# *Minutes*

Board of Commissioners
October 28, 2010
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, October 28, 2010, at 7:00 p.m. in the Public Meeting Room of the Fayette County Administrative Complex, 140 Stonewall Avenue, Fayetteville, Georgia.

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| **Commissioners Present:** | Jack Smith, Chairman<br>Herb Frady, Vice Chairman<br>Lee Hearn<br>Robert Horgan<br>Eric Maxwell |
| **Staff Present:** | Jack Krakeel, County Administrator<br>Scott Bennett, County Attorney<br>Carol Chandler, Executive Assistant<br>Karen Morley, Chief Deputy Clerk |

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Chairman Smith called the meeting to Order.
Commissioner Hearn offered the Invocation
Commissioner Frady led the Pledge of Allegiance.

**RECOGNITION OF COMMISSIONER FRADY'S 80TH BIRTHDAY:**
Chairman Smith congratulated Commissioner Frady on celebrating his 80th birthday and the Board presented him with a cake. He also remarked that Commissioner Frady was the longest serving Commissioner in Fayette County history.

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

**PRESENTATION/RECOGNITION:**

**A. PRESENTATION OF RESOLUTION SUPPORTING THE FAYETTE COUNTY CHAMBER OF COMMERCE "FIND IT IN FAYETTE FOR THE HOLIDAYS" INITIATIVE:**

Chairman Smith read and the Board presented Connie Sewell representing the Fayette County Chamber of Commerce with a Resolution supporting the Fayette County Chamber of Commerce "Find It In Fayette for the Holidays". A copy

of the request and Resolution, identified as "Attachment No. 1", follow these minutes and are made an official part hereof.

**PUBLIC HEARING:**

**B. CONSIDERATION OF PETITION NO. RP-048-10, SELAF HADDONSTONE HOLDING COMPANY, LLC, OWNER, AND JASON WINGFIELD, AGENT, REQUESTING A REVISION TO A RECORDED FINAL SUBDIVISION PLAT FOR HADDONSTONE SUBDIVISION TO SUBDIVIDE THE AMENITY AREA INTO TWO SINGLE-FAMILY DWELLING LOTS WHICH WILL ADD ONE SINGLE-FAMILY LOT TO THE SUBDIVISION. THIS PROPERTY IS LOCATED IN LAND LOT 35 OF THE 5TH DISTRICT, FRONTS ON LOGGIA POINT, AND IS ZONED R-50. THE PLANNING COMMISSION UNANIMOUSLY RECOMMENDED APPROVAL. STAFF RECOMMENDED APPROVAL:**

Director of Community Development Pete Frisina read the rules for public hearings for rezoning matters. A copy of the statement, identified as "Attachment No. 2", follows these minutes and is made an official part hereof.

At this time, Chairman Smith remarked that he had failed to recognize a boy scout present in the audience who was working on his communications badge. He thanked the scout for being present and working on his advancement toward Eagle Scout.

Chairman Smith asked if the agent or the petitioner for this rezoning petition was present.

Agent for the Petitioner Jason Wingfield asked for the Board's consideration to approve the request for a revision to a recorded final subdivision plat for Haddonstone Subdivision. He noted the amenity package would change and would include a pavilion, pool, two restrooms, a children's play park and open lawn area but there would be no tennis courts. He pointed out that petitioner was asking to move the amenity area to the front location of the subdivision as indicated and take the 2.3 existing acres in the rear of the property and subdivide that essentially adding one lot to the overall count of the neighborhood

Chairman Smith asked if anyone wished to speak in favor of the petition. Hearing none, he asked if anyone wished to speak in opposition. Hearing none, he asked for the Board's pleasure in this matter.

Commissioner Horgan made a motion to approve Petition No. RP-048-10 as presented with the noted changes in the amenity package. Commissioner Hearn seconded the motion. The motion carried 5-0. A copy of the request, backup and letter to petitioner, identified as "Attachment No. 3", follow these minutes and are made an official part hereof.

**C. CONSIDERATION OF PETITION NO. 1220-10, ROSEMARY WURSTER AS TRUSTEE OF THE MAW FAMILY TRUST ,OWNER, AND DAVID BARBER, AGENT, TO REZONE 2.40 ACRES FROM C-H TO M-1 TO DEVELOP AN OFFICE/WAREHOUSE/AUTO RECOVERY AND IMPOUNDMENT FACILITY. THIS PROPERTY IS LOCATED IN LAND LOT 217 OF THE 5TH DISTRICT AND FRONTS ON WALTER WAY. THE PLANNING COMMISSION UNANIMOUSLY RECOMMENDED APPROVAL. STAFF RECOMMENDED APPROVAL:**

Chairman Smith asked if the agent or the petitioner was present.

Agent for the Petitioner David Barber asked for the Board's consideration to approve the request to rezone the property from C-H to M-1. He said this would comply with 90% of the rest of the business park which was M-1 zoning.

Chairman Smith asked if anyone wished to speak in favor of the petition. Hearing none, he asked if anyone wished to speak in opposition. Hearing none, he asked for the Board's pleasure in this matter.

Commissioner Horgan made a motion to approve Petition No. 1220-10 as presented. Commissioner Hearn seconded the motion. The motion carried 5-0. A copy of the request and backup, identified as "Attachment No. 4", follow these minutes and are made an official part hereof. A copy of the Ordinance and Resolution approving Petition No. 1220-10, identified as "Attachment No. 5", follow these minutes and are made an official part hereof.

**ETHICS MATTER:**

**D. DISCUSSION OF PUNISHMENT IN THE MATTER OF PATRICK J. HINCHEY AND DAVID W. CREE VERSUS ROBERT E. HORGAN:**

Chairman Smith remarked that in May of 2009 there was an incident involving Commissioner Horgan to which Patrick Hinchey and David Cree filed an Ethics Complaint. He said the Complaint had gone through the process and the Ethics Panel had rendered a verdict. He said the verdict was appealed to the Superior Court and a Superior Court Judge had heard the appeal and denied reversing the judgment of the Ethics Panel. He said the appropriate period of thirty days had passed wherein the defendant had an opportunity to appeal the decision to a higher court. He noted that no appeal has been filed, therefore the ethics violation becomes final. He said it was this Board's responsibility to administer the punishment phase of the ethics violation. He stated that the punishment phase was defined within the Ethics Ordinance of what the Board's ability was and the means it has for administering punishment. He said part of that could be a monetary fine and another part was a determination of whether or not the Board would enter a Resolution of Censure. He said it was now appropriate for the Board to employ a discussion of how the punishment phase would be handled since the verdict was now final in this matter. He said as Chairman he had drafted a Resolution of Censure that he would pass to the members of the Commission for consideration to vote on a motion to adopt the Resolution.

Chairman Smith presented the Board with a Resolution of Censure and asked for consideration for each Commissioner to execute the Resolution.

Commissioner Maxwell made a motion to adopt the Resolution of Censure. Commissioner Frady seconded the motion., discussion followed.

Commissioner Maxwell commented on this incident involving Commissioner Horgan. He pointed out that Commissioner Horgan had been the guiding hand on several projects since this ethics ordinance violation occurred and pointed out that Commissioner Horgan had spear headed the new mental health building and it was through his efforts that this became a reality. He said Commissioner Horgan had done a lot of good things for the County and would continue to do so. He said he was glad this issue would come to a conclusion tonight.

Commissioner Frady also commented that he would also support the Resolution of Censure and he felt Commissioner Horgan was really trying to work through this situation and he hoped he could do that.

Chairman Smith remarked on several comments that had been directed to this Board for its lack of action. He said there was a process that was stated in the Ethics Ordinance as well as in State law and this Board had abided by that process. He said Commissioner Horgan had always participated in the discussions, brought matters to the Board and based on his observations always been forthright in his commitment to the County. He said this did not excuse Commissioner Horgan's actions and those actions speak for themselves. He read the Resolution into the record. He asked for the Board's pleasure to vote on the motion on the floor to adopt the Resolution of Censure.

The motion carried 4-0-1 with Commissioner Horgan abstaining. A copy of the request and the Resolution of Censure, identified as "Attachment No. 6", follow these minutes and are made an official part hereof.

Chairman Smith remarked that after weighing all of the information regarding a fine, that he recommended a fine should be levied to recognize that there had been a violation of the ethics ordinance, that all of the costs incurred by Commissioner Horgan have been in the criminal proceedings and that this board needed to address a monetary fine on the ethics matter. He recommended a fine of $200 be levied against Commissioner Horgan and said he would make a motion for the Board's consideration.

Chairman Smith made a motion to impose a fine in the amount of $200 to be levied against Commissioner Robert Horgan and would bring this ethics violation to a close. Commissioner Frady seconded the motion. The motion carried 4-0-1 with Commissioner Horgan abstaining.

**PUBLIC COMMENT:**

**Bob Ross:** Bob Ross commented on Commissioner Horgan's ethics violation and said he was glad this matter had come to a conclusion. He said he appreciated the attention that each Board member had given this matter and particularly the comments made by Commissioner Maxwell. He said he was satisfied with the Resolution and the monetary fine.

**Pat Hinchey:** Pat Hinchey remarked that he was also glad that the ethics violation against Commissioner Horgan was also over and done. He said he felt it was his responsibility to file the ethics complaint to do what he felt was the right thing to do for his family and the reason they had chosen to live in Fayette County. He said he was glad this chapter would now be closed and everyone could move on. He said he and his family would continue to live in a County that they were proud to live in.

**CONSENT AGENDA:** Commissioner Frady made a motion to approve the consent agenda items 1-7 as presented. Commissioner Hearn seconded the motion. The motion carried 5-0.

**BUILDING AND GROUNDS MAINTENANCE:**

1. Approval of staff's request for authorization to proceed with the replacement of two mowers and two weed trimmers stolen from the Buildings and Grounds Maintenance Facility using Contingency Funds in an amount not to exceed $18,000. A copy of the request, identified as "Attachment No. 7", follow these minutes and are made an official part hereof.

**ROAD DEPARTMENT - BID #765 - ENGINEERING AND DESIGN SERVICES FOR SPLOST PROJECT NO. FC-15:**

2. Approval of staff's recommendation to award Bid #765 Engineering and Design Services for SPLOST Project No. FC-15, intersection improvements at Goza Road, Inman Road and S.R. 92 to Wolverton & Associates, in accordance with the terms and fees provided in the company's bid dated October 12, 2010. A copy of the request and backup, identified as "Attachment No. 8", follows these minutes and are made an official part hereof.

**SHERIFF'S OFFICE:**

3. Approval of the Sheriff's Office request to amend the Overtime Budget for the Criminal Investigations Division by $1,945.89 for reimbursement for employees assigned to work with various Federal Agencies. A copy of the request, identified as "Attachment No. 9", follows these minutes and is made an official part hereof.

**WATER SYSTEM - PEACHTREE CITY SEWER CUSTOMERS BILL INSERT:**

4. Approval of the Water Committee's recommendation that the Water System include an insert in bills to Peachtree City sewer customers on behalf of the Peachtree City Water and Sewerage Authority announcing the upcoming increase in sewer rates. A copy of the request and backup, identified as "Attachment No. 10", follow these minutes and are made an official part hereof.

**COUNCIL OF JUVENILE COURT JUDGES OF GEORGIA:**

5. Approval of staff's request for authorization for the Chairman to execute documents accepting a grant in the amount of $7,500 from the Council of Juvenile Court Judges of Georgia for providing community alternatives to juvenile incarceration. A copy of the request, backup and executed Grant document, identified as "Attachment No. 11", follow these minutes and are made an official part hereof.

**FAYETTE COUNTY DEVELOPMENT AUTHORITY BOARD APPOINTMENTS:**

6. Approval of appointments of Jason Thompson, Mike Brady, Hollis Harris and Phil Smelley to the Fayette County Development Authority which will expire on April 9, 2014. A copy of the request, identified as "Attachment No. 12", follows these minutes and is made an official part hereof.

**MINUTES:**

7. Approval of minutes for the October 6th Board of Commissioners Workshop meeting and the October 14th Board of Commissioners meeting.

**OLD BUSINESS:**

**E. FURTHER DISCUSSION RESULTING FROM A PREVIOUS REQUEST FROM STAFF CONCERNING CURRENT ACCOUNT AND FUND BALANCES FOR FISCAL YEAR 2010:**

Chief Financial Officer Mary Holland discussed this matter with the Board. A copy of the request and backup, identified as "Attachment No. 13", follow these minutes and are made an official part hereof. She said the Board had discussed additional funding at the October 14th meeting to be made available from fiscal year 2010. She said during that discussion, there were certain items that were brought to her attention that the Board wanted additional information and analysis in regard to other funding needs. She commented those items were asphalt and tack, victim's assistance, worker's compensation, and vehicle replacement. She remarked that the additional funding for these four items would amount to $1,755,000 from the general fund. She said the Fire Fund would total $392,000, EMS would total $90,000 and the Water System would total $8,000. She pointed out that this would total $2,245,000. She said there would be a $3 million surplus just for the General Fund alone. She said staff was recommending approval for the additional funding as presented.

Commissioner Maxwell questioned the figures regarding the Defined Benefits Plan and after a brief discussion, Ms. Holland stated staff would be providing the Board with an updated report and representatives from GEBCorp would be making a presentation to the Board at the November 18th meeting.

Chairman Smith remarked that during the course of the last four years this Board had made a lot of budget cuts and during the first three years of this Board actually cut the County budget by $7 million. He said in addition to that reduced $7 million budget, another $7 million was actually banked because the County underspent the lower budget. He said in addition to what the Board has heard tonight, the County would be in a position that there would be another $3 million realized. He said a great deal of this reduction was on the backs of the employees. He said those employees have not had cost of living raises, merit raises, pay for performance or any other measure of increase yet they have continued to do their job and they have done it well. He said he would like to propose to this Board that 2.5% of salary be set aside

for the Pay for Performance Program that was implemented approximately three years ago and that 2.5% of compensation be administered through that program so the performance was rewarded for County employees who he felt had performed in a manner that was steller. He said he was recommending this in addition to the allocations that Ms. Holland had proposed to bring some of the funds back up to the level that they should be at with a portion of thee funds that have been accumulated over the last four years be allocated as performance pay for County employees.

Chairman Smith made a motion to approve staff's recommendations for additional funding in Asphalt & Tack, Victim's Assistance, Worker's Compensation, and Vehicle Replacement and to include 2.5% of compensation be earmarked for allocation to the Pay for Performance Program. Commissioner Frady seconded the motion, discussion followed.

Chairman Smith added that the Pay for Performance would be for a half year since the County was already half way through the budget process. County Administrator Jack Krakeel said if the Board approved an effective date of December 1, 2010 the total aggregate from all funds would be $579,307 of which the general fund would fund $416,630. Mr. Krakeel said the maximum amount that any individual employee would be eligible for would be a maximum of 5%.

Commissioner Maxwell commented on the cost of health benefits provided by the County that must be paid by the employees. Mr. Krakeel remarked that multiples changes had been made to the healthcare plan over the course of the last four years including now with employees required to pay annual deductibles. He pointed out that there had been a significant increase in costs beyond the recalibration of the premiums being paid by employees. He said in addition to the recalibration the employees out of pocket expenses have gone up substantially as a result of plan modification.

Commissioner Frady interjected that the employees were no longer getting the County's contribution of 4% to their pension plan and the employees were paying 2.5% for the current pension plan.

Chairman Smith said he saw no detriment to the County whatsoever in rewarding those employees who have had steller performance and who have gone above and beyond their duties.

Commissioner Hearn questioned if employees who had reached the top of their salary range would be eligible for this pay for performance increase and Mr. Krakeel replied no, they would not. Commissioner Hearn pointed out that this would mean that there would be a certain number of employees who would not be eligible at all for any type of increase because of being "topped out" in their salary range.

Chief Financial Officer Mary Holland interjected that when the U.G.A. Compensation Study was done the actual levels within each grade were extended and she did not feel there were many employees who had reached their maximum level.

Mr. Krakeel remarked if the employees who had reached the maximum level in their pay grade, there was no provision for increasing that employee's salary through performance pay.

Mr. Hearn said during his employment with the County as Public Works Director there were upwards of 30% of the employees who were "topped out" in their salary range. He said he was concerned about the employees who would not be receiving any increase. He said he would like information regarding out of pocket costs that were required to be paid by employees. He also questioned the date of the last cost of living adjustment that County employees received and Mr. Krakeel replied that was in 2006 and then there was a recalibration of salary grades through the U.G.A. study and since the implementation of that study there had been no significant increase. Mr. Hearn noted that the County was putting more responsibility on the backs of employees by paying a portion of their health insurance and also paying a

portion of their retirement package. He said he would like more detailed information on this and Mr. Krakeel said he would be glad to provide that.

Chairman Smith amended the motion to have the 2.5% of annual salary prorated for the balance of this fiscal year beginning December 1, 2010. Commissioner Frady seconded the amended motion. The motion carried 5-0.

**NEW BUSINESS:**

**F. APPROVAL OF WATER COMMITTEE'S RECOMMENDATION TO HAVE THE COUNTY ENTER INTO AN AGREEMENT WITH ECO-SOUTH, INC. TO PERFORM MITIGATION WORK FOR THE CAMP CREEK MITIGATION SITE ON HELMER ROAD AND AUTHORIZATION FOR THE CHAIRMAN TO EXECUTE SAID AGREEMENT UPON REVIEW AND APPROVAL BY THE COUNTY ATTORNEY:**

Assistant Water System Director Russell Ray discussed this matter with the Board. A copy of the request and backup, identified as "Attachment No. 14", follow these minutes and are made an official part hereof. He noted that this was the last of the four mitigation sites required by the 404 Permit issued by the Corps of Engineers for construction of Lake McIntosh. He said the first two sites were complete and the third site was near completion. He asked for the Board's consideration to approve this recommendation.

Commissioner Horgan made a motion to approve the Water Committee's recommendation for the County to enter into an Agreement with Eco-South, Inc. in the amount of $454,798 to perform mitigation work for the Camp Creek Mitigation Site on Helmer Road and authorize the Chairman to execute said Agreement upon review and approval by the County Attorney. Commissioner Hearn seconded the motion. The motion carried 5-0. A copy of the Agreement, identified as "Attachment No. 15", follows these minutes and is made an official part hereof.

**ADMINISTRATOR'S REPORT:**

**COUNTY OWNED PROPERTY AT FIRST MANASSAS MILE:** County Administrator Jack Krakeel updated the Board on the issue of possible County property at First Manassas Mile being used by the Health Department that was discussed at the October 14th Board meeting. He remarked that staff had completed the additional information and analysis and provided the Board a copy for review. He said he would be glad to answer any questions that the Board might have in regard to that issue.

**VICTIMS OF CRIME ACT ASSISTANCE GRANT:** County Administrator Jack Krakeel stated that District Attorney Scott Ballard was asking for the Board's consideration for approval of the Victims of Crime Act Assistance Grant application and authorize the Chairman to execute the application in the amount of $81,517.

Commissioner Horgan made a motion to approve the Victims of Crime Act Assistance Grant Application and authorize the Chairman to execute the Application. Commissioner Hearn seconded the motion. The motion carried 5-0. A copy of the Grant Application, identified as "Attachment No. 16", follows these minutes and is made an official part hereof.

**ATTORNEY'S REPORT:**

**PROPOSAL #P759 - CONTRACT WITH SOUTHEASTERN TENNIS COURTS, INC.:** County Attorney Scott Bennett asked for the Board's consideration to authorize the Chairman to execute the contract with Southeastern Tennis Courts, Inc. who was the low bidder for Proposal #P759 in the amount of $29,880 for the refurbishment of the Kiwanis Park basketball court.

Commissioner Horgan made a motion to authorize the Chairman to execute the contract with Southeastern Tennis Courts, Inc. in the amount of $29,880. Commissioner Hearn seconded the motion. The motion carried 5-0. A copy of the contract, identified as "Attachment No. 17", follows these minutes and is made an official part hereof.

**CONTRACT WITH VERTICAL EARTH FOR REPAIRS TO THE FAYETTE COUNTY JAIL EXERCISE YARD FOR THE SHERIFF'S OFFICE:** County Attorney Scott Bennett asked for the Board's consideration to authorize the Chairman to execute the contract with Vertical Earth for repairs to the Fayette County Jail exercise yard in the amount of $89,050.

Commissioner Frady made a motion to authorize the Chairman to execute a contract with Vertical Earth for repairs to the Fayette County Jail Exercise Yard for the Sheriff's Office in the amount of $89,050. Commissioner Horgan seconded the motion. The motion carried 5-0. A copy of the Agreement, identified as "Attachment No. 18", follows these minutes and is made an official part hereof.

**STAFF REPORTS:** Public Works Director Phil Mallon announced that Phase I of the West Fayetteville Bypass was open for traffic today.

**BOARD REPORTS:** Chairman Smith stated that Chief Magistrate Chuck Floyd had passed away. He said visitation would be on Saturday at Mowell Funeral Home in Peachtree City and the funeral service would be held on Sunday at 2:30 p.m. at Dogwood Church on S.R. 74 in Peachtree City.

**EXECUTIVE SESSION:** Chairman Smith requested an Executive Session to discuss a personnel matter.

Commissioner Maxwell requested an Executive Session to discuss a personnel matter.

Commissioner Horgan made a motion to adjourn to Executive Session for the purpose of discussing personnel matters. Commissioner Hearn seconded the motion. The motion carried 5-0.

Chairman Smith adjourned the Executive Session and reconvened the meeting to open session.

Commissioner Frady made a motion to authorize the Chairman to execute the Executive Session Affidavit affirming that a personnel matter was discussed in Executive Session. Commissioner Hearn seconded the motion. The motion carried 5-0. A copy of the Executive Session Affidavit, identified as "Attachment No. 19", follows these minutes and is made an official part hereof.

**ADJOURNMENT:** Hearing no further business to come before the Board, Chairman Smith adjourned the meeting at 10:20 p.m.

Karen Morley, Chief Deputy Clerk

Jack R. Smith, Chairman

The foregoing minutes were duly approved at an official meeting of the Board of Commissioners of Fayette County, Georgia, held on the 18th day of November, 2010.

Karen Morley, Chief Deputy Clerk