

**HARRIS COUNTY BOARD OF COMMISSIONERS
REGULAR SESSION**

March 4, 2014

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 minutes of the February 18, 2014, Regular Session, was made by Commissioner Loudermilk, seconded by Commissioner Wyatt, and passed unanimously.
3. **APPEARANCE OF CITIZENS**

A. **Macon Inert Landfill Issues.**

- (1) **Jean and Danny Gatlin.** Jean & Danny Gatlin, citizens who live at 266 Gatlin Lane in Cataula, appeared before the Board to discuss recent issues with Jeff Macon's Inert Landfill, which had been approved by the Board of Commissioners in 1991. Mrs. Gatlin submitted a petition signed by residents opposed to the way the inert landfill is being used. (Document can be found in "Miscellaneous Documents" as MD #14-02.) Comments from Mr. and/or Mrs. Gatlin included that while they don't have a problem with itself, they do have issues with the number of dump trucks, some of which are tandem dump trucks, traveling down Gatlin Lane to get to the inert landfill; that on February 17 of this year, 26 dump trucks traveled through the residential area consisting of 18 homes; that on February 24, between the hours of 7:52 AM and 8:54 AM, 15 trucks came through; that the road is not wide enough for two dump trucks, so they are pulling off on the side onto people's property; that the traffic is a safety issue and residents cannot walk or jog due to the number of trucks and the dust resulting from same; that the trucks were so numerous that they were lined up to go to and coming from the landfill; that the trucks left mud on the road, which was only made worse when a water truck was brought in to hose it off because the runoff accumulated in people's yard since there are no drainage ditches; that it's not right for the residents have to suffer because of the dump truck traffic; that Mr. Macon, in 1991, told the Board of Commissioners that the inert landfill would be for his personal use; that Mr. Macon has one dump truck and the trucks hauling the dirt do not belong to him; that children can't play or ride their bikes in the road. In response to questions from the Board, Mr. and/or Mrs. Gatlin said that the dirt being hauled is coming from the Lullwater development in Columbus; that the dirt also includes tree trunks and limbs; that the dump trucks being used belong to Warr Grading; that there is a stop sign on the road that Mr. Macon owns (leads to the landfill) and the trucks don't stop there; that the trucking starts at 7:30 A.M. and continues to 4:30 P.M.; that they were told by one of the drivers that this will continue for three or four months; that the trucks travel too fast' and that if Mr. Macon uses the landfill in the manner he described to the Commissioners in 1991, they wouldn't have any issues with it. Greg Wood, County Manager, said that he had been in touch with EPD, who regulates landfills, and was told that Mr. Macon is in compliance with the rules and regulations regarding landfills; that Mr. Macon is in the process of applying for a new permit through EPD to whom the County could send a letter detailing the growth in the area that has taken place since 1991; that an ordinance could be drafted regarding the restriction of tandem dump trucks on residential streets; and that the condition of the road could be in violation of Chapter 4, Article, VI, Section 4-143(a)(2)(3) and (4).
- (2) **Tonya Edenfield.** Tonya Edenfield, citizen who lives on Gatlin Lane, appeared before the Board and said that she agrees with what Mr. and Mrs. Gatlin said, and that she has photographs of the road conditions and the trucks. She then submitted the photographs (10) for the record. (Photographs can be found is "Miscellaneous Documents" as MD #14-03.)

At this point, Chairman Lange recessed comments in order to hold the advertised Public Hearing scheduled for 7:30 PM.

4. **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 for Chairman Lange.
- C. **Application of Kristine Weaver to Rezoning 7.50 acres of Land Lot 121, Land District 19, Map 048B, Parcel 48, from R-1 to A-1; present use residential; proposed use residential with horses; property located at 774 West Bon Acre Road, Cataula.** Chairman Lange called the Public Hearing to order, read the specifics of the application, and said that the Planning Commission has unanimously recommended disapproval of same.

Kristine Weaver, applicant, appeared before the Board and said that she bought the property about two years ago; that she has three horses; that when she bought the property, she understood that she could have horses; that she only found out that horses were not permitted when she went to get a permit for a barn; that she would not be having an equine facility; and that it is for personal use.

Chairman Lange asked for a show of hands of those in favor of the rezoning, and approximately 40 individuals raised their hands. He then asked for a show of hands of those in opposition to the rezoning, and approximately 40 individuals raised their hands. He then asked for a show of those in favor who live within one-half mile of the subject property, and approximately 12 individuals raised their hands. He then cautioned that those who wished to speak would be able to do so but asked that there not be repetitive comments.

Ron Bass, citizen who lives on Mt. Airy Drive in Waverly Hall, appeared before the Board and said that he has known the Weavers for some time; that he has visited the property several times and has never seen any issues with odor or flies; that the Weavers keep their property neat; that their horses are healthy; and that he is in favor of the rezoning request.

Dennis Owens, citizen who lives on West Bon Acre Road in Cataula, appeared before the Board and said that he lives across the street from the Weavers; that he has never had any problems with the horses; and that he has never seen anything out of the ordinary on the property.

Whitney Dionne, citizen who lives on Turkey Trail in Hickory Hollow Subdivision, appeared before the Board and said that she travels on West Bon Acre frequently during the past 18 years and has seen a number of people riding horses; that when Mrs. Weaver rides her horses, if they leave a manure pile, she goes back and cleans it up.

Julia Rash, citizen who lives on Hudson Mill Circle, appeared before the Board and said that while she does not own property in the Smoke Rise area, she does frequently visit a friend who lives at 745 West Bon Acre Road; that she can't count the number of times she has seen horses on West Bon Acre Road; that having horses in the area is not something new; and that the Weavers keep their home and property neat and clean and their horses are healthy.

Debbie Boyd, citizen who lives on Harris Drive, appeared before the Board and said that the Smoke Rise community was originally developed to have horses in the area, and if people didn't like horses they shouldn't have moved there. Commissioner Wyatt commented that Smoke Rise was originally developed with a bridle path for horses.

Pam Wynn, citizen, appeared before the Board and said that the Weavers horses do not bother anyone; that the horses are well cared for; and that she has been in the area for 24 years and has not had problems with horses.

There being no further comments in favor, Chairman Lange asked for comments of those who are opposed to the rezoning application.

Larry Mills, citizen who lives on Grey Smoke Trail, appeared before the Board and said that he represents the Smoke Rise Property Owners Association (POA); that the association is not as opposed to the horses as it is to the property being rezoned which could allow for more animals. In response to questions, Mr. Mills said that there was no formal meeting of the POA but the comments were based on calls he had received; that there are approximately 110 members of the POA but he does not have the number of people he talked with.

Margaret Spurlock, citizen who lives on Grey Smoke Trail, appeared before the Board and presented a continuation of the petition submitted to the Planning Commission on February 19. (Document, along with the first portion of the petition, can be found in "Miscellaneous Documents" file as ME #14-04.). Mrs. Spurlock said that she has lived in Smoke Rise for 35 years; that horses have never been in Smoke Rise; that when Smoke Rise was originally

developed, it was to include stables and the bridle path; that the stables never got built and while the bridle path does exist, it's overgrown; that most of the bridle path belongs to the POA, but parts were actually sold to various property owners; that she does not know Mrs. Weaver but has met her horses; that when the horses left a manure pile in front of her house, Mrs. Weaver did clean it up by sweeping in into the right-of-way; that she does not believe there is enough room for the horses with the house, corral, riding area, swimming pool, barn and saw mill; that the horses do not stay inside the 7 acres. In response to questions from the Board, Mrs. Spurlock said that the horses have gotten out at least twice six or seven months ago and that she did not notice the horses until then.

Jim Alford, citizen who lives on Grey Smoke Trail, appeared before the Board and said that he was opposed to more than just the horses; that he believes the rezoning sign was not appropriate it that it could not be read due to where it was located and the lack of wording visibility; that the manure pile on the Weavers property is 6' high x 16' long; that water run off from the manure pile can get into the ground water and ultimately into the water source for many residents; and that he is asking the rezoning be denied.

Karen Hicks, citizen who lives on Fireside Court, appeared before the Board and said that she and her husband have owned their property for seven years; that their realtor was the former of the Weaver property and that she did not have horses, but had an herb garden and loved the birds and wildlife; that she has a pool that is 30' from the property line; that she has been bitten on the neck, upon getting out of the pool, by a horsefly; that having the horses there is destroying the beauty of the area; that residents can't even walk the "loop" without being confronted by horses; and that she asks that the rezoning be denied. In response to questions, Mrs. Hicks said that the loop is Grey Smoke Loop which is the main road within the subdivision. Mrs. Hicks then continued by saying that the Weavers have cut down 40 or so pine trees, but the remainder of the subdivision is wonderful and the County should keep it that way.

Martha Tillery, citizen who lives on Grey Smoke Loop, appeared before the Board and said that one manure pile was in the road all day because she saw it as she went out and it was still there upon her return around 9:30 PM; that the citizens don't like being confronted with horses and the manure; that the POA owns the bridle path, which is overgrown, except for the part that is owned by residents; and that while the horses were noticed a while back, the citizens didn't think they could have anything done about them, until they saw the rezoning sign.

Helen Thomas, citizen who lives on Stock Gun Drive, appeared before the Board and said that she lives adjacent to the Weaver property; that the Weavers had two horses when they moved in but now have three; that the Weavers have even ridden their horses down her driveway to gain access to the subdivision roads; and that she is concerned about what else could take place if the property is rezoned.

Kenneth Branch, citizen who lives on Fireside Court, appeared before the Board and said that he has lived in the area for 30 years; that they have had horses for over a year; that the horses have been in his yard several times; that he should not have to deal with horses; and that he is opposed to the rezoning.

Gary Goderba, citizen who lives on Grey Smoke Loop, appeared before the Board and said that he has lived in the area for 26 years; that he does not know the Weavers; that the horses do not bother him; and that the area is zoned R-1 and residents should be expected to abide by the regulations for same.

John Hill, citizen who lives on Grey Smoke Trail, appeared before the Board and said that he has lived in the area for 13 years and has never seen a horse on West Bon Acre.

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

Mrs. Weaver said that she did have two horses when she moved to the property and got another one shortly thereafter; that Smoke Rise is surrounded by A-1 property; that others in the area have horses and ride them on the roads; that her property is well maintained and they will soon be constructing a fence, which will help prevent her horses from getting out in the future; that they did cut down 42 pine trees; that they are planning additional improvements worth \$80,000 to \$100,000; that none of the residents have even talked to her about her horses. In response to questions from the Board, Mrs. Weaver said that her husband does have 13 horsepower, diesel, saw mill as a hobby, and it was used to cut board

from the pine trees that were cut down; and that her horses have gotten out three times and it's been over a year since the last time they got out.

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

At this point, Commissioner Wyatt commented that an e-mail had been received by the Commissioners regarding the possibility of West Nile Virus and that a person had been infected; that if that was the case, the Health Department should be notified. Commissioner Woods said that horses are more susceptible to West Nile Virus than humans; that the disease is caused by mosquitoes; and he concluded by reminding those in attendance that he is a veterinarian. Commissioner Langston asked about the A-1 property around Smoke Rise, and Tracie Hadaway, County Planner, said that on the map showing the brown and yellow colors, the brown represents A-1 and the yellow represents R-1.

Chairman Lange said that while there is other A-1 property in the area, the Weaver property is surrounded by R-1 property. He then made the motion to deny the rezoning request. The motion was seconded by Commissioner Langston, and passed with three in favor (Lange, Langston, Loudermilk), one opposed (Woods), and one abstention (Wyatt).

5. APPEARANCE OF CITIZENS (CONTINUED)

A. Macon Inert Landfill Issues (Continued)

(3) Steven Oakes. Steven Oakes, citizen who lives on Gatlin Lane, appeared before the Board and agreed with what had been said by Mr. and Mrs. Gatlin; that although a water truck was used to wash off the road, when they got finished, the road didn't look any different. In response to questions from the Board, Mr. Oakes said that the road is not buckling, but does have cracks and potholes and that a Warr Grading driver had indicated the dirt would continue to be brought in for three to four months.

(4) Robert Oakes. Robert Oakes, citizen who lives on Gatlin Lane, appeared before the Board and said that everything has been said and that the dump truck traffic is disturbing the residents in the area.

Discussion included that County staff has visited the area to look at the roads; that no citations have yet been issued; that research will be done as to the right-of-way, the speed limit, the posting of speed limit signs; that a letter should be sent to EPD regarding the new permit being applied for; and that a letter regarding the possible issuance of citations as a result of violation should be sent to Mr. Macon.

The motion to send a letter to EPD requesting that the inert landfill permit not be renewed due to changes in the residential area was made by Chairman Lange, seconded by Commissioner Wyatt, and passed unanimously. Commissioner Woods also suggested that a letter be sent to Mr. Macon regarding possible County Ordinance violations concerning the condition of the road. There were no objections to that suggestion. Consensus was to also draft an Ordinance to prohibit tandem dump trucks on residential County roads.

6. OLD BUSINESS

A. Roads Survey Right of Way Issue. Greg Wood, County Manager, said that the engineer performing the survey for Washington Road, Mountain Road, and Cold Springs Road had provided the preliminary surveys using a 60' right of way rather than the 50' the Board had originally requested. Following discussion, there were no objections to moving forward with the 60' right of way on these three roads.

B. Budget Schedule Heading Error. Commissioner Langston said that the budget schedule included in the February 18 meeting packet was headed "FY 14/16" and asked if that was an error. Nancy McMichael, County Clerk, confirmed that it should have been "FY 14/15".

C. Cattleman's Association Building at Agri-Center. Commissioner Wyatt made the motion to move forward with requesting bids for the Cattleman's Association building (approximately 50' x 75') on the Agri-Center property with using the "dirt" money balance of \$62,000 and \$30,000 from the Cattleman's Association for the building, with the County paying any difference. He said that the Cattleman's Association balance, of \$20,000, would be used toward the interior of the building, again with the difference in the actual costs being paid by the County, and that he and Nancy McMichael, County Clerk, were ready to go out with bids. The motion was seconded by Commissioner Woods and passed unanimously.

- D. **Railroad Recreation Trail & Gas Valves.** Commissioner Wyatt said that the gas valves are still in place on the Railroad Recreation Trail and asked if they were going to be moved. Greg Wood, County Manager, responded that the valves were not going to be moved because the gas company, Liberty Utilities, has indicated that they use traffic rated boxes that should pose no problem during paving as they will work with the contracting company doing the work.
- E. **AWOS Update.** Commissioner Wyatt asked for an update about the AWOS. Greg Wood, County Manager, said that the permit process has started and nothing can be done until that is approved.
- F. **Railroad Recreation Trail Paving Update.** Commissioner Wyatt asked for an update concerning the Railroad Recreation Trail Paving from Pine Mountain to Callaway Gardens. Greg Wood, County Manager, said that it should be ready to bid in the spring, and Chairman Lange said there are issues with the ballast stone that need to be resolved.
- G. **CDBG Roads in Kings Gap and Construction Status.** Commissioner Woods asked for an update on the road and water improvements in Kings Gap. Greg Wood, County Manager, said that even though the County has the deeds signed and recorded, the materials have to be bid out, and because this is a Community Development Block Grant (CDBG) project, the requirements are specific and must be met in a certain order. Nancy McMichael, County Clerk, said that the CDBG funding expires in September and all the work will be done prior to that date.

7. **NEW BUSINESS**

- A. **Financial Statement: December 2013.** The motion to approve the financial statement of December 2013 was made by Commissioner Langston, seconded by Chairman Lange, and passed unanimously.
- B. **Request for Tax Refund: Favors, Adrienne.** Chairman Lange said that a request for a tax refund in the amount of \$245.69 had been received from Adrienne Favors with the reason being that she underpaid the taxes by \$1.56, misread the \$1.56 as being a credit, and incorrectly determined the notices as being for the upcoming taxes. He said that the Tax Commissioner disagreed with the request because the taxes were due December 20, 2012, they were not paid until December 2013, and numerous notices had been sent to the taxpayer regarding same. The motion to disapprove this request was made by Chairman Lange, seconded by Commissioner Wyatt, and passed with four in favor (Lange, Wyatt, Langston, Woods) and one opposed (Loudermilk).
- C. **Surplus Property Declaration of Vehicles and Transfer to Board of Education.** Nancy McMichael, County Clerk, said that the Board had declared a particular Ford Crown Vic as surplus to transfer to the Board of Education in November, but it turns out that a mistake had been made and that vehicle had previously been declared surplus and sold. She reminded the Board that the Board of Education was trading one bus, which the County has received, for two Ford Crown Vics, and she requested that the Board declare a 2007 Ford Crown Vic (vin 125901) and a 2006 Ford Crown Vic (vin 157822) as surplus and to transfer to the Board of Education. The motion to declare these two Ford Crown Vics as surplus and to transfer to the Board of Education was made by Commissioner Wyatt, seconded by Commissioner Langston, and passed unanimously.

8. **COUNTY MANAGER**

- A. **Budget Amendment #1: FY 13/14.** Greg Wood, County Manager, reviewed the proposed budget amendments for FY 13/14. Following discussion, the motion to approve only two amendments (1) Road Maintenance - \$65,356 in 4050-16-754 Equipment Purchase, and (2) Recreation - \$699,208 in 4192-32-413 Land Purchases - Donations was made by Chairman Lange, seconded by Commissioner Wyatt, and passed unanimously. The County Manager and Finance Officer are to work on the remaining amendments and bring back to the Board for approval during a future meeting.
- B. **Purchase of Four Tractors for Public Works.** Greg Wood, County Manager, said that \$60,000 was to have been included in the current budget for the purchase of a dump truck for Public Works; and that the amount was taken out of Road Maintenance and was to have been transferred to another location in the budget but was not. He said that James York, Public Works Director, is requesting funding be added to the budget (see preceding Budget Amendment) to allow the purchase of four tractors rather than a dump truck, at a cost of

\$65,356, which includes the credit for four tractors being traded in toward the purchase. The motion to approve the purchase of the four tractors at \$65,356 was made by Commissioner Wyatt, seconded by Chairman Lange, and passed unanimously.

- C. **Courthouse X-Ray Scanner.** Greg Wood, County Manager, requested the Board approve the emergency purchase of a new X-Ray Scanner for the Courthouse at a cost not to exceed \$14,975. He said that the current machine cannot be repaired and a new one is needed; that one quote had been received, but two more will be requested; and that there are funds in the Sheriff's Office equipment line to cover the purchase. Following discussion, the motion to waive the bid requirements and make an emergency purchase of an X-Ray Scanner at a not to exceed cost of \$14,975 using funds from the Sheriff's Office equipment line was made by Commissioner Loudermilk, seconded by Commissioner Woods, and passed with four in favor (Loudermilk, Woods, Lange, Langston) and one opposed (Wyatt).
9. **COUNTY ATTORNEY.** John Taylor, County Attorney, said that he had no business to discuss with the Board this evening.
10. **OTHER**
- A. **Airport Fly-In.** Lynda Dawson, Development Authority and Airport Committee member, appeared before the Board and announced that there would be a fly-in at the Airport on Saturday, June 14, from 10 AM to 2 PM; that the Pine Mountain Volunteer Fire Department will be selling food; that planes will be flying in and purchasing fuel from the Airport; and that everyone is invited to attend.
- B. **Eastern Aviation Fuel Newsletter.** Lynda Dawson, member of the Development Authority and of the Airport Committee, announced that the current Eastern Aviation Fuel newsletter features the Harris County Airport.
11. **RECESS FOR EXECUTIVE SESSION.** Commissioner Wyatt requested an Executive Session for the Commission members only to discuss a personnel matter. Commission Loudermilk also requested an Executive Session for the discussion of real estate acquisition. The motion to go into Executive Session for (1) discussion of real estate acquisition and, (2) a personnel matter without the County Attorney, County Manager, and County Clerk being present, was made by Chairman Lange at 8:45 PM. The motion was seconded by Commissioner Langston and passed unanimously.
12. **RECONVENE.** The motion to go back into Regular Session was made by Commissioner Wyatt, seconded by Chairman Lange, and passed unanimously.
13. **ADJOURNMENT.** There being no further business to discuss, the motion to adjourn was made by Commissioner Wyatt, seconded by Commissioner Loudermilk, and passed unanimously.

J. Harry Lange, Chairman

Attest:

Nancy D. McMichael, County Clerk