Hart County Board of Commissioners

February 11, 2014

 5:30 p.m.

1. PRAYER

1. PLEDGE OF ALLEGIANCE
2. CALL TO ORDER
3. WELCOME
4. APPROVE AGENDA
5. APPROVE MINUTES OF PREVIOUS MEETING(S)
* 1/28/14 Regular Meeting
* 1/31/14 Called Meeting Inclement Weather
1. REMARKS BY INVITED GUESTS, COMMITTEES, AUTHORITIES
2. REPORTS BY CONSTITUTIONAL OFFICERS & DEPARTMENT HEADS
3. COUNTY ADMINISTRATOR’S REPORT
4. CHAIRMAN’S REPORT
5. COMMISSIONERS’ REPORTS
6. OLD BUSINESS

a) Road Department Request to Increase Road Dept Laborer to Grade 7

b) HCWSA Board Appointments (3)

c) Coin Op Machines Ord. Rev (Change in State Law) Pub. Hearing & 3rd and final Reading

d) Beer and Wine Ordinance Revision (fines section) 2nd Reading

e) Bid Award Road Striping

f) Bid Award GSP HVAC

1. NEW BUSINESS
2. Nicki Meyer Fishing Tournament Requests
3. Inclement Weather Policy
4. BOR Budget Request
5. PUBLIC COMMENT
6. EXECUTIVE SESSION – Pending Litigation

1. ADJOURNMENT

Hart County Board of Commissioners

February 11, 2014

5:30 p.m.

The Hart County Board of Commissioners met February 11, 2014 at 5:30 p.m. at the Hart County Administrative & Emergency Services Center.

Chairman Joey Dorsey presided with Commissioner R C Oglesby, Jimmy Carey and William Myers in attendance.

1. Prayer

Prayer was offered by Chairman Dorsey.

1. Pledge of Allegiance

Everyone stood in observance of the Pledge of Allegiance.

1. Call to Order

Chairman Dorsey called the meeting to order.

1. Welcome

Chairman Dorsey welcomed those in attendance.

1. Approve Agenda

Commissioner Myers moved to amend and approve the agenda to include Executive Session/Pending Litigation Matters. Commissioner Carey provided a second to the motion. The motion carried 4-0.

1. Approve Minutes of Previous Meeting(s)
* 1/28/14 Regular Meeting
* 1/31/14 Called Meeting Inclement Weather

Commissioner Myers moved to amend and approve the minutes of January 28, 2014 and January 31, 2014. Commissioner Carey provided a second to the motion. The motion carried 4-0.

1. Remarks by Invited Guests, Committees, Authorities

None

1. Reports by Constitutional Officers & Department Heads

None

1. County Administrator’s Report

County Administrator Jon Caime reported that Emergency Personnel met February 10 for advance planning for the upcoming snow/ice storm event; the Road Department is scheduled to work split shifts to ensure that intersections are graveled and passable and that downed trees are removed for the roadways. The Governor has issued a state of emergency along with the federal government which will qualify counties for resources for the storm event.

1. Chairman’s Report

Chairman Dorsey reported the Pioneer Water Subcommittee met February 6, 2014 and voted unanimously to recommend that the HCWSA not pursue a proposed water agreement with Pioneer Water.

1. Commissioners’ Reports

Commissioner Myers presented the county with a flag commemorating ACCG 100th Anniversary of service to the state and counties throughout Georgia. He commended the Sheriff’s personnel, EMS and volunteer fire fighters for their quick response to a house fire of a homebound individual.

1. Old Business
2. Road Department Request to Increase Road Dept. Laborer to Grade 7

Commissioner Oglesby moved to approve the laborer position to Grade 7 with a revised job description requiring a Class F drivers’ license. Commissioner Myers provided a second to the motion. The motion carried 4-0.

1. HCWSA Board Appointments (3) (term expiration 3/1/2014)

Chairman Dorsey moved to re-appoint Hugh Holland and Mike McNabb to serve on the Hart County Water & Sewer Authority. Commissioner Myers provided a second to the motion. The motion carried 4-0.

Commissioner Myers moved to appoint Jerry Canady to serve on the HCWSA. Commissioner Oglesby provided a second to the motion.

Chairman Dorsey noted that Mr. Canady is a candidate for Commissioner District 2 and doesn’t think it would be appropriate at this point to appoint him to serve on the Authority.

County Attorney Walter Gordon responded that this issue has been discussed previously and he has inquired if the BOC wanted to seek an amendment to the Water Authority legislation to specifically allow the service by a county commissioner to serve on the authority. He did not feel it would be a conflict but it does put someone in a difficult position serving on both.

Commissioner Oglesby withdrew his second to the motion. The motion died from lack of a second.

Commissioner Oglesby moved to interview the remaining candidates. The motion died from lack of a second.

Commissioner Oglesby moved to table the issue until the results of the upcoming election. Commissioner Carey provided a second to the motion. The motion carried 3-1 (Chairman Dorsey opposed).

1. Coin Op Machines Ord. Rev (Change in State Law) Pub. Hearing & 3rd and Final Reading

Commissioner Oglesby moved to open the public hearing. Commissioner Myers provided a second to the motion. The motion carried 4-0.

No public comment was offered.

Commissioner Oglesby moved to close the public hearing and convene the regular meeting. Commissioner Carey provided a second to the motion. The motion carried 4-0.

Commissioner Myers moved to adopt the amendment to the Coin Op Machines Ordinance. Commissioner Oglesby provided a second to the motion. The motion carried 4-0.

1. Beer and Wine Ordinance Revision (fines section) 2nd Reading

Commissioner Oglesby moved to approve the 2nd reading of the B&W Ordinance. Commissioner Myers provided a second to the motion. The motion carried 4-0.

1. Bid Award Road Striping

Commissioner Oglesby moved to award the bid to Parker Traffic Markings. Commissioner Carey provided a second to the motion. The motion carried 4-0.

1. Bid Award GSP HVAC

Commissioner Oglesby moved to award the bid to MCG Mechanical Inc. Commissioner Carey provided a second to the motion. The motion carried 4-0.

1. New Business
2. Nicki Meyer Fishing Tournament Requests

Commissioner Myers moved to approve $5,000 allocated for fishing tournaments to be utilized for the Watercross Event. Commissioner Carey provided a second to the motion. The motion carried 4-0.

1. Inclement Weather Policy

Commissioner Carey moved to adopt the Inclement Weather Policy. Commissioner Myers provided a second to the motion.

Following a brief discussion, Commissioner Carey withdrew the motion. Commissioner Myers withdrew the second.

Commissioner Myers moved to pay non-essential employees if the offices are closed and pay the essential employees their regular rate of pay for hours worked. The motion died from a lack of a second.

Chairman Dorsey moved that in the event that offices are closed due to inclement weather non-essential employees if they wanted to be paid could use their leave (sick, vacation, pto) time, essential employees will be paid based on hours worked. Commissioner Carey provided a second to the motion. The motion carried 4-0.

1. BOR Budget Request

Chairman Dorsey moved to fund $2,700 from contingency funds to cover payroll expenses for the upcoming March special election. Commissioner Carey provided a second to the motion. The motion carried 4-0.

1. Public Comment

None

1. Executive Session – Pending Litigation

Commissioner Myers moved to exit into Executive Session to discuss potential litigation matters. Commissioner Carey provided a second to the motion. The motion carried 4-0.

With no further action taken during Executive Session, Commissioner Oglesby moved to exit. Commissioner Myers provided a second to the motion. The motion carried 4-0.

1. Adjournment

Commissioner Myers moved to adjourn the meeting. Commissioner Oglesby provided a second to the motion. The motion carried 4-0.

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Joey Dorsey, Chairman Lawana Kahn, County Clerk

**This draft ordinance is being considered by the Hart County Board of Commissioners for adoption. This is a revision to the existing County ordinance in response to changes in State Law**

**ORDINANCE NO. 2014-1**

**AN ORDINANCE TO REGULATE COIN OPERATED AMUSEMENT DEVICES AND THE OPERATION OF AMUSEMENT GAME ROOMS IN HART COUNTY, GEORGIA**

 WHEREAS, the Board of Commissioners of Hart County (the “County”) did, on the 8th day of August, 2000, adopt an ordinance for the regulation of coin operated amusement devises and the regulation of amusement game rooms; and

 WHEREAS, the State of Georgia has now amended State law regarding the regulation of amusement game rooms and the operation of coin operated amusement machines in the State by adopting House Bill 487 (signed by Governor Deal on April 10, 2013; and

 WHEREAS, the State law preempts the original County ordinance; and

 WHEREAS, the County has now conducted further analysis on the matter and desires to adopt regulatory provisions in regard to amusement game rooms in the County which are consistent with the amended State law;

 NOW THEREFORE, BE IT HEREBY ORDAINED BY THE BOARD OF COMMISSIONERS OF HART COUNTY, GEORGIA AS FOLLOWS:

 Section 1. An ordinance to regulate coin operated amusement machines adopted August 8, 2008, is repealed in its entirety and the following adopted in lieu thereof;

 Section 2. The Code of Ordinances of Hart County, Georgia is hereby amended to add a new Article to Chapter 10, thereof, which shall be titled Article 1 and which shall read in words as follows:

 **Sec. 10.1. Gambling Devices Prohibited.**

 Gambling Devices, as that term is defined in O.C.G.A. § 16-12-20(2) are prohibited in the County, and the ownership, use, or transport thereof shall be a misdemeanor pursuant to state law, except as exempted pursuant to O.C.G.A. § 16-12-35)a) through (k).

 **Sec. 10.2 Gambling Places Prohibited.**

Gambling Places, as that term is defined in O.C.G.A. § 16-12-20(3) are prohibited in the County, and the operation thereof shall be a misdemeanor pursuant to state law.

 **Sec. 10.3 Definitions.**

 The following words, terms or phrases, when used in this Ordinance, shall have the meaning ascribed to them in this Section, except where the context clearly indicates a different meaning:

 ***(a) Amusement Game Room*** means any location as provided in O.C.G.A. §  16-12-35(b), (c) or (d) where one or more Bona Fide Coin Operated Amusement Machines are operated that permit non-cash redemption as provided in O.C.G.A. § 16-12-35(d)(1)(B), (C), or a combination thereof.

 ***(b) Bona Fide Coin Operated Amusement Machine*** means the same as this term is defined in O.C.G.A. § 50-27-70(b)(2)(A) and (B) and any applicable regulations of the State of Georgia. Examples of Bona Fide Coin Operated Amusement Machines include, but are expressly not limited to, the following:

 1) Pinball machines;

 2) Console machines;

 3) Video games;

 4) Crane machines;

 5) Claw machines;

 6) Pusher machines;

 7) Bowling machines;

 8) Novelty arcade games;

 9) Foosball or table soccer machines;

 10) Miniature racetrack, football or golf machines;

 11) Target or shooting gallery machines;

 12) Basketball machines;

 13) Shuffleboard machines;

 14) Kiddie ride games;

 15) Skee-Ball® machines;

 16) Air hockey machines;

 17) Roll down machines;

18) Coin operated pool table or coin operated billiard table as defined in paragraph (3) of O.C.G.A. § 43-8-1; and

19) Any other similar amusement machine which can be legally operated in Georgia.

 The term “coin operated amusement machine” does not include the following:

 1) Coin operated washing machines or dryers;

 2) Vending machines which for payment of money dispense products

 or services;

 3) Gas and electric meters;

 4) Pay telephones;

 5) Pay toilets;

 6) Cigarette vending machines;

 7) Coin operated vending machines;

 8) Coin operated scales;

 9) Coin operated gumball machines;

 10) Coin operated television sets which provide cable

 or network programming;

 11) Coin operated massage beds; and

 12) Machines which are not legally permitted to be operated in Georgia.

 ***(c) Location*** means a business within the unincorporated area of the County.

 **Sec. 10.4. License Required.**

 No person, firm or corporation shall engage in the business of an owner or proprietor of an Amusement Game Room, as the term is herein defined, without first having obtained a license.

 **Sec. 10.5. Issuance of License.**

 Application for a license for operating an Amusement Game Room within the corporate limits of the County shall be made to the County Clerk upon a form to be supplied by the County Clerk for this purpose. The license application shall include the following information:

 (a) Name, address, and age of the applicant and the date of the application;

 (b) Address or place where the bona fide coin operated amusement machine or machines are to be offered to the public for play and the other business or businesses operated at that place or places;

 (c) Name and address of the owner of the machine or machines and a copy of the owner’s master license;

 (d) Name and address of any other business owned or operated by applicant within the corporate limits of the County; and

 (e) List of any other licenses or permits from the County held by the applicant.

 Upon issuing a license for an Amusement Game Room, the County official or employee shall provide the license with a copy of this Ordinance. The County shall not require a fee for licensure or registration of an Amusement Game Room. A license issued in accordance with this Ordinance shall be valid until December 31st of the year in which the license was issued.

 **Sec. 10.6. Distance.**

(a) Every Amusement Game Room in the County shall comply with the proximity provision for businesses licensed to sell alcohol set out in O.C.G.A. § 3-3-21. After a hearing, the Board of Commissioners may waive the application of this provision to an individual location if no alcohol is served or sold at such Location.

(b) Every Amusement Game Room in the County shall comply with the proximity provision for businesses licensed to sell alcohol as set out in Section 6-46(b)(6) of the Code of Ordinances of the County. After a hearing, the Board of Commissioners may waive the applicability of this provision to an individual Location if no alcohol is served at such Location.

 **Sec. 10.7. Number of Bona Fide Coin Operated Amusement**

 **Machines at a Location.**

 No Amusement Game Room in the County shall offer to the public more than six (6) Bona Fide Coin Operated Amusement Machines offering non-cash redemption in accordance with O.C.G.A. § 16-12-35(c) and (d)(1)(2), or both at the same Location.

 **Sec. 10.8. Gross Receipts from Bona Fide Coin Operated**

 **Amusement Machines and from Business.**

 Every Amusement Game Room shall keep records available for inspection by County officials that set out separately annual gross receipts for the amusement games and the other products and services sold at the Location. Income from the amusement game or games shall not constitute more than fifty percent (50%) of the income from the Location. Compliance with this section requires both the availability of records for inspection and compliance with the fifty (50%) percent of income requirement. Every owner or operator of an Amusement Game Room who is subject to O.C.G.A. § 50-27-84(b)(1) must provide to the County a copy of each verified monthly report prepared in accordance with such Code section. In addition, each owner or operator must provide the County government an annual audit of the reports from the owner or operator to the Lottery Corporation.

 **Sec. 10.9. Notice Requirements.**

 (a) Every Amusement Game Room shall post a conspicuous sign with the following or similar words:

‘GEORGIA LAW PROHIBITS GIVING OR RECEIPT OF ANY MONEY FOR WINNING A GAME OR GAMES ON AN AMUSEMENT MACHINE; GIVING OR RECEIPT OF MONEY FOR FREE REPLAYS WON ON AN AMUSEMENT MACHINE; GIVING OR RECEIPT OF MONEY FOR ANY MERCHANDISE, PRIZE, TOY, GIFT CERTIFICATE, OR NOVELTY WON ON ANY AMUSEMENT MACHINE; OR AWARDING ANY MERCHANDISE, PRIZE, TOY, GIFT CERTIFICATE, OR NOVELTY OF A VALUE EXCEEDING $5.00 FOR A SINGLE PLAY OF AN AMUSEMENT MACHINE.’

 (b) Every Amusement Game Room shall post the license issued by the County conspicuously and permanently.

 (c) The owner or proprietor of each Amusement Game Room shall inform every employee of the acts and omissions prohibited by O.C.G.A. § 16-12-35 and by this Ordinance, and of the penalties for violation of O.C.G.A. § 16-12-35 and this Ordinance.

 **Sec. 10.10. Compliance with O.C.G.A. Provisions Relating to Master**

 **Licenses, Location Licenses, and Stickers for**

 **Individual Machines.**

 Bona Fide Coin Operated Amusement Machines may be used in an Amusement Game Room within the County only if the machines are owned by a person who holds a valid master license in accordance with O.C.G.A. § 50-27-71, and each machine offered to the public for play has a valid permit sticker in accordance with O.C.G.A. § 50-27-78. In addition, the business owner where the machines are available for play by the public must pay a location license fee in order to obtain a valid location license in accordance with O.C.G.A. § 50-27-71 (a.1) and (b). The County official in charge of issuing licenses shall notify the State Commissioner of Revenue of any observed violation of O.C.G.A. § 50-27-71or § 50-27-78.

 **Sec. 10.11. Penalties for Violations by Owners or Operators of**

 **Amusement Game Rooms.**

 (a) In addition to penalties set out in the O.C.G.A. provisions for failure to comply with the provisions of O.C.G.A. § 16-12-35(a) through (k), the owner or operator of an Amusement Game Room, after conviction in a court of competent jurisdiction, and a hearing before the Board of Commissioners, or its designated hearing officer, may be subject to the following penalties:

 (1) First Offense: Suspension for not more than six (6) months of the owner or proprietor’s license for offering any amusement game at the Location where the violation occurred.

 (2) Second Offense: Suspension for not more than twelve (12) months of the owner or proprietor’s license for offering any amusement game at the Location where the violation occurred.

 (3) Third Offense: Suspension or permanent revocation of the owner or proprietor/ operator’s license for offering any amusement game at the Location where the violation occurred, and suspension of other permits and licenses granted by the County for not more than six (6) months.

 (b) Penalties for violation of the provisions of this Ordinance by the owner or operator of an Amusement Game Room, after conviction in the Magistrate Court of the County are as follows:

 (1) First Offense: Fine not to exceed Five Hundred ($500.00) Dollars for each violation.

 (2) Second Offense: Fine not to exceed Seven Hundred Fifty ($750.00) Dollars for each violation, suspension of the owner or operator’s license for offering any amusement game at the Location for not more than three (3) months, or both.

 (3) Third Offense: Fine not to exceed One Thousand ($1,000.00) Dollars for each violation, suspension or permanent revocation of the owner or operator’s license for offering any amusement game at the Location, or suspension of other permits and licenses granted by the County for not more than six (6) months, or any combination of these penalties.

 (c) The fines listed in the penalties for violation of this Ordinance may be imposed by the Judge of the Magistrate Court of the County. Suspension or revocation of the owner or operator’s license for offering any amusement game at the Location where the violation occurred, and suspension of other permits and licenses granted by the County may be imposed by the Board of Commissioners after a hearing.

 (d) Offering one or more Bona Fide Coin Operated Amusement Machine games in violation of an order suspending or revoking the license for the offering of any amusement game at the Location is punishable, after conviction in the Magistrate Court of the County, by a fine not to exceed One Thousand ($1,000.00) Dollars, imprisonment not to exceed thirty (30) days, or both such fine and imprisonment.

 **Sec. 10.12. Penalties for Violations by Those Who Play Bona Fide**

 **Coin Operated Machines in Violation of Law or Ordinance.**

 The Magistrate Court of the County is authorized to impose the following penalties on any person convicted of receiving money as a reward for the successful play or winning of any Bona Fide Coin Operated Amusement Machine from any person owning, possessing, controlling or overseeing such Bona Fide Coin Operated Amusement Machine or any person employed by or acting on behalf of a person owning, possessing, controlling or overseeing a Bona Fide Coin Operated Amusement Machines:

 (1) First Offense: Fine not to exceed Two Hundred Fifty ($250.00) Dollars for each violation.

 (2) Second and Subsequent Offense: Fine not to exceed Five Hundred ($500.00) Dollars for each violation.

 **Sec. 10.13. Operating Regulations.**

 All businesses operating as an Amusement Game Room hereunder shall be subject to the following regulations:

 (a) *Devices to Be Kept in Plain View; Gambling Devices Prohibited*. All machines shall at all times be kept and placed in plain view of and open and accessible to any person(s) who may frequent or be in any place of business where such machines are kept or used. Nothing in this section shall be construed to authorize, permit or license any gambling device of any nature whatsoever.

 (b) *Inspection.* The Sheriff or his designee shall inspect or cause the inspection of any place or building in which any such machine(s) are operated or set up for operating, and shall inspect, investigate and test such machines as needed.

 (c) *Attendant Required.* It shall be unlawful for any proprietor to open his business to the public unless an attendant is present. Said attendant shall be of sufficient mental and physical capacity so as to be able to provide aid to patrons if needed or desired. Said attendant shall not be less than 18 years of age.

 (d) *Loitering.* As used in this section, “loitering” shall mean remaining idle in essentially one location and shall include the concepts of spending time idly, loafing or walking about aimlessly, and shall be unlawful for any person, firm or corporation licenses to operate an Amusement Game Room to permit loitering on or in the immediate vicinity of any machine or business premises regulated hereunder in such a manner as to:

 (1) Create or cause to be created a danger of a breach of the peace;

 (2) Create or cause to be created any disturbance or annoyance to the comfort and repose of any person;

 (3) Obstruct the free passage of pedestrians or vehicles;

 (4) Obstruct, molest or interfere with any person lawfully in a public place.

 (5) Shirt and shoes required. All proprietors shall require shirts and shoes to be worn at all times by any person frequenting their premises.

 **Sec. 10.14. Revocation of License.**

In the event that it comes to the attention of the Board of Commissioners that an Amusement Game Room has created a nuisance to the surrounding community or the operator or proprietor has violated any provision of this section, the following procedure will be followed:

 (a) The County clerk shall issue a notice of objection which shall include the address of the location and the specific reasons why the Amusement Game Room in question is alleged to be a nuisance or alleged to be in violation of any provision of this section. The County clerk will then notify the proprietor that a notice of objection has been filed and will set a date for a hearing before the Board of Commissioners or its designated hearing officer. Extensions and necessary investigations will be granted and conducted at the discretion of the County clerk.

 (b) At the time of the hearing, any resident, the operator, the proprietor and the County clerk or other witnesses may be heard. Thereafter, the Board of Commissioners shall issue a notice of decision which will call for the dismissal of the objection, removal of the machines or such other remedy as they deem appropriate under the circumstances that are consistent with the purpose of this section.

 (c) The decision of the Board of Commissioners shall be in writing and shall state the reasons for their decision and shall be based upon the merits of the case.

 (d) The decision of the Board of Commissioners shall be binding upon the proprietor and operator of the Amusement Game Room under consideration, subject to appeal to the proper court.

 **Sec. 10.15. Licenses and Permits Nontransferable.**

 (a) Licenses required in this article are nontransferable. All businesses that have bona fide coin operated amusement machines on the premises shall display, in plain view, the current license issued by the County.

 (b) The issued license shall not be transferred to another owner at the same site within the County. A new owner or proprietor must first obtain a new license if they are going to operate in the same or different location in the County.

 **Sec. 10.16. Enforcing Officer.**

 The Sheriff of Hart County or his designee is hereby designated as the enforcement officer and shall execute all requirements of this article.

All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Adopted this 11 day of February 2014.

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 Chairman, Board of Commissioner

ATTEST:

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\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, County Clerk

1st Reading: January 14, 2014

2nd Reading: January 28, 2014

3rd Reading: February 11, 2014