Minutes

Board of Commissioners
June 25, 2009
7:00 P.M.

The Board of Commissioners of Fayette County, Georgia, met in Official Session on Thursday, June 25, 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 Eric Maxwell
Commissioner Absent:	Robert Horgan
Staff Present:	Jack Krakeel, County Administrator Scott Bennett, County Attorney Carol Chandler, Executive Assistant Floyd L. Jones, Deputy Clerk

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Call to Order, Invocation, and Pledge of Allegiance.

Chairman Smith called the June 25, 2009 Board of Commissioners meeting to order at 7:02 p.m.
Commissioner Hearn gave the Invocation.
Chairman Smith led the audience in the Pledge of Allegiance.

Acceptance of Agenda.

Commissioner Hearn moved to accept the Agenda as published. Commissioner Frady seconded the motion. The motion passed 4-0.

PRESENTATION/RECOGNITION:

A. Recognition of Mr. Derk Meuller and Mr. Mike Shaffan for their efforts in a boating rescue on Lake Horton.

The Board of Commissioners, Chief Allen McCullough, and Chief Marshall Ed Collins recognized Mr. Derk Meuller, Mr. Mike Shaffan, and employees of the Public Safety Department for their efforts to rescue local fishermen Mr. William Waters, Mr. Jim Carp, and Mr. Bobby Cochran whose boat sank in Lake Horton. A copy of the request and a Press Statement, identified as “Attachment 1", follow these minutes and are made an official part hereof.

PUBLIC HEARING:

B. Public Hearing on the County's proposed annual budget for the fiscal year beginning July 1, 2009 and ending June 30, 2010.

Finance Director Mary Holland gave a brief presentation of the proposed Fiscal Year 2010 budget to the Board and asked the Board to adopt Resolution 2009-10 which would effectively adopt the proposed budget.

Commissioner Frady complimented staff for doing a terrific job with the budget, acknowledged that it takes many months to prepare the budget, and said he appreciated staff's stamina and the excellent job which was accomplished.

No one from the public spoke in favor of the budget.

Elizabeth "Liz" Maddox": Ms. Elizabeth Maddox, a resident of Peachtree City, acknowledged she did not quite understand the budget and asked, if the budget were adopted in its present form, would additional money be prevented from being added to the budget. Chairman Smith replied money could not be added to the budget without a budget amendment which would use money budgeted in the Contingency Fund. Ms. Maddox asked if the proposed budget was a "tight" budget, and Chairman Smith replied that it was.

Alice Jones: Mrs. Alice Jones, a resident of Fayetteville, noted there was no money budgeted for the Kenwood Park Project despite staff's recommendations for funds to be utilized for grass mowing at other County parks. She told the Board that over the past weeks people from various communities have commented that County-owned property in Kenwood Park has become overgrown and out of control. She stated that only the property belonging to Phase I of the park was being cut. She suggested Contingency Funds or other funds be used to cut the County-owned property at the park.

Gordon Furr: Mr. Gordon Furr, a resident of Tyrone, stated the Town of Tyrone needed another fire station since new developments would be constructed north of town, but he questioned why money should be used to remove Fire Station Three, located on Senoia Road, when it can be used to protect all of Tyrone's subdivisions without having emergency vehicles enter SR 74. He asked that the new fire station be built on county property located along Sandy Creek Road and for the Board to simultaneously save the old fire station. Mr. Furr then asked how much money would be spent to construct the West Fayetteville Bypass since he was concerned about the cost. He suggested the money could be better used by repairing roads in the county.

Chairman Smith explained this hearing was not about SPLOST and he added he was unclear what Mr. Furr was advocating with respect to the fire station. Mr. Furr replied he did not understand the need to do away with a perfectly good fire station that is serving its purpose very well in order to construct another fire station.

Chairman Smith reminded Mr. Furr that the septic system at Fire Station Three has failed and the County has been threatened with eviction from the station by the Public Health Department. He said the County has very little choice in the matter since the Public Health Department has also informed the County it may not have any room on the property to expand the septic system. He added as far as SPLOST funds are concerned they were voted on by members of the voting public who spoke on what they wanted, after which the budget was adopted, and that the topic is not a recurring issue. He closed saying the Board is only addressing the budget currently presented before it.

No one else spoke in opposition to the budget.

Commissioner Maxwell moved to adopt Resolution 2009-10 adopting Fayette County's proposed annual budget of $78,791,315, for the fiscal year beginning July 1, 2009 and ending June 30, 2010. Commissioner Hearn seconded the motion.

Chairman Smith acknowledged Budget Officer Sergio Acevedo was in the audience before thanking him, staff, and Ms. Holland for their work. He summarized that staff managed to create an austere budget he was sure the County could operate within its means.

The motion to adopt Resolution 2009-10 adopting Fayette County's proposed annual budget of $78,791,315, for the fiscal year beginning July 1, 2009 and ending June 30, 2010 passed 4-0. A copy of the request and Resolution 2009-10, identified as "Attachment 2", follow these minutes and are made an official part hereof.

C. Consideration of proposed amendments to the Fayette County Subdivision Regulations Section 3 General; Section 4 Approval of Subdivisions; Section 5 The Subdivision Plat; Section 9 Acceptance and Guarantee of Completed Improvements; and Section 10 Violations and Penalties. This item was deferred from the May 28, 2009 Board of Commissioners Meeting.

Public Works Director Phil Mallon stated he was representing several departments to request the Board's approval of the proposed amendments to the Fayette County Subdivision Regulations and gave a brief history of how the County "got to this point". He concluded his presentation stating he would return with fully revised Subdivision Regulations at a Workshop Meeting prior to the September 24th Meeting and he anticipated the fully revised regulations would be adopted during the September 24th Board of Commissioners meeting.

Chairman Smith said there were two parts to this request. He explained the first part of the request was for the Board to give consensus allowing the departments to continue reviewing Fayette County's Subdivision Regulations. He asked for the Board's consensus on this matter and it was unanimously given.

Randy Boyd: Mr. Randy Boyd, a resident of Fayetteville, spoke in favor of the proposed amendments to the Fayette County Subdivision Regulations.

Deron Hicks: Mr. Deron Hicks, a resident of Warm Springs, Georgia, and General Council for the Homebuilders Association of Georgia, spoke on behalf of the members of the Homebuilders Association of Georgia. He said the members were concerned over the reason given for the one particular change allowing the Secretary of the Planning Commission to determine if Planning Commission approval had been given and signing the final plat instead of requiring the Planning Commission to take another action. Mr. Hicks added the membership thought this practice would create a delay in the approval process and asked the Board to delay approving the proposed amendments until further review is made. He was also concerned that the reason the change was being made was due to a perception that change was necessary.

Commissioner Maxwell replied that he appreciated Mr. Hick's comments and that he would like to see the Attorney General's decision referenced by Mr. Hicks. He added Commissioners receive a monthly report on housing starts and lately there have been no housing starts in Fayette County, he stated he "did not know that waiting until September is going to make that big of a difference", and did not believe there would be a

significant improvement of the economy in that time span or there would be a big rush of housing starts in a three month time period. He concluded that he would not mind readdressing the issue in September but he thought the Board should begin to "clean this ordinance up" on the one particular issue. Discussion followed.

Commissioner Maxwell moved to approve the proposed amendments to the Fayette County Subdivision Regulations Section 3 General; Section 4 Approval of Subdivisions; Section 5 The Subdivision Plat; Section 9 Acceptance of Guarantee of Completed Improvements; and Section 10 Violations and Penalties. Commissioner Hearn seconded the motion.

Commissioner Maxwell asked for the County Attorney Scott Bennett and Mr. Mallon to look into Mr. Hick's particular concern. Chairman Smith added that it is not the Board's intention to hamper any business and he hoped by September information will be presented to the Board to allow it to "overhaul" whatever part of the Subdivision Regulations need to be corrected. He said if the currently proposed amendments can be revisited then he expected that to be done as well. He closed saying he did not want there to be any thought that this action would close the book on the current issue.

The motion to approve the proposed amendments to the Fayette County Subdivision Regulations Section 3 General; Section 4 Approval of Subdivision; Section 5 The Subdivision Plat; Section 9 Acceptance of Guarantee of Completed Improvements; and Section 10 Violations and Penalties passed 4-0. A copy of the request, identified as "Attachment 3", follows these minutes and is made an official part hereof.

D. Consideration of a Beer, Wine and Distilled Spirits Pouring Permit for Frank's at The Old Mill, 1095 SR 54 West, Fayetteville, Georgia. Frank Psomas, Owner/Applicant. This property is located in Land Lot 127 of the 5th District, fronts on SR 54 West, and is zoned C-C Conditional. This permit is for a New Location.

Frank Psomas: Mr. Frank Psomas, a resident of Palmetto, Georgia, spoke in favor of this request.

The Commissioners welcomed Mr. Psomas to Fayette County saying they have enjoyed eating at the restaurant in Coweta County and they were being questioned about when the Fayette restaurant would open.

Neil Davis: Mr. Neil Davis, a resident of Fayetteville, spoke in favor of this request.

No one spoke in opposition to this request.

Commissioner Frady moved to approve a Beer, Wine, and Distilled Spirits Pouring Permit for Frank's at The Old Mill, 1095 SR 54 West, Fayetteville, Georgia, Frank Psomas, Owner/Applicant. Commissioner Hearn seconded the motion. The motion passed 4-0. A copy of the request, identified as "Attachment 4", follows these minutes and is made an official part hereof.

E. Consideration of a Packaged Beer and Wine License for SSN Highway 85, Inc., d/b/a Chevron Food Mart, 1488 SR 92 North, Fayetteville, Georgia, Shirin Nathani, Owner/Applicant. This property is located in Land Lot 256 of the 13th District, fronts on SR 92 North, and is zoned C-H. This is for a Change of Ownership only.

Shirin Nathani: Ms. Shirin Nathani, a resident of Fayetteville, spoke in favor of this request.

No one spoke in opposition to this request.

Commissioner Frady moved to approve a Packaged Beer and Wine License for SSN Highway 85 Inc., d/b/a Chevron Food Mart, 1488 SR 92 North, Fayetteville, Georgia, Shirin Nathani, Owner/Applicant. Commissioner Hearn seconded the motion. The motion passed 4-0. A copy of the request, identified as "Attachment 5", follows these minutes and is made an official part hereof.

F. Consideration of Petition Nos. 1215-09 and RP-045-05, Kenneth J. Lazarus of Southern Crescent Neurological Clinic, PC, Owner, and Randy Boyd, Agent, request to rezone Land Lots 1, 2, 3, and 4 of Ledgewood Subdivision consisting of 3.74 acres from R-40 to O-I to develop office-institutional uses; and to revise the Final Plat of Ledgewood Subdivision to change the use of said lots from Single-Family Residential to Office Uses and to combine the four (4) lots into one (1) lot. This property is located in Land Lot 127 of the 5th District and fronts on 54 West. STAFF RECOMMENDED APPROVAL WITH THREE (3) CONDITIONS. THE PLANNING COMMISSION RECOMMENDED APPROVAL 3-2 WITH THREE (3) CONDITIONS.

Community Development Director Pete Frisina read the *Introduction for Public Hearings* before the rezoning request was heard. A copy of the *Introduction to Public Hearings*, identified as "Attachment 6", follows these minutes and is made an official part hereof.

Commissioner Maxwell announced he would recuse himself from this public hearing since Dr. Lazarus contributed to his campaign. Commissioner Maxwell then exited the meeting.

Randy Boyd: Mr. Randy Boyd, a resident of Fayetteville, returned to the Board to speak in favor and to give an explanation of the petitions. At the end of his presentation, he requested the second recommended condition to be amended stating the fence will be constructed during the time the building is constructed or during the development of the property.

Gordon Furr: Mr. Gordon Furr, a resident of Tyrone, returned to the Board stating he was unsure if he supported the request, but asked that the County's engineers would "take care of the impervious run-off in retention ponds" created by mixing commercial development into residential areas. He explained that his mother lives in Fairburn, Georgia and her house was almost washed away due to "a development above them that did not even have a retention pond".

Commissioner Frady moved to approve Petition Numbers 1215-09 and RP-045-09, Kenneth J. Lazarus of Southern Crescent Neurological Clinic, PC, and Randy Boyd, Agent, request to rezone Land Lots 1, 2, 3, and 4 of Ledgewood Subdivision consisting of 3.74 acres, located in Land Lot 127 of the 5th District and fronting on SR 54 West, from R-40 to O-I to develop office-institutional uses, and to revise the Final Plat of Ledgewood Subdivision to change the use of said lots from Single-Family Residential to Office Uses and combine the four (4) lots into one (1) lot, with the three conditions recommended by staff and the Planning Commission. Commissioner Hearn seconded the motion.

Chairman Smith asked Commissioner Frady to amend his motion that the second condition reflect a fence will be constructed at the time the building is constructed or during the development of the property. Mr. Frisina interjected saying the change was already made to the second recommended condition as found in the last sentence of the condition, and he implied that reiterating the language was unnecessary.

The motion to approve Petition Numbers 1215-09 and RP-045-09, Kenneth J. Lazarus of Southern Crescent Neurological Clinic, PC, and Randy Boyd, Agent, request to rezone Land Lots 1, 2, 3, and 4 of Ledgewood Subdivision consisting of 3.74 acres, located in Land Lot 127 of the 5th District and fronting on SR 54 West, from R-40 to O-I to develop office institutional use, and to revise the Final Plat of Ledgewood Subdivision to change the use of said lots from Single-Family Residential to Office Uses and combine the four (4) lots into one (1) lot, with the three conditions recommended by staff and the Planning Commission passed 3-0-1 with Commissioner Maxwell recused and abstaining from the vote. A copy of the request, recommended conditions, Staff Analysis and Investigation, and the maps, identified as "Attachment 7", follow these minutes and are made an official part hereof. A copy of the Ordinance and Resolution approving Petition Number 1215-09 with three recommended conditions, identified as "Attachment 8", follow these minutes and are made an official part hereof.

Recognition of Cindy Morley: Chairman Smith recognized Cindy Morley of the *Fayette Daily News* saying he understood this would be the last meeting she would attend in her current capacity. He continued that Cindy had been with *Fayette Daily News* for approximately 17 years and now she has accepted another position. He thanked her for her service to Fayette County, for her reporting, and said he could speak on and on about Mrs. Morley's contributions to the community. He concluded by thanking her for what she means to the community and wished her well in her new endeavor.

PUBLIC COMMENT:

Elizabeth "Liz" Maddox: Ms. Elizabeth Maddox, a resident of Peachtree City, returned to address the "water issue" and referenced a letter sent in a water bill that reported on data collected between January 1, 2008 and December 31, 2008. Her particular concern was about the "harmful potential effects of lead in water". Ms. Maddox then gave a number of suggestions to the Board regarding how to address the problems associated with lead in the water.

Harold Bost: Mr. Harold Bost, a resident of Fayetteville, acknowledged the Board does not have the power to remove Commissioner Robert Horgan from the Board before announcing if Commissioner Horgan did not resign by July 15, 2009 the members of Fayette Citizens for Open Government, or FayCOG, will initiate a recall petition against him. Mr. Bost then spoke against Commissioner Horgan questioning his performance as a Commissioner and the effects of marijuana on the Commissioner. He called on Commissioner Horgan to "save what little face he has left, to do the right thing, to resign, and resign right now".

Ben Morrell: Mr. Ben Morrell, a resident of Fayetteville, spoke in "negation" of FayCOG and others calling for the censure, punishment or resignation of Commissioner Robert Horgan. He stated the reaction of those calling for some punishment is premature since the Commissioner has only been charged with a crime but not convicted. He further questioned if the same fervor would exist in the public if the Commissioner had been found to be an alcoholic or an abuser of prescription drugs. He concluded that Commissioner Horgan be held to the same standard as County employees which includes the possibility of treatment in a drug abuse program, and if the Commissioner "messes up again to fire him fast".

Gordon Furr: Mr. Gordon Furr, a resident of Tyrone, returned to the Board for a third time stating Commissioner Robert Horgan sits on the Board of Health before asking the Commissioners to remove him from that Board. Mr. Furr also spoke against sending raw and untreated sewage into the County's reservoirs, and he wanted to save the water for future generations. He did not like how the County was destroying the streams by emptying pollutants into them. He questioned why the County quit building bridges, why the County was building culverts, and was concerned that wildlife has to drink polluted water and could not get from one side of the road to another safely due to the culverts. He also mentioned if he could save the County or any of its cities some money he would be glad to help by referring to his participation, work and input regarding the failing septic system at Fire Station Three.

Pat Hinchey: Mr. Pat Hinchey, a resident of Fayette County, thanked Mr. Morrell for making some really good points and explained that he thought long and hard about filing an Ethics Complaint against Commissioner Horgan. He initially thought there was nothing to be done until Commissioner Horgan admitted on public record what he did and, as a result, Mr. Hinchey said he thought there was certainly an ethical problem since the Commissioner admitted wrongdoing, committed a crime, and the procedure needed to be followed. He continued that this issue really has nothing to do with the crime itself since educated people can debate the effects of the drug war and the drug problem, but the problem was the Commissioner broke a currently standing law. He finished saying citizens are tired of elected people breaking the law and feeling they are above the law, and that is what this is all about.

Alan Bell: Mr. Alan Bell, a resident of Fayette County, said he was confused with this Board since he was led to believe it was against taking from a residential, planned subdivision, and rezoning it to O-I Commercial. He said he hoped to get fair and equal treatment from the Board.

CONSENT AGENDA:

Commissioner Hearn moved to approve Consent Agenda Items 1-9. Commissioner Frady seconded the motion. Chairman Smith asked for Consent Agenda Item 8 to be removed and voted on separately. Commissioner Hearn amended his motion to approve Consent Agenda Items 1-9 with the exception of Consent Agenda Item 8. Commissioner Frady seconded the motion. The motion passed 4-0.

1. **Approval of request to reappoint Ken Schall to another three-year term on the McIntosh Trial Community Service Board, commencing July 1, 2009 and expiring June 30, 2010. A copy of the request, identified as "Attachment 9", follows these minutes and is made an official part hereof.**

2. **Approval of staff's recommended changes to the Benefits section of the Policies and Procedures Manual to concur with changes to the County's defined contribution and deferred compensation plans, along with the implementation of a defined benefit plan. A copy of the request, identified as "Attachment 10", follows these minutes and is made an official part hereof.**

3. **Approval of staff's request to replace Medic Unit 2 which was totaled in an accident in May. A copy of the request, identified as "Attachment 11", follows these minutes and is made an official part hereof.**

4. **Approval of request from the Sheriff's Department to dispose of a vehicle, by sale or trade, that was seized by the Tactical Narcotics Team. A copy of the request, identified as "Attachment 12", follows these minutes and is made an official part hereof.**

5. Approval of the request from the Sheriff's Department to amend the Overtime Budget for the Fayette County Sheriff's Office Criminal Investigations Division by $2,305.84 for reimbursement for employees assigned to work with various federal agencies. A copy of the request, identified as "Attachment 13", follows these minutes and is made an official part hereof.

6. Approval of staff's recommendation 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 14", follows these minutes and is made an official part hereof.

7. Approval of staff's recommendation that the fee for fingerprinting applicants for Beer, Wine, Alcohol, and Canvassers/Solicitor's business license be increased to $50 per person due to an increase to the County by the Georgia Crime Information Center for processing fingerprints. A copy of the request, identified as "Attachment 15", follows these minutes and is made an official part hereof.

8. Approval of staff's request to award Proposal #P707 to Mike Wright and Co., d/b/a Wright's Hydro Seeding, for the purpose of having an annual county-wide contractor available for erosion control installation on public works projects. A copy of the request, identified as "Attachment 16", follows these minutes and is made an official part hereof.

Chairman Smith announced the reason he asked for Consent Agenda Item 8 to be removed from the Consent Agenda was because he received campaign contributions from the principals in the company. He said he intended to abstain from the vote on this item. Commissioner Frady moved to approve Consent Agenda Item 8. Commissioner Hearn seconded the motion. The motion passed 3-0-1 with Chairman Smith abstaining from the vote.

9. Approval of request to allow Mallett Consulting, Inc. to proceed with engineering and design for the following three SPLOST projects: FC-2, I-10, and B-3. The terms and conditions associated with this Notice-To-Proceed are set in the County's Agreement for Professional Services dated August 1, 2005. A copy of the request, identified as "Attachment 17", follows these minutes and is made an official part hereof.

NEW BUSINESS:

G. David and Sandra Rosa have requested a hearing before the Board of Commissioners concerning a request for tax refunds.

Mrs. Sandra Rosa, a resident of Brooks, spoke on behalf of herself and her husband, requested a tax refund for the past seven years due to an error by the Assessor's Office, and gave an explanation of her request.

Chairman Smith asked Mrs. Rosa how they became aware the taxes were in error. Mrs. Rosa answered that as their taxes continued to rise and after speaking to friends and family they discovered their taxes were consistently higher than everyone else's taxes based on the size of the house. She said the last assessment they received did not increase even though the taxes increased, so she researched the issue and discovered the square footage recorded for her house was incorrect.

County Attorney Scott Bennett advised the Board that Georgia Law permits a taxpayer to apply for a refund of taxes paid in error up to three years from the date of the tax payment, but it also prohibits the County from paying any debt it is not legally obligated to pay. Mr. Bennett explained that the Georgia Constitution states local governments shall not have the power to grant any donation or gratuity or forgive any debt or obligation owed to the public and summarized that the County cannot give something away it does not owe. He was afraid if the Board granted a refund beyond the year 2006 it would be in violation of the Georgia Constitution and taxpayer money would be paid on a debt that is not legally owed. He said it was his opinion that the Tax Assessor correctly recommended a tax refund for the past three years as required by law.

Chairman Smith asked Mr. Bennett if he happened to know what the updating interval is between changes in the tax records and changes on the GIS website. Chief Appraiser Joel Benton replied the Assessors Office updates the GIS website once a year when the digest is approved. He explained that the Board of Assessors did not believe changes being made on a continuous basis would be very beneficial since "numbers" change throughout the year until the digest is submitted to the State and finalized in or around August of each year. He added the records Mrs. Rosa sees during her research may still be incorrectly reflected on the website even though the correct records are currently in the Tax Assessor's system. Chairman Smith asked how this error occurred, and Mr. Benton replied the error was admittedly a human error.

Commissioner Maxwell said the problem he had preventing him from granting the entire request was based on the harshness of the statue of limitations and he was hearing from the County Attorney that the Board could not get around the statute of limitations without abdicating its duty under the Georgia Constitution. He stated if there were a way to avoid the statute of limitations and grant the full refund he would certainly be in favor of doing so. He sympathized with the Rosa family saying it was a horrible situation and it was a difficult dilemma for the Board since it was not able to correct the problem due to Georgia law. Some discussion followed.

Chairman Smith agreed with Commissioner Maxwell, said he understood the Rosa's position, and added it was unfortunate that the Board was in a position to make a decision based on law instead of on heart. He added, from a heartfelt standpoint, he sympathized with the Rosa family for being placed in this position, but he asked the Rosa's to recognize the Board was in a position where it must act in accordance with the Attorney's recommendation and not move outside the scope of its authority.

Commissioner Maxwell moved to grant David and Sandra Rosa's request for a tax refund in the amount of $2,064.25 for the years 2006, 2007, and 2008, and to deny the request for tax refunds in the amount of $2,549.07 for the years of 2002, 2003, 2004, and 2005. Commissioner Frady seconded the motion.

Commissioner Maxwell added that during the hearing he understood the Rosa's may decide to pursue further means to receive their full refund, and, while he did not want to discourage them in their efforts he suggested they may get frustrated with the system. He continued that he would like nothing better than to grant the full refund and have the Chairman "sign their check", but repeated the Board is bound by a State law it did not create. Commissioner Frady agreed with Commissioner Maxwell and asked if this situation were reversed how far in the past could the County go to collect taxes. County Attorney Bennett replied he was unsure but he thought the County could pursue back taxes for seven years.

The motion to grant David and Sandra Rosa's request for a tax refund in the amount of $2,064.25 for the years 2006, 2007, and 2008, and to deny the request for tax refunds in the amount of $2,549.07 for the years of 2002, 2003, 2004, and 2005 passed 4-0. A copy of the request and a letter from the Rosa's, identified as "Attachment 18", follow these minutes and are made an official part hereof.

H. Mr. Vincent Williams has requested a hearing before the Board of Commissioners concerning a request for tax refunds.

Mr. Vincent Williams, a resident of Fayette County, requested that the Board reinstate his Senior Citizen Homestead Tax Exemption for the years 2007, 2008, and 2009, before giving an explanation of his request.

County Attorney Scott Bennett advised the Board to deny the request since Georgia's Homestead Exemption Statutes defines a homestead as real property owned by and in possession of the applicant as of January 1 of each year, and since Mr. Williams was not the record owner of the property. He explained in 2005 a deed was executed which quit claimed Mr. William's property to another person and the County was unaware of the deed until 2007 when the deed was recorded. He continued explaining the County removed the Homestead Exemption in 2007 on Mr. William's home since he was no longer the recorded owner of the property. He added in 2009 another quit claim deed was recorded that switched the property back from the other individual to Mr. Williams. He said no deed was filed prior to Mr. William's seeking of a Homestead Exemption for the years 2007, 2008 and 2009, and therefore the Tax Assessor and the Tax Commissioner had no way to grant a Homestead Exemption. He concluded the County had no choice but to deny the request due to a lack of ownership which is a strict requirement in Georgia's Homestead Exemption Statutes. He summarized that the deed conveying the property from Mr. Williams to the third party was not cancelled, corrected, and had no court proceedings nullifying the deed, but the only action that occurred was another quit claim deed back to Mr. Williams, meaning, from a legal standpoint, Mr. Williams did not own the property and the County does not have the legal authority to grant a Homestead Exemption for a non-owner occupied property. He said this is an unfortunate situation but it is not something the County can correct. Some discussion followed.

Commissioner Maxwell moved to deny Mr. Vincent Williams' request for a tax refund in the amount of $1,001.72 due to lack of ownership and to deny Mr. Williams' request to reinstate his Homestead Tax Exemption for the years 2007, 2008 and 2009. Commissioner Hearn seconded the motion. The motion passed 4-0. A copy of the request, identified as "Attachment 19", follows these minutes and is made an official part hereof.

I. Consideration of a request that Mask Road be designated as an authorized street for motorized cart travel. Based on an evaluation of applied criteria, staff recommends denial of this request.

J. Consideration of a request that McBride Road be designated as an authorized street for motorized cart travel. Based on an evaluation of applied criteria, staff recommends denial of this request.

Community Development Director Pete Frisina asked if the Board would consent to hear New Business Items I and J simultaneously since they are similar requests. The Board consented to Mr. Frisina's request. Mr. Frisina then spoke about both requests and explained why staff recommended denial of both requests.

Commissioner Hearn moved to deny the requests that Mask Road and McBride Road be designated as authorized streets for motorized cart travel as recommended by staff based on evaluations using applied criteria. Commissioner Frady seconded the motion. The motion passed 4-0. A copy of the requests, identified as "Attachment 20" and "Attachment 21", respectively, follow these minutes and are made an official part hereof.

K. Approval of staff's recommendation to award a bid in the amount of $2,048,595.70 to The Miller Group Inc. for Asphalt Resurfacing with Full Depth Reclamation (FDR) of nine County roads, totaling 10.06 miles. The work shall be funded with transportation Special Purpose Local Option Sales Tax (SPLOST) funds.

Public Works Director Phil Mallon explained the purpose of this request and how it would be funded. He added that his request be changed to increase the bid amount and to add Redwine Road. He explained this change is a last minute request since Redwine Road was removed from the original bid due to a concern for a lack of available funds and due to a belief that some of the federal stimulus monies could be used for the road. He said Redwine Road is being added back to the request since the County now realizes Redwine Road is not a good candidate for the stimulus money. He said the request was also added after working with the Finance Department and realizing the County has enough money in the 30% transportation SPLOST fund to award a contract for all ten roads.

Chairman Smith asked if The Miller Group was still the low-bidder even with Redwine Road added to the request. Mr. Mallon replied they were still the low-bidder. Commissioner Hearn asked Mr. Mallon to explain why Full Depth Reclamation "is a good recipe". Mr. Mallon explained Full Depth Reclamation offers several advantages but the two most important advantages are it is cheaper than a traditional mill and patch operation would be for each of the ten roads and, from an engineering standpoint, rather than patching and spot treating certain sections of the road the road is being rehabilitated from start to finish.

Chairman Smith asked when the roads were last resurfaced to which Mr. Mallon replied it would likely be ten years ago but he did not know the answer for each road since they vary in age.

Commissioner Maxwell asked why interstates may have 20 miles of lanes coned off with work being conducted on only a 100' section, said he did not understand that practice, and added he did not want a contractor in Fayette County following a similar practice on County roads. Mr. Mallon replied that work on heavy roads would cause an inconvenience for commuters but efforts would be undertaken to limit the inconvenience. He added that Full Depth Reclamation is accomplished at a faster pace than other projects which would also limit the amount of disruption to traffic.

Chairman Smith asked if the County has used The Miller Group in the past and, if so, what were the results. Mr. Mallon answered they were used last year for six roads and their work went "very well". Commissioner Hearn added he could say through personal experience that The Miller Group does a great job and has a great reputation throughout the State.

County Administrator Jack Krakeel mentioned there is one element to the bid award that would require additional discussion with the City of Peachtree City, recalling that several months ago he reported to the Board that he had several discussions with the Mr. Bernie McMullen, City Manager of Peachtree City, regarding repaving Redwine Road because a small segment of Redwine Road lies within the municipal limits of Peachtree City. Both entities entered an Intergovernmental Agreement wherein Peachtree City will reimburse

Fayette County for the paving of that segment of Redwine Road. He continued that the discussion was limited to overlay only and was not a discussion that included Full Depth Reclamation and that a discussion should take place ensuring a clear understanding of the scope of work that to be done on the entire segment of the roadway and to ensure Peachtree City wants to have their segment worked with Full Depth Reclamation. He stated he had a meeting scheduled with Mr. McMullen on Monday and this issue would be discussed at that time.

Chairman Smith asked Mr. Krakeel if he was suggesting the Board add Redwine Road pending an Intergovernmental Agreement. Mr. Krakeel thought acceptance of the bid award for Full Depth Reclamation of Redwine Road for the unincorporated areas in Fayette County was appropriate but he wanted to ensure the County recovered its costs associated for the segment of Peachtree City. Chairman Smith asked if the bid was for only the unincorporated County section of the road or for the entire road. Mr. Mallon replied the bid included the entirety of Redwine Road but added the way the contract is worded the County has flexibility to instruct The Miller Group, if an agreement cannot be worked out with Peachtree City, to only provide an overlay in the Peachtree City section of the roadway. Mr. Krakeel concurred.

Chairman Smith asked if the Finance Department was satisfied the County could pay for the additional cost. Finance Director Mary Holland indicated Finance approved of the additional cost.

Commissioner Hearn moved to approve staff's recommendation to award a bid in the amount of $2,932,383.50 to The Miller Group, Inc., for Asphalt Resurfacing with Full Depth Reclamation of ten County Roads, including Redwine Road, totaling 14.40 miles, and for the work to be funded with transportation Special Purpose Local Option Sales Tax funds. Commissioner Frady seconded the motion. The motion passed 4-0. A copy of the request, identified as "Attachment 22", follows these minutes and is made an official part hereof.

ADMINISTRATOR'S REPORT

Consumer Confidence Report: County Administrator Jack Krakeel asked for the record to reflect that the *Annual Water Quality Report* which was issued by the Fayette County Water System earlier this year stated the County's water quality passed all threshold levels mandated by the Environmental Protection Division, or EPD, especially those pertaining to any threat of lead or copper.

Chairman Smith asked Utilities Systems Director Tony Parrott about the comments made by Ms. Maddox earlier in the meeting and asked where she may have derived her information. Mr. Parrott replied there is some required language in the *Consumer Confidence Report* about lead and copper, but added Fayette County does not have a problem with lead or copper in its water. He continued that the State of Georgia requires the Water System to provide a *Consumer Confidence Report* every year with certain required elements informing customers whether State-mandated tests were passed, and included in the information are reports on lead and copper tests which are calculated on a percentile of tests conducted by the Water System, as well as by the State on individual houses in the system. He repeated the information submitted in the *Consumer Confidence Report* shows Fayette County Water System passed both lead and copper tests. He reiterated there is no problem with lead or copper in Fayette County's water. A copy of the *Annual Water Quality Report*, identified as "Attachment 23", follows these minutes and is made an official part hereof.

ATTORNEY'S REPORT

Power's Heating and Air: County Attorney Scott Bennett reported that on May 14, 2009 the Board of Commissioners awarded a bid to Power's Heating and Air in the amount of $70,496 for air conditioning units to be installed at Crosstown Water Treatment Plant and the Flint River Pump Station. He said he received the contract from Mallet Consulting and he reviewed the contract ensuring all the bonds and insurance certificates are present. He asked for the Chairman to be authorized to sign the contract.

Commissioner Frady moved to authorize the Chairman to sign a contract with Q.T. Contracting, Inc,, doing business as Power's Heating and Air, in the amount of $70,496, for the installation of air conditioning at Crosstown Water Treatment Plant and Flint River Pump Station. Commissioner Hearn seconded the motion. The motion passed 4-0. A copy of the Power's Heating and Air Contract, identified as "Attachment 24", follows these minutes and is made an official part hereof.

STAFF REPORT

Update on Several GDOT Transportation Projects: Public Works Director Phil Mallon reminded the Board that he had been asked to provide updates on several GDOT Transportation Projects at the July 2009 Workshop Meeting. He told the Board he would not be present for the meeting and asked if he could give the updates during Staff Reports. The Board agreed to his request. Mr. Mallon then updated the Board regarding the following GDOT Transportation Projects:

- Bernhard Road at SR 92
- Hilo Road and Kingswood Drive at SR 85
- Harp Road at SR 85
- Widening of SR 74 from SR 85 to Cooper Circle.

Commissioner Hearn asked Mr. Mallon to work with the Sheriff's Department in order to determine how many accidents have occurred at the intersection of Harp Road and SR 85 since there had been deaths at the intersection, and he asked Mr. Mallon to remain "current" regarding that intersection. Mr. Mallon replied that he is already taking steps in relation to the intersection and other intersections by asking GDOT to provide the County with the same information it is providing to Atlanta in order to compare the accuracy of the data with the County's own traffic counts and accident reports.

Commissioner Hearn asked how much money would be required from GDOT with respect to the intersection at Bernhard Road and SR 92. Mr Mallon replied that he had asked that question and was unable to receive an exact answer, but they thought their match would be either 10 or 20% of the cost estimate for the job which is approximately $5.7 million. Commissioner Hearn asked Mr. Mallon to follow up with GDOT to obtain a hard number estimate on the intersection.

Additional discussion followed before Commissioner Hearn asked for an another update in September regarding the projects, encouraged Mr. Mallon in his work and efforts with GDOT, and offered to go to Atlanta to talk to head management at GDOT.

BOARD REPORT

There was no Board Report.

EXECUTIVE SESSION

Real Estate Acquisition: County Administrator Jack Krakeel announced Real Estate Acquisition needed to be discussed in Executive Session. Commissioner Maxwell moved to adjourn to Executive Session for the purpose of discussing Real Estate Acquisition. Commissioner Frady seconded the motion. The motion passed 4-0.

The Board of Commissioners adjourned to Executive Session at 9:41 p.m. and returned to Official Session at 10:17 p.m.

Executive Session Affidavit: Commissioner Hearn moved to authorize the Chairman to sign an Executive Session Affidavit stating Real Estate Acquisition was discussed in Executive Session. Commissioner Maxwell seconded the motion. The motion passed 4-0. A copy of the Executive Session Affidavit, identified as "Attachment 25", follows these minutes and is made an official part hereof.

ADJOURNMENT

Chairman Smith announced there was no other business coming before the Board and adjourned the June 25, 2009 Board of Commissioners Meeting without an objection from the Board.

The June 25, 2009 Board of Commissioners Meeting adjourned at 10:18 p.m.

Floyd L. Jones, 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 23rd day of July 2009.

Floyd L. Jones, Deputy Clerk