

The Board of Commissioners of Fayette County, Georgia met in Official Session on Thursday, October 27, 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
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.

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.

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 38.92 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 approval subject to three (3) recommended conditions 3-2 with Chairman Graw and Tim Thoms voting in opposition and Staff recommended approval subject to two (2) recommended conditions.

Larry Seabolt said he was the agent for the applicants. He said this project was 38.92 acres currently zoned A-R and they were requesting rezoning to R-45 to develop 31 single-family dwelling one acre lots. He said there would be access off New Hope Road going back into three cul-de-sacs. He said there was an existing building, barns and an older house that would be removed from the property. He said it would be necessary for them to do a detention both for New Hope and from the back toward the Northeast corner. He said there were two conditions from the Planning Commission with one for a ten foot right-of-way dedication and the other was no driveways accessing on New Hope Road. He said the applicants agreed with both of these conditions. He said additionally during the Planning Commission meeting there was no problem with the minimum 2,400 square feet and noted that these homes would be in the approximate \$300,000 plus range. He said he would be glad to answer any questions.

Commissioner Wells questioned if there was a third condition regarding the planted buffer.

Mr. Seabolt replied yes, they would put in a planted buffer around the existing house of the Chastain property.

Commissioner Wells said the planted buffer would be required on lots 19, 20, 21, 22, 28, 29, 30, and 31.

Mr. Seabolt agreed that this was correct.

Chairman Dunn clarified that the applicants had agreed to all of these conditions and Mr. Seabolt replied yes that was correct.

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

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Abner Oakley said he was Claudine Oakley's husband and they lived at 983 New Hope Road. He said they had moved there in October of 1956. He said their properties had been in their family many, many years and some of it for 150 years or more. He said there was a lot of hard work and many memories there. He said his homestead was adjacent to this proposed rezoning. He said he planned to continue living there even though sometimes plans change. He said he had seen a lot of changes in the area during his 71 years and now he was beginning to feel some of those changes. He said he had heart surgery approximately eighteen months ago and they just could not keep their properties up like they used to. He said he believed Buford Chandler would do a good job of developing these properties. He said Mr. Chandler had more than met the requirements of the County and had agreed to the stipulations and/or changes asked of him one of which was to add a planted buffer around the Chastain property. He said this would be a big plus for the Chastains because hillside drainage had been heavy across that property for the last fifty years to one hundred years. He said there had been much question and concern about the effect of this rezoning on the Chastain family and property. He said he understood Mr. Chandler had made a fair and reasonable offer with no commission and no closing costs to the Chastains. He said he wanted to upgrade the home there to make sure it conformed to the homes that he planned to build there. He said he could understand some of their concerns but they also had rights and they did not need to be deprived of those rights.

Mr. Oakley said someone at the Planning Commission meeting had voiced concern about the street coming down the hill all the way to New Hope Road and that speed would be a problem. He said during the last fifty times or so that he bush hogged that property he did not feel that would be the case. He said it would involve a whole lot of grading for that to take place. He said in many, many cases those who enjoy the tranquility of country living enjoy it at the expense of those around them. He said the tax on the Oakley portion of this proposal for 2005 was over \$1,900.

Mr. Oakley further remarked that there had been a lot of questions about the little strip of property in front of Mrs. Newton's property. He questioned if Mrs. Newton did not have any road frontage then in all of the past years had she and her family been taxed accordingly. He said the little strip of land might be included as part of Mrs. Newton's property if she had paid the taxes on it all these years. He commented that he was having a really good day until he got home and saw the headline in the newspaper that said "Forged Deed – One Arrested in New Hope Rezoning". He said after that headline was his wife's name and Mrs. Newton's name. He said this did not sit well with him and he was upset about this. He said whoever worded this article did not have much else to do.

Chairman Dunn said he could assure Mr. Oakley that no one here worded that article.

Mr. Oakley said he realized that but said someone in the media had done this. He said today was his 71st birthday and the Board could make it or break it for him.

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Dan Carpenter, 130 Broadmoor Drive, Fayetteville said from listening at previous hearings he detected an absence of public knowledge concerning the Land Use Plan and the Comprehensive Growth Management Plan as patterns for growth in Fayette County. He said he would like to incorporate some data from those plans in his comments tonight. He said years ago Fayette County recognized that due to its proximity to Atlanta, growth and development were inevitable. He said after the investment of considerable study, foresight and money, it implemented plans for responsible growth. He said two major components of that plan were the Land Use Plan and the Comprehensive Growth Management Plan. He said the Land Use Plan was adopted in 1985 and it was not something that was new and it was updated at least every five years. He quoted from the Land Use Plan that a land use category was assigned to all areas within the County. He said the land use categories stipulate the type of future development use projected for that particular area. He remarked that the Comprehensive Plan stated that the intent of the Land Use Plan was to guide development based on an understanding of the County's current development status and future development trends. He quoted from the Comprehensive Plan that the Land Use and Map for the Comprehensive Plan depicts the proposed general uses of land in the unincorporated portion of Fayette County and functions as the official County policy on the allocation and distribution of different land uses.

Mr. Carpenter further remarked that the subject property and all contiguous properties were depicted on the current Land Use Plan as low density residential with one unit per one to two acres. He said in the Comprehensive Growth Management Plan low density residential. He stated that this category identified areas of intended residential subdivision development in a density range of one dwelling unit per one to two acres. He quoted from the Comprehensive Plan that single family dwellings on lots of a minimum of one acre were developed in conjunction with the availability of public water. He said these areas were concentrated in the vicinity of the various municipalities and in the northern end of the County East of S.R. 92. He called the Board's attention to three particular areas. He said the subject property did have the availability of public water. He said it was also in the North end of the County and it was East of S.R. 92 which fit directly within that description. He quoted again from the Comprehensive Plan that the land use element functioned as a guide for County officials both elected and appointed for the general public, the development community and the other interested parties as to the ultimate pattern of development in the unincorporated Fayette County. He said this meant the Land Use Plan takes subjectivity out of the zoning process.

Mr. Carpenter further stated that a template had been provided describing the characteristics anticipated for properties within each future development area of the County. He noted on the Land Use Plan that was included in the Board's packet the subject property and all of the properties East of S.R. 92 were projected to be residential development on one to two acre lots. He said when this description was compared to the zoning application it was found that the applicant was not requesting anything contrary to the Land Use Plan. He said today there was also a subdivision of one acre lots Westerly adjacent to the subject property. He said also in the staff report that the density of the

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proposed development even after a 16% reduction of the gross land area for roads for retention ponds and other improvements was still 1.05 acres per residence or .95 units per acre. He said staff added a comment that the proposed density was in keeping with the Fayette County Comprehensive Plan. He said in addressing staff's comments for other criteria in reference to the Comprehensive Plan the staff reported that this request conformed with the proposed density for this area as indicated in the Fayette County Comprehensive Plan. He commented as to the zoning review. He said staff had drawn a graph or a chart and noted in there in the R-45 zoning a minimum lot size of one acre was available where a central sanitary sewer or central water distribution system was provided. He said this property did have access to a municipal water system. He said staff also noted that one and one half acre lots were available where neither a sanitary sewer system nor a central water distribution system were provided. He said that description did not apply to the subject property because it did have access to municipal water. He commented on the water system. He said staff reported that County water was available. He commented on the flood plan and said staff reported that the property did not contain flood plain. He commented on wetlands and said staff reported that the property did not contain wetlands. He commented on watershed protection and said that staff reported that no water bodies were subject to watershed protection. He commented on groundwater recharge and said staff reported a minimum lot size requirement of the R-45 zoning meets the minimum lot size requirements of the Groundwater Recharge Area Protection Ordinance. He commented on fire protection and said staff reported a response time of five to eight minutes and fire hydrants were in the area. He commented on emergency medical service and said staff reported a response time within eight minutes. He commented on density and said staff reported the proposed density was in keeping with the Fayette County Comprehensive Plan. He commented on zoning impact and said staff reported that the proposed zoning would not adversely affect the existing use or usability of adjacent or nearby properties. He commented on roads and said staff reported that the proposed zoning would not result in a burdensome use of roads, utilities or schools. He commented on the summary of staff's analysis and said that existing conditions and the areas continuing development as a single family residential district support this petition.

Mr. Carpenter further remarked that there was always concern when a new development comes into the neighborhood as it would affect the property values. He said the proposed prices for the houses would be at or above \$300,000. He said the nearby property values would actually be enhanced by the proposed development. He said the proposed development would also greatly enhance the County's tax roles for the subject property changing it from vacant agricultural and taking it to single family residences. He said there was also opposition to change. He said the Board might hear from people this evening who opposed the development but he was confident that the Board would be able to discern that they were already in Fayette County and have what they want and that was to keep everybody else out. He said secondly they wished for this Board as a Commission to compel the current landowners to maintain open space for their enjoyment but not at their expense. He said some of the opponents actually lived on lots of the size that they were asking this Board not to approve. He reminded the Board that this property had been

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openly for sale yet none of the opponents of the development had offered to purchase the property to maintain it as open space. He said in summary the owners of the subject property were long time residents of the County and had paid that ever increasing property tax for a period in excess of twenty years. He said they were asking that the Board follow the guidance of the Land Use Plan and the Comprehensive Plan and approve this request for rezoning as filed.

Chairman Dunn asked if anyone else wished to speak in favor of this petition. Hearing none, he asked if anyone wished to speak in opposition to this petition. He said the Marshal counted 38 people standing in opposition. He asked how many people would like to speak tonight and he counted four people wanting to speak.

Jim Robinson, 115 Thorn Ridge Trail, Fayetteville said he and his wife had ten acres at this address and their property backed up to the Oakley property. He provided an aerial photograph of the property and the property up for rezoning was outlined in cyan and his property was outlined in black. He said the red arrows on the map indicated the estimated slope of the land. He said there was a ridge that ran approximately half way across the property. He said the Northern half drained to the North and the Southern half drained to the South. He said at the present time the natural drainage went across the entire Northern boundary of that property but there were seventeen homes if this zoning was approved that would be draining to the North. He said there was a small valley of green trees that was located on his property. He said in that valley there were two live springs and several good size ones and several smaller ones. He said these formed a small stream that went down and flowed into his cat fish pond which he had built several years ago. He said that water then proceeded across Don Screws' property and joined another stream that came from Mr. Oakley's pond and flowed into this lake over to the Eastern side of the photograph. He said he had looked at the plat that the builder had proposed and there were seventeen lots in that Northern half and it appeared that they would drain through the Northern side of the property.

Mr. Robinson further stated the problem was that it would not be the natural drainage anymore. He said once the streets were put in and the driveways and the houses and reconteur the lots, this water was going to be concentrated more and flowing down the streets and storm sewers and so forth. He said it had to go somewhere. He said the builder had proposed a detention pond for the Northeast corner of the property but the problem was that the detention pond has to release the water somewhere and the only downhill area for this was his catfish pond. He said the water would either flow into his pond or across his earthen dam. He said neither one of these solutions was acceptable. He asked for the Board's consideration in not approving 31 houses on one acre lots. He said this would be very high density for this property and it was not the flavor of Fayette County that we have all come to enjoy. He asked that the Board deny this petition.

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Robin Farner, 120 Sagamore Court, Fayetteville in the Breckenridge II subdivision. He presented a petition to the Board with signatures showing opposition to this petition. A copy of the petition, identified as "Attachment No. 1", follows these minutes and is made an official part hereof. He said he was a 27 year resident of Fayette County that appreciated and was committed to maintaining the quality of Fayette County lifestyle that everyone enjoys and desires for the future. He said for the past eleven years, he had lived at his present address which backed up directly to this proposed rezoning parcel. He said the reasons he had purchased his current property was for quality land, good schools, low density, greenspace, low traffic volume, convenience, quietness, rural atmosphere and property appreciation. He said he believed that an R-45 zoning would burden the road infrastructure and add additional significant and dangerous traffic congestion affecting public safety to the entire Hopeful community area in the entire North Fayette area. He said the County's own traffic study said that 300 car trips per day would be added from this development with an R-45 density. He said this would all be funneled directly onto New Hope Road and then to the North Fayette area overall flowing through a single entrance and exit for this subdivision. He said additionally there would be multiple school buses daily in this overall traffic mix. He noted that New Hope Road was really a small two lane rural road and not meant to handle large volumes of traffic. He pointed out that New Hope Road was already heavily traveled due to additional housing developments in the area such as New Hope Landing and this had turned out to be a major cut through road from the North Fayette area going to the Fayette Pavilion in Fayetteville. He said this development would add significantly more traffic further deteriorating this road and safety in the area. He also commented on the proposed single subdivision entrance and exit on the right side of the proposed plat was approximately 50 yards below the crest of a hill West bound on New Hope Road requiring new residents turning into or out of the subdivision to encounter fast moving cars West bound suddenly cresting this hill on New Hope Road and coming face to face with them. He said the likely results would be more accidents and injuries. He said the proposed subdivision street design also showed a single long drive on the right hand side of the plat that would encourage speeding especially going to one single exit. He said certainly small kids and residents could be in danger and in this case the residents would not be driving a tractor with a bush hog.

Mr. Farner further remarked that a few hundred yards from the proposed subdivision entrance on New Hope Road was the extremely busy and congested intersection of S.R. 92. He said this was a major highway in Fayette County. He said he only lived a few hundred yards away from this intersection and it was very difficult and challenging. He said there was a tremendous amount of noise, congestion, trucks and very fast moving cars. He said accidents seemed to occur on a regular basis at this busy intersection close to this proposed development. He said recently there were some changes in the traffic light programming have also caused the congestion at this intersection to become worse than was presented in the Board's information. He said the amount of traffic would present additional congestion and the new development would cause it further to become a problem. He said the historic Hopeful Community Center was located directly next to this proposed property development and had an average of three meetings every week. He

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said this development's added traffic would impact the Community Center and the overall flow of traffic. He said additional infrastructure demands would be on the school system. He said the County School Board stated that this development would cost the County an additional \$330,000 a year to educate these new students. He said the estimated property taxes on these homes would generate between \$60,000 and \$90,000 per year. He said in summary they believed that this R-45 density would unduly burden the infrastructure and he asked for the Board to take this into consideration.

Judy Chastain, 1019 New Hope Road, Fayetteville said it was her goal tonight to get the message across to this Board that neither her husband nor her or any of her neighbors were opposing growth, development, or change in the community. She said she was a family therapist and she understood better than most the importance of growth and change. She said they were only desirous of the best quality possible in that growth and change. She said they loved their home and they wanted to stay in Fayette County and they did not want to move. She said they were sympathetic to the sellers of this property. She said they were in retirement and wanted to move on without the burden of access land and property taxes. She said they were not trying to oppose those efforts. She said they were only trying to save the quality of life with the ones that would be left behind. She said since this property was wide open pasture land and completely visible, this subdivision would look like a one acre subdivision and it would forever alter the character of this area and the historic Hopeful community.

Mrs. Chastain further remarked that if this R-45 zoning was approved they would be looking at eight different backyards from their back porch and all within 20 to 40 feet of their property line. She said it would also involve almost an instantaneous devaluing of their property. She said although the Planning and Zoning Staff had added a condition for buffers for this situation, it was still not acceptable to sustain a quality of life as their privacy would be forever lost. She said their back acre was wide open pasture land and at present they used it regularly entertaining five grandchildren ages one through six along with regular vesper times and camp outs for the fourth and fifth graders at their church. She said they predicted their property being a cut through between these eight houses and throughout the subdivision and would quite possibly be used from their perspective as a park. She said as they looked at this proposal they saw that all of the property adjacent to this rezoning was property that was zoned A-R with the exception of the one that was R-45 at Breckenridge. She said along with this factor was the component of hundreds of more acres that were rezoned A-R beyond the adjacent properties already mentioned. She said these were all on the end of New Hope Road from Kenwood Road as far back as Hill Road, Thorn Ridge and South Kite Lake Trail and Kite Lake Road. She said there were also some R-70 zonings in this area. She said if the acreage was totaled up for A-R zoning in this particular area of North Fayette, there were literally hundreds of acres of A-R zoning land surrounding this particular parcel. She said from their perspective, this was a tremendous amount of acreage and people's lives and homes which would be impacted by this particular rezoning. She said if this one acre zoning was approved, then everyone in these hundreds of acres could come back later and ask for one acre too. She said they

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predict that this would be a domino affect for the community. She said this would result in a greater amount of density in an already overly dense area of North Fayette. She said this proposed R-45 zoning and the domino affect it would bring to the community would be so significant from the residents perspective that the adverse ripple affects would be far reaching. She said as property owners they have presented valid concerns and reasons for not approving this petition. She said they were not opposing growth or change but were pleading for a quality of growth that would not so adversely impact property owners and the quality of life for the community. She said it was not their desire to place a heavy burden on this Board. She said they were offering compromise as they were not opposed to development. She said the Land Use Plan called for one to two acre developments and they agreed with Chairman Graw of the Planning Commission when he stated that he believed it was too soon to have one acre properties in this area. She said if this property must be rezoned, they were respectfully requesting the Board to consider an R-75. She said they believed that this approach would cut down on thirty-one septic tanks and the concern for runoff in an already impervious setting with heavy rains. She said this would also reduce the number of backyards that she and her husband would be looking at and this would be reduced to four. She said they would then respectfully request a buffer if possible for a 100% visual screen that they would so rightfully deserve. She said they would not be in favor of dirt mounds or a fence. She thanked the Board for all of its hard work and patience in listening to her story.

Vic Bolton, 140 Thorn Ridge Trail, Fayetteville remarked that he lived on seven acres that he had purchased just over three years ago when he moved to this area to escape the relentless density of the zoning that has taken place in Atlanta and Fulton County where he grew up. He said his wife was the Principal of North Fayette Elementary School and his son was a basketball player at Sandy Creek High School. He said his family was in Fayette County to stay and they loved the life they had found here. He thanked the Board for its willingness to serve in this capacity. He said this development was too intense and too soon and it was not a good fit for this area. He felt the only people in favor of this rezoning were the people who were selling this property. He said the voice of the people opposing this rezoning request should weigh heavily on this Board's decision.

Mr. Bolton further remarked that he had raised a point at the Planning Commission meeting which was the fact that this was certainly a legal zoning but the question was if this was the right thing to do for this area. He said this might be a legal zoning but questioned the fit with the community. He said he did not believe that this was a project that would fit in this area especially with the quality of life that citizens were trying to achieve for the quality of life here in Fayette County. He questioned if the Board members resided on the Chastain property, how would that influence their vote. He asked the Board to keep these thoughts in mind as it voted tonight.

Chairman Dunn asked if anyone else wished to speak in opposition to this rezoning. Hearing none, he asked the applicant if there was any rebuttal to any of the comments.

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Larry Seabolt said he would like to address some of the issues raised. He said the applicant would have to meet all of the county's regulations for drainage and water quality. He said they would also have to meet the requirements for the proper site distance. He said this subdivision would be very similar to Breckenridge Subdivision in the R-45 portion.

Chairman Dunn asked for the Board's pleasure in this matter.

On motion made by Commissioner Pfeifer, seconded by Commissioner Wells to deny Petition No. 1147-05 for R-45 and to approve Petition No. 1147-05 for R-70 with three recommended conditions, discussion followed.

Commissioner VanLandingham remarked that there was one item that had not been discussed at all and that was the fact that this property was sitting on a recharge area. He said this led him to the point that Breckenridge Subdivision should never have existed because it was sitting on the same recharge area. He said he would go along with the two acre zoning. He said this would give the area less density and not affect the recharge area as much. He said he would be in favor of this motion.

Commissioner Frady said he had a question for Chairman Graw regarding his comment at the Planning Commission meeting that this was not the right time to have this zoning. He said he wanted to know when the right time would be for this zoning.

Commissioner Wells said unfortunately no one would have a crystal ball to know that. She said the Breckenridge Subdivision was zoned in 1988 but if this proposal was before her today she would have to vote no. She said that subdivision was approved and did exist and the Land Use Plan was a proposed general uses tool and a guide. She said in order not to have the domino affect that could easily occur if the Board approved a one acre zoning, she felt an R-70 was probably the best use for this piece of property. She said if the Board had approved R-75 as proposed, this would put an additional burden on the builder that the minimum house square footage would have to be 2,500 and with an R-70 it was a minimum of 2,400. She said there were also three conditions placed on this rezoning. She felt the best thing to do for that land area for the way the infrastructure was posed today and not knowing what the future might hold that this was a nice second step for that particular area. She said the Chastains were currently on a two acre lot and she felt this zoning made good sense. She said it would keep everything pretty common there and had a nice continuity. She said she felt this was an excellent proposal for that particular piece of property.

Commissioner Pfeifer said he had made the motion because he felt the same way. He said he felt the highest density should be two acres in this area and the Land Use Plan did call for one to two acre lots. He said this was a case where it should be at the two acre level. He noted that the R-45 zoning that was located along the State highway was the aberration. He said everything else was zoned R-70 or A-R for the entire area. He said

one could take the position that because it was on a State highway it would deserve some higher zoning there but that did not apply to the piece of property in question.

Commissioner Frady said in 1986 the Northern side of S.R. 54 was mostly zoned R-70. He questioned why the applicant at that time did not request R-70 and instead asked for R-45.

Chairman Dunn said he would support the motion wholeheartedly. He said the hardest thing that this Board had to do on a day to day basis was to try and balance the rights of the property owner against the health and welfare of the community. He said in this instance the property owner had rights. He said the property owner had the right to develop the property to some degree. He said in this instance the Board had determined that it was R-70. He pointed out that this zoning was also within the Land Use Plan. He said he too felt this was the best balance to protect the area and also allow the property owners some rights to develop his own property. He said he would support this motion wholeheartedly.

The motion carried 5-0. A copy of the recommended conditions, Staff's Analysis and Investigation, identified as "Attachment No. 2", follow these minutes and is made an official part hereof. A copy of the Ordinance and Resolution approving Petition No. 1147-05, identified as "Attachment No. 3", follow these minutes and are made an official part hereof.

PETITION NO. 1155-05:

Zoning Administrator Aaron Wheeler read Petition No. 1155-05, Loren F. Ivie, Jr. Owner, and Randy M. Boyd, Agent request to rezone 161.13 acres from A-R and R-40 Conditional to R-50 to develop 53 single-family dwelling lots. He said this property was located in Land Lots 139, 140, 149, 150, 171, and 172 of the 5th District and fronted on McDonough Road. He said the Planning Commission recommended approval subject to six (6) recommended conditions (4-0-1) with Al Gilbert abstaining and Staff recommended approval subject to five (5) recommended conditions.

Randy Boyd said he was the Agent for the owner of the property Loren F. Ivie, Jr. He said this particular tract of land had been in the Ivie family since 1949 and consisted of 161.13 acres with 157 acres zoned A-R. He said there was a four acre strip that was owned in 1990 that was R-40. He said the applicant was proposing an R-50 zoning. He said the property was currently under contract to Jeff Betsill Homes and J & J Quality Homes both of which were Fayette County builders. He said they have an excellent reputation and build in this area. He said the builders have this under contract subject to this zoning. He said the Comprehensive Land Use Plan also showed this as a low density residential one unit for one to two acres. He said with that in mind he called the Board's attention to the concept plan dated 8/30/2005. He said there were two plans and he would be glad to clear up the discrepancy. He said he had prepared a design of one to two acre tracts. He said the 8/30/2005 concept plan showed 18 one acre lots, 18 one to two acre lots and 17 two acre and larger lots. He said he utilized the entire piece of property and turned this

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concept plan in. He said the Planning and Zoning Staff had encouraged him to give this a second look and maybe take some of the area that had been put into the lots and put that into open space. He called the Board's attention to the 09/21/2005 site plan. He said this was the exact same design but he had taken out the back area on lots 9 through 36. He said he had put in an open space that ended up being 95 acres of the 161 acres which was 59%. He said the gross density of this was 53 lots on 161 acres or about three acres per lot. He remarked in doing this conservation type zoning it really adhered to the new water quality management better site design practice. He said there were twenty criteria and by doing this it would adhere to thirteen of the twenty by preserving the riparian rights and fitting the design to the terrain, avoiding the flood plains and avoiding the erodible soils. He said this fit much better with the terrain than the proposal he had done previously. He said at the last meeting there were five recommended conditions from staff which the applicant had agreed to. He said they had also discussed another condition which was condition number 6 which was the undisturbed buffer along lots 1 through 8 in the Felton Woods Subdivision. He said he had met with Maureen Keiller who lived in lot #1 at the Southwest corner. He said Ms. Keiller had the main concern because her house was closest to the property line. He said in his meeting with her today and looking at the vegetation along that line they had agreed to do a vegetated area if it was thinner or needed vegetation. He said in looking at it today he hoped Ms. Keiller would agree that this area was vegetated but he agreed that a 25 foot undisturbed buffer would be better. He said once this was in the construction phase, if it looked like there needed to be some vegetated areas put in there. He said they had agreed to put in some Leyland Cypress or Cedar trees. He said when they had first started talking about this zoning back in April, Staff had also discussed the possibility of the County Line Road extension that would hit McDonough and then tie into S.R. 54 at Old Corinth. He said he had met with Lee Hearn who called the design engineers. He said they were not quite sure as to where it was going to go. He said he did not think they had made the final design criteria as to where it was going to go but applicant would be willing to dedicate right-of-way if it would not affect the design of the subdivision. He said applicant would just ask that it come in North of the small lake and then go into the flood plain area. He said applicant would agree to that self-imposed condition to do that at no cost to the County and to make sure it was a condition of this zoning as well. He said he would be glad to answer any questions.

Chairman Dunn asked if the road bed was eventually East of the lake and North of the lake, would it still be alright with the right-of-way.

Mr. Boyd replied yes that would be fine. He said this would not affect the design of the subdivision at all. He said this would of course be contingent upon the applicant receiving a favorable zoning tonight.

Chairman Dunn asked if anyone wished to speak in favor of this rezoning. He noted that five people raised their hands and one person wanted to speak.

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Maureen Keiller remarked for the last eight years she had lived at 314 McDonough Road, Fayetteville. She said no one liked to see beautiful pasture land being developed but some things in life were inevitable and the more acceptable they were the easier it was if it was done well. She said she had seen Mr. Boyd's plans and they had discussed them. She said she appreciated the fact that he was willing to work with her on the buffer. She said she was in support of the petition for rezoning.

Chairman Dunn asked if anyone wished to speak in opposition to this rezoning. Hearing no one he asked for the Board's pleasure in this matter.

On motion made by Commissioner Wells, seconded by Commissioner VanLandingham to approve Petition No. 1155-05 with six recommended conditions and the one self-imposed condition for a right-of-way of 120 feet at no expense to the county, discussion followed.

Mr. Boyd said he would like to clarify that this was approved with the understanding that it would not negatively impact the subdivision.

Chairman Dunn said the right-of-way would be East and North of the lake.

Mr. Boyd said he just wanted to protect his clients.

Commissioner Wells interjected that she felt this was an excellent proposal and she thanked Mr. Boyd for working so well with Staff. She said this showed a great deal of consideration of the community and the builders were very well respected. She said she was really excited about putting this development at this location.

Chairman Dunn said the Board had worked with Mr. Boyd in the past and always appreciated his efforts. He said he also appreciated this Board turning down the rezoning request that had come before it a couple of years ago. He said that proposal was for 93 homes and now this had been cut almost in half. He said now with these changes and the green space this was a much better proposal.

The motion carried 5-0. A copy of the recommended conditions and self-imposed condition, Staff's Analysis and Investigation, identified as "Attachment No. 4", follow these minutes and is made an official part hereof. A copy of the Ordinance and Resolution approving Petition No. 1155-05, identified as "Attachment No. 5", follow these minutes and are made an official part hereof.

PETITION NO. RP-035-05:

Zoning Administrator Aaron Wheeler read Petition No. RP-035-05 for a Revised Final Plat, Rountree Place, Brent Scarbrough, Owner, and Frank James, Agent request approval to add 149.88 acres to Tract 9 (10.12 acres) and subdivide Tract 9 into two (2) single-family dwelling lots consisting of Tract 9A (47 acres) and Tract 9B (113 acres). He said this

property was located in Land Lot 1 of the 5th District and Land Lot 1 of the 7th District, fronted on Green Meadow Lane, and was zoned A-R. He said the Planning Commission recommended approval 5-0 and Staff stated that the request complied with all technical requirements.

Chairman Dunn asked if the applicant was present for this discussion.

Commissioner Wells asked Randy Boyd if this was his application.

Randy Boyd replied that the applicant was not present tonight but he would be glad to discuss it since he had worked on this proposal.

Chairman Dunn questioned if the applicant still wanted to proceed.

Mr. Boyd asked if applicant had requested to table this request.

Chairman Dunn said the Board had not heard anything about a withdrawal or a tabling of this request.

Chairman Dunn asked if Mr. Boyd could discuss this for the applicant.

Mr. Boyd said he would be glad to discuss it although he did not have any written authorization from the applicant to do so.

Chairman Dunn said the Board could consider this request without the applicant being present.

Mr. Boyd asked if he could explain the proposal.

Attorney McNally interjected that this was Mr. Boyd's choice. He said if Mr. Boyd felt authorized enough to explain this proposal then he could do so.

Commissioner Wells said this was a public hearing and Mr. Boyd could speak.

Randy Boyd remarked that this property was purchased by Brent Scarbrough and had no road frontage. He said lot #9 of the existing subdivision was a platted lot and had no soil to build house on. He said Mr. Scarbrough was proposing to take that lot and put two driveways back to this piece of property and split the 150 acres up into two lots. He said this would result in two driveways instead of one for the neighborhood. He said the lot had bad soils and there was no place to build a house on the property. He said this was the reason for the request.

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

Joe Mendola, 180 Green Meadow Lane, Fayetteville said he lived adjacent to the property. He said he knew the owner of the property Brent Scarbrough and he had spoken with him on his way to this meeting. He said Mr. Scarbrough did want to go forward with this. He said Mr. Scarbrough had mentioned that the agent was supposed to be at this meeting tonight. He said his only concern was when the roads were put in. He said currently Green Meadow Lane dead ended into lot #9 on the cul-de-sac. He said when the road goes in to access the property in the back to make two single-family residences, it would be 1,500 feet of the road. He said his only concern was if this was approved and there were two lots that it might open up the doors later on for a subdivision or something of that nature. He said the other property that adjoined this was owned by a single individual with many acres and it leads out to Arnold Road. He said this was his only concern that a nice quiet cul-de-sac ultimately down the road could turn into a huge subdivision.

Chairman Dunn remarked that most of this land was wetlands and could not be built on anyway. He said there would not be a lot of houses going in there. He said there would only be two houses.

Mr. Mendola said he was not opposed to this request.

Chairman Dunn asked for the Board's pleasure in this matter.

On motion made by Commissioner Wells, seconded by Commissioner Pfeifer to approve Petition No. RP-035-05. The motion carried 5-0.

DISCUSSION BY CHIEF JACK KRAKEEL REGARDING THE ADOPTION OF THE NATIONAL INCIDENT MANAGEMENT SYSTEM:

Chief Jack Krakeel remarked that his purpose for being here this evening was to request the Board's adoption of an ordinance implementing the National Incident Management System as the principle methodology and system for managing incidents within this community. He said this request was predicated on directives that had been given to States and local governments by the Federal Government. He said in order for this community and this government to remain eligible not only for preparedness funding but potentially response funding from a disaster, it would require the Board to adopt NIMS in accordance with Homeland Security Presidential Directive No. 5. He said the Board should be aware and he hoped the Board has had the opportunity to read the attached documentation that he had provided to the Board that this was not simply just adopting an ordinance. He said there were multitudes of requirements that were associated with the institution of the National Incident Management System as part of the national response plan.

Chief Krakeel further remarked that he would like to briefly cover expected activities of local government over the course of the next year to two years with respect to this issue. He said this would involve adopting NIMS at the community level for all government departments and agencies as well as promote and encourage its adoption by associations, utilities, non-

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governmental organizations and private sector incident management and response organizations; adopting the principles of incident command I.C.S.; managing all emergency incidents and preplan recurring special events in accordance with I.C.S. organizational structures, doctrine and procedures as defined in NIMS; I.C.S. implementation must include the consistent application of incident action planning and common communication plans; multi-agency coordination systems; coordinating the support of emergency incident and event management through development and utilization of integrated multi-agency coordination systems; and developing and maintaining connectivity capability between local incident command posts, 911 centers, local emergency operation centers and State emergency operation centers. He said the list continued on and he commented that this was a significant step and a significant undertaking for local government. He said it was not an issue that the County had much choice with. He said it would be important to develop a system that allowed for a seamless integration of Federal, State and local resources during a disaster event. He said that was the ultimate goal of this system. He said if this system was not implemented then the County would lose funding or the ability to acquire funding. He said he would be glad to address any questions that the Board might have with respect to this issue.

Commissioner Wells said she hoped that the news media that were present tonight would spend some time with Chief Krakeel talking about this. She said this was going to have far reaching implications for the County not just today but in the future and not just in preparedness but also in tax dollars. She said the objective stated was to promote development of cross jurisdictional Statewide and interstate regional mechanisms for coordinating response and obtaining assistance during a large scale or complex incident. She said 9/11, Hurricane Katrina and those type of things come to mind. She said it also stated that tribal and local authorities not Federal have the primary responsibility for preventing, responding to and recovering from emergencies and disasters. She said they were basically creating an unfunded mandate under the guise of protecting us on the local level and implementing a great deal of requirements, standards and stipulations at great expense to the local level. She said the County basically receives about \$32,000 every year from this fund and the way in which it was being stepped up in the future so the County to even be able to access this fund if there was a disaster of any magnitude there would have to be \$100 million that would have to occur before the County was eligible for getting funding from the government to recoup. She said the County was getting \$32,000 on one hand and yet the County would have to create a whole system not only to train, coordinate, implement and to be responsive to the Federal guidelines but it was the County's responsibility as the government in authority to make sure that the municipalities, the mental health, the public health, the utilities, the law enforcement and everybody else are up to the standards that the Feds set up. She said this was just the tip of the iceberg and unfortunately the County needed to have that cohesiveness if there were natural disasters or manmade disasters. She said what the County was giving the Feds was unlimited access to tell the County what to do, when to do it and at what expense to do it. She said the County was the primary responsibility for preventing emergencies and disasters. She said this was an awesome responsibility and it was going to cost the County over the next couple of years a tremendous amount of money, time and man hours to implement this for the \$32,000 per year. She said if this County ever

had a hurricane or natural disaster, there would have to be \$100 million of damage before the County could access their assistance.

Chief Krakeel said there was a tremendous amount of work that would have to be done on an annual basis. He said he wanted to give the Board a brief summary of what this entailed. He said this was defined through the Performance Partnership Agreement with the Georgia Emergency Management Agency. He said hazardous facilities, hazardous materials and facility risk management plans, various disaster plans including rail and air, Sara Title II and III compliance requirements, community right to know legislation requirements, the local emergency planning committee, the local emergency resource council, and severe weather activation and notification program. He said within the last sixty days the Board had approved the All Hazards Mitigation Plan that took the last year and a half to compile. He said during the last week his staff had spent an enormous amount of time in meetings in preparation for putting plans together relative to a pandemic flu, NIMS adoption implementation training exercise in compliance documentation, and participation in regional response systems. He said during the course of the last three years he has served as the Chair of the Area 7 All Hazards Council. He said they were close to having a regional strategic plan in place that would deal with these issues of regional response from organizations but clearly the message here would be for participation from local governments to a more regional approach with respect to emergency disaster response and the management and acquisition of Federal Homeland Security Grants Category I dam breaches on action plans. He said that was just a partial listing of the requirements within the organization currently.

Commissioner Wells said this was just for the county to receive \$32,000.

Chief Krakeel said this was just for the County government to be eligible for funds to be able to recover from disasters and gain access to not only State assets but Federal assets and other Federal grant dollars.

Commissioner Wells said this was very far reaching. She expressed concern that under the Homeland Security it was catastrophic that so much of the things that were being done was required and if the County was not careful that a few years down the road people would be giving up their rights in order to feel safe and then pretty soon citizens' rights were completely eroded. She felt citizens needed to be aware that the Federal government was imposing more and more restrictions on giving the County very little funding to implement these plans and calling all of the shots. She said this concerned her greatly.

Chief Krakeel said the requirement for the adoption of the NIMS program had been in effect for some time. He said he had deliberately delayed coming to the Board because the time frame continued to shift. He said it did appear that it was not shifting any further and had been adjusted on several occasions recognizing that there were fiscal implications associated with this issue. He said somebody has to take the responsibility of managing this program and ensuring that all agencies that the County routinely interacts with from a disaster perspective were trained. He remarked that all applicable employees in the realm of a public safety

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response role would have to be trained. He said this would also include the Board of Commissioners and County Department heads.

Commissioner Wells asked if there would be a need of financial support for this prior to the next budget cycle.

Chief Krakeel replied no, not prior to the next budget cycle. He remarked that given the realm of responsibilities that the County currently had and for the last two years he had come to the Board requesting staffing to assist his office with emergency management program. He said the Board had not approved that request. He said he fully intended to come back to the Board during the next budget cycle with that request.

Commissioner Wells said she had hoped that the Federal government would change their focus but that had not happened.

Chief Krakeel said he felt what the end product was designed to achieve was the elimination of the lack of coordination that was seen most recently with respect to Hurricane Katrina. He felt the program as it was designed when fully implemented would hopefully achieve what the end objective was and that was the seamless integration of resources and assets to hopefully minimize the impact of any significant event that would occur.

Commissioner Wells remarked that any plan was as good as the people who draft it and implement it. She said Louisiana had a plan during Hurricane Katrina but it had never been implemented or activated. She said Fayette County was very fortunate to have Chief Krakeel and the Board knew this plan would be designed and implemented.

Chairman Dunn said it appeared that there was going to be legislation at the national level to separate out FEMA from Homeland Security and this would include everything. He asked Chief Krakeel if there was going to be two programs working – one for Homeland Security and one for national disasters or would it all be accomplished in this one program.

Chief Krakeel replied that based on his knowledge of what was currently taking place in the Federal government was that FEMA originally was a stand alone agency and then got absorbed by Homeland Security. He said within the context of FEMA's role there were four distinct functions: (1) mitigation; (2) preparedness; (3) response; and (4) recovery. He said it was his understanding that three of those functions were going to stay with FEMA but the preparedness function was going to still reside within the Department of Homeland Security. He said they had just within the last week announced a new under Secretary for preparedness. He said he was not quite sure how they were going to separate the preparedness component from the mitigation response and recovery component. He said he was not quite sure how this entire transition process was going to end up and what impact it would ultimately have on whether the County was dealing with a separation of terrorism response, recovery, preparedness and mitigation versus the remaining all hazards preparedness, response, mitigation and recovery. He said one of the things that was clear in

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this document was that this was a dynamic process and whenever he sees that term used by the Federal government it meant that there would be changes and/or additions forthcoming in the future.

Chairman Dunn said it was probably not known by this Commission or anyone else in this room but Chief Krakeel had recently given a detailed presentation to the Atlanta Regional Commission because he was the Chairman of the All Hazards Council for the entire metropolitan area of Atlanta except for Cherokee County. He said based on his dynamic presentation, the A.R.C. has now adopted the policy for 2006 that Fayette County would be receiving some staff assistance from the entire region. He said some of the County's money that has been spent at the A.R.C. would be funneling back to Chief Krakeel for All Hazards Council business. He said the Commissioners greatly appreciated all of Chief Krakeel's work for the entire region.

Chief Krakeel interjected that his Chairmanship of that Council vacated as of two weeks ago. He said the plans were in place and the foundation has been laid for a very good regional strategic plan that the County could build upon. He said it was being transported throughout the State in the other regions and he was really proud of that. He said hopefully a foundation had been laid that would allow the County to be able to access resources and assets in the region when there was an event that impacts the entire region.

Chairman Dunn remarked that Fayette County had a population of approximately 105,000 people and 51% of those people now live in cities. He asked if the cities had to adopt this plan.

Chief Krakeel replied yes they would have to adopt this.

Chairman Dunn asked what would occur if one of the cities did not adopt this then how would that city be integrated into this plan.

Chief Krakeel replied that he hoped the cities would asked him before not adopting the plan so that he could provide them with insight into the ramifications of not adopting the NIMS program. He said the way emergency management operates even in this County the Department of Fire and Emergency Services was the designated emergency management agency for Fayette County. He said if a municipality has a disaster, the procedure was for that municipality to utilize its resources to a point where it no longer has capability to manage the event. He said then it would come to the County for assistance. He said the County provides whatever assistance is needed and also begin the coordination process of assistance from outside of the jurisdiction first at the State level and depending upon the magnitude of the event possibly from the Federal level. He said in the absence of not adopting NIMS he felt there would be serious implications in the County's ability to have them gain those resources and the County might be faced with a situation where a municipality might have to be told that they had failed to adopt the necessary requirements and this would impact their ability to access appropriate resources.

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Chairman Dunn said he did not anticipate that happening. He asked for the date of the cut off for entities being in or out of the program.

Chief Krakeel replied that this was a fluid date. He said initially it was said the date was October 2005 by which local governments were required to be in or out of the program. He said he was told that as long as the program was in place by the end of 2005, it would be alright. He said he had communicated with all of the municipalities regarding the requirements for implementation and forwarded information to them. He said it was his understanding that both Fayetteville and Peachtree City have this on their agendas in the very near future or may have already accomplished this objective. He said he had checked on the Town of Tyrone earlier today and asked staff to get back with the City Manager there to determine what kind of time frame they were looking at.

Chairman Dunn asked if the Towns of Brooks and Woolsey were covered by the County.

Chief Krakeel replied yes and commented that he would be sending them some information but essentially they would be dependent on the County for the provision of those services.

Chairman Dunn asked Chief Krakeel what action he was requesting of the Board tonight.

Chief Krakeel replied that the Board had a sample ordinance that had been constructed. He said it had been adopted in many jurisdictions across the Country.

Chairman Dunn asked Chief Krakeel if he needed a motion by the Board to approve this ordinance adopting NIMS.

Chief Krakeel replied yes that was correct.

Commissioner Wells asked if Attorney McNally had reviewed this.

Attorney McNally replied no, he had not had an opportunity to review this yet.

Chairman Dunn suggested time being given to the County Attorney to review this document and this item and place it on the next Commission agenda for action by the Board.

Commissioner Pfeifer said he just wanted to comment that this Board on behalf of the citizens take things of this nature seriously. He said no one would want what happened in Louisiana to happen here.

It was the consensus of the Board to discuss this item further at the November 2, 2005 Board of Commissioners meeting.

CONSENT AGENDA: On motion made by Commissioner Wells, seconded by Commissioner VanLandingham to approve the consent agenda as presented. The motion carried 5-0.

GEORGIA MUNICIPAL ASSOCIATION - LEASE AGREEMENTS: Approval of request from Director of Central Support Services Mark Pullium to authorize the Chairman to execute documents to complete lease agreements with the Georgia Municipal Association in the amount of \$132,900 related to 6 vehicles purchased by the County from April, 2005 to September, 2005. A copy of the documents, identified as "Attachment No. 6", follow these minutes and are made an official part hereof.

GEORGIA MUNICIPAL ASSOCIATION - LOCAL GOVERNMENT EQUIPMENT LEASE POOL: Approval of request from Director of Central Support Services Mark Pullium to authorize the Chairman to execute appropriation certificate to the Georgia Municipal Association for Fayette County's participation in the Georgia Local Government Equipment Lease Pool as budgeted for FY 2006. A copy of the document, identified as "Attachment No. 7", follows these minutes and is made an official part hereof.

Commissioner Frady said he would like to comment on items 1 and 2 above. He said he had asked Finance Director Mark Pullium to do an audit on this situation to see if it was still doing what it was set up to do seven years ago. He said this lease could be canceled and the County could get out of this lease if it desired to do so.

PUBLIC WORKS DEPARTMENT: Approval of staff recommendation to dispose of 43 old motor grader blades at the Public Works Department by trading them in toward the purchase of 48 new blades. A copy of the request, identified as "Attachment No. 8", follows these minutes and is made an official part hereof.

MINUTES: Approval of minutes for Board of Commissioners budget meeting held on May 18, 2005 and Board of Commissioners meetings held on September 7, 2005 and October 13, 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.

John Jones: John Jones said he was the President of the North Fayette Community Association. He thanked the Board members for all of the hard work that they do for the County. He expressed concern regarding the progress of the Kenwood Park project. He said he appreciated the Board's zoning decisions regarding density in the North Fayette area. He also extended an invitation for the Board to attend the North Fayette Community Association meeting on November 19th at 10:00 a.m. at the North Fayette Elementary School.

Chairman Dunn said he could speak with the County Administrator Chris Venice and she would be able to go over the schedule of the work program for the park. He said it did have to be adjusted. He said the issue of Georgia Department of Transportation was just normal routine business for G.D.O.T. with an entrance going onto a State road.

Commissioner Frady said G.D.O.T. had to approve these projects and sometimes it takes a little more time.

STAFF REPORTS:

EXECUTIVE SESSION: Attorney McNally 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 5-0.

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

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

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

The Board took no action in this matter.

LEGAL: Attorney Dennis Davenport reported to the Board on a legal item

The Board took no action in this matter.

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

It was the consensus of the Board that Attorney Davenport proceed in 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 for the vote. A copy of the Affidavit, identified as "Attachment No. 9", 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 10:00 p.m.

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The foregoing minutes were duly approved at an official meeting of the Board of Commissioners of Fayette County, Georgia, held on the 10th day of November, 2005.

Karen Morley, Chief Deputy Clerk