

**HARRIS COUNTY BOARD OF COMMISSIONERS
REGULAR SESSION**

June 7, 2011
7:00 P.M.

Commissioners Present: J. Harry Lange, Becky Langston, Jim Woods, Charles Wyatt.
Absent: Joey M. Loudermilk (out of town). 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 and said that Commissioner Loudermilk was out of town.
2. **MINUTES.** The motion to approve the minutes of the May 17, 2011, Regular Session was made by Commissioner Wyatt, seconded by Commissioner Woods, and passed unanimously.
3. **OLD BUSINESS**
 - A. **Reconsideration of Subdivision of Property in Piedmont Subdivision.** Chairman Lange said that Commissioner Woods had requested the Board reconsider the subdivision of property within Piedmont Subdivision. Commissioner Woods said that he would appreciate the BOC reconsidering its consensus (during the May 17 meeting) not to allow further subdivision of Piedmont until complete compliance, and to allow a one time exception to allow the subdivision of the two lots recently requested to be approved for recording. Discussion included that the Master Plan on record shows the area where the two lots are located as "residential development", but while the way the lots are currently drawn does not match what is shown on the Master Plan, there should not be a big issue with the two lots; that the subdivision of the area shown on the Master Plan as "pasture" would definitely require rezoning in order to subdivide same; and that the two subject lots do meet the current lot size requirements of two or more acres. John Taylor, County Attorney, said that while the Zoning Ordinance stipulates that Resort zoning could not be enlarged, the intent is to keep such property from growing in size, and to allow the exception for these two lots, since the Master Plan shows it in "residential development" would be permissible; however, the rezoning of the northern property (shown as "pasture" on the Master Plan) would be necessary for further subdivision. Following discussion, the motion to allow this one time only subdivision of the two subject lots for which plats were recently submitted for approval, was made by Commissioner Woods and seconded by Commissioner Wyatt. Discussion included that a request will need to be made to the Board each time property within the "residential development" property is to be subdivided because it is a Master Plan change. The motion passed unanimously.
4. **NEW BUSINESS**
 - A. **COAG Scholarship Award to Cody Bentley.** Sheriff Mike Jolley, who is also the Secretary-Treasurer of the Constitutional Officers Association of Georgia (COAG), along with Superior Court Clerk Stacy Haralson, Probate Judge Martha Hartley, and Tax Commissioner Sarah McDowell, presented a COAG scholarship to Cody Bentley, recent graduate of Harris County High School and who will be attending Columbus State University in pursuit of a Criminal Justice degree. Cody is the son of Cassie Bentley who works in the Superior Court Clerk's office.
 - B. **LTC Edward B. Hayes, Fort Benning.** LTC Edward Hayes, Executive Brigade Commander of the 316th Cavalry Brigade, appeared before the Board, introduced himself, and said that with the relocation of units from Ft. Knox, Kentucky, to Ft. Benning, as part of General Brown's initiative is to have each brigade partner with a local community, which for the 316th is Harris County; that they will establish relations with community leaders; that it is a pleasure to attend a meeting to see democracy in action by allowing citizens to raise concerns; and that he looks forward to getting to know Harris County.
 - C. **Patrick Williams: Liberty Bell Pool and Tourism.** Patrick Williams, of Columbus, appeared before the Board to explain his proposal to the Department of Natural Resources regarding the Liberty Bell Pool and being a concessionaire for same, which included various ideas as to different activities, programs and operations at the pool, and which ultimately was not approved by DNR. Mr. Williams made no request of the Board of Commissioners regarding the pool. Chairman Lange thanked Mr. Williams for his interest in the pool and said that it is understood that no pool located in any State Park will be operating this year.

- D. **Financial Statement: April 2011.** The motion to approve the April 2011 financial statement was made by Commissioner Wyatt, seconded by Commissioner Woods, and passed unanimously.

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

- A. **Explanation of Public Hearings.** Chairman Lange explained the procedures involved with the scheduled Public Hearings.
- B. **Conflict of Interest Forms.** The Conflict of Interest forms were completed at the request of Chairman Lange.
- C. **Application of Karl White to rezone 51.76 acres of property owned by Jones & Minear on Map 031, Parcel 001A Tract B, Land District 19, Land Lots 167-168, from R-1 to R-R; present use wooded; proposed use horses, barn, pasture & future residential; property located on the south end of Whitesville Road.** Chairman Lange called the Public Hearing to order, read the specifics of the application, and said that it had been recommended for approval by the Planning Commission and by the Zoning Staff. Karl White, applicant, appeared before the Commissioners and said that he plans to purchase the property if the rezoning is approved; that he plans to have horses, barn and pasture as well as a portion for future development. In response to questions, Mr. White said that the future development would be family related; that the southern portion of the property will be where the horses, barn and pasture will be located; and that the northern portion will be reserved for future family development. Chairman Lange asked if anyone wished to speak in favor of or in opposition to the rezoning application. There being none, he closed the Public Hearing and asked for a motion. The motion to approve this rezoning application was made by Commissioner Wyatt, seconded by Commissioner Woods, and passed unanimously.
- D. **Application of John Rodgers to rezone 29.83 acres on Map 29, Parcel 094, Land District 19, Land Lot 92, from A-1 to CORD; no present use; proposed use baseball/softball and developing as an outdoor recreation facility; property located on Coco Hollow Road.** Chairman Lange called the Public Hearing to order, read the specifics of the application, said that it had been recommended for disapproval by the Planning Commission, and said that the Zoning Staff has recommended disapproval, but if the rezoning was approved to attach two conditions of (1) a 20 foot screening buffer on three sides, and (2) no lights or PA system. He then asked for a show of hands of those in attendance who are in favor of this rezoning application (over 60 people raised their hands) and of those who are opposed to the application (approximately 60 people raised their hands). In response to Commissioner Langston's request, Chairman Lange asked for those in attendance who are Harris County residents and are in favor of the application to raise their hands (over 60 people raised their hands), and who are opposed (approximately 60 people raised their hands). He then said that while the Board wants to hear from anyone who wishes to speak in favor of or opposed to the application, in the interest of time, to please avoid repetitiveness and to keep comments as briefly as possible.

John Rodgers, applicant, and Joe Waldrep, attorney for Mr. Rodgers, appeared before the Commission. Mr. Waldrep said that Mr. Rodgers is not an out-of-town, sophisticated, high-dollar property developer and is a life-long resident of Harris County; that his family owns Rodgers Metal Craft and employs 45-plus people; that the idea is to provide a place for youth to practice baseball with conditions to minimize any impact the activity would have on any surrounding properties; that Mr. Rodgers saw a need for practice fields; that the goal is to donate the use of the property for children to play baseball and not a money-making venture; that Mr. Rodgers purchased the property in 2004 for development, had a contract to sell contingent upon the rezoning to R-1, which was successful, but the contract fell through; that in June 2009, Mr. Rodgers applied to rezone this property to CORD and while it failed, the property was rezoned from R-1 to A-1; that Mr. Rodgers started building the ballfields, a philanthropic venture, and built three, which included obtaining the appropriate permits to disturb and move the soil; that the permits were issued to the Coco Hollow Athletic Complex, which showed what he was going to do; that two more fields have been started; that the fields were used throughout the summer of 2010, during which there were no complaints; that the fields, while they were being built, were inspected on a regular basis by County officials with everything found to be in order; that State officials also inspected the property and found everything in compliance; that in the early part of this year, complaints were made about the fields and Mr. Rodgers was cited for violating the

Zoning Ordinance, to which he pled nolo contendere; that he is now trying to get the property rezoned to CORD, which will be a good use of the property, and will include a ballfield for special needs children; and that Mr. Rodgers also applied for and received a permit to build a barn, which is described as a gymnasium on the Tax Assessor's website. Mr. Rodgers then showed a plat of the property depicting the buffers that remain and said of the 29.83 acres seven is in buffer, and pointed out Chase Plantation and property owned by RealTree. Mr. Rodgers then submitted five (5) photos, the first of which is taken from Google earth and on which the ballfields have been superimposed with Chase Plantation at the rear; that the second photo is looking toward Chase Plantation; that the third photo is looking toward West Pine Drive; and that the fifth and sixth photos are of a special needs field for handicapped children.

Mr. Waldrep said that tax records show sales activity has and is taking place in Chase Plantation, and a list was presented to the Board (note: copy was not submitted to Clerk for the record) showing the various real estate sales.

In response to questions from Commissioner Langston, Mr. Rodgers said that he has talked to probably eight (8) people in Chase Plantation who are in favor of the application; that the last property transaction on Coco Hollow Road was by his father. Commissioner Wyatt said that based on the real estate transaction information in Chase Plantation, eight of the nine gained in value and one lost money; and that of the two in Piney Grove, both gained in value. In response to questions from Commissioner Woods, Mr. Rodgers said that Little League has used the fields, which will also be available for youth baseball, travel ball, and adult softball; that there is a buffer of about 100 feet adjacent Chase Plantation; that he considers a buffer to be the trees; that the narrowest buffer is along Mr. Jenkins' property at five feet; and that behind the field (referencing one of the photos) there is a four-acre field near where the road comes in that can be used for parking. There being no further comments or questions from the Board, Chairman Lange asked for comments from those in favor of the application.

Shane Price, citizen who lives on Quail Hollow Drive, appeared before the Board and said that he has known Mr. Rodgers all his life; that they went to school together; that his brother and mother live in the area of the ballfields; that what Mr. Rodgers wants to do for the children is wonderful; that kids are the future of the community and they need a place to practice ball; that he has never been to a ballfield in Harris County where he hasn't had to park on the side of the road; that if he thought the proposed venture would reduce property values, he would be opposed to the rezoning; and that Mr. Rodgers be given a "fair shake". In response to a question, Mr. Price said he lives about 10 miles from the subject property, but his mother is within three to five miles.

Marty Davis, citizen who lives on Georgia Highway 315 about 35 feet of the driveway of the subject property, appeared before the Board and said that he is in favor of providing a place for children to play ball; that he owns four acres across the street and if it is needed for parking, he'll allow it.

Wilbur Battley, citizen who lives on Coco Hollow Road, appeared before the Board and said that he doesn't know Mr. Rodgers; and that someone should be able to do what he wants with his land if he is not causing trouble or bothering anyone.

Tommy Hart, citizen who lives on Mountain Shadows, appeared before the Board and said that his property backs up to Moultrie Park (on Highway 116); that he can see the lights, hear the kids playing, hear the balls and strikes; that he knew the ballfield was there when he built his home; that his property value has not gone down; that he even cut a trail in his yard for the local kids to walk to practice at Moultrie Park from Mountain Shadows; that kids involved in structured activities are much better adjusted than those that are not; that he coaches and did not have a field available for practice, except for Sundays and Wednesdays, and as a pastor, those days didn't work; that Mr. Rodgers allowed him the use of his field; and that there are not enough fields for kids to practice ball.

Lisa Jenkins, citizen who owns 54 acres north of the subject property, appeared before the Board and said that when Mr. Rodgers first started building the ballfields, she met with Mr. Rodgers to express her concerns about erosion coming onto her property, and he addressed her concerns; that she has a child with special needs, is founder of Muscogee County Autism Support Group and is an Autism Counselor at Columbus Technical College; that she approached Mr. Rodgers about building a ballfield for special needs children to help with the number of special needs children who utilize the field that is used in Columbus; that she has not had any problems with Mr. Rodgers as he has met all of her needs; and that she has had other people

trespass on her property, build 4-wheel tracks, cut down trees, shoot guns on her property, get in her boat and go out on her lake.

Ed Jenkins, husband of Lisa Jenkins, appeared before the Board and said that the special needs children that use the field in Columbus have to go through gravel, dirt and grass, and play on dirt, but Mr. Rodgers will provide a true special needs field whereby handicapped children can roll wheelchairs around the bases; that such a ballfield is extremely expensive; that he purchased his property in 1993 at which time the Christmas Tree farm was in existence and customers trespassed on his property; that he did not oppose the rezoning of property for Chase Plantation, and now he has had one of those neighbors trespass on his property and cut down trees, another who trespassed and made a 4-wheeler trail on his property, another who has been caught fishing in his (Jenkins) lake, and kids who trespass and shoot their bb guns; that he would rather have kids playing baseball field rather than have trespassers; and that Mr. Rodgers needs to be given a chance to show what he can do.

Chuck Benefield, citizen who lives on Ga. Highway 315, appeared before the Board and said he lives about 135 feet from the property; that he also coaches Little League softball; that there is a need for more ballfields; that he doesn't hear the noise everyone is complaining about; that there is already traffic on Highway 315; and that with growth, more fields are needed.

Kathy Ropte, citizen who lives on Calhoun Road, appeared before the Board and said that the County gave Mr. Rodgers a permit to do what he needed to do for his project, and that it wants to stop him for something that should have been stopped at the beginning; that Ordinances need to be enforced and addressed in a timely manner; that she lives near the High School and hears the kids and the band playing but doesn't complain; that we need smaller, not larger, government; that communities should be able to resolve differences on their own without government involvements; that Mr. Rodgers has appeared to meet all the requests of the neighbors; that the question is who made the mistake in the first place; and that the County has a history of doing things "ass backwards" and it is time for the County to step up and address issues.

Jeff Davenport, citizen who lives on Cecily Drive, which is in Chase Plantation, appeared before the Board and said that he is in support of the rezoning; that what Mr. Rodgers is doing is a good thing; that more fields are needed for kids to practice; that regarding noise, someone on Highway 315 uses a compressor at night and it can be heard anywhere in Chase Plantation; that the noise won't be any different with the addition of ballfields; and that Mr. Rodgers has agreed to stipulations, which if followed, shouldn't be a problem.

Patrick Whearley, former commissioner and citizen who lives on Elm Court, appeared before the Board and said he was probably part of the "ass backwards" government that got this issue started; that after the zoning was denied, Mr. Rodgers was told that as long as he didn't charge for the use of the field, there wouldn't be an issue; that several of the sitting Commissioners visited the property; that the argument regarding the Comprehensive Land Use Plan, no property is designated as recreation but it can be put where it is needed; that the recently deceased Dewey Paugh developed two ballfields on his property and allowed teams to practice, and he had no problems with the County in doing so; and that recreation should be permitted where it is needed and the subject area is one of those areas.

Bubba Green, citizen who lives on Cecily Court, appeared before the Board and said that he lives about 500 yards from the property; and that he and his family support the rezoning and what Mr. Rodgers is doing.

Brandi Turner, citizen who lives on Canon Road, appeared before the Board and said that what Mr. Rodgers is doing is great for the children and grandchildren of those who can't afford to drive to Columbus; that noise made by children is the sound of life; and that children need a place where they can safely play.

Charles Blair, citizen who lives on Watkins Road, appeared before the Board and said that he lives one and a half miles from the subject property; that the issue at hand never was about ballfields, but about a man who tried to buy property that was purchased by another; that up until about a year ago, he didn't know who Mr. Rodgers was, but has since become a friend of his; that Mr. Rodgers will do what he says he will do; that people should be ashamed about making comments and putting down a man who is trying to do something for the children; that children are the future and need a place to play ball; that there is nothing on that side of the County; and Mr. Rodgers needs a chance to show what he can do.

Will Rodgers, former commissioner and citizen who lives on Hoody Hudson Road, appeared before the Board and said that the property was rezoned from A-1 to R-1 while he served on the Board; that Mr. Rodgers has served on the Recreation Board and has been involved in baseball all his life; that a wrong has been done in that Mr. Rodgers was led to believe that the rezoning from R-1 to A-1 would allow him to do what he wanted; that the County has issued permits; that he has been allowed to build and the County has inspected the property; that he is certified in erosion and sediment control and has looked at the ballfields and has found nothing wrong with the property; that the County needs to right the wrong it has done and rezone the property to CORD; that Mr. Rodgers has invested hundreds of thousands of dollars in the property; and he asked the Board to approve the rezoning.

Marcus Bice, citizen who lives on Georgia Highway 219/River Road, appeared before the Board and said that he lives 8,833 feet from the subject property; that the right to use your property is a right and it is being denied to Mr. Rodgers; and that the Commissioner of District 3 has failed to represent all the citizens of the district, not just those in opposition to the rezoning.

Bob Ornowski, citizen who lives on Caldwell Court in Chase Plantation, appeared before the Board and said that he is in support of the rezoning application because more ballfields are needed; and that in reference to the article which appeared in the Sunday paper (Columbus Ledger Enquirer), alcohol is not allowed on the property.

Jamey Anderson, citizen who lives on Fortson Road, appeared before the Board and said that her brother-in-law lives at 1808 Fortson Road, and for those that don't know, they built a ballfield in the back of his property and most of Mountain Hill and other communities practiced on that field for years because there was nowhere else to practice; that Pate Park is full and the County Recreation has failed by not following through with the plan to provide more ballfields at Pate Park; and she asked that the Commissioners do what they were elected to do.

There being no further comments in support, Chairman Lange asked for comments from those in opposition.

Mike Benson, citizen who lives on Caldwell Court and president of the Chase Plantation Homeowners Association, appeared before the Board and said that the subject property is basically in his back yard; that during the practices that took place earlier in the year, he had a clear view from his patio and could hear the pinging of the bats, cars coming and going, and baseball chatter; that if the rezoning is approved it will have a permanent impact on his lifestyle and place of residence; that he is opposed to the rezoning to CORD. He then read a petition in opposition to the rezoning application signed by over 200 area residents, which includes the rezoning would have an adverse effect on residential property, would create storm water issues, and that it would be spot-zoning and would violate the comprehensive plan. He then submitted the petition to the Clerk for the record.

Tommy Greenhaw, citizen who lives on Caldwell Court, appeared before the Board and reviewed his version of what has occurred on the subject property to include that nearby homeowners have objected to what has been going on on the property ever since the rezoning to CORD was denied in 2009; that the vast majority of the neighbors are not in favor of the ballfields or rezoning to CORD; that they are not opposed to kids and ballfields, but do not want it in their backyards; that the question tonight is whether the County is going to enforce the Zoning Ordinance; that the neighbors realize there is a need for more ballfields, but the citizens should not be penalized and made to suffer because this is not the place for ballfields; that he has been involved with real estate development for many years, and there have been issues with the selling of property. He then submitted two letters, one of which indicated that had the person known about the ballfield before purchasing the property, he would not have done so, and the other is regarding a contract that fell through. Mr. Greenhaw said that prior to the ballfield, properties were selling with no problems; that despite being denied the rezoning to CORD in 2009, Mr. Rodgers continued to build the ballfields; that property was zoned A-1 and he had a right under that zoning to do what he was doing and built an agricultural building that is now identified as a gymnasium on the Tax Assessor's website; that although Mr. Rodgers was apparently told by a couple of commissioners that he could do what he wanted, that was not an official act of the Planning Commission or the Board of Commissioners; that if this is approved, what is to stop others from doing what they want and them coming to the Board to obtain forgiveness and approval; and that this is not right, not legal, and not ethical. In response to a question from

Commissioner Wyatt, Mr. Greenhaw said that he was interested in the subject property, but during research found that the septic situation is not good on that property and did not make any type of offer on that property.

Craig Greenhaw, citizen who lives on Caldwell Court, appeared before the Board and said that his rear corner property line is about 300 feet from the subject property; that when he is on his back deck, he can hear the bats tinging; that he is opposed to the rezoning; that neighbors have already experienced trespassing in the form of dirt, from run off that occurred before preventive measures were taken, and of people cutting through yards to reach the ballfields; that if the rezoning is approved it would be spot zoning and would violate the comprehensive land use plan and would create burdensome traffic and safety hazards along Highway 315 where there is no accel/decel lane at the entrance; that the rezoning will create an excessive and undue burden on existing streets; that the County has denied two other commercial ventures in the area to include directly across the street and at the corner of Highway 315 and River Road; and that all the surrounding properties, with the exception of the one small piece of property that has been commercial long before zoning went into effect, is agricultural and residential; that the rezoning application reflects the development of an outdoor recreation facility, which doesn't limit the use to baseball and softball, or just for use by youth; that if the rezoning is approved, it will be incompatible with the surrounding neighborhoods; and that based on past performance, Mr. Rodgers has no intention of complying with the zoning regulations or any restrictions placed on the property, and he asked that the rezoning be denied. He then submitted three photographs showing the property before development and as it is now.

Cole Cochran, citizen who lives on Caldwell Court, appeared before the Board and said that the argument is that Mr. Rodgers has been issued and spent money on the property; that according to Cord (sp) Outdoor Advertising vs. Board of Adjustments Atlanta, Ga. Supreme Court, 1985, and DeKalb County, 1987, improperly issued permits are void and void permits do not vest rights even if relied upon and money has been expended; that therefore, if the County permits were improperly issued, they are void, and Mr. Rodgers has no rights.

Bruce Fisher, citizen who lives on Cecily Drive, appeared before the Commission and said that with the current marketing situation, nothing should be done to destroy property values, which is what the rezoning would do; that if his property values go down, he wants the County or someone to make up the difference; that the road going into the ballpark is a one-lane road and poses a danger for which the County might be liable if emergency vehicles can't get in; that if approved, there should be a 10-foot high berm with leyland cypress trees planted and the road needs to be two-lane and paved, and an accel/decel lane would be needed; and that if what Mr. Rodgers is doing is for the good of the County, he should donate the property to the County.

Ken LeCour, citizen who lives on Bellinger Court, appeared before the Commission and said that he is about one-eighth of a mile from the ballfields; that while what Mr. Rodgers is proposing is a good idea, it is in the wrong location; that according to the Atlanta Journal Constitution, travel ball is big money; and that there are a lot of other things that can be done in CORD.

Lynn Sanders, citizen who lives on Dogwood Lane West, appeared before the Commission and said that she lives about 500 yards from the property; that she doesn't doubt the need for ballfields, but the teams that will use this field are not the average Little League teams, but travel ball; that parking is an issue; that the neighbors really don't want this type of activity in the area; and that she was asked by several people (Brek Finnegan, Paula Strickland, Lucy Willingham, and Vernice & Willard Brewer) to express their opposition to the rezoning application; that regardless of how it happened, this project was allowed to go forward; that the Commissioners need to do the right thing and disapprove the rezoning.

Juanita Gillman, citizen who lives on Stephens Court, appeared before the Board and said that the citizens in the area share the frustration of the time, energy and pain spent regarding this rezoning matter; that she did not move to Harris County to live adjacent to ballfields; and that they are not anti-children or anti-ball, but this is not the proper location for ballfields.

Chairman Lange called for a ten minutes recess, after which he called the Public Hearing back to order.

Allison Hurst, citizen who lives on Westwood Way and the daughter of Commissioner Langston, appeared before the Board and said that she is a teacher

in Harris County; that she knows there is a need for ballfields; and that teaching rules, laws and government is difficult if people are allowed to break them.

Tom Cain, citizen who lives on Cecily Court, appeared before the Board and said that he lives about 900 meters from the ballpark; that he is opposed to the rezoning of the property to CORD; that Mr. Rodgers has built three of the fields he has planned to build and he pled no contest to violating the Zoning ordinance; that there is nothing to indicate that Mr. Rodgers will adhere to any conditions that would be attached to the property if rezoned; and that asking forgiveness in lieu of permission appears to be a pattern for Mr. Rodgers.

Linda Clark, citizen who lives on West Pine Drive, appeared before the Board and said that she has been opposed to this development since day one; that she has called Mr. Rodgers three times and has not had her calls returned because a hill near her property has now been clipped and is now a cliff, which may place a liability on her; that she received her tax assessment recently and she just might dispute it; that Mr. Rodgers should not be rewarded for his tactics and the County should stand its ground and disapprove the rezoning; that she has lived travel ball, and games go on until 2 AM; that a girls' softball team out of Columbus, as told on Facebook, have utilized the building on the property and is a travel ball team; and that if Mr. Rodgers really wants to make it a Little League complex, he could donate the property to the County and get a tax break or sell it to the County.

Jim Furin, citizen who lives on Dogwood Lane West, appeared before the Board and said that during the 2009 rezoning, it was disapproved, but development went forward; that one of the main things to teach children is that laws and rules must be followed; that the Board could set a precedent tonight by denying the rezoning and saying that not following the rules, laws and ordinances will not be approved or allowed.

Steve Lips, citizen who lives on Caldwell Court, appeared before the Board and said that he can see the outfield fence from his window and if the rezoning is approved and lights are erected, he will be kept awake most nights; that he and his wife do not support the rezoning; that he moved to the county so that he could live in the country; and that this is not the place for a sports complex.

Debra Diesselhorst, citizen who lives on Caldwell Court, appeared before the Board and said that her property borders the subject property; that she and her husband are opposed to the rezoning; that ballfields and associated problems are not something she or the neighbors want to experience; that she could hear the noise from one practice game from inside her home; that there have been attempts to disenfranchise people of their rights as property owners; that the stakeholders, those living in the area of the ballpark, should be heard and over 200 people signed the petition in opposition; that even with the no lights, during the summer, games could go on until 9:30 or 10:00 at night; and she concluded by saying that she and her husband are also opposed to the rezoning of the property which would create an intrusive business enterprise in the midst of a total residential area and ask that the Board deny the rezoning.

Sherry Goodrum, attorney for the Chase Plantation Homeowners Association and whose office is located at 5607 Whitesville Road, Columbus, appeared before the Board and said that the rezoning application has two key questions unanswered (the first and second questions following the statistical information); that rezoning would violate the zoning standards by which the Planning Commission made its decision and the zoning district objectives for R-1, which indicates such areas are to be defined and protected from the encroachment of uses not performing a function necessary to a residential environment; that throughout the process, citizens have complained to the County and the State, which is well documented, to include photographs; that most of those who spoke in favor of the rezoning, did so with emotional issues regarding children, which is not a zoning standard; that the decision tonight is whether or not this is an appropriate zoning change for this area based on the zoning standards; and that a decision in favor will negatively impact the over 200 people who signed the petition in opposition to the rezoning.

There being no further comments in opposition, Chairman Lange asked Mr. Rodgers and Mr. Waldrep for rebuttal.

Mr. Waldrep said that zoning is not about a vote or show of hands of those for or against the rezoning, but is about the fair application of the Zoning Ordinance; that the current zoning is A-1 which is defined as a district to preserve land areas suitable for eventual rezoning; that there is no CORD anywhere in the Land Use Plan and the reason is that CORD is a floating district and the objective is to

provide areas for private recreational facilities, which is what Mr. Rodgers is trying to do; that because of the reliance on assurances from the County, Mr. Rodgers has spent a lot of money developing the property and has now acquired legal rights to be able to proceed and develop the property with conditions imposed by the Board; that the stormwater runoff has been taken care of and is over with; that to prevent kids cutting yards, a 20 foot high screen can be put up to stop access; that with respect to Mr. Cochran who cited the Cory (sp) case, the case does not apply to this situation because the soil disturbing permit in this matter was validly issued for a project known as Coco Hollow Athletic Complex and for which Mr. Rodgers paid \$640; that zoning ordinances are drafted to accommodate change and a growing County brings on change; and that the question is to protect private property rights of Mr. Rodgers or whether they should yield to the minor inconveniences people will suffer "across the way".

John Rodgers, applicant, said that the property at Highway 219 and 315 was rezoned to commercial and not denied as has been said; that more people who are adjacent the property spoke in favor of the rezoning than those opposed and he received three e-mails today from property owners adjacent the property who are also in favor; that he also received a letter from Jim Goodman, property owner, who is in favor; and that Mr. Finnegan does not live on his property, as previously said, but in New Jersey.

In response to questions from the Commissioners, Mr. Rodgers said that the barn is not a gymnasium; that the building is not complete, there is still dirt on the floor, there are tractors, it became a gymnasium when the County Tax Assessor made the determination, the building has not been occupied, does not have the final doors, and has nothing in the building, and no kids have practiced in that building. Commissioner Woods said that he was present during the rezoning hearing in 2009 when the property was rezoned to agriculture and it appeared to him that it was done so to provide tax relief; that the idea was not to allow ballfields and was obvious; and that he realizes a lot of money has been spent. He then asked if anyone had advised Mr. Rodgers that what he was doing (ballfields) was an acceptable use. Mr. Rodgers said that he went by the Code of Ordinances and #40 (zoning matrix) says that social, civic and fraternal organizations are allowed on A-1 property; that when he talked to Danny Bridges, County Manager, and Patrick Whearley, who was Commissioner at that time, he was told that as long as he didn't charge there would not be a problem; and what made him think it would be okay was that he helped Harris County put in a field on agricultural property, but then the owner died and the County lost the property. In response to more questions from Commissioner Woods, Mr. Rodgers said there will be some travel ball practices and possibly could be a day tournament, but with no lights there will be nothing more than a couple of teams coming in and playing; that he is willing to agree to have one field for use by Mountain Hill during Little League season and for them to schedule the use of same.

There being no further comments or questions from the Board, Chairman Lange closed the Public Hearing and asked for final comments before motion and vote.

In response to questions from Commissioner Wyatt, John Taylor, County Attorney, said that none of the permits issued by the County are invalid in that an agricultural building can be built on agricultural land; that CORD is a floating zone that can be used in any zoning district; that this is a use question; that Mr. Rodgers can get a permit to move dirt, like anyone else, to comply with the Soil and Erosion Control use; and that none of the permits issued have been voided.

Commissioner Wyatt said that the property at Highways 219 and 315, was owned by Gayle Terry, and in June 2005, the property was rezoned from A-1 to C-3, even though the request was for C-4 and that based on comments and complaints about various matters, he has visited the property several times and found there are horses on R-1 property, that machine guns are being fired on a range in R-1, that there is a motorcycle or 4-wheeler track there, that a pond has been built without soil erosion permits, and there is a cabinet shop on Highway 315 for which a permit can't be found, so there is more going on than just what Mr. Rodgers is doing.

There being no further comments, Chairman Lange asked for a motion.

Commissioner Wyatt made the motion to approve the rezoning with the conditions that were recommended: (1) no lights, (2) no PA system, (3) 50 foot buffer, planted or natural, and (4) the park would close at dark every night of the year. The motion failed for lack of a second.

Commissioner Langston made the motion to disapprove the rezoning, and

Chairman Lange seconded the motion for discussion. He then said that this is a difficult issue in that there is almost equal support for the application; that there is no doubt that more ballfields are needed; that the County has grown in population by more than 10,000 during the last 10 years; that this project would bring tourism; that in 2009, the rezoning to CORD was denied because the preponderance of the people in the area had been there and did not want ballfields in their area, and the zoning conditions led to the denial, which was a vote of 3 to 2; that he is not against ballfields and a lot of good comments were made, but not many things have changed since that time; that he had told Mr. Rodgers that if he could work out conditions with the majority of the neighbors, the rezoning would certainly merit reconsideration, but the majority of the neighbors are opposed; and that the Commissioners not only have to look out for people in their districts, they must do so for the rest of the County.

Commissioner Woods said that he has lived next to a railroad station and within five minutes of a ballfield, and does not think that it hurts property values; that the issue becomes a major commercial venture when it becomes travel ball; and that with the other he has no objection to.

Commissioner Langston said that she and her husband coached ball, fast pitch softball, and they did Little League for 10 years and travel ball, but when she first heard about this issue well over two years ago, she made the statement that it was absolutely in the wrong location, and that is her objection to it; and that she is in office to represent not only the best interests of those in District 3, but also those in the County.

The motion to disapprove the application passed with three in favor (Langston, Lange, Woods) and one opposed (Wyatt).

6. **NEW BUSINESS (CONTINUED)**

- E. **Budget Public Hearing II: FY 11/12.** Chairman Lange called the Public Hearing to order and asked Danny Bridges, County Manager, to review the budget. Mr. Bridges said that the budgets include the General Fund, Solid Waste, Water Works, Airport, and Small Funds and that no changes have been made since the previous Public hearing. Chairman Lange asked if anyone wished to make comments regarding the budget. There being none, he closed the Public Hearing.
- F. **Adoption of Budget: FY 11/12.** The motion to approve the FY 11/12 budget, which includes the General Fund, Solid Waste, Water Works, Airport, and Small Funds, was made by Commissioner Langston, seconded by Commissioner Woods, and passed unanimously.
- G. **Request for Tax Refund: Land, Robert M.** Chairman Lange said that a request had been received from Robert Land for a refund of \$365.04 because the mobile home was not liveable for several years and he estimated the value to have been \$3,000 at the time of demolition. Following discussion, the motion to disapprove this request was made by Chairman Lange, seconded by Commissioner Wyatt, and passed unanimously.
- H. **DOT Agreements: Inmate Work Details (2).** Chairman Lange said these appear to be the usual contracts, but a slight change had been made. Danny Bridges, County Manager, said that the Department of Corrections (DOC) had changed its guidelines and now limits the number of inmates to 10. John Taylor, County Attorney, said that the agreements really should be between DOT, the County, and the Prison. Mr. Bridges said that one detail is paid for by DOT and occasionally goes out of the County, while the other detail that is not paid for stays totally in the County. He also suggested that the hours of 8:30 to 4:30 be deleted from the unpaid agreement and that the County is not getting the full reimbursement for the salary of the correctional officer over the detail. Following discussion, the motion to approve both agreements, with the deletion of the hours, was made by Commissioner Wyatt, seconded by Commissioner Woods, and passed unanimously. [Documents can be found in "Contracts & Agreements" as C&A #11-21 (paid) and #11-22 (unpaid).]
- I. **Manchester Agreement: Inmate Detail.** Danny Bridges, County Manager, said that this agreement is similar to those with DOT, but is for the use of inmates only in the City of Manchester and for which Manchester pays the County for the full cost of the correctional officer over the detail. Following discussion, the motion to approve this agreement was made by Commissioner Wyatt, seconded by Commissioner Woods, and passed unanimously. (Document can be found in "Contracts & Agreements" file as C&A #11-23.)

7. **COUNTY MANAGER**

- A. **Purchase of Property: Highway 85 at 315.** Danny Bridges, County Manager, reminded the Board that there had been discussion regarding the purchase of property needed for realignment at the intersection of Highway 85 at 315 and to offer \$20,000 for the property, which is 0.35 acres. He asked for a motion to move forward with the purchased and to authorize him to execute the necessary documents regarding same. The motion to approve the purchase and for the County Manager to execute any necessary documents was made by Commissioner Woods, seconded by Commissioner Langston, and passed unanimously.
- B. **Resolution: Authorize Application for Water Infrastructure Improvements.** Danny Bridges, County Manager, said that this resolution is to authorize the application of a grant/loan for water improvements to increase the efficiency of the water filter plant and to extend water lines to an under-served area on Mt. Airy Road, and to authorize him to execute applicable documents related to the application. Following discussion, which included that if the grant/loan is awarded, the Board can decide whether or not to accept, the motion to approve the Resolution was made by Commissioner Woods, seconded by Commissioner Langston, and passed unanimously.
- C. **Chamber of Commerce Magazine.** Danny Bridges, County Manager, said that last year the Board paid one-fourth of the cost of the one-page ad in the Chamber of Commerce magazine and that it is being requested to do so again this year; that the cost for the agreement is \$2,695 which means the County's portion will be \$673.75; and that the Development Authority will pay the balance of the cost. The motion to approve same was made by Commissioner Woods, seconded by Commissioner Langston, and passed unanimously.
- D. **Redistricting.** Danny Bridges, County Manager, said that with the new census population, redistricting may be necessary, and that the River Valley Regional Commission (RVRC) can redraw the map at no charge and that the map can then be taken to Atlanta, rather than all (Commissioners and School Board Members) going to Atlanta. Following discussion, which included that the Elections Supervisor should be included regarding polling places, and that there will be no cost, Mr. Bridges was directed to contact the RVRC regarding same.

8. **COUNTY ATTORNEY.** John Taylor, County Attorney, said that he had no business to discuss with the Board.
9. **ADJOURNMENT.** There being no further business to discuss, the motion to adjourn was made by Commissioner Wyatt, seconded by Commissioner Langston, and passed unanimously.

J. Harry Lange, Chairman

Attest:

Nancy D. McMichael, County Clerk