# Minutes

Board of Commissioners
December 3, 2008
3:30 P.M.

The Board of Commissioners of Fayette County, Georgia, met in Official Session on Wednesday, December 3, 2008, at 3:30 p.m. in the Commissioners' Conference Room of the Fayette County Administrative Complex, 140 Stonewall Avenue, Fayetteville, Georgia.

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| Commissioners Present: | Jack Smith, Chairman<br>Herb Frady, Vice-Chairman<br>Robert Horgan<br>Eric Maxwell<br>Peter Pfeifer |
| Staff Present: | Jack Krakeel, County Administrator<br>Scott Bennett, County Attorney<br>Carol Chandler, Executive Assistant<br>Floyd L. Jones, Deputy Clerk |

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**Call to Order.**

Chairman Smith called the December 3, 2008 Workshop Meeting to order at 3:31 p.m.

**Acceptance of Agenda.**

Commissioner Horgan moved to approve the agenda as published, and the motion was seconded by Commissioner Maxwell. No discussion followed. The motion passed unanimously.

**CONSENT AGENDA:**

1. **Approval of a recommendation by the Finance Department to purchase an umbrella liability insurance policy to comply with provisions of agreements whereby the County leases space on communications towers. A copy of the request, identified as "Attachment 1", follows these minutes and is made an official part thereof.**

2. **Approval of staff's recommendation to revise the County's Intergovernmental Agreement with the City of Fayetteville for street resurfacing to include .09 miles of Pye Lake Drive. A copy of the Intergovernmental Agreement, identified as "Attachment 2", follows these minutes and is made an official part hereof.**

**3. Approval of the Sheriff Department's request to amend the Overtime Budget Account for the Criminal Investigation Division by $1,861.66 for reimbursement for employees assigned to work with various Federal agencies. A copy of the request, identified as "Attachment 3", follows these minutes and is made an official part hereof.**

**4. Approval of the Sheriff Department's request for authorization to dispose of three vehicles used by the Criminal Investigations Division. A copy of the request, identified as "Attachment 4", follows these minutes and is made an official part hereof.**

**5. Approval of staff's recommendations for the disposition of tax refund requests submitted by taxpayers in accordance with O.C.G.A. 48-5-380. A copy of the request, identified as "Attachment 5", follows these minutes and is made an official part hereof.**

Commissioner Horgan moved to approve the agenda as published, and the motion was seconded by Commissioner Maxwell. No discussion followed. The motion passed unanimously.

**OLD BUSINESS:**

**A. Consideration of Ordinance Number 2008-10 to revise County Ordinance Chapter 2, Article V, Division 4, Sections 2-162 and 2-163 which addresses the disposal of unserviceable County property.**

Finance Director Mary Holland reminded the Commissioners that staff had spoken to them about revising the County Ordinance addressing the disposal of unserviceable County property on November 5, 2008, and was directed to work with County Attorney Scott Bennett to prepare the changes in ordinance form. Ms. Holland gave a brief explanation of the County's current practices and procedures with respect to unserviceable property, and how the changes would save resources when dealing with unserviceable items. She concluded by saying the revised ordinance was prepared in accordance to the Board's direction and asked for the Board to adopt Ordinance 2008-10.

Commissioner Maxwell moved to adopt Ordinance 2008-10, and Commissioner Horgan seconded the motion. No discussion followed. The motion passed unanimously. A copy of the request and Ordinance, identified as "Attachment 6", follow these minutes and are made an official part hereof.

**B. Discussion of the S.R. 74 Land Use Study and associated proposed amendments to the Fayette County Comprehensive Plan Land Use Element.**

Chairman Smith requested that Old Business Item B be discussed after Old Business Item C. No Commissioner objected to the request.

Community Development Director Pete Frisina spoke about the purpose, goals, and implementation of the S.R. 74 Land Use Study and the proposed amendments to the Fayette County Comprehensive Plan Land Use Element. He further spoke about the feedback that the County received from the Town of Tyrone, the City of Fairburn, and the citizens who live along S.R. 74, and answered the Commissioners questions. He informed the Board that staff desired to publically advertise the proposed amendments. He also suggested that the S.R. 74 Land Use Study and proposed amendments be sent to the Atlanta Regional Commission (ARC) in order to give neighboring jurisdictions that would be affected by the Study an opportunity to comment on the change. Mr. Frisina concluded by saying the ARC would need 60 days to complete its review, but after that time frame expired the County would be able to adopt the changes to the Land Use Study.

Mr. Frisina then discussed the Land Use Study's potential relationship to the recently approved Transportation Study regarding the intersection of Interstate Highway 85 and S.R. 74 with the Board. County Administrator Jack Krakeel reminded the Board that a critical component of the Transportation Plan dealt with land use as it relates to transportation. He suggested that it may be appropriate to integrate the Land Use Study and the Transportation Study, particularly with respect to the development, approach and service connectivity to the various properties along S.R. 74, and added that such an integration could cause either a causal or integral relationship between the two studies.

After further discussion, it was the consensus of the Board to allow staff to publically advertise the proposed amendments. The Board further directed Mr. Frisina to coordinate with those who are involved with the Transportation Study in order to ensure that, should the County move forward on the Land Use Study, it would not affect the Transportation Study's proposal or end result and would not put the County between two separate studies attempting to address the same issues. Mr. Frisina replied that he would proceed with advertising for January 2009. A copy of the request, identified as "Attachment 7", follows these minutes and is made an official part hereof.

**C. Discussion of the results of research by the Planning and Zoning staff regarding Personal Care Homes within a single-family dwelling.**

Chairman Smith requested that Old Business Item C be discussed prior to Old Business Item B, and no Commissioner expressed an objection to the request.

The Board discussed research that was presented by the Zoning Administrator Dennis Dutton and Deputy Marshal Kathy Hobbs regarding Personal Care Homes within a single-family dwellings, and further input provided by County Attorney Scott Bennett, Public Safety Director Allen McCullough and Fire Marshal David Scarbrough.

Mr. Dutton explained that staff was receiving an increasing number of calls about personal care homes, and said those calls are generally divided between those who desire to open or operate personal care homes and those who want to register complaints about personal care homes in their neighborhood. Mr. Dutton then spoke about the information provided to those callers inquiring about opening or operating personal care homes, about the Atlanta Regional Commission (ARC), the State and Federal governments actively promoting personal care homes, and about what defines and does not define a personal care home. He concluded his opening presentation by stating that the issues concerning personal care homes affect many departments in Fayette County and that it was difficult to have all of the departments "on the same page" because the issues are so expansive and each department has its own set of regulations to meet.

Deputy Marshal Kathy Hobbs spoke about the complaints, problems, limitations experienced by law enforcement, and safety concerns at the personal care home located at 161 Woodland Drive. She said that she would like for all of the County departments to work together for the purpose of creating one ordinance that would define what constitutes a personal care home, protect the quality of life of those in personal care homes, promote safety in the neighborhoods, and protect property values in single-family neighborhoods. She further suggested that Fire and EMS personnel could be protected if residents in personal care homes could be registered because the safety of personnel could possibly be jeopardized by those in personal care homes.

County Administrator Jack Krakeel asked Fire Marshal David Scarbrough when his jurisdiction takes effect with respect to Fire Protection Code Chapter Nine that relates to the installation and functioning of sprinkler systems in a residential home housing four or more unrelated individuals. Captain Scarbrough replied that he has jurisdiction, that he did not have the Office of Regulatory Services' (ORS) inspection results pertaining to the home at 161 Woodland Drive until just prior to the meeting, and that he will require the personal care home to abide by the County code as it relates to installing a functioning fire sprinkler. He further noted that the personal care home, if it does not abide by County code, will not

be able to continue functioning in its current capacity. Chairman Smith asked Captain Scarbrough if he had the authority to close the personal care home if it did not comply to County code. Captain Scarbrough said it would take a court order and he would work through the legal channels, but he thought he had the authority to close the home if it did not comply.

Public Safety Director Allen McCullough asked that, should the ordinance be revisited, Public Safety be given authority to enter and inspect personal care homes since the actual occupants of the homes present safety risks for Fire and EMS personnel. He acknowledged that the information would be dynamic in nature and that some mechanism would need to be enacted to maintain good information, but summarized his request saying it would benefit Public Safety personnel in the event of an incident by providing good information to units deployed to the scene.

County Attorney Scott Bennett informed the Board that there several Acts and laws that required the County to make reasonable accommodations for disabled people, but added that the County is also required to protect single-family neighborhoods. He also stressed that the County needs to treat these cases consistently and suggested that policies or ordinances be adopted in order to ensure these cases are approached in a "very structured manner". Chairman Smith asked Mr. Bennett if he had a preference between adopting either policies or ordinances and if it mattered. Mr. Bennett replied that it did matter because policies inform staff of the procedures to take under the County's current ordinance, and law enforcement would be constrained by the current ordinance. He continued that a new or revised ordinance would detail all of the requirements for a personal care home, would provide the procedures to take when a violation of the ordinance occurs, is more thorough than enacted policies, would impose a burden on those who want to open a personal care home, and would be the target if someone decided to challenge the County on this issue. Chairman Smith said it sounded to him that Mr. Bennett was advocating for an ordinance since it "would have more teeth". Mr. Bennett replied that he was in favor of an ordinance, and he thought that staff wanted an ordinance since it provided them a tool to work with, and he thought citizens would favor an ordinance since they would be able to know what their neighbors have to comply with in order to open a personal care home. He further reiterated that an ordinance would provide the County with some continuity and consistency when complaints and requests are received concerning personal care homes.

Chairman Smith and Commissioner Maxwell agreed that, given the rising popularity of personal care homes and potential problems associated with them, that Fayette County should be on the leading edge of the issue. Commissioner Maxwell thanked the citizens who brought the problems to the Board's attention and said if the case could be proven against the personal care home at 161 Woodland Drive that citations should be written each day until "it gets somebody's attention". Chairman Smith directed staff to work with Mr. Bennett to see if an ordinance could be written "with enough teeth in it" so that if a similar problem arose in the County it would not take long to enforce. He mentioned that an entry-inspection may be warranted with the ordinance if reasonable complaint documentation was provided, and added that the ordinance must define what constitutes a personal care home.

Commissioner Maxwell suggested that members of public who were present during the meeting be given an opportunity to speak about their experiences with personal care homes, but Chairman Smith and Mr. Bennett expressed caution about the suggestion since the meeting was not designed to allow for public comment and since public comment given at the time could be used as an instrument against the County at a later date. Chairman Smith stated to those present, "We hear you, and we are going to do something about it." He continued that he would be very interested to hear the public's comments once a draft ordinance was prepared and when it proceeds to adopt an ordinance.

Mr. Krakeel suggested that if staff were directed to begin the fact-finding process for constructing an ordinance and provision for the regulation of personal care homes, that staff would certainly have the latitude to have discussions with those who are impacted by the current conditions, and those discussions would not adversely affect their ability to craft the ordinance for the Board's consideration at a later date. Commissioner Maxwell reiterated that he wanted the public's

input. Chairman Smith agreed, but added that he thought that the public's comments would not be beneficial at this particular time based on advice given by the County Attorney. He emphasized, however, that he did want the public's comments on the record.

Chief McCullough asked if enforcement of the current ordinance should be suspended until a new ordinance is crafted. Chairman Smith replied that enforcement of the current ordinance would not be suspended. Chief McCullough asked how aggressive the enforcement needed to be, if it should include citations and evictions, and asked for further direction. Mr. Krakeel replied that enforcement was determined from the Life Safety perspective, and said if there are clear indicators to both Fire Marshal Scarbrough and to Chief McCullough that the personal care home imposed a significant life safety hazard then the ordinance would have to be enforced. Chief McCullough replied that he was concerned about the potential fallout because, if enforcement required eviction, there was the potential that people would become homeless during the holiday season. Mr. Krakeel replied that he had worked with Chief McCullough for over 20 years and given the Chief's vast network of resources he was sure the Chief would take those issues into consideration, would find alternative arrangements, and would not put people out on the street. Chairman Smith agreed, added that the aggressiveness of enforcement must be tied to the seriousness of the violations in the personal care home, and summarized that if there are hazards in the personal care home that warrant immediate closure then that decision was in the purview Chief McCullough's authority.

Chairman Smith said he wanted to be clear that the Board was directing staff, including County Attorney Scott Bennett, to create a committee to craft an ordinance to regulate personal care in Fayette County. The Commissioners agreed to the direction as stated.

Mr. Frank Andre asked if he could speak to the Board, and Chairman Smith permitted him to speak briefly.

The Board further directed that a presentation be given to them at the January 7, 2009 workshop detailing what efforts have been made, what information has been found, and indicting in which direction the County is heading.

Commissioner Maxwell asked those citizens interested in participating to coordinate with Executive Assistant Carol Chandler. Chairman Smith agreed and stressed that it is very important that the public's comments are on the record when the Board adopts the ordinance. A copy of the request, identified as "Attachment 8", follows these minutes and is made an official part hereof.

**NEW BUSINESS:**

**D. Discussion and update of the Geographic Information Systems (GIS) including Zoning map and other features, as presented by the GIS Steering Committee.**

Chief Information Officer Russell Prince, Assistant Information Systems Director Mike Bass, Development Engineer Bryan Keller, and Fire Marshal David Scarbrough discussed the Geographic Information Systems, or GIS, with the Board, spoke about how it benefits their departments, county staff, and the citizens, and gave a demonstration. No action or direction as requested of the Board, and none was given. A copy of the request, identified as "Attachment 9", follows these minutes and is made an official part hereof.

**E. Consideration of a request from the Permits and Inspections Department that the Fayette County Code of Ordinances, Sections 5-1 and 5-4 be amended to allow the automatic adoption of updated building codes whenever new editions or amendments are adopted by the State.**

Interim Director of Permits and Inspections Joe Scarborough informed the Board that the State of Georgia recently adopted the 2008 edition of the National Electric Code, the International Property Maintenance Code 2006 Edition, and the International Existing Building Code 2006 edition, and he stated that the County is now required to adopt these year specific code revisions in order for them to be enforceable. Chairman Smith asked if the County had to adopt the updated building codes. Mr. Scarborough replied that the County would have to adopt the updated building codes in order to enforce them since the County Code lists year specific editions of each one of the building codes, and he explained that if the State adopts the 2008 edition as opposed to the 2006 edition the County must adopt the 2008 edition in order for it to be enforceable. Chairman Smith asked if the County had the liberty to only enforce the older editions and not adopt the newer editions. Mr. Scarbrough replied that the County was compelled to adopt the new code, and that the adoption was mandatory.

Additional discussion followed about the reason for adopting the codes as required by the State, the County's ability to add to the codes, how the codes would be implemented and enforced, and the hesitancy the Board had in automatically adopting the updates. Mr. Scarborough reiterated that the County had no option available to it but to adopt the codes as mandated by the State, but stated that the only two codes that are optional are the International Property Maintenance Code and the Existing Building Codes. County Administrator Jack Krakeel explained that the language in the County's current ordinance requires staff to come to the Board every time the State adopts a new code. Mr. Scarborough agreed with that assessment of the code. Chairman Smith asked if there was a timing issue involved since the adoption had to come before the Board, and if there was a time frame imposed on the County to adopt the new building codes. Mr. Scarborough replied that Permits and Inspections was notified of the proposed code change in July 2008, that the proposed changes were voted on and adopted in November 2008, and that notification was placed on the County's website. He concluded that he met with County Attorney Scott Bennett the previous week to ask why the current County ordinance included the words "year specific" since adopting the codes are mandatory and since many of the municipalities omit the specific year requirement to automatically adopt the new building codes. He summarized that all he was attempting to do was to simplify the process.

County Attorney Scott Bennett added that the new ordinance specifically exempts administration and enforcement of the codes, meaning that the State requires the County to adopt the "meat" of the codes but allows the County to create its own administration and enforcement of them as it chooses. He explained that the County would adopt the standard building codes that the State mandates to the County to adopt as amended from time to time, except for administration and enforcement of the codes. Some further discussion followed.

Commissioner Maxwell moved to adopt Ordinance 2008-11, and Commissioner Horgan seconded the motion. No discussion followed. The motion passed unanimously. A copy of the request and Ordinance 2008-11, identified as "Attachment 10", follow these minutes and are made an official part hereof.

**F. Approval of Water System staff's recommendation to award Bid #690 Remittance Processor to the low bidder, Creditron Corporation, d/b/a Purepay, in the amount of $100,976.49. This price includes a 3 year maintenance agreement on hardware and software.**

Water System Director Tony Parrott explained that the Remittance Processor is a unit that is used to process bills and payments received by the Water System, that it scans and reads checks, that prepares reports which are sent to the bank in order to account for money the Water System receives, and that interfaces with MUNIS to post customers'

payments. Chairman Smith asked if this purchase was a technology upgrade or a replacement, and Mr. Parrott replied that it was a replacement since the current unit at the Water System is ten years old and parts are difficult to acquire. Commissioner Horgan asked if the unit would be paid for all at one time or if payments would be made in installments. Mr. Parrott replied that the unit would be paid for all at one time. Commissioner Maxwell asked if Mr. Parrott was making a recommendation on the warranty, and Mr. Parrott said the warranty was needed. Chairman Smith asked if the current unit was having problems, and Mr. Parrott replied that it was. Commissioner Frady asked if the current unit had problems in its first five years of service. Mr. Parrott answered that the only problems that were experienced were routine maintenance problems. Commissioner Horgan asked if the Water System was intending to purchase the unit within the time frame needed to obtain the 1% discount. Finance Director Mary Holland replied that the unit could be purchased in appropriate time to obtain the discount.

Commissioner Horgan moved to approve staff's recommendation to award Bid #690 Remittance Process to low bidder Creditron Corporation, doing business as Purepay, in the amount of $100,976.49 with said cost to include a three-year maintenance agreement on hardware and software. Commissioner Maxwell seconded the motion. No discussion followed. The motion passed unanimously. A copy of the request, identified as "Attachment 11", follows these minutes and is made an official part hereof.

## ADMINISTRATOR'S REPORT

There was no Administrator's Report.

## ATTORNEY'S REPORT

**Resurfacing of the McCurry Park Track:** County Attorney Scott Bennett reported that at the last meeting the Board approved a bid for resurfacing the McCurry Park track, known as Proposal P682, in the amount of $65,051 with Sports Turf Company Incorporated. He said he received their performance bond, payment bond, and all of their insurance requirements and concluded that the contract was ready for the Chairman's signature.

Commissioner Horgan moved to authorize the Chairman to sign the contract for the resurfacing of McCurry Park Track, known as Proposal P682, in the amount of $65,051 to Sports Turf Incorporated. Commissioner Frady seconded the motion. No discussion followed. The motion passed unanimously. A copy of the contract, identified as "Attachment 12", follows these minutes and is made an official part hereof.

## STAFF REPORTS:

**Heritage Committee:** Executive Assistant Carol Chandler said she had one item to bring to the Board's attention, and in this circumstance she was representing the Heritage Committee. She informed the Board that while the Old Courthouse building has been on the National Register of Historic Sites since 1988, it had never been marked. She told the Board that the Heritage Committee would like to pay for a brass plaque to mark the Old Courthouse, and despite the fact that the cost of the brass plaque was unknown, no County money would be expended for its purchase. She then asked for the Board's permission to place the brass plaque on the Old Courthouse. After some discussion, the consensus of the Board was to allow the Heritage Committee to place the brass plaque on the Old Courthouse. Chairman Smith thanked the Heritage Committee for their contribution.

## BOARD REPORTS

There were no Board Reports.

## EXECUTIVE SESSION

**Personnel Item:** Chairman Smith stated that there was a personal item to be discussed in Executive Session. Commissioner Horgan moved to adjourn into Executive Session for the purpose of discussing one personnel item. Commissioner Frady seconded the motion. No discussion followed. The motion passed unanimously.

**The Board of Commissioners adjourned into Executive Session at 5:47 p.m. and returned to Official Session at 6:04 p.m.**

**Executive Session Affidavit:** Chairman Smith asked for the record to reflect that one personnel item was discussed during Executive Session. Commissioner Horgan moved to authorize the Chairman to sign an Executive Session Affidavit stating a personnel item was discussed during Executive Session. Commissioner Frady seconded the motion. No discussion followed. The motion passed unanimously. A copy of the Executive Session Affidavit, identified as "Attachment 13", follows these minutes and is made an official part hereof.

## ADJOURNMENT

Chairman Smith adjourned the December 3, 2008 Workshop Meeting at 6:04 p.m. without an objection from the Board.

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**Floyd L. Jones, Deputy Clerk** **Jack Smith, Chairman**

The foregoing minutes were duly approved at an official meeting of the Board of Commissioners of Fayette County, Georgia, held on the 7th day of January 2009.

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**Floyd L. Jones, Deputy Clerk**