

**HARRIS COUNTY BOARD OF COMMISSIONERS
REGULAR SESSION**

May 2, 2017
7:00 P.M.

Commissioners Present: J. Harry Lange, Jim Woods, Susan Andrews, Martha Chewning, Becky Langston. Staff Present: Randy Dowling, County Manager; John Taylor, County Attorney; Nancy D. McMichael, County Clerk.

1. **CALL TO ORDER.** Chairman Lange called the Regular Session to order.
2. **PLEDGE OF ALLEGIANCE.** At the request of Chairman Lange, Jimmy Carver, EMS Director, led those in attendance in the Pledge of Allegiance.
3. **MINUTES.** The motion to approve the minutes of the April 18, 2017 Regular Session was made by Commissioner Woods, seconded by Commissioner Chewning, and passed unanimously.
4. **NEW BUSINESS**
 - A. **Amendment to Resurfacing Road List.** Chairman Lange said that Commissioner Woods has requested the addition of two roads to the resurfacing road list originally approved in 2014. Commissioner Woods made the motion to add the East Pine Lake Drive and West Pine Lake Drive to the list. The motion was seconded by Commissioner Chewning, and passed unanimously.
 - B. **Financial Statement: February 2017.** The motion to approve the February 2017 financial statement was made by Commissioner Andrews, seconded by Commissioner Langston, and passed unanimously.
 - C. **Resolution: Acceptance of Katherine Court & Saddle Brook Trail in Woodcrest Subdivision.** John Taylor, County Attorney, said that in addition to the right-of-way deed, all documents necessary for the County to accept these two roads have been received and appear to be in order. The motion to approve this Resolution was made by Commissioner Andrews, seconded by Commissioner Chewning, and passed unanimously.
 - D. **Insurance Renewal (Medical, Dental, Vision, Life & Disability).** Chairman Lange said that the Board had heard from the County's insurance broker, John Leggett with MSI, during the preceding work session regarding the County's medical, dental, vision, life and disability insurance.
 - (1) **Medical Insurance.** The motion to renew its coverage with Blue Cross Blue Shield and approve Option B, whereby the County pays the additional costs of premiums currently paid by employees for dependent coverage so there is no change to the amount paid by the employee, unless they are on the buy-up plan, was made by Commissioner Langston, seconded by Commissioner Andrews, and passed with three in favor (Langston, Andrews, Lange) and two opposed (Chewning, Woods).
 - (2) **Dental, Vision, Life and Disability Insurance.** The motion to approve dental and vision insurance renewal with Blue Cross Blue Shield and to change from GGL to MetLife for life and disability insurance was made by Commissioner Andrews, seconded by Commissioner Langston, and passed unanimously.
 - E. **Requests for Tax Refund.** Chairman Lange read the two (2) requests for tax refund, as follows:
 - (1) **Bowles, Terry:** Refund of \$969.70 due to mobile home not being on property, as presented during the tax sale. Both the Tax Commissioner and Board of Tax Assessors agreed with the refund request. Commissioner Chewning made the motion to refund \$961.90 which is the amount after penalties and interest are deducted. Vickie Jamerson, Tax Commissioner, explained what the taxes were, how they were paid, and indicated that the penalties and interest had not been charged to nor paid by the property owner, therefore, the refund amount should be as requested. Following discussion, Commissioner Chewning amended her motion to refund \$969.70, which was seconded by Commissioner Woods, and passed unanimously.

At this point, Chairman Lange recessed the Regular Session in order to hold the scheduled Public Hearing.

5. **Public Hearing at 7:30 PM**
 - A. **Conflict of Interest Forms.** The Conflict of Interest forms were completed at the request of Chairman Lange.
 - B. **Public Hearing Procedures.** Chairman Lange explained the Public Hearing procedures.

C. **Application of Verizon Wireless of the East, L.P., c/o Baker Donaldson, for a Special Use Permit for a telecommunications facility, located in Land Lots 3 & 35, Land Districts 3 & 4, Map 039, portion of Parcel 014, on 10,000 square feet of an 85.33 acre parcel; current use vacant land/agricultural; proposed use agricultural with telecommunications facility; property located on Georgia Highway 18, Pine Mountain, and owned by Henry and Alice Mullins Farms, LP.**

Chairman Lange called the Public Hearing to order, read the specifics of the application, and said that it had been recommended by both the Planning Commission and Staff to disapprove the application. He also stated that Commissioner Woods would be recusing himself and refraining from taking part in the Public Hearing and decision. Andrew Rotenstreich, attorney representing Verizon Wireless, appeared before the Board and introduced Frances Looney, Court Reporter. John Taylor, County Attorney, said that the applicant and County have agreed to share the take down costs for the Court Reporter. Mr. Rotenstreich said that the property is owned by Henry and Alice Mullins Farms, LP; that the property on which the tower is to be sited is 200 acres just outside Pine Mountain; that the property is currently zoned A-1; that the tower will be a 160' monopole; and that the property is on Georgia Highway 18 in Pine Mountain; that Verizon has no cell coverage in the area. He then distributed information and reviewed same which included the subject location, the nearby tower locations and strengths, and the nearest house is 942' from the tower. He continued by saying that Verizon meets the requirements set out in the ordinance regarding cell towers; that the tower will have a 10' lightning rod on top, for a total height of 170'; that the FAA does not require towers under 200' to be lit; that due to concerns raised during the Planning Commission meeting, he contacted the FAA and specifically asked if the planned Airport runway extension had been considered when the FAA made the no-hazard determination regarding the tower and was told that it had been considered. He then distributed copies of the email he had received from the FAA regarding same. Chairman Lange commented that the FAA document only addresses a 500 foot extension, not 1,000 feet. Mr. Rotenstreich also said that Verizon is not only willing to light the tower, which is not required to be lit under FAA regulations, they are willing to move the tower 1,000 feet to the west. He concluded by presenting a petition signed by individuals in favor of the application. (The distributed documents and petition can be found in "Miscellaneous Documents" file as MD#17-05 as 1/6, 2/6 and 3/6.)

There being no further comments or questions, Chairman Lange asked if anyone wished to speak in favor of the Special Use Permit application.

Neva Bone, citizen who lives on Hidden Lake Court, appeared before the Board and said that she has no cell service in her home and that they can't connect the alarm system because of that; and that it would be nice to have cell service.

Lyman Bone, citizen who lives on Hidden Lake Court, appeared before the Board and asked if they would like having to drive down the road in order to call for help.

Mary Mullins, citizen who is a partner in the ownership of the subject property, appeared before the Board and said that they would like Verizon to build the tower; that having cell coverage is a safety issue and would allow people to call for help when needed.

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

John Kilgore, pilot who houses his plane at the Harris County Airport, appeared before the Board and gave a detailed explanation of instrument and non-instrument flying. He said that having the tower at this location will be hazardous to pilots; that there will be visibility issues with the tower; and that it is a structural hazard not only to aircraft but to birds.

Murray Bradley, citizen who lives on Sunset Drive, appeared before the Board and said that the Airport provides an economic contribution to the County by way of fuel sales, flight schools, and aircraft repairs; that the tower would be an obstacle to aircraft; and that the tower should be moved 3/4 of a mile further north.

Mark Vrooman, citizen who houses his plane at the Harris County Airport, appeared before the Board and said that when landing, you line up with Highway 18 and the turn for landing starts about the same location as the proposed tower; that it is not a good idea to introduce an obstacle into the flight pattern of planes; that if approved, the tower should definitely be lit; and that he is a Verizon customer and would benefit from having a tower, but not at the proposed location.

Bill Champion, manager of the Harris County Airport, appeared before the Board and said that last month there were 1,636 operations representing 4,335 people with eight jets; that fuel sales are increasing; and that his main concern is safety. Referring to a document in the meeting packet, Mr. Champion said that approach to the Airport is usually from the west, which means the planes are coming in over Bethany Church Road and Hidden Lake; and said in landing, pilots must reduce power, altitude and speed all at one time and must stay focused on his touch down area at the end of the runway; that if he doesn't see his reference, he is lost, and must keep his line of sight; that many student pilots use the airport; that contributing to the air space with something that doesn't need to be there (the tower) could possibly cause

landing issues; that a lot of consideration is needed regarding this application and that he is not in favor of it.

Amanda Hill, with MaesAwyr, a sub-contractor with Pond & Company, Airport consultant, appeared before the Board. She then distributed documents and reviewed same to include aerial maps and PowerPoint slides. Referencing those documents, Ms. Hill said the trapezoid on one of the aerial maps is the ultimate runway airspace which shows the location of the proposed tower is just at the edge of the runway airspace; that the extension of the runway has not yet been proposed to the FAA; that the airspace evaluation of the FAA is not an approval or a permit; that there is no federal requirement that the determination of no-hazard to air navigation means that it is incumbent on the Board to approve it; that it is only an evaluation study, not statutory or compulsory; that safety is the primary consideration of the Airport; that visual approaches are generally in good weather to include good forward visibility and from the aircraft to the ground; that traffic patterns are conducted in a manner consisting of left-hand turns; that the final turn for landing is about at the tower site; that the introduction of a tower at the proposed location will present a hazard for pilots; that monopoles are not easy to see from the air because there is no contrast whether it is lit during the day or not, and if it is unlit at night it is virtually impossible to see; that if approved, the tower should be lit; that instrument approaches are basically highways in the sky showing defined lateral places, direction, and volume of airspace certified by the FAA that there are no safety issues within that confined instrument approach; that there is little room for error in landing as the aircraft gets closer to an airport; that the 1,000' runway extension is justified with the existing tenants at the Airport in that while they can operate there, they can't take on a full load of fuel due to the current runway length; that even if the tower is moved 1,000 feet west, it will hamper the future development of the Airport; that every time the County gets funding from the FAA there are grant assurances that the County will protect and maintain the Airport and not cause any activity or actions that adversely affect the Airport operations, and the tower location does; that from an economic standpoint, there are 30 based aircraft, charter operations, a thriving aircraft maintenance operation, flight training, public safety, and air ambulance, all of which are critical pieces to grow the Airport; that there are fuel sales and the owners of the based aircraft pay personal property taxes on the aircraft to the County; and that the tower in the proposed location is not consistent with the forward growth of the Airport. Ms. Hill concluded by saying she is also a private pilot. (The distributed documents can be found in "Miscellaneous Documents" file as MD#17-05 as 4/6 and 5/6.)

Jayson Johnston, president of the Harris County Chamber of Commerce and member of the Airport Committee, appeared before the Board and said that he understands the need for cell tower coverage in that he lives in an area with poor coverage and that telecommunications is important to the County; that the economic impact study of 2011 showed the Airport \$1.8 million local benefit; that if the tower is approved, the potential result will be a negative impact from reduced fuel sales, training demand, and tourism; and that the Board carefully review this application and not limit the future expansion of the Airport and the resulting economic impact to the County.

There being no further comments in opposition, Chairman Lange said that concludes comments from those in attendance and asked Mr. Rotenstreich for rebuttal.

Mr. Rotenstreich said that moving the tower 3/4 of a mile to the north or south would not provide the necessary coverage and would shift the entire coverage; that there are already towers two miles to the east and to the south and a little over two miles to the north of the Airport; that according to the FAA's determination, the tower will be located 12,743 feet from the Airport, a little over two miles; that the nearby towers have had no economic impact on the Airport; that Ms. Hill implied that the County has the ability to protect the Airport, not allow any hazard or cause any adverse action, but according to the FAA, such hazard or adverse action will not occur with the proposed site; that the FAA has the final say for air safety. He then read an excerpt from a case "it is clear to this court that Congress intended to remove the field of airspace management at least as to radio broadcast towers from state regulatory authority (which would include counties and cities as well). Congress has expressly declared that the Federal government has exclusive sovereignty over the airspace in the United States. As an exercise of its exclusive sovereignty Congress has given the FAA the duty to determine what constitutes an efficient use of airspace and what broadcast towers present hazards to air traffic. In addition Congress has statutorily mandated that the FAA and FCC coordinate their efforts governing the placement, construction and location of radio broadcast towers. Pursuant to that directive, both the FAA and the FCC have promulgated detailed regulations. These regulations specifically relate to radio broadcast towers (like our cell tower) and expressly take into account the impact any proposed construction could have on VFR, visual flight rules, thus Federal control is pervasive and more importantly directly covers the proposed construction in this case of the broadcast tower." In response to a question from Commissioner Chewing, Mr. Rotenstreich said that the case is United State District Court, South Dakota, Big Stone Broadcasting, Inc., vs Lindbloom, August 27, 2001; Book 161, F second, page 1009. He also said that in addition to the FAA indicating there are no safety issues, Verizon has offered to light the tower and to move it 1,000 feet to the west if approved tonight.

In response to questions from the Board, Mr. Rotenstreich said that he does not believe the FAA makes site visits when they prepare a no hazard letter, but that he believes they send out

notices to local Airports. (Ms. Hill said that is not correct.) He also said that the FAA takes ground elevation into account when making their determinations for both the runway and the tower site.

John Taylor, County Attorney, asked that the CIP which includes the runway extension and was approved by the Board last year be submitted as evidence. Nancy McMichael, County Clerk, distributed copies of the CIP. (The CIP can be found in "Miscellaneous Documents" file as MD#17-05 as 6/6.)

Commissioner Andrews asked when the paperwork for the 1,000 foot extension will be submitted to FAA, and Chairman Lange that he understands paperwork has been submitted for 500 feet and the paperwork for the additional 500 feet will be submitted as soon as possible.

Commissioner Woods explained that he recused himself because he and his family own Verizon stock, which he recently put options on, and he feels the appearance of impropriety could be questioned.

Chairman Lange closed the Public Hearing.

John Taylor, County Attorney, said that with this type application, a decision must be made within 150 days of the filing of the application, which means that the decision is due by August; that the decision has to be put in writing, making a finding of fact, and supported by evidence of matters in the record; and that if the decision is to deny, it must be contemporaneous with the evidence, and should be done quickly because the applicant has 30 days to file for a request for judicial review. He said that because of issues still to be determined by the FAA, it was discussed, and the applicant is agreeable to the Board entertaining a motion tonight to lay this matter on the table, and not make a decision until the July 18 meeting; that in the meanwhile, clarification can be obtained from the FAA; that there will be no new evidence presented at the July 18 meeting unless both parties are in agreement to the introduction of such evidence; and that he recommends the decision be tabled. Chairman Lange said that the decision needs to be right for the citizens, pilots, and Verizon, and there are questions that need answers.

The motion to table the decision to the July 18 meeting was made by Chairman Lange, seconded by Commissioner Langston, and passed with four in favor (Lange, Langston, Andrews, Chewing), no opposition, and one abstention (Woods).

6. **NEW BUSINESS (CONTINUED)**

F. **Requests for Tax Refund (Continued)**

(2) Truman, Jordan: Refund of \$533.37 for two boats, which had been sold and reported to the GA Vessel Registration. The Tax Commissioner disagrees because the individual is responsible for notifying the Tax Assessor's office when boats are sold/traded. The Board of Tax Assessors disagrees because they have no way of knowing when a boat is sold, unless they are notified and the return forms are received. Following discussion, the motion to disapprove this request was made by Commissioner Langston, seconded by Commissioner Woods, and passed unanimously.

G. **Railroad Recreation Trail and Georgia Trail Summit Report: Chuck Hunsaker.** Chuck Hunsaker reviewed the information he had obtained at the recent Georgia Trail Summit and how it can help in regard to the County's Railroad Recreation Trail (the abandoned rail line the County obtained from Southwestern Railroad several years ago). Chairman Lange said there is interest in moving forward with the trail and that the County looks forward to Mr. Hunsaker's assistance in pursuing matters regarding same.

Chairman Lange said that Dosa O'Quinn had signed up to speak about this matter. Ms. O'Quinn, citizen who lives in Cataula, appeared before the Board and said that she is 71 years old and rides a bicycle; that there is a need in the Cataula area for a hiking/biking trail; and that she would like the Board to keep this matter on the table.

7. **COUNTY MANAGER**

A. **Project Updates.** Randy Dowling, County Manager, brought the Board up to date on various projects, as follows:

(1) Library. Work is progressing; construction meetings take place every two weeks. Commissioner Woods asked to be notified as to when the next meeting is scheduled.

(2) Water Treatment Plant. Work is in progress; should be finished this month.

(3) LMIG 2016 & 2017. Work is underway; should be bid out soon.

(4) Hardage Road. Work underway; should be bid out soon.

(5) 911 Radio System Improvements. Project ongoing with system still being evaluated; RFP expected soon.

(6) Rails to Trails Project (Recreation Railroad Trail). Planning still underway; first section from downtown Pine Mountain to Callaway Gardens purchasing office; federal TE grant funds being used in first phase; possibility of using TSPLOST funds to continue further toward Hamilton; estimated cost is \$750,000/mile; will be riding the trail on Monday with consultants and County staff. In response to a question as to why the decision was made to start in Pine Mountain, Nancy McMichael, County Clerk, said that Callaway Gardens had contributed to the purchase of the trail and that the County had entered into an agreement with Callaway Gardens regarding the development of the trail.

6. **COUNTY ATTORNEY**

A. **Columbus Consolidated Government Request for Payment re: Juvenile Court of Chattahoochee Judicial Circuit**. John Taylor, County Attorney, said that the County had received a notice from Columbus Consolidated Government (CCG) requesting that the County pay its share of the costs related to the circuit-wide Juvenile Court for FY 14, 15, 16 and 17, for which CCG failed to invoice the County during the past three years. He said that the cost for FY 14, 15 & 16 is \$50,833.90 plus a projected cost of \$17,928.85 for FY 17, for a total of \$68,762.75. He reviewed state law and said that the County must pay its share of these costs. Following discussion, Commissioner Langston tabled action on this matter, and Randy Dowling, County Manager, was directed to contact CCG about method of payment and frequency.

7. **RECESS FOR EXECUTIVE SESSION**. The motion to go into Executive Session for the purpose of discussing pending and potential litigation was made at 9:45 PM by Chairman Lange, seconded by Commissioner Langston, and passed unanimously.

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

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

J. Harry Lange, Chairman

Attest:

Nancy D. McMichael, County Clerk