

The Board of Commissioners of Fayette County, Georgia met in Official Session on Thursday, August 25, 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, Acting County Administrator
William R. McNally, County Attorney
Karen Morley, Chief Deputy Clerk

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

REZONING PETITIONS:

Commissioner Wells remarked at this point in the agenda the Board would consider requests for the rezoning of property in our county. She said the policy required at least two public hearings — the first before the Planning Commission and the second before the County Commissioners. She said at this hearing the Board would listen to the concerns of everyone, whether in favor or opposition to the rezoning petition. She pointed out when a rezoning petition was called, the petitioner or representative for the petitioner would be allowed 15 minutes in which to present the details of the request, followed by anyone who wanted to voice support for the request. She stated that the Chairman would then allow all those individuals who were opposed to the rezoning to stand for a moment to display their opposition. She said the Chairman would then ask those individuals who wished to come to the podium to speak to remain standing so the Board and staff could get an idea of how to allocate its time. She said the Board would allow up to 3 minutes for each speaker. She said when the persons speaking in opposition had finished, the petitioner would be given an opportunity to rebut any of the points raised. She remarked in fairness to all parties, the petitioner would be entitled to equal time to address the Commissioners as all those in opposition.

Commissioner Wells further remarked that these hearings were a part of the permanent record and speaking at the podium with the microphone helped staff with their task of recording comments and ensured everyone being heard. She remarked when it was an individual's turn to speak that they come to the podium, state their name and address and direct their comments to the Board only. She asked that after individuals speak that they sign the sheet that would be provided by the Marshal in order for names to be spelled correctly for the record.

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Commissioner Wells stated that the Board wanted to hear from everyone who had something to say and they would pay close attention to each point raised. She said it would not be necessary for the same point to be raised over and over. She thanked everyone for their participation and announced that the Zoning Administrator would begin introducing each request in the order they appeared on tonight's agenda.

Chairman Dunn remarked that one of the Board members was absent tonight and it was the right of each petitioner to petition their application before a full five member Board. He said he would ask each person tonight whether or not they choose to proceed tonight or to table their petition to the Board's next rezoning meeting to be held on September 22, 2005. He said each petitioner would have the right to do this one time.

PETITION NO. 1147-05:

Zoning Administrator Aaron Wheeler read Petition No. 1147-05, Christine Parker Newton and Claudine Banks Oakley, Owners, and Thomas B. Chandler, Agent, request to rezone 39.03 acres from A-R to R-45 to develop 31 single-family dwelling lots. He said this property was located in Land Lots 226 and 255 of the 5th District and fronted on New Hope Road. He said the Planning Commission recommended denial due to the lack of three (3) affirmative votes. He said Staff recommended approval with two (2) conditions.

Larry Seabolt said he was representing the petitioner.

Chairman Dunn asked Mr. Seabolt if he wished to proceed tonight or to table this request.

Mr. Seabolt said petitioner would like to table their petition to the September 22, 2005 Board of Commissioners' meeting.

PETITION NO. 1148-05:

Zoning Administrator Aaron Wheeler read Petition No. 1148-05, Berachah Bible Church, Owners, and W. Ronald Newton, Agent, request to rezone 13.34 acres from A-R to R-40 to develop additional church facilities. He said this property was located in Land Lot 202 of the 5th District and fronted on Corinth Road. He said the Planning Commission recommended approval with two (2) conditions. Staff recommended approval with two (2) conditions.

Chairman Dunn asked if the petitioner wished to proceed tonight or to table their request.

Ronald Newton, Agent for Berachah Bible Church, said he would like to proceed tonight. He said Berachah Bible Church was located on Corinth Road and had been there for twenty-five years. He said twenty-five years ago the first wing was built and there had been one expansion approximately twelve years ago. He said they have had moderate but steady growth and six years ago they purchased a piece of property beside the property that they originally owned. He said that property was the property that they were seeking

to rezone. He said the reason they were seeking the rezoning was because now they needed an additional expansion program space. He said in order to do that they would have to expand to the side because they were building a new entrance. He stated the nature of the church was changing to the side and they needed parking and an entrance to welcome visitors in the front. He said they were encroaching just a little bit over into the other property. He said they needed to rezone the other property to match the current zoning of the first property.

Chairman Dunn asked if anyone wished to speak in favor of the rezoning request. Hearing none, he asked if anyone wished to speak in opposition to this request. Hearing none, he asked for the Board's pleasure in this request.

On motion made by Commissioner Frady, seconded by Commissioner Wells to approve Petition No. 1148-05 with two conditions. The motion carried 4-0. Commissioner VanLandingham was absent. A copy of the recommended conditions, Staff's Analysis and Investigation, identified as "Attachment No. 1", follow these minutes and are made an official part hereof. A copy of the Ordinance and Resolution granting Petition No. 1148-05, identified as "Attachment No. 2", follow these minutes and are made an official part hereof.

PETITION NO. 1149-05:

Zoning Administrator Aaron Wheeler read Petition No. 1149-05, Ann Hammond and Agnes Scott College, Inc., Owners, and Gadson H. Woodall, III, Agent, request to rezone 164.22 acres from A-R to C-S to develop a proposed subdivision consisting of 65 single-family dwelling lots. He said this property was located in Land Lots 223 and 224 of the 13th District and fronted on Wagon Wheel Trail. He said the Planning Commission recommended denial due to the lack of three (3) affirmative votes. He said Staff recommended approval with four (4) conditions.

Chairman Dunn asked if the petitioner wished to proceed tonight or table their request.

Robert Harville with the firm of Lancaster Associates, a planning and engineering firm, said he represented the applicant Mr. Gadson Woodall, III and they wished to proceed tonight. He said they were proposing to rezone the subject property from A-R to C-S. He said the proposal was to allow for sixty-five lots on a total of 164.22 acres which would result in a density of .44 lots per acre. He said the minimum lot size would be one acre and they would preserve 46% of the land in conservation open space. He said the requested rezoning complied with the Comprehensive Plan. He remarked that the area was currently identified as low density residential which would allow for one lot per one to two acres. He said the Comprehensive Plan therefore allowed C-S (conservation subdivision). He said Staff's Analysis recommended approval for the property noting that this would not adversely affect the use or usability of any adjacent properties nor would this proposed use result in a burdensome

use of roads, utilities or schools. He said the property was planned to preserve the best trees on the land. He said the front portion of the property was predominantly field and the development had been intensified in that area to allow preservation of the rear of the property to a larger percentage which was the location of the nicest trees on the property.

Mr. Harville said applicant had reviewed Staff's Conditions and respectfully requested that the Board approve the application to rezone the property to C-S with Staff's recommendations.

Chairman Dunn asked if anyone wished to speak in favor of this application. Hearing none, he asked if anyone wished to speak in opposition.

Willie Mitchell of Fairburn, Georgia said he lived in the Briarfield Subdivision and was the President of the Homeowners' Association. He said he had spoken at the last Planning Commission meeting and remarked that he was not opposed to progress and not 100% opposed to the building of the subdivision. He said he did have some concerns. He said the first concern was that he wanted to know what type of housing would be constructed on this tract. He questioned if these would be brick homes, three sides brick, hardy plank or what. He said he would also like to know the approximate cost of these homes. He stated the homes in Briarfield Subdivision were fairly upscale homes and the homeowners were certainly concerned with what was going to be built right next door.

Mr. Mitchell said he also had some concerns and would like to hear how the drainage issues would be addressed. He said there were a couple of lakes that they used for retention and runoff. He said he wanted to know how they were going to deal with the runoff from the subdivision behind Briarfield.

Rebecca Pell, 373 Westbridge Road, Fayetteville said she and her husband had moved here twenty-five years ago with the idea of enjoying the pasture land. She said along with Mr. Mitchell she also had some concerns. She said the proposed conditions really had not been expressed tonight by the developer. She said she was not sure if everyone was aware of what those conditions were and she was not either. She said there were four proposed conditions. She said when this proposal was presented two weeks ago at the Planning Commission there was a question as to whether or not what the developer was calling green space was really valid green space. She said that particular area was rock and this was the reason they could not build there. She said it sounded like a good proposal because these were just going to be two acre lots with the number of homes that would be built there. She said, however, it had come to fruition that they would not be able to build on some of the areas so most of the lots were going to be one acre.

Mrs. Pell said her concerns were for the traffic flow. She said they live just a little bit West on Westbridge Road from this entrance onto Westbridge off of Wagon Wheel. She said all three of their children had graduated from Sandy Creek High School in years past. She said with this development, the traffic would certainly increase coming from Westbridge

Road going on S.R. 92 South where there was just a stop sign. She said there was a traffic light a little bit further North on S.R. 92 by Rivers Road, however, with the increased drivers it would be a real difficulty. She said there had already been some accidents there and this was the reason for the traffic light at Rivers Road and S.R. 92. She said there had been some high schoolers die at that intersection. She said Wagon Wheel Trail was currently a dirt road and the developer had stated that they would turn the road over to the county to maintain once they had paved to the entrance. She said she was sure that most of the traffic would come down onto Westbridge Road which was already a pretty high traffic area. She said there was Westbridge Subdivision and Westbridge Acres that also enter onto Westbridge Road.

Mrs. Pell asked for the Board's consideration to take these issues into consideration. She remarked that in the past most of the homes that did have their driveway coming out onto Westbridge Road must be five acre plots. She said the majority of homes on Wagon Wheel Trail were over five acres. She said this proposed development would certainly cause an additional amount of traffic. She asked that the Board just consider if they lived in that area what they would want.

Chairman Dunn asked if anyone else wished to speak in opposition. Hearing none, he asked the petitioner if he had any rebuttal comments.

Mr. Harville said he very much appreciated the comments of the homeowners from the surrounding area and he would be glad to clarify those issues. He said the homes would be four sided finished. He stated there would be a variety of architectural styles with a mixture of brick, stone, hardy plank and various forms of siding. He said they did not propose to just finish the front portion of the home and have the sides and backs in a lesser material. He said the finish would be consistent to all four sides and matching the architectural style of the front facade of the homes.

Mr. Harville commented on the cost of the homes and remarked they would probably be \$350,000 and up into the range of \$500,000. He commented on detention and runoff. He said the proposal had been reviewed by staff and with their input had identified two primary detention areas where the site primarily ran off to. He said if applicant gets a favorable ruling tonight and the project goes back for development for plan preparation, they would meet with Staff and go through a normal plan process where they would have to satisfy that they were meeting all of the County ordinances with regard to runoff, retention, erosion control and sedimentation. He said they planned on doing an exemplary job there.

Mr. Harville said he would be glad to read the four conditions. He said Staff's conditions were as follows: (1) he said applicant would donate thirty feet of right-of-way from the centerline of Wagon Wheel Road. He said currently Wagon Wheel Road did not have a dedicated right-of-way. He said Staff had asked that they dedicate sufficient land from the center line which was the property line currently to the development side of the road so that the road could have a proper right-of-way. He said applicant agreed to that condition. He

said (2) that no lot shall have immediate access to Wagon Wheel Road. He said nobody's driveway should front Wagon Wheel which would help alleviate concerns regarding a lot of driveway cuts and additional traffic conflicts on Wagon Wheel Road. He said they would limit their access points to the subdivision entrances as illustrated on the drawing. He commented on condition (3). He said during the preliminary plat phase, the cemetery that exists on the Eastern boundary of the property should be delineated by its own legal description and deeded to the homeowners association. He said it shall be enclosed with a four foot high fence around the entire perimeter and have a public access way linking it to Wagon Wheel Road. He said the extent of the cemetery would be further researched archeologically and would define the area properly. He remarked on condition (4). He said the applicant shall be required to pave Wagon Wheel Road to the first entrance of the subdivision. He said the intent was to bring that to a County road standard and it would be paved to County standards and therefore turned over to the County at that point and maintained by the County. He said that would provide for a proper road entrance into the subdivision which would also benefit the other citizens living further down Wagon Wheel Road.

Mr. Harville commented on the issue of rock on the property. He said they respectfully disagreed with this comment. He said the property was imminently developable. He said there was some rock on the property as there was in every part of the County. He said they had not done a rock assessment that identified the areas that they had set aside for green space on the plan as being undevelopable. He said the rear portion of the property where there was a large body of green space was some of the most developable land on the property. He said it was blessed with large trees and would make wonderful lots. He said they felt in the spirit of conservation subdivision ordinance that the land might be better preserved as community open space to save those trees. He said he would be glad to respond to any other questions that there might be.

Commissioner Pfeifer asked for clarification on several issues. He said having read the materials that the Board was given and now in looking at the map, he said he had gotten confused when the amenities area was discussed as being on a map or not being on a map. He also questioned the cell tower issue and if it was going to be on the property or not be on the property.

Mr. Harville pointed on the map to the amenities area. He said this area was comprised of four tennis courts, swimming pool, a club house and a parking lot. He pointed on the map to the location of the cell tower.

Commissioner Pfeifer asked if the cell tower would remain there.

Mr. Harville responded that the applicant did not wish to renew the lease on the cell tower when it was up for renewal. He said the applicant must honor the conditions of the current lease but his intention was not to renew the lease which would allow it to be removed at that point. He said because the tower was there now, the applicant had set it aside an area

for the cell tower on its own lot which complied with legal requirements. He said the area shown on the map in orange corresponds to more than what was regarded as the fall zone of the tower. He said the height of the tower was used and then applied horizontally from the base in case there was a catastrophic failure of the tower, no one would be endangered. He said this was the reason that specific area was set aside.

Commissioner Wells asked what kind of commitment would the Board have once the lease was up that the tower would actually be removed.

Mr. Harville said as he understood the lease, when the lease expired should the owner choose not to renew the lease, then the cell company was obligated to remove the tower.

Commissioner Wells asked what the usage of that area would be once the tower was removed.

Mr. Harville responded that the property would revert to open space.

Chairman Dunn said the Board would like to see the tower removed if the lease was not renewed but remarked that nothing could be built on that area.

Mr. Harville said that would not be a problem. He said that area would just be added to the open space of the community.

Commissioner Wells asked for the name of the cell tower company.

Chairman Dunn asked if the County had a position on this tower.

Attorney McNally replied that this was not part of the rezoning and was completely taken out.

Mr. Harville replied that the name of the cell tower company was American Cell Towers of Delaware.

Commissioner Wells said the Board understood that but it was something close enough to impact the neighborhood if it should go into disarray and become an attractive nuisance. She said this was the reason she was concerned about this.

Mr. Harville said he believed there were provisions to ensure that it would not occur.

Attorney McNally said he believed the applicant had agreed to add a condition in which the tower property would revert to open space.

Commissioner Wells said this would mean that there were five conditions.

Mr. Harville said applicant would agree to that as well.

Commissioner Frady said he felt Staff had made the correct recommendation on this piece of property and it was only going to be .44 yield per acre homes on this property which would not impact the schools or the traffic compared to what it could be.

On motion made by Commissioner Frady, seconded by Commissioner Wells to approve Petition No. 1149-05 with five conditions, discussion followed.

Chairman Dunn said he wished he had spoken before Commissioner Frady made his motion. He asked if the owner was willing to make a self-imposed condition that the minimum house size on this property would be 2,500 square feet.

Mr. Harville replied yes they would agree to that as well.

Chairman Dunn said that would allay the fears of people in Briarfield Subdivision. He said if there was a self-imposed condition included, then he would ask Commissioner Frady and Commissioner Wells to amend their motion so that this self-imposed condition would become a requirement just like the other five conditions.

Mr. Harville said he had consulted with the owner and they were agreeable to these six conditions.

Commissioner Frady said he would amend his motion to reflect the six conditions be included.

Mr. Harville said he was glad the issue of the 2,500 square feet minimum house size had been brought up. He said he had intended on including that condition in the presentation.

Chairman Dunn said now the motion was to approve the C-S zoning with six conditions.

Commissioner Pfeifer said he had supported most if not all of the C-S zoning requests that come before the Board and this one fit his criteria in that it did not impact the area negatively. He said it was not visible from the road and it also preserved the character of the neighborhood.

Chairman Dunn said he had been on this property and commented that there was a lot of rock. He said that fact would not affect the zoning that was being discussed tonight. He said if any of the 65 lots turned out to be not buildable because of something, then they could not be built on. He said the developer would not get additional lots somewhere else.

Mr. Harville said they also agreed with this.

On motion made by Commissioner Frady, seconded by Commissioner Wells to approve Petition No. 1149-05 with six conditions. The motion carried 4-0. Commissioner VanLandingham was absent. A copy of the recommended conditions, Staff's Analysis and Investigation, identified as "Attachment No. 3", follows these minutes and are made an official part hereof. A copy of the Ordinance and Resolution granting Petition No. 1149-05, identified as "Attachment No. 4", follow these minutes and are made an official part hereof.

PETITION NO. 1150-05:

Zoning Administrator Aaron Wheeler read Petition No. 1150-05, Ussiel Hernandez, Owner/Agent, request to rezone 7.50 acres from R-20 to A-R to allow agricultural-residential uses. He said this property was located in Land Lot 195 of the 5th District and fronted on S.R. 92 North. He said the Planning Commission recommended denial due to the lack of three (3) affirmative votes. He said Staff recommended denial.

Ussiel Hernandez, 889 Highway 92, Fayetteville said he had brought an interpreter tonight in case he needed assistance with translation. He said he was attempting to rezone two parcels. He said one parcel consisted of 4 acres and the other parcel consisted of 3.5 acres for a total of 7.5 acres. He said both of these parcels were currently zoned R-20. He said he would like to have the parcels rezoned to A-R for the purpose of keeping his children's pet goats. He said his children have had their pet goats for the past five years and love them dearly. He remarked that it was also interesting to learn that Peachtree City was considering obtaining goats to maintain and control kudzu. He said this had been mentioned several weeks ago in The Citizen Newspaper.

Mr. Hernandez said at the last meeting it was stated that the technical committee said that A-R was in compliance with the County's Land Use Plan. He said the subject property was buffered from the East and the West and nobody lives on the Northern portion. He said the owner of the property on the Southern portion was happy to have his pet goats remain. He said he would like to present a letter to the Board from his neighbor to the South of the property confirming his support. A copy of the letter, identified as "Attachment No. 5", follows these minutes and is made an official part hereof.

Mr. Hernandez further remarked that he would like to elaborate on the layout of his property but first he would like to comment on a condition that he would agree to pursuant to the Board approving his property as A-R. He said he would agree to a single access to S.R. 92. He said R-20 zoning was a minimum of one acre with a 1,200 foot residence with no livestock allowed. He said A-R zoning was a minimum of five acres with a 1,200 square feet residence and livestock was allowed. He said one of his existing properties of four acres was zoned R-20 and the other was 3.5 acres for a total of 7.5 acres. He said if he could join his two properties and change the zoning to A-R he could save his children's pets. He said he knows that zoning laws protect the citizens but in his case his property was not immediately surrounded by one acre lots subdivision. He said only the homes across S.R. 92 were one to two acres but they were buffered by the highway. He remarked that the tract of land immediately to the North was R-20 but it was six acres and it was

vacant. He said the tract of land immediately to the South was 4.9 acres zoned R-20 for which he had already presented the Board with a letter of support. He said originally his property was uniquely buffered from surrounding lots in a manner that was not similar to most R-20 properties. He said to the East behind his home there was a 270 foot power line easement that separated his property from the home behind him. He said this was almost the length of a football field. He said S.R. 92 was in front of his home and the right-of-way in front was approximately 90 to 100 feet wide. He said the cars and trucks on the highway make a lot more noise than the goats.

Mr. Hernandez said he loved being part of this community and he thanked the Board for this opportunity to address the Board and qualify his petition.

Commissioner Wells asked Mr. Hernandez how many goats he had.

Mr. Hernandez replied 30 goats including the little ones.

Chairman Dunn asked if anyone wished to speak in favor of this petition.

Chairman Dunn said he would like to point out that Mr. Hernandez's next door neighbors have no objection to this rezoning request.

Walter Ivey said he used to live near Mr. Hernandez and had lived in Fayette County since 1960. He said the Zoning Department had recommended denial and he felt this gentleman needed his goats there. He asked for the Board's consideration to allow Mr. Hernandez to have these goats on 7.5 acres of land. He said there were approximately a dozen or so goats behind his home and he never hears them.

Scott Gilbert said he would be honored to have Mr. Hernandez as a neighbor but he would love for him to be able to keep his goats. He asked for the Board's consideration to approve Mr. Hernandez's request.

Rebecca Pell, 373 Westbridge Road, Fayette County said they also had goats on their five acres of A-R property. She said as an educational project to show their children the naturalness of life and death cycle and reproduction. She said a goat makes less noise than any dog or cat. She said there were many wonderful byproducts and it was a wonderful use of the fertilization. She said they used the milk from the goats and the meat could also be utilized. She asked for the Board's consideration to approve Mr. Hernandez's request. She felt Mr. Hernandez had a wonderful buffer behind him especially with the power lines behind him. She felt Fayette County was losing the livestock here and this would be a wonderful representation on S.R. 92.

Ann Daniel, McBride Road, Fayetteville said her neighbors have raised cows on their property and how they have goats. She said she was from the city and just loved the goats

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so much. She said she would like for the Board to approve this request so that Mr. Hernandez could keep his goats.

David Wilson, 754 McBride Road, Fayetteville said he travels up and down S.R. 92 every day. He said one of the things that he and his wife had liked about coming home here because coming down S.R. 92 was so different from anywhere else. He said he sees the ponds, trees and goats every day. He said he had seen Mr. Hernandez's children playing with them. He said they were really in an isolated space and the goats were just fine with him. He said he had never seen one run across the road or anything like that. He said he felt Mr. Hernandez should also be allowed to keep them.

Chairman Dunn asked if anyone else wished to speak in favor of this request. Hearing none, he asked if anyone wished to speak in opposition. Hearing none, he asked for the Board's pleasure in this matter.

On motion made by Commissioner Wells, seconded by Chairman Dunn to deny Petition No. 1150-05, discussion followed.

Commissioner Wells said Mr. Hernandez had done a wonderful job of speaking tonight. She commended him for doing such a great job. She said her heart goes out to Mr. Hernandez. She said she found it very interesting that there was such an overwhelming show of support for this issue. She said the Board could easily get carried away with wanting to do something that felt good but in the long run might not be advantageous if the circumstances were examined. She said this area was zoned R-20 for one acre lots for residential. He said Mr. Hernandez's piece of property was unique and was currently an island. She said many times many citizens have asked the Board not to allow a developer to come into an A-R area and say that he wanted to take the center out of a tract of land and build a subdivision. She said the Board had steadfastly said that this would be spot zoning and had steadfastly said that was not the way that the Board wanted to develop the community. She said this rezoning request was spot zoning in reverse. She said this would take a small space and change its zoning to be contrary to everything else that was around it. She said she would love Mr. Hernandez to be able to keep pets for his children and the Board would be addressing the number of pets that someone could have later under the Public Hearing section of this agenda.

Commissioner Wells said when someone has thirty goats, then this would really be considered farming. She said this would be thirty goats and be in a residential subdivision. She asked when would the Board say to someone appearing before the Board that they wanted to have thirty dogs in a subdivision or have some other animal. She said if this was an A-R area and a developer came in and said they wanted to take this piece out and develop one acre lots, everyone would be opposed. She said that was the same principle as this request. She said it sounded like a very nice thing to do and she would really like to do it for Mr. Hernandez. She said if she did this for him, then the next time a developer came in with an adverse request of this nature, the Board would have already established

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a precedent and it would really make it very difficult for the Board to continue to develop Fayette County in a way that the citizens want it to be developed. She said unfortunately she had to say no to this request.

Commissioner Pfeifer said he also had some of the concerns that Commissioner Wells had when he was reading the information and one of the points that she raised and he felt was a very valid point was the fact that when someone comes in to make an issue of something did they move to the nuisance or did the nuisance move to them. He said this had been his concern with this property. He said he visited that area he saw that none of the property there was developed according to the current zoning. He said this property was isolated and he would be voting against the motion.

Chairman Dunn asked Mr. Hernandez how long he had lived there and had the thirty goats.

Mr. Hernandez replied approximately five years.

Chairman Dunn asked Mr. Hernandez why he was asking for this rezoning now.

Mr. Hernandez responded because he had a citation of the court saying that he had to remove the goats.

Chairman Dunn remarked that the citation was based on a complaint.

Mr. Hernandez said he was not sure.

Chairman Dunn said the goats were in an area where they were not allowed to be. He said everyone who spoke just a few moments ago and said they would support it and cited other citizens with goats and other animals were located in A-R zoned property where it was legal to do that. He said where Mr. Hernandez lives, it was illegal. He said it was obvious that Mr. Hernandez's immediate neighbors did not object to this rezoning but somebody had complained about the goats. He said Mr. Hernandez would not have received a citation if somebody had not complained. He said he agreed with Commissioner Wells and stated this would be spot zoning. He said this was when a piece of property was taken from the middle of a tract of land and something done to that property that should not be done. He said he could not support this request. He said it was not because he did not like goats or anything like that or that Mr. Hernandez had become a problem, but it was just that it was illegal to do it there.

Chairman Dunn said the other issue here was that Mr. Hernandez's neighbor had property that was zoned R-20. He said both of Mr. Hernandez's neighbors said that they had no problem with the goats as long as they were living there. He said when these neighbors moved or if they built more houses there it would be allowed because it was one acre zoning. He said the people surrounding Mr. Hernandez's property have larger lots and the property was currently zoned and legal to build one acre lots.

Mr. Hernandez interjected that on the north side of his property there was a six acre parcel but he felt no one was building a home there because the property floods. He said he had walked on that area before and it was very wet.

Chairman Dunn said the owner of the property might have a reason for not building there but they had the right to try. He said the property was zoned R-20 and all of the property surrounding Mr. Hernandez was one acre lots. He said he would like to be able to allow Mr. Hernandez to keep his goats, he just could not do that. He said he just could not vote in favor of this request even though he would like to.

Commissioner Frady said he wished the Board could do everything at these meetings that the Board would like to do. He said the Board had a responsibility to do the right thing and unfortunately the Commissioners could not vote with their hearts. He said his daughter in Florida has goats and he loved animals. He said he would love to see Mr. Hernandez keep the goats but this was just not the proper area to do this. He said it would not be the proper thing to do for the other residents in the County and he would not do it for anyone else. He said he just could not support this request as much as he would like to.

Chairman Dunn called for the vote.

The motion carried 3-1 with Commissioner Pfeifer voting in opposition and Commissioner VanLandingham was absent. A copy of the Ordinance and Resolution denying Petition No. 1150-05, identified as "Attachment No. 6", follow these minutes and are made an official part hereof.

PETITION NO. 1151-05:

Zoning Administrator Aaron Wheeler Consideration of Petition No. 1151-05, 54 West, LLC, Owner, and Grover and Corlew, Agent, request to rezone 16.66 acres from A-R to O-I to develop a Professional Office Park. He said this property was located in Land Lot 8 of the 7th District and fronted on S.R. 54 West. He said the Planning Commission recommended to table the subject petition until September 1, 2005.

Chairman Dunn announced that this petition would be heard by the Board of Commissioners at its September 22, 2005 meeting.

PETITION NO. 1152-05:

Zoning Administrator Aaron Wheeler read Petition No. 1152-05, Humber Construction, LLC, Owner, and Brad Humber, Agent, request to rezone 80.44 acres from A-R to C-S to develop a proposed subdivision consisting of 32 single-family dwelling lots. He said this property was located in Land Lots 229 and 252 of the 4th District and fronted on McBride Road. He said the Planning Commission recommended denial due to the lack of three (3) affirmative votes and Staff recommended approval with two (2) conditions.

Petitioner requested this item be tabled to the September 22, 2005 Board of Commissioners' meeting.

ORDINANCE NO. 2005-20 - AMENDMENTS TO THE FAYETTE COUNTY ZONING ORDINANCE REGARDING ARTICLE III. DEFINITIONS, SECTION 3-60. KENNEL (AMEND), SECTION 3-62, LIVESTOCK (AMEND), SECTION 3-6. ANIMAL (ADD IN ITS ENTIRETY), SECTION 3-7, ANIMAL, EXOTIC (ADD IN ITS ENTIRETY), AND RENUMBER ARTICLE III, AS REQUIRED:

Zoning Administrator Aaron Wheeler remarked that Staff had undertaken the process of reviewing the current ordinance which only allowed a person to own three animals before being considered a kennel. He said currently the ordinance addressed animals in two ways. He said first was the definition of kennel which was what actually limited the number of animals to three before being considered a commercial kennel. He said the second was in the definition of livestock. He said as part of Staff's review process they had worked very closely with Animal Control in looking at the number of animals that were currently allowed which was three. He said they had reached the conclusion that while three dogs was an appropriate number, that three animals was slightly restrictive and Staff was proposing that this number be increased to four. He said Staff was also proposing that the definition of exotic animal be added in its entirety to the ordinance. He said they were reworking and amending the definition of kennel to fall in line with a new definition of animal which was added in its entirety to the ordinance. He said they were also strengthening the definition of livestock. He said the Planning Commission recommended approval 3-0.

Chairman Dunn said the purpose of this discussion regarded the definition of animal as defined in the regulation and currently this was a domestic dog or a domestic cat.

Commissioner Frady asked for the definition of exotic animal.

Mr. Wheeler responded that in the review of this it was determined that something of this nature be included in case Animal Control or the Marshals Office come across somebody who was raising or keeping an animal of an exotic nature as defined by the Department of Natural Resources. He said therefore, Staff was proposing to add this definition. He said it would cite directly to D.N.R.'s definition so that if they had an update then the County's was automatically updated as well.

Chairman Dunn said the definition of livestock included goats and these were not considered domestic animals or pets.

Chairman Dunn asked if anyone wished to speak in favor or in opposition to this item.

Animal Control Director Miguel Abi-hassan said he was speaking in favor of this amendment. He said he was involved as a consultant for this purpose and was very happy to expand the amount of animals that Fayette County would allow. He said he himself was

an animal lover and would not work in animal control if he was not. He said he believed that in order to enforce the quality of living that was upheld for the citizens there must be a certain level of moderation. He said he believed the number of dogs allowed would open up to over population, pack mentality and also would affect the nuisance laws and ultimately the county's ability to enforce the ordinance. He said over population was one of the biggest problems that they face with a six to one ratio of stray animals to human beings.

Commissioner Wells asked if that applied to Fayette County and Mr. Abi-hassan replied yes.

Chairman Dunn asked for clarification of the remark that Mr. Abi-hassan had just made.

Mr. Abi-hassan said there were six stray animals to every one human being. He said he was referring to dogs and cats.

Chairman Dunn said that was an incredible statistic.

Mr. Abi-hassan said this would mean that for the birth of every human being there was the birth of six stray animals. He said another statistic was that a lot of strays did not live past six weeks.

Chairman Dunn asked why someone could have four cats but not be allowed to have four dogs.

Mr. Abi-hassan commented on pack mentality and the ancestry of dogs. He said they come from wolves. He said if there were three dogs in a house and the owner tried to train one of the dogs to sit, the other two dogs would not learn to sit. He said these dogs would develop natural pack behaviors and would develop the ability to bark when a car goes by or someone knocks on the door. He said they learn this behavior from one another and this was pack mentality. He remarked that abrasive, nuisance, and aggressive behaviors can be developed and were associated with pack mentality but beneficial behaviors would not be developed. He said one dog would not teach another dog how to sit or how to walk on a leash. He said pack mentality was behavior that dogs share among themselves in groups.

Chairman Dunn asked Mr. Abi-hassan if he would define pack mentality as a negative.

Mr. Abi-hassan replied yes, for the vast majority.

Mr. Abi-hassan commented that 60% of the calls received at the animal shelter were instigated by animals who were actually pack animals. He said the calls they receive such as a dog biting someone actually involved more than one dog.

Mr. Abi-hassan felt when considering moderation there was a certain level that should be considered where the adverse implications of having multiple animals would affect those around them.

Chairman Dunn said he would like to commend Mr. Abi-hassan for running a great adoption program. He said it was probably the best one that he was aware of in the State of Georgia. He thanked Mr. Abi-hassan for all of the hard work that he was doing for the animals.

Commissioner Wells said if the ordinance allowed three dogs and one litter was allowed under six months of age, what would happen if all three dogs were having litters at the same time.

Mr. Abi-hassan said this was a valid point.

Commissioner Wells said there were some people who were actually operating an unauthorized puppy mill. She said she was also aware that some people were raising some very dangerous dogs and some that were notoriously aggressive. She said if there were three dogs and three litters and those litters were just about six months of age, then there would be a serious problem if those dogs got loose or you were a neighbor. She said she was very concerned about this and would feel much better if the ordinance would say just one litter was allowed no more than four months of age. She felt a six month puppy might not be as cute and loveable as a three or four month old puppy. She said she did not want to exacerbate something that she knew was going on illegally.

Mr. Abi-hassan replied that he agreed 100%. He said if someone was raising and selling animals then they would fall under the jurisdiction of other departments.

Commissioner Wells said she would suggest the ordinance state that no more than one litter was allowed under four months of age at any given time.

Mr. Abi-hassan said he agreed and was in favor of anything that would limit over population.

Chairman Dunn asked what was the current limit on pets in the homes in the cities in the County.

Mr. Abi hassan replied that he believed that there was no city that had an ordinance that reflected a number above the County's. He said he thought everybody was at three animals or less.

Chairman Dunn said he shared Commissioner Wells' concerns too and did not want to cause more problems here than the Board was trying to solve.

Commissioner Frady asked why the Board was considering changing this ordinance.

Commissioner Wells said in an earlier meeting a citizen had said that she felt the ordinance needed to be reviewed so that someone could have more animals. She said she liked the number of pets that the County currently had in place but she saw no reason to increase the number of pets allowed.

Commissioner Wells remarked that this was a public hearing and the Board needed to hear the public's input before making a decision.

Chairman Dunn asked if anyone else wished to speak in favor of increasing the number of animals per household to four with no more than three dogs.

Kim Fink said the ordinance would be a limit of three dogs and a total limit of four animals total. She said this would allow her to keep one of her house cats.

Chairman Dunn asked if anyone else wished to speak in favor of this change. Hearing none, he asked if anyone wished to speak in opposition.

Willie Mitchell said he was against the increase in the number of animals. He felt the issue was enforcement. He said he had just called the Animal Control Office to come out and speak with one of his neighbors because of two Rottweilers. He said he felt three dogs was too many. He commented on the pack mentality issue and felt this depended on the breed of the dog. He said two Pitbulls could be a pack as far as he was concerned. He said he would certainly like to see it either stay where it was or be lowered. He said he had a real issue with people having two or three Pitbulls and two and three Rottweilers especially when they do not keep them on a leash. He said these were some of the issues that homeowners were addressing right now in his subdivision. He said they were currently looking at changing their covenants to have something in there that deals with vicious dogs. He said there some neighborhoods that did not even allow vicious dogs like Pitbulls, Rottweilers, etc. to be in the neighborhood. He felt the issue here was certainly the number but definitely enforcement because people do not keep their dogs on a leash.

Rebecca Pell asked if the weight of an animal was ever considered.

Commissioner Wells said the Board would have to be very careful because it would then get into a discrimination or an allowance and judging what was or was not appropriate. She said it would have to be very cut and dried and just refer to an animal such as a dog or cat.

Mrs. Pell said she agreed with Mr. Mitchell. She said in living in an A-R zoned area people dump their animals off and think somebody there will take care of them. She said then fencing was required for a lot of the subdivisions which really isolated people from one another. She said she agreed that three animals was plenty. She asked if this ordinance

would apply to someone having 100 acres and the number of house dogs that they could have depending on the number of homes they were allowed on those 100 acres.

Commissioner Wells replied yes, it would apply to those people as well. She said this ordinance referred to pets per household regardless of the number of acres.

Judy Chastain, New Hope Road, Fayetteville asked if this pertained to the unincorporated County and Commissioner Frady said that was correct.

Ms. Chastain said that would apply to her. She said she currently lived in an A-R zone. She remarked that her neighbor across the street had four Pitbulls. She said she had gone over to welcome them to the neighborhood and she could not get out of her car. She said the second time she went back, hopefully to gain his support on her rezoning petition, there were four Pitbull puppies. She said now there were four pitbulls and four puppies. She said last Sunday evening she was awakened by dogs barking and when she looked out the window, three Pitbulls were standing on her front steps barking at 11:30 p.m. She said these dogs had actually crossed the street into her yard. She said she was definitely opposed to this amendment to the ordinance and would even be opposed to three animals. She said it was very frightening and she also had grandchildren. She felt enforcement was a key issue.

Commissioner Wells suggested Ms. Chastain speak with the Marshal after the meeting to give him the address so he could check out this situation.

Ms. Chastain said she had already called and filed a report.

Commissioner Wells said this was exactly the type of thing that the Board wanted to try and avoid. She said as much as she loved her dogs, people were a lot more important. Commissioner Wells said she would like to make a motion adopting the new definitions and keeping the number at three animals with one litter of puppies not more than four months of age.

Commissioner Frady questioned the four months of age and felt it should be six months. He felt four months was too young and barely weaned from the mother.

Commissioner Wells said animals were weaned at three months but she would be glad to leave it at six months of age if the Board so desired.

On motion made by Commissioner Wells, seconded by Commissioner Frady to adopt Article III. Definitions, Section 3-60 with the new definitions that were added but the number of animals would remain at three as currently stated and limited to no more than one litter of animals at any one period of time not more than six months old. The motion carried 4-0. Commissioner VanLandingham was absent. A copy of Ordinance No. 2005-20, identified as "Attachment No. 7", follows these minutes and is made an official part hereof.

CONSENT AGENDA: Commissioner Frady requested item no. 3 be removed for discussion. On motion made by Commissioner Wells, seconded by Commissioner Frady to approve consent agenda item nos. 1, 2 and 4 as presented. The motion carried 4-0. Commissioner VanLandingham was absent.

WATER COMMITTEE RECOMMENDATION: Approval of Water Committee recommendation to adopt the changes to the operations at Lake Horton, Lake Kedron and Staff's Mill. A copy of the recommendation, identified as "Attachment No. 8", follows these minutes and is made an official part hereof.

SIGNAGE AT THE ADMINISTRATIVE COMPLEX: Approval of Staff's recommendation for the installation of identification signage at the Administrative Complex at a cost of \$6,150.44. A copy of the request, identified as "Attachment No. 9", follows these minutes and is made an official part hereof.

CHRISTINE L. VENICE APPOINTED COUNTY ADMINISTRATOR: Approval of contract appointing Christine L. Venice as County Administrator. A copy of the Press Release, identified as "Attachment No. 10", follows these minutes and is made an official part hereof.

Commissioner Frady said the Board thought an awful lot of Mrs. Venice and felt she had done a great job during her position as Acting Administrator. He said he wanted to recognize her for taking this job and commended her for the great job she had done thus far and the job he was sure she would do in the future.

Commissioner Wells said she agreed with everything that Commissioner Frady had said. She remarked that Mrs. Venice had done an excellent job and she was excited about the direction that Mrs. Venice would take the County in the future.

On motion made by Commissioner Frady, seconded by Commissioner Wells to approve the contract appointing Christine I. Venice as County Administrator. The motion carried 4-0. Commissioner VanLandingham was absent.

Chairman Dunn thanked Mrs. Venice for doing a great job and said the Board looked forward to many, many years of the same.

MINUTES: Approval of minutes for Board of Commissioners meetings held on July 28, 2005 and August 11, 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.

Grace Caldwell: Grace Caldwell, 235 South Ford Road, Tyrone said she would personally like to thank Chairman Dunn and Commissioner Pfeifer for attending the Town of Tyrone Town Council meeting on Thursday, August 18th. She said she would like to further discuss Shamrock Park and ask for the Board's assistance. She said first she would like to present the Board with recent pictures that she had taken in reference to the appearance of the Park. She said secondly she would like to present the Board with legal documentation in reference to Tyrone Town Manager Barry Amos removing Shamrock Park from the State and National Parks Registry. She said she had also included a map that the Town Council has laid out showing a new Town Hall as well as a Police Station. She said during last Thursday's Town Council meeting, Barry Amos admitted that he had permission from the Mayor and Town Council to remove Shamrock Park from the State and National Parks Registry and to transfer those acres to Handley Park. She remarked that Handley Park was in the wetlands and it had caused a lot of erosion problems in Pendleton Subdivision.

Mrs. Caldwell further remarked that most important in her opinion was the action taken by the Tyrone Mayor and Council allowing Town Manager Barry Amos to transfer property that the Town did not own. She said this was illegal and therefore she was requesting that the County to take control of Shamrock Park and appoint an advisory board to the Commission to discuss what recreational needs the citizens of Tyrone would like Shamrock Park to display. She said in no way did she want to pit a Town government against a County government, however, the taxpayers of Tyrone also pay County taxes and deserve a park that would compliment their lifestyle. She said this was not a matter of pitting the citizens against the Town but the citizens were the Town.

Mrs. Caldwell said in closing she would like to quote the greatest President in her lifetime Ronald Reagan in his farewell address to the Nation on January 11, 1989 he said "Ours is the first revolution in the history of mankind that truly reversed the course of government and with three little words, We The People." She said we the people tell the government what to do and the government did not tell the people. She said we the people were the driver and the government was the car and the people decide where the car should go and by what route and how fast. She said almost all of the world's constitutions were documents in which governments tell the people what their privileges were. She said the United States of America's Constitution was a government in which the people tell the government what it was allowed to do. She asked for the Board to consider taking back Shamrock Park from the Town of Tyrone. She said they have a Town Hall planned for that area as well as a police station and a library. She said she was not opposed to a library being built in the Town of Tyrone and would like to see that built where the current Town Hall stands. She said she noticed on the Town's plan that they had tennis courts and a basketball court directly next to the railroad tracks over by the Roger Spencer building. She asked if that would qualify them as recreation. She said she was aware that if the Town

did not use this property for recreation it would revert back to the County. She asked if that would qualify the Town for recreation.

Chairman Dunn said the Board could not enter into a discussion under public comment on this issue. She said if the Town moved it there then it would not be in the park. He said the Board would take everything that Mrs. Caldwell had presented to them tonight and review it.

STAFF REPORTS:

COLLAPSED CULVERT ON WAGON WHEEL CIRCLE: County Administrator Chris Venice asked for the Board's consideration to approve the amount of \$15,480 for engineering work to be done on the culvert located on Wagon Wheel Circle that collapsed during Hurricane Dennis as well as any additional construction costs that might be incurred.

Chairman Dunn asked how long it would take to get this project done.

Mrs. Venice replied that this would be a very large project. She said this involved a thirty foot deep ravine and part of the road was actually missing. She said it might takes months to repair.

On motion made by Commissioner Wells, seconded by Commissioner Frady to approve the amount of \$15,480 for engineering work to be done on the culvert on Wagon Wheel Circle plus any additional construction costs that would be incurred. The motion carried 4-0. Commissioner VanLandingham was absent.

ORDINANCE NO. 2005-21 - STATE'S BUILDING CODES UPDATED: Attorney McNally asked for the Board's approval in adopting an Ordinance that would amend the County's Ordinance to reflect the State's updated codes regarding gas, electrical, and standard building codes. He said there was no substantive change in the law and was strictly a matter of building in the name changes that the State had given to the County.

On motion made by Commissioner Wells, seconded by Commissioner Frady to approve this Ordinance amending the County's current ordinance to reflect the State's updated codes regarding gas, electrical and standard building codes. The motion carried 4-0. Commissioner VanLandingham was absent. A copy of Ordinance No. 2005-21, identified as "Attachment No. 11", follows these minutes and is made an official part hereof.

INTERGOVERNMENTAL AGREEMENT WITH PEACHTREE CITY FOR DISTRIBUTION OF S.P.L.O.S.T. PROCEEDS: Attorney McNally asked for the Board's approval for the

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Chairman to execute the Agreement for distribution of S.P.L.O.S.T. proceeds with the City of Peachtree City.

Chairman Dunn remarked that the Town of Tyrone and Town of Brooks needed to sign agreements and that should occur soon. He said the County was holding the money until these agreements were signed. He said as soon as they were signed by the jurisdictions they would get their checks and would continue to receive checks every month after the County receives the money from the State. He said these funds would be broken down in a pro rata share to each city.

On motion made by Commissioner Frady, seconded by Commissioner Wells to authorize the Chairman to execute the Agreement for distribution of S.P.L.O.S.T. proceeds with the City of Peachtree City. The motion carried 4-0. Commissioner VanLandingham was absent. A copy of the Agreement, identified as "Attachment No. 12", follows these minutes and is made an official part hereof.

EXECUTIVE SESSION: Attorney McNally requested an executive session to discuss three legal items.

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

LEGAL: Attorney McNally discussed a legal item with the Board.

The Board took no action on this matter.

LEGAL: Attorney McNally reported on a legal item with the Board.

It was the consensus of the Board that Attorney McNally proceed in this matter.

LEGAL: Attorney McNally discussed a legal item with the Board.

It was the consensus of the Board that Attorney McNally proceed in this matter.

EXECUTIVE SESSION AFFIDAVIT: On motion made by Commissioner Wells, seconded by Commissioner Frady to authorize the Chairman to execute the Executive Session Affidavit affirming that three legal items were discussed in executive session. The motion

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carried 4-0. Commissioner VanLandingham was absent. A copy of the Executive Session Affidavit, identified as "Attachment No. 13", 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 9:35 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 22nd day of September, 2005.

Karen Morley, Chief Deputy Clerk