

HARRIS COUNTY BOARD OF COMMISSIONERS
REGULAR SESSION

April 5, 2022
6:30 P.M.

Commissioners Present: Rob Grant, Susan Andrews, Bobby Irions, Becky Langston. Commissioner Absent: Andrew Zuerner. Staff Present: Randy Dowling, County Manager; Nancy D. McMichael, County Clerk. Staff Present via telephone: Russell Britt, County Attorney.

1. **CALL TO ORDER.** In the absence of Chairman Zuerner, Vice Chairman Grant called the Regular Session to order.
2. **PLEDGE OF ALLEGIANCE.** Vice Chairman Grant led those in attendance in the Pledge of Allegiance.
3. **MINUTES.** The motion to approve the minutes of the March 15, 2022, Regular Session was made by Commissioner Andrews, seconded by Commissioner Irions and passed unanimously.
4. **NEW BUSINESS**
 - A. **Financial Statement: February 2022.** The motion to approve the financial statement for February 2022 was made by Commissioner Langston, seconded by Commissioner Irions, and passed unanimously.
 - B. **ACCG 401(a) Defined Contribution Plan Restatement Documents & Resolution for Senior Management Plan (IRS requirement).** Vice Chairman Grant said that the County is required to restate its 401(a) Defined Contribution Plan for Senior Management Employees; that approval is required in order to reflect the changes in the IRS law and to protect the plan's tax qualified status; and that Paul Bates, with ACCG, is in attendance. Mr. Bates said that the restatement is a five-year requirement. There being no questions, the motion to approve the restatement of the 401(a) Defined Contribution Plan and the Resolution for the Senior Management Plan was made by Commissioner Andrews, seconded by Vice Chairman Grant, and passed unanimously. (Amendment document can be found in "Contracts & Agreements" file as C&A #22-07.)
 - C. **Retirement Plans Proposal - Changes to Defined Benefit & Defined Contribution Retirement Plans & Resolutions.** Vice Chairman Grant said that enhancements to both the Defined Benefit and Defined Contribution retirement plans have been discussed since October 2021; that the enhancements to the employee Defined Benefit plan are to change the multiplier FROM .75% of the first \$6,600 of compensation and 1.25% of compensation in excess of \$6,600 plus a fixed dollar amount of \$36/year of credited service TO 2.0% of all average monthly compensation with no fixed dollar amount per year of credited service effective July 1, 2022; that the enhancements to the employee Defined Contribution plan are that the employer matching contribution equals to 50% of the first 4% of compensation that the participant defers to the 457(b) plan, eliminating the dollar limit on employer matching contributions, and eliminating the \$30,000 cap on compensation taken into account for purposes of calculating employer basic contributions effective July 1, 2022; and that Paul Bates, with ACCG, is in attendance. In response to a question from the Board, Mr. Bates said that the changes being proposed are competitive with other counties. Vice Chairman Grant said that while he agrees with the changes being proposed, he thinks they should go back 5 or 10 years, that he does not think enough is being done for the employees who have been with the County for a long time. The motion to approve the changes to the Defined Benefit and Defined Contribution plans and to approve the Resolutions needed for each amendment was made by Commissioner Langston, seconded by Commissioner Irions, and passed with three in favor (Langston, Irions, Andrews) and one opposed (Grant). (Amendment documents can be found in "Contracts & Agreements" file as C&A #22-08 (DB) & #22-09 (DC).)
5. **COUNTY MANAGER**
 - A. **Bid Award: Man O'War Railroad Recreation Trail Phase V.** Randy Dowling, County Manager, said that Phase V of the Man O'War Railroad Recreation Trail, from the Callaway Country Store to the south side of Hamilton, a distance of 5.4 miles, has been designed and bid out; that on the deadline date of March 30, six bids were received, as follows:

Company	Bid Amount
Piedmont Paving, Newnan GA	\$ 1,365,074.35
Robinson Paving, Columbus GA	\$ 1,508,048.66
Lewallen Construction, Marietta GA	\$ 1,663,975.36
Earth-Scapes, Inc., Phenix City AL	\$ 1,781,180.30
JHC Corp, Peachtree City GA	\$ 2,127,581.00
Southeastern Site Development, Newnan GA	\$ 2,607,645.00

Mr. Dowling said that the low bidder was Piedmont Paving of Newnan, GA, with a bid of \$1,365,074.35; that funding will come from T-SPLOST; that if approved, the project is scheduled to be completed by late November 2022; and that upon completion of this phase, the length of the paved trail will be 10 miles. Vice Chairman Grant asked what other projects are included in the upcoming T-SPLOST election, and Mr. Dowling replied that in addition to future phases of the trail, it includes the 10% match for LMIG road resurfacing and patching projects as well as the SR 315 improvements, but that if the referendum to extend the T-SPLOST doesn't pass on May 24, the County will lose about \$100,000 a month and the projects simply won't happen. The motion to award the bid to Piedmont Paving for the low bid of \$1,365,074.35 and to authorize the County Manager and County Clerk to execute the necessary documents, was made by Vice Chairman Grant, seconded by Commissioner Andrews, and passed unanimously.

B. Project Updates. Randy Dowling, County Manager, reviewed various projects, as follows:

- (1) UDC/Land Use Codes. The final version has been posted on the website; first reading was before the Planning Commission on March 16 and the second reading is before the Board tonight.
- (2) EMS/VFD Facility in NWHBP. Design is proceeding; should be bid out in about 35-40 days.
- (3) Prison Roof Replacement. Project is almost complete.
- (4) Ellerslie Park Development. Phase I has been completed; Phase II will be included in the upcoming budget, which will be presented to the Board on May 3.
- (5) Man O'War Railroad Recreation Trail, Phase V (aka Rails to Trails). Project was awarded tonight and is to be completed by late November.
- (6) Water Works Administration Building. Project is on bid starting this week; bids open in May; should be awarded in June; and completed by Christmas 2022.
- (7) Courthouse Renovations, Phase I. Cost estimate is being calculated and going up every day due to problems being found.
- (8) Renovation of Old Library - Roof & HVAC System. Project is almost complete and the ribbon cutting is April 20.
- (9) Impact Fee Study. Ongoing; scheduled to be before the Board on April 19 for consideration.
- (10) Assist RVRC with T-SPLOST Referendum. T-SPLOST referendum is May 24, and was discussed previously in the meeting (see 5A).
- (11) ARP Projects. Several projects that have been completed, to include the water lines on Green Drive.
- (12) Single Family Home Permits. Issued 30 permits in March for a total of 206 for this fiscal year.
- (13) Ellerslie Park Maintenance Building. Commissioner Andrews said that the maintenance building looks very nice, and Mr. Dowling said many compliments have been received regarding the building.

6. **COUNTY ATTORNEY**

A. **Opioid Settlement Agreements Ratified.** Russell Britt, County Attorney, said that the County had previously elected to not take part in the litigation regarding the opioid settlement; that a master settlement has been reached and as part of that agreement, it allows local governments to participate whether or not they participated in the litigation; that the State will receive \$636 million, of which 25% will go to local governments and 75% to the State for use in opioid remediation; that because the deadline to take part in the settlement was March 31, the Chairman, having discussed with other members of the Board, executed the two documents; and that a motion is needed to ratify the agreements. The motion to ratify the execution of the two agreements was made by Vice Chairman Grant, seconded by Commissioner Langston, and passed unanimously. (Documents can be found in “Contracts & Agreements” file as C&A# 22-10.)

B. **Lower Chattahoochee Transportation Authority (LCTA) for the 5311 Rural Public Transportation Program.** Russell Britt, County Attorney, said that the local legislation to add Harris County to the Authority passed the House and the Senate and is now on the Governor’s desk for his signature.

7. **RECESS.** Vice Chairman Grant recessed the meeting at 6:50 PM until the Public Hearing begins.

8. **RESUME.** Vice Chairman Grant resumed the Regular Session at 7:00 PM.

9. **PUBLIC HEARING @ 7:00 PM**

A. **Conflict of Interest Forms.** The Conflict of Interest forms were completed at the request of Vice Chairman Grant.

B. **Explanation of Public Hearing Procedures.** Vice Chairman Grant explained the procedures involved in the Public Hearing, and reminded all that there is a five-minute time limit.

C. **Application of Board of Commissioners to Amend the County Code of Ordinances - Appendix A (Zoning Ordinance), Articles I-X; Appendix B (Subdivisions), Articles I-XX; Chapter 4 (Planning and Development), Articles I, II, III, IV, V, VIII, IX; Chapter 5 (Public Safety, Health & Sanitation), Article IV; Chapter 7 (Water, Sewage & Utilities), Article I; and other associated sections of the Code of Ordinances intended to be incorporated into the Unified Development Code (UDC).** Vice Chairman Grant called the Public Hearing to order, read the specifics of the application, and said that the recommendations of the Planning Commission and the Staff were for approval.

Lee Walton, consultant with Wood PLC, appeared before the Board to review amendments. Mr. Walton explained the process taken in regard to the UDC to include that the draft document was completed in September 2021, the Planning Commission held the first hearing in October 2021 and recommended approval, and the Board held the second hearing in November 2021 and disapproved the document; that further public work sessions were held in late November and in January with changes made as a result of those sessions, and a new draft was submitted in February of 2022 and posted on the website; and that the Planning Commission held the first hearing in March 2022 and recommended approval. He then reviewed the modifications made as a result of the work sessions, to include:

Article 2, Table 2-1: modify agricultural uses in R-R and R-1 for consistency, clarify poultry & egg production as primary use, distinct from chicken coop as an accessory structure; remove minor and major subdivision from Uses Table, deferring to Article 4; and clarify overnight parking for food trucks, distinct from operation of food trucks; add “misc. health practitioners & massage therapists”.

Article 2, Table 2-2: replace “poultry house” with “chicken coop”; add restrooms to agritourism uses; and modify the categories in which food trucks are allowed, distinct from where food trucks can be stored and maintained.

Article 3: revise Agritourism to emphasize master plan approach; allow 2 farm dinners per quarter; add state license requirement for massage therapists; delete minimum percentage of “grown on the farm” agricultural products sold in farmers market; and add overnight parking of food trucks.

Article 4: change minimum total acreage required for rezoning in A-1 from 4 to 10, in C-1 from 4 to 2, in C-3 from 3 to 2, and in C-4 from 4 to 2; require building permits for accessory buildings over 400 SF and for agricultural buildings over 800 SF.

Article 4, Table 4-1: change A-1 Major subdivision minimum lot to 5 acres, lot width to 100', side setbacks to 20'; change A-1 Minor subdivision minimum lot to 10 acres, lot width to 100', side setbacks to 20'; change R-R lot width to 100', side setbacks to 20'; and change R-1 lot width to 100', side setbacks to 20'.

Article 5: change large lot splits acreage from 5 to 10 acres; change division of property among immediate family to 3 acres; change maximum number of lots with frontage on an existing public road from 4 to 0; clarify the 10% commercial set aside in PRD may not be subsequently reassigned to non-commercial; and delete phased development for PRD.

Article 9: modify to be consistent with new Harris County Speed Table program; clarify minimum street right of way width for minor streets with curb and gutter to 60 feet; and clarify utilities permitting.

Article 11: add specification for agritourism master plans.

There being no comments or questions from the Board, Vice Chairman Grant asked if anyone wished to speak in favor of the application.

Megan Guenther, citizen who lives on Barnes Mill Road, appeared before the Commissioners and said that she is disappointed that chickens and brewery are not included; that the PRD changes make her nervous by allowing density without commercial development; that she is in agreement with the minimum 10-acre parcel in A-1 but would like to see it at 12 for conservation purposes; that she is in favor of limiting houses on existing streets; that she does not think the UDC is perfect, but is a working document; and would like to see rural nature protected in the County and to keep rural land rural.

There being no further comments in favor, Vice Chairman Grant asked if anyone wished to speak in opposition to the application.

Bo Barber, II, citizen who lives on Old Whitesville Road, appeared before the Commissioners and said that when he moved to Harris County, he was fortunate that his grandfather gave him 1/4 of an acre, which was allowed at that time; that he now owns agritourism property; that the 10-acre minimum in A-1 is an impediment to an individual building a home; that a deeper look at the consequences versus the intent; and that many may be shut out of a community due to the 10-minimum acreage.

Jeanette Johnson, citizen who lives on GA Hwy. 103, appeared before the Commissioners and said that she understands some people are more fortunate than others, and those less fortunate should not be penalized; and that residential and commercial should be separate - commercial should be 10 acres, but not for residential purposes.

Bryan Stone, owner of BC Stone Homes in Hamilton, appeared before the Commissioners and said that he supports much of the UDC, but the requirement for a 10-acre lot minimum is pretty ruthless; that to develop mini farm lots, the requirement for a road is expensive; that he agrees that 20-lot strip development on existing road frontages is not good; and that perhaps the Planning Commissioner has the discretion regarding the interior road or frontage road depending on the number of lots and layout.

Taylor Griffin, citizen who lives on Wood Avenue and partner in Bee Smart Builders, appeared before the Commissioners and said that with a subdivision of 80 acres cut into four 20-acre lots, the UDC will require the homes have an interior road, which means the back porch of the homes would be seen from the frontage road, and in such cases, these homes should be permitted to front on the existing road; that Bee Smart is against the 10-acre minimum in A-1, but not against changes, but a 400% increase is difficult to handle, and if such had been in place last year, 50% of the homes built on A-1 property last year would be cut in half; that comments made by developers during this process have been ignored; and in all the meetings on the UDC only one person has spoken in favor of the UDC.

Ben Simpson, citizen who lives on Pond Street, appeared before the Commissioners and said that the UDC will disenfranchise agricultural property owners by reducing their ability to sell their property; that it is an unconstitutional overreach; and that it will cause economic damage and is not the best action for the County.

Mark Lawrence, citizen who lives on Richardson Court, appeared before the Commissioners and said that SR 315 has turned into the south side of Atlanta; that it takes 15 minutes to get onto SR 315 due to traffic; that he opposes the UDC as far as over development and not facing the infrastructure problems that come from that; that development should be slowed to a pace where development infrastructure is considered along with residential growth; and that while he thanked the Board for thinking of people not yet in the County, he said many can't come to the County because they can't build on a 10-acre minimum lot size.

David Adams, citizen who lives on US 27, appeared before the Commissioners and said that the UDC was started with a "big idea" meeting; that the Board has heard voices of citizens, whether or not they listened; that citizens have also heard comments from the Board of "we've been working on this too long, let's just pass it", "if they don't like it they can move", and "we are a county of elitists"; that such comments makes one wonder who is being represented in this matter; that 90% of the County is zoned A-1 and requiring a 10-acre lot would increase the cost of a home from \$70,000 to \$100,000; that the UDC is riddled with bad decisions; and he said to those who have fought for common sense, rest assured you have been heard.

Trent Griffin, citizen who lives on Old Shiloh Road and partner in Bee Smart Builders, appeared before the Commissioners and said that every day he meets with families trying to return to Harris County but are unable to do so because homes are too high; that the average new home sale was around \$100 to \$120 per SF when the UDC was first discussed but is now at \$180 to \$200 per SF; that a local economic collapse should not be encouraged but an impact study should be made; that he understands the objective of the UDC is to drive growth to the cities, but the cities have not been made aware of such; that the Comprehensive Plan of 2019, on page 6, indicates that it is critical to the protection of the quality of life to continue to update the land use ordinance; that the system is broken in that just last month regarding a rezoning, which was well within the Comprehensive Plan parameters, personal opinions should have had no place in the zoning decision; that the UDC must be clear and easy to navigate by the citizens and it is not; and that agritourism requires 5 acres but to build a home in A-1 10 acres is required.

Tyler Findley, with Hughston Homes, appeared before the Commissioners and said that Hughston Homes is an employee-owned company and many of those employees live in Harris County; that the breakeven point for taxes is mid-\$300s and their homes sell for \$450,000 so there is no drain on the infrastructure; that there are about 50 in attendance at this meeting, or about less than 1% of the citizens; that about 90% of the County is not being represented tonight; that Hughston Homes wants to fight for the citizens and represent people who have land to provide for future generations; that land values will decline with the new UDC; and he requested that the Board not approve the UDC as written but to come back in two years after the Comprehensive Plan has been updated.

Geoff Koski, on behalf of Hughston Homes and the Home Builders Association and advisor with KB Advisory Group, appeared before the Commissioners and said that an impact study was done; that the UDC will cause the home building market to slow; that taxes levied are intended to help pay for County services; that there are about 400 jobs related to home building in the County; and that home building is an economic driver. (Impact Study can be found in Miscellaneous Documents file as "MD #22-06.")

David Kirk, attorney for Hughston Homes with Troutman Pepper Hamilton Sanders, appeared before the Commissioners and said that the UDC has significant implications for Hughston Homes; that the UDC contains exclusionary zoning to the extent that it limits access to property and neighborhoods based on socio-economics, race, or some other protected status; that the 10-acre minimum may prevent development thus preventing many individuals from purchasing homes in large portions of the county; that courts have found local ordinances to be invalid due to such exclusionary restrictions; that the UDC calls for the commercial set aside of 10% (for PRD) shall not be subsequently reassigned a different use; that Georgia law prohibits local governments from taking action that binds the hands of a future governing body; that zoning and land use regulations are legislative matters; that the elimination of lots fronting existing streets in a conventional subdivision will result

in such existing lots to become non-conforming; that the UDC this could result in the regulatory taking of property rights; that they have formally preserved their rights under the law; and that they request the UDC be rejected or action be deferred.

Dwight Langston, citizen who lives on Creekside Court, appeared before the Commissioners and said that he is the spouse of Commissioner Langston and his comments are his and his alone; that he is for growth, because commercial is needed to stabilize the tax base; that he lives in the center of the growth on SR 315; that he thanks the builders who live in the County for building in the County; that the 10-acre minimum lot size is an attempt to slow growth and to keep low income families from moving to the County; that slowing growth puts people out of work; and that the Board needs to look at the negative effects of the UDC.

Craig Greenhaw, citizen who lives on Bartletts Ferry Road, appeared before the Commissioners and said that having attended previous UDC meetings, the majority of the comments made regarding private property rights, reduction of highest and best use of land, and overall degradation of property values have not been adequately addressed in the UDC; and he asked, as a member of the UDC committee, to please continue to work to get the document correct and not pass it with the intent to amend the flaws later.

John Bunn, citizen and realtor who lives on Winding Lake Drive, appeared before the Commissioners and said that in 1983 the only way he could afford a house is because his grandmother gave him one acre of land in Pine Mountain Valley; that as a realtor, he tells many clients that there is nothing affordable here, nothing to show, nothing in inventory, and nothing in their price range, which is not good; that the taking of property comes in two forms - physical or regulatory, which means when government restricts rights so much so that the governmental action becomes the equivalent of a seizure of land by not giving choices.

Randy Rogers, citizen who lives on Red Oak Drive, appeared before the Commissioners and said that he lives in Melody Lakes in a mobile home; that he has tried to afford something better, more acreage, can't afford to move out of where they are in order to have more room; and that increasing the minimum lot size to 10 acres will prevent people such as himself from affording something better.

Jim Furin, citizen who lives on Dogwood Lane West, appeared before the Commissioners and said that if the UDC is being started at the federal level, the Board should stand up to the federal government and have a UDC for the citizens of the County.

Ricky Turnage, citizen who lives Wells Drive, appeared before the Commissioners and said that he is a local builder and is opposed to the 10-acre minimum lot size; that with the cost of building materials it is hard enough to build on a 2-acre lot and increasing it to 10-acres will make it more difficult for someone to afford; and that the Board should reconsider the UDC.

Angie Tommey, citizen who lives on Mt. Airy Drive, appeared before the Commissioners and said that she is somewhat on the fence; that she has no financial gain from the UDC; that there should be more community education so that people can understand what is happening; that the 10-acre minimum really impacts the builders of subdivisions; that the 10-acre minimum should be 12 so that the owner can get the tax break through conservation.

Bradley Jones, state president of the Georgia Home Builders Association, appeared before the Commissioners and said that the Association is in favor of affordable housing, but the way the UDC is written it will eliminate a huge number of people from moving into the County; and the Association is opposed to the UDC.

There being no further comments in opposition, Vice Chairman Grant asked Mr. Walton for rebuttal to any of the comments.

In rebuttal, Mr. Walton clarified that the 10-acre minimum lot applies specifically and only in cases of minor subdivisions allowed by the UDC, which does not require approval prior to development by the Planning Commission or Board of Commissioners and is not a rezoning process; that it's just a process of subdividing land with a specified number of lots; that currently it is allowed to create 2-acre lots in A-1 so there is an increase from 2 to 10 acres; that it is not stating the new minimum lot size in A-1 is 10 acres; that the new minimum lot size in A-1 is 5 acres for subdivision purposes through a conventional subdivision process; that there are

variations available; that the 10 acres applies to subdividing to create new lots; and that existing lots of record do not require 10 acres on which to build.

Vice Chairman Grant closed the Public Hearing and said that Chairman Zuerner, who is not in attendance, requested that action on this application be tabled to the April 19 meeting; therefore he is tabling the action and discussion by the Commissioners regarding this application to the April 19 meeting.

10. **ADJOURNMENT**. There being no further business to discuss, the motion to adjourn was made by Commissioner Langston, seconded by Commissioner Irions, and passed unanimously.

Rob Grant, Vice Chairman

Attest:

Nancy D. McMichael, County Clerk