

BOARD OF COUNTY COMMISSIONERS

Charles W. Oddo, Chairman
Randy Ognio, Vice Chair
David Barlow
Steve Brown
Charles D. Rousseau



FAYETTE COUNTY, GEORGIA

Steve Rapson, County Administrator
Dennis A. Davenport, County Attorney
Floyd L. Jones, County Clerk
Tameca P. White, Chief Deputy County Clerk

140 Stonewall Avenue West
Public Meeting Room
Fayetteville, GA 30214

ACTION AGENDA

July 28, 2016
7:00 p.m.

Welcome to the meeting of your Fayette County Board of Commissioners. Your participation in County government is appreciated. All regularly scheduled Board meetings are open to the public and are held on the 2nd and 4th Thursday of each month at 7:00 p.m.

Call to Order

Chairman Oddo called the July 28, 2016 Board of Commissioners meeting to order at 7:01 p.m.

Invocation by Commissioner David Barlow

Commissioner Barlow offered the Invocation.

Pledge of Allegiance

Chairman Oddo led the Board and audience in the Pledge of Allegiance.

Acceptance of Agenda

Commissioner Brown moved to accept the Agenda with the addition of a "Discussion of the Board's consideration of a Moratorium on residential rezonings prior to the Public Hearings being placed on an agenda." Vice Chairman Ognio seconded. The motion passed 3-2 with Chairman Oddo and Commissioner Barlow voting in opposition.

PROCLAMATION/RECOGNITION:

1. Recognition of State Court Interns.

The Board of Commissioners and Judge Jason Thompson recognized Jumoke Aremu, Matt Chrzanowski, Brandon Price-Crum and Erin Dietrich for their work with the Fayette County State Court intern program.

1a. Discussion of a Moratorium on residential rezonings prior to the Public Hearings being placed on an agenda.

Commissioner Brown stated that there were additional documents added to the dais that was not in the meeting package and that they can be obtained from the County Clerk's office. The documents on the dais included an article from the *Sandy Springs Times* that published a letter from Sandy Springs Mayor Rusty Paul on why the city enacted a zoning moratorium and a copy of a draft resolution entitled "The Board of Commissioners of Fayette County, Georgia Authorizing a Temporary Moratorium on the Acceptance of Applications for the Rezoning of Property and to all Residential Zoning Classifications Including Mixed Uses with Residential". Commissioner Brown spoke on the "unprecedented number of applications for annexations and rezonings" in the counties and municipalities and how he would like for the Board to be proactive as oppose to reactive by creating language in a moratorium that would require a series of meetings that would include the public and municipalities and local citizens from every zoning classification, to discuss the county's Land Use Plan and determine how to process with the Land Use Plan for the future. He stated that there are advertising requirements on moratoriums to advertise for a certain period of time prior to enacting a moratorium.

Commissioner Brown moved to ask staff to proceed as expeditiously as possible on the advertising component for the moratorium with any required Special Called Meetings and to begin the process to be placed on the next possible meeting agenda for a vote of the Board of Commissioners. Vice Chairman Ognio seconded. Discussion followed.

Commissioner Barlow called for a vote. Further discussion followed.

Commissioner Rousseau moved to table the discussion of the moratorium on residential rezonings prior to the Public Hearings being placed on an agenda to the August 11, 2016 Board of Commissioners meeting. The motion passed 5-0.

PUBLIC HEARING:

- 2. Consideration of Petition No. 1257-16, TSTT Investments, LLC, Owner, and Brent Holdings, LLC, Donna Black & Randy Boyd, Agents request to rezone 212.832 acres from A-R and R-40 to PUD-PRD to develop a Single-Family Residential Subdivision with 91 lots located in Land Lots 4, 5, 28, 29, and 30 of the 7th District and fronting on Ebenezer Church Road and Davis Road with (1) condition.**

Community Development Director Pete Frisina briefed the Board on staff's and the Planning Commission's recommendation.

Ms. Kathy Zickert, Smith, Gambrell and Russell, LLP, the attorney for the applicants. She briefed the Board on the history of the applications for this property. She stated that the request is consistent with the current Land Use Plan and is also consistent with an R-40 zoning that is north of the proposed site. She stated that the applicants have responded to all requests made by the Planning Commission. She asked the Board to accept staff's recommendation for the rezoning.

Commissioner Barlow pointed out the there is a Diane Barlow that signed the disapproval of the rezoning request and to his knowledge he is not related to her.

The following spoke in opposition of the petition:

Colonel (Retired) Mr. Jack F. Smith, Mr. Dave Hannum, Mr. Michael McClellan, Mr. Norm Nolde, Mr. John Burns, Mr. Anthony DeMont Jr., Mr. Robert (Bob) Ross, Mr. Art Lally and Ms. Evelyn McNeil.

No one spoke in favor of the petition.

Mr. Randy Boyd, Agent, rebutted comments made regarding the petition.

Commissioner Brown moved to deny Petition No. 1257-16, TSTT Investments, LLC, Owner, and Brent Holdings, LLC, Donna Black & Randy Boyd, Agents request to rezone 212.832 acres from A-R and R-40 to PUD-PRD to develop a Single-Family Residential Subdivision with 91 lots located in Land Lots 4, 5, 28, 29, and 30 of the 7th District and fronting on Ebenezer Church Road and Davis Road with (1) condition. Vice Chairman Ognio seconded. Discussion followed. The motion passed 4-1 with Chairman Oddo voting in opposition.

The Board recessed at 9:32 p.m. The Board returned from recess at 9:42 p.m.

- 3. Consideration of Petition No. 1259-16, Shelly M. Godby & Regina D. Godby, Owners, and Rod Wright, Agent request to rezone 38.995 acres from A-R to R-70 to develop a Single-Family Residential Subdivision with 17 lots located in Land Lots 37 and 60 of the 7th District and fronting on Ebenezer Road and Davis Road with two (2) conditions.**

Mr. Frisina briefed the Board on staff's and the Planning Commission's recommendation.

Mr. Rod Wright, Agent stated that he was requesting the Board's approval of R-70 zoning.

The following spoke in opposition of this petition:

Ms. Lou Jean McKnight, Mr. Michael McClellan, Mr. Larry McNeil,

The following spoke in favor of this petition:

Ms. Sylvia Nolde

Mr. Frisina stated that the minimum lot size for R-70 is two acres and the minimum square footage is 1,500 square feet.

Chairman Oddo moved to approve Petition No. 1259-16, Shelly M. Godby & Regina D. Godby, Owners, and Rod Wright, Agent request to rezone 38.995 acres from A-R to R-70 to develop a Single-Family Residential Subdivision with 17 lots located in Land Lots 37 and 60 of the 7th District and fronting on Ebenezer Road and Davis Road with two (2) conditions. Commissioner Rousseau seconded. Discussion followed. The motion failed 2-3 with Commissioners Barlow, Brown and Ognio voting in opposition.

4. Consideration of Ordinance 2016-15, amendments to the Fayette County Code of Ordinances, Chapter 110., Sec. 110-3. , Sec. 110-145., Sec. 110-146., Sec. 110-169., Sec. 110-173., and Sec. 110-174.

Mr. Frisina briefed the Board that he would read items 4, 5 and 6 to be discussed simultaneously, but that each item will need to be voted on separately. He stated that this item came to the Board a month ago. He stated that the difference between the two zoning districts is that the Limited Commercial (LC)-2 allows for a commercial convenience establishment with gasoline sales and that LC-1 does not allow that one use. He stated that all the four corners are dedicated to a Land Use of LC-1 and it also has some O&I area, some fringe areas that are now considered a non-residential use.

The following spoke in favor of this request.

Mr. Dennis Shell.

Mr. John Lynch stated that he is not sure if he is for this request or against this request. He then read a statement into the record regarding this item.

Commissioner Brown moved to approve Ordinance 2016-15, amendments to the Fayette County Code of Ordinances, Chapter 110., Sec. 110-3. , Sec. 110-145.5., Sec. 110-146., Sec. 110-169., Sec. 110-173., and Sec. 110-174 and to offer formal correspondence from the County to Department of Transportation regarding the placement of the property markers. Vice Chairman Ognio seconded. Discussion followed. The motion passed 5-0.

5. Consideration of Resolution 2016-09 for the proposed Color and Brick Palette for the Starr's Mill Historic Overlay District and Overlay Zone.

Commissioner Brown moved to approve Resolution 2016-09 for the proposed Color and Brick Palette for the Starr's Mill Historic Overlay District and Overlay Zone. Vice Chairman Ognio seconded. The motion passed 5-0.

6. Consideration of Resolution 2016-06 to amend the Land Use Element Text and Future Land Use Plan Map of the Fayette County Comprehensive Plan for the Starr's Mill Historic Overlay District in the area of the Intersection of State Route 74, State Route 85 and Padgett Road.

Chairman Oddo stated that he will be voting against the item because he is in favor of the gas station being in this area.

Commissioner Brown moved to approve Resolution 2016-06 to amend the Land Use Element Text and Future Land Use Plan Map of the Fayette County Comprehensive Plan for the Starr's Mill Historic Overlay District in the area of the Intersection of State Route 74, State Route 85 and Padgett Road. Vice Chairman Ognio seconded. The motion passed 4-1 with Chairman Oddo voting in opposition.

7. Consideration of Ordinance 2016-12, Amendments to the Fayette County Code of Ordinances, Chapter 110. Zoning Ordinance, Regarding Section 110-3 Definitions, Section 110-25 A-R, Agricultural-Residential District, Section 110-169 Conditional Use Approval, and Section 110-91 Recreational Vehicle.

Mr. Frisina stated that Item #8 is in conjunction with Item #7. He stated that Item #7 is creating a use for a deer processing facility to allow in the A-R zoning district, as a conditional use, with nine conditional uses and also a definition for deer processing facility and adding it under A-R. He stated that it does not allow for the sale of deer meat, but will allow for the Department of Natural Resources (DNR) *Hunters for Hunger Program*. He stated that the facility has to be on a road that is not an internal local and that the waste has to be dealt with as solid waste by disposing of it in a solid waste landfill. He stated that there has to be a permit from the DNR and a National Pollutant Discharge Elimination System (NPDES) permit from the Department of Environmental Management and a vehicle drop off circulation pattern to allow vehicles to return to the street in a forward manner. He stated that there were rules in two different places in the Ordinance dealing with the same issues, so this will put all the rules in the same place under one zoning.

No one spoke in favor or opposition of this request.

Commissioner Brown moved to approve Ordinance 2016-12, Amendments to the Fayette County Code of Ordinances, Chapter 110. Zoning Ordinance, Regarding Section 110-3 Definitions, Section 110-25 A-R, Agricultural-Residential District, Section 110-169 Conditional Use Approval, and Section 110-91 Recreational Vehicle. Vice Chairman Ognio seconded. Discussion followed. The motion passed 5-0.

8. Consideration of Ordinance 2016-13, Amendments to the Fayette County Code of Ordinances, Chapter 104. Development Regulations, Sections 104-27., 104-28., 104-29., 104-55., 104-63., 104-111., 104-113., 104-114., 104-115., 104-152., 104-153., 104-154., 104-155., 104-212., 104-213., 104-215., 104-217., 104-218. 104-219., 104-220., and 104-221.

Commissioner Brown moved to approve Ordinance 2016-13, Amendments to the Fayette County Code of Ordinances, Chapter 104. Development Regulations, Sections 104-27., 104-28., 104-29., 104-55., 104-63., 104-111., 104-113., 104-114., 104-115., 104-152., 104-153., 104-154., 104-155., 104-212., 104-213., 104-215., 104-217., 104-218. 104-219., 104-220., and 104-221. Vice Chairman Ognio seconded. The motion passed 5-0.

9. Consideration of Ordinance 2016-14, Amendments to the Fayette County Code of Ordinances, Chapter 110. Zoning Ordinance, Regarding Article III. -General Provisions Concerning Hens in Conjunction with Residential Use.

Mr. Frisina gave a brief history of this agenda item stating that it was the consensus of the Board during the March 10, 2016 meeting to move forward with the residential use of chickens. He stated that this has become very popular in the last few years. He stated that staff and the Planning Commission's recommendation is a limit of three (3) hens per principle dwelling and using a lot size of one (1) acre for each additional acre there can be an additional hen up to a maximum of five (5) hens. He stated that this would be allowed in every zoning district that allows for a single-family residence. There are no roosters or on-site slaughter allowed, the hen house/coup are allowed on the side and rear areas only and should be set back a minimum of 50 feet from property lines, the hens shall be contained on the lot and the containment area shall be on the side

and rear areas only and it will be limited to no more than forty percent of the lot. He made a recommendation to make a global change of the word "hen(s)" to "chicken(s)".

Commissioner Brown stated that he believes on-site slaughter of the chicken is acceptable.

Commissioner Rousseau asked if there were any health codes concerns with that statement. Mr. Frisina stated that he did not know. Commissioner Rousseau asked why the proposed ordinance did not allow slaughter. Mr. Frisina stated that in his review of similar ordinances it was common in ordinances for residential areas.

The following spoke in favor of this request:

Mr. Brian Tant, Ms. Quilla Swint-Smith, Ms. Yvonne Smith

No one spoke in opposition of this request:

Commissioner Brown moved to approve Ordinance 2016-14, Amendments to the Fayette County Code of Ordinances, Chapter 110. Zoning Ordinance, Regarding Article III. -General Provisions Concerning Hens in Conjunction with Residential Use but to approve Section 110-89 to allow the slaughter of the chickens on the property and to change the term hens to chickens. Chairman Oddo seconded. Discussion followed.

Vice Chairman stated that he would like to see the Ordinance include six (6) chickens with three (3) per acre with a total of twelve (12) chickens.

Commissioner Brown amended the motion to approve Ordinance 2016-14, Amendments to the Fayette County Code of Ordinances, Chapter 110. Zoning Ordinance, Regarding Article III. -General Provisions Concerning Hens in Conjunction with Residential Use but to approve Section 110-89 to allow the slaughter of the chickens on the property and to change the term hens to chickens and to allow six (6) chickens for the first acre and three (3) for each additional one acre up to the maximum of twelve (12) chickens on a three (3) acre lot. Chairman Oddo amended his second. The motion passed 5-0.

CONSENT AGENDA:

Commissioner Brown moved to approve the Consent Agenda as presented. Vice Chairman Ognio seconded. The motion passed 5-0.

10. **Approval of staff's request to approve the Resolution for Trustee Change regarding the 98 Lease Pool Program and Resolution for Amendment to Equipment List related to the 98 Lease Pool Program.**
11. **Approval to accept a donation from the Fellowship of Love Church; increase the 2017 budget donation revenue account by \$4,000.00; and to increase the Furniture & Fixtures expense account by \$4,000.00 for the purpose of buying tables for the Library's Distance Learning Center.**

Commissioner Rousseau thanked Pastor Jackson for their donation and he wanted to recognize the Pastor and the Church for their model of giving that is much appreciated.

12. **Approval of staff's recommendation to award annual bid #1137-B for Asphalt Concrete to E.R. Snell of Tyrone as the primary vendor and to the three plants of C.W. Matthews as secondary vendors through the end of fiscal year 2017 with a not-to-exceed amount of \$911,900.**

In accordance with the Americans With Disabilities Act, accommodations are available for those who are hearing impaired and in need of a wheelchair. The Board of Commissioners Agenda and written material for each item is available on-line through the County's website at www.fayettecountyga.gov. This meeting will be telecast on Comcast Cable Channel 23 and on the internet at www.livestream.com.

13. **Approval of staff's recommendation to allocate \$185,000 of the requested 2016 Special Local Maintenance & Improvement Grant (LMIG) against the FEMA/GEMA December 2015 storm flooding projects.**
14. **Approval of the July 14, 2016 Board of Commissioners Meeting Minutes.**

OLD BUSINESS:

15. **Consideration and approval for delaying the November SPLOST election and Calling for a Special Called Election in March 2017 for the six-year Special Purpose Local Option Sales Tax. This was approved on July 14, 2016 as "Discussion concerning whether Fayette County seeks to request a four-year or six-year Special Purpose Local Option Sales Tax."**

County Administrator Steve Rapson briefed the Board that in a recent vote the Board of Commissioners called for a six-year SPLOST, however due to the November election cycle there was a compressed timeframe regarding notices to be published. He explained the process to the Board. He stated that moving the process to the March election cycle would give more time to ensure the notices are provided.

Peachtree City-City Manager John Rorie answered questions from the Board regarding this item.

Commissioner Barlow moved to approve delaying the November SPLOST election and Calling for a Special Called Election in March 2017 for the six-year Special Purpose Local Option Sales Tax. Commissioner Rousseau seconded. Discussion followed. The motion passed 4-1 with Vice Chairman Ognio voting in opposition.

NEW BUSINESS:

16. **Consideration of a recommendation from the Selection Committee comprised of Commissioners Randy Ognio and David Barlow, to appoint Lavonia Stepherson to an unexpired term, replacing Margaret Sission, beginning immediately and expiring on June 30, 2017, to the McIntosh Trail Community Service Board.**

Vice Chairman Ognio moved to table the recommendation from the Selection Committee comprised of Commissioners Randy Ognio and David Barlow, to appoint Lavonia Stepherson to an unexpired term, replacing Margaret Sission, beginning immediately and expiring on June 30, 2017, to the McIntosh Trail Community Service Board to the August 11, 2016 Board of Commissioners meeting. Commissioner Barlow seconded. The motion passed 5-0.

17. **Consideration of staff's recommendation to reduce the General Fund Flood Damage loan to the Stormwater Utility for projects associated with the storm damages (FY2016 December 2015 floods) and revise Stormwater Utility project budgets approved in FY2015 budget.**

Public Works Director Phil Mallon stated that this item is the reorganization of the Stormwater Utility funds to account for the revised cost estimates for the FEMA projects as well as other projects that have been closed. He stated that with the adjustments, the net returned to the General Fund is \$275,214.00 to pay off the Stormwater Utility loan.

Commissioner Brown moved to approve the recommendation to reduce the General Fund Flood Damage loan to the Stormwater Utility for projects associated with the storm damages (FY2016 December 2015 floods) and revise Stormwater Utility project budgets approved in FY2015 budget. Vice Chairman Ognio seconded. The motion passed 5-0.

18. Consideration of the Fayetteville annexation of 1373 North SR 85, and the rezoning of said property from A-R (Agricultural-Residential) to C-2 (Community-Commercial).

Mr. Frisina briefed the Board that this property has a current application for rezoning in the county. He stated that it appeared that there was no space for septic system on the site plan and that the applicants were not aware that there was no sewer in the unincorporated Fayette County. He stated that the applicants have since applied for annexation to the City of Fayetteville and the County has received a letter of withdrawal for the rezoning in Fayette County. However since it has been advertised and posted, the withdrawal will be brought before the Board soon. He recommended that the Board do not object to the annexation.

Commissioner Brown moved that the County does not impose an objection to the Fayetteville annexation of 1373 North SR 85, and the rezoning of said property from A-R (Agricultural-Residential) to C-2 (Community-Commercial). Vice Chair Ognio seconded. The motion passed 5-0.

PUBLIC COMMENT:

Ms. Yvonne Smith spoke regarding some issues she has regarding stormwater in her area. She also spoke of problems in her community, Code Enforcement concerns and her desire to have community police similar to those in Peachtree City in her community.

ADMINISTRATOR'S REPORTS:

Mr. Rapson gave a brief report to the Board.

Procurements:

- A. RFP 1082-P: Road Pavement Consulting Services

Contract Renewals:

- A. RFP #916, Renewal 1: Auditing Personal Property Accounts for Compliance
- B. Contract #976-N, Renewal 2: Methane, Groundwater and Surface Water Monitoring
- C. Contract #949-A, Renewal 1: Road Stabilization / Dust Control
- D. Contract #985-B, Renewal 1: Water System Chemicals for Fiscal Year 2017

ATTORNEY'S REPORTS:

Mr. Davenport reported that there are three (3) items of threaten litigation, two (2) items of pending litigation and review of the July 14, 2016 Executive Session minutes for Executive Session.

COMMISSIONERS' REPORTS:

Commissioner Barlow shared a video of the christening of the RowAmerica boat that was donated to Fayette County.

Commissioner Brown had no comments.

Vice Chairman Ognio shared his disappointment of the low voter turnout for the run-off election and that he hopes everyone will get out and vote during the General Election.

Commissioner Rousseau had no comments.

Chairman Oddo had no comments.

EXECUTIVE SESSION:

Three Items of Threaten Litigation, Two Items of Pending Litigation and Review of the July 14, 2016 Executive Session minutes: Commissioner Brown moved to enter into Executive Session. Vice Chair Ognio seconded. The motion passed 5-0.

The Board recessed into Executive Session at 11:54 p.m. and returned to Official Session at 12:27 a.m.

Return to Official Session and Approval of the Executive Session Affidavit: Commissioner Ognio moved to exit Executive Session and for the Chairman to sign the Executive Session Affidavit. Commissioner Brown seconded the motion. The motion passed 5-0.

Settlement between Donna Monday and Fayette County: Mr. Davenport briefed the Board regarding a mediation that took place on July 28 for a worker's compensation claim. He stated that Ms. Donna Monday experienced an injury to her knee on two separate occasions at the Sheriff's office. During the mediation both parties came to an agreement to settle her claims for \$90,000 which includes a release by her of any claims she has against the County and her agreement to separate from the County with no eligibility to be rehired and the settlement would be subject to the approval of the State Board of Worker's Compensation. He stated that he offered this information to the Board for favorable consideration.

Vice Chairman Ognio moved to approve the settlement as presented by the County Attorney. Commissioner Brown seconded. The motion passed 5-0.

Approval of the July 14, 2016 Executive Session Minutes: Vice Chairman Ognio moved to approve the July 14, 2016 Executive Session Minutes with one modification to change the date of the last line from June 2, 3016 to June 7, 2016. Chairman Oddo seconded. The motion passed 5-0.

ADJOURNMENT:

Vice Chairman Ognio moved to adjourn the July 28, 2016 Board of Commissioners meeting. Commissioner Brown seconded. The motion passed 5-0.

The July 28, 2016 Board of Commissioners meeting was adjourned at 12:30 a.m.

Tameca P. White, Chief Deputy Clerk