

The Board of Commissioners of Fayette County, Georgia met in Official Session on Thursday, July 12, 2007, at 7:00 p.m. in the public meeting room of the Fayette County Administrative Complex, 140 Stonewall Avenue, Fayetteville, Georgia.

COMMISSIONERS PRESENT: Jack Smith, Chairman  
Herb Frady, Vice Chairman  
Robert Horgan  
Eric Maxwell  
Peter Pfeifer

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

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Chairman Smith called the meeting to order.  
Commissioner Pfeifer led the Invocation  
Pledge of Allegiance

**PUBLIC COMMENT:**

Chairman Smith said members of the public were allowed up to five minutes each to address the Board on any issues of concern. He asked if anyone wished to address the Board tonight.

**Mark Schofield:** Mark Schofield, 130 Long Mead Drive, Fayetteville expressed concern over the request on tonight's agenda by the Heritage Christian Church to tie on to the Peachtree City sewer system and a proposal for the Church to build some type of sports complex on their property. He said it was not clear exactly where the Church would be tapping into the sewer system. He said it might be as much as one mile from the Church to reach the sewer system and this might possibly affect some of the homeowners in the area. He said he had not seen a plan as to how this would be done but noted that there were several developments that were on septic systems. He also expressed concern with the possibility of a sports complex being built on the Church's property and being located directly across the street from his subdivision. He felt this complex would bring lighting, unwanted noise and things of that nature that they really did not want to be located across the street. He said he was not sure where this facility was proposed to be located, but if it was proposed for the location that he was thinking about it would literally be a "home run" from his back door. He asked for the Board's consideration to get some more information and details on this request before making a decision.

**Greg Dunn:** Greg Dunn, 614 Lester Road, Fayetteville said he was appearing tonight as a concerned citizen and a taxpayer. He said he was not only speaking for himself but for a group of former County Commission Chairmen with approximately thirty-two

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years of experience. He said the issue that he wanted to bring up tonight was the apparent vote that this Board was going to take tonight during Staff Reports to remove Bill McNally as the County Attorney and hire an in-house attorney. He said he did not feel the in-house attorney could not come close to doing the job that Bill McNally had done over the years. He said Bill had served the County extraordinarily well for almost thirty years. He said he was part of everything that could be seen in Fayette County that looked good as well as part of keeping many things out of the County that would have made Fayette County look bad. He said Bill had done an extraordinary job and was also the most knowledgeable man about all actions of government that he had met in his eight years here. He said in Atlanta people referred to him as being the best in the business. He said Fayette County was just lucky enough to have had Bill McNally as the County Attorney. He said the fees that he charged for his services were certainly competitive. He said in the Board's own study, it showed if the Board replaced him there would be no economic benefit to the County. He said there was nothing in the Board's study about quality of service, Bill's ability or any benefit from getting rid of him. He said if this Board hired an in-house attorney, the Board's own study indicated that it would cost upwards of \$300,000 just to have them sit down and before any work was done. He said if there was any serious work to be done, that attorney would not be able to represent Fayette County the way that Bill McNally did and one of the new attorney's jobs would be to broker other people to represent this county in courts around the region. He said ultimately it would probably cost the County more money to have less service.

Mr. Dunn remarked that two and one half weeks ago this group was going to appear before the Board and ask that the Commissioners respectfully reconsider this decision. He said they had been informed by Commissioner Pfeifer that they should not come because it was going to be a 3-2 vote affirming Bill McNally as County Attorney. He said two days later Commissioner Pfeifer called and said it was probably not going to be a 3-2 vote and probably now going to be a 4-1 vote with no explanation as to why. He said this was the reason they had come to see Chairman Smith, Commissioner Horgan and Commissioner Pfeifer. He said the citizens should know that this was a concerned group with no "ax to grind" and acting only as taxpayers. He said this group knew what was going on in government and also that it was hard to make certain decisions. He said this group was appealing to the Board of Commissioners to rethink this. He said if there was a reason to get rid of Mr. McNally's firm, this group of former Commissioners could not imagine what that would be and at least three members of this Board could not either. He said when this group spoke to each of the Commissioners it was told that Mr. McNally was an outstanding attorney and three of the Commissioners indicated that they would like to retain him as County Attorney. He said now there may be a 4-1 vote to get rid of him and no one understood this reasoning. He said this group felt like at the root of this were some personal matters that no one knew about and this group was not aware of. He said there might be some vendettas from the past and there might be

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some professional reasons but this group just did not know what it might be. He said he knew one thing for sure that the service that Bill McNally and his firm have provided for Fayette County and would continue to provide was at a price that could not be beat.

Mr. Dunn further remarked that as a taxpayer as well as the former Commission Chairmen representing a lot of concerned citizens, they believed that this would be a huge mistake and would hurt Fayette County to get rid of the best attorney in the area for this kind of business. He said if this decision was personal, they could only appeal to those who it might be personal with to take this out of the picture. He said no one was elected to this Board to have their personal agendas up here. He said it was expected that the people elected to this Board would do what was right for Fayette County each and every time a vote was taken. He said there was no room for personal agendas in this building. He thanked the Board for listening and he respectfully ask again that Bill McNally be retained as the County Attorney. He said it would be nice for the citizens in this County to see an affirmative vote from the Board to retain Bill McNally especially after having seen what was written in the newspapers a few weeks ago.

**Harold Bost:** Harold Bost, 760 Birkdale Drive, Fayetteville said he had the honor to serve Fayette County as a County Commissioner from 1997 to 2001 and served as Chairman during the years of 1999 and 2000. He said he was present tonight to speak to the Board about a grave concern that he had about an action that he understood this Board was about to take concerning the position of Bill McNally as Fayette County Attorney. He said he could spend all of his time telling this Board how Bill McNally was the best at what he does, and about his long term dedication to this county, his professionalism, and why for the sake of Fayette County citizens and taxpayers that Bill should be retained as the Fayette County Attorney. He said Bill McNally was the dean of county attorneys in the State of Georgia. He said the Board's cost study indicated that Bill McNally could be kept for the same price that a new young inexperienced staff attorney could be hired who would also have to "farm out" certain work. He said there was one thing that the study did not show and that was how much better off Fayette County would be if this Board continued to spend the same money for the best experienced attorney available versus an inexperienced attorney.

Mr. Bost further remarked that this Board already knew these things. He said this Board also knew very well that Fayette County has had the very best legal representation for many years and the best should be kept by retaining Bill McNally as the County Attorney. He said before members of this Board cast their votes on this issue he suggested the members give some thought to the fact that each and every vote would be permanently recorded in the records for the world to see. He said this would be a vote that the Commissioners would have to live with for the rest of their lives. He said this was a vote that he was sure would be replayed many times in the future especially

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the next time each member seeks re-election. He asked that each Commissioner put aside personal agendas and do what was best for Fayette County. He said if this Board voted not to retain Bill McNally in his full current position, he ask that each member look at himself in the mirror and search their consensus to the depths of their souls and ask themselves why they voted not to retain Bill McNally as Fayette County Attorney. He ask that each Commissioner ask himself if a personal agenda was more important than doing what was best for Fayette County and the citizens that elected them to this office. Mr. Bost further remarked that he was going to be interested in hearing the discussion of the reason why the completed information on the Property and Casualty Insurance regarding the second quote from Travelers Insurance which was \$93,628 less than the quote received from the A.C.C.G. was not published here tonight.

**Dr. George Patton:** Dr. Patton remarked that he was a County Commission Chairman from 1989 to 1992. He said one cold January morning around 9:00 a.m. he and Bill McNally went to Atlanta and signed a contract on this building where this meeting was being held tonight. He said in the meantime the word had gotten out that one of the Commissioners who was upset about this was filing an injunction against them. He said the deal was closed anyway and the County government and the citizens were enjoying this building today. He said Lake Horton was permitted due to a lot of really hard work. He said the Fayette County Public Library as well as the purchase of Starr's Mill was due to Bill McNally's hard work. He said this was a nice County and he expressed concern with the Board letting it slide and go down hill. He said it would be a bad mark on everybody. He said the only thing that these Board members could do as a Commission was to try and leave Fayette County better than what they found it.

**Sam Chapman:** Sam Chapman, 175 Brechin Park in the Starr's Mill area said he appreciated the service of the Commissioners and the Chairman and allowing him to speak on an issue tonight. He said he wanted to speak for the other side of the issue regarding an in-house County Attorney. He said he believed in the past regarding the communication between the County and City governments one must look at the legal representation and how much the County was winning, spending on services and benefiting from these services. He felt it would be beneficial for this Board to take a look at the in-house attorney approach and possibly rebidding the process. He said thirty years was a long time and everyone including himself was aware that the McNally Law Firm was outstanding. He felt the Board needed to take a look at the County's wins and losses. He said the County had a lot of legal expenses and not very many winning positions in regard to the efforts. He thanked the Board for allowing him to speak tonight.

Chairman Smith asked if anyone else wished to speak under public comment. Hearing none, he declared the public comment section of the agenda closed.

**CONSENT AGENDA:** Commissioner Maxwell requested item no. 4 be removed for discussion. On motion made by Commissioner Frady, seconded by Commissioner Horgan to approve consent agenda item nos. 1, 2, 3, 5, 6, 7, 8 and 9 as presented. The motion carried 5-0.

**TAX REFUND AND ABATEMENT REQUESTS APPROVED:** Approval of list of tax refund and abatement requests as recommended. A copy of the list, identified as "Attachment No.1", follows these minutes and is made an official part hereof.

**STREET LIGHT DISTRICTS APPROVED:** Approval of request from the Engineering Department to accept Edenton Estates, Fairhaven Lakes & Stillbrook Estates as Street Light Districts in Fayette County. A copy of the request, identified as "Attachment No. 2", follows these minutes and is made an official part hereof.

**WATER SYSTEM BACKFLOW BY CONTAINMENT POLICY APPROVED:** Approval of the Fayette County Water System Backflow by Containment Policy. A copy of the Policy, identified as "Attachment No. 3", follows these minutes and is made an official part hereof.

**RECREATION DEPARTMENT - MIRACLE RECREATION EQUIPMENT APPROVED FOR KENWOOD PARK:** Approval of staff's recommendation to award proposal to Miracle Recreation Equipment in the amount of \$38,045 for equipment at Kenwood Park; and authorization for the Chairman to execute subsequent contracts, subject to submission of applicable bonds and other documents. A copy of the recommendation and contract, identified as "Attachment No. 4", follows these minutes and are made an official part hereof.

Chairman Smith asked Commissioner Maxwell for his pleasure on this item.

Commissioner Maxwell said he did not have a motion or anything and did not want to consent to this item.

On motion made by Commissioner Pfeifer, seconded by Commissioner Horgan to approve consent agenda item no. 4 as presented, discussion followed.

Commissioner Maxwell said he had removed this item from the consent agenda simply to discuss it. He said he wished that he could vote for it. He said this Board had already voted on several millions of dollars not too long ago and he had asked the question then if that was going to be the extent of the expenses. He said he was led to believe that at that time the money that the Board voted on was the extent of the

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expenses. He said this item appeared to be just another expense of \$30,000. He said he simply could not support this. He said he wanted Kenwood Park completed but at some point he wanted to know how much this Park was going to cost. He said it felt like this Park was continuing to cost the County more money.

Commissioner Frady asked if this was a portion of money that the Board had approved previously.

Director of Recreation Anita Godbee replied yes, and stated that this was included in the appropriated funds.

Chairman Smith clarified that this represented no increase in the cost of the project at all and Ms. Godbee agreed.

Chairman Smith called for the vote on the motion before the Board.

The motion carried 4-1 with Commissioner Maxwell voting in opposition.

**SHERIFF'S DEPARTMENT - BUDGET ADJUSTMENT FOR REVENUE AND**

**VEHICLE REPAIR ACCOUNT:** Approval of staff's recommendation to increase the Sheriff's Department Revenue and Vehicle Repair Expenditure Account by \$594.05, for funds received from State Farm Insurance as a result of damage to a department vehicle. A copy of the request, identified as "Attachment No. 5", follows these minutes and is made an official part hereof.

**PROPOSAL #P6111 - TELECOMMUNICATIONS SYSTEMS UPGRADE TO**

**DATAVOICE:** Approval of staff's recommendation to award Proposal #P611 for Telecommunications Systems Upgrade to Data Voice, in the amount of \$174,861, for installation of a new phone system at McDonough Road for Building & Grounds Maintenance, Public Works and the Water System and at Stonewall Avenue for the Administrative Complex and the Library. A copy of the recommendation and contract, identified as "Attachment No. 6", follows these minutes and is made an official part hereof.

**SHERIFF'S DEPARTMENT:** Approval of request from the Criminal Investigation

Division of the Sheriff's Office to dispose of a 1996 Ford F-150 Pick Up Truck bearing VIN#1FTEF14N6TLB31436 which was purchased with Federal Seizure Funds. A copy of the request, identified as "Attachment No. 7", follows these minutes and is made an official part hereof.

**RATIFICATION OF CHAIRMAN'S SIGNATURE ON ARMY CORPS OF ENGINEERS DOCUMENTS FOR LAKE MCINTOSH:** Ratification of Chairman's signature on Army Corps of Engineers documents stipulating conditions under which said Corps would agree to the construction of the proposed Lake McIntosh reservoir project. 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 meeting held on June 14, 2007.

**DISCUSSION OF ACCEPTANCE/DENIAL OF THE SECOND PROPOSAL FOR THE COUNTY'S PROPERTY AND CASUALTY INSURANCE COVERAGE RECEIVED FROM TRAVELERS INSURANCE ON JUNE 5, 2007. THE TRAVELERS INSURANCE SUBMITTED AN INITIAL QUOTE FOR RENEWAL OF PROPERTY CASUALTY INSURANCE ON APRIL 20, 2007:**

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

Commissioner Frady remarked that during his tenure with the County Commission he had never noticed anyone getting a second chance to vote on any issue. He said at the same time the County did not have to accept any bid even a low bid on any proposal. He said the County was protected by that in the R.F.P. that the County sends out. He said he would like to make a motion.

On motion made by Commissioner Frady, seconded by Chairman Smith to disallow the second quote that was tendered on behalf of Travelers Insurance on June 5<sup>th</sup>, discussion followed.

Chairman Smith said this Board received in due course a renewal proposal from the County's existing insurance company who was Travelers. He said that insurance proposal was approximately 11% higher than the County's previous year premium. He said at that point the Commission asked the Association County Commissioners of Georgia insurance firm to submit a proposal for the Property and Casualty Insurance. He said they submitted a proposal in the amount of \$550,780. He said subsequent to that the Travelers Insurance Company submitted a second proposal which was \$93,000 less than the A.C.C.G. proposal. He said the item before the Board was whether or not the second proposal submitted by Travelers was a valid proposal for County insurance. He said if anything erred it was because this item was not sent out for bid. He remarked that there had been no bid process, therefore there was no opening and no closure date on the insurance. He said anyone at this moment or up until the moment the Board votes could actually submit a proposal and the Board consider it because there was no closure to the process. He felt the second proposal made by Travelers was a valid

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proposal. He asked Attorney McNally if there was any legal reason the Board should not entertain the second proposal from Travelers Insurance.

Attorney McNally replied no there would not be any reason. He said the County had not sent out an R.F.P. or a bid process.

Chairman Smith said it appeared to him that the second bid by Travelers which was approximately \$93,000 lower than the A.C.C.G. bid was a valid bid. He said this was the issue that the Board was discussing under the Old Business item no. A tonight, therefore he was going to withdraw his second to the motion.

Commissioner Maxwell said he would continue the second to the motion. He said he did not think Chairman Smith could withdraw his second to the motion after he had his say in the matter.

Commissioner Frady said the process in this was that Travelers issued a quote for insurance on April 20<sup>th</sup> with a letter stating there were firm numbers attached for the renewal. He said the last sentence in the letter stated that a written or electronic request to bind must be received in the office by July 1<sup>st</sup> or the file would be closed. He said their bid was for \$796,000 which was 11.05% increase amounting to almost \$80,000. He said in the meantime the Board had asked, before this bid was received, that A.C.C.G. who had bid on the County's health insurance and saved the County \$369,000 over the company who had it prior to that time. He said Travelers Insurance learned that the A.C.C.G. had bid for Walton County's Property and Casualty Insurance. He said on May 24<sup>th</sup> the County received a bid from the A.C.C.G. at which time Travelers Insurance decided to come back and try and issue another proposal which they did. He remarked that the new proposal was cut \$339,000 which was approximately 42%. He said he could not believe that an insurance company could afford to cut a proposal by that much if it was correct and above board to start with. He said Travelers was \$279,000 higher than A.C.C.G. He said A.C.C.G. had a clause included for \$33,900 for prior commitments for trial which was a one time charge which reduced the County's profit to \$245,000. He said this was a substantial amount of money and he could not believe that Travelers could present a second bid for this amount of money. He said he was not in favor of awarding a bid approval like this and he did not think it was right. He said he could not support it.

Commissioner Pfeifer remarked that he was in support of awarding the bid to Travelers Insurance Company. He said the County needed to tighten up its procedure on the bidding process.

Commissioner Frady said the County did not have to accept the lowest bid and especially with one coming into the County like this one had. He said if another bid had



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not come in, the County would have spent \$796,000 and the year prior to that it was \$717,000.

Commissioner Maxwell said one of the earlier speakers had asked that the Board give an explanation on this issue, but he said that was not really the question that needed to be answered. He said the question that needed to be answered was why for all of these years before the new Commissioners came on the Board were things of this nature not sent out for bid. He said this was the first time that there had been a separate quote on this insurance in quite a few years. He said the first time it was bid there was an estimated \$300,000 savings. He said this was very similar to the health insurance which also was not bid. He said there was one agent and that one agent got bids from three different people. He said that same agent received the best bid every time and no one ever competitively bid. He said the County received a new bid and there was over \$300,000 worth of savings by not staying with the same agent. He said he agreed with Commissioner Frady that the reason the County got such a low bid from Travelers now was because there was a new game. He asked how many hundreds of thousands of dollars did this prior Commission spend on this type of thing without submitting it for a bid. He said he could not support Travelers Insurance and he could support A.C.C.G.

Chairman Smith asked Commissioner Frady to restate his motion.

Commissioner Frady clarified that his motion was to deny the second quote by Travelers Insurance that was submitted on June 5<sup>th</sup> after their first quote received on April 20<sup>th</sup>.

Chairman Smith called for the vote for support to disallow the second Travelers Insurance bid.

The motion failed 2-3 with Chairman Smith, Commissioner Horgan and Commissioner Pfeifer voting in opposition.

Chairman Smith clarified that Travelers Insurance Company's second bid was considered to be a valid bid.

**DISCUSSION OF BID AWARD FOR THE COUNTY'S PROPERTY AND CASUALTY INSURANCE COVERAGE WITH TWO QUOTES ORIGINALLY RECEIVED: TRAVELERS INSURANCE IN THE AMOUNT OF \$796,253 AND THE ASSOCIATION COUNTY COMMISSIONERS OF GEORGIA IN THE AMOUNT OF \$550,780:**

Chairman Smith asked Finance Director Mary Holland to give the amount of the lower bid that was received from Travelers Insurance.

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Ms. Holland responded that amount was \$457,152.

Chairman Smith said the Board had before it the Property and Casualty Insurance proposal with Travelers Insurance submitting the low bid of \$457,152. He said the Association County Commissioners of Georgia had submitted a price of \$557,080. He remarked that staff's recommendation was based upon premium and the lower bid should be accepted. He asked for the Board's pleasure in this matter.

On motion made by Commissioner Pfeifer, seconded by Commissioner Horgan to accept Travelers' second quote as the lowest quote for the County's Property and Casualty Insurance in the amount of \$457,152, discussion followed.

Commissioner Frady remarked that there were a lot of differences in these bids where they would be the most important. He said one area was concerning public officials. He said Travelers Insurance had \$2 million each occurrence and \$2 million for recurrence limit. He said A.C.C.G. had \$2 million each occurrence and \$4 million limit on recurrence. He said these were areas that the County could get hit heavily with court fines if something did happen. He said this was also true with the Sheriff's Department when there were accidents. He said another issue was the fact of sexual abuse which Travelers listed as \$100,000 for each person and \$300,000 total limit. He said for the same issue the A.C.C.G. had \$2 million per occurrence and no aggregate limit. He said someone could get hit with a \$2 million or a \$3 million lawsuit. He said if the County was sued for a judgment of more than \$300,000 then the balance would have to come out of taxpayers' dollars to pay it. He noted that the first bid that Travelers Insurance submitted included terrorism and to get the bid lowered this was removed in the second bid. He said their figure for terrorism was \$23,166. He said the A.C.C.G. bid quote included terrorism. He said he could not vote for these lower pay outs in insurance even though it might be cheaper than the existing bid of A.C.C.G.

Commissioner Pfeifer said he had a copy of an e-mail that disputed the coverage issues and also pointed out that if the County went with the A.C.C.G. bid it would have to pay 125% of their premium because of the expiration dates. He said this meant that the County would pay \$683,750 which was \$226,598 more than the Travelers bid. He said they also disputed the coverage limit issue. He said next year there needed to be a better point by point comparison so a valid decision could be made.

Commissioner Frady said a representative from the A.C.C.G. was present. He asked him to explain the comments that had been made on the A.C.C.G. quote.

David Paulk, representing the A.C.C.G., said he had heard the issue of the 125% being paid before in other meetings around the State. He said he had been in this business for the last twenty years and worked with the Counties in the State of Georgia. He said

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the A.C.C.G. had given the County a proposal for a twelve month policy price and the price quoted was for a twelve month premium. He said the A.C.C.G. had a common renewal for all counties. He said the A.C.C.G. had two months left in the policy period. He said it would be willing to extend that to fourteen months. He said he would like to dispute the price that was given to the County as being the lowest cost. He suggested looking at the cost of risk and not the cost of insurance. He said the general liability coverage that Travelers was offering was \$2 million per claim and \$2 million aggregate. He said A.C.C.G.'s was \$2 million per claim without any aggregate limits. He said if there was more than \$2 million in liability claims in one year the County would have to add that to this cost. He said terrorism was also included in the A.C.C.G. coverage. He said there were six to eight parcels of property that had been identified and listed on the Travelers policy that were excluded from coverage for flooding. He said the A.C.C.G. coverage provided for those parcels with a \$500,000 deductible. He said the reason that Travelers Insurance reduced the limit so low for sexual misconduct claims was because these were seen all over the Country. He pointed out that going from \$796,000 at a 42% reduction would never had occurred if the County had not asked A.C.C.G. to give a proposal. He said staff could call any of the 105 counties in the State of Georgia and staff would find that none of these counties who had been in the A.C.C.G.'s program for the last twenty years had ever seen those kind of swings in prices either up or down. He said if the County had come to the A.C.C.G. and asked that the price be reduced, A.C.C.G. would not have done it.

Commissioner Horgan asked if the A.C.C.G. covered zoning insurance.

David Paulk responded no they did not. He said the reason was because there were very little zoning claims. He said he had never seen a case with monetary damages for zoning. He said in zoning cases, the citizens usually were wanting Commissioners to zone property one way or the other and there would not be any monetary damages. He said that was a very sensitive political decision that County Commissioners should handle as opposed to insurance companies. He said he did not see a lot of legal expense during the last five years where Travelers was paying for this. He said A.C.C.G. was non profit and operated only for county governments in the State of Georgia. He also noted that A.C.C.G. had returned \$5 million in dividends out of this program to the counties. He said last year Henry County received a \$30,000 to \$40,000 dividend.

Commissioner Frady asked Executive Assistant Carol Chandler if the County had ever had any claims involving zoning matters.

Ms. Chandler replied no, she could not recall any.

Attorney McNally remarked that there had not been any claims paid out for zoning matters. He said there had been some defense costs paid out but none for damages.

Chairman Smith said the record needed to reflect that staff had done an analysis under both of these proposals and they had noted that in some instances the A.C.C.G. coverage was better than the Travelers Insurance and in some instances the Travelers Insurance was better than the A.C.C.G. He said it was that analysis that led them to the conclusion that the coverage between the two of them was substantially equal and in the areas where there was excessive limit under one policy were areas that the County did not have claims history to show that there was any sufficient risk in that area. He said staff's recommendation was that based upon their analysis of the coverage comparisons, that the best analysis was that the decision should be made upon premium cost. He said under the premium cost the Travelers Insurance Company's second proposal of \$457,152 was the lowest cost.

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

The motion carried 3-2 with Commissioner Frady and Commissioner Maxwell voting in opposition.

**RECONSIDERATION OF REQUEST BY HERITAGE CHRISTIAN CHURCH TO TIE ON TO THE PEACHTREE CITY SEWER SYSTEM:**

Reverend Greg Marksberry said he was the Senior Pastor of Heritage Christian Church. He introduced Joe Strack who was the president of a company in Atlanta as well as a member of the Church. He said if the Board members had any technical questions, Mr. Strack was prepared to answer those questions. He thanked the Board for allowing them to speak to the Board tonight in order to take another look at this opportunity for the Church to reach out to the community. He said the Church members were excited about where this proposal would lead the Church. He said Heritage Christian existed to serve God by serving people and the Church was very serious about that. He said the Church had taken this very seriously during the ten years of its existence. He said seven of those years were spent on the current property. He said he would discuss some of the things the Church had done in the last couple of months to demonstrate that the Church had already been living out this desire to serve the community. He said among many things that he could share was that the Church was a polling place for elections, assisted the Fayette County Recreation Department by having numbers of teams using the Church and the property, hosted boy scouts and girl scouts, and Fayette Senior Services provided flu shots during the recent election. He said the Church also allowed Joseph Sams School, Fayette Middle School's career fair, Starr's Mill LaCross Team, and Peoples Elementary to use the facility. He said by allowing the Church to tap on to the Peachtree City Sewer System would enable them to continue their good track record of reaching out to meet the needs of the community. He said

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this was what the Church sought to do. He said the Church's last demographic study showed that the number one felt need in the Church's ten mile radius here in Fayette County was the need for recreation. He said he attended the Peachtree City Council meeting just a few weeks ago at which time they unanimously approved the tie in should the County approve it. He said he heard one case after another being made to open up field space for LaCross and the need of that sport growing in this area. He said this was the kind of thing that the Church would like to do and that was to provide additional space for practices and games to have leagues for flag football, basketball and soccer which build character into the kids as well as sportsmanship. He said it was the Church's desire to bring this to the Board now with Peachtree City's formal proposal to allow the tie in pending the County's approval and to answer any questions that the Board might have about how this might affect others. He said they could adequately answer any questions regarding lighting, noise and disturbing property all of which would be very minimal. He said the Church had hosted quite a few activities over the last few years without any complaints for noise and so forth. He said they would be glad to answer any questions that the Board might have.

Commissioner Frady said this issue had come before the Board previously in November of 2005. He said the Church had agreed to size the sewer line only for the Church's operation.

Reverend Marksberry replied yes, that was correct.

Commissioner Frady said he also understood that the Church would sign an agreement that the sewer line would never leave the Church's property to go somewhere else.

Mr. Strack replied yes, that was correct. He said the Church had built a softball field on the back portion of the property. He said the County had an ordinance that this field could not have lights so there were none, therefore there would not be any games held at night. He said by putting in a sewer system, this would eliminate the septic field and the Church would probably build a life center there and it would be more of a play field and not a sports field. He said the line would come out the Redwine driveway and go down Redwine Road 2,000 and would stay in the right-of-way and go under the creek and would not disturb any wetlands.

Commissioner Frady asked if the sewer line would go across anyone's property or through any neighborhood.

Mr. Strack replied no, the sewer would stay in the Redwine Road right-of-way.

Chairman Smith asked if there was a critical need for this and if the Church was experiencing septic failures.

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Mr. Strack responded that the Church was building a very large worship center and the new septic field had not become operational yet. He said as the Church adds additional buildings it would limit what the Church could do septic tank wise. He said the Church had a 77 acre campus and there was a lot of room for expansion but not that much room for septic fields. He said a lot of the property was located on higher ground which was the choice part of the property to build the additional buildings.

Commissioner Frady remarked that there was also a 15 acre lake on the property.

Mr. Strack replied yes, that was correct.

Commissioner Frady said the septic field would take up approximately seven or eight acres of the property.

Mr. Strack responded that the first septic field would take up that amount of space, and if the Church built something else it would take up even more property.

Commissioner Frady said he had never seen a septic tank that was better than sewer.

Reverend Marksberry remarked that in terms of critical need the Church did have a neighbor from Woodcreek Subdivision whose septic tank actually failed directly next to the Church's property and it was located by the lake. He said this caused the Church great concern especially with the Church having a huge pumping station and septic field already put in that would might need to be used in the future. He said septic failures would not be something that any of the Church's neighbors would want to experience. He said he would hope that a failure would never occur but there would always be a risk of something occurring.

Chairman Smith asked if there were any further questions. Hearing none, he asked for the Board's pleasure in this matter.

On motion made by Commissioner Frady, seconded by Commissioner Maxwell to approve the request by Heritage Christian Church to allow Peachtree City Water and Sewer Authority to run sewer to this property as long as the sewer was sized only for the Church's needs and to sign an agreement not to allow the sewer to leave their property for any other purpose or to any other adjoining property.

Chairman Smith asked Attorney McNally if this would be an enforceable agreement.

Attorney McNally responded that he was not sure what the Peachtree City Water and Sewer Authority would require but the County could certainly enter into an agreement with the Church.

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Commissioner Pfeifer said this was an extremely difficult issue for him. He said he was a strong supporter of churches and their fulfilling missions. He said he understood quite well that this Church believed in that very strongly and was doing their job. He said he would have no problem in allowing the Church to tap in to the Peachtree City Sewer Service, however, his concern was not for this area. He said if this Board allowed the Peachtree City Sewer to extend service out to this Church or anybody else for that matter, then the next person who would come along would not have to be in this area but somewhere else who wanted sewer and this Board would not legitimately or legally turn them down. He said this was the issue that was of great concern to him. He said he had been to the Church and discussed this issue with many of the members. He said he just could not support this request.

Commissioner Frady said there were currently several sewer lines inside the County including the school on Redwine Road, The Chimneys, Scarborough's property, Landmark Mobile Home Park, Shiloh Mobile Home Park, and several others. He said this would not be setting a precedent and it was his understanding from counsel that Peachtree City could spread its sewer to areas outside of their jurisdiction if they so desired. He said the County would certainly not promote this but at the same time could not stop Peachtree City from doing this.

Chairman Smith asked Commissioner Frady if he was saying that it would do the Board no good to take a vote since Peachtree City could proceed with the sewer anyway.

Commissioner Frady said Peachtree City could proceed with the sewer if they so desired.

Attorney McNally interjected that the Peachtree City Water and Sewer Authority did have extraterritorial jurisdiction and they could extend sewer service into the unincorporated County adjacent to the City.

Chairman Smith asked if there was any distance limitation on that or could they go to the Town of Woolsey.

Attorney McNally replied no, there was none that he was aware of.

Chairman Smith said he understood Commissioner Pfeifer's concern and he shared that concern. He asked if there was middle ground where there could be a criteria to extend sewer that would be enforceable so that the County would have a benchmark measurement against if someone requested sewer to be permitted outside of the City. He asked if this might be an issue that the Board could address.

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Commissioner Frady said he did not have a problem discussing that issue but he did not feel this would be the proper time or place to discuss it. He said the Board was in the process of trying to award a sewer line to the Church and to discuss whether or not to have some kind of sanctions and criteria for doing this.

Chairman Smith asked if this was something that would be possible.

Attorney McNally said he was not sure whether or not this could be accomplished but it certainly could be reviewed. He said basically if there was going to be sewer service, the County would not be able to discriminate between getting it from one person and giving it to another.

Commissioner Pfeifer remarked that the places that Commissioner Frady mentioned who have sewer had not received a vote for approval from him.

Commissioner Frady said they had not gotten his approval either.

Commissioner Pfeifer said he had not voted for these other locations and he would not be setting a precedent now.

Chairman Smith asked if the Board had any further questions or comments. Hearing none, he asked for the Board's pleasure in this matter.

The motion failed 2-3 with Chairman Smith, Commissioner Horgan and Commissioner Pfeifer voting in opposition.

**DISCUSSION OF REFINANCING OF EXISTING COUNTY BONDS:**

Chairman Smith remarked that Commissioner Maxwell had requested this item be removed from the agenda. He said the Board would discuss a similar topic at the August Workshop meeting.

**E - 911 COMMUNICATIONS REQUEST APPROVAL FOR THE PAYMENT OF A TWELVE (12) MONTH SERVICE AGREEMENT WITH MOTOROLA BEGINNING JULY 1, 2007 THROUGH JUNE 30, 2008 IN THE AMOUNT OF \$429,295.56:**

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

On motion made by Commissioner Pfeifer, seconded by Commissioner Horgan to approve the Motorola Service Agreement for E-911 Communications in the amount of \$429,295.56, discussion followed.



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Chairman Smith remarked that this was already a budgeted item. He said this would allow the County to take advantage of a prepaid discount instead of making monthly payments on this agreement. He said there was an approximate savings of \$5,000.

Chairman Smith called for the vote.

The motion carried 5-0. A copy of the Agreement, identified as "Attachment No. 9", follows these minutes and is made an official part hereof.

**BOARD REPORTS:**

**CHAIRMAN SMITH:** Chairman Smith remarked on item no. 8 listed under the consent agenda and said the Army Corps of Engineers had issued a Permit to construct Lake McIntosh after approximately thirty years of effort by a lot of individuals in the past. He thanked Attorney McNally for all of his efforts as well as the Consultant Tommy Craig. He said he also wanted to thank all of the former Commissioners for all of their hard work and effort in getting this done. He said the credit really goes to those Commissioners from 1977 to present who never wavered in their desire to get Lake McIntosh constructed. He said this would be Fayette County's last reservoir and should supply the water needs for Fayette County through the build out of the County. He said a special thanks goes to Representative Lynn Westmoreland who was tireless in helping the County get the last stages of the Corps of Engineers' Permit process under control. He said Representative Westmoreland and his staff worked diligently and tireless to help the County get this Permit to a conclusion. He said the Press Release would be available after tonight's meeting providing information on the Lake McIntosh Reservoir Project. A copy of the Press Release, identified as "Attachment No.10", follows these minutes and is made an official part hereof.

Commissioner Pfeifer added that he had a brief discussion with former Commissioner George Patton who felt the Reservoir should be named after Chuck Watkins who was also a former Commissioner and a member of the Water Committee. He said Mr. Watkins had put tremendous effort into this project over the years as well as the other members of the Water Committee and County Commissions. He said he would like to add his thanks to all of these individuals.

**COMMISSIONER MAXWELL:** Commissioner Maxwell said he wanted to make a motion but would first like to say that he appreciated the three former Commission Chairmen for speaking tonight under public comment. He said he would like to address a misunderstanding that he felt was in the press and certainly not words from his mouth. He said he was not disparaging Attorney McNally's practice or his ability and felt he was a very competent attorney. He said during his short tenure as a Commissioner, he had not said the things that had been printed in the newspaper neither did he write anything of this nature in the newspaper. He said he totally

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disagreed with a recent headline referring to "ouster" or something of that nature. He said this had never been the angle at which he had approached this issue. He said he had approached this issue by simply looking at the dollars and cents spent on legal services. He said as everyone would recall last year during the course of a heated campaign one of the issues was legal expenses. He said he placed blame on someone else other than Attorney McNally's office. He said that was not his target. He said his target was something else. He said that part was over. He said he looked at the dollars and cents as well as the legal bills and he felt a vast majority of the legal expenses that had been paid in this County could be done at a cheaper cost by an in-house attorney. He said he had reviewed the analysis and talked to countless other attorneys regarding this issue and this was not a matter of a vendetta but simply a matter of saving dollars and cents. He said this Board was saving dollars and cents on many other items such as the Travelers Insurance, bidding out the health insurance and many other items. He said the former Board never bid or looked at these items.

On motion made by Commissioner Maxwell, seconded by Commissioner Frady to change the primary way that this County receives its legal services to an in-house attorney with primary outside attorney as Bill McNally's office with the condition that when legal services were outside of the scope of the in-house attorney's expertise or time, that Attorney McNally's office would be used, discussion followed.

Commissioner Frady said he agreed with Commissioner Maxwell. He said this Board was not going to hire a young attorney with only two or three years legal experience. He said he envisioned that the attorney doing this job would have at least fifteen years legal experience. He felt anyone with that amount of experience would be capable of doing the job. He said this issue was not a personal issue for him either. He said he had known Bill McNally for a long time and he was a good attorney. He said he had no quarrel with him about legal work. He said he agreed that Bill McNally should be the main outside attorney for the County when the in-house attorney did not have the expertise or time on a certain issue. He said the County gets 2,080 hours work out of an in-house attorney and it would probably not cost the County anymore than \$150,000 including benefits. He said there were attorneys out there with that kind of experience who would take this job in a minute. He said this was nothing personal but strictly a situation where he felt the Board was going to have to save money at every turn. He noted that the economy was down, building permits were down tremendously and the County's income was down. He felt this was not going to get better soon but was going to get worse before getting better. He felt this was an economic move as far as he was concerned and one that the County needed to make. He said he would predict that the County would save somewhere in the neighborhood of \$200,000 plus in this move.

Commissioner Pfeifer said he was certainly not going to support this motion. He said the study that the staff had done in comparing legal expenses for some of the

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surrounding governments certainly did not reveal any savings particularly not as substantial as had been mentioned. He said his personal opinion was that if an in-house attorney was hired then there would be their expense, a secretary, office space, and all of the other things that would be necessary to function. He said then, if that attorney could not handle an issue, or have time for an issue then another attorney would have to be hired to bring them in and pay them. He said this would not be the same fee that the current attorney was receiving but would be paying a whole lot more money for the kind of expertise that the County required. He said this County currently had one of the best attorneys in the State and his mind the County was paying a reasonable price for his services. He felt there had been some illusion to the County losing lawsuits. He asked that people check the records. He said the McNally Firm did an excellent job in representing the County. He felt the County gets these services at a reasonable price. He felt the County would be paying a lot more money by having an in-house attorney and the service would not be as good. He said he was hearing the comments that this decision was not being directed at the current attorney and that he was doing a fine job and so forth but he said he really questioned whether this was the case or not. He said he reads this as an effort to ease this attorney out of the business of this County.

Chairman Smith said this was a difficult issue and one that he had agonized over since the budget process and Commissioner Maxwell discussing how the County could save some money. He said from a servicing standpoint, he wanted the record to show that Mr. McNally had supplied the County with exemplary service for a number of years. He said Mr. McNally's tenure here speaks to his ability and the fact that he had been here that long was simply a recognition that people recognize his expertise and that he had given it genuinely to this County for all of those years. He said Mr. McNally had been instrumental, and some of the former Commission Chairmen had also mentioned, in many of the projects and helping design the very essence of what this County was. He remarked that, however, the other side was a financial side. He said he was not an attorney and had to rely on Commissioner Maxwell who was an attorney and who had analyzed the legal bills. He said he did understand that there would be some significant savings that potentially could be had. He said he believed that it would be in order if the Board gave this a try with the caveat and Commissioner Maxwell would agree that the Board strongly define the role of the in-house attorney and that policies and procedures be put in place that would protect the County from "job creep" so that the job did not expand beyond what was envisioned would be its constraints in an effort to save the County some money.

Commissioner Maxwell said that he was sure just as with any new program there would be some "bumps" in the road.

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Chairman Smith asked if there were any further questions or comments. Hearing one, he called for the vote on this motion.

The motion carried 4-1 with Commissioner Pfeifer voting in opposition.

**STAFF REPORTS:**

**CAROL CHANDLER:** Executive Assistant Carol Chandler remarked that she was presenting this item to the Board in light of the Director of Community Service being absent tonight. She said this issue was in regard to the unincorporated island that exists at the intersection of S.R. 314 and White Road. She said this was a two and one half acre tract that the Board had heard about during the last several weeks. She said the Board had received the official notification from the City of Fayetteville that they intend to annex that property. She said the Board needed to respond to the City as to whether or not the Board would have an objection or not.

Chairman Smith said the City of Fayetteville needed an official response from the Board as to whether or not the County objected to the City annexing this unincorporated island into the City of Fayetteville.

On motion made by Chairman Smith, seconded by Commissioner Frady that the Fayette County Board of Commissioners has no objection to the City of Fayetteville annexing this unincorporated island into the City, discussion followed.

Chairman Smith clarified that this was an island that was a piece of property surrounded by City property. He said this island was located at the intersection of S.R. 314 and White Road. He said the City of Fayetteville had notified the County that they intended to annex this property and they had officially notified the County. He said the City was now asking the County if there would be any objection.

The motion carried 5-0. A copy of the letter to the City, identified as "Attachment No. 11", follows these minutes and is made an official part hereof.

**EXECUTIVE SESSION:** None.

Chairman Smith asked if there was any further business. Hearing none, he asked for a motion to adjourn.

On motion made by Commissioner Maxwell, seconded by Commissioner Frady to adjourn the meeting at 8:25 p.m.

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Karen Morley, Chief Deputy Clerk

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Jack R. Smith, Chairman

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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 9<sup>th</sup> day of August, 2007.

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Karen Morley, Chief Deputy Clerk