

**HARRIS COUNTY BOARD OF COMMISSIONERS
REGULAR SESSION**

August 2, 2011
7:00 P.M.

Commissioners Present: J. Harry Lange, Joey M. Loudermilk, Becky Langston, Jim Woods, 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 July 19, 2011, Regular Session and the July 26, 2011, Called Session was made by Commissioner Loudermilk, seconded by Commissioner Langston, and passed unanimously.
3. **WELCOME TO SCOUTS.** Chairman Lange acknowledged the presence of Boy Scouts Benjamin and Andrew Kiefer, of Troop 777, who were in attendance as part of the requirement for the Citizenship Merit Badge.
4. **OLD BUSINESS**
 - A. **Second Reading: Application of Callaway Gardens Discovery Café for Beer and Wine On Premises at 13013 Discovery Parkway, Pine Mountain.**

Chairman Lange said that this was the Second Reading, read the specifics of the application, and said that it had been recommended for approval by the Sheriff's Office and the Health Department but that the Community Development Department had recommended disapproval because the facility cannot seat 40 people, does not have a menu, and is too close to a recreation center. Barry Morgan, applicant and CFO of Callaway Gardens, was in attendance and said that that additional seating has been added to the Café so it can now seat 50 people and that a printed menu is now also available. In response to questions, he said that the Café is open from 11 to 4:30 and that food is available during that time. Danny Bridges, County Manager, said that when he visited the facility after the first reading he found that while there were not 50 seats there was ample room in which to provide same, and that the menu was not printed but listed on a board; that if those items can be met, as Mr. Morgan has indicated, there should be no issue with licensing; and reminded the Board that food must be available during all times that beer and wine are available. Discussion included that the Discovery Center is not a "recreation center". The motion to approve this on-premises application was made by Commissioner Woods, seconded by Commissioner Loudermilk, and passed unanimously.
5. **NEW BUSINESS**
 - A. **Reappointment: West Center GA Region 7 EMS Council.** Chairman Lange said that the term of Jimmy Carver expired June 30, 2011; that the new term is July 1, 2011 to June 30, 2013; and Mr. Carver has agreed to reappointment should the Board decide to do so. The motion to reappoint Jimmy Carver to the West Central GA Region 7 EMS Council for the term ending June 30, 2013, was made by Commissioner Wyatt, seconded by Commissioner Woods, and passed unanimously.
 - B. **Website for Tax Commissioner.** Sarah McDowell, Tax Commissioner, was present to discuss the proposed website which would allow citizens not only to look at tax information, but would allow them to pay property taxes on line. Discussion included that the citizen would incur the fee to pay on line; that any payments would go against the oldest tax bill first; that citizens will be able to print a copy of their tax bill and payment receipt; that address changes can be submitted; and that with this web site, phone calls to the Tax Commissioners' office should be reduced. The cost for the website includes \$3,000 to design and develop (a one time cost) plus \$395 per month hosting, maintenance and administration for the first year, then \$495 per month for the second year. Discussion also included that the Tax Commissioner currently has an opening for a full-time employee, but if she gets the website, she will hire a part-time

employee, and the difference in the salaries of a full-time and part-time employee will pay for the website. There were no objections to pursuing the contract, which must be brought back to the Board for approval.

- C. **Insolvent List 2011 - July.** Chairman Lange said that the Insolvent List contains nine entries. The motion to approve the list was made by Commissioner Loudermilk, seconded by Commissioner Woods, and passed unanimously.

6. **COUNTY MANAGER**

- A. **Code of Ordinances Review.** Danny Bridges, County Manager, said there has been some talk about reviewing our Code of Ordinances for various reasons. Consensus was that while the ordinances need review, the staff should move forward with same.
- B. **Plats and CADs.** Danny Bridges, County Manager, said that with the County's GIS system, it is easier to add plat information if same is provided as a CAD file; that most surveyors already use CAD files and the cost of providing same would be nominal; and that while this would only be a request to surveyors at this time, at some point in the future, it may be a requirement. There were no objections to requesting surveyors to provide a CAD file of plats.
- C. **FDR Pool Future.** Danny Bridges, County Manager, said that there was a meeting recently with DNR and FDR Park officials by County staff and two Commissioners regarding the future of the FDR Pool; that while DNR wants the pool open, they are not willing to run same; that the information provided in the meeting packet outlines what DNR would like; that with the exception of the ParkPass collection, all items are negotiable; and that before County funds are expended to pursue looking into the County running the pool next year, he would like direction from the Board. Commissioner Wyatt said that he is not in favor of the County running the pool. Commissioner Woods said that the pool is a tourist destination, a local favorite, a historical attraction, and that the County should at least look at the costs involved with running same. The other Commissioners agreed with Commissioner Woods.
- D. **Water Heater for Prison: Use of Jail Funds.** Danny Bridges, County Manager, said that the water heater that provides hot water to the inmate population had to be replaced and he is requesting that Jail Funds be used to pay for same. The motion to approve the use of Jail Funds to pay for the water heater (at approximately \$4,300) was made by Commissioner Loudermilk, seconded by Commissioner Langston, and passed unanimously.
- E. **Bid Award: Morgan Copeland Road and Washington Road.** Danny Bridges, County Manager, said that bids were received for the paving of Morgan Copeland Road and portion of Washington Road, as follows:

COMPANY	BID AMOUNT
C. W. Matthews Contracting, Marietta, GA	\$ 338,337.64
Robinson Paving, Columbus, GA	\$ 278,401.73
Wolford Contracting Co., Fortson, GA	\$ 372,312.01

He said that the recommendation is to award the bid to Robinson Paving for the low bid of \$278,401.73; and that the County has a contract with DOT to provide \$300,000 toward this project, which will cost approximately \$380,000 including any right of way acquisition. The motion to award the bid to Robinson Paving was made by Commissioner Wyatt, seconded by Commissioner Woods, and passed unanimously.

- F. **Replacement Vehicle for Sheriff's Office.** Danny Bridges, County Manager, said that a Sheriff's Department vehicle was totaled in a recent accident; that we are awaiting a settlement from the other driver's insurance company; that it is anticipated the settlement from the other driver's insurance company should be around \$12,000; that the Sheriff has \$5,000 in funds to contribute toward the necessary equipment for same; and that while the balance of the

cost may come from Contingency, that won't be decided until the end of the fiscal year. The motion to purchase a replacement vehicle as discussed was made by Commissioner Wyatt, seconded by Commissioner Loudermilk, and passed unanimously.

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

A. **Public Hearing Procedures**. The procedures regarding the Public Hearing were explained by Chairman Lange.

B. **Application of Harris County Board of Commissioners to amend the text of the Zoning Ordinance, Articles II, IV and V for the purpose of adding Agri-Tourism as a means to allow farmers the supplement their income by offering agriculturally related tourist interests and/or attractions.**

Chairman Lange called the Public Hearing to order, read the specifics of the application, and asked Danny Bridges, County Manager, to discuss same. Mr. Bridges reminded the Board that the proposed ordinance is an effort to encourage the continuation of farming in the County; that a draft ordinance was prepared; that following the Planning Commission meeting, during which there were various concerns, an attempt was made to address the concerns, and a revised draft was distributed to the Board this evening; that the suggested revisions include limiting the size of the Farmers Market building to 2,000 square feet, increasing the minimum size of the farm from 10 to 20 acres, revising the definition of an existing and operating farm, adding items that need to be reflected on the master site plan, stressing that the primary product in the farmers market must be grown on site, adding that the Georgia Forestry Commission must be contacted about bonfires, reducing the camping facilities for youth organizations to three times a year and three days in length, defining farm antiques as farm implements at least 50 years old (and does not include household items or furniture), indicating that festivals/fairs cannot exceed three consecutive days, and defining petting zoos as a collection of docile farm animals for children to pet and feed; and that the emphasis is to help the farmer continue farming and teach children what farming is all about. In response to a question by Commissioner Wyatt, Mr. Bridges said that while fee fishing is suggested to be for everyone (used to be for children only), fishing tournaments would not be permitted.

Chairman Lange asked if anyone wished to speak in favor of the ordinance.

Hal Avery, citizen who lives on Avery Road, Pine Mountain, and committee member, appeared before the Board and said that land ownership is composed of rights that are both separate and separable; that timber, grazing, water, mineral mining, etc., and the right to put two houses or five houses on an acre of land are separate rights; that separable means that those rights can be separated off with each having its own value and worth; that care must be taken when considering what someone can or can't do with their property; that Lon Marlowe's property has been in that family since 1901 and that since that time, in the immediate area, he knows there have been five stores, two cotton gins, a race track, a baseball diamond, a dance studio, an auction barn, a machinery and parts business, a blacksmith shop, a farmers market, an auto repair shop, and numerous festivals; those people had the rights and privileges of doing what they did when they did it, so it begs the question from a civic and governance sense of where did those rights go; that this proposed ordinance could be looked at as a restoration of some of those rights; and that there shouldn't be an issue with Mr. Marlowe having a tomato stand in his backyard.

John Britt, citizen, who lives on Watkins Road, Fortson, and member of the Planning Commission, appeared before the Board and said that he agrees with both Mr. Bridges and Mr. Avery; that his motion during the PC meeting to table the recommendation was due to discussion that took place; that the activities permitted should be expanded; that increasing the minimum acreage to 20 acres may not be the right thing to do; that because a Special Use Permit is required for Agri-Tourism, the circumstances of the activity, the property location, and the surrounding area should be taken into consideration; that an organic farm, usually very small and labor intensive, can be two acres in size and still be able to share what they do with other people by providing tours and

seminars and have people see what they are doing; and that overall, it's a great start and will benefit the county in general. In response to a question from Commissioner Loudermilk regarding whether or not Mr. Britt was okay with the revisions made to the proposed ordinance since the Planning Commission meeting, Mr. Britt said that he had briefly reviewed them and that they appear to be okay.

Jenny Eckman, citizen who lives on Harold Williams Road, Hamilton, appeared before the Board and said that she agrees that increasing the minimum acreage to 20 acres will cut out a lot of people who could be doing something with their farm; and that while some things may need more input, she is in favor of having such an Ordinance.

Chris Jackson, citizen who lives on Highway 18, Pine Mountain, appeared before the Board and said he and his wife run a small organic farm outside of Pine Mountain on about 4 acres of land which is part of 160 acres; that as far as the 20 acres is concerned, he doesn't have a problem since they farm on his wife's parent's property, but if he was moving to the County, he would not be able to afford 20 acres, which would not encourage farming, but the 10 acres would be more doable; and that they hold dinners twice a year during which a farm tour is conducted, a meal is served consisting of food from the farm, and a bluegrass band provides entertainment and would like to make sure that type of event can still occur under the proposed ordinance. In response to a question from Chairman Lange, Danny Bridges, County Manager, said that the type of event Mr. Jackson described would probably be permitted.

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

Linda Straub, citizen who lives on Hopkins Farm Road, Pine Mountain, appeared before the Board and said that she did not see the proposed changes until just before the meeting; that she and her husband have lived in the County for 25 years; that she is a planner who previously worked for the County; that surveys show that the majority of the County citizens value the rural character of the County; that agri-tourism can be one way to help preserve farmland and help farmers supplement their income, but the proposed ordinance is the wrong way to accomplish this in that it threatens the character of the County; that the agricultural census indicates that Harris County has 371 farms encompassing 60,000 acres; that the definition of farm in the proposed ordinance indicates that anyone with 10 acres and a cow could get a Special Use Permit for an agri-tourism business; that 10 acres will not provide enough buffering for some of the permitted activities; that the definition of a farmers market should include a restriction on the size of the building; that there are no parameters regarding the primary product sold at a farmers market and how it will be determined, whether by volume, weight, number of units sold, or value; that she finds some of the permitted activities to be offensive and include festivals, which could turn into something like Gay Fair (i.e. Cotton Pickin' Fair in Gay, Georgia); that adjacent property owners should receive written notice when such activities are being applied for because one legal ad is not adequate; that everything in the proposed ordinance, except festivals are currently allowed in the Zoning Ordinance in one way or another in that farmers can currently have farm stands to sell their produce and most of the other activities could be under a Commercial Outdoor Recreation District (CORD); and that while the new changes appear to have made the proposed ordinance better, there is still some concern and she would like a chance to review same in order to pass on comments.

Kathy Ropte, citizen who lives on Calhoun Road, Hamilton, and Harris County Tea Party leader, appeared before the Board and said that the Board needs to think about what it is doing; that the County is making a habit of regulating the citizens to death; that it appears to be tying up property rights and destroying them in that her land is no longer her land; that America was founded on property rights and that's the way it should be; that we don't need to keep making regulations when a casual conversation with a neighbor could take care of any issue without the interference of the government; and that she wants the County "out of my life" but she is not sure about how to go about doing that.

Barbara Short, citizen who lives on Hopewell Church Road, Pine Mountain, appeared before the Board and said that she agrees with some of the things said by every speaker who has appeared before her; that rights are being lost to government regulations; that while she is not opposed to agri-tourism, she does have some concerns about the proposed ordinance; that she feels that her rights end where another person's begin; that she does not want to see the rural atmosphere of the County ruined; that while she agrees farmers have a hard time, she doesn't think agri-tourism should be considered by size, but more by use; that many of the revisions to the proposed ordinance have been changed for the better and she appreciates the efforts that have gone into the document; that festivals/fairs is what concerns her most because there are no restrictions as to the number of vendors or what they can sell; that she currently conducts farm tours for elementary school students; and that perhaps the County should contract with a certified planner to help write the ordinance to close any loop-holes.

Lynn Sanders, citizen who lives on Dogwood Lane West, Fortson, appeared before the Board and said that the ordinance is a good idea, but she agrees that many things need to be looked at; that Mr. (Lon) Marlowe should be allowed to sell tomatoes along the road side; that lights, for night activities, and noise, with loudspeakers, should be taken into consideration if something that is going to disturb the rural atmosphere would be done at dark; that one can make a living and sell things with a small parcel of land, like Mr. Marlowe selling his tomatoes along the road; and that while this is a good idea and a lot of work went into same, it needs to be given a little more thought.

Jim Straub, citizen who lives on Hopkins Farm Road, Pine Mountain, appeared before the Board and said that citizens were not told about the suggested changes until this evening and that the people in favor of the ordinance knew what they were; and that the Georgia Zoning Act requires that the public be given the right to comment with a 15 to 45 day notice of proposed changes. He also said that regarding the primary product sold (at the farmers market) there is no definition of how it will be determined or a time frame of when the primary product has to be produced, either in a season or a year, so selling Christmas trees, which is a product not grown on site, would be in violation of the home grown/primary product; that the County has a bad record of enforcing zoning and this proposed ordinance opens the door to unintended consequences of commercialism in the countryside; that if you grow something on your property like timber and send it off where it is processed and comes back as lumber, this may be something your could sell because it was grown on your property or could not sell because it is now a different product; that the same could be said about beef cattle - once processed off site and it comes back; that Christmas trees, if not the primary product, are permitted; that most of the activities are covered elsewhere in the Zoning Ordinance; that this is the result because one man could not get what he wanted so the changes are to allow him permission to do what he wants to do and include things that no forthright farmer would do; that he grew up on a farm and was surrounded by farmers, none of which had camping, festivals or gift shops on their property; that allowing such throughout the county will be a big disturbance for the county as a whole; and it is counter to what the Comprehensive Plan outlines for the county.

Christopher Short, citizen who lives on Price road, Pine Mountain, appeared before the Board and said that he would like to see wineries included as a permitted activity under Agri-Tourism; questioned if the t-shirts and other novelty items would have to be locally produced; and said that there are some loopholes in the proposed ordinance that need to be closed.

Jim Furin, citizen who lives on Dogwood Lane West, Fortson, appeared before the Board and said that he is neither for nor against the ordinance; that perhaps there should be town hall meetings in each district to get feedback and input from citizens; that with 371 farms, if each had a three-day festival, that would be 1,113 days of festivals, although probably unlikely; that this could be infringing on personal property rights; and that the people he has talked to in his area were not for or against the ordinance but just concerned and have questions.

Ann Withrow, citizen who lives on Calhoun Road, Hamilton, appeared before the Board and said that her concerns are regarding Constitutional rights; that she does not like the idea of anyone telling her what she can or can't do on her property; that farmers should have enough sense to know if they are bothering their neighbors with loud music or sounds from carnivals or other activities; and that she can't imagine anyone trying to control the right of the man (Mr. Marlowe) to sell tomatoes that he grows on his property.

Sue Koone, citizen who lives on Wright Road, Pine Mountain, appeared before the Board and said that she has a farm; that ordinances currently in effect address some of the activities listed in the proposed ordinance; that an effort should be made to get the word out better so that farmers will know what they may or may not do to supplement their income; that the proposed ordinance needs to follow the Comprehensive Plan because that plan was decided on by the citizens; that perhaps the County should acquire planning expertise to make sure the ordinance is the best that it can; that the revisions made as a result of the Planning Commission meeting came out too late for citizens to review and make comments; that she is concerned about festivals and fairs because they generate a lot of trash, sanitation issues, and noise, and the ordinance does not include enough parameters for protection as to what type of festivals or the number of vendors and what they can sell; and that consideration should be given to the changes and there should be more time to educate the public.

Lon Marlowe, citizen who lives on Georgia Highway 219, West Point, appeared before the Board and said he is more in favor of than opposed to the ordinance; that he was sorry for growing the tomato plants (previously mentioned by several speakers); that farming of land alone is very expensive; that he raises grass fed beef and has been talking to the County for three years in an effort to be able to sell his product without having to make the rounds to various locations several times a week to sell it; that he would like to have a place to attract enough people so he would not have to make trips to such locations; that the County will not be over-run with festivals or fairs as they are very expensive, hard to start, and hard to maintain; that the provisions requiring a site plan will cause someone to think twice about what they want to do; that agri-tourism is two words and the focus appears to be entirely on agriculture, but the idea should be tourism in agricultural areas as a way of economic growth; and that the County is rural as opposed to agricultural.

There being no further comments in opposition, Chairman Lange asked Mr. Bridges for rebuttal. Mr. Bridges said that citizens in agricultural districts can already sell products they grow on their property, so this ordinance would not change or limit that; that the revision to increase the acreage is due to what was brought up during the Planning Commission; that as to whether or not places like the organic farm (Jenny-Jack) could operate under this proposed ordinance, they should be able to continue do so; that it is important to stress that for a farmers market you must predominately produce a product on that location and not truck produce in; that although a time limit is suggested for one thing (Christmas tree display lights) a limit could be attached to other activities; that regarding the revisions, which were distributed today to the Board as well as to those in attendance, no one saw the changes prior to this meeting; that the changes made were in connection with what was mentioned and discussed during the Planning Commission meeting, but there is nothing new in it; that the County has met the requirements of the Zoning Act in that we have had two Public Hearings and the Board has in its discretion to make any changes to a proposed ordinance once the Public Hearings have been held; and that the Board certainly has the authority to attach any conditions on any zoning application to allow or disallow certain activities.

Commissioner Loudermilk asked about the Zoning Act requirements and making changes as a result of the first Public Hearing. John Taylor, County Attorney, said that the changes are not so perverse as to change the intent of the proposed ordinance; that the Zoning Act only requires one Public Hearing, but Harris County's Zoning Ordinance calls for two; that the Board can make any changes or modifications to a proposed ordinance, which in this case were text and editorial changes or clarifiers; that if there were no suggested changes, the Board could still make such changes and move forward with approval; and

the Board has met the requirements of the Zoning Act. Commissioner Loudermilk asked if the recommendation of the Planning Commission to table action would have bearing on the Board's decision, and Mr. Taylor said no, that the Board could make the final decision at this meeting should it so desire.

In response to a question from Commissioner Wyatt, Mr. Bridges said that the 2,000 square feet for a farmers market is the sales area in which an individual may sell their produce and that of other farmers, and that should someone have a large building which already exists, the applicant would be limited to using only 2,000 square feet for the sales area; that it doesn't preclude the use of the building, but the use of the whole building if it exceeds 2,000 square feet that way it is currently proposed. Commissioner Wyatt said that a lot of things can be done on a small parcel of lot and he would prefer to see the minimum size for a farm to be five acres, and while he is sure that wouldn't pass, he would like to see the minimum size changed back to 10 acres.

There being no further questions or comments, Chairman Lange closed the Public Hearing. He then said that some good points have been raised, both in favor of or opposed to the proposed ordinance; and that because the Board got the proposed revisions this evening, he would like to have an opportunity to look at the document. He then made the motion to defer action on the proposed ordinance to the September 6 meeting. Commissioner Langston said that she agreed with Chairman Lange and seconded the motion. She said that while she has talked to many citizens regarding the ordinance, none were against having such a document, but there were concerns regarding distance, noise, enforcement, and buffer issues. She said that the proposed changes are good and that she would like to see the proposed revisions on the website for citizens to see. Chairman Lange said that the Public Hearing has been held and closed so no further comments will be heard from citizens, even though they can contact their Commissioner regarding same. Commissioner Langston also asked that the names of the members of the Agri-Tourism Committee be included in the minutes, and there was no objection to same. The motion to defer action on the proposed ordinance and revisions to the September 6 meeting passed unanimously.

As requested by Commissioner Langston, following are the members of the Agri-Tourism Committee: Danny Bridges (County Manager), Jim Woods (Commissioner), Becky Gray (Zoning Tech), Nancy McMichael (County Clerk), and James Rodgers, Hal Avery, Lon Marlowe and Steve Morgan (citizens who reside in and have property in agriculturally zoned districts).

8. **COUNTY MANAGER (CONTINUED)**

G. **DOT Right of Way Agreement: Base & Paving of New Connector road in Northwest Harris Business Park (S013666-PR)**. Danny Bridges, County Manager, said that this is the right of way contract in connection with a promise from DOT to provide up to \$100,000 for this project. John Taylor, County Attorney, said that this appears to be the usual DOT right of way agreement and recommended approval of same. 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 # 11-33.)

9. **OTHER**

A. **Moratorium on Sewer Line for the Grove**. Commissioner Wyatt made the motion to lift the moratorium (put in place in October 2010 as a result of his motion) regarding the Grove development. The motion was seconded by Commissioner Loudermilk, and passed unanimously.

B. **Request for Executive Session**. Danny Bridges, County Manager, requested an Executive Session for the purpose of discussing personnel and pending and potential litigation.

10. **COUNTY ATTORNEY**. John Taylor, County Attorney, said that he had no business to discuss with the Board this evening.

11. **RECESS FOR EXECUTIVE SESSION.** The motion to go into Executive Session for the purpose of discussing personnel and pending and potential litigation was made at 9:00 PM by Commissioner Wyatt, seconded by Commissioner Loudermilk, and passed unanimously.
12. **RESUME REGULAR SESSION.** The motion to resume the Regular Session was made by Commissioner Wyatt, seconded by Commissioner Loudermilk, and passed unanimously.
13. **OTHER (CONTINUED)**
 - C. **Salary Increase: Solid Waste Personnel.** Commissioner Wyatt made the motion to increase the salary of Ronnie Duke up to \$41,706, which is a five percent increase. The motion was seconded by Commissioner Langston, and passed unanimously.
14. **ADJOURNMENT.** There being no further business to discuss, the motion to adjourn was made by Commissioner Loudermilk, seconded by Commissioner Langston, and passed unanimously.

J. Harry Lange, Chairman

Attest:

Nancy D. McMichael, County Clerk