

The Board of Commissioners of Fayette County, Georgia met in Official Session on Thursday, November 10, 2005, at 7:00 p.m. in the public meeting room of the Fayette County Administrative Complex, 140 Stonewall Avenue, Fayetteville, Georgia.

COMMISSIONERS PRESENT: Greg Dunn, Chairman
Linda Wells, Vice Chair
Herb Frady
Peter Pfeifer

COMMISSIONER ABSENT: A.G. VanLandingham

STAFF MEMBERS PRESENT: Chris Venice, County Administrator
William R. McNally, County Attorney
Carol Chandler, Executive Assistant
Karen Morley, Chief Deputy Clerk

Chairman Dunn called the meeting to order, offered the Invocation and led the pledge to the Flag.

ORDINANCE NO. 2005-23 - AMENDMENTS TO THE FAYETTE COUNTY SIGN

ORDINANCE ADOPTED: (This item was tabled from the October 13th Commissioners meeting).

Commissioner Frady said he would like to make a motion to table this item until after the District Court had its hearing in Newnan. He said this was supposed to occur within the next sixty to ninety days. He said the ruling on the sign ordinance was on Section 1-55 which related to political signs. He said the Court's Order said the plaintiff in this case had eight signs in his yard. He said the judge issued a T.R.O. (Temporary Restraining Order) that relieved him of any responsibility of that to the courts because it was unconstitutional. He said he felt this needed to be tabled until after the Court completed its scrutiny of the County's ordinance. He said it did not affect any other portion of the ordinance and the rest of the County's ordinance was perfectly in tact. He said the judge was issuing an injunction against eight signs not being too many, then certainly three signs proposed in this ordinance would not stand up in court. He said he hated to keep putting something on the books that was obviously going to be stricken down by the courts and then have to pay the plaintiff's fees as well.

Chairman Dunn asked if there was a second to Commissioner Frady's motion. Hearing none, he said the motion died for the lack of a second.

Director of Community Development Pete Frisina said this ordinance was presented to the Board at its October 13th meeting and it was tabled until tonight's meeting. He said during that time staff had reviewed the ordinance and he was presenting clean version no. 4 or revision 11/2/05 no. 10. He said there had not been a substantial review of this ordinance

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since 1998. He said the purposes that staff tried to achieve in the ordinance was the efficient use of signs, the regulation of signs for aesthetics and traffic safety. He said staff tried to make the ordinance a little easier to understand for both staff and the public. He said signs had been divided into two types which were residential and non-residential based on the zoning and/or use. He said signs in the residential area had been increased and also slightly increased in the non-residential areas. He said he would be glad to answer any questions that the Board might have.

Chairman Dunn asked Mr. Frisina to review the major changes.

Mr. Frisina said the County was trying to regulate signs based on zoning and/or use. He said there were two sections which were residential and non-residential. He said three signs would now be allowed in non-residential and of those signs one could be permanent. He said the change went from one sign to three signs being allowed. He said more temporary signs would be allowed in residential. He said someone could have three signs of which only one sign could be permanent. He said someone could have three temporary signs but no more than one permanent sign out of the three. He said one additional sign would be allowed during construction in both residential and non-residential. He commented on non-residential areas. He said one permanent sign would be allowed and the number of temporary signs would be increased for a single business who would be allowed two additional temporary signs and a parcel for multiple businesses would be allowed four additional temporary signs.

Commissioner Frady said he would like to comment on aesthetics on page 13 of the court order. He read "Furthermore, the harm to Plaintiff outweighs any potential damage an injunction would cause Fayette County. The importance of Plaintiff's constitutional right to political expression outweighs Fayette County's aesthetic concerns over the proliferation of signs."

Chairman Dunn said now someone could have a flag pole whereas before that was not addressed. He said now people could have a banner up for thirty days and that had not been possible in the past in residential. He said the Chief Judge of the Superior Court who was Judge Pascal English had rendered judgments twice now on the existing sign ordinance. He said Judge English had made some recommendations to the Board regarding some constitutional issues where he felt there were some content issues involved. He felt the amended version of the ordinance before the Board tonight took care of Judge English's concerns.

Attorney Davenport replied yes, the amended ordinance before the Board tonight takes care of all of the Judge's concerns.

Chairman Dunn said Judge English had suggested several things that were now incorporated in this ordinance. He remarked that although Judge English had not directed

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changes to the number of signs, this had been done. He said this was being done based on some other court decisions around the Southeastern United States.

Attorney Davenport remarked that this was the recommendation from the Planning Commission.

Commissioner Frady asked if the Superior Court would override the Federal Court.

Chairman Dunn replied that the Federal Court had not ruled on this.

Commissioner Wells felt since this was still in litigation it would be premature and probably injurious for this Board to even try and second guess how the ruling might go. She said the Board was here tonight to address the sign ordinance that had been brought forth by the Planning Commission. She felt it was probably expedient for the Board to only address the sign ordinance rather than try and speculate on what the courts may or may not decide. Commissioner Frady remarked that the court had said that what had happened was unconstitutional. He said he was trying not to have another court case where the County was probably going to lose because of constitutionality.

Commissioner Wells interjected that Commissioner Frady's motion had died for lack of a second.

Chairman Dunn said he would like to disagree with Commissioner Frady's statement. He said it was his understanding that the court had not determined that the County's sign ordinance was unconstitutional. He said the court had issued a preliminary injunction to get through the city elections but it did not rule on the County's sign ordinance beyond that.

Attorney Davenport replied that was correct.

Commissioner Frady questioned Section 1-55 and what the judge had said about that.

Attorney Davenport responded that he did not have that Order in front of him but Section 1-55 was the focus for United States District Judge Camp but in addition to Judge Camp's order, there was another Federal Court case in the Eleventh Circuit Court of Appeals which takes precedence over the District Court. He said there was also another piece of litigation in the Georgia Supreme Court which was most likely coming back down to Judge English. He said it was not just that one Order being addressed here this evening. He said this was intended to address the recommendations from the Planning Commission.

Chairman Dunn said he was making the point that no judge had determined that the County sign ordinance was unconstitutional.

Attorney Davenport replied that was correct.

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Chairman Dunn said this was a public hearing and if there was anyone wishing to speak in favor or in opposition of the amended sign ordinance they could do so at this time. Hearing none, he asked for the Board's pleasure in this matter.

Commissioner Pfeifer remarked that there was a man in California named Michael Nudaw who wanted to ban the words "Under God" from the pledge of allegiance. He said Mr. Nudaw could not possibly hope to convince the public that he was right so he was attempting to use the courts to force the rest of the citizens to go along with him. He said there were people in organizations who did not live here and who keep suing the citizens of Fayette County for exactly the same reason. He said there were people who would court shop until they find a judge who might give them what they wanted instead of using the political process and discussing and debating these issues and trying to get some agreement between the citizens of Fayette County. He said they have chosen to assault the citizens and use the court system to force their way on the rest of the population. He said it was true that for some the only point of view was their own and they could never be satisfied. He said if the County said four signs was the limit then those people would want eight signs. He said if the County said eight signs was the limit then they would want twelve signs. He said he felt Fayette County had bent over backward to try and accommodate all of these different points of view. He said the Planning Commission, Planning Staff and County Attorneys had spent many hours reading these ordinances, going over them and discussing them and revising this draft sign ordinance. He said he looked at this revision as an attempt to forestall some of this nonsense and to agree to have both points of view available to people as well as some freedom from the sign clutter that was very common in other locations.

On motion made by Commissioner Wells, seconded by Commissioner Pfeifer to adopt the Fayette County Sign Ordinance as presented tonight in its entirety, discussion followed.

Chairman Dunn remarked that the attorneys had mentioned that there were court cases about signs that the County was involved with and there were court cases about signs all over the United States that people were involved with. He said there were companies as Commissioner Pfeifer had alluded to that go court shopping. He said what had started it here in Fayette County was a company that wanted to be able to put an unlimited number of billboards in Fayette County and it had gone on from there. He said the courts had upheld many things about the County's sign ordinance and one of them was that this Board of Commissioners as well as City Councils had a right to look after the safety and the aesthetics of the community. He said safety and aesthetics were subjective things and he did not think that anyone would be able to put a regulation in front of any particular person or judge that would satisfy everybody. He said this Board was trying to keep Fayette County as aesthetic and safe as possible regarding signs in the right-of-ways that might block someone's vision. He remarked that Superior Court Judge Pascal English had twice made the decision that the County had the right to do what was necessary for aesthetics and safety in this community. He said other judges around the Country have said maybe there should be more than one sign or more than two or something of that nature. He said

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he had discussed this with the County's attorneys in Federal Court where the Federal Judge said the County had the right to try and legislate safety and aesthetics in this community. He said this was all about the County's attempt to do that. He said the County Staff did not believe that there should be an unlimited number of signs everywhere all over the County that one sees in the counties North of Fayette County. He said the issue of freedom of speech was a balancing act. He said this Board was just not going to advocate its responsibility for aesthetics because some people want to sue the County. He felt the average citizen in Fayette County and the quality of life in Fayette County was so important to everyone that they would like it to look better than any other community. He said the Board was involved in trying to obey the court's orders as they understood them knowing that there would be others that come. He said when the others do come this Board together with Staff would adjust the sign ordinance to be legal.

Commissioner Frady remarked that the sign ordinance that the County currently had in place since 1998 was one that he had worked on and it had been in place since that time. He said he had not totally agreed with it but he had worked on it and had it passed in 1998. He stated that he was not advocating proliferation of signs. He said the only thing that he was trying to do was get this Board to wait until the Courts rule on what they put the temporary restraining order on until such time there might be a better solution. He said he was not advocating eight signs but just reading what was included in the Order that the Judge ruled on that was already there. He said he was not trying to change the sign ordinance all that much but he said he would not mind seeing five signs. He said he was referring to the spirit of elections and not permanent signs or business signs. He said the issue of billboard signs had been covered in 1998. He said he did not want to see an enormous amount of signs in the County either but he felt the issue of freedom of speech was in jeopardy. He said he hated to do things that he felt might be overturned at some point in the future. He said he was not in favor of putting signs everywhere but he was in favor of people being able to express their opinions about the spirit of elections.

Chairman Dunn said one of the problems was that the County has its own sign ordinance and the Cities have their own sign ordinance. He said during election time the sign restrictions for these areas were all a little bit different. He said some of the sign ordinances stated that during elections a person could have a certain number of political signs up for certain periods of time. He said this could not be done because no one could legislate the content of a sign. He said there could not be different rules for political signs than there were rules for any other kind of sign. He said nothing in this sign ordinance mentioned political signs during election season because that would be limiting content. He said rules had to be put into effect that would apply all of the time and not just during election times, He said the County had requested the Federal Court to get the entire Eleventh U.S. District Appeals Court to give Fayette County a ruling that makes sense. He said the Appeals Court of the Eleventh U.S. District had several cases on the books that contradicted each other. He said the County could not comply with all of these because they argued with each other. He said Fayette County was the only government that had stepped forward in the Eleventh District and said the County wanted every Judge in the

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Appeals Courts to sit together and hear Fayette County's situation. He said no governments could live with the same court making different rulings on signs every couple of days.

Commissioner Pfeifer remarked that the subject of the sign ordinance was brought up during the last election period and some of the current lawsuits stemmed from that. He said it was his feeling that the County did not owe any politicians any better benefits than was allowed for everyone else. He said if it was a first amendment issue and freedom of speech then it should not be different for a politician and his signs or somebody wanting to put up a "God is Great" sign or the Ten Commandments. He said this was freedom of speech for all citizens.

Chairman Dunn called for the vote.

The motion carried 3-1 with Commissioner Frady voting in opposition. Commissioner VanLandingham was absent. A copy of Ordinance No. 2005-23, identified as "Attachment No. 1", follows these minutes and is made an official part hereof.

RESOLUTION NO. 2005-10 - ADOPTION OF IMPACT FEES FOR FIRE SERVICES AND SUBMISSION OF RESOLUTION TO THE A.R.C. AND THE DEPT. OF COMMUNITY AFFAIRS:

Director of Community Development Pete Frisina updated the Board on the Capital Improvement Element (CIE) and the Short Term Work Program (STWP) for the imposition of impact fees for fire services and adoption of a Resolution to submit to the Atlanta Regional Commission and Georgia Department of Community Affairs for review. He said he wanted to make sure that the Board had seen the summary page showing that the total for all of the jurisdictions was \$360,082.43. He said he had forwarded all of this information to the cities and they would be acting on this as well. He said since May of 1999 when the County started the impact fee, approximately \$1,072,000 had been collected. He said Fire Station 1 had been built and impact fees were applied to a portion of that Station and the County had totally reimbursed itself for Station 1. He said now the County was in the process of reimbursing itself for Station 10. He said he hoped by next year the County would have paid off all of that portion for Station 10.

Chairman Dunn said this was one of those items that he normally referred to as a housekeeping item. He said currently the County had impact fees that were placed on developers when they build something in the County. He said if there were impact fees a report must be filed with the State every year to make sure everything was being done correctly.

Chairman Dunn remarked that this item was also a public hearing and if anyone wished to speak in favor or in opposition they could do so at this time. Hearing no one, he asked for the Board's pleasure in this matter.

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On motion made by Commissioner Wells, seconded by Commissioner Pfeifer to adopt the impact fees for fire services and also Resolution No. 2005-10 to submit to the A.R.C. and the Department of Community Affairs. The motion carried 4-0. Commissioner VanLandingham was absent. A copy of Resolution No. 2005-10, identified as "Attachment No. 2", follows these minutes and is made an official part hereof.

REQUEST BY HERITAGE CHRISTIAN CHURCH TO BE ALLOWED TO TIE ON TO THE PEACHTREE CITY SEWER SYSTEM:

Greg Marksberry said he was the Senior Minister for Heritage Christian Church. He said the heart of the Heritage Christian Church was simply to serve God by serving people. He said their mission statement was to win, build and send servants of Christ. He said with that spirit and with that heart many of the members have come to the Board tonight to share the desire to serve the residents of this community. He said he personally felt very blessed to be a part of the community. He said he knew the church members felt blessed that they had been blessed with 77 acres of land at the corner of Redwine Road and Bernard Road. He said they were hopeful and purposeful in trying to use that property as good stewards to bless the community. He said they felt blessed to be a blessing and that was what they wanted to be. He said the church was currently in a building program and was adding a worship center and a children's ministry center to the campus in order to better serve the families and the community. He stated the current project was not affected by what he was going to discuss with the Board tonight. He said in the process of going forward with this building program they had discovered that part of the overall vision for the campus had been affected. He said primarily what had happened was that it was discovered that very prime acreage on the property front and center that they had envisioned for development of a sporting field to be utilized by the community was actually the best land for the septic system. He said the septic system would occupy approximately 10% of the property.

Reverend Marksberry further remarked that they were asking for the Board's consideration tonight to allow the church to go approximately 2,000 feet from where the property was located under Redwine Road to tie on to the Peachtree City sewer system. He said it was his understanding that the Peachtree City was open to the church doing this so that the church could free up approximately 10% of the property to better serve the community. He said specifically the vision that they have for the land that was affected by the current septic field was that they would like to use it for a multi-purpose sports field. He said some of the things that this field might accommodate would be an upward flag football program as well as an upward soccer program. He said this particular program not only teaches the sports skills but also focuses on sportsmanship and character development. He said they felt this would certainly serve the community and commented that they had already been doing this through their basketball program and this had made a difference for hundreds of people in this area. He said this land could be used for other things as well but he understood that because this would be a septic field there were regulations that prohibit a formal field from being developed on the property. He said one of the church's core values was excellence

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and the church takes this very seriously. He said they believed that this honored God and also blessed the community. He said in order to do the kind of sporting field that they envisioned and have the kind of excellence that they would want to carry out, the location would be significant. He said one issue would be accessibility to the people who would be utilizing it in the neighborhoods. He said another issue would be that the property would be in closer proximity to the church's current multi-purpose building and the restaurant facilities and other things in that building could be better utilized when people and families gather there for those events.

Reverend Marksberry further remarked that the heart of the issue was that the church felt this was the best use of this land to serve the people in this community if the church could be more creative and more strategic and purposeful in using it for purposes that were more beneficial than a septic field would be. He said obviously the church was not a public institution but was a non-profit organization with a similar mission to serve the community. He said because the church was a non-profit organization there should be some protections from opening this up to just anyone for profit endeavor that might come along. He said the church was humbly asking for the Board's consideration for approval for the Heritage Christian Church to tie on to the Peachtree City sewer system so that they could continue to add to the quality of life in this community. He said they felt the close proximity that the church was in currently to the Peachtree City sewer system would help the church avoid potential pitfalls such as leakage that some of the church's neighbors in the Wood Creek Subdivision have encountered. He said the church felt that this property was the most strategic and valuable acreage and a way that the church could use the acreage. He said the church would like to partner with the County and continue to help serving the community by utilizing this opportunity. He remarked that on behalf of all of those present tonight from the Heritage Church they just wanted to say thank you to the Commissioners for allowing time to discuss and consider this request.

Commissioner Frady asked Reverend Marksberry if he would be willing to stipulate that this sewer line, should it be granted, would only be at capacity to service the church.

Reverend Marksberry replied yes and said that was a great question. He said he had a tentative understanding from Peachtree City that this could be done and that would be to create a sewage pipe that would be sized to service the church's needs but not allow other entities to tap onto it and create additional issues.

Commissioner Frady felt this would be a great opportunity for the church. He said it was obvious that the septic field lines would take up a lot of space in the whole project and the church would be able to utilize about 7 more acres of property. He felt this would be a good thing to approve and also commented that sewer was a lot better than septic. He said the County has a great number of septic failures every month. He said he would like to make a motion to approve this request.

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On motion made by Commissioner Frady, seconded by Commissioner Pfeifer to approve the request by Heritage Christian Church to be allowed to tie on to the Peachtree City sewer system, discussion followed.

Commissioner Pfeifer said he had seconded the motion for the purpose of discussion. He said when this idea was first brought to him he was very intrigued by it. He said he lived right down the street from the church and had many friends and neighbors who attend this church. He said he felt the benefits of the church to be able to hook on to a sewer system were obvious. He said the County's difficulty would be how it could differentiate between the church and anyone else that might come before the Board. He said under the County's current situation he did not see a way for the Board to allow the church to tie on to Peachtree City's sewer system and be able to ever turn anyone else down. He said he was not at all adverse to County Staff looking into this and maybe even hiring someone to look into the possibility of designing a plan that would allow this in the future and at the same time achieve the limits that must be there. He said he could not support this request right now without that and he would have to vote against the motion. He said he had just seconded the motion for the purpose of discussion. He said he would like to have this looked into and see if there was a way to achieve this.

Chairman Dunn said he recalled when the Heritage Christian Church moved to their current location and all five of the Board members were thrilled. He remarked that previously on this piece of property John Wieland had tried to change the PUD of the Wood Creek Subdivision. He said Wood Creek was a very large Planned Unit Development and Mr. Wieland came in and asked the Board to allow them to expand that. He said the Board would never allow someone to expand a PUD otherwise it would not be a planned community. He remarked that the Board had turned down Mr. Wieland's request and because of that the opportunity for Heritage Christian Church to get the property came about. He said the Board of Commissioners was thrilled to allow this Church to go there. He said what the Church had done with this property had also thrilled this Board because it was just beautiful. He said the Church had cleaned up the lake site and done a tremendous job with it and had been a wonderful neighbor. He said he had been approached on this issue by a couple of the members of the Church and the engineer. He said he had talked with them and one of the things that he thought of was trying to find a way for this to be done. He said he also talked with representatives of the Peachtree City Water and Sewer Authority. He said everybody agreed that this would not be expanded to allow anybody to tie on to the system. He said the attorneys told him if the Church was allowed to bring the sewer all the way up there into that area then the issue would be who was the next person, organization, developer or neighborhood who comes in and says they want to put a sewer there too.

Chairman Dunn further remarked that Timberlake Subdivision was located on both sides of Peachtree Parkway. He said initially this Subdivision requested sewer and the County would not approve that request. He said this Subdivision was located in the unincorporated County. He pointed out that the Church was further out from Peachtree City than

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Timberlake Subdivision and it would not be fair to say yes to the Church and no to Timberlake Subdivision. He said there was another subdivision going in across the street from the Church on the other side of the road. He said this developer had talked about having sewer too. He said if sewer could be put in then the developers could make more money and put more homes in. He said the County also had requests in that area from some of the homeowners in Jefferson Woods who wanted to tie on to the sewer line coming from the school. He said there were other ways to get around their situation. He said the Board had also told them that there was no way that this could be done.

Chairman Dunn remarked that in the unincorporated County there could not be any homes on property less than one acre. He said there was just no way that the County could approve this and not approve this for anyone else.

Commissioner Frady said this would not be setting a precedent. He said The Chimneys Subdivision also had sewer from Peachtree City. He said Peachtree City was allowed to run sewer to that subdivision. He felt the improvements for sewer on a piece of property was outstanding as far as he was concerned. He said he was not in favor of high density properties and he did not favor any lots less than one acre. He said he was not going to vote against annexations who were going to get sewer unless they were over density. He said The Chimneys had sewer and they have had it for a long time. He said he did not approve of that because they would not give the County a contract that they would not take it anywhere else. He said this was the reason he had voted against that request. He said he was not against the sewer going there but against the fact that The Chimneys would not give the County a contract.

Attorney McNally remarked that the Peachtree City Water and Sewer Authority had the right to serve the City and the outlying areas if it so chooses.

Chairman Dunn said Commissioner Frady was on the Board of Commissioners when The Chimneys situation occurred around Starr's Mill and the surrounding school complex area. He recalled this was a deal made between the school system and The Chimneys. He said no one would object to having a school be put on sewer because it was such a huge facility. He said the school system was a separate government and the County would not control what they do and the County could not stop the school system from getting sewer. He said The Chimneys property was contiguous to the school complex. He said he really did not know how the Board determined that it was alright to bring sewer into The Chimneys.

Chairman Dunn further remarked that if the Board approved the sewer tie on for the church then it could not legally deny any requests from anyone else in the future.

Commissioner Frady interjected that a precedent had already been set with The Chimneys situation and the church's request would not be setting a precedent.

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Chairman Dunn said the circumstances were totally different and set by a different government entity with the school system and the City of Peachtree City. He said he did not believe that if there were subdivisions built where the school was located now that one acre lots would have been put in there. He said he could not support the church's request even though he would love to. He said he had tried to work it out with the church's engineer and some other individuals and had talked with the sewer authority but when he had reviewed some of the laws and some of the cases that had been in the State of Georgia applying to sewers and extension of sewers this community would drastically change if something like this was done.

Commissioner Frady said The Chimneys was there and it was zoned by the County for one acre lots before the sewer every got there. He said there would not necessarily be smaller lots just because there was sewer. He said the County could control those kinds of issues.

Chairman Dunn said it was his recollection of The Chimneys was that it was a conference center that was owned by Peachtree City Development Corporation. He said when P.C.D.C. sold their sewer system for Peachtree City to the City, this was all part of that deal. He said the sewer systems were all part of their private property.

Reverend Marksberry said he appreciated the Board's comments and the position that the Board was in. He asked the Board for clarity on what was said tonight. He said it sounded to him like Commissioner Pfeifer was suggesting if this request was not approved, that the church and the County aggressively begin to look into a way that legislation could be crafted to make this work.

Commissioner Pfeifer said he would like to explore the possibilities.

Commissioner Wells said it would not involve the church being aggressive in this but the County would explore any possibilities.

Reverend Marksberry said the church would aggressively contribute to that process. He asked if the church would be prohibited from doing that.

Commissioner Wells replied no. She said she understood Commissioner Pfeifer to mean that he would like County Staff to explore any options that there might be. She said Staff could investigate the possibility of crafting an ordinance that might allow this. She said at this point in time she did not believe that there would be anything that the church could do aggressively to help staff explore that.

Reverend Marksberry said the only thing that the church could do aggressively would be to be in support of whatever creative solution the County might find and try to accommodate that.

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Commissioner Pfeifer said he would be pushing for staff to look into this and would stay in touch with the church.

Reverend Marksberry clarified that Chairman Dunn felt like this was an impossibility from his point of view.

Chairman Dunn said he was not an attorney but everything that he had presented to him to this point indicated to him that it was going to be very difficult if not impossible to figure out a way to allow the church to do something that no one else could do.

Reverend Marksberry asked Chairman Dunn if he was agreeable with the County Staff pursuing any possible options.

Chairman Dunn said he was definitely in favor of that and remarked that he had tried to do this even before this issue came before the Board. He said when he had first met with representatives of Heritage Christian Church he was trying to find a way for this to be accomplished. He said after several discussions with individuals there just did not seem to be a way for this to work.

Reverend Marksberry asked if there were any precedents for non-profits with a mission to serve the community. He asked if there were any exceptions made for that kind of possibility.

Chairman Dunn replied no, there were no precedents for that. He said there was a precedent recently turning down a church trying to get sewer from Clayton County on S.R. 138. He said the Board told that particular church that they could not bring sewer into the County. He said it was coming from another political jurisdiction just like in this case Peachtree City was another political jurisdiction. He said the County gets requests all of the time along the Clayton County border to extend sewer into Fayette County and these requests are denied.

Reverend Marksberry said he had heard there were other precedents but he was not sure of the validity of those. He said one involved Evander Holyfield's residence.

Chairman Dunn replied that Evander Holyfield did not have sewer and his property was the largest property in Fayette County. He said there was an issue with a Catholic School located on S.R. 138 who has sewer. He said the reason that School had sewer was because half of the property was located in Fulton County and they had sewer on that portion of the property. He said it was almost impossible to deny the School's request because they would have had to go in and build a septic system on this half of the property and a sewer system on the other half. He said that sewer system was already on the School's property.

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Commissioner Pfeifer said there was a similar issue in the Town of Tyrone as well with Fairburn bringing sewer into Tyrone.

Chairman Dunn said the Board had objected to that request because of what it would do to the zoning in the County. He said now half acre lots have been approved for that area and that was because they have sewer.

Reverend Marksberry said he appreciated all of the clarification on these issues and also appreciated the Board's desire to look into this. He said the church was willing to do whatever it could to accommodate this.

Chairman Dunn remarked that Reverend Marksberry's first comments were that the church was currently in the midst of a building program. He asked if the Board's decision tonight would negatively impact that building program in any way.

Reverend Marksberry replied that there would be some negative financial ramifications of having to temporarily relocate the septic system but it would not stop the project.

Chairman Dunn said he just wanted to make sure that the Board would not be affecting any of the goals that the church was trying to accomplish right now.

Reverend Marksberry said this would frustrate the church's overall vision for that property. He said the front portion of the property was the best piece and highest price portion of the property would now turn out to be the area for a septic field. He said this came to light as the building project began.

Chairman Dunn asked if this meant that most of the trees would have to be taken down in that area.

Reverend Marksberry replied yes and commented that many of the trees would have to come down.

Chairman Dunn said this really was a beautifully treed piece of property right now and a beautiful setting.

Commissioner Wells said she really wished the Board could assist the church in this request. She said she had been an elected official for eleven years and one of the things that she had learned during that period of time was no good deed goes unpunished. She said very often when the Board tried to do something good for a worthwhile organization such as the church who had some very good benefits for the community it had a negative trickle down affect that the Board had not anticipated. She said this was becoming more and more evident with the courts wanting to liberalize and take away from the governing authority any power for zoning, regulations and anything of that nature. She said unfortunately what happens then was there was chaos within a community and no rules for

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anyone to enforce. She said this could possibly have a tremendous negative impact down the road as more people would approach the Board with a similar request. She said she was certain that the courts would not allow the Board to say yes especially to a religious organization and no to somebody else who was going to be building something for profit. She said the courts were getting much more concerned about governing authority's putting undue negative impacts on people who wish to build. She said the big thing for Fayette County and what had kept it on the course that had been planned and implementing for so many years was consistency. She said the very minute that exceptions are made no matter how well intended and no matter what perceived benefit because of that one exception it had come back to bite the County time after time. She said consistency was the best guard for keeping Fayette County the way it was. She said exceptions must be handled very, very carefully and unfortunately this was the reason she could not support this request tonight. She said the impact would be too great for the community.

Reverend Marksberry said he would like to thank the Board again for hearing the church's request and for its consideration and time.

Chairman Dunn said he would like to thank the church for what it had done to that piece of property. He said the property was not in good shape when the church took it over and now everything that had been done there was just great for Fayette County.

Chairman Dunn called for the vote.

The motion failed 1 - 3 with Chairman Dunn, Commissioner Wells, and Commissioner Pfeifer voting in opposition. Commissioner VanLandingham was absent.

CONSENT AGENDA: County Administrator Chris Venice requested item no. 2 be withdrawn to allow staff further research. On motion made by Commissioner Wells, seconded by Commissioner Pfeifer to approve consent agenda item nos. 1 and 3 as presented. The motion carried 4-0. Commissioner VanLandingham was absent.

WATER COMMITTEE RECOMMENDATION: Approval of Water Committee recommendation to purchase at this time, meters and transponders for the next two year period at a total cost of approximately \$395,000. A copy of the memorandum, identified as "Attachment No. 3", follows these minutes and is made an official part hereof.

2. Approval of Staff's recommendation to contract with U.G.A.'s Carl Vincent Institute to review and prepare an organizational assessment of benchmarking measures and career progression policies of various County departments.

County Administrator Chris Venice requested this item to be withdrawn.

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3. Approval of minutes for the Board of Commissioners' meeting held on October 27, 2005.

PUBLIC COMMENT:

Members of the public are allowed up to five minutes each to address the Board on issues of concern other than those items which are on this evening's agenda.

There was no public comment.

STAFF REPORTS:

PETE FRISINA: Director of Community Development Pete Frisina remarked that a request had been made by the developer of Platinum Ridge Subdivision, Rod Wright, to de-annex approximately 28 acres from the City of Peachtree City that would be added to Platinum Ridge subdivision for additional lots. He said this property was located at the end of Diamond Point which was a street located in Platinum Ridge Subdivision. He said he had spoken to Peachtree City about this as well and Mr. Wright had also spoken to the Peachtree City staff. He said the County Attorney and the Peachtree City attorneys had worked out some issues that they would like the County to consider. He said one of these was Resolution No. 2005-12 that said the County would consent to the de-annexation when certain conditions were met. He said those conditions were that once the City takes action to de-annex the property and also when Mr. Wright goes through the proper procedures to zone and final plat the property the County would then accept it. He said they had also drawn up a De-Annexation Agreement with Mr. Wright that he would go through the proper County regulations before he developed the property. He said if the County was willing to accept then the City of Peachtree City would start the process. He said this would require the Chairman's signature on the De-Annexation Agreement and also Resolution No. 2005-12.

Chairman Dunn asked if Peachtree City objected to this request.

Mr. Frisina replied that this request had not gone to the Peachtree City Council yet.

Chairman Dunn asked if the attorney for Peachtree City was speaking for himself or for the Peachtree City government.

Mr. Frisina said the Peachtree City attorney was speaking in terms of getting the process started. He said the attorney did not want to start the process until he knows Fayette County was willing to accept the property.

Chairman Dunn remarked that when this request was first brought up approximately a year or more ago by Mr. Wright and his associates the Mayor of Peachtree City objected to this to it because he said he wanted to annex all of the unincorporated County in that area rather than de-annex those acres from the City.

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Mr. Frisina said Mr. Wright would put a petition into the City to de-annex the property.

Chairman Dunn said the Mayor of Peachtree City had taken the direct opposite approach to that.

Commissioner Frady asked when they thought this request would go before the Peachtree City Council.

Mr. Frisina said the Peachtree City attorney wanted the County to give some assurance to them that the County would be willing to accept the property once it was de-annexed.

Commissioner Wells asked if the County Attorney had reviewed this request.

Attorney Davenport replied yes, and stated that this process was unique in that the County had never gone through this before. He said it was something that Peachtree City would not even consider unless they know that the County was going to accept it. He said the County would have to make the first move. He said that did not mean that this property would be de-annexed but Peachtree City would not even consider it unless the County was going to accept it.

Commissioner Wells said this would actually give Mr. Wright the impetus that he would need to start the process with Peachtree City. She said then it would be up to Mr. Wright and the City of Peachtree City as to whether or not it would be approved. She said the County would just be saying that the property would be accepted if it was de-annexed.

Attorney Davenport remarked that was correct and the acceptance that the County had provided with this documentation puts safeguards in place so that if it did go forward correctly, there was no issue about how it would be developed and it would be following County procedures and Mr. Wright was in agreement with signing those documents as well.

Commissioner Frady asked what the property was zoned. He noted that most of the property in that area was estate zoned and was three acres.

Chairman Dunn said it was his understanding if this was going to be part of the Platinum Ridge Subdivision that it would be zoned five acres in the County.

Mr. Frisina remarked that was part of the agreement that Mr. Wright would be part of.

Chairman Dunn said the County had turned down three acre zoning on that property because the Board did not want to clutter up the boundary of Peachtree City in that area.

Commissioner Wells said she would like to make a motion.

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On motion made by Commissioner Wells, seconded by Commissioner Pfeifer to authorize the Chairman to execute the De-Annexation Agreement and also Resolution No. 2005-12 as presented to allow this process to begin, discussion followed.

Chairman Dunn said the rules for annexation were totally in the hands of the City. He asked if the rules for de-annexation were the same.

Attorney Davenport replied yes, that was correct.

Commissioner Frady asked what the time frame was to have this paperwork presented to the Peachtree City Council.

Attorney Davenport replied that this was not the same as an annexation where they would have to go through a rezoning as well as the annexation through a Planning Commission and a Mayor and Council and public hearings. He said the de-annexation itself simply is a decision of the Mayor and Council to allow this property to be part of the unincorporated County. He said it had nothing to do with zoning on behalf of Peachtree City. He said the zoning aspect comes to unincorporated County and that necessitated the documents that were before the Board tonight.

Chairman Dunn felt this would be very good for Fayette County including all of the cities as well. He said the property that was currently being developed was being developed quite well. He said it was felt that there was a good market there for five acre lots.

The motion carried 4-0. Commissioner VanLandingham was absent. A copy of the De-Annexation Agreement, identified as "Attachment No. 4", follows these minutes and is made an official part hereof. A copy of Resolution No. 2005-12, identified as "Attachment No. 5", follows these minutes and is made an official part hereof.

ATTORNEY MCNALLY: Attorney McNally remarked that several months ago the Board had indicated a desire to go forward with design and construction of the Senior Citizens Center. He asked for the Board's consideration in authorizing the Chairman to execute an agreement with the Firm of Flynn Finderup Architects regarding the design and construction of the Senior Citizens Center. He said the plans for the Center were already underway and this would allow a continuation to completion of those architectural plans. He said the Firm had agreed that they would complete this plan in the sum of \$104,850. He noted that should there be any change in plans or documents then there would be a per hour charge for that with the Senior Architect receiving \$150 per hour and so on down the line according to schedule.

Chairman Dunn remarked that originally Flynn Finderup was contracted with the Senior Services Board and now it would be with Fayette County going through the firm of Mallett and Associates.

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Commissioner Wells asked what kind of specifications or guidelines were being used to develop this particular structure.

Attorney McNally replied that as far as he knew this was the plan as presented and he did not know of any changes.

Commissioner Wells said this plan was presented several years ago and she questioned if there had been a reassessment of the current needs or was it just being assumed that a two or three year old plan was still adequate.

Attorney McNally replied that he could not answer that because he was not involved in that. He said he was strictly looking at the contract.

Commissioner Wells said she was hesitant to sign a contract until it was known whether or not it was something that had been recently reviewed. She said this plan was started four or five years ago.

Commissioner Frady said he recalled Jim Mallett coming before the Board and giving the Board an update on these plans about two years ago.

Chairman Dunn said it was his understanding that it was basically the same building and it was just an incomplete design at this point.

Attorney McNally said the building was proposed for 22,000 square feet and approximately 80% completed.

Commissioner Wells remarked that her biggest concern was that this was 80% completed when the assumption was that Senior Services was going to build it and fund it. She said that had changed significantly and now it was a County project and the County was going to build it and basically fund it. She said it had been at least two years ago since anyone reviewed this. She said it was her concern if the County should proceed and put the other 20% on a plan that was no longer what the County really needed and did the County really know what it was buying at this point in time.

Chairman Dunn said he had seen the plans for the Center many, many times and he felt it was a good facility and it did fit the County's future needs. He said the entire facility was being built for the future and not to replicate what they had there now.

Commissioner Frady said he recalled the plans being reviewed approximately two or three years ago but they were not finished. He said he did not think the use of the Center would change that much in that period of time.

Commissioner Wells asked who the County's point of contact was.

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Chairman Dunn replied that Jim Mallett was the Program Manager for this project. He said Mr. Mallett had contracted with the Firm of Flynn Finderup to complete the 20%.

Attorney McNally remarked that this had been approved by Mallett & Associates.

Commissioner Frady said he would like to make a motion.

On motion made by Commissioner Frady, seconded by Commissioner Pfeifer to authorize the Chairman to execute the Agreement with the firm of Flynn Finderup in the amount of \$104,850 in order to complete the architectural plans. The motion carried 4-0. Commissioner VanLandingham was absent. A copy of the Agreement, identified as "Attachment No. 6", follows these minutes and is made an official part hereof.

Chairman Dunn said he certainly understood Commissioner Wells' concern and he suggested that Mr. Mallett come in and brief the Board on the status of this project.

Commissioner Wells said she did not have a problem with the expertise of the project. She said her concern was if the vision for the facility was the same now that the County was paying for it was when the Senior Services Board was going to raise all of the money and they were going to fund it. She said she would like to know if any changes had been made accordingly and if so to whose benefit and to whose detriment.

Chairman Dunn said there had been some discussion that since the County was going to be paying the bill now that they wanted to do some additional things which now they had been discouraged them of that notion.

Commissioner Wells said that was her concern.

Chairman Dunn said Jim Mallett understood full well that the Board was concerned about that.

Commissioner Wells said she really would like to have a briefing or an update from Mr. Mallett on that. She said initially there was quite a bit of square footage in that prescribed plan that was designated for meeting spaces that maybe was not going to be actively used for the seniors. She said she would like to see a proposal on what it was going to be like since the County was paying the bill.

Chairman Dunn said he would also like to have the architect Mr. Flynn come before the Board as well.

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EXECUTIVE SESSION: Assistant County Attorney Dennis Davenport requested an executive session to discuss four legal items.

EXECUTIVE SESSION: On motion made by Commissioner Wells, seconded by Commissioner Pfeifer to adjourn to executive session to discuss four legal items. The motion carried 4-0. Commissioner VanLandingham was absent.

LEGAL: Attorney Dennis Davenport discussed a legal item with the Board.

The Board took no action on this matter.

LEGAL: Attorney Dennis Davenport updated the Board on a legal item.

The Board took no action on this matter.

LEGAL: Attorney Bill McNally updated the Board on a legal item

On motion made by Commissioner Wells, seconded by Commissioner Frady to authorize Attorney McNally to proceed in this matter. The motion carried 4-0. Commissioner VanLandingham was absent.

LEGAL: Attorney Dennis Davenport discussed a legal item with the Board.

The Board took no action on this matter.

EXECUTIVE SESSION AFFIDAVIT: On motion made by Commissioner Wells, seconded by Commissioner Pfeifer to authorize the Chairman to execute the Executive Session Affidavit affirming that four legal items were discussed in executive session. The motion carried 4-0. Commissioner VanLandingham was absent. A copy of the Affidavit, identified as "Attachment No. 7", follows these minutes and is made an official part hereof.

There being no further business to come before the Board, Chairman Dunn adjourned the meeting at 9:30 p.m.

Karen Morley, Chief Deputy Clerk

Gregory M. Dunn, Chairman

The foregoing minutes were duly approved at an official meeting of the Board of Commissioners of Fayette County, Georgia, held on the 7th day of December, 2005.

Karen Morley, Chief Deputy Clerk