Workshop Minutes

Board of Commissioners
May 4, 2011
3:30 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 an Official Workshop Session on Wednesday, May 4, 2011, at 3:30 p.m. in the Public Meeting Room of the Fayette County Administrative Complex, 140 Stonewall Avenue, Fayetteville, Georgia.

Commissioners Present:	Herb Frady, Chairman Robert Horgan, Vice Chairman Steve Brown Lee Hearn Allen McCarty
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.

Chairman Frady called the May 4, 2011 Board of Commissioners Workshop Meeting to Order at 3:31 p.m.

Acceptance of Agenda.

Commissioner Hearn moved to Accept the Agenda as published. Commissioner McCarty seconded the motion. No discussion followed. The motion passed unanimously.

OLD BUSINESS

1. Further discussion of the costs and impacts of various paving and widening alternatives for Snead Road west of Old Greenville Road.

Road Director Andy Adams discussed the costs and impacts of various paving and widening alternatives for Snead Road west of Old Greenville Road. He explained that staff was proposing "a typical section for Snead Road", similar to what has already been paved for the other sections of the road. He concluded his brief description of the project by telling the Board that the paving project would cost $89,800 but that funds only in

the amount of $53,300 were available. He did not know from what source the remaining funds could be allocated. Mr. Adams spoke of some potential problems that could be encountered by paving the remainder of Snead Road, and he informed the Board that if it gave approval to the project the work would begin in the middle of June and would be completed approximately three months later.

Commissioner Brown noted that although a prior Board had approved the project, he did not believe it was a priority project due to constraints with the budget. He reminded the other Commissioners that at it's the April 14, 2011 meeting the Board informed the Sheriff's Office that it had trouble funding a request for required inmate health costs, and he did know how funds could be made available for a section of a road with only two homes on it. County Administrator Jack Krakeel recommended that the project request be further discussed and considered at the forthcoming Fiscal Year 2012 Budget Meetings.

Public Works Director Phil Mallon informed the Board that approximately four property owners had recently purchased land along the road, that they intended to build homes on the road, that they had made the purchase with the understanding that the County would pave the road, and that they had dedicated right-of-way for the paving project. Chairman Frady agreed by saying he had received a phone call earlier in the week that "said the same thing."

The Board directed that this issue be further discussed during the upcoming Fiscal Year 2012 Budget Meetings. A copy of the request, identified as "Attachment 1", follows these minutes and is made an official part hereof.

2. Further discussion of proposed amendments to the Fayette County Code of Ordinances, Chapter 20. Zoning Ordinance regarding beekeeping.

Zoning Administrator Dennis Dutton discussed the proposed amendments to the Fayette County Code of Ordinances, Chapter 20. Zoning Ordinance regarding beekeeping with the Board. He reminded the Board that at its March 2, 2011 Workshop Meeting the Commissioners charged the Planning and Zoning staff to investigate and develop a beekeeping ordinance, and that this charge was prompted at the request of citizens who actively keep bees. He informed the Board that since the March Workshop, the Planning Commission has held three Workshop meetings on the subject, two of which involved a good amount of public input which resulted in the proposed amendments drafted at the last meeting. He told the Board that the Planning Commission, staff, and the beekeepers did not come to a consensus and that the areas of difficulty were: the number of permitted beehives, setbacks in relation to beehives, the location of beehives, screening of beehives, and selling honey. Discussion followed during which Commissioner Brown asked for Mr. Bo Mullins, a local beekeeper, to give his thoughts to the Board.

Mr. Mullins said he was privileged to sit in on the three Planning Commission Workshop Meetings, and that he was very impressed with the men who dedicated their time in the workshops since they were "very concerned about the community and about everybody's rights with respect to bees." He expressed concern that during the meetings he had not heard one person articulate the Georgia State law that pertained to the establishment and maintenance of beehives. He then read O.C.G.A 2-12-41.1 and gave his explanation of the laws.

Following Mr. Mullin's presentation, the Board asked County Attorney Scott Bennett to give his explanation of the code cited by Mr. Mullins. Mr. Bennett explained that while the law may prevent the Board from regulating how a beehive is constructed or something of a similar nature, the law did not remove the constitutional authority of the Board to regulate zoning in the County. He emphasized that the law specifically recognizes the constitutional authority of counties to zone property. He said he has never made any recommendation

regarding how the Board should exercise its zoning power with respect to bees or beehives, but he wanted the Board to be sure that to understand it has authority through its zoning powers to make decisions about what zoning classifications and setbacks it desired to establish.

Commissioner Horgan asked for the Planning Commission, the beekeepers, and staff to "get together and come up with one good solution since you have all of these three different opinions." Mr. Dutton replied that more time would be required. Commissioner Horgan replied that he would rather approve something that everyone is agreeable with. Further discussion continued.

The Board directed staff to work as a group with the Planning Commission and representatives of the beekeepers to attempt to reach a consensus on a recommended ordinance, and to return to the Board of Commissioners during the June 1, 2011 Workshop Meeting. A copy of the request, identified as "Attachment 2", follows these minutes and is made an official part hereof.

NEW BUSINESS

3. Discussion of proposed amendments to the Fayette County Code of Ordinances, Chapter 20. Zoning Ordinance regarding recreational vehicles.

Zoning Administrator Dennis Dutton discussed the proposed amendments to the Fayette County Code of Ordinances, Chapter 20. Zoning Ordinance regarding recreational vehicles with the Board. He explained that staff had received a complaint from residents in a subdivision of a recreational vehicle parked and occupied in a cul-de-sac. He told the Board that staff had reviewed the complaint and County Ordinances, and had consulted with the Marshal's Department who then consulted with the Fayette County Sheriff's Office. The Sheriff's Office, after conducting its investigation, had decided since the street the recreational vehicle was parked on "low-speed" street the complaint was unenforceable. He finished his remarks by saying that those who raised the complaint were not entirely happy with the proposed amendments to the Ordinance that was being presented, but that the Planning Commission was recommending the amendments "based on the fact that [they] still deal with parking on the street [permanently]."

Commissioner Horgan asked if this was the only complaint received by the County, and Mr. Dutton replied that was the only complaint of this nature that was being received, and that similar complaints arose when a person parked on a property for longer than 14 days. Commissioner McCarty replied that it appeared the County was spending too much time and was worrying too much about an issue that does not happen often and that the issue was not worth dealing with. Chairman Frady agreed. Commissioner Brown also agreed with the Chairman and Commissioner Frady, but added that he wanted to be sure that "the County avoids the type of a scenario where a person purchases a large vehicle and parks it on the street." Discussion followed.

County Administrator Jack Krakeel informed the Board that this particular complaint has been sent to the County annually for the past three years, and that he thought the bigger issue may be the noise from the recreational vehicle's generator that was running continually day and night. Commissioner Brown asked County Attorney Scott Bennett if the generator was the problem and if it is creating a noise problem, if Fayette County's Nuisance Ordinances could be used to resolve the complaint. Mr. Bennett replied that it would be determined by the decibel levels coming from the generator, and that the County could review the enforcement issue from that perspective. He informed the Board that he and the County Marshal would review the problem and see if the problem could be enforced through the Noise Ordinance.

The Board consented to not proceed further with the issue. The Board further directed that the County Attorney review the County's Noise Ordinance in order to determine if the complaint that generated this discussion can be dealt with through those means. A copy of the request, identified as "Attachment 3", follows these minutes and is made an official part hereof.

4. Discussion of a request by Commissioner McCarty that the Board consider compensating citizens whose properties are acquired by the County on a "make whole" basis.

Commissioner Allen McCarty presented his request to the Board that it considers compensating citizens whose properties are acquired by the County on a "make whole" basis. He explained that Fayette County has many citizens who are losing property to the County for its bypass projects and that the loss of citizens' properties will continue through the future. He informed the Board that there are State and federal laws regarding the taking of property and compensation of property, and he wanted to insure that the Board's goal was "to make a person whole whose property is taken" within the structure of the law. He then read Amendment V of the United States Constitution to support his request.

At the Board's request, County Attorney Scott Bennett explained the process the County utilizes to acquire citizens' property, the appraisal process, the rights of the citizens in the process, compensable property, and restrictions associated with the compensation issue. He told the Board that the Georgia State Constitution requires that money cannot be paid that counties do not lawfully owe, and that Fayette County is compelled to determine what it really owes for the value of land "as near as can be determined." He acknowledged that Fayette County is experiencing a financial downturn and that the real estate market is depressed, and that there are extenuating circumstances that have to be dealt with, but he reminded the Board that he had been instructed that his job was to balance stewardship of the taxpayer's money with making sure the property owner gets a fair and reasonable offer for their properties. During discussion, Commissioner Horgan asked if property could be compensated on an emotional basis and Mr. Bennett replied that compensation could not be given on that basis.

Commissioner McCarty then stated there was "a real good solution to the problem so that the County does not have to take people's homes [and that was] for the Board to stop the West Fayetteville Bypass."

The Board took no action and decided not to consider this issue any further. A copy of the request, identified as "Attachment 4", follows these minutes and is made an official part hereof.

5. Discussion of a request by Commissioner Brown that the Board consider a "Resolution Requesting Governor Nathan Deal to Veto HB179", which would protect the appearance of Georgia's highways and preserve the tree buffers owned by citizens of Georgia.

Commissioner Brown presented his request to the Board that it considers passing a "Resolution Requesting Governor Nathan Deal to Veto HB179", which would protect the appearance of Georgia's highways and preserve the tree buffers owned by citizens of Georgia. He explained that the Georgia General Assembly has recently passed House Bill 179 and that it had been sent to Governor Deal for signature. After explaining the provisions of HB179, he told the Board that he was opposed to the bill for the following reasons: it would allow for the clearing of state-owned trees; it would increase the Georgia Department of Transportation's maintenance costs; that he wanted to preserve the state's tree buffers; that he wanted to keep Georgia beautiful and green, and that some of the billboards along Georgia's interstates promoted indecent businesses that were

an embarrassment to the State and to families traveling along the roads. He briefly explained each point of his opposition during the discussion and asked for the Board to place the resolution on the May 12, 2011 Agenda for a formal vote.

Commissioner Hearn read a part of HB179 which explained the benefit of the bill, namely that it "provides a substantial service and benefit to Georgia and Georgia's citizens as well as the traveling public."

Commissioner Horgan stated that he "kind of agreed with both sides of the issue" and that he wanted to look further into the issue. Commissioner McCarty added that there was enough clear space that billboards could be built without cutting down trees, and that the more trees the state had the better it would be to help with pollution. He concluded that he did not want to see trees cut down, and that the trees belonged to the citizens of Georgia. Chairman Frady thought Governor Deal would sign the legislation, and that while he was neutral on the subject he had no objection to sending the resolution to the Governor.

The Board directed staff to place the resolution on the May 12, 2011 Agenda for formal approval. A copy of the request, identified as "Attachment 5", follows these minutes and is made an official part hereof.

6. Discussion of a request by Commissioner Brown that the Board consider creating a formal process for making required appointments to various boards, committees, commissions, and authorities.

Commissioner Brown presented his request to the Board that it considers creating a formal process for making required appointments to various Boards, committees, commissioners, and authorities. He said a sample application for appointments had been provided to each Commissioner and that audience members could obtain a copy for themselves through the County Clerk's Office. He reminded the Board that there had been some recent disagreements over appointments to the Board of Elections, and the issue brought it to his attention that available appointment positions were not advertised. He stated that Fayette County's procedure for filling open positions essentially entailed the Board just picking some people that it knows. He asked that the process be more open. Commissioner Brown argued that the formal process that he was recommending would introduce a broad range of potential candidates, and he knew that Fayette County is a very highly educated county full of highly qualified people, and that the process would work to help Fayette County prosper in the future.

Commissioner Horgan agreed in part with Commissioner Brown saying he thought Board appointments should be made more public and that "perhaps something should be advertised." He said he did not feel comfortable, however, with requiring volunteers to answer some of the questions on the proposed application.

Chairman Frady said the problem at hand was similar to the recreational vehicle issue since in all the years there had only been one problem. He said the County had not advertised for people to fill open positions since before Commissioner Bost sat on the Board, and that the practice was to allow a Commissioner to pick a member from their district to fill the vacancy. He said Commissioners work to select the best appointee for the position, that the current practice was the best practice, and that the current practice did not put the Board or Commissioners in a position to turn down applicants. He then asked County Attorney Scott Bennett to inform the Board about what the Ethics Ordinance requires about nepotism. Mr. Bennett said the Ethics Ordinance "defines or regulates transactions and business with immediate family which is parents, children, and siblings." Chairman Frady asked if the Ethics Ordinance had been violated recently. Mr. Bennett replied that, as far as he knew, it had not been violated.

Commissioner Hearn asked Executive Assistant Carol Chandler to explain how applicants are routinely chosen for various appointments to the different bodies. Ms. Chandler explained the process.

Commissioner McCarty said he did not have a problem with the selection process, that if the Board appoints someone it should be someone a Commissioner knows something about, and that information should be made available to the rest of the Commissioners and anyone in the public who is interested in looking at it.

Commissioner Brown answered that the problem with the current process was that it was "undemocratic". He said he had heard people complain that they could not find anyone to fill a position, and he pointed out that Fayette County has approximately 107,000 citizens comprised of some of the most educated and well-qualified people in the United States, and to not advertise the position but to limit the selection to a Commissioners friend or neighbor may not be beneficial to the County. He concluded that the current process where "somebody rummages around and pulls somebody out and then throws out a name at a meeting" is not right.

Commissioner Horgan retorted that he had never seen Commissioners "rummage around" to put somebody on a Board. He thought Commissioner Brown was correct that there were many educated people in Fayette County, but that the type of person to be selected for a position is the person who goes to the meetings and "brings themselves forward". He concluded that he had never rummaged around just to put somebody in a position.

The Board took no action and decided not to consider this issue any further. A copy of the request, identified as "Attachment 6", follows these minutes and is made an official part hereof.

ADMINISTRATOR'S REPORTS

Fiscal Year 2012 Budget Books Available to Commissioners: County Administrator Jack Krakeel reported that two Fiscal Year 2012 Budget Books would be made available to each Commissioner immediately after the meeting. He informed the Board that the first book was "a high-level summary of the budget" and the second book "was substantially larger and it is a detailed, line-item by line-item account of the budget." He closed his report by providing a brief summation of the forthcoming Fiscal Year 2012 budget and its challenges, and he reminded the Board that the Budget Meetings will be held on May 23-24, 2011.

COMMISSIONERS' REPORTS

Commissioner Steve Brown: Commissioner Steve Brown commented on the recent appointment of Mr. Addison Lester to the Fayette County Board of Elections. He stated that other information had not been disclosed about Mr. Lester before he said that Mr. Lester sits on the Board of Directors for the Fayetteville Downtown Development Authority. He continued that Mr. Lester had an ownership interest in a family land trust of over 109 acres located near the West Fayetteville Bypass which had not been previously disclosed, and he spoke about the implications of this recent information, about Mr. Lester's potential connection to or support of Commissioner Hearn, and about the need of a formal process to evaluate potential appointees to the various boards, authorities, and commissions.

ADJOURNMENT:

Commissioner Horgan moved to adjourn the May 4, 2011 Board of Commissioners meeting. Commissioner Hearn seconded the motion. No discussion followed. The motion passed unanimously. The Board adjourned its May 4, 2011 Workshop Meeting at 4:54 p.m.

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Floyd L. Jones, Deputy Clerk Herbert E. Frady, Chairman

The foregoing minutes were duly approved at an official meeting of the Board of Commissioners of Fayette County, Georgia, held on the 26th day of May 2011.

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Floyd L. Jones, Deputy Clerk