter, and he tabled action. John Taylor, County Attorney, said that there is nothing going on regarding the condemnation of any property and it may be that the line can be run down public right of way, which would eliminate any concerns of Mr. Barton's clients. Discussion included that going the shorter route would allow the County to receive tap fees earlier; and that the sewer line has stopped at the County line on Florida Rock property, which was allowed by an easement by Columbus Water Works with Florida Rock. Commissioner Whearley said that the line should go on public right of way. Chairman Lange again stated that the decision regarding the route has been tabled.
- D. **Cemetery Adjacent I-185 on 20.78 acres.** Danny Bridges, County Manager, said that the Georgia Department of Transportation purchased property in 1981 for the purpose of building a rest area just south of Lower Blue Springs Road; that the rest area will not be built and DOT desires to surplus the property; that as a result of an archaeological survey, over 150 grave sites were discovered on a small portion of the parcel; that the adjoining property owner is interested in purchasing the property but does not want the cemetery; and that DOT is asking the County to accept the cemetery for the purpose of maintaining and preserving same. Discussion included that there is probably no benefit to the County; that there would be some expense involved; that the actual cemetery section with the buffer is about an acre; and that there would not be a liability to the County as a general rule. Following discussion, the motion to respectfully decline DOT's request was made by Commissioner Loudermilk, seconded by Commissioner Whearley, and passed with a vote of three in favor (Loudermilk, Whearley, Lange) and one opposed (Wyatt).
- E. **Rails/Trails (Trail) Committee.** Chairman Lange recognized Ricky Brown, citizen, who had signed up to speak on this matter. Mr. Brown said that his property abuts the

now County-owned railroad right of way and two weekends ago, there was constant traffic by four-wheelers and ATVs; that such use is dangerous and they are traffic hazards to automobile traffic; that the crossing at Standing Boy Creek is very dangerous with steep embankments and no guard rails; and that there needs to be an ordinance regarding the use of the rail line right of way to include what can be on the trail, the hours of usage, etc. Chairman Lange thanked Mr. Brown for his comments and said that the County is concerned about what is going on on the rail line; that when the rail was traversed prior to acquisition by the County, Standing Boy Creek was noted as a concern; and that it is the intent of the County to not allow motorized vehicles on the trail, except possibly a section between Callaway Gardens and Pine Mountain for use by electric golf carts. Discussion included the use of barriers where the trail crosses roads to eliminate access to the trail; the use of barriers where the trail crosses creeks; that "No Trespassing" signs should be erected, especially on the part south of Hamilton since there are no immediate plans to develop the southern part of the trail. Danny Bridges, County Manager, said that it is being recommended that a committee be formed to help plan what to do with the trail and when to do it, with any suggestions brought back to the Board, and to work on the Ordinance; and that committee suggestions include LuAnn Craighton, Bill Birkhead, Howard Johnson, Bill Champion, John Magazu, Commissioner Wyatt, Nancy McMichael (County Clerk), Tim Chason, and himself. Commissioner Whearley said that there is an individual who worked with the Silver Comet Trail who may be interested in being on the committee, and if that is the case, he will get that name to Mr. Bridges or Mrs. McMichael. John Taylor, County Attorney, said that he plans to obtain the various ordinances related to the Silver Comet Trail as a means to drafting an Ordinance for the County's trail. The motion to appoint the committee, with any additional persons as may be needed, was made by Chairman Lange, seconded by Commissioner Wyatt, and passed unanimously.

- F. **Airport: Acquisition of Additional Property.** Danny Bridges, County Manager, said that Callaway Gardens is willing to deed approximately 39 acres to the County in order to "square up" the Airport; that the deed would include a reversionary clause (in the event the property ceases to be used as an airport, it would revert to Callaway), except for the acreage, the location of which needs to be determined, on which an EMS/Fire Station will be built; and that the cost to the County is the cost for surveying the 39 acres, which is approximately \$4,700. The motion to approve going forward with the surveying and acquisition of the property was made by Commissioner Wyatt, seconded by Chairman Lange, and passed unanimously.
- G. **Library Grant Application.** Danny Bridges, County Manager, reminded the Board that it had discussed making application for funding to build a new library prior to the recent SPLOST referendum, but chose not to move forward pending the results of the referendum; that the SPLOSt referendum passed and includes funding for the renovation of or a new library; and that Debbie Marino, Librarian, has requested that the County submit an application for State funding so that the County can get in line for same. Mrs. Marino said that it may be five years before the State can provide any funds; that there is a need for more library space to include a computer lab; that a recent newspaper article concerning computer classes resulted in 107 citizens signing up for same; and that she would like to see the County move forward with library resources. The motion to approve the grant application for library funds was made by Commissioner Loudermilk, seconded by Commissioner Wyatt, and passed unanimously.
- H. **Northwest Harris Business Park: Road Improvement (Progress Parkway).** Danny Bridges, County Manager, distributed a letter from DOT regarding funding for the base and paving of Progress Parkway, and said that initially DOT promised \$1,000,000 for the road and the creek crossing; that the letter indicates they have a contingent commitment of \$705,071.96, which is the amount for the base and paving of the road, but not the creek crossing; that the \$705,071.96 would get the road built and the letter gives permission to move forward, but at the risk of not getting reimbursement; that the project needs to move forward; that there are SPLOST funds available for this and the other projects on the board in the current SPLOST; that Representative Vance Smith and Heidi Green, with Georgia Economic Development, are working on getting the funds for the road; and that he requests permission to use SPLOST funds for the base and paving, but not the creek crossing, since we have people in the business park and the road needs to be paved. The motion to approve using SPLOST funds for the base and paving of Progress Parkway was made by Commissioner Wyatt, seconded by Commissioner Loudermilk, and passed unanimously. [Note: These funds are in connection with C&A #09-10.]
- I. **Agreement Re-Signing: Georgia Forestry Commission.** Danny Bridges, County Manager, said that the Forestry Commission has a new Commissioner and because of that they want to have the agreement re-signed even though it will not change the term of the agreement, which began April 23, 1998. The motion to approve the re-signing

of the Agreement was made by Commissioner Wyatt, seconded by Commissioner Loudermilk, and passed unanimously. (Documents can be found in "Contracts & Agreements" file as C&A #09-12.)

- J. **Letter Agreement/Inducement: Daesol**. Danny Bridges, County Manager, said that Daehon is getting \$1.2 million from the State of Georgia as an enticement to locate in Georgia; that OneGeorgia has asked Daehon to sign an agreement regarding repayment of funds should they not make their total \$35 million investment and hire 300 employees within 24 months; that Daehon wants the County to guarantee, via the letter agreement/inducement, that it will make Daehon whole if the State requires repayment; that while Daehon is on track with the investment, the hiring of employees is directly related to the production at Kia; and that if all 300 employees are not in place in 24 months, the State could come back and ask for repayment for a portion of the \$1.2 million. Following discussion, the motion to approve the letter agreement/inducement was made by Chairman Lange, seconded by Commissioner Loudermilk, and passed with three in favor (Lange, Loudermilk, Wyatt) and one opposed (Whearley). (Documents can be found in "Miscellaneous Documents" file as MD#09-02.)

## 5. **COUNTY ATTORNEY**

- A. **Agreement with CorrectHealth: Health Services for Jail Inmates**. John Taylor, County Attorney, said that this is an extension of an agreement originally executed in 2004; that the agreement is in one-year terms and renews automatically unless there is a change in cost; and that the renewal amount is \$107,000 annually based on 70 inmates plus \$1.99 per inmate per day above 70. Danny Bridges, County Manager, said that this amendment would have renewed in November but was tabled due to the inmate count included in the document; and that we had been paying for 105 inmates, but upon checking the daily population and found it to be a little over 60, we requested a revision based on 70. The motion to approve this agreement was made by Commissioner Wyatt, seconded by Commissioner Loudermilk, and passed unanimously. (Documents can be found in "Contracts & Agreements" file as C&A #09-13.)
- B. **Agreement with Andras Allen Starr: EMS/Fire Station and Community/Recreation Center**. John Taylor, County Attorney, said that agreement is the standard AIA document, and he reviewed various parts to include that the agreement should be with Harris County rather than the Board of Commissioners. There was discussion about the cost breakdown, for which Danny Bridges, County Manger, explained that the architect's fee is 5.9% of the total project cost and that all phases (schematic, design, construction documents, bidding, and construction) are paid at a specific percentage of the 5.9%; and that the description of the Recreation Center needs to be changed to indicate square footage of the facility, like that shown for the EMS/Fire Station, since no determination has yet been made regarding specific rooms. The motion to approve the agreement with the minor changes discussed, was made by Commissioner Wyatt, seconded by Commissioner Whearley, and passed unanimously. (Documents can be found in "Contracts & Agreements" file as C&A #09-14.)
- C. **Agreement: First Amendment to Intergovernmental Agreement with Development Authority Concerning Bonds (re: JCI/Hoover)**. John Taylor, County Attorney, said that this is an amendment to the Intergovernmental Agreement with the Development Authority to provide financial security/bonds for the JCI building; that as part of the financial security the County committed to levy a tax of seven-tenths (0.7) of one mill in the event there is a default and the County has to make the bond payments; that as paragraph "e" to the agreement, this will make sure that one mill will generate enough revenue to cover any debt service of JCI plus any new bonds; that this will allow the County to use the three -tenth (0.3) of the one mill for any new JCI debt or any debt that another industrial prospect may have; and anything done with the 0.3 would come back to the Board for approval. Danny Bridges, County Manager, said that the amendment is not to lend more money to JCI and really has nothing to do with JCI, but with the bond issue. Mr. Taylor said that the lender is ready to do this and doing it now would be better than waiting until such time as it may be needed at which time it may be more difficult to do. The motion to approve this amendment was made by Commissioner Loudermilk, seconded by Commissioner Wyatt, and passed unanimously. (Documents can be found in "Contracts & Agreements" file as C&A #09-15.)
- D. **Cedar Drive in Kings Gap Village**. John Taylor, County Attorney, said that during the February 3 meeting, he was directed to look into the title of Cedar Drive regarding the repair of the culvert on that road; that he has determined that the title of the road is in the Homeowners Association, which was administratively dissolved last year but can be revived; that the County can't work on a privately owned road; that the County can't

just take ownership of the culvert because it must be attached to a public road; that another way to work on the culvert is to acquire an easement from the Homeowners Association for the culvert, which would be solely based upon the exercise of the Board's police and public safety, health and welfare powers by which the County could take an easement to repair and maintain the culvert because it is in bad shape and may be difficult for emergency vehicles to traverse; that at some point in time should the County decide not to continue to maintain the culvert, it could be released under the easement; and that should the Board decide to go forward easements would have to be obtained from the owners of the property on all four sides of the culvert in addition to the Homeowners Association, and construction easement(s). Discussion included that the Homeowners Association needed to be revived since it still maintains the roads; that once that happens, then the County could go forward with obtaining the proper easements; and that the cost to repair the culvert would be \$1,600 since the County would provide the labor to make the repair. Mr. Taylor said that if the Board decides to go forward, he will prepare a Resolution for consideration at the next meeting to address specifically the exercise of the County's police and public safety, health and welfare powers; that the County Engineer should prepare the necessary drawings, after which the easements would be obtained before the repairs are made. The motion to move forward with preparation of the Resolution in order to obtain the necessary easements was made by Commissioner Loudermilk, seconded by Commissioner Wyatt, and passed unanimously.

- E. **Sputnik Street in Mulberry Estates.** John Taylor, County Attorney, said that during the February 3 meeting he was directed to look into title of this street in order for the Board to accept same; that the title to the street is vested in Moon Family Properties; that he has prepared the necessary Warranty Deed to be executed by Moon Family Properties subject to the Board's authorization to move forward; and that upon execution of the Deed, the Board would adopt a resolution accepting the road. Discussion included that there is a section of the road that basically stays underwater; that the County could take the entire road, but stop (by closing that section and barricade same) before getting to where water crosses and then do the same on the other end of the road, individuals will have means of ingress and egress by either end of the road, but not via a thru-road; and that the estimated cost is about \$20,000 for resurfacing with minor changes to the base. The motion to move forward with having the Warranty Deed executed in order to move forward with the Resolution of Acceptance was made by Commissioner Whearley, seconded by Commissioner Wyatt, and passed unanimously.
- F. **Abandonment of Old X Street.** John Taylor, County Attorney, said that during the February 3 meeting he was directed to look into this matter; that a review of the plat shows a small sliver of .05 acre owned by the heirs of Hoyt Castleberry which resulted from the straightening of the road (which became Kings Gap Road) several years ago; that the Old X Street portion is not used except for an access drive leading to Lot 2; that if the Board moves forward with the abandonment of Old X Street, each adjoining property owner would receive up to the centerline of the road, and the access drive for Lot 2 would cross the property of the Castleberrys; and if necessary DOT could be contacted for copies of the right of way drawings, which may or may not show the .05 sliver of property. Following a short discussion, the motion to not move forward with the abandonment process and to deny the request for abandonment regarding Old X Street was made by Commissioner Wyatt, seconded by Commissioner Loudermilk, and passed unanimously.
- G. **Request for Executive Session.** John Taylor, County Attorney, requested an Executive Session for the purpose of discussing real estate acquisition and a personnel matter.
- 6. **RECESS FOR EXECUTIVE SESSION.** The motion to go into Executive Session for the purpose of discussing real estate acquisition and a personnel matter was made at 9:35 PM by Commissioner Wyatt, seconded by Commissioner Loudermilk, and passed unanimously.
- 7. **RESUME REGULAR SESSION.** The motion to go back into Regular Session was made by Commissioner Wyatt, seconded by Chairman Lange, and passed unanimously.
- 8. **COUNTY ATTORNEY (continued)**
- H. **Resolution: Condemnation Proceedings for Morgan Copeland Road.** John Taylor, County Attorney, said that owners of property from which the County needs to obtain right of way on Morgan Copeland Road have been contacted, but that several owners have not or will not respond nor execute the Right of Way Deeds; that in order to proceed with the condemnation of those properties, a Resolution has been prepared for approval by the Board; and that upon approval, he will then move forward with the

condemnation process. The motion to approve the Resolution, pending changes to include all property owners from whom right of way has not been obtained, was made by Commissioner Wyatt, seconded by Commissioner Whearley, and passed unanimously.

9. **ADJOURNMENT**. There being no further business to discuss, the motion to adjourn was made by Commissioner Wyatt, seconded by Commissioner Loudermilk, and passed unanimously.

Attest:

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J. Harry Lange, Chairman

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Nancy D. McMichael, County Clerk