Minutes

Board of Commissioners
October 5, 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 Official Session on October 5, 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 Jones, Chief Deputy Clerk

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Call to Order.

Chairman Frady called the Workshop Meeting to Order at 3:31 p.m.
County Attorney Scott Bennett entered the meeting at 4:49 p.m.

Acceptance of Agenda.

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

OLD BUSINESS:

1. **County Administrator Jack Krakeel will provide the Board with an update on the County's upcoming Local Option Sales Tax renegotiations.**

   County Administrator Jack Krakeel provided the Board with an update on Fayette County's upcoming LOST renegotiations for revenue the County receives from the ongoing sales tax resulting from a 1980 referendum. Discussion followed.

The Board directed that the renegotiation efforts should begin in January 2012. The Board also directed Executive Assistant Carol Chandler to contact Councilman Larry Dell, who serves as Chairman of the Association of Fayette County Governments (ACCG), for the purpose of scheduling a meeting with the ACCG in November 2011 to discuss issues pertaining to the renegotiation efforts. The Board further directed for 1) Staff to provide the current distribution formula; 2) staff to provide possible suggested formulas; 3) the County Attorney to overview Gwinnett County vs. the City of Loganville in relation to their LOST renegotiations; and 4) staff to identify who the negotiating team will be. The Board took no action on this item. A copy of the request, identified as "Attachment 1", follows these minutes and is made an official part hereof.

2. Further discussion of a request from Commissioner Brown to discuss the Fayette County Zoning Ordinance as it relates to cell tower regulations.

Director of Community Development Pete Frisina provided updated information to the Board about Fayette County's Zoning Ordinance as it relates to cell tower regulations. Specifically, Mr. Frisina spoke about the following issues: 1) What constitutes a complete tower application?; 2) Staff vs. BOC approval of variances for tower height and should a tower application go before the Board of Commissioners for approval; 3) A "good neighbor policy" of establishing distance for cell towers from adjacent municipalities and counties; and 4) A public notification of a proposed tower site to be located near adjacent property owners of a proposed tower site. Discussion took place for each of the four topics, and the Board gave the following directions:

1) The Board directed staff to return to the Planning Commission to obtain recommendations on what minimum and certain requirements must be included with a cell tower application in order for that application to be considered complete, and to return to the Board during its December 7, 2011 Workshop Meeting to provide the recommendations.

2) The Board agreed that staff could retain administrative authority for the approval of cell tower applications so long as cell tower applicants meet the specified guidelines as provided in the cell tower regulations.

3) Commissioner Brown suggested that the Planning Commission should reexamine the distance changes made to the Fayette County Zoning Ordinance, as they relate to cell towers' locations and residential offsets, to determine if the ordinance is still adequate.

The Board took no action on this item.

A copy of this request, identified as "Attachment 2", follows these minutes and is made an official part hereof.

NEW BUSINESS:

3. Discussion of staff's request for direction on whether or not to propose amendments to the Fayette County Comprehensive Plan regarding illegal nonconforming lots.

Director of Community Development Pete Frisina requested the Board's direction on whether or not to propose amendments to the Fayette County Comprehensive Plan pertaining to illegal nonconforming lots. He explained that on occasion, staff finds lots in the County that have been subdivided or created in such a way that they become either legal nonconforming lots or illegal nonconforming lots that conflict with the current zoning requirements. He told the Board that when staff discovers an illegal nonconforming lot, it is the County's longstanding practice to make every effort to bring the lot into compliance with the County's Land Use Plan;

however, there are some situations where the lots cannot be made to conform. He said the problem with approving illegal nonconforming lots is that it opens up the likelihood that other property owners would want similar exceptions made for their lots; effectively nullifying the Land Use Plan. He said staff would like to study the issue further and to attempt to provide some criteria for the Land Use Plan that would give some latitude to property owners who have illegal nonconforming lots, without creating greater conflicts for Fayette County in the future.

Commissioner Brown said he had a problem with the request because the responsibility for illegal nonconforming lots fell on the property owners and not on Fayette County. He said he had other concerns about this request since the Land Use Plan is a legal document that has to be defended in court, and if the County gives exceptions to the plan then it could end up "in deep water". He suggested that property owners already have a potential remedy to their situation by filing a rezoning application.

Commissioner Hearn noted that some property owners with illegal nonconforming properties might have come into possession of them through an inheritance or in some other manner where they had no idea the lot was illegal and nonconforming. He said this situation makes it difficult for those property owners because when they come to the county to apply for a simple remodeling permit they are unable to get it because their property is illegal and nonconforming. He concluded that he would not want to have property owners in those situations to have to bear the whole responsibility. Mr. Frisina replied that staff's request was not to relieve everyone who has illegal nonconforming lots, that it was intended to provide relief for some property owners, and that staff's challenge would be to figure out under what circumstances the County would allow for relief. Discussion followed.

Commissioner McCarty asked Mr. Chris Presley to tell the Board of his experience with his property. Mr. Presley informed the Board that he is a real estate agent who purchased property in 2009. He briefly explained the process, including the investigative work, associated with purchasing property and he told of the difficulties a buyer would initially have if the property was determined to be illegal and nonconforming. He told the Board that the Land Use Plan became effective in 1980, but less than a year afterward the property changed size from 3.6 acres to 2.6 acres. Then, in 1983, someone built a house on the property after Fayette County issued a permit authorizing the build. He clarified that, since 1980, two permits were issues by Fayette County (prior to when he purchased the property) that indicated the property in question was qualified to build a house on it and to add a three-car garage to it. He added that the Fayette County's tax records show that the property is legal and conforming, and he was concerned that Fayette County has incorrect records. Commissioner Brown asked Mr. Presley if he had considered buying some of the adjoining land in order to bring the property into conformity. Mr. Presley replied that he absolutely would not since "the lot was legal when I purchased the lot".

After further discussion, Commissioner Hearn said he did not mind if staff "put a study together" since the Board retains the right not to adopt its recommendations. He added that although he had no problem punishing those who break the law, he recognized that the current arrangement could also punish people who inherited their property and had no idea it was illegal and nonconforming. He recognized the issue was difficult and that the Board needed to proceed cautiously, but he said if he were in Mr. Presley's shoes he would like a process where he could be heard. Commissioner Brown replied that Mr. Presley already has an avenue to be heard.

County Attorney Scott Bennett informed the Board of several options that may be available to provide relief for property owners with illegal nonconforming lots. The Board directed Mr. Bennett and Mr. Frisina to work together to provide the Board with further information and options pertaining to concerns with illegal nonconforming lots, and to return later with recommendations. The Board took no action on this item. A copy of the request, identified as "Attachment 3", follows these minutes and is made an official part hereof.

4. Consideration and discussion of a request from T-Mobile South to install a cell tower at Fire Station 1 located on Highway 279.

Fire Chief Allen McCullough and Deputy Fire Chief Tom Bartlett discussed the request from T-Mobile South to install a cell tower at Fire Station 1. Chief Bartlett reported that T-Mobile South first approached Fayette County in 2010 with a similar request, but the County was unable to proceed with the request at that time since it was not operationally feasible with Public Safety's operations, since septic lines and drainage lines would have to be moved.

Chief Bartlett informed the Board that T-Mobile returned to the County in 2011, with a new construction team, and that they had located another part of the property that avoided the previous complications. He spoke about the proposed tower's dimensions, requirements, and components. He informed the Board that negotiations have gone back and forth between Public Safety and T-Mobile South, and that staff wanted to know if the Board approved of the concept in general, and, if so, could the contract be placed on an upcoming agenda for a formal vote. Chief Bartlett pointed out that if the Board approved the request, T-Mobile South would pay a monthly lease to Fayette County of approximately $1,300. Discussion followed about the concern that the lease payment was insufficient, about the ability of other providers to co-locate on the tower, and about the type of tower to be installed.

The Board agreed to the general concept proposed by T-Mobile South, however, it directed staff to discuss other lease payment options with T-Mobile South and other providers before returning to the November 2, 2011 Workshop Meeting with recommendations. The Board took no action on this item. A copy of the request, identified as "Attachment 4", follows these minutes and is made an official part hereof.

5. Discussion of Fire and Emergency Services' recommendation to award Bid #790 for Short-Term Debris Removal to Tag Grinding Services, Inc.

Fire Chief Allen McCullough and Deputy Chief Tom Bartlett discussed staff's recommendation to award Bid #790 for Short-Term Debris Removal to Tag Grinding Services, and they requested permission to place this recommendation on the October 13, 2011 Agenda for a formal vote.

Chief McCullough said this bid request is part of a comprehensive program that Fayette County has engaged in for overall debris removal, and that the purpose of the request was to effectively deal with disasters that are beyond the ability of both the County's Emergency Management and Public Works Department to manage. Chief Bartlett explained the recommendation was prompted by the tornados experienced in Georgia earlier in the year, as well as storm damage experienced by Fayette County in 2005. He told the Board that trying to arrange supporting equipment and qualified personnel while dealing with a major disaster is a labor-intensive process, and this recommendation would ensure support assistance in the event a major disaster occurs. He said a committee comprised of Public Safety officials from Fayetteville, Peachtree City and Tyrone, as well as the County's Emergency Management and Public Works departments worked on this recommendation. Chief Bartlett added that each jurisdiction would be responsible for its own incurred cost, but that this agreement

would allow additional crews to be "on the ground" to work in the County in a minimal timeframe, and that the awarded vendor would work for a predetermined amount that will not escalate after the disaster occurs. Discussion followed.

The Board consented to place this item on the October 13, 2011 Consent Agenda for a formal vote. A copy of the request, identified as "Attachment 5", follows these minutes and is made an official part hereof.

6. Discussion and consideration of the Environmental Health Department's request to increase its fees in order to meet a budgetary shortfall.

Environmental Health County Manager Rick Fehr informed the Board that he had come on behalf of the Fayette County Board of Health who asked him to consult with the Board concerning their proposal to increase the Environmental Health Department's fees in order to meet an $80,000 budgetary shortfall. Discussion followed concerning the factors creating the budgetary shortfall.

County Administrator Jack Krakeel advised that setting fees for permits should be predicated on the cost of issuing the permit and the work involved with issuing the permit, but that fees should not be charged, "to fill budget shortfalls, budget gaps, or anything else". He said if the fee structure is not adequate to recover the cost of conducting inspections then the fees should be modified to recover the cost, but he was concerned about "some of the numbers being bandied about with respect to budget shortfalls".

Chairman Frady recommended that the Board wait until January to review the request again. He added that the Board could not approve anything since there was not enough information available. Commissioner Brown asked the Board to consider asking the Information Systems Department to look at the Health Department's operations to determine if there was a way to streamline their processes and save money. Commissioner Hearn said before he could be comfortable increasing the fees, he would have to have real justification to do so. Commissioner McCarty agreed with Commissioner Hearn.

The Board directed Mr. Fehr to provide additional information justifying the request, and to return to the Board early next year. The Board took no action on this item. A copy of the request, identified as "Attachment 6", follows these minutes and is made an official part hereof.

ADMINISTRATOR'S REPORTS:

There was no Administrator's Report.

COMMISSIONERS' REPORTS:

There were no Commissioners' Reports.

ADJOURNMENT

Commissioner Brown moved to adjourn the October 5, 2011 Workshop Meeting. Commissioner McCarty seconded the motion. No discussion followed. The motion passed unanimously.

The Board adjourned its October 5, 2011 Workshop Meeting at 5:51 p.m.

Floyd L. Jones, Chief 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 27th day of October 2011.

Floyd L. Jones, Chief Deputy Clerk