

**HARRIS COUNTY BOARD OF COMMISSIONERS
REGULAR SESSION**

July 2, 2013
7:00 P.M.

Commissioners Present: J. Harry Lange, Joey M. Loudermilk, Becky Langston, Jim Woods, Charles Wyatt.
Staff Present: Greg Wood, County Manager; John 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 Regular Session minutes and the Appeal Hearing of Brenda Marsh minutes of June 18, 2013, was made by Commissioner Loudermilk, seconded by Commissioner Langston, and passed unanimously.
3. **OLD BUSINESS**
 - A. **Second Reading: Application of Nadeem Chaudhry for Beer and Wine Off Premises at Midway Grocery located at 10016 GA Highway 315, Cataula (new owner).** Chairman Lange read the specifics of the application. The applicant nor his representative were present. Commissioner Loudermilk tabled this matter until the applicant can be present.
4. **NEW BUSINESS**
 - A. **Rails to Trails Concept Plan: John Stover (Carter & Sloope).** John Stover, of Carter & Sloope, appeared before the Board to discuss the proposed conceptual plan for the first phase of the Rails to Trails (i.e. Railroad Recreation Trail) project. Mr. Stover explained the plan and said that the County had originally applied for a \$1,000,000 grant but only received \$500,000; that based on the funding awarded, the first phase of the Trail can be completed starting at Chipley Street in Pine Mountain and continuing south to the intersection of US Highway 27 and State Route 354 and the further south to Callaway Gardens' HR/Purchasing Department building; that Callaway Gardens will allow access to the railroad bed from its property as long as its property is not damaged; that bids will be sent out once approval is received from Georgia DOT; and that the project will probably be underway shortly before next summer. Following discussion, the motion to move forward with the concept plan and the bidding process was made by Commissioner Loudermilk, seconded by Commissioner Wyatt, and passed unanimously. Chairman Lange asked Mr. Stover to do what he could to speed up the process since the County would like to see the project underway as soon as possible.
 - B. **Insolvent Requests June 2013.** Upon review of the insolvent list for 2013, the motion to approve the list, except for # 2 (Daniel Hodge Homes) and #3 (Fox Chase LLLP), was made by Commissioner Wyatt, seconded by Commissioner Woods, and passed unanimously.
5. **COUNTY MANAGER**
 - A. **Bid Award: Courthouse Roof Remediation.** Greg Wood, County Manager, said that bids had been requested for the Courthouse Roof Remediation and that one bid was received from WilServ, of Sparta, Georgia, in the amount of \$66,000. He recommended the awarding of the bid to WilServ and said that with the type roofing being applied, there will be an addition one inch of foam to help with insulation purposed. The motion to award the bid to WilServ for the bid amount of \$66,000 was made by Commissioner Wyatt, seconded by Commissioner Langston, and passed unanimously.
 - B. **Agri-Center Development.** Greg Wood, County Manager, said that before the bid award is made regarding the Metal Pole Barn at the Agri-Center, a review of the various development points regarding the Agri-Center property is necessary. He said that there have been discussions with the Agri-Center Board and the Cattleman's Association Board regarding the property development. Nancy McMichael, County Clerk, said that both the Agri-Center Board and the Cattleman's Association Board wanted to have a definite outline of what has been discussed by the Commissioners regarding the property development, and that what is included on the list has been taken from the various Commission meetings. Following discussion, the motion to approve the Development Plan for the Agri-Center was made by Commissioner Wyatt, seconded by Commissioner Woods, and passed unanimously. The Development Plan, as approved, is:
 - ▶ Construct a metal pole barn on the existing foot print of the Cattleman's Association former building site prior to the September 2013 rodeo
 - ▶ Amend the Agri-Center Ordinance, thus breaking the 99-year lease to the Agri-Center Board, to include:

- the Agri-Center property will never be developed except for agri-tourism purposes
 - the County will maintain the “booking/scheduling” calendar for the Agri-Center property
 - the Cattleman’s Association will be given the first booking/scheduling opportunity in January of each year to reserve portions of the Agri-Center property for its annual events
 - the Cattleman’s Association will have “exclusive use” of the new Cattleman’s Association building for its monthly dinner meetings with no usage or rental fees
 - the Cattleman’s Association will have use of the new Multi-Use Facility for its annual rodeo with no usage or rental fees
- ▶ Rebuild the Cattleman’s Association building in the “borrow pit” area, with a target date of December 31, 2013, for which the Cattleman’s Association will contribute its insurance proceeds of \$50,000 with the balance provided by the County using SPLOST funds and/or General Funds
 - ▶ Continued development of the Agri-Center property in phases, to include the relocation of the existing arena as a covered Multi-Use Facility, demonstration gardens, parking areas, practice arena, stable area, and other potential developmental possibilities as SPLOST funds and/or General Funds permit
 - Phase I: Multi-Use Facility (target start date of September 1, 2016)
 - Phase II: Parking & Drives
 - Phase III: Stalls/Stables & Practice Arena
 - Phase IV: Farmers Market, 4-H Office, Demonstration Gardens, and other uses

C. **Bid Award: Metal Pole Barn at Agri-Center.** Greg Wood, County Manager, said that bids were requested for the construction of a Metal Pole Barn on the existing footprint of the former Cattleman’s Association building at the Agri-Center, and that two bids were received as follows:

Company	Bid Amount
Mulberry Creek Construction, Fortson, GA	\$ 52,500
Rodgers Metalcraft, Fortson, GA	\$ 47,667

Mr. Wood said that the recommendation is to award the bid to Rodgers Metalcraft for the low bid of \$47,667. The motion to award the bid as recommended was made by Commissioner Wyatt, seconded by Commissioner Langston, and passed unanimously.

D. **Yancey/Caterpillar Lease Agreement: 320EL Excavator for Public Works.** Greg Wood, County Manager, said that an existing piece of machinery, a 320DL Excavator, is at the end of its lease term and that while the guaranteed buy-back on it was \$78,000, the buy-back was revised and is now \$105,000; that the buy-back can be used toward the lease of a new 320EL Excavator, the cost of which is \$186,944, with an extended five year warranty and a term limit of 5 years or 5,000 hours with a guaranteed buy-back of \$98,000; that using the \$105,000 toward the new Excavator will leave a balance of \$82,444 to be financed with payments of \$1,488.73 per month. The motion to move forward with the purchase/lease of the new Excavator was made by Commissioner Wyatt, seconded by Commissioner Woods, and passed unanimously.

E. **Sabal Pipeline.** Greg Wood, County Manager, said that he had recently talked with a representative of Sabal Pipeline, from whom the Board recently received a letter concerning a proposed gas line from Alabama to Florida that would also go through the southwest section of the County; that he advised the representative that the line would basically be going through a large granite source; and that in all probability, if the line does go through the County, it will have to go further south.

F. **Road List Status and Upcoming LMIG.** Greg Wood, County Manager, distributed the Road List (approved in June 2011) which has been revised to show what road projects have been completed, what roads are underway, and roads which still have work to be done. He also said that the list was provided to give the Board ideas on which roads to consider for the upcoming LMIG list that has to soon be submitted to Georgia DOT for consideration and approval.

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

A. **Public Hearing Procedures.** 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. **Applications of: (1) Jacolin Pittman Cornett to Rezone 9.37 acres (of a 58.178 acre tract) located on Fortson Road in Land Lot 193, Land District 19, Map 46, Parcel 25, from A-1 (Agricultural/Forestry) to M-2 (Heavy Manufacturing District), present use undeveloped land, proposed use mining and extraction of stone; (2) Jacolin Pittman Cornett for a Special Use Permit for the mining and extraction of stone on the same property; (3) Estate of Willis O. Jackson, Sr., to Rezone 28.80 acres (of a 52.80 acre tract) located on Fortson Road in Land Lot 193, Land District 19, Map 46, Parcel 26,**

from A-1 (Agricultural/Forestry) to M-2 (Heavy Manufacturing District), present use undeveloped land, proposed use mining and extraction of stone; and (4) Estate of Willis O. Jackson, Sr., for a Special Use Permit for the mining and extraction of stone on the same property. Chairman Lange read the specifics of the applications and said that because the properties to be rezoned and for which a special use permits are also requested are contiguous and are for the same proposed use, one hearing will be held but that separate motions will be necessary for each of the two properties. John Taylor, County Attorney, explained that the applications are before the Board as a result of a Court Order; that when the Board disapproved the rezoning requests in 2008, the applicants sued, a trial was held with the Court finding that the highest and best use of the property was to be zoned for manufacturing, which would allow for the mining and that reasonable conditions, to be negotiated with the applicants, could be attached to the rezoning; that the County appealed to the Georgia Supreme Court but lost the appeal; and that as a result, the Rezoning process is being followed. He said that the total property to be Rezoned and for which the Special Use Permits are being requested is 38.17 acres.

Chuck Ford and Bill Tucker, attorneys representing Jacolin Pittman Cornett and the Estate of Willis O. Jackson, Sr., appeared before the Board to explain the applications and to respond the questions from the Board. Mr. Ford distributed a conceptual aerial map showing various locations related to the subject properties, and he gave a brief overview reiterating what Mr. Taylor had previously explained; he then reviewed the seven conditions being proposed to be attached to the rezoning; and responded to questions from the Board regarding those conditions. Commissioner Loudermilk then asked that another condition be added; that such was indicated in the Court Order; and that it should read that Heiferhorn Creek will not be crossed for mining purposes. After some discussion, the applicants agreed to that as the eighth condition. Discussion also included that there is no specific date as to when the mining will begin in Harris County; that the existing quarry in Muscogee County has been operating off and on since 1943 so it's taken about 55 years to mine those 40 acres; that there is still about 2,000 feet before that quarry reaches the County line, so it could be 15 or more years before mining begins in Harris County; and that the enforcement of the conditions will fall to the appropriate County officials and employees. Following discussion, Chairman Lange asked for comments from those in favor of the application. There being none, he asked for comments from those in opposition to the applications.

Terry Williams and Manuela Menendez, who live on Auburn Avenue in Fortson Hill, appeared before the Board and said they live about a half-mile from the subject property; that they do not want the quarry in their back yard.

Margaret Childers, who lives on Auburn Avenue, appeared before the Board and said that because the citizens in the area were not notified of the appeal to Superior Court they were not given the opportunity to tell their side of the issue; that she has lived in the area since 1973; that she would like to be able to hire an independent inspector to perform the pre-quarry inspection rather than allowing the quarry inspectors to do same; and that because the value of the homes in the area will go down as a result of the quarry, the Tax Assessor's office should be directed to reassess the homes accordingly.

James Clark, who lives in Fortson Hills, appeared before the Board and said that he has lived there 26 years; that when he bought his home, the quarry was not in operation and the realtor assured him that it would not start up again; that the noise of the crusher is loud and as it moves toward the County line, will only get louder; that the traffic noise is not greater than that of the crusher; that a 30' high berm will not be sufficient for noise; that equipment can be set up in his backyard to measure the noise levels; and that he appreciates what the County has done.

Bobby Tenney, who lives on Fortson Road, appeared before the Board and said that his house is the second from Heiferhorn Creek; that the noise of the equipment will impact the area; that the berm will create a "megaphone" effect; and that he would like to see the berm started quickly so that trees and vegetation will be in place when the quarry starts its operation in the County.

Lynn and William Kelly, who live on Fortson Road, appeared before the Board. Mrs. Kelly said that her father worked for Vulcan for 40 years so she is familiar with how a quarry works; that the quarry will be in her front yard; that there are dump trucks going up and down Fortson Road all day everyday; and that the trucks are supposed to be on the road when there are projects in the area. Mr. Kelly said that the noise from the trucks, to include the back-up alert, is constant. Commissioner Wyatt suggested that the next time dump trucks are on the road, get the information off the truck (company name, etc.) and contact Community Development. Greg Wood, County Manager, said that he will check into the weight limits of the road and the bridge.

Jim Braswell, citizen who lives on Southview Drive, appeared before the Board and said that he has a 80% hearing disability and he can hear when the rocks first hit the crusher pan in the mornings; that the noise will be even greater when the equipment is moved further north and into the County; that the crusher needs to remain where it is; and that because of the reduced value the homes in the area, the Tax Assessor's office needs to reassess values accordingly.

Ron Gibson, citizen who lives on Brookside Drive, appeared before the Board, thanked the Board for its work in connection with the quarry, and said that during the 2008 hearing, evidence was heard indicating that stone flew up and landed on the Yancey warehouse roof; that the distance from the front of the warehouse to the bottom of the berm on Smith Road is 227 feet, the distance from the front of the warehouse to the top of berm is 383 feet; and that the width and height of the berm being proposed (of 150 feet) would not stop rock from doing the same now.

Greg Wood, County Manager, commented that regarding the inspection of properties, it may be possible for the County to act as a intermediary and get an independent contractor to perform the inspections.

There being no further comments, Chairman Lange asked Mr. Tucker and Mr. Ford for rebuttal.

Mr. Ford said that regarding the rock that hit the Yancey warehouse several years ago, there are standards that must be followed regarding blasting and the level of blasting; and there have been no such incidents in the past five years; that regarding the traffic and crusher noise, the survey was conducted on Fortson Road at the request of Mrs. Fortson, which showed that the Fortson House that vehicles going by the house did make a louder noise than the crusher; and that the noise levels of the quarry are well within the noise restrictions imposed by Muscogee County.

Mr. Tucker reiterated that mining standards have changed in the past five years; and that the method of blasting and the regulations changed resulting in the quarry operating under a standard that is four times lower than the standard permitted by the State overall. In reference to the comment that the citizens were not represented in court, the County's attorneys did an excellent job of representing and defending not only the County's interests but that of the citizens during the first trial but also when the verdict was appealed to, but denied by, the Georgia Supreme Court.

There being no further comments, Chairman Lange closed the Public Hearing and asked for a motion on the Rezoning and Special Use applications of each property.

The motion to approve the applications of Jacolin Pittman Cornett for the Rezoning of 9.37 acres from A-1 to M-2 and for the Special Use Application for the mining and extraction of stone on the 9.37 acres, and to approve the applications of the Estate of Willis O. Jackson, Sr., for the Rezoning of 28.80 acres from A-1 to M-2 and for the Special Use Application for the mining and extraction of stone on the 28.80 acres, with eight conditions, was made by Commissioner Wyatt and seconded by Commissioner Loudermilk. (The eight conditions are set out in the last paragraph of this section.)

Commissioner Woods commented that the representatives of the Columbus Quarry have acted as gentlemen during this long process; that hopefully all the intangible property will be in Harris County; that the offer to contribute \$50,000 annually once production begins is commendable; but that he is upset about the Board's willingness to give away sales tax and intangible property; that the amount of sales tax the County is giving away by insisting that all traffic leave through Smith Road in Muscogee County is, conservatively one to two million dollars; that he does not consider this representing the County as a whole. He said that the intangible property should reside in the County and that there should be an entrance/exit onto Fortson Road in Harris County, and Commissioner Woods asked that the motion be amended so that the material that is mined in Harris County has a point of sale exit onto Fortson Road. Commissioner Wyatt said that he would amend his motion for same, and there was further discussion, which included that it may not be possible to require a point of sale nor would it create a taxable situation; that the berm could be zig-zagged to keep the noise level down; that the \$50,000 in 2025 will be equivalent to \$25,000 in today's money, and in 2045 it will be equivalent to \$6,000; that the County has already spent \$250,000 on this matter. Chairman Lange asked Commissioner Loudermilk if he would agree to amending the motion, and Commissioner Loudermilk said he would not, and the amendment died for lack of a second.

Commissioner Wyatt then amended his motion to that of the original, and Commissioner Loudermilk seconded the motion. The motion passed with four in favor (Wyatt, Loudermilk, Lange, Langston) and one opposed (Woods). The eight (8) conditions attached to the Rezoning and Special Use Applications of Jacolin Pittman Cornett and Willis O. Jackson, Sr., regarding a total of 38.17 acres, are:

- (1) As to the subject properties, a 300-foot deep buffer or minimum buffer required by the State of Georgia, whichever is greater, shall be required along Fortson Road.
- (2) Vehicular access to the subject properties, other than for security and maintenance purposes, shall be restricted to the current or an equivalent permitted quarry entrance located on Smith Road in Muscogee County.
- (3) No vehicles for mining activities or berm construction shall use any exit or entrance on the subject properties onto or from Fortson Road.
- (4) Before mining begins upon the subject properties, a minimum 30-foot high berm shall be constructed, planted and maintained on the subject properties by Applicants or any of their successors along Fortson Road. After planting matures, said berm shall reach a height of at least 40 feet. The berm will be constructed prior to commencing any mining on the subject properties. The 30-foot high berm will be constructed to the west of the 300-foot buffer from the Harris County line that is the southern boundary of the subject properties to a point 150 feet north of the north wall of the Getzen House; at that point the berm will shift within the approximately 150 feet western half of the 300-foot buffer to the north boundary of the subject properties. The trees and brush in the eastern 150 foot of the buffer that adjoins Fortson Road will not be disturbed.
- (5) The subject properties shall be restricted to mining and accessory uses. In that regard, though otherwise permitted by ordinance, Applicants agree that the subject properties will not be used for nor will there be a Sexually Oriented Establishment as defined in Article II. "Definitions" of the Harris County Zoning Ordinance, erected or maintained on the subject properties.
- (6) Upon approval of the subject properties for mining by the State of Georgia and upon the request of a homeowner whose dwelling is located within one mile of the subject properties, Applicants or any of their successors will conduct a one-time structural survey of the requesting property owner's dwelling and dwelling extensions.
- (7) After mining of stone for production (rather than only testing) begins on the subject properties, Applicants or any of their successors will contribute a combined \$50,000 to Harris County to be used for maintenance of the roads in the vicinity of the subject properties for each calendar year that any portion of the subject properties is mined for production purposes on any one or more days during the year; the contribution for a year will be made within ten days after the first production mining occurs in the year and will be subject to proration for the first calendar year in which production mining commences.
- (8) Applicants and their successors will not cross Heiferhorn Creek in Harris County from the subject properties for mining operations.

7. COUNTY ATTORNEY

A. **Coast2Coast Agreement for Prescription Discount Card.** John Taylor, County Attorney, reviewed the agreement with Coast2Coast for a prescription discount card. Commissioner Wyatt said that he had talked with the two drug stores in the County and learned that any compensation made to the County actually is taken from what the drug stores would make, and the participants information is sold to drug companies for the purpose of marketing in certain areas. He then asked that action be tabled until more information can be determined. Discussion included that both pharmacies in the County will accept the card; that the discount of up to 55% is stretching it; that although people may have more than one prescription discount card, they can only use one card; and the bottom line is that if someone does not have insurance, any savings is helpful. Greg Wood, County Manager, is to contact ACCG, through whom the arrangement for the card was made, to find out about the issues raised.

8. **RECESS FOR EXECUTIVE SESSION.** Commissioner Woods made the motion, at 9:30 PM, to go into Executive Session for the purpose of discussing the acquisition of real estate and a personnel matter. The motion was seconded by Commissioner Langston, and passed unanimously.

9. **RESUME REGULAR SESSION.** The motion to go back into Regular Session was made by Commissioner Wyatt, seconded by Commissioner Woods, and passed unanimously.

10. OTHER

A. **Sturdi Buildings.** Commissioner Wyatt said that Sturdi Buildings is ready to move forward with locating in the Hamilton Business Park; that originally the County had indicated it would pave the road (Water Oak Way) to the top of the hill, about 150 yards, and asked if it could be added to the present contract road contract. Discussion included that neither the bid documents nor the contract indicated that other roads could be added to the contract; that CW Matthews has not yet started on the current contract, which stipulates that the work is to proceed within ten days of the issuance of the Notice to Proceed, which was issued on May 31; that Water Oak Way has an initial base on it, but needs paving. Following discussion, the motion to move forward with paving of the road, whether by adding to the existing contract or by going out on bid, was made by Chairman

Lange, seconded by Commissioner Wyatt, and passed unanimously. Funds to pay for the paving are to come from SPLOST Economic Development or Roads.

11. **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