

HARRIS COUNTY BOARD OF COMMISSIONERS
REGULAR SESSION
December 20, 2011
7:00 P.M.

Commissioners Present: J. Harry Lange, Becky Langston, Jim Woods, Charles Wyatt.
Commissioners Absent: Joey M. Loudermilk. 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 December 6, 2011, Regular Session was made by Commissioner Wyatt, seconded by Commissioner Langston, and passed unanimously.
3. **APPEARANCE OF CITIZENS**
 - A. **Lon Marlowe: Creating a Level Playing Field**. Lon Marlowe, citizen and owner of Oakhurst, appeared before the Board to discuss various recent issues concerning the Steeplechase at Callaway Gardens (alcohol and sales tax), Jenny-Jack Farm (dinner on the farm), the Morgan property (selling of cut Christmas trees), farmers markets, corn mazes, education field trips, etc., and implied that the Board is not doing its job in enforcing Zoning issues consistently across the County. Upon conclusion, there were no comments from the Board.
4. **OLD BUSINESS**
 - A. **Error & Release: Piedmont Lake, LLC**. Chairman Lange said that three Error & Release requests for 2010 in the amount of \$2,806.96, for 2009 in the amount of \$3,080.06, and 2008 in the amount of \$3,014.38 because they were over-charged by 60 acres, had been tabled by Commissioner Wyatt because of an outstanding water bill due the County. He said that the water bill had been paid November 30. The motion to approve these three Error & Release requests totaling \$8,901.40 was made by Commissioner Wyatt, seconded by Commissioner Woods, and passed unanimously.
5. **NEW BUSINESS**
 - A. **Error & Release: McMillen, Michael C**. Chairman Lange said that an Error & Release request had been received indicating that the Digest total of \$49,827 had been corrected to \$32,550 due to the house on the property having been burned and removed prior to January 1, 2011. The motion to approve this Error & Release was made by Commissioner Langston, seconded by Commissioner Woods, and passed unanimously.
 - B. **Financial Statement: October 2011**. The motion to approve the October 2011 financial statement was made by Commissioner Wyatt, seconded by Commissioner Langston, and passed unanimously.
 - C. **Appointments/Reappointments**. The following reappointments/appointments were made.
 - (1) **Agri-Center Board**. Upon the motion by Commissioner Wyatt, second by Commissioner Langston, and unanimous vote, Alan Feagin, Jim Fuller, Jr., and Kim Mobley were reappointed, and the new term will be from January 1, 2012, to December 31, 2014.
 - (2) **Construction Board of Adjustments & Appeals**. Upon motion by Commissioner Wyatt, second by Commissioner Woods, and unanimous vote, Joey Teel and Ray Underwood were reappointed, and Chance Carlisle was appointed to fill the position formerly held by Steve Brasington, Jr. The new term for each will be July 1, 2011 to July 30, 2015.
 - (3) **Development Authority**. Upon the motion by Commissioner Wyatt, second by Commissioner Langston, and unanimous vote, Lynda Dawson (District 1) was reappointed, and upon the motion by Commissioner Woods, second by Commissioner Langston, and unanimous vote, Derek Williams was appointed to fill the position formerly held by Chad Kimbrough, who did not wish to be reappointed for District 2. The new term for each will be January 1, 2012 to December 31, 2015.
 - (4) **Health Board**. Upon the motion by Commissioner Wyatt, second by Commissioner Woods, and unanimous vote, Martha Clements was reappointed,

and her new term will be January 1, 2012, to December 31, 2017.

- (5) Library Board. Upon the motion by Commissioner Langston, second by Commissioner Woods, and unanimous vote, Maurine Avery, Elaine Beall, and Harry Lange were reappointed, and the new term for each will be January 1, 2012, to December 31, 2014. Upon the motion by Chairman Lange, seconded by Commissioner Woods, and unanimous vote, Warren Aldrich was appointed to fill the position formerly held by Elaine Davis, who did not wish to be reappointed, and his term will also be January 1, 2012, to December 31, 2014, and Bob Patterson was appointed to complete the term of the position formerly held by Shane Lipp, who resigned, with the term ending December 31, 2013.
 - (6) MHDD&AD. Upon the motion by Commissioner Wyatt, second by Commissioner Woods, and unanimous vote, Claudette Boelter was appointed to fill the position formerly held by Martha Folds, who had exceeded the two-term maximum. Ms. Boelter's term will be January 1, 2012, to December 31, 2015.
 - (7) Planning Commission. Upon the motion by Commissioner Woods, second by Commissioner Wyatt, and unanimous vote, Chad Kimbrough was appointed to fill the position formerly held by Lewis Sturdivant, who did not wish to be reappointed. Mr. Kimbrough's term will be January 1, 2012, to December 31, 2015.
 - (8) Public Improvements Authority. Upon the motion by Commissioner Langston, second by Commissioner Woods, and unanimous vote, Lynda Dawson and Joey Loudermilk were reappointed for the term July 1, 2011, to June 30, 2014.
 - (9) Recreation Board. Upon the motion by Commissioner Langston, second by Commissioner Wyatt, and unanimous vote, Jerry Munoz was appointed to the position formerly held by David Burgamy (Cataula YSA), and Jairo Gay was appointed to the position formerly held by Pam Davis (Pine Mountain YSA). Upon the motion by Commissioner Langston, second by Commissioner Woods, and unanimous vote, Chuck Herndon (at-large) was reappointed. Upon the motion of Commissioner Langston, second by Commissioner Wyatt, and unanimous vote, Holly Holloway (Waverly Hall YSA) was reappointed, and Steve Turner was appointed to complete the term of Donnie Caudill (Hamilton YSA), who resigned. The terms of Mr. Munoz, Mr. Gay, Mr. Herndon, and Ms. Holloway will be January 1, 2012 to December 31, 2014, and the term of Mr. Turner will expire December 31, 2013.
 - (10) Zoning Adjustments, Board of. Upon the motion of Commissioner Wyatt, second by Commissioner Woods, and unanimous vote, Billy Collins was reappointed for the term October 1, 2011 to September 30, 2014. Regarding the position held by Brian Lucas, action was tabled pending verification of his residence in District 3.
- D. **Rezoning & Special Use Schedules for 2012**. Nancy McMichael, County Clerk, said that these were the usual schedules prepared for approval, but that one date needed to be changed, and that is the Commission meeting scheduled to fall on January 1, 2013. Following discussion, the motion to approve the two schedules and to change the January 1, 2013 meeting to January 2, 2013, was made by Commissioner Wyatt, seconded by Commissioner Langston, and passed unanimously.

6. **COUNTY MANAGER**

- A. **DOT Agreement: Airport Obstruction & Topographic Mapping**. Danny Bridges, County Manager, said that this agreement in the amount of \$34,900 is for work that is required to be part of the Airport Layout Plan and that the funding is 90% Federal, 2.5% State, and 2.5% County, which is a little over \$800. The motion to approve this agreement was made by Chairman Lange, seconded by Commissioner Woods, and passed unanimously. (Document can be found in "Contracts & Agreements" file as C&A #11-45.)
- B. **Storm Damage: Tornado of November 16, 2011**. Danny Bridges, County Manager, reported that as a result of the November 16 tornado, the County's insurance claim will be close to \$500,000; that all County buildings on Highway 116 were either damaged or destroyed; that the 9-1-1 Center is still operating out of a communications trailer on loan from Muscogee County and which has a Muscogee County deputy stationed there 24/7; that most of the A/C units on the roofs of buildings have to be replaced at an approximate cost of \$100,000; that the Animal Shelter was totally destroyed and was

valued at approximately \$184,000; and that the Community Center, which is insured by Batson-Cook during construction, sustained approximately \$1.5 million in damages, which will delay the opening of the Center from January to possibly April.

- C. **Animal Shelter Relocation.** Danny Bridges, County Manager, said that as a result of the November 16 tornado, the Animal Shelter, as previously reported, was completely destroyed; that it was insured for approximately \$184,000; and that he is asking the Board to consider relocating the Animal Shelter to the Landfill property on Barnes Mill Road, mainly because the current location of the Animal Shelter is on the road leading into the Hamilton Business Park, because a business will soon be relocating to a site near the current Animal Shelter location, and because the area will look better without the Shelter. Following discussion, which included that there is a good location on the left of the drive leading into the Landfill on which the Shelter could be constructed, there was no objection to moving forward with the relocation. Mr. Bridges said that before the decision is finalized, he will come back to the Board regarding costs and any other issues that may be factors in the relocation.
- D. **Water Rates.** Danny Bridges, County Manager, said that discussion took place during the preceding Work Session regarding an increase in water rates, and that it is proposed that the minimum rate be increased by \$1.00 and that the overage be increased by 5%. Chairman Lange said that as a result of the proposed increases, some citizens would pay \$12 more a year, while others would pay about \$36 more a year. The motion to approve the rate increase as presented was made by Commissioner Wyatt, seconded by Commissioner Woods, and passed unanimously.

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

- A. **Explanation of Public Hearing Procedures.** Chairman Lange explained the procedures involved with the Public Hearing.
- B. **Conflict of Interest Forms.** The Conflict of Interest forms were completed at the request of Chairman Lange.
- C. **Application of Ashley McCall for a Special Use Permit for a kennel (for personal pets) at 1165 Bartletts Ferry Road, Fortson, Map 16, Parcel 63, Land District 19, Land Lot 60.** 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 & Zoning staff to bring the use into compliance with the Zoning Ordinance. Ashley McCall, applicant, appeared before the Board and said that she keeps two of her dogs in the house; that she recently got rid of one of her dogs because it was aggressive and bit another of her dogs; that she has small children whose swing set is in the yard where the dogs are kept; that she has had one of the dogs four years; that she takes care of her dogs; that she was not aware of the regulation restricting the number of dogs she could have on her property; that they are her family pets and guard her house; that she has a 40-gallon trough of water for the dogs, which is the same size she has for her horses, that she changes every day; that she has a 6' x 6' dog house and will be picking up two more soon; that her dogs are good family dogs; and that she currently has five dogs.

There being no questions from the Board, Chairman Lange asked if anyone wished to speak in favor of the application. There being none, he asked if anyone wished to speak in opposition to the application.

Hank Baron, of 1091 Bartletts Ferry Road, appeared before the Board, and asked everyone who is opposed to this rezoning request to stand up. Approximately 25-30 people stood up. Mr. Baron said he lives next door to the subject property and then showed a video that included dogs barking from inside a fence along the joint fence line, dogs barking at night, and dogs rushing the fence. Mr. Baron also said that he has lived on his property for 13 years; that his house is 100 to 125 feet from the fence line and that there is also a tree line; that since the McCall's moved in two years ago, there have been nothing but problems with their dogs; that they have two small children, five full-grown pit bulls, two horses, and some chickens; that he is opposed to the rezoning, as are the majority of his neighbors, who have signed a petition (which he then presented to the Board); that the dogs are very aggressive and growl and bark non-stop; that they fight amongst themselves to the point of being wounded and bloodied; that two of the dogs are kept chained up with heavy chains; that the dogs are potentially dangerous, according to the County's Animal Control Ordinance, and are nuisances; that he has tried to talk to Mrs. McCall about the dogs; that the dogs bark at any little sound, when the lights come on at night, and even in the morning; that when friends and family visit, the dogs bark; that after two years of this, he has "had it"; that he considers the McCalls to be irresponsible dog owners due to the dogs' behavior, their unsanitary environment, and the constant barking, to which they show no consideration;

that facts show that in the last six years, pit bulls are responsible for 40 to 50% of dog attack fatalities; that pit bulls are not family pets; and that he is concerned that something is going to happen to the children as a result of having the pit bulls.

William R. Pitts, citizen who lives at 855 Bartletts Ferry Road, Fortson, appeared before the Board and said that he has lived there for 50 years; that he is opposed to approval of the application; that the dogs are vicious; that his 8-year-old grandson stays with him a lot; that everyone knows what pit bulls are capable of doing; and he asked that the permit not be approved.

Denise Small, citizen who lives at 1091 Bartletts Ferry Road, Fortson, appeared before the Board and said that she has called Animal Control about the dogs; that some of the dogs are chained up in the back yard; that there are two horses in the front yard and which are sometimes up against the house and which don't seem to get enough food; that a dog is the product of its environment and its owner; that the dogs are aggressive and vicious; that the dogs are tethered for hours or weeks; that you never see the dogs being walked or see the owners outside with the dogs, nor do you see their children with the dogs; and that the approval should not be granted.

Roy Martin, citizen who lives at 1684 Bartletts Ferry Road, Fortson, appeared before the Board and said that he has lived in the area all his life; that he is a jogger and biker; that he goes down Bartletts Ferry Road almost daily; that there is an odor from the horses and the dogs bark and run along the fence; that this is a dangerous situation; and that he doesn't want to be the one that gets bitten.

Dale Yancey, citizen who lives at 1305 Bartletts Ferry Road, Fortson, appeared before the Board and said that the McCall's don't respect their neighbors now; that approving the permit will "open up a can of worms"; and that he has had trouble with them, although Mr. Baron has the most trouble since he lives closest to them.

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

Mrs. McCall, in rebuttal, said that one of the dogs shown in the video is no longer on the property and is the one she got rid of, as previously noted.

Matt McCall, husband of Ashley McCall, said that he spends \$1,500 a month on horse feed and dog food; that he has to deal with one of the neighbor's dogs chasing the chickens and chasing the four-wheelers; that Mr. Baron's blind dog coming into the yard roaming around; that he has nothing but problems with Mr. Baron regarding property lines; that Ms. Small has just moved in, about three months; that his horses are fed every day; that his dogs get a scoop of dog food a day; and that they have caught Mr. Baron walking away from the fence after bothering the dogs.

Mrs. McCall said that horses have to be fed, if they aren't they get colic; that a child is more likely to be hurt by a human than a dog; a dog is a dog and is doing what they are supposed to do; all the dogs are registered with papers; that the dogs are on chains when she rotates them out when they go into heat; and to be able to "show" dogs, they cannot be "fixed".

Mr. McCall said that Sheriff's deputies have come in his driveway and pet the dogs, a guard dog is there to do the job and bark; that his dogs are not the only dogs barking; that pit bulls, in general, have a bad reputation; that he does not want a dog that bites and attacks around his children, which is why the one dog is no longer on the property; and that they are responsible dog owners.

Mrs. McCall said they have had problems with Mr. Baron from day one, and she mentioned a few issues not dealing with dogs or horses, and she asked that the Board approve here request so that she will not have to get rid of any of her pets.

Commissioner Langston asked about the location of the kennel, and Mrs. McCall pointed out on a copy of the plat the location of the kennel area, and she said that the horses come next to the house, because she feeds them treats through the kitchen window. She also pointed out Mr. Baron's property.

Commissioner Langston said that the issue is there are five dogs and the request is to bring into Zoning compliance. She asked what would happen if the request is not granted, and Danny Bridges, County Manager, said that Mrs. McCall would have to get rid of all but three dogs.

Commissioner Wyatt asked why Code Enforcement was involved in this issue rather than Animal Control, and Commissioner Langston said that it was zoning issue. Clyde

Geter, Animal Control Office, said that he has been to the property, and Commissioner Wyatt asked why there was no evidence of a report. Mr. Bridges said that this is strictly a Zoning issue and has nothing to do with complaints, which is why Mr. Geter would have gone to the property. John Taylor, County Attorney, said that there are two separate issues; that if Mrs. McCall wants to keep more than three dogs, she has to have a Special Use Permit for a kennel; and that with three dogs or less, there could still be issues concerning Animal Control issues such as viciousness, nuisance, or aggressiveness, which is a separate enforcement issue. Commissioner Wyatt asked why some of the violations weren't prosecuted before the Special Use application. Nancy McMichael, County Clerk, said that when Zoning violations are investigated, the owners are allowed to apply in order to comply with Zoning and if they had not made the application, they would have been issued citations as well as facing possible Animal Control issues. Commissioner Langston said the McCalls are trying to comply with the Zoning Ordinance. Chairman Lange said Animal Control issues are not part of the Zoning application. Mr. Taylor said that while the Board could hear from the Animal Control officer, those comments would not be the issue the Board is considering. Commissioner Wyatt said that this looks like a sneaky way to get out of violations by applying for rezoning. Commissioner Langston asked if the request was regarding family pets only, and Mrs. McCall confirmed that. Commissioner Langston said that if the request is granted and complaints are made at a later time, that would be a different issue to be looked at later.

Chairman Lange closed the Public Hearing and asked for a motion. The motion to disapprove this Special Use Permit application was made by Chairman Lange, seconded by Commissioner Wyatt, and passed with three in favor (Lange, Wyatt, Langston), no opposition, and one abstention (Woods, due to lack of information). Chairman Lange said that the application had been denied and that Mrs. McCall can have no more than three dogs.

8. **COUNTY ATTORNEY**

A. **Redistricting Maps**. John Taylor, County Attorney, said that this matter is back on the agenda (from the August 16 meeting) to give final approval of the map and authorize the map to be sent to the Legislative Counsel's office for a bill to be introduced in the Legislature. He said that the reason this is back on the agenda is that he thought the Board was waiting for the decision of the Board of Education, but that Nancy McMichael, County Clerk, is of the opinion that a final decision was made (see minutes of August 16 meeting in which the Board approved Map #2), but it won't hurt to make the decision again. He said he has already sent notice to the Harris County Journal regarding the redistricting. Following discussion, the motion to approve Map #2 and to authorize sending it to the Legislative Counsel was made by Commissioner Wyatt, seconded by Commissioner Woods, and passed unanimously. (Documents (maps) can be found in "Miscellaneous Documents" file as MD #11-11.)

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

J. Harry Lange, Chairman

Attest:

Nancy D. McMichael, County Clerk