Minutes

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

Notice: A complete audio recording of this meeting can be heard by accessing Fayette County's Website at www.fayettecountyga.gov. Click on "Board of Commissioners", then "County Commission Meetings", and follow the instructions. The entire meeting or a single topic can be heard.

The Board of Commissioners of Fayette County, Georgia, met in Official Session on Thursday, August 27, 2009, at 7:00 p.m. in the Public Meeting Room of the Fayette County Administrative Complex, 140 Stonewall Avenue, Fayetteville, Georgia.

Commissioners Present:	Jack Smith, Chairman Herb Frady, Vice Chairman Lee Hearn Robert Horgan Eric Maxwell
Staff Present:	Jack Krakeel, County Administrator Scott Bennett, County Attorney Carol Chandler, Executive Assistant Floyd L. Jones, Deputy Clerk

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

Acceptance of Agenda.

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

PUBLIC HEARING:

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

Commissioner Hearn moved to postpone the hearing of Petition Number 1216-09 and Petition Number RP-046-09 of John Alan Bell until the October 22nd Board of Commissioners Meeting. Commissioner Frady seconded the motion. The motion passed unanimously. A copy of the request, identified as "Attachment 1", follows these minutes and is made an official part hereof.

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

Director of Community Development Pete Frisina read the *Introduction to Public Hearings* before the rezoning request was heard. A copy of the *Introduction to Public Hearings*, identified as "Attachment 2", follows these minutes and is made an official part hereof.

Woody Johnson: Mr. Woody Johnson presented Petition 1217-09 and answered questions from the Board.

No one else spoke in favor of Petition 1217-09 and no one spoke in opposition to Petition 1217-09.

Commissioner Horgan moved to approve Petition No. 1217-09, BBWJ, LLC., Owners/Agents, request to rezone 4.77 acres from C-C Conditional to C-H to develop a Mini-Storage Facility located in Land Lot 182 of the 5th District and fronting on SR 54 East and Corinth Road with the three conditions recommended by staff and the Planning Commission. Commissioner Hearn seconded the motion. The motion passed unanimously. A copy of the request including recommended conditions, Staff Analysis and Investigation, and maps, identified at "Attachment 3", follow these minutes and are made an official part hereof. A copy of the Ordinance and Resolution approving Petition 1217-09 with three conditions, identified as "Attachment 4", follow these minutes and are made an official part hereof.

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

Director of Community Development Pete Frisina and Mr. Matt Forshee of the Fayette County Development Authority gave a presentation regarding the proposed revisions and amendments. A lengthy discussion ensued.

Chairman Smith asked, based on citizens' concerns, why commercial zoning was recommended in the proposed revisions and amendments. Mr. Frisina replied commercial zoning is recommended because, if the area becomes a business park with many employees, day-to-day activities could be conducted within the park, as opposed to compelling employees to drive on SR 74 to Tyrone or Fairburn to meet those needs. He noted that the commercial zoning has been limited in size, scope, and type of development that can established in the industrial park and that gas stations or fast food restaurants would not be allowed in the areas under consideration since commercial establishments will be required to be within a larger building and would be limited to 20% of an office building. He explained the concept included "lunch-type facilities" or small stores that could supply day-to-day needs such as dry cleaners and personal services.

Chairman Smith mentioned some of the property lies within the town limits of the Town of Tyrone and some is in unincorporated Fayette County and asked what is the Town of Tyrone's position regarding the proposed mixed-use development. Mr. Frisina reported that he worked with Tyrone and spoke before the Town Council where a 3-2 vote was taken to endorse the concept, and to continue working with Fayette County in order for the Town to adopt similar measures. He reminded the Board that the Town of Tyrone has already zoned property on the west side of SR 74 in a similar manner being proposed.

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

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

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

Commissioner Maxwell noted the Board was about to vote on one of the most significant issues that has come to the County in over two years and announced he would speak in opposition to the "ill-conceived development plan". He said he was concerned that the Board was about to vote on the most visible corridor entering Fayette County and was about to, by fiat, vote for a 400-acre development without a single notice to the public. He clarified that while the proposals under consideration do not "rezone" the property, he was concerned that little notice to the public about the proposals and this meeting had been made available to the public.

Commissioner Frady disagreed with Commissioner Maxwell. He said he did not see a problem with the proposed changes since the County is not going to allow for the construction of a "junky operation". He said he had been fighting for years to have the entrances into Fayette County changed so it does not look like a stamped sign on the road saying "Fayette County".

Chairman Smith disagreed with Commissioner Maxwell since the whole intent and purpose of changing the area would be to prevent Fayette County from resembling Fairburn, Riverdale, and every other area surrounding the county. He added if the County does not take a proactive step to control the gateway to Fayette County in a manner that the citizens can be proud of then the County will be in a position to begin looking like every other community. He said the other issue to consider is traffic control in that area.

Commissioner Frady stated the Board is going to take an interest in this park and will have something to do with the development on the highway as opposed to someone else. He added the future must be planned, and even though the industrial park will not be built tomorrow it will be built five or more years from now at a time when the economy is likely to improve. He said he was glad the County has a hand in the situation.

Commissioner Horgan agreed with Commissioner Frady saying this is a future land use plan, that the County is setting the stage for the future, and that he agreed with the proposals.

Commissioner Hearn stated that since the County is limiting access to SR 74 with internal streets the proposals make sense since it would be undesirable to have every property owner along SR 74 have their own individual curb-cut which would "lock up" traffic. He stated having internal streets is critical and Mr. Frisina should be applauded for coming up with a good plan. He concluded he would support the proposals.

The motion passed 4-1 with Commissioner Maxwell voting in opposition. A copy of the request, Ordinance 2009-02, Ordinance 2009-03, and Resolution 2009-14, identified as "Attachment 5", follow these minutes and are made an official part hereof.

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

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

Chairman Smith asked if he understood correctly that while the County was keeping the tax rate the same the tax bill will go up due to the elimination of the Homeowners Tax Relief Grant, or HTRG. Ms. Holland replied that was correct.

Chairman Smith asked County Attorney Scott Bennett if the State of Georgia has prohibited the counties from putting notices in tax bill envelopes explaining tax bills are increasing because the HTRG has been eliminated. Mr. Bennett replied that was his understanding as well.

Chairman Smith asked if Ms. Holland was confident the proposed ad valorem tax millage rates would produce enough revenue to maintain County operations at a level taxpayers are accustomed to seeing from Fayette County. Ms. Holland replied that the rates are sufficient to maintain County operations and noted, during the recent budget meetings, measures were taken to ensure the adopted budget was at a point where the County could support current level operations with no increase to the millage rates.

Chairman Smith noted Resolution 2009-13 includes the Fayette County Board of Education taxes and stated the County has no choice but to levy the School Board's taxes as a perfunctory action even though the Commission Board has no control of those taxes. Ms. Holland affirmed the Chairman's statement.

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

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

Commissioner Frady moved to authorize the Chairman to sign Resolution 2009-13 which establishes millage rates and levies ad valorem taxes for 2009. Commissioner Horgan seconded the motion. The motion passed unanimously. A copy of the request and Resolution 2009-13, identified as "Attachment 6", follow these minutes and are made an official part hereof.

PUBLIC COMMENT:

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

Harold Bost: Mr. Harold Bost spoke about the three traits looked for in County Commissioners: Judgment, Integrity, and Trust. He urged Commissioner Horgan to resign his position before leaving the building and assured him that if there was no resignation the citizens of Fayette County would pursue any and every legal means to have the Commissioner removed from office.

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

Bob Ross: Mr. Bob Ross noted the Board would have an opportunity to exercise its responsibilities at the conclusion of the Ethics Complaint and he asked for an update of the status of the Ethics Complaint. He said it is important that the Board clearly and repetitively understands the deep feelings against Commissioner Horgan's action and it should take those actions under consideration when it adjudicates any punishment associated with a guilty finding from the Ethics Complaint.

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

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

Donald Fowler: Mr. Donald Fowler reminded the Board that at its last meeting it passed a resolution calling for a SPLOST referendum which includes a list of projects which included improvements to Hood Road. He said he has lived on Hood Road for over 40 years and he and his neighbors are perfectly happy with the condition of the road. He said they were shocked to discover a proposal by the County to improve Hood Road by building a multi-million dollar bridge over the upper-end of Crystal Lake. He added that the residents built or bought homes on a dead-end street and they have no need for the County's improvement. He recalled that the project, in the 1980s, was $3.5 million at a time before many of the houses were constructed. He stated it was disturbing that the bridge project was not openly discussed in the resolution or presented on the project list. He was also concerned over the wording of the SPLOST referendum, namely, the phrase "including but not limited to", and he asked if this implied the County was getting blanket permission or a blank check to take on any project it wants. He thanked the Commissioners for listening and asked them to remove the project from the SPLOST project list before November 3, 2009, and he invited the Commissioners to Hood Road to meet the residents.

Pat Hinchey: Mr. Pat Hinchey began saying he really did not like "getting up" to speak to the Commissioners since it usually means his "blood is boiling". He continued that he made a commitment to himself to be at the Commission meetings as often as possible and to keep as quiet as possible in order to listen and learn so he could best understand how to make Fayette County be a better place to live. He referenced the Public Comment sheet provided to citizens at the back table which reads: "You will be given five minutes to speak on any topic that is important to you." He declared citizens' comments should be given regardless of whether the Board can do anything about them or not. He repeated that citizens should be encouraged to stand up and that they should not be told they do not have the right to say something.

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

CONSENT AGENDA:

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

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

1. **Approval of appointment of John Lane to the Region 3 Planning Board for Mental Health, Developmental Disabilities, and Addictive Diseases for a three-year term commencing this date and ending on August 26, 2012. A copy of the request, identified as "Attachment 7", follows these minutes and is made an official part hereof.**

2. **Approval of staff's request to increase Public Safety and Emergency Management's Fiscal Year 2009 Donations/Miscellaneous Revenue Account by $2,281 and to increase the Food/Catered Meals Expense Account by $2,281 to account for donations from various companies, a benevolence society, and citizens. A copy of the request, identified as "Attachment 8", follows these minutes and is made an official part hereof.**

3. **Approval of the Water Committee's recommendation for approval of a Memorandum of Understanding between Fayette County and Peachtree City for the purpose of allowing Peachtree City's Dive Team to train at Lake Horton and Lake Kedron.**

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

   County Administrator Jack Krakeel requested the Board to consider two minor modifications, as requested by the City of Peachtree City, to the Memorandum of Understanding and explained the modifications.

   Commissioner Horgan moved to approve Consent Agenda Item 3, to modify the wording of the Memorandum of Understanding, Section II., Item B to read: "To accommodate volunteer members of both agencies, two weekend training exercises annually shall be permitted at Lake Kedron and Lake Horton", and to make the Memorandum of Understanding include and apply to Lake McIntosh. Commissioner Hearn seconded the motion. The motion passed unanimously. A copy of the request and modified Memorandum of Understanding, identified as "Attachment 9", follow these minutes and are made an official part hereof.

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

ADMINISTRATOR'S REPORT

Additional School Zone Signage for Whitewater Middle School and Whitewater High School: County Administrator Jack Krakeel reminded the Board that several meetings ago Commissioner Hearn requested staff to look into issues associated with transportation in Fayette County one of which was about placing additional signage at the Whitewater School complex on SR 85 South, and to communicate with the Georgia Department of Transportation (GDOT) about the feasibility and possibility of placing additional signage indicating the presence of a school zone. He reported that the GDOT has visited the area to look at the current signage, and that the GDOT has informed the County they feel there is sufficient signage currently on the SR 85 South corridor with respect to identification of the school zone and no additional signage is indicated.

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

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

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

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

ATTORNEY'S REPORT

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

Commissioner Horgan moved to authorize the Chairman to sign a contract with Lantz Construction for the construction of Waterline Extension work for Fiscal Year 2010 in the amount of $661,550. Commissioner Hearn seconded the motion. The motion passed unanimously. A copy of the contract with Lantz Construction, identified as "Attachment 10", follows these minutes and is made an official part hereof.

STAFF REPORTS

There was no Staff Report given.

BOARD REPORTS

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

County Attorney Scott Bennett reported three county attorneys from Spalding County, Pike County, and Meriwether County have agreed to serve on the Ethics Board and added County Clerk Carol Chandler will contact Mr. Jim Fortune, Spalding County's County Attorney, to determine if further information is known at this time.

Commissioner Maxwell said he understood the Board was unable to do anything at this point in time regarding the Ethics Complaint. Mr. Bennett replied that Commissioner Maxwell was correct and added the Ethics Panel which has been formed will conduct a meeting on a date which will be published in the County's legal organ and posted at the County Complex, and after a decision is made it will be given to the Board of Commissioners for action as deemed appropriate. He said the Ethics Panel needs to meet, the hearing needs to occur, and the Board of Commissioners has done all it can do at this point.

Mr. Bennett said the Ethics Panel needs to remain independent and it needs to make its decision based upon what is heard at the hearing.

Request to Serve Alcohol at Fayette Senior Services: Chairman Smith announced that the County has received a request from Fayette Senior Services who wishes to have an Oktoberfest, and they are asking for permission to serve, not sell, beer and wine. He asked County Administrator Jack Krakeel to provide additional information regarding the request. Mr. Krakeel concurred the County has received a formal request from the Executive Director of Fayette Senior Services to host a fund-raising event specifically for the purpose of raising funds for the therapeutic garden. He said he explained to Ms. Britt that there are a number of requirements for that type of event, not the least of which is compliance with State law, which would require a caterer's license. Ms. Britt indicated they would be able to accommodate that requirement; however, Mr. Krakeel noted this request would also require the Board to modify its ordinance if the request were to be approved. He suggested the County Attorney may be able to speak more directly to that issue.

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

Commissioner Horgan asked if the ordinance could be changed to allow alcohol at the one location since he did not want to have alcohol served at County parks. Mr. Bennett replied the ordinance could be tailored to include restrictions such as permitting alcohol only at the buildings the Board deems appropriate, that it would certainly be limited to a catered function, would limit the number of times per year alcohol could be served on County property, and that the Board must give approval. He concluded the restrictions could be easily imposed.

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

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

EXECUTIVE SESSION

There was no Executive Session.

ADJOURNMENT

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

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 10th day of September, 2009.

Floyd L. Jones, Deputy Clerk