

HARRIS COUNTY BOARD OF COMMISSIONERS
REGULAR SESSION
September 7, 2010
7:00 P.M.

Commissioners Present: J. Harry Lange, Joey M. Loudermilk, Joe Manning, Patrick Whearley, Charles Wyatt. 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 17, 2010, Regular Session was made by Commissioner Loudermilk, seconded by Commissioner Wyatt, and passed unanimously.
3. **APPEARANCE OF CITIZENS**
 - A. **Joe Mirabella: Mulberry Drive Traffic.** Joe Mirabella, citizen, appeared before the Board on behalf of his mother, Connie Mirabella, and his aunt, Evelyn Zachary, both of whom live on Mulberry Drive. Mr. Mirabella said that the road is used as a cut through to Highway 315; that the road is narrow; that driveways are short; that there is a lot of traffic, especially in the morning and afternoon; that something needs to be done regarding the speeding vehicles; that with the recent paving of the road, it is more of a "runway" now for vehicles; that it is not a matter of "if" an accident is going to happen, it's matter of "when". He said that he is concerned about the safety of his mother and aunt and would like to see the speed limits lowered, new speed limit signs, and possibly speed bumps on the road. Chairman Lange asked Danny Bridges, County Manager, to look at the road to see if anything can be done. Mr. Bridges said that he would look at the road, and that speed limits signs could be put up, but that he would not be in favor of speed bumps.
 - B. **Ballpark/Ball Fields at Coco Hollow.** Chairman Lange said that several individuals had signed up to speak about "rezoning ballfields", but that the topic was not on the agenda and no discussion would take place regarding the rezoning of the John Rodgers property, and that Mr. Rodgers had withdrawn his request to ask for a reduction in the 24-month interval between rezoning applications. However, he said, that the citizens who signed up could speak about another issue regarding the ball fields, just not rezoning. He also said that the County is still working on responses to the various questions that were asked by citizens during the last meeting regarding the John Rodgers Coco Hollow property.
 - (1) **Jim Furin.** Jim Furin, citizen who lives on Dogwood Lane West in Fortson, appeared before the Board and said that many questions had been asked by citizens during the last meeting regarding the ballpark or ball fields at the old Coco Hollow Tree Farm, but that no response had been forthcoming; that he would like a response to his questions; that a review of the County code and Georgia statutes shows that ballfields do not fit into any definition of agriculture, agricultural purpose, or agricultural facilities; and that such an inappropriate development doesn't make sense.
 - (2) **Lynn Sanders.** Lynn Sanders, citizen who lives on Dogwood Lane in Fortson, appeared before the Board and said that she still wants an answer to her question directed to Commissioner Wyatt as to why he suggested rezoning the property to agricultural; that the original reasons against the rezoning still apply, but the landowner has gone forward with intense development regardless of the Commissioners' decision and the wishes of surrounding neighbors; and that some type of blasting is now occurring on the property.
 - (3) **Juanita Gilman.** Juanita Gilman, citizen who lives on Steven Court, appeared before the Board, and said she has not received a response to the questions she asked during the August 17 meeting, and that she

wants those questions made part of these minutes and that it be reflected that no answers have been forthcoming. (Ms. Gilman submitted her speech, which can be found in the "Miscellaneous Documents" file as MD #10-08.)

4. **NEW BUSINESS**

- A. **Proclamation: Constitution Week.** Chairman Lange read the document proclaiming September 17 - 23 as Constitution Week. The motion to approve the document was made by Commissioner Wyatt, seconded by Commissioner Loudermilk, and passed unanimously.

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

- A. **Public Hearing Procedures.** Chairman Lange explained the procedures involved with the Public Hearings.

- B. **Conflict of Interest Forms.** The Conflict of Interest forms were completed at the request of Chairman Lange.

- C. **Application of Lon & Lynda Marlowe to rezone 4 acres in Land Lots 200, Land District 4, Parcel 024, Map 023, from A-1 to C-4, present use agricultural, proposed use commercial (for events to be open to the public); property located at 19888 Highway 219, West Point.** Chairman Lange said that a request for withdrawal of this rezoning application had been received and that the Board would take action on the request following the County Manager's discussion regarding Agritourism.

- D. **Agritourism.** Chairman Lange said that a request for withdrawal had been received from Lon Marlowe, applicant of the third rezoning application on the agenda, and that the Board would take action on same following the County Manager's discussion related to agritourism. Danny Bridges, County Manager, said that he is suggesting that the Zoning ordinance be amended to allow some type of agritourism (farmers market, small gift shop, petting zoo, etc.) in agricultural areas; that he suggests a committee be formed of interested people to discuss agritourism; that while the request of Mr. Marlowe for commercial zoning is the best zoning found to do what he wants to do, commercial zoning in that section of the County is not appropriate; that there is nothing essentially wrong with what Mr. Marlowe wants to do and is something that would encourage people to continue running farms and give them a way to make additional revenue rather than just growing crops; that some type of Special Use Permit may be the best approach to amending the Zoning Ordinance and allow certain activities with restrictions for commercial-type ventures on agricultural property; that he has talked to Mr. Marlowe and while there is no rush on Mr. Marlowe's part, it is suggested that the text amendment take place soon for his benefit as well as the benefit of other owners of agricultural property; that currently, an owner of agriculturally zoned property can sell produce that is grown on that individual's property, but cannot sell their neighbor's produce; and that once the committee formulates ideas on agritourism, it will be brought back to the Board for review before the amendment process is started. There were no objections to moving forward with a committee to discuss and formulate ideas on agritourism.

- E. **Application of Lon & Lynda Marlowe to rezone 4 acres in Land Lots 200, Land District 4, Parcel 024, Map 023, from A-1 to C-4, present use agricultural, proposed use commercial (for events to be open to the public); property located at 19888 Highway 219, West Point.** As previously stated (see item "C" above), Chairman Lange asked for a motion regarding the withdrawal of this rezoning application. The motion to approve the withdrawal was made by Commissioner Manning, seconded by Commissioner Loudermilk and passed unanimously.

- F. **Application of Madeline Condrey to rezone 10.99 acres in Land Lots 47 & 48, Land District 19, Parcels 029 & 063, Map 045, from A-1 to C-4, present use undeveloped, proposed use storage for RV/Boat; property located at**

61 Mulberry Drive, Cataula. Chairman Lange called the Public Hearing to order and read the specifics of the application and said that the Zoning Staff and Planning Commission recommended approval with an additional five feet of buffer (for a total of 10 feet) along residential property lines. Madeline Condrey, applicant, appeared before the Board and said that she would like to rezone the property to C-4, which is the same zoning as the property, which she owns, on which two existing buildings (a house and a store) are located and are currently being renovated; that the rezoning is to allow the expansion of her storage business; that she plans to use the subject property for RV and boat storage. In response to questions, Mrs. Condrey said that she has future plans to build a pole barn for covered storage, but has no plans for closed-in storage.

Chairman Lange asked if anyone wished to speak in favor of this rezoning application. There being none, he asked if anyone wished to speak in opposition to this rezoning application.

Joe Mirabella, citizen, appeared before the Board on behalf of his mother and said that his mother owns property adjacent to Mrs. Condrey's property; that his mother does not want to walk out in her front yard and see a travel trailer sitting next to her property; and that no homeowner would like to see campers parked along their property.

There being no further comments in opposition, Chairman Lange asked Mrs. Condrey for rebuttal.

Mrs. Condrey said that the property between the two buildings and Mrs. Mirabella's property is a small strip that she has no plans to use for any type of storage; that the storage would be on the portion of the property that faces Highway 315; that there is no access to pull a trailer or RV into the property next to Mrs. Mirabella's property and there are trees along Mulberry Drive, which she does not plan to remove. She asked for clarification of the buffer required for her other neighbor's property where his driveway runs along the property line, and the response was that there is no buffer for residential property, but there is a minimum five foot buffer on commercial property where it abuts residential property, but that the Staff and Planning Commission recommendation was to increase that to ten (10) feet. John Taylor, County Attorney, said that the Zoning Ordinance requires a 50 foot side yard and rear setback on commercial property where it adjoins residential property on which nothing can be built. He then read the definition of "buffer" from the Zoning Ordinance, and that of the 50 feet, five (5) or ten (10) feet, depending on the Board's decision, would be the natural buffer on the subject property. In response to a question from the Board, Mrs. Condrey said that the area of the property to be used for storage is accessed from Mulberry Drive and that the storage area is near Highway 315.

There being no further comments or questions, Chairman Lange closed the Public Hearing. The motion to approve this rezoning application with the condition that the required five (5) foot buffer be increased to ten (10) feet was made by Commissioner Whearley, seconded by Commissioner Wyatt, and passed unanimously.

- G. **Application of Kenny Bell to amend rezoning conditions on 8.273 acre parcel (of a 25.78 acre tract) in Land Lots 160 & 161, Land District 19, Parcel 003A, Map 046, currently zoned R-1, to subdivide the tract for single family residential homes; property located on Shenandoah Drive, Cataula.** Chairman Lange called the Public Hearing to order, read the specifics of the application, and said that the Planning Commission had recommended approval with the condition that no more than three (3) homes built on the 8.273 acres (once it is subdivided into three lots) for a total of 11 homes in the subdivision with all other conditions remaining unchanged (developer to pay for necessary water improvements to include water hydrants; posting of a bond as required for existing streets; and restrict the clearing of property to 30 feet beyond the footprint of each home).

Kenny Bell, applicant, appeared before the Board and said that he has had to relocate to west Texas and he would like to be able to subdivide the property into three lots in order to sell it; that he has a bond in place for the road (in the subdivision); that there is a section of road near the cul-de-sac that has to be repaired; and that he has prospective buyers for the property.

Chairman Lange asked if anyone wished to speak in favor of this application. Carol Tillman, citizen, appeared before the Board and said that she lived in the subject area for several years; that Mr. Bell's situation is not unusual with the current economy with jobs relocating; that what Mr. Bell is requesting is not unreasonable because the lots are larger than the two-acre minimum requirement; that the property is in the part of Cataula where most people move from Columbus; that the lots in the subdivision are sold; and that the houses look good.

Michael Tillman, citizen, appeared before the Board and said that to deny Mr. Bell's opportunity to sell his property would be an injustice; and that his concern is due to the fact that Mr. Bell is his son-in-law.

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

John Bush, citizen, appeared before the Board and said that he owns property adjacent to the subject property; that the Board's previous decision was that eight houses were enough on the 25.73 acres, which included the subject property; that the houses look good; that having the subject property left as one lot was not accidental; that while he doesn't object to Mr. Bell selling his land or to another house being built, but not three; and that he has 15 acres, another person has 25 acres, the people on the corner have five acres and others have four, so an 8+ acre lot is not unusual for the area.

Caroline Dodson, citizen, appeared before the Board and said during the first rezoning public hearing, there was discussion about wetlands preventing access to the subdivision, but all the property is wetlands; that her property is in a flood zone and most of the houses in the area are as well; that she feels Mr. Bell has had this planned for some time to ask for more houses; that there is a section of the subject property that is steep; and that the neighbors are nice.

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

Mr. Bell said that as far as wetlands are concerned, he has documentation that no portion of the property is in the flood plain or is identified in the flood insurance rate map and is suitable for building residential homes; that the subject property was set aside and he originally did not plan to build on it, but circumstances have changed and he has moved out of state; that this was not a contrived deal to get more houses built; that he hopes one person will buy all three parcels; that home builders provide jobs; and that he would appreciate the Board ruling in his favor. In response to questions from the Board, Mr. Bell said that he did not ask for four lots because he didn't want to push the issue; that three is enough; and that part of the property is steep.

Mr. Bridges said there are some issues with the roads in the subdivision as well as with the roads leading up to the subdivision, and that he wants to make sure the cost to resolve the road issues are not paid for by the County.

There being no further comments or questions, Chairman Lange closed the Public Hearing.

The motion to approve the request to amend the condition on this property to allow no more than three (3) homes built on the 8.273 acres (once it is subdivided into three lots) for a total of 11 homes in the subdivision, that the road within the subdivision be repaired to meet County specifications, and with all other remaining conditions not changed [developer to pay for necessary water improvements to include water hydrants; posting of a bond as required

for existing streets (i.e. in the amount of 75% of the cost to pave the road, with each succeeding year to remain the same until development is 90% complete and if repairs are required as a result of damage by heavy equipment, developer will be billed for 75% of repair costs); and restrict the clearing of property to 30 feet beyond the footprint of each home] was made by Chairman Lange, seconded by Commissioner Wyatt and passed unanimously.

6. **NEW BUSINESS (CONTINUED)**

B. **Radar List Revision.** Chairman Lange said that a revised Radar List had been received from DOT, and that the change had been to set the speed limit on I-185 in Harris County at 70 (it was previously 70 from Troup County Line to Standing Boy Creek and then 65 to the Muscogee County Line). The motion to approve the revised Radar List was made by Commissioner Wyatt, seconded by Commissioner Manning, and passed unanimously.

C. **Requests for Tax Refund.** Chairman Lange said that the following Tax Refunds had been requested.

(1) Crowell, William P.: Request for refund of \$37.18 due to car being sold during the time the check was in the mail for payment of tag, with both the Tax Commissioner and the Board of Assessors disagreeing with the request. The motion to disapprove this request was made by Commissioner Manning, seconded by Chairman Lange, and passed unanimously.

(2) Ledyard, Richard H.: Request for refund of \$56.89 due to car being totaled before the decal could be attached to tag, with both the Tax Commissioner and the Board of Assessors disagreeing with the request. The motion to disapprove this request was made by Commissioner Loudermilk, seconded by Commissioner Whearley, and passed unanimously.

(3) Thorne, Dennis & Lisa: Requests for refunds for three years (2009, 2008, and 2007) due to .89 acre that was provided for county right of way in 2004 but not deleted from tax records thus being taxed for 7.72 acres rather than 6.83 acres. The requests are \$28.47 (09), \$27.86 (08), and \$33.80 (07), and both the Tax Commissioner and the Board of Assessors agree with the requests. The motion to approve these three requests was made by Commissioner Loudermilk, seconded by Commissioner Manning, and passed unanimously.

D. **Not on Digest.** Chairman Lange read the NODs as follows:

- (1) CIT Communications Finance Corp
(a) 2009: Digest total of zero corrected to \$11,858 due to audit results.
(b) 2008: Digest total of zero corrected to \$9,273 due to audit results.
(c) 2007: Digest total of zero corrected to \$7,095 due to audit results.

The motion to approve these three NODs was made by Commissioner Manning, seconded by Commissioner Loudermilk, and passed unanimously.

- (2) CIT Technology Financing Services, Inc.
(a) 2008: Digest total of zero corrected to \$3,360 due to audit results.
(b) 2007: Digest total of zero corrected to \$10,420 due to audit results.

The motion to approve these two NODs was made by Commissioner Manning, seconded by Commissioner Whearley, and passed unanimously.

E. **Error & Release Requests (Corrections).** Chairman Lange read the Error & Release request corrections as follows:

- (1) Moon, Mike L., dba Winter Acres, Inc. (2009): Digest total of \$356 corrected to zero (road deeded to County is Satellite Drive, not Comet Street as stated on previous E&R of February 9, 2010).
- (2) Moon, Mike L., dba Winter Acres, Inc. (2008): Digest total of \$356 corrected to zero (road deeded to County is Satellite Drive, not Comet Street as stated on previous E&R of February 9, 2010).

The motion to approve these two Error & Release requests was made by Commissioner Whearley, seconded by Commissioner Loudermilk, and passed unanimously.

F. **Appointments/Reappointments**. The motion to reappoint individuals to the Housing Authority and Construction Board of Adjustments & Appeals was made by Commissioner Wyatt, seconded by Commissioner Manning, and passed unanimously, as follows:

- (1) Housing Authority. J. R. "Red" Beall and Pam Jackson, whose terms expire October 31, 2010, were reappointed to new terms ending October 31, 2015. O. C. Stiggers, whose term expired October 31, 2008, was reappointed to a new term ending October 31, 2013. Pat Lowman, whose term expired October 31, 2007, was reappointed to a new term ending October 31, 2012.
- (2) Construction Board of Adjustments & Appeals. The terms of Chris Butzon and Bill Cogar expired June 30, 2009, were reappointed to new terms ending June 30, 2013.

G. **Appointments: Housing Authority**. The at-large position held by Debbie Thorne expired October 31, 2006, and contact with Ms. Thorne regarding reappointment has been unsuccessful. The citizen position held by Emily Woods expired October in 2003, and minutes of February 2004 reflect that Ms. Woods did not wish to be reappointed. These appointments will be placed on the October 19 agenda for action.

H. **Financial Statement: July 2010**. The motion to approve the July 2010 Financial Statement was made by Chairman Lange, seconded by Commissioner Wyatt, and passed unanimously.

I. **Request to Reduce 24-month Rezoning Application Interval: John Rodgers**. Chairman Lange said that this matter had been withdrawn from the agenda upon the request of Mr. Rodgers.

J. **First Reading: Ordinance to Amend Soil Erosion & Sedimentation Control**. Chairman Lange said that this was the First Reading. Discussion included that the amendments were the result of amendments to the Georgia Erosion & Sedimentation Act; that the word "pollution" had been inserted throughout with no definition of same; and that clarification of the addition to the first sentence in Section 4-94 A was needed. There were no comments from those in the audience. Chairman Lange asked Nancy McMichael, County Clerk, to contact Georgia DNR about a definition for pollution and clarification of the addition to the first sentence in Section 4-94A. He then said that the Second Reading will be held September 21.

7. **OTHER**

A. **City Inmates**. Chairman Lange said that this had been discussed during the preceding Work Session during which Sheriff Mike Jolley had suggested that the municipalities be charged by the County for the housing of their prisoners due to ordinance or traffic violations. Discussion included that the municipalities should be allowed five free days for each prisoner, except for medical expenses which would be paid by the municipality, then each day thereafter there would be a charge of \$40 per day per prisoner per charge plus any medical expenses incurred for each day of incarceration; that the five free days is because that is what the Sheriff is already doing, and the municipalities

are getting all the fees in connection with the charges; that maybe there should be no free days; and that while the municipalities should be paying something, it might be best to make a decision once the issue has been discussed with the Mayors. Following discussion, Danny Bridges, County Manager, was directed to arrange a meeting with the Mayors.

- B. **Well at Solid Waste/Landfill.** Danny Bridges, County Manager, said that several months ago, there was discussion about the need for a new well at the Landfill; that we need to move forward with drilling a new well; that the well went without water for over a day recently; that he has received two proposals with prices; that he is asking that he be given authorization to contract with Champion Wells Systems for a total price of \$5,000, which includes the drilling, the pump, connecting it, and a guarantee of hitting water; that the County would run the water lines from the well; that both proposals guarantee 2,000 gallons over a 24 hour period, but Champion's price is for whatever depth it takes to hit water, while the other company will charge an additional price after 500 feet; that the current wells are bored and are probably 50 feet deep; and that the current wells would be abandoned. The motion to authorize the County Manager to contract with Champion Wells for a total price of \$5,000 was made by Commissioner Wyatt, seconded by Commissioner Manning, and passed unanimously.
- C. **Chamber After Hours.** Danny Bridges, County Manager, reminded the Board that the Harris County Chamber After Hours event will take place at the Harris County Airport on Thursday, September 9, starting at 5:30 PM.
8. **COUNTY ATTORNEY.** John Taylor, County Attorney, said that he has no business to discuss with the Board this evening.
9. **ADJOURNMENT.** There being no further business to discuss, the motion to adjourn was made by Commissioner Manning, seconded by Commissioner Loudermilk, and passed unanimously.

J. Harry Lange, Chairman

Attest:

Nancy D. McMichael, County Clerk