



## *Action Agenda*

Board of Commissioners  
August 27, 2009  
7:00 P.M.

The Board of Commissioners of Fayette County, Georgia, met in Official Session on Thursday, August 27, 2009, 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  
Lee Hearn  
Robert Horgan  
Eric Maxwell

**Staff Present:**

Jack Krakeel, County Administrator  
Scott Bennett, County Attorney  
Carol Chandler, Executive Assistant  
Floyd L. Jones, Deputy Clerk

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Chairman Smith called the August 27, 2009 Board of Commissioners Meeting to order at 7:02 p.m.  
Commissioner Hearn offered the Invocation.  
Chairman Smith led the audience in the Pledge of Allegiance.

**Acceptance of Agenda.**

Commissioner Horgan moved to accept the agenda as published. Commissioner Frady seconded the motion. The motion passed unanimously.

**PUBLIC HEARING:**

- A. Consideration of Petition No. 1216-09 and Petition No. RP-046-09, John Alan Bell, Owner/Agent, request to rezone Lot 18 of Lakeview Estates consisting of 1.03 acres from R-40 to O-I to develop Office Institutional Uses and request to Change the Use of Lot 18 from single-family residential to office-institutional. This property is located in Land Lot 127 of the 5<sup>th</sup> District and fronts on SR 54 West. AT THE APPLICANT'S REQUEST, THE PLANNING COMMISSION UNANIMOUSLY RECOMMENDED TO TABLE SAID PETITIONS UNTIL THE SEPTEMBER 3, 2009 PLANNING COMMISSION MEETING, AND FOR SAID PETITIONS TO RETURN TO THE BOARD OF COMMISSIONERS ON SEPTEMBER 24, 2009.**

Commissioner Hearn moved to postpone the hearing of Petition Number 1216-09 and Petition Number RP-046-09 of John Alan Bell until the October 22<sup>nd</sup> Board of Commissioners Meeting. Commissioner Frady seconded the motion. The motion passed unanimously.

- B. Consideration of Petition No. 1217-09, BBWJ, LLC., Owners/Agents, request to rezone 4.77 acres from C-C Conditional to C-H to develop a Mini-Storage Facility. This property is located in Land Lot 182 of the 5<sup>th</sup> District and fronts on SR 54 East and Corinth Road. STAFF RECOMMENDS APPROVAL SUBJECT TO THREE (3) RECOMMENDED CONDITIONS. THE PLANNING COMMISSION RECOMMENDS APPROVAL SUBJECT TO THREE (3) RECOMMENDED CONDITIONS 3-2.**

**Woody Johnson:** Mr. Woody Johnson presented Petition 1217-09.

No one spoke in opposition to Petition 1217-09.

Commissioner Horgan moved to approve Petition No. 1217-09, BBWJ, LLC., Owners/Agents, request to rezone 4.77 acres from C-C Conditional to C-H to develop a Mini-Storage Facility located in Land Lot 182 of the 5<sup>th</sup> District and fronting on SR 54 East and Corinth Road with the three conditions recommended by staff and the Planning Commission. Commissioner Hearn seconded the motion. The motion passed unanimously.

- C. Consideration of proposed revisions to the Fayette County Comprehensive Plan Future Land Use Map and the Land Element Text regarding the SR 74 North Corridor; and proposed amendments to the Fayette County Zoning Ordinance associated with the SR 74 North Corridor. This item was last discussed during the July 1, 2009 Board of Commissioners Workshop Meeting.**

Director of Community Development Pete Frisina and Mr. Matt Forshee of the Fayette County Development Authority gave a presentation on the proposed revisions and amendments.

**Angela Rosser:** Ms. Angela Rosser spoke in favor of the proposed revisions and proposed amendments.

**Gordon Furr:** Mr. Gordon Furr spoke in opposition to the proposed revisions and proposed amendments.

Commissioner Frady moved to adopt Ordinance 2009-02 amending the Fayette County Zoning Ordinance associated with the SR 74 North Corridor, to adopt Ordinance 2009-03 amending the Fayette County Comprehensive Plan Future Land Use Map and the Land Use Element Text regarding the SR 74 North Corridor, and to approve Resolution 2009-14 adopting the Fayette County Comprehensive Plan Land Use Element Text and the Fayette County Future Land Use Plan Map Amendments. Commissioner Horgan seconded the motion. Discussion followed. The motion passed 4-1 with Commissioner Maxwell voting in opposition.

- D. Consideration of Resolution 2009-13 which establishes ad valorem tax millage rates for 2009.**

Finance Director Mary Holland gave a presentation regarding the 2009 ad valorem millage rates.

No one spoke in favor of or in opposition to Resolution 2009-13.

**Angela Hinton-Fonda:** Ms. Angela Hinton-Fonda, a resident of Fayetteville, asked for clarity regarding the millage rates and if they are dependent on either past or potentially future SPLOST revenues. Chairman Smith replied that millage rates are not affected by and are not dependent upon any SPLOST.

Commissioner Frady moved to authorize the Chairman to sign Resolution 2009-13 which establishes millage rates and levies ad valorem taxes for 2009. Commissioner Horgan seconded the motion. The motion passed unanimously.

**PUBLIC COMMENT:**

Chairman Smith announced the public comments must be limited to items of which the Board has some control. He asked the audience to limit its comments to items the Board can affect by addressing or failing to address.

**Harold Bost:** Mr. Harold Bost spoke about the three traits looked for in County Commissioners: Judgment, Integrity, and Trust; and he stated that Commissioner Horgan was lacking in all three of those traits. He continued that it was unfortunate that Commissioner Horgan's actions and continued refusal to resign has a negative impact on the entire Fayette County Board of Commissioners and that the negative cloud would remain while Commissioner Horgan remained on the Board. He urged Commissioner Horgan to resign his position before leaving the building and assured him that if there was no resignation the citizens of Fayette County would pursue any and every legal means to have the Commissioner removed from office. He concluded that as soon as a resignation takes place all activities taking place to effect the resignation would halt and fade away and no one would bother Mr. Horgan from that point onward.

Chairman Smith asked Mr. Bost if he was aware he had asked for comments that the Board could act upon and asked if there was something in his dissertation that the Board can act on. Mr. Bost replied the Board could urge Commissioner Horgan to resign, and he added he did not understand the Chairman's comments giving new direction. Chairman Smith reiterated that he asked for comments regarding issues under the Board's purview, and noted the Board had no purview to call for any action on this issue. Mr. Bost repeated he did not understand the direction made by the Chairman and that in all the times he had been in the Commission Chambers he had not heard that direction given before.

**Bob Ross:** Mr. Bob Ross noted the Board would have an opportunity to exercise its responsibilities at the conclusion of the Ethics Complaint and he asked for an update of the status of the Ethics Complaint. He said it is important that the Board clearly and repetitively understands the deep feelings against Commissioner Horgan's action and it should take those actions under consideration when it adjudicates any punishment associated with a guilty finding from the Ethics Complaint. He told of meeting Ms. Morgan Coffey who is a freshman at Oglethorpe University in Atlanta. He explained she is a Gold Star Girl Scout which is the equivalent of an Eagle Scout if one is a Boy Scout. He described her Gold Star project, which is ongoing, as one related to working with and helping abused and abandoned children. He submitted that Ms. Coffey understands integrity and responsibility much more than Commissioner Horgan does. He hoped the Board would side with him and that he knew a number of citizens are siding with him.

**Anita Harrison:** Mrs. Anita Harrison stated she was concerned Commissioner Horgan was being treated differently than an ordinary citizen. She explained that she works for an employer who conducts criminal background checks and police background checks on people before they can be hired into possible positions. She explained her employer also conducts random drug and alcohol testing, and she was personally offended and found it unacceptable that Commissioner Horgan could remain in his position when, if she had behaved as the Commissioner had, she as well as other ordinary citizens would have been fired "on the spot". She closed saying she wanted something done about this, that she felt very passionately about this issue, that the Commissioner was setting a very bad example for kids in the community and citizens, and that those who endorse him are also setting a very bad example.

**Duane Paggen:** Mr. Duane Paggen stated he was speaking with a heavy heart, but he wanted Commissioner Horgan to know he is a pilot with Delta Airlines and if he is caught drinking or smoking marijuana he would be fired. He said, unfortunately, the job of County Commissioner is one that places the Commissioner on call 24 hours a day seven days

a week. He informed the Board that he voted for Commissioner Horgan, that he liked Commissioner Horgan as a person, that he felt bad for Commissioner Horgan, and that he wanted the Commissioner to have a second chance, but that it was unfortunate to have the second chance while serving as a Commissioner.

**Donald Fowler:** Mr. Donald Fowler reminded the Board that at its last meeting it passed a resolution calling for a SPLOST referendum which includes a list of projects which included improvements to the road he lives on, namely, Hood Road. He said he had lived on his property located on Hood Road for over 40 years and he and his neighbors are perfectly happy with the condition of the road. He said they were shocked to discover a proposal by the County to improve Hood Road by building a multi-million dollar bridge over the upper-end of Crystal Lake. He explained that the three subdivisions that would be disrupted by the new "through" road have over 50 property owners. He added that the residents built or bought homes on a dead-end street and they have no need for the County's improvement. He said the cost of the project at the expense of taxpayers' dollars cannot be justified when weighed against significant traffic benefits, the disruption of neighborhoods, and the loss of the rural nature of Fayette County. He added a similar project was considered by a previous Board of Commissioners and abandoned due to the cost versus need analysis. He recalled that the project, in the 1980s, was \$3.5 million at a time before many of the houses were constructed. He stated it was disturbing that the bridge project was not openly discussed in the resolution or presented on the project list. He was also concerned over the wording of the SPLOST referendum, namely, the phrase "including but not limited to", and he asked if this implied the County was getting blanket permission to take on any project it wants. He thanked the Commissioners for listening and asked them to remove the project from the SPLOST project list before November 3, 2009, and he invited the Commissioners to Hood Road to meet the residents.

**Pat Hinchey:** Mr. Pat Hinchey began saying he really did not like "getting up" to speak to the Commissioners since it usually means his "blood is boiling". He said he gets up every morning to try to deal with the next right thing in front of him. He continued that he made a commitment to himself to be at the Commission meetings as often as possible and to keep as quiet as possible in order to listen and learn so he could best understand how to make Fayette County be a better place to live. He referenced the Public Comment sheet provided to citizens at the back table which reads: "You will be given five minutes to speak on any topic that is important to you." He declared citizens' comments should be given regardless of whether the Board can do anything about them or not. He said he heard "We don't want to hear anymore about a certain topic because we can't do anything about it" before he emphasized that the topic is important to him and it is important to many people and the people will not be quiet. He said the people are all very disturbed that they have to deal with a County Commissioner who thinks it is "hip" to go around "blowing dope", that the issue is not funny but is serious, and that it is important to the people. He repeated that citizens should be encouraged to stand up and that they should not be told they do not have the right to say something. He closed saying he did not like getting up to speak, but he cannot sit down any longer and be told unless the Board can do something about it citizens cannot talk about their issues.

**Bryan Harrison:** Mr. Bryan Harrison began by thanking the Commissioners for taking the time to continue to grow the Fayette community and for the care and consideration they exhibit by making decisions, the work of the County staff, and the County Marshals who provided security. He said everyone in Fayette County appreciates their work, and he explained those efforts helped "pull him" into this area. He continued that he was disturbed that Commissioner Horgan has decided to stay on the Board of Commissioners. He said one thing a Commissioner, namely Commissioner Horgan, could do tonight would be to step down. He said the Commissioner's actions made it difficult for him to explain to his daughter why someone who behaves like the Commissioner can remain in their position until the year 2012.

### **CONSENT AGENDA:**

Chairman Smith asked for Consent Agenda Item 3 to be removed from the Consent Agenda for discussion.

Commissioner Hearn moved to approve Consent Agenda Items 1, 2, and 4. Commissioner Frady seconded the motion. The motion passed unanimously.

1. **Approval of appointment of John Lane to the Region 3 Planning Board for Mental Health, Developmental Disabilities, and Addictive Diseases for a three-year term commencing this date and ending on August 26, 2012.**
2. **Approval of staff's request to increase Public Safety and Emergency Management's Fiscal Year 2009 Donations/Miscellaneous Revenue Account by \$2,281 and to increase the Food/Catered Meals Expense Account by \$2,281 to account for donations from various companies, a benevolence society, and citizens.**
3. **Approval of the Water Committee's recommendation for approval of a Memorandum of Understanding between Fayette County and Peachtree City for the purpose of allowing Peachtree City's Dive Team to train at Lake Horton and Lake Kedron.**

Chairman Smith explained he asked for Consent Agenda Item 3 to be removed from the Consent Agenda because there is new information before he asked County Administrator Jack Krakeel to present the new information.

County Administrator Jack Krakeel requested the Board to consider two minor modifications to the Memorandum of Understanding and explained the modifications.

Commissioner Horgan moved to approve Consent Agenda Item 3, to modify the wording of the Memorandum of Understanding, Section II., Item B to read: "To accommodate volunteer members of both agencies, two weekend training exercises annually shall be permitted at Lake Kedron and Lake Horton", and to make the Memorandum of Understanding include and apply to Lake McIntosh. Commissioner Hearn seconded the motion. The motion passed unanimously.

4. **Approval of Minutes for the Board of Commissioners Workshop Meeting held on August 5, 2009 and the Board of Commissioners Meeting held on August 13, 2009.**

### **ADMINISTRATOR'S REPORT**

**Additional School Zone Signage for Whitewater Middle School and Whitewater High School:** County Administrator Jack Krakeel reminded the Board that several meetings ago Commissioner Hearn requested staff to look into issues associated with transportation in Fayette County one of which was about placing additional signage at the Whitewater School complex on SR 85 South, and to communicate with the Georgia Department of Transportation (GDOT) about the feasibility and possibility of placing additional signage indicating the presence of a school zone. He reported that the GDOT has visited the area to look at the current signage, and that the GDOT has informed the County they feel there is sufficient signage currently on the SR 85 South corridor with respect to identification of the school zone.

**Evaluation of Striping Patterns on SR 92 near the Fayette County/ Spalding County Border:** County Administrator Jack Krakeel reminded the Board of Commissioner Hearn's second request concerning Lowery Road and SR 92 South, specifically, the striping patterns on the section of roadway on SR 92 which allows for passing from the Flint River Bridge located at the Fayette County/Spalding County line to the intersection at Lowery Road. He reported the GDOT sent engineers to the site, and that the GDOT has responded to the request saying they feel there is sufficient sight distance to accommodate the passing lane at that location, so there would be no need for any modification to the striping of the roadway. He also reminded the Board of Commissioner Hearn's request to research the number of vehicular accidents in the area and said staff will gather that information and submit it as additional documentation to the GDOT.

Commissioner Hearn appreciated the information and stated the accidents associated with vehicular passing at that location may be of particular concern to the GDOT, and he asked that the County continue to monitor the performance of that intersection.

**Creation of a Weblink from the County's Website to the ACCG Website:** County Administrator Jack Krakeel noted that during the millage rate discussion the Board spoke about information that may be made available to the citizens of Fayette County regarding the elimination of the Homeowners Tax Relief Grant, or HTRG. He informed the Board that the County has the capability to create a link on its website to the Association of County Commissioners of Georgia's, or ACCG's, website that has a very detailed report not only dealing with the HTRG Tax Credit but how local property taxes are determined. He asked to be allowed to establish the link on the County website to help inform the citizens if they have questions regarding the HTRG tax credit and the elimination of that tax credit from their tax bills this year.

The Board consented to authorize staff to create a weblink on the County website to the ACCG website enabling citizens to obtain information regarding the elimination of the HTRG tax credit and how local property taxes are determined.

**Bond Closing of the Water System Revenue Bonds:** County Administrator Jack Krakeel informed the Board that the County had completed its bond closing today pertaining to the Water System Revenue Bonds Series 2009. He said it brought to fruition a process that the County has engaged in for approximately one and a half years and represents a collective savings of approximately \$1.9 million to the County's water customers.

## **ATTORNEY'S REPORT**

**Lantz Construction Contract for 2009 Waterline Extension Work:** County Attorney Scott Bennett reminded the Board that on July 9, 2009 the Board awarded a bid to the low bidder, Lantz Construction, for the Waterline Extension work for Fiscal Year 2010, in the amount of \$661,550. He said he had the contract, that the performance and surety bonds are in place, and that the contract is ready for the Chairman's signature if approved.

Commissioner Horgan moved to authorize the Chairman to sign a contract with Lantz Construction for the construction of Waterline Extension work for Fiscal Year 2010 in the amount of \$661,550. Commissioner Hearn seconded the motion. The motion passed unanimously.

## **STAFF REPORTS**

There was no Staff Report given.

## BOARD REPORTS

**Status of the Ethics Complaint:** Commissioner Maxwell announced that he emailed County Attorney Scott Bennett asking for an update on the Ethics Complaint process, and asked Mr. Bennett to update the Board.

County Attorney Scott Bennett reported three county attorneys from Spalding County, Pike County, and Meriwether County have agreed to serve on the Ethics Board. He stated that they have been requested to provide the County dates when the three of them will be available to meet in Fayette County in the Public Meeting Room to conduct the hearing, but the attorneys have not yet responded with that information. He said the request was sent approximately two weeks ago and County Clerk Carol Chandler will contact Mr. Jim Fortune, Spalding County's County Attorney, to learn if they have any dates available amongst themselves. Discussion followed.

**Request to Serve Alcohol at Fayette Senior Services:** Chairman Smith announced that the County has received a request from Fayette Senior Services who wishes to have an Oktoberfest, and they are asking for permission to serve, not sell, beer and wine. He asked County Administrator Jack Krakeel to provide additional information regarding the request.

County Administrator Jack Krakeel concurred the County has received a formal request from the Executive Director of Fayette Senior Services to host a fund-raising event specifically for the purpose of raising funds for the therapeutic garden. He said he explained to Ms. Britt that there are a number of requirements for that type of event, not the least of which is compliance with State law, which would require a caterer's license. Ms. Britt indicated to Mr. Krakeel that they would be able to accommodate that requirement for a vendor in the community; however, Mr. Krakeel noted this request would also require the Board to take specific action with respect to modification to its ordinance if the request were to be approved. He suggested the County Attorney may be able to speak more directly to that issue.

County Attorney Scott Bennett reported that currently the County Code prohibits alcohol on all County property which includes the parks, the County Complex and parking lot, and the Senior Services Building. He said it would require changing the ordinance to have alcohol on any county property.

Mr. Krakeel replied that the alcohol would not be sold but would be served in conjunction with the meal that is provided when a person purchases a ticket to the event. He reiterated there would not be an actual hands-on sales where one could outright purchase just an alcoholic beverage. Discussion followed.

The Board consented to authorize the County Attorney to prepare an ordinance that would permit limited use of alcoholic beverages on County property for the Board's consideration.

Chairman Smith noted that he would like all of the controls possible placed in that ordinance limiting the number of times of year, absolutely no sales of any kind, and a prohibition against having alcohol at times other than fund-raising events to insure it is not a general issue where alcohol becomes permitted at county parks or at the boat ramps. County Attorney Bennett said he would work to restrict the ordinance.

## EXECUTIVE SESSION

There was no Executive Session.

## **ADJOURNMENT**

No further business came before the Board, and Chairman Smith adjourned the August 27, 2009 Board of Commissioners Meeting at 8:38 p.m. with no objection from the Board.

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**Floyd L. Jones, Deputy Clerk**