Minutes

Board of Commissioners
July 1, 2009
3:30 P.M.

The Board of Commissioners of Fayette County, Georgia, met in Official Session on Wednesday, July 1, 2009, at 3:30 p.m. in the Commissioners' Conference Room, Suite 100 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:	Scott Bennett, County Attorney Carol Chandler, Executive Assistant Karen Morley, Chief Deputy Clerk
Staff Absent:	Jack Krakeel, County Administrator

Chairman Smith called the meeting to order.

ACCEPTANCE OF AGENDA:
Commissioner Horgan made a motion to accept the agenda as published. Commissioner Hearn seconded the motion. The motion carried 5-0.

OLD BUSINESS:

A. CONSIDERATION OF THE PROPOSED REVISIONS TO THE FAYETTE COUNTY COMPREHENSIVE PLAN FUTURE LAND USE MAP AND LAND USE ELEMENT TEXT REGARDING THE S.R. 74 NORTH CORRIDOR; AND PROPOSED AMENDMENTS TO THE FAYETTE COUNTY ZONING ORDINANCE ASSOCIATED WITH THE S.R. 74 NORTH CORRIDOR:

Director of Community Development Pete Frisina discussed this item with the Board. A copy of the request, identified as "Attachment No. 1", follows these minutes and is made an official part hereof. He said this had been sent to the Atlanta Regional Commission and the Department of Community Affairs approximately three months ago with the caveat that approval in concept was received from the Town of Tyrone. He said he had received approval from Tyrone and the A.R.C. and D.C.A. had approved the County's amendments to the Plan as well. He asked for the Board's consideration to allow him to bring this to the Board in a public hearing for adoption of the S.R. 74 corridor Land Use Element changes and Land Use Plan changes. He said this would create a land use called a Business Technology Park which was being considered for the West side of the S.R. 74 from Kirkley Road North to County Line. He said there would also be a corresponding zoning district that would be adopted for Business Technology Park as the new zoning district. He noted that on the East side of the road a strip of Office/Institutional would be created with a depth of approximately 800 feet.

He said caveats for both of these zoning districts would be put in to have limited commercial uses after meeting certain thresholds. He said on the East side the offices would require a certain amount of frontage as well as acreage and without that the business would not meet the criteria and would not be allowed. He said there were also some transportation enhancements that would be required such as a service road in the office institutional area. He remarked that the S.R. 74 North Overlay had been enhanced with architectural standards for both sides of the road and looking to maintain the residential character on the East side with the Office/Institutional. He said the West side there are three large parcels that would fall under the Business Technology Park with one of them being in the Town of Tyrone. He said a road would connect these three parcels with an industrial park setting.

Chairman Smith felt there was a lot of concern on the citizens' part that by opening up the corridor for commercial that it would become a commercial corridor. He said he understood from the ordinance that this would be the exact opposite of what the Board was trying to accomplish. He asked if the limitations that had been mentioned was a normal part of the process to control the commercial development. Mr. Frisina replied that there was something similar to that already included in the Office/Institutional zoning district. He said it had never been used but it states if there was an office part of approximately 100,000 square feet that a certain percentage of that could be used for light commercial activity. Mr. Frisina said the intent was for this area to become a job center with the bigger picture of keeping people in the County and working here rather than driving to Atlanta every day.

Chairman Smith clarified that the Town of Tyrone had approved this in concept. He asked Mr. Frisina if a technology park was built, what was the likelihood that Tyrone would not follow suit or change what they were doing on the internal side. Mr. Frisina said there would have to be a transportation link through the property as well and that was the important part in the concept plan. He said the County would be putting in the transportation enhancements creating the road and hopefully Tyrone would follow suit to make that connection. Mr. Frisina interjected that this property had been vacant for several years and there was always someone inquiring but there had not been any real pursuit of any rezonings or anything of that nature. He said he had spoken to some of the landowners in that area and they were not totally happy with what the County was proposing and felt it was too restrictive and required them to do too much, but they were happier with that rather than residential. He said this area would be zoned as a technology park and only certain types of businesses that were listed would be allowed.

Commissioner Frady said a lot of citizens including him were concerned about this corridor as it was the gateway to Fayette County. He said this should be an attractive business park and the types of businesses that would be allowed should be limited.

Commissioner Horgan asked Mr. Frisina if he had received any input from residents in the River Oaks Subdivision. Mr. Frisina replied nobody specific from that area other than his meetings with the Tyrone Town Council in Tyrone. He said there were some citizens who had come in and voiced acceptance or opposition to this plan. He noted that the River Oaks Subdivision was located on the East side of the highway and not the side where the business technology park would be located.

Commissioner Maxwell asked Mr. Frisina if he needed a consensus from the Board today to advertise this for a public hearing and Mr. Frisina replied yes. Commissioner Maxwell said he had previously voiced his opposition to this and would remain silent until the public hearing. He felt this would turn S.R. 74 into another Riverdale Road.

There was a consensus by the Board for him to present this to the Board at a public hearing in August.

B. UPDATE ON THE LANDSCAPING PROJECT AT THE OLD COURTHOUSE:

Executive Assistant Carol Chandler presented a report that she had received from Sheldon Hammond of the University of Georgia Extension Office regarding the trees at the Old Courthouse. A copy of the report, identified as "Attachment No. 2", follows these minutes and is made an official part hereof.

Director of Maintenance Greg Ownby discussed this item with the Board. A copy of the request, identified as "Attachment No. 3", follows these minutes and is made an official part hereof. He said he had met with Mr. Hammond and Ryan Arnold both of whom were certified arborists to take a look at the trees to determine what could be done in the zones where the trees were located as well as the health of the trees. He said seven of the trees were rated five which was considered fair to good and two of the trees rated three which was considered poor. He said this would put the County into some type of a liability issue if a limb would break out of the trees and damage vehicles or people. He indicated that none of the soils around the root base would need to be disturbed. He said they had suggested for the County to have a certified arborist with hazard evaluation of the trees to come out and do an evaluation of these trees. He said he was aware now, with the limitations of the root base for the trees and the drip lines, on what kind of design that could used as far as redoing the landscaping. He said there had been many discussions with everyone involved as to suggestions as to what could be done.

Mr. Ownby further remarked that with the root base of the trees, it had been suggested to only mulch the area that the root base contains without planting anything there. He said in continuing with the project, staff could remove the Juniper hedge fencing and the privet. He said these plantings were old and contained dark spots and had outgrown their beauty. He said they could then plant some sod along the sidewalk in preparation for the final plan for the landscaping. He noted that Craig Gross of the County's Extension Office had acquired an Urban Tree Foundation Grant in the amount of $3,250 to install educational landscaping exhibits such as irrigation, low water tolerance, and heat tolerance for plant life in those areas. He noted that Nancy Howard with the Stormwater Division along with Brian Keller have placed a request for a 319 Grant and they were waiting on a response and checking on a monthly basis. He said if the 319 Grant came through it would allow staff to accomplish a great deal on this project.

Chairman Smith asked if there was an irrigation system in place and Mr. Ownby replied yes, but it was an old system. Mr. Ownby felt that possibly a newer irrigation system would allow for better location of sprinklers but noted there would be some additional expense for such a system.

Commissioner Maxwell asked Mr. Ownby why this was being done in a two step process. Mr. Ownby responded that the entire area would not be pulled out and the preliminary work was just to get this project moving. Mr. Ownby noted that the removal of the junipers and privets as well as the installation of the sod could almost be done the same day. Mr. Ownby interjected that right now was a good time to install Bermuda sod. Commissioner Maxwell asked if there would be a drastic trimming of the trees and Mr. Ownby replied that he did not believe so unless there was some type of disease in the limbs. Mr. Ownby said there would have to be a close look at the limbs to determine the extent of trimming. Commissioner Maxwell said it was hard to make a decision when there were no cost figures and it looked like it would be some time in the Fall before anything could begin. Mr. Ownby said he would estimate for sod and fertilizer it would cost less than $2,500. Mr. Ownby further remarked that he did not have these funds in his budget and the funding for this project would have to come out of the contingency fund until the County hears back something on the 319 Grant.

There was a consensus by the Board for Mr. Ownby to provide further information on this project at the July 9th Board of Commissioners' meeting.

NEW BUSINESS:

C. DISCUSSION OF REQUEST FROM ATTORNEY JASON THOMPSON THAT CONSIDERATION BE GIVEN TO AMENDING THE COUNTY'S ZONING ORDINANCE RELATED TO THE REQUIREMENTS FOR THE SIZE AND PITCH OF GASOLINE CANOPY ROOFS LOCATED IN THE COUNTY'S OVERLAY ZONES:

Attorney Rick Lindsey, representing Race Trac Petroleum, Inc. discussed this matter with the Board. He remarked that it was Race Trac's intention to build a retail store and gasoline facility on S.R. 85 at the Ramah Road intersection. He said the issue before the Board today was what would happen to the canopy on the facility. He said he and Attorney Jason Thompson had been working with the Zoning Board of Appeals staff regarding the requirements for the size and pitch of the gasoline canopy roofs located in the County's Overlay Zones. He noted that they had also spoken with the Zoning Board of Appeals and neither staff nor the Zoning Board could give any flexibility in the ordinance for the size requirements of the canopy. He said the peak of the canopy roof was going to be approximately 35 feet in height and the store would be approximately 24 feet to 26 feet in height. He remarked that the canopy would therefore dominate the site. He said Race Trac was looking at some flexibility in the possibly amending the ordinance to allow them to build a mansard roof with the same pitch or an alternative to build a lower pitch roof in order to make the facility attractive.

Director of Community Development Pete Frisina remarked that staff had reviewed this request and felt there needed to be some control over the clearance under these canopies. A copy of the request, identified as "Attachment No. 4", follows these minutes and is made an official part hereof. He noted that the existing canopies were already much larger than the store building and cover a much greater area. He said this was something that staff would need to review further.

Chairman Smith asked how long this ordinance had been books. Mr. Frisina replied that the Overlay Zones were put in during the mid 90's and they had been fairly similar with some changes to the architectural characteristics. He said the only thing staff had done to the roof pitch was if the pitched roof did not meet the requirements of the zoning, then staff could allow for the mansard roof or if it was two stories or more.

Commissioner Frady said a pitched roof would satisfy the residential feel of an area and Attorney Lindsey said staff had done a lot of work to make this an attractive store front. Attorney Lindsey said they did not want the building to be dominated by the canopy roof. He said Race Trac wanted this to be an attractive site and this was what they were asking the County for.

Commissioner Maxwell asked Attorney Lindsey if he was asking the Board to vary from the ordinance or for County staff to study the ordinance.

County Attorney Scott Bennett interjected that the County would have to amend the ordinance and this would require a public hearing.

Attorney Lindsey said Race Trac would like for County staff to start the process of studying this issue for some flexibility in the ordinance. He noted that the minimum height for a canopy was 18 feet.

Chairman Smith said he would have no objection for staff to study this portion of the ordinance but he would like to go one step further and have staff study the entire ordinance to see if there might be other areas that need amending.

Commissioner Maxwell said he had no problem with that but he would like a date certain for this portion. He said a review of the entire ordinance might take six to eight months.

Mr. Frisina remarked that staff would present this to the Planning Commission in July and get their recommendation. He noted that it usually takes two workshops which would take it to August unless they have an agreement on July 16th. He commented in terms of the roof pitch, staff has had success with it but if the Board wanted to look at other aspects of that he would need to know exactly what the Board wanted staff to examine in terms of roof pitch. He said there had been some discussion on fire safety and fire personnel would be included in discussions as to anything they might require in terms of fighting a fire.

Chairman Smith remarked that the ordinance had an unintended consequence right now and he would like staff to review the ordinance and not one that would take eight months but certainly he would trust staff's judgment to go through it and determine if there was anything that needed to be reviewed.

Mr. Frisina said staff would certainly review the roof pitch requirement. He also noted that staff was currently going through the Zoning Ordinance chapter by chapter. He said for staff to specifically review the roof pitch, it would take two workshops and he could probably bring a recommendation to the Board of Commissioners at the workshop in September.

Commissioner Frady asked if staff had received any other comments from citizens on other issues in the ordinance. Mr. Frisina replied that the roof pitch was on all of the overlays on the State highways except for the northern portion of S.R. 85 where the residential character was being maintained.

Commissioner Maxwell said this item would require a public hearing by the Board of Commissioners which would put this before the Board at a meeting in September. He said he was not trying to just accommodate Race Trac but felt this ordinance needed to be adjusted now. He said he was not sure if there needed to be three or four months worth of study to address something that was already a problem.

Attorney Lindsey said this was the reason he was coming before the Board today. He said Race Trac had built two of these facilities and had received comments from local residents and city leaders saying that they did not like them. He said they were built according to the County ordinance and this as the issue Race Trac was trying to avoid.

Mr. Frisina remarked that staff could begin reviewing the canopy issue right now and get their findings back to the Board as soon as possible and then continue reviewing the remainder of the ordinance.

Chairman Smith felt staff would need to look at the canopy in relationship to the building roof. He said it could not be just isolated to the canopy and both aspects would have to be reviewed.

Staff was directed to review the County's Zoning Ordinance and bring a recommendation specifically regarding the canopy requirements in the Overlay Zone to the Board of Commissioners at the September Workshop meeting.

D. CONSIDERATION OF A REPORT FROM THE STORMWATER DEPARTMENT CONCERNING A CHANGE IN FAYETTE COUNTY'S NATIONAL FLOOD INSURANCE PROGRAM COMMUNITY RATING SYSTEM SCORE WHICH WILL RESULT IN A DECREASE IN FLOOD INSURANCE PREMIUMS:

Environmental Programs Engineer Vanessa Birrell reported to the Board that Fayette County's national flood insurance program community rating system score for unincorporated Fayette County was improved from a score of 7 to 6 as a result of an audit conducted by the NFIP. She stated the new rating would reduce flood insurance premiums by 5% and

become effective on October 1, 2009. A copy of the request, identified as "Attachment No. 5", follows these minutes and is made an official part hereof.

ADMINISTRATOR'S REPORT:
County Administrator Jack Krakeel was absent.

ATTORNEY'S REPORT:
CONTRACT AWARDED TO THE MILLER GROUP, INC.: Attorney Scott Bennett asked for the Board's consideration for authorization for the Chairman to execute a contract with The Miller Group, Inc. for Asphalt Resurfacing with Full Depth Reclamation for Fayette County in the amount of $2,932,383.50.

Commissioner Frady made a motion to authorize the Chairman to execute a contract with The Miller Group, Inc. for Asphalt Resurfacing with Full Depth Reclamation for Fayette County in the amount of $2,932,383.50. Commissioner Hearn seconded the motion. The motion carried 5-0. A copy of the contract, identified as "Attachment No. 6", follows these minutes and is made an official part hereof.

STAFF REPORTS:
UPDATE ON WEST FAYETTEVILLE BYPASS PHASE II: Carlos Christian of the Road Department updated the Board on the status of the West Fayetteville Bypass Phase II. He said the Commission had approved the concept plan on June 11, 2009 and the Notice to Proceed was issued immediately after that. He remarked that Mallett Consulting has proceeded with the Preliminary Design in order to establish the alignment. He noted that under final design the County would also be submitting its core permit application and this would occur sometime around February, 2010. He said final approval would come from the Army Corps of Engineers in September, 2010. He noted that it would also be necessary to purchase mitigation credits or use existing County property and this would begin in April, 2010. He said if everything proceeded accordingly, the County would be issued the final plans around May 13, 2010 and the County would have one month to approve the final design documents. He said at the same time the County would submit the Notice of Intent and then move into the bidding phase of the project. He noted that a recommendation would be presented to the Board for consideration sometime in November and then the contract award would be issued. He said projected construction would move forward in January, 2011. He said the project should be completed in October, 2012.

Chairman Smith asked if this timeline could be shortened. Mr. Christian replied yes and stated the driving force was the right-of-way acquisition, the Army Corps of Engineers and the purchase of mitigation credits. He said staff was currently in the process of acquiring right-of-way and some of the other items were being done in tandem which would reduce the timeline. Mr. Christian noted that this was a projected plan and staff was moving forward as quickly as possible.

WATERING RESTRICTIONS STILL IN PLACE: Water System Director Tony Parrott reported that a notice would go out to water customers reminding them that watering restrictions were still in place for odd/even watering and no watering on Friday.

BOARD REPORTS:
There were none.

EXECUTIVE SESSION:
COUNTY ATTORNEY SCOTT BENNETT: County Attorney Scott Bennett requested an Executive Session to discuss litigation.

Commissioner Hearn made a motion to adjourn the meeting to Executive Session to discuss litigation. Commissioner Horgan seconded the motion. The motion carried 5-0.

Chairman Smith reconvened the meeting to open session and announced that no action was taken.

Commissioner Hearn made a motion to authorize the Chairman to execute the Executive Session Affidavit affirming that litigation was discussed in Executive Session. Commissioner Horgan seconded the motion. The motion carried 5-0. A copy of the Executive Session Affidavit, identified as "Attachment No. 7", follows these minutes and is made an official part hereof.

ADJOURNMENT:
There being no further business to come before the Board, Chairman Smith adjourned the meeting at 5:18 p.m.

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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 23rd day of July, 2009.

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Karen Morley, Chief Deputy Clerk