Minutes

Board of Commissioners
June 11, 2009
7:00 P.M.

The Board of Commissioners of Fayette County, Georgia, met in Official Session on Thursday, June 11, 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 Karen Morley, Chief Deputy Clerk

---

Chairman Smith called the meeting to order.
Commissioner Hearn offered the Invocation.
Pledge of Allegiance.

ACCEPTANCE OF THE AGENDA: Commissioner Hearn made a motion to approve the agenda as presented. Commissioner Frady seconded the motion. The motion carried 5-0.

PRESENTATION/RECOGNITION:

A. THE BOARD WILL ACKNOWLEDGE RECEIPT OF A WELLNESS GRANT IN THE AMOUNT OF $4,000 FROM THE ASSOCIATION OF COUNTY COMMISSIONERS OF GEORGIA:

Lori Smith of the Fayette County Human Resources Department presented a check in the amount of $4,000 representing receipt of a 2009 Wellness Grant from the Association of County Commissioners of Georgia. She remarked that these funds were used to promote wellness activities and lifestyle choices to Fayette County employees through activities such as the annual health fair, weight loss challenge, walking programs and additions to other ongoing health awareness activities that were coordinated by the Employee Wellness Committee.

PUBLIC HEARING:

B. CONSIDERATION OF PETITION NO. 1213-09 JOHNIE WILLIAMS AND JEW PROPERTIES, LLC, AND BILLY BRUNDAGE ENGINEERING, INC., AGENT, REQUEST TO REZONE 37.08 ACRES FROM A-R TO M-1 TO CONSTRUCT A MAINTENANCE BUILDING FOR DIXIELAND FUN PARK. THIS PROPERTY IS LOCATED IN LAND LOT 216 OF THE 5TH DISTRICT AND FRONTS ON CORINTH ROAD AND CURVED ROAD:

Zoning Administrator Dennis Dutton read the Public Hearings Introduction. A copy of the Introduction, identified as "Attachment No. 1", follows these minutes and is made an official part hereof. He noted that this petition was tabled at the April 23rd Board of Commissioners' meeting at the petitioner's request and at the May 28th Board of Commissioners' meeting, the petitioner requested this item to be tabled until the June 11th Board of Commissioners' meeting. He said staff had recommended denial of this request and the Planning Commission also recommended denial 5-0.

Commissioner Hearn said he would not be present for this discussion because he had received campaign contributions. He said he would recuse himself from this discussion and he left the room at this time. Chairman Smith said he had also received campaign contributions less than $500 which did not require him to recuse himself and he would be part of the discussion and vote.

Billy Brundage of Brundage Engineering, Inc. said he was the agent for petitioner Johnie Williams who owns Dixieland Fund Park and the adjacent property which was in question tonight. He said in the short term Mr. Williams would like to build a maintenance building on this property and in the long term which was currently undetermined Mr. Williams would like to expand the park onto this property and provide a vehicular exit onto Corinth Road. He said Mr. Williams would like to place the maintenance building on the far Eastern part of the property so that it did not have to be removed in the future to accommodate future expansion. He briefly reviewed the layout of the park. He said Mr. Williams' plans for the future expansion of the park would include more passive attractions including a picnic area for large groups. He addressed the two primary objections that had been expressed. He noted that a lot of the property surrounding the project was primarily commercial and industrial and high density residential. He pointed out that Corinth Road was currently classified as an arterial road on the Fayette County Thoroughfare Plan. He commented that arterial roads were intended to handle large volumes of traffic. He said Mr. Williams' future desire was to eventually have traffic exit onto Corinth Road so citizens could utilize the traffic light that was planned for the intersection of Corinth Road and Highway 85. He said ultimately the plan was for Corinth Road to be part of the East Fayetteville Bypass. He remarked that the immediate need was to construct the maintenance building and to expand the park and the access onto Corinth Road.

Chairman Smith asked if the Board had any questions. Hearing none, he stated that this was a public hearing and he asked if anyone wished to speak in favor of the petition. Hearing none, he asked if anyone wished to speak in opposition.

DON ALLEN: Don Allen said he was speaking in opposition and represented Fayette County residents and landowners, Clayton residents in this area and some of the members of two churches including Corinth Baptist Church and Berachah Bible Church located on Corinth Road. A copy of his presentation, identified as "Attachment No. 2", follows these minutes and is made an official part hereof. He provided five reasons for the objection to this rezoning that included (1) the rezoning did not conform with the Fayette County Comprehensive Plan; (2) noise, light and runoff from the subject property would increase in the nearby residential areas; (3) traffic on Corinth Road would increase; (4) this would set a bad legal precedent for non-residential rezoning; and (5) there was concern about the current and future stewardship of this property. He reviewed a map of the property in question and pointed out that it was earmarked for low density residential. He said there was also conservation area in the Morning Creek section as well as in the swampy area along the Clayton County/Fayette County line. He said there was another option for this proposal. He stated just North of Dixieland Fun Park there was a parcel of land that has been for sale for quite a while primarily within the commercial zoning that could be expandable in the commercial area. He said he and the citizens he was representing concurred with staff's recommendation to deny as well as the Planning Commission's 5-0 vote recommending denial.

BETH DIAL: Beth Dial remarked that her husband was the Pastor of Berachah Bible Church located on Corinth Road. She asked for the Board's consideration to deny this rezoning request. She said they had purchased their property in 1978 on twenty acres. She said the church was full of young families with a lot of children. She pointed out that Corinth Road was already a very dangerous highway, and this rezoning would only add to the many current concerns for road safety on Corinth Road.

LARRY WILSON: Larry Wilson commented on the M-1 zoning classification and the many businesses that could also go in that zoning classification. He pointed out there were approximately 85 other types of business that would qualify including an ambulance service, armories for meeting and training of military organizations, automobile and truck sales, service stations, paint shops, building construction facilities, car wash, detailing service, and insecticide sales and storage. He noted that under the light manufacturing classification there was laundry, cleaning and dying plants, light sheet metal products, manufacturing of food, cosmetic and pharmaceutical products, manufactured home sales room and sales lot, pest control service, rent alls, restaurants, taxi service, warehousing distribution and so forth. He asked the Board to take this into consideration.

MIGUEL VILA: Miguel Vila said he was speaking in opposition to this rezoning request. He remarked that the traffic on Corinth Road continues to increase. He said he was not opposed to Mr. Williams' expanding but wanted him to use another road in the community. He remarked that there were already several churches and a lot of children already in the area. He urged the Board to deny this rezoning request and continue to let the community grow and allow children to be safe.

Chairman Smith asked if anyone else wished to speak. Hearing none, he asked if Mr. Brundage had any remaining time for rebuttal and Executive Assistant Carol Chandler replied he had nine minutes.

Mr. Brundage commented on the compatibility with the future Land Use Plan and the danger of setting a legal precedent. He said he agreed that the future Land Use Plan must be honored and he suggested that this particular area was essentially surrounded by commercial, industrial and high density residential be changed for this area to something that was more in keeping with the reality of the area. He said this area would not develop as low density residential which was what the current Land Use Plan called for. He commented on the traffic situation on Corinth Road and pointed out that Corinth Road was an arterial road. He said although it was an arterial road, Corinth Road was not constructed to arterial standards. He said there were blind spots and sharp curves. He commented on the M-1 zoning classification and pointed out that M-1 zoning was the only classification that allowed an amusement park of this nature.

Commissioner Maxwell said it was his understanding that there was a stop work order on this property and Zoning Administrator Dennis Dutton replied yes that was correct, but it was on the property adjacent to the rezoning and this violation would be decided in court. Commissioner Maxwell asked if there needed to be a permit for land disturbance before digging began and Mr. Dutton replied no, not to his knowledge but he assumed if there was any land disturbance that exceeded an acre then a permit would be required. Commissioner Maxwell asked if the structure in question was encroaching on the property line at this point and Mr. Dutton responded that the structure was not over the property line but it appeared to be within setbacks and buffers. Commissioner Maxwell said he understood that the Planning Commission's vote was 5-0 for denial of the petition as well as staff's recommendation for denial. He asked if there had been any discussion regarding a portion of the property being used for the park and a portion not being used. Mr. Dutton replied yes, and stated on the future Land Use Plan there was approximately a small six acre tract that was within the commercial zoning land use. Mr. Dutton said this was brought out during discussion but staff did not receive a response. Commissioner Maxwell commented that there were five acre tracts to the North of the property and over the Clayton County line there were quarter acre tracts. He asked what the Planning Staff's opinion was regarding the property being

residential or remain A-R. Mr. Dutton said the Planning Staff was also recommending denial of the request. Commissioner Maxwell asked Don Allen if his group had discussed residential zoning being an acceptable alternative. He said there were several offensive uses for the A-R zoning such as hog farming. Mr. Allen said other than the discussion a few minutes ago, they had not discussed it but the people he had spoken with would be agreeable with a higher density residential. Commissioner Maxwell asked about the list of citizens opposed to this rezoning that the Board had been given and Executive Assistant Carol Chandler replied these were names from individually addressed postcards that the Commissioners' Office had received in opposition to this petition. A copy of the list, identified as "Attachment No. 3", follows these minutes and is made an official part hereof. Commissioner Maxwell remarked that he saw no reason for a connector road at Corinth and for that one aspect alone was the reason he was voting in opposition.

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

Commissioner Frady made a motion to accept the Planning Commission and staff's recommendation to deny Petition No. 1213-09. Commissioner Horgan seconded the motion. The motion carried 4-0. Commissioner Hearn recused himself as part of this discussion and was not present. A copy of staff's Analysis and Investigation recommending denial, identified as "Attachment No. 4", follow these minutes and are made an official part hereof. A copy of the Ordinance and Resolution denying Petition No. 1213-09, identified as "Attachment No. 5", follow these minutes and are made an official part hereof.

C. PUBLIC HEARING ON THE COUNTY'S PROPOSED ANNUAL BUDGET FOR THE FISCAL YEAR BEGINNING JULY 1, 2009, AND ENDING JUNE 30, 2010.

Chief Financial Officer Mary Holland reviewed the County's proposed annual budget for the fiscal year beginning July 1, 2009 and ending June 30, 2010. She remarked that this was one of two required public hearings and staff would be asking for the Board's consideration to adopt the budget at the June 25th meeting. She remarked that the total General Fund amounted to $46,325,411, total Special Revenue Funds amounted to $14,841,132, total Capital/CIP Projects Funds amounted to $4,446,075, total Solid Waste Fund amounted to $161,368, total Water System Fund amounted to $13,017,329 for a total of all budgeted funds in the amount of $78,791,315. She remarked that the proposed budget was actually a decrease over the current year's budget by $1.1 million for a reduction of 1.4%. She further remarked that in addition the 2009 was a reduction of 5.6% over fiscal year 2008. She stated that during the recent budget workshop meetings, the Board had asked staff to follow up on the Victims Assistance Fund. She presented a handout to the Board that summarized staff's recommendations as well as the monetary impact. A copy of the handout, identified as "Attachment No. 6", follows these minutes and is made an official part hereof. She said it was staff's recommendation to transfer three positions that were currently in the Victims Assistance Fund to the General Fund. She noted that the impact of that would be an increase to the General Fund of $174,160 and the same amount would be decreased from the Victims Assistance Fund. She said there would also be associated expenditures with those staff members that would amount to $3,042. She said staff was also recommending that the revenue in the Victims Assistance Fund be increased by $15,000. She said staff was recommending that these recommendation adjustments be added to the current budget as presented to the Board. She said this would address the shortage in the Victims Assistance Fund and would leave only one employee in the Victims Assistance Fund moving forward.

Chairman Smith asked if the $15,000 increase would be a one time event or an annual recurring transfer. Ms. Holland replied that staff felt this would be an annual recurring transfer and staff would be monitoring this on a monthly basis and providing feedback to the court system. Chairman Smith asked Ms. Holland if recent changes in sales tax collections materially impact this budget. Ms. Holland said staff had included a 10% reduction in this year's budget over last year

and she did not recommend any further changes. Chairman Smith asked for the percentage of sales tax reductions and Ms. Holland replied that through this last month, sales tax was actually down 6%.

Chairman Smith stated that this was a public hearing and he asked if anyone wished to speak in favor of the budget. Hearing none, he asked if anyone wished to speak in opposition to the proposed budget.

ALEX CHANDLER: Alex Chandler felt there needed to be a report of exactly what was being spent on everything in the County's budget. He questioned why the Victims Assistance Fund existed in the first place with the existence of the Marshal's Office and the Sheriff's Department.

Chairman Smith suggested Mr. Chandler contact the Clerk's Office and someone would be glad to go through the budget with him and answer any questions he might have. He noted that the Victims Assistance Fund was primarily funded by fines and forfeitures.

County Administrator Jack Krakeel interjected that the County's budget was listed on the County's website and included all line item expenditures and recommendations for every single County department as well as detailed information regarding both revenues and the sources of those revenues and anticipated revenues for fiscal year 2010.

Chairman Smith asked if anyone else wished to speak on this issue. Hearing none, he asked if the Board had any further questions or comments.

County Administrator Jack Krakeel asked for the Board's direction regarding the Victims Assistance Fund and the request to transfer of three of the four positions in the Victims Assistance Fund to the General Fund under the Solicitor's budget. The Board concurred.

PUBLIC COMMENT:
CHAIRMAN SMITH: Chairman Smith responded to the citizens' comments at the last Commission meeting regarding an incident involving one of the County Commissioners. He remarked that this Board either individually or collectively had no power to remove a sitting Commissioner. He said every member of this Board answers to the voters of Fayette County and not to each other. He said absent a felony act, it was only the voters who could remove a Commissioner. He asked the County Attorney to read the section in the ethics ordinance that this Board must abide by.

County Attorney Scott Bennett remarked that this was addressed in the Ethics Code which states that an investigation would be conducted by a County Attorney from a county within the judicial circuit. He said he would not be involved in that process. He said if that County Attorney felt that this should go further they would empanel a board consisting of neighboring County Attorneys to look into the matter and they would make a recommendation to this Board of Commissioners as to what action they believe would be appropriate. He said this Board could issue a written reprimand or public censure and also impose a monetary fine not to exceed $1,000.

Chairman Smith said if an ethics complaint was filed and adjudicated as positive, this body would have to sit as a jury to hear that evidence and determine the punishment that this body deems appropriate. He said it would be very inappropriate for this body to take a stance pro or against until such time as that process has run its course. He said he did not want the public to have the understanding that this Board would have the personal ability to take action. He remarked that anyone speaking under public comment would not address their comments to Commissioner Horgan but to the Board as a whole.

ROBERT ROSS: Robert Ross commented on Commissioner Horgan's recent arrest and presented a copy of his comments to the Board to be made a permanent part of these minutes. A copy of his handout, identified as "Attachment No. 7", follows these minutes and is made an official part hereof. He said public service carries a responsibility to consistently exercise a higher degree of conduct and judgment. He said anything less would serve to undermine the public confidence that Commissioners must hold to govern effectively. The said the citizens elected this Board of Commissioners to the County's highest office in the presumption of integrity, competence and moral character and empower the Board with authority to exercise judgment on multi million dollar issues, business futures and citizens' families. He said Commissioner Horgan's actions were much more than a simple mistake and go on to raise additional questions. He said the citizens now look to the other four Commissioners to salvage and strengthen the trust that was necessary for this Board to govern with citizen confidence and support. He pointed out that when a problem is passed by and not corrected, a new standard would then be established. He urged the Board to not let this become the new standard for the Fayette County Commissioners.

LARRY TORLEY: Larry Torley remarked that a few moments ago before this meeting began, the citizens of Fayette County got to see what duty and honor truly mean when one of the County's fallen soldiers was welcomed home. He said the citizens have the right to expect this Board to aspire to the same level of honor and duty. He said Commissioner Horgan had failed in that calling miserably and continued to act dishonorably by not resigning He said this Board could, should and must pass a measure of censure and condemnation, relieve Commissioner Horgan of all duties of his office beyond attending the meetings, and file the ethics complaint and petition with the Governor asking for Commissioner Horgan's removal. He said if the Board fails to condemn these activities, it will be seen as condoning them, or at the very least, treating this as an unimportant matter in the "good ole boys club." He asked the Board to do the honorable thing and move on.

DOUG BURCHER: Doug Burcher commented on the West Fayetteville Bypass. He said the Bypass would not accomplish the purpose by which it was supposedly designated; that it was unfair to the affected people's lives; and that it was a detriment to the environment. He felt the S.P.L.O.S.T. was meant for road improvements and not a bypass. He suggested widening Flat Creek Trail, Sam's Road and Lee's Lake as possible solutions and noted that these roads already exist. He said condemnation of the affected properties was not fair.

AISHA ABDUR-RAHMAN: Aisha Abdur-Rahman remarked that her district was represented by Commissioner Horgan and she was appalled that he had not resigned his position. She said the citizens in this district were now being represented by someone who was an admitted criminal. She said her tax dollars pay his salary and the best thing that he could do would be to resign. She said this Board may not have the authority to remove Commissioner Horgan from office, but the Board did have the authority to censure him. She said what Commissioner Horgan had done was unethical and absolutely outrageous.

DAWN OPARAH: Dawn Oparah said she has lived in Fayette County for twenty years and represented the young people of the county. She asked that this Board encourage Commissioner Horgan to resign and pointed out that the young people of this county were watching the actions of this Board of Commissioners.

J.D. HOLMES: J.D. Holmes commented on the West Fayetteville Bypass. He felt that a lot of money had been spent on a road to nowhere. He also questioned the car counts and the study that was done in 2003 for a projection of cars in 2030. He felt this money could be better used in the construction of the East Fayetteville Bypass.

MICHAEL MEYER: Michael Meyer commented on the West Fayetteville Bypass. He questioned the data that was used for the proposed bypass as well as the car counts. He also said there had been no mention of concern for the environment. He said with the state of the current economy, this project should be put on hold. He asked consideration for the Board to postpone a vote tonight on the bypass. He said this issue was not about three houses and a barn but was about preserving the quality of life and maintaining the unique Fayette County lifestyle.

DENNIS CHASE: Dennis Chase said he was the President of the Line Creek Association of Fayette County. He expressed concern with how the West Fayetteville Bypass was being managed. He said he still did not have answers as to why this Bypass was necessary and what alternatives were considered. He said he had seen nothing in the files that indicated what the real need for this Bypass was, what the real purpose of it was and what the alternative analysis was. He said it was very concerning to him that the Board would be voting on this tonight. He felt there were some major errors that had taken place on this project and the Board had ignored them. He said this was unfortunate and wrong.

HAROLD BOST: Harold Bost said it was unfortunate for the citizens of Fayette County when one of the elected officials makes choices that embarrass everyone. He said the actions of Commissioner Horgan were an outright disgrace to this County. He felt this sets a horrible example for the young people in Fayette County. He said if a County employee had done this, they would have been terminated just like several employees who were terminated in 2008. He said it was unfortunate that the same rules did not apply to Commissioners. He asked who Commissioner Horgan's supplier was so that they could be arrested and put out of business. He asked if Commissioner Horgan was selling marijuana in his transmission shop. He asked how many Commission meetings had Commissioner Horgan attended while under the influence and how many votes had he cast as a Commissioner while under the influence. He felt Commissioner Horgan should do the right thing and resign. He said this issue will not go away and the citizens will not let it go away.

LISA HOUSTON: Lisa Houston remarked that she had moved to Fayette County approximately one month ago and purchased property that abuts Lester Road. She said after three days of living in the house, she saw signs posted indicating the widening of her road under the Phase III of the Bypass. She said none of this information was provided to her prior to her purchase. She said the Bypass would negatively impact a lot of people and not just a few. She remarked that during these economic times, people were already losing their homes and this was impacting a lot of people and not just a few. She felt further studies needed to be done on this project including accountability to show and insure the voters that there was real public need for this Bypass. She questioned if this project was really for the good of all or was it just for the good of a very few who have interests in developing this land.

STEVE SMITHFIELD: Steve Smithfield said he was a representative of the West Fayetteville Bypass Coalition. He said he had previously submitted an Open Records Request to the Fayette County Board of Commissioners for information relating to the West Fayetteville Bypass Project. He said in response he was directed to visit the Fayette County Public Works Department in order to review records. He said he had found nothing but outdated traffic figures and over 60 negative bypass comments from the West Fayetteville Bypass open house held by the County on September 16th. He said he had not seen any detailed traffic studies or environmental studies relating to the West Fayetteville Bypass. He said the citizens were still waiting for Fayette County to present justification to the public for this Bypass. He said he had not heard one positive comment for the Bypass yet. He said before the meeting the Coalition had submitted twenty concurrences that they would like the Board to read before making a decision. He asked for the Board to delay its approval of the West Fayetteville Bypass until information justifying the project from an environmental traffic standpoint was released to the public.

NANCY BRYANT: Nancy Bryant said she had moved to Fayette County from Clayton County 19 years ago and loved the area for the rural feel as well as the school system. She said she and her husband lived on Lees Mill Road which had now become one of the most dangerous roads in the County. She felt money could be better spent on improvements to existing roads.

CAROLYN PERDUE: Carolyn Perdue said her neighbor was Don Newhart and his house would be taken down as a result of the Bypass. She noted that the Bypass was much more than two houses and a barn and noted that the Bypass would be within 30 feet of her bedroom window. She pointed out that the County had allowed high dollar houses to be built that were currently sitting empty and the Bypass would go around those homes and destroy her way of life. She asked the Board to reconsider building the Bypass.

ALICE JONES: Alice Jones commented that there were 25 pages of foreclosures in Fayette County and this was affecting the budget for Fayette County. She noted that one of the Commissioners had commented at the last Board meeting on May 28th that this County did not want any monies coming out of Washington but she asked what the citizens would do when the budget was affected and people were losing their homes. She asked if this Board was serving the best interests of the citizens of Fayette County. She also commented that she was a youth counselor advisor with the Fayette County NAACP. She said she spends many mornings at the Fayette County Jail with children who were being kicked out of school, incarcerated and sent to the juvenile detention center for the same offense that Commissioner Horgan had committed. She noted that Commissioner Horgan was the Commissioner who serves her district which was Post 1. She pointed out that Commissioner Horgan was not above the law and he must serve the sentencing for doing what was illegal. She said this type of behavior deserved punishment to the fullest extent of the law. She asked Commissioner Horgan to do the right thing and send in his letter of resignation.

JOHN E. JONES: John E. Jones said he wanted to personally commend the leadership of Commissioner Maxwell for writing a letter for everyone attending tonight's meeting. He said Commissioner Horgan was the representative for Post 1 which was his district. He said the at-large voting process has put Mr. Horgan in place for Post 1 and he had let the citizens down. He said once this County adopts the district voting process, accountability and representation would be significantly improved and provide an equal opportunity to get better qualified persons elected.

BOBBY WIGGINS: Bobby Wiggins suggested four laning Sandy Creek Road and six laning S.R. 74 to help route traffic to the interstate in order to get to Atlanta. He felt this would help alleviate the traffic congestion in Fayetteville as well as in Peachtree City.

LATRELLE BURCHER: Latrelle Burcher remarked that during one school year there were 180,000 students who will pass through the intersection if the Bypass went in across Lees Mill Road. She remarked that the Northwest quadrant was the largest and practically the only water recharge area for Fayette County. She said just last month she had gotten a letter in the mail stating that the water in this County did not meet water quality standards. She said the Bypass would directly impact this County's largest water recharge area. She said this Board was endangering the lives of every homeowner in this County by putting this Bypass through the water recharge area for this County. She said if any of the five Commissioners had at any time in their political careers accepted contributions from any developers who may have purchased land along this Bypass route, she felt it only fair to the citizens of Fayette County that those Commissioners not vote on the Bypass.

GORDON FURR: Gordon Furr asked the Board to do the right thing and deny the Bypass and quit wasting the taxpayers' money in these hard economic times. He commented that the Bypass would destroy the County's water supply. He said this was a road to nowhere except in the developer's pocketbook. He asked for consideration from the Board to allow the voters in the next election to determine if they wanted this on the ballot or not. He also expressed concern over possible failure of community septic systems along the Bypass and the taxpayers being left to pay the bill.

ANGELA HINTON FONDA: Angela Hinton Fonda commented on the West Fayetteville Bypass and the impact of increased traffic, heavy trucks and the effect on the County's drinking water. She remarked that she understood that dead man's curve would be straightened out as part of this project, the small bridge just past the curve was not built to take that kind of stress. She further remarked that it crossed a major source of the County's drinking water that would require stream bank restoration requirements for the environmental permits. She reported that the City of Atlanta had to abandon a road project because one stream crossing was conditioned on an additional $400,000 of stream bank restoration that was not anticipated. She also noted that those were 2005 dollars. She also commented on Commissioner Horgan's recent situation. She said having nothing good to say that as an attorney and as a citizen, she noted that as Commissioner Horgan had a matter pending before the State Court of Fayette County, he would recuse himself from voting on the budget at the June 25th meeting.

DON NEWHART: Don Newhart remarked that he lived on Janis Drive and his home was in the path of the Bypass. He said he agreed that something had to be done about the traffic but he certainly hated to see the community destroyed. He said he certainly did not have all of the answers but would like to get on with his life. He also commented on Commissioner Horgan's situation. He said he personally felt it would be in the County's best interest if Commissioner Horgan would resign.

CONSENT AGENDA: Commissioner Maxwell requested item no. 8 be removed for discussion. Commissioner Maxwell made a motion to approve consent agenda items 1-7 as presented and to remove item no. 8 for discussion. Commissioner Frady seconded the motion. The motion carried 5-0.

COOPERATIVE EXTENSION OFFICE - RENEWAL OF ANNUAL AGREEMENT:

1. Consideration of staff's request to renew the annual Agreement between Fayette County and the University of Georgia for the provision of Extension Services Programs in Fayette County for a period beginning July 1, 2009 and ending June 30, 2010. A copy of the request and agreement, identified as "Attachment No. 8", follow these minutes and are made an official part hereof.

SHERIFF'S DEPARTMENT - DONATION FROM WHITEWATER MIDDLE SCHOOL BUILDERS CLUB:

2. Consideration of staff's request to increase the FY 2009 budgeted revenues and expenditures to recognize a donation of $100 from the Whitewater Middle School Builders Club to be used by the Sheriff's Department K-9 Unit. A copy of the request, identified as "Attachment No. 9", follows these minutes and is made an official part hereof.

FIRE DEPARTMENT - RURAL FIRE DEFENSE MEMORANDUM OF UNDERSTANDING:

3. Approval of staff's recommendation to execute "Rural Fire Defense Memorandum of Understanding" between the Georgia Forestry Commission and the Fayette County Fire Department. A copy of the request and agreement, identified as "Attachment No. 10", follow these minutes and are made an official part hereof.

PARKS AND RECREATION - BID #709 - MOWING AND LANDSCAPING SERVICES FOR BROOKS PARK, KIWANIS PARK AND MCCURRY PARK:

4. Approval of staff's recommendation to award Bid # 709 Grass Mowing to S.S.F.W. Landscape Management for $2,150. per month for Brooks Park, Tru Green Landcare, LLC, for $3,821. per month for Kiwanis Park and to North Georgia Land Services for $2,730 per month for McCurry Park. A copy of the request, identified as "Attachment No. 11", follow these minutes and is made an official part hereof.

MAINTENANCE DEPARTMENT - BID #709 - MOWING AND LANDSCAPING SERVICES FOR THE JUSTICE CENTER:

5. Approval of staff's recommendation to award Bid # 709 Grass Mowing to Star Valley Landscape to provide mowing and other landscaping services at the Justice Center at a cost of $17,400 for 12 months. A copy of the request, identified as "Attachment No. 12", follow these minutes and is made an official part hereof.

LANDFILL - AMENDED WASTE MANAGEMENT CONTRACT:

6. Approval of staff's recommendation that the County's contract with Waste Management be amended to allow the County's Transfer Station to be closed on MLK Day, Memorial Day, and Labor Day, in addition to the holidays already recognized. A copy of the request, identified as "Attachment No. 13", follow these minutes and are made an official part hereof.

SUPERIOR COURT - PROFESSIONAL PROBATION SERVICES, INC. CONTRACT:

7. Approval of request from Superior Court Judge Paschal English that Fayette County designate Professional Probation Services, Inc. to provide probation services and programs for offenders sentenced by and under the jurisdiction of Superior Court. A copy of the request and contract, identified as "Attachment No. 14", follow these minutes and are made an official part hereof.

MINUTES:

8. Approval of minutes of the May 14, 2009 Board of Commissioners Meeting, the May 19, 2009 County Commission Budget Workshop, and the May 28, 2009 Board of Commissioners Meeting .

Commissioner Maxwell remarked that the wording in the minutes for the Commissioners' budget meeting held on May 19, 2009 regarding a budget request for the Elections Office did not accurately reflect what the Board had agreed on.

County Administrator Jack Krakeel remarked that there was a part-time position in the Elections Office approved at .5 hours and there had been an additional request to split the full-time position that was being vacated into part-time positions. He said the recommendation was to maintain the full-time position and not split it into part-time hours. Commissioner Maxwell agreed and stated that was also his understanding.

Commissioner Maxwell added that he also recalled during the discussion of funding requested for pay-for-performance that these funds, if approved, would not become available until January 1, 2010 and that he and Commissioner Frady had not been in favor of funding the pay-for-performance request. He said he would also like this included in the minutes for the May 19th Commissioners' budget workshop.

County Administrator Jack Krakeel said staff would be bringing this item back to the Board once all of the end of the fiscal year information was received during the month of October. He said should the funding be available and should the Board wish to continue this, it would be recommended for January 1, 2010. Commissioner Maxwell asked for clarification if this was being funded in the current budget and Mr. Krakeel replied no, it was not included in the budget.

Commissioner Maxwell made a motion to approve the amended minutes of the May 19th Commissioners' budget workshop to reflect that the Elections Office had requested that one full-time position be split into two part-time positions and that the Board had not agreed with that request. Commissioner Frady seconded the motion. The motion carried 5-0.

Commissioner Maxwell made a motion to approve the minutes for the Board of Commissioners' meetings held on May 14, 2009 and May 28, 2009. Commissioner Frady seconded the motion. The motion carried 5-0.

OLD BUSINESS:

D. CONSIDERATION OF THE PROPOSED ALIGNMENT OF PHASE II OF THE WEST FAYETTEVILLE BYPASS BY THE PUBLIC WORKS DEPARTMENT. THIS ITEM WAS TABLED FROM THE MAY 28 COUNTY COMMISSION MEETING:

Director of Public Works Phil Mallon stated he was presenting the proposed alignment of Phase II of the West Fayetteville Bypass for the Board's consideration. He said it was staff's opinion that the proposed alignment represented the best balance of minimizing impacts to private property, providing for a safe road, providing for a road that will help limit or control access to it in the future, minimizing environmental impacts, cost and overall functionality. He pointed out that what staff was presenting tonight was just a conceptual design and if approved, there would be many details to work out and the actual final alignment would likely shift a little bit.

Commissioner Maxwell remarked that the alignment presented showed the Bypass going through the barn, Mr. Blount's property and also through two homes located on Janis Drive and then terminates on Westbridge Road.

Commissioner Maxwell made a motion to approve the concept plan for the proposed alignment of Phase II of the West Fayetteville Bypass as presented by staff. Commissioner Frady seconded the motion, discussion followed.

Commissioner Maxwell remarked that this was the toughest decision he has had to make as a Commissioner. He said he would like to state for the record that he was not aware that he had received a single dime from any developer who was involved in this. He said he carries with him a newspaper article written by Ben Nelms in December 2008 giving the history of this road and it stated that this discussion started in 1985 and went through the various studies. He said the prior County Commission had decided to have a S.P.L.O.S.T. vote and that vote was passed 51% to 49%. He felt the citizens were saying as a result of that vote that there were traffic problems that they wanted resolved, road improvements and a bypass. He said his heart goes out to the people who will be impacted by this road. He said he drove by Mr. Blount's house yesterday and saw the many hours that Mr. Blount had put into his yard and the vote this Board was getting ready to take was going to take that away. He said this was the hardest decision that he has had to make but it was the only decision after all of the studies and input that he could make.

Commissioner Frady said he personally could not say anything to anyone to make them feel better and he felt bad about this himself. He said he had been a Commissioner for 17 years and another 5 years in Peachtree City for a total of 21 years in Fayette County government. He said he had been blessed to do some things and this was one thing he wished he did not have to do but he felt it was very necessary. He said this issue has been on the Board's agenda since Harold Bost was Chairman and also Greg Dunn was Chairman and it went even further back. He said the bypass had been planned and discussed by every Commission that he had been on. He said this was something that was necessary and had to be done for Fayette County and it had nothing to do with developers. He said he was aware that a lot of people were very unhappy about the bypass and he was sorry for that.

Chairman Smith said he would like to echo Commissioner Maxwell's comments and he stated that he did not have any developer friends who owned land in the path of the bypass. He said he was not on the Board when this road was originally contemplated and was not involved in politics but he did see the need for it. He said his heart especially goes out to the Blount family since they were in the direct path of the bypass and to the others that are affected as well.

Chairman Smith called for the vote on the motion.

The motion carried 5-0.

NEW BUSINESS:

E. CONSIDERATION OF A REQUEST FROM THE FAYETTE COUNTY BOARD OF EDUCATION THAT THE BOARD OF COMMISSIONERS ADOPT A RESOLUTION LEVYING AN ANNUAL TAX TO PAY THE DEBT SERVICE FOR 2009 BONDS TO BE ISSUED FOLLOWING THE REFUNDING OF BOARD OF EDUCATION BONDS ISSUED IN 1994 AND 1999:

County Attorney Scott Bennett remarked that he had received this request from the Bond Counsel for the School Board who requested consideration for the Board of Commissioners to adopt this Resolution. He said this would allow the School Board to refinance their bonds in order to get more favorable interest rates on their current outstanding bonds.

Commissioner Maxwell made a motion to authorize the Chairman to execute the Resolution for the Fayette County Board of Education levying an annual tax to pay the debt service for 2009 bonds. Commissioner Frady seconded the motion. The motion carried 5-0. A copy of the request and Resolution, identified as "Attachment No. 15", follow these minutes and are made an official part hereof.

ADMINISTRATOR'S REPORT:

ISSUE OF THE COUNTY PROVIDING BUILDING INSPECTION SERVICES TO THE TOWN OF TYRONE: County Administrator Jack Krakeel briefed the Board on a discussion he had with the Mayor of Tyrone regarding the County providing building inspection services to the Town. Mr. Krakeel said he had discussed this issue with staff and had placed three requirements on them: (1) any such agreement would not entail additional staff positions; (2) that fees received from those inspections be comparable and consistent with rates that were being charged to unincorporated residents; and (3) to minimize any potential administrative impact to other departments within the County such as the Finance Department. He said staff would be presenting preliminary findings to the Tyrone Town Council within the next week and a half. He said it did appear that staff could meet all of the prerequisites that he had outlined for staff. He said at some point, staff would be coming forth to the Board for a recommendation.

WATERING RESTRICTIONS REMOVED: County Administrator Jack Krakeel remarked that the Governor had removed watering restrictions for the State through the Department of Natural Resources Director Carol Couch. He said Fayette County was no longer under a Level IV drought declaration which substantially loosens the watering restrictions but leaves in place the odd/even watering system.

MOWING OF THE COUNTY'S RIGHT-OF-WAYS AND MEDIANS: County Administrator Jack Krakeel commented on the condition of the County's right-of-ways and medians and the rapid growth of vegetation. He said staff had contacted the Department of Transportation regarding this issue and possible safety concerns. He said staff was informed that due to budget cuts at the State level, it would be in late July or some time in August before D.O.T. would have any crews in Fayette County to mow and also that it would only be done once this year. He asked for the Board's consideration to allow staff to look at an estimate of time and labor costs for the County to take on this responsibility this year while

the State was dealing with budget issues for the medians. He said staff would bring this information to the Board at the June 25th meeting.

Commissioner Hearn asked Mr. Krakeel to look at all possible solutions including outsourcing this and the cost associated with outsourcing so that information could be taken to the State delegation and let them know the impact this was having on the taxpayers in Fayette County. Mr. Krakeel interjected that the City of Fayetteville maintains a portion of the right-of-ways up to the City limits and to make a determination whether or not there might be any opportunities for cost sharing and/or providing the County with an estimate for some of the areas within close proximity to the municipal areas. Commissioner Hearn said this might just be a manpower issue more than an equipment issue and he suggested staff talk to some of the officials at G.D.O.T. to determine if there might be some opportunities for the County to partner with them. Mr. Krakeel said he had spoken to individuals at G.D.O.T. and asked them if they were interested in potentially providing the County with some revenues and whether or not that was an opportunity to just take over that responsibility from the State given their limitations, and was informed that there was no revenue available. He said the County would have to apply for a permit with G.D.O.T. to do the maintenance on the medians. Commissioner Hearn said he was aware of the State's permit process and sometimes it was very cumbersome but he felt during these times it was unreasonable for the right-of-ways on the State routes to be cut only once a year.

Chairman Smith asked if there was any cost for the permit and Mr. Krakeel replied no there was no cost.

ATTORNEY'S REPORT:
None.

STAFF REPORTS:
None.

BOARD REPORTS:
COMMISSIONER MAXWELL: Commissioner Maxwell asked for the Board's consideration to present a Resolution recommending that Governor Sonny Perdue consider and appoint Judge Christopher Edwards to the Georgia Supreme Court. He said the Resolution would be part of Judge Edwards packet that would be presented to the nominating committee and Governor Perdue.

Commissioner Maxwell made a motion authorizing the Chairman to execute Resolution No. 2009-09 recommending that Governor Sonny Perdue consider and appoint Judge Christopher Edwards to the Georgia Supreme Court. Chairman Smith seconded the motion. The motion carried 4-0-1 with Commissioner Horgan abstaining from the vote. A copy of Resolution No. 2009-09, identified as "Attachment No.16", follows these minutes and is made an official part hereof.

COMMISSIONER HEARN: Commissioner Hearn asked for consideration to allow staff to look at three intersections including Hilo Road at S.R. 92, Bernhard Road at S.R. 85 as well as Harp Road and S.R. 85 and provide an update to the Board at the Wednesday, July 1st Board meeting on the percentage of design complete, right-of-way acquisition, and when projects will be let.

EXECUTIVE SESSION: County Attorney Scott Bennett requested an Executive Session to discuss real estate acquisition.

Commissioner Hearn made a motion to adjourn to Executive Session to discuss real estate acquisition. Commissioner Frady seconded the motion. The motion carried 5-0.

Commissioner Horgan made a motion to adjourn the Executive Session and reconvene in open session. Commissioner Frady seconded the motion. The motion carried 5-0.

Chairman Smith reconvened the meeting and remarked that no action had been taken.

Commissioner Frady made a motion to authorize the Chairman to execute the Executive Session Affidavit affirming that real estate acquisition was discussed in Executive Session. Commissioner Horgan seconded the motion. The motion carried 5-0. A copy of the Affidavit, identified as "Attachment No. 17", follows these minutes and is made an official part hereof.

ADJOURNMENT: Chairman Smith announced that there was no other business to come before the Board and the meeting was adjourned at 10:06 p.m.

_____ _____

Karen Morley, Chief Deputy Clerk Jack R. Smith, Chairman

The foregoing minutes were duly approved at an official meeting of the Board of Commissioners of Fayette County, Georgia, held on the 9th day of July, 2009.

_____

Karen Morley, Chief Deputy Clerk