

## **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

## **AGENDA**

October 27, 2016  
7:00 p.m.

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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 2<sup>nd</sup> and 4<sup>th</sup> Thursday of each month at 7:00 p.m.

Call to Order  
Invocation by Chairman Oddo  
Pledge of Allegiance

Acceptance of Agenda

### **PROCLAMATION/RECOGNITION:**

### **PUBLIC HEARING:**

1. Consideration of Petition No. RDP-013-16. Camp Southern Ground, Inc & Spotty Merle, Owner and D. Ben Ferguson, Agent request to revise the development plan and summary of intent for rezoning petition 1222-11 (PUD-PRL) to remove the Equestrian Center and in its place develop a Solar Farm. This property is located in Land Lots 1 and 32 of the 5th District and Land Lots 1, 2, and 3 of the 7th District. (pages 3-20)
2. Consideration of Petition No. 1261-16. Bob & Nancy Usry, Owners and Derrick Johnson, Agent request to rezone 3.286 acres from C-H & M-1 to C-H to maintain a HVAC Company and Auto Sales located in Land Lots 137 of the 5th District and fronting on SR 54 and Denesha Todd Court. (pages 21-41)

### **CONSENT AGENDA:**

3. Approval of staff's recommendation to accept a donation from the Fayette County Resource Council, Inc. in the amount of \$2,266.98 for the purchase of Safety Equipment. (page 42)
4. Approval of the October 13, 2016 Board of Commissioners Meeting Minutes. (pages 43-53)

### **OLD BUSINESS:**

**NEW BUSINESS:**

5. Consideration of the Public Arts Committee's request for approval of proposed project request form and budget for the "Birdhouses" project. (pages 54-58)
6. Consideration of Commissioner Rousseau's recommendation to amend Policy 100.19 to generally prohibit members of the Board of Commissioners from serving on the County's authorities, boards, commissions, committees and similarly established bodies and other form changes. (pages 59-89)
7. Consideration of the County Attorney's recommendation to adopt Resolution 2016-15 for the implementation of a reasonable and timely procedure for the receipt and processing of tax refund requests. (pages 90-93)
8. Consideration of the County Attorney's recommendation to deny the disposition of tax refunds, as requested by Ralph Heim, in the aggregate amount of \$6,594.24. (pages 94-106)

**PUBLIC COMMENT:**

**ADMINISTRATOR'S REPORTS:**

- A. Request for Quotes 1204-A; Brooks & Kiwanis Park Fence Installation (pages 107-108)

**ATTORNEY'S REPORTS:**

**COMMISSIONERS' REPORTS:**

**EXECUTIVE SESSION:**

**ADJOURNMENT:**

# COUNTY AGENDA REQUEST

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Department:

Presenter(s):

Meeting Date:

Type of Request:

## Wording for the Agenda:

Consideration of Petition No. RDP-013-16. Camp Southern Ground, Inc & Spotty Merle, Owner and D. Ben Ferguson, Agent request to revise the development plan and summary of intent for rezoning petition 1222-11 (PUD-PRL) to remove the Equestrian Center and in its place develop a Solar Farm. This property is located in Land Lots 1 and 32 of the 5th District and Land Lots 1, 2, & 3 of the 7th District.

## Background/History/Details:

Staff Recommends approval of Petition RDP-013-16. The Planning Commission recommends approval of Petition RDP-013-16.

Brian Haren made a motion to approve Petition RDP-013-16. John Culbreth seconded the motion. The motion passed 3-0. Al Gilbert and Arnold Martin were absent from the meeting.

On May 26, 2016 the Board of Commissioners, unanimously approved Ordinance 2016-11 to amend the Fayette County Code of Ordinances, Chapter 110. Article IV.-District Use Requirements Sec. 110-149 – Planned Unit Development- Planned Retreat and Lodge concerning Solar Farms and to include a clause that requires any inoperative equipment to be repaired or disposed of in line with the requirements for cell phone towers.

## What action are you seeking from the Board of Commissioners?

Approval of Petition No. RDP-013-16. Camp Southern Ground, Inc & Spotty Merle, Owner and D. Ben Ferguson, Agent request to revise the development plan and summary of intent for rezoning petition 1222-11 (PUD-PRL) to remove the Equestrian Center and in its place develop a Solar Farm. This property is located in Land Lots 1 and 32 of the 5th District and Land Lots 1, 2, & 3 of the 7th District.

## If this item requires funding, please describe:

Has this request been considered within the past two years?

If so, when?

Is Audio-Visual Equipment Required for this Request?\*

Backup Provided with Request?

**\* All audio-visual material must be submitted to the County Clerk's Office no later than 48 hours prior to the meeting. It is also your department's responsibility to ensure all third-party audio-visual material is submitted at least 48 hours in advance.**

Approved by Finance

Reviewed by Legal

Approved by Purchasing

County Clerk's Approval

Administrator's Approval

## Staff Notes:

Chairman Oddo asked Mr. Frisina what uses would be allowed for the property if this request was approved. Mr. Frisina stated that there eighteen specified uses. He stated that as a synopsis they include: low-scale or low-level commercial uses, retail, banking facilities, education facilities such as tutoring, art, professional music, and floral, hardware, jewelry, medical dental office, personal services such as barber shops, nails salons and a small convenient gas station. Chairman Oddo reiterated that is if the ordinance is approved.

Commissioner Brown stated that if you Goggle "Fayette County, Georgia" under the images section you will get a page full of Starr's Mill photographs. He stated that it is the most recognized Fayette County feature in the county and that holds a lot of weight for him. He stated that the Board recently salvaged the courthouse with funds to repair the roof because it is a historic heritage. He stated that with Hopeful Primitive Baptist Church the Board threw immense support behind renovating and preserving the structure and the county only has a handful of these type historic buildings in existence in terms of large structure buildings. He said he passionately opposes putting gas stations near the Starr's Mill historic site since gas stations do not need to be next to a historical site because they would belittle the site. He responded to Mr. Shell's comments by saying Mr. Shell should be able to sell his property to somebody to develop and that he should get a good dollar for the property. He stated that the County should not create a list of things the County wants to see on that property but rather that it is better for the County to create a list of ten items it does not want to see on the property that would ruin or destroy the character. He supported the overlay zone and the use of the historic markers for coloring and brick to keep the historical look. He stated that there has been many cases when someone wanted to do a particular use but the zoning does not allow it and they want the Board to change what the zoning says. He stated that he does not think that is the way to handle that type of situation. He asked the Board to look up Andres Duany at Duany Plater-Zyberk who is an expert on historic overlays. He reiterated that he did not approve of a gas station next to that historical site.

Commissioner Brown stated that the Board recently approved putting office space on one of the lots. He stated that there is strong need for it.

Chairman Oddo asked if the ordinance could be revised to say what the Board does not want on a piece of property. Mr. Frisina stated that the ordinance is a permissive ordinance that lists the permissive uses of the permissible aspects of the zoning ordinance. He stated that each category has permitted uses instead of non-permitted uses. He stated that anything that is not listed is not permitted. Chairman Oddo asked if it could be changed to say what is prohibited only. Mr. Davenport stated that should be done with an overlay district. He stated that if an overlay is added geographically that may be a mechanism to address that type of issue but the Board cannot discriminate between zoning ordinances.

Mr. Davenport informed the Board that he would take the information and rework the sequence of the document. He stated that there will not be any substantive changes to the document when it comes back before the Board in thirty days. He stated that after looking at the sequencing, the Board can make changes from the dais or send the document back to the Planning Commission to address areas that are of concern.

Chairman Oddo moved to have the County Attorney address the timing of items #4, #5 and #6 and to bring these items back to the June 23, 2016 Board of Commissioners meeting. Commissioner Brown seconded the motion. There was no further discussion. The motion passed 5-0. A copy of the request, identified as "Attachment 7," follows these minutes and is made an official part hereof.

**7. Public Hearing of Ordinance 2016-11 to amend the Fayette County Code of Ordinances, Chapter 110. Article IV.- District Use Requirements Sec. 110-149 – Planned Unit Development- Planned Retreat and Lodge concerning Solar Farms.**

Mr. Frisina reported that the Planning Commission was approached by a representative of a solar panel company out of North Carolina that is working with Camp Southern Ground. He shared that Camp Southern Ground is a large Planned Retreat and Lodge (PRL) and is the Zack Brown camp that serves children with special needs that was zoned about four years ago. He continued that Mr. Brown is in the initial phase of developing the camp and the solar company wants to supply solar panels in hopes that the camp can be operated using the solar panels. He stated that the issue the Planning



Commissioner Brown stated that the ordinance is very specific regarding where the solar panels are allowed and, based on the definition of the ordinance, solar panels are only allowed in the M-1 zoning district. He stated that this request is to add this one specific use under the Planned Retreat and Lodge which is a sub-category of the Planned Unit Development (PUD) and is limited to a net metered facility. He stated that the Planning Commission is not looking to create a utility. He informed the Board that if the solar panel creates more power than the camp can use then it goes into a solar grid which allows the camp to receive credit for what was put in the grid. Mr. Frisina stated that if Ordinance 2016-11 is approved then Camp Southern Ground would have to go back through the approval process.

Commissioner Brown commended Zack Brown for putting the money back in the community. He stated that he is concerned about the area being "too tight" at the bottom end of the property and that Mr. Brown has developments for buildings at the top side of his property so he would not be able to use that area. Mr. Frisina stated that it is close to Arnold Road. He stated that he will have to present any plans back through the process if this ordinance is approved. Commissioner Brown asked if staff knew of plans to clear cut the trees and buffer section and if that has been reviewed. Mr. Frisina stated he did not know of any such plans and that it is not allowed in the zoning. Commissioner Brown stated that he was part of the decision to make sure that the neighbors adjacent to the property were buffered. Mr. Frisina reiterated that to place this on the property Mr. Brown would have to come back to get the Board's approval.

Chairman Oddo stated that the risk is on Mr. Zack Brown because he has no idea if the Board is going to approve. Mr. Frisina stated that he cannot go through the process until the ordinance is approved.

Commissioner Brown stated that he would like to see language that says there is a certain amount of time required to remove or repair any inoperative equipment from the site. Mr. Frisina stated that could be added to the approval process for the PUD.

Commissioner Rousseau asked about the size of the track. Mr. Frisina stated that they are considering five to eight acres out of about 300 acres. Commissioner Rousseau stated that a couple of his concerns had been answered. He stated that one of the concerns was that they would not be trying to sell the energy and the other was his shared concern with buffers. He stated that the good part is this must come back before the Board for approval. Mr. Frisina stated that as a PUD, any substantial changes made to the development plan goes back through the process. Commissioner Rousseau stated that would give the Board the opportunity to address some of the issues and concerns mentioned. Mr. Frisina stated that also includes the posting of signs like a re-zoning. Commissioner Rousseau asked if Mr. Frisina anticipates this becoming a regular occurrence and if so what impact could that have. Mr. Frisina stated that there are two locations that have this type of zoning: Camp Southern Ground and a Christian Retreat that is located on McBride Road. Commissioner Rousseau asked if the Christian Retreat has done anything out there. Mr. Frisina stated that they have built a few things. He stated that the thing that plays a big part of this request is the company wanting to work and provide the solar panels to the camp.

Vice Chairman Ognio stated that his concern is what doors are being opened in regards to the PUD and residential. Mr. Frisina stated that the PUD zoning is controlled by the Board, as well as the PRL is a Planned Retreat and Lodge, so anyone who comes before the Board would have to present that it is a Planned Retreat and Lodge as the principle use. Vice Chairman Ognio stated that he just does not want anyone to try to manipulate the system by putting the solar panels in the middle of the residential areas.

Commissioner Brown stated the PUD is subject to whatever the Board wants it to be. Mr. Frisina stated that a PRL is only for Planned Retreat and Lodges. He stated that there is not an open slate in regards to a PUD for the Board to do what it wants. Commissioner Brown explained that he is speaking in terms of the layout the Board would have to approve the layout. Mr. Frisina agreed.

Commissioner Rousseau asked Mr. Davenport what type doors might be opened if this is approved and others came and it did not fit where the Board wanted. He asked what precedence would be set if the attorney was called to defend the Board on this matter. Mr. Davenport stated within the Planning Unit Development designation there are five different subcategories. He stated that of all the five subcategories only one would be eligible for the solar panels so 80% of the PUD uses are not

eligible. He stated that this one, to be a PUD and have a solar farm, the Board would have to approve the plan. He stated that the reason for such a high level of control of this type of zoning designation is because the Board is getting more flexibility in development as a tradeoff. Commissioner Rousseau stated that if this passes, he would like to do it in a manner that the canopy has its own buffer. He stated that he is comfortable with the information he has received.

There were no comments in favor or in opposition of this item.

Commissioner Brown moved to approve Ordinance 2016-11 to amend the Fayette County Code of Ordinances, Chapter 110. Article IV.-District Use Requirements Sec. 110-149 – Planned Unit Development- Planned Retreat and Lodge concerning Solar Farms and to include a clause that requires any inoperative equipment to be repaired or disposed of in line with the requirements for cell phone towers. Commissioner Rousseau seconded the motion. There was no further discussion. The motion passed 5-0. Copies of the request and Ordinance 2016-11, identified as “Attachment 8,” follows these minutes and are made an official part hereof.

### **CONSENT AGENDA:**

Commissioner Brown moved to accept the Consent Agenda. Commissioner Rousseau seconded the motion. The motion passed 5-0.

8. **Approval of staff's recommendation to award Bid #1095-B, Emergency Portable Radios, to Motorola Solutions to purchase 58 radios for a total amount of \$188,815.23 and acceptance of Motorola Solutions' offer to buy back 58 old portable radios for the amount of \$26,100.00. A copy of the request, identified as “Attachment 9,” follows these minutes and is made an official part hereof.**
9. **Approval of staff's recommendation to award annual bid #1106-B to Faultless Business Center as the primary vendor and to Concrete Supply Co, Inc. as secondary vendor for dump truck hauling services to begin upon execution and expire June 30, 2017 with the option to renew for two (2) additional one-year terms. A copy of the request, identified as “Attachment 10,” follows these minutes and is made an official part hereof.**
10. **Approval of the request to fund the Fayette Chamber of Commerce's "Fayette Visioning" initiative, in the amount of \$25,000.00, for the purpose of developing a county-wide brand and for implementing a marketing strategy for economic development and talent recruitment.**

Commissioner Brown stated that he wanted to let everyone know that the Chamber is in charge of overseeing the process of developing county-wide branding. He stated that a professional marketing firm would be brought in to do the planning and work to put the structure together for the branding. He stated that it would not be a group of average citizens developing the branding and implementing the marketing strategy.

Commissioner Barlow asked Fayette Chamber President and CEO Carlotta Ungaro to come to the podium to speak of her past experience with the branding process. Ms. Ungaro shared her experience and spoke of the citizens that make up the Fayette Visioning Brand Committee. A copy of the request, identified as “Attachment 11,” follows these minutes and is made an official part hereof.

11. **Approval of the May 12, 2016 Board of Commissioners Meeting Minutes.**

### **OLD BUSINESS:**

There were no items of Old Business.

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**STATE OF GEORGIA  
COUNTY OF FAYETTE**

**RESOLUTION**

**WHEREAS**, Spotty Merles, LLC, Owner, and D. Ben Ferguson, Agent, having come before the Fayette County Planning Commission on RDP-013-16, requesting approval of the Revised PUD Development Plan for RDP-013-16; and

**WHEREAS**, said request being as follows: Approval of the Revised PUD Development Plan for RDP-013-16 , located in Land Lot(s) 1, 2, 3, & 32 of the 5th & 7th District, fronts on Arnold Road & Ebenezer Church Road, and is zoned PUD-PRL; and

**WHEREAS**, the Fayette County Planning Commission having duly convened, and considered said request;

**BE IT RESOLVED** that the decision of the Fayette County Planning Commission, that said request be **APPROVED**.

This decision is based on the following reasons:


Compatible with the surrounding area.

**PLANNING COMMISSION**


**OF**

**FAYETTE COUNTY**

**ATTEST:**

  
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**PC SECRETARY**

  
\_\_\_\_\_  
**JIM GRAW  
CHAIRMAN**

**5. Consideration of Petition No. RDP-013-16. Camp Southern Ground, INC & Spotty Merle, Owner D. Ben Ferguson, Agent request to revise development plan and summary of intent for rezoning petition 1222-11 to rezone 494.39 acres from A-R and PUD-PRL to remove the Equestrian Center and in its place develop a Solar Farm. This property is located in Land Lots 1 and 32 of the 5<sup>th</sup> District and Land Lots 1, 2, & 3 of the 7<sup>th</sup> District and fronts Ebenezer Church Road, Arnold Road, & Green Meadow Lane.**

Ben Ferguson, Director of Construction for Camp Southern Ground, stated that they have had the opportunity to erect some solar array to help augment and offset the cost of our 501c3 charity. He said that the camp is up and running this upcoming weekend. He added that they have their fifth consecutive weekend for our second consecutive year fall mini camps. He stated that they are using the property as intended and moving forward with their mission and help offset the cost.

Chairman Graw asked if he would like to continue.

Ben Ferguson replied yes. He asked the Planning Commission if they had any other questions about what they are trying to accomplish.

Chairman Graw asked if anyone would like to speak in favor of the petition. Hearing none he asked if anyone would like to speak in opposition to the petition. Hearing none he brought it back to the Planning Commission.

Brian Haren asked staff if there is zoning in place to support this.

Pete Frisina replied yes, we amended the PUD-PRL some time back.

Chairman Graw stated in the revised write up said, "You desire to retain the ability to use and house horses on the property". He said that he understood that they're not going to have the Equestrian Center but it sounds like you still want to have horses is that correct.

Ben Ferguson replied yes sir that is correct. He stated that anytime they have a guest come in they can't afford as a charity to have the Equestrian Center unless they get a partner that can help them fund it. He said they can't house them year round, and that many other camps can't house them either. He added that some camps will have the horses in for the day; so if it is a weekend camp we have a lot of trails around the property that we would like to utilize for that. He stated that they would like to welcome in some hippotherapy, because it is one (1) of the biggest things being prescribed to children. He said that they would like the ability to do that but they just don't have the ability to build the equestrian center like it was originally plan.

Chairman Graw stated that if you are going to house horses you will need a barn. He said that he has looked at the development plan and there is no mention of a barn on the plan. He asked Pete Frisina if there are any changes to the development plan don't they have to come back to us for approval since this is a PUD.

Pete Frisina replied significant changes yes.

Chairman Graw asked what a significant change is.

Pete Frisina replied an eight (8) acre solar farm is a significant change to me.

Chairman Graw asked if the building of a barn would be a significant change.

Pete Frisina replied that they have on here, “the camp has the ability to use and house horses on the property”, and they will need something to house them in. He said the summary of intent references that they want to house them.

Chairman Graw reiterated that on the plat they don’t show where a barn might be. He stated that his suggestion would be if this is approved he would like for them to show where a future barn could be.

Ben Ferguson replied that is a good idea and when they revise their master plan that will be the next step. He said that he believes they show several structures to support the farm and other things. He added that they may not call them barns but they are housing some equipment, and they have some place holders for buildings they have not built yet. He stated that they may have called them utility buildings but they can list it out.

Chairman Graw asked if they already had a building that they could use as a barn is already on their development plan.

Ben Ferguson replied they do.

Chairman Graw stated that there was no need to show a future barn.

Ben Ferguson stated that they have one (1) that is already constructed and they have two (2) that has not been built yet that is already on their site plan.

Brian Haren made a motion to recommend approval of Petition RDP-013-16. John Culbreth seconded the motion. The motion passed 3-0. Arnold Martin and Al Gilbert were absent from the meeting.

## REVISED DEVELOPMENT PLAN APPLICATION

1. NAME OF DEVELOPMENT PLAN: Camp Southern Ground, Inc.
2. APPLICANT'S NAME: D. BEN FERGUSON  
☐ Ms. ☒ Mr. ☐ Mrs. ☐ Mr. & Mrs.
3. APPLICANT'S ADDRESS: [REDACTED]
4. APPLICANT'S ADDRESS: " " SAME
5. APPLICANT'S E-MAIL: BEN@CAMPsouthernGround.org
6. APPLICANT'S PHONE: [REDACTED]
7. LAND LOT(S): 1 + 32 1 and 2
8. DISTRICT(S): X 5th 7th
9. FRONTS ON: Ebenezer Church Road, Arnold Road + Greenmeadow Lane
10. ZONING: PUD-~~PRL~~
11. PLANNING COMMISSION HEARING DATE: October 6, 2016
12. BOARD OF COMMISSIONERS HEARING DATE: October 27, 2016
13. AGENT'S NAME: D. B. FERGUSON  
☐ Ms. ☒ Mr. ☐ Mrs. ☐ Mr. & Mrs.
14. AGENT'S ADDRESS: Same
15. AGENT'S ADDRESS: Same
16. AGENT'S E-MAIL: Same
17. AGENT'S PHONE: Same

SPOTTY MERLE'S, LLC

18. EXPLANATION OF REVISION: See Attached.

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\_\_\_\_\_ RDP 013-16

I respectfully submit this application and certify that the above information is correct and true to the best of my knowledge.

9/1, 20  

  
APPLICANT'S SIGNATURE

9/1, 2016

Sharon E Batta  
NOTARY PUBLIC



**PETITION NO. RDP-013-16**  
**Camp Southern Ground, INC. & Spotty Merle, LLC/Ben Ferguson, Agent**  
**101 Gardner Park**  
**Peachtree City, GA 30269**

The applicant is requesting a revision to the Development Plan for Camp Southern Ground (Rezoning 1222-11) to remove the Equestrian Center and in its place develop a Solar Farm to serve the camp and update the Development Plan to indicate as-built improvements and future improvements at the camp.

Sec. 110-149. – Planned unit development (c) (1) states the following:

- j. Revision of development plan. Any change in the approved development plan, which affects the intent and character of the development, the density or land use pattern, the approved uses, the location or dimensions of streets, or similar substantial changes, shall be reviewed and approved by the board of commissioners upon the recommendation of the zoning administrator and planning commission. A petition for a revision of the development plan shall be supported by a written statement as to why the revisions are necessary or desirable.

**History:** Petition 1222-11 (A-R to PUD-PRL -Planned unit development- Planned retreat and lodge) was approved by the Board of Commissioners on December 15, 2011.

**DEPARTMENTAL COMMENTS**

**WATER SYSTEM:** No conflict.

**FIRE MARSHAL:** The bureau of fire prevention will neither approve nor deny requests that fall outside the scope of ISO requirements.

**ENVIRONMENTAL MANAGEMENT:** No comments.

**ENVIRONMENTAL HEALTH:** No objections.

**PUBLIC WORKS/ENGINEERING DEPARTMENT:** The revised items have no impact or change to Engineering/Public Work issues. Approved

**Recommendation:** Staff recommends approval of the revised Development Plan. The revised Development Plan complies with the PUD-PRL zoning district and is in character with the original intent and concept of the Camp Southern Ground PUD-PRL. The County amended the Zoning Ordinance to allow solar farms in the PUD-PRL zoning district in May of 2016.







## ***Revised Summary of Intent***

PUD-PRL Zoning Request

Camp Southern Ground

September 1, 2016

### **Overview:**

We are proud to present Camp Southern Ground, LLC ("CSG"), a not-for-profit 501(c)(3) organization formed under the laws and regulations of the Internal Revenue Service. CSG is planning to design, construct and professionally operate a camp for children with an emphasis on special needs children and their families ("Camp"). Once operational, CSG will seek full accreditation from the American Campers Association. The Camp will be designed and operated in accordance with all applicable regulations including the Americans with Disabilities Act and will be subject to the oversight of the Board of Directors. In addition, the CSG Board of Directors will oversee the administration of all Camp operations including the off-season programs, which will be professionally managed by an accredited group.

Fayette County has a number of civic, religious and non-profit organizations, each providing invaluable services to our community, however, nothing like Camp Southern Ground is currently available in Fayette County. We are excited to join this rich tradition of service in Fayette County and envision becoming a partner with the county's outstanding charitable organizations. We plan to be a community asset and point of pride for many generations to come.

### **Statement of Present Ownership:**

The PUD-PRL Zoning request is comprised of a total of 494.39 acres of land. The site is located south of Ebenezer Church Road, west of Redwine Road and east of Ebenezer Road in Fayette County, Georgia. Spotty Merle, LLC is the present owner of 477.69 acres and has entered into a Purchase and Sale Agreement with Mr. Russell W. and Dorma S. Jordan for an additional 16.70 acres.

### **Character of Proposed Development:**

The Camp will have multiple buildings and outdoor activity areas including, but not limited to, facilities for reception, administration, first aid, lodging, dining, general education, music, arts and crafts, culinary arts, swimming, outdoor gatherings, rope adventure courses, equestrian center and agriculture activities that will support and accommodate both day visitors and overnight stays. Once completed, the Camp will typically serve approximately 300 people, including the children and staff, for overnight camping events. The target age group for camping venues will be between seven (7) and seventeen (17) years of age. It should be noted that only staff members are intended to be full time residents of the Camp. Camp Southern Ground is being designed by one of the



most renowned group of camp design professionals in the country. In short, Camp Southern Ground will uniquely achieve the objectives of the PUD-PRL ordinance.

a. Serving the Special Needs of Children:

The Camp will include special facilities to develop, educate, and advance the abilities of children that may have been diagnosed with Dyslexia, ADD/ADHD, Asperger Syndrome, Tourette's Syndrome and Autism.

Daily, weekend and weekly programs will be customized for each group of campers or visitors for the development and encouragement of camaraderie, self-confidence, and empowerment.

b. Environmental Stewardship:

The Camp will encompass 494 acres of land. Of this acreage, less than half will be developed now or in the future. The undeveloped portions will be utilized for passive recreational activities such as hiking, mountain biking, horseback riding, and other similar uses that have minimal impact on the surrounding environment. In fact, much of the land is subject to a conservation easement, held in trust, forever preserving the natural character of the land. Even the developed portions will seek to preserve the natural environment to the greatest extent possible. Thus, the Camp will preserve the natural amenities of the land while utilizing the scenic and functional open spaces. Discussions are currently underway with representatives of the Southern Conservation Trust, Inc. to enter into a similar perpetual easement to expand the protection of the Whitewater Creek Greenway. In conjunction with the Camp's environmental educational program, a non-commercial, organic garden is proposed so the children can experience the natural and environmental friendly techniques in the production of food sources.

Our goal is to implement a variety of LEED (*Leadership in Energy and Environmental Design*) type initiatives in the planning, design, construction, operation and maintenance phases of this project. In fact, the owner has already implemented LEED strategies in the master planning of the Camp facilities. The proposed footprint of the buildings and gathering spaces are designed to be less intense and less detrimental to the environment than traditional campground design. Limited roadways and impervious areas are planned, thus minimizing or negating impact to the neighboring streams. Stormwater management ponds and enhanced swales will provide bio-filtration and attenuation of surface stormwater runoff. The Camp facilities will be designed to incorporate indigenous materials and energy efficient construction methods will be implemented. Low level and energy efficient lighting will provide for safe pedestrian and vehicular movement along paths and drives, with special attention given to minimizing illumination affects to adjoining properties. Principles and objectives of LEED certification will continue to be a guide to the design, construction, operation and maintenance teams for the Camp; however, we will not seek LEED accreditation or



certification. In summary, the impact of Camp Southern Ground to the environment will certainly be less than a traditional residential neighborhood that could be developed on the property as it is currently zoned.

c. Ingress and Egress:

The Camp has two points of vehicular access. The approximate location of the main access is depicted on the Development Plan which fronts on Ebenezer Church Road, an Urban Collector Thoroughfare. This access road into the site will begin as a Private Roadway, as defined by County Ordinances. This Private Road section will consist of a 24 foot wide paved surface with adjacent swales to accommodate and direct stormwater runoff. The exact location of the roadway along the thoroughfare will be determined during the site plan review process. This Private Roadway will be of sufficient length to provide the required access to Tract 2, at which point the roadway will become a Private Drive serving the Camp facilities. A gate will be installed at the terminus of the Private Roadway to regulate access to the Camp. A sufficient vehicular turn-around or cul-de-sac will be constructed at that location.

The secondary point of access to the Camp is from Arnold Road, a public roadway that ends at the Camp property. The Owner has volunteered to dedicate additional right-of-way to the county and construct a new cul-de-sac, as depicted on the Development Plan, at the terminus of Arnold Road. This entrance will also be a controlled access for the residential lots and a secondary access for emergency vehicles. All Camp related vehicular traffic will be directed to access the Camp through Ebenezer Church Road.

d. Traffic:

The Owner has submitted, with this petition, a traffic report prepared by John D. Walker, P.E., PTOE, with Kimley-Horn and Associates, Inc., in Atlanta, Georgia, dated September 12, 2011. The traffic report concludes, and the Fayette County Public Works Department concurs, that the Camp will not substantially degrade the current traffic operations along Ebenezer Church Road; however, a right turn lane may be required by the Public Works Department. This determination along with the sight distance analysis will be made during the site plan approval process. The report further states that the proposed internal traffic circulation, available parking and the staggering of arrival and departure times of the campers is sufficient to accommodate even the peak traffic flows anticipated by the Camp.

e. Parking:

Based on resident concerns expressed at the Planning Commission meeting held on November 3, 2011, our land planners have revised the parking plan as follows:



The vehicle circulation and parking is based on the Architect's design experience and a comparative analysis of permanent parking constructed for similar camps. The ratios of permanent "parking stalls" to "campers" range from 6:1 to 10:1. CSG proposes to double that rate to a 3:1 ratio which is shown on the revised Development Plan providing 92 permanent paved parking spaces and well over 100 temporary and overflow parking areas. As stated in the traffic report, a maximum of 225 vehicles could be generated during the drop-off and pick-up times. To further reduce this number of peak trips, Camp Southern Ground proposes to stagger the arrival/ departure times over a three hour period. This would reduce the peak trips to 75 vehicles which are easily accommodated on the property. Finally, additional staff parking (50 paved spaces) is proposed near the maintenance facilities and the entire temporary and overflow parking will be relocated away from the adjoining property owners.

f. Residential Tracts:

In addition to the overnight dwelling facilities for the campers and staff, there are six single-family lots proposed. One of the lots already contains an existing residence. Although these are included in the PUD-PRL zoning, each lot will be limited to the uses currently allowed in the A-R zoning classification. Furthermore, the PUD-PRL perimeter buffers and setback requirements, as indicated on the Development Plan, will supersede the A-R zoning code for building setbacks. All other development criteria and uses on the residential lots shall be in compliance with the A-R zoning classification. The revision of the Final Plat of Roundtree Place Subdivision to create Tracts 5 and 6, as indicated on the Development Plan, will not be initiated until such time that the existing Conservation Easement held by the Southern Conservation Trust is amended and recorded.

g. Program and Operations:

While the Camp may have visitors year round, the normal overnight Camp activity is projected to operate primarily during the summer months, between May and September, of each year. Some of the off-season events to anticipate are day visitors from area schools, religious and civic groups, and Camp specific fund-raising activities. Camp Southern Ground hopes to partner with, and provide team building opportunities for, similar charities and corporate organizations. At no time will the activities associated with the Camp or off-season events cause unnecessary traffic congestion on Ebenezer Church Road. Furthermore, all functions on the Camp property shall comply with all applicable public safety standards and the life safety code including, but not limited to, building capacity restrictions. All off-season events will be designed to, and shall comply with, Fayette County noise ordinances and all other applicable local, state or federal regulations and will be coordinated with the County through the



emergency planning and preparedness procedure to ensure a safe and healthy environment for the general public and attendees.

#### h. Equestrian Activity ~~Center:~~

~~The camp desires to retain the ability to use and house horses on the property, though there is no desire to build a bona-fide equestrian center as was once considered. Camp Southern Ground will offer all of the traditional camp activities for our guests, however, the largest single land use proposed is the Equestrian Center, which is 37 acres total. This Center will consist of state of the art equestrian facilities for the use, education and enjoyment of Camp visitors while providing for the health, safety and welfare of the equine. As such, we will provide and maintain a minimum standard of one acre per equine housed on the property. The Equestrian Center will have outdoor lighting for the safety of riders. This lighting will be placed in a manner that minimizes illumination effects on adjoining properties.~~

#### i. Solar Farm

**The intended use of the Solar Farm is to reduce the energy consumption of the camp in perpetuity, and to create teachable programming for children and visitors to learn more about sustainability. The Solar Farm, as indicated on the Revised Development Plan, will comply with the requirements of the PUD-PRL zoning district.**

#### Proposed Development Schedule:

CSG has prepared a Master Concept Plan of the proposed improvements which are depicted on the Development Plan. These improvements will be constructed through a development process which is generally phased as follows:

- 1.) Approval Phase: Prepare and submit required documents for Local, State, Municipality, and other Governmental Authority approvals for the proposed project, including all permitting and zoning requirements.
- 2.) Site Utility Phase: This phase will include the site utilities, portions of the stormwater management system and the construction of main access road from Ebenezer Church Road into the site.
- 3.) Camp Start-up Phase: This phase will consist of constructing the Welcome Center and Office together with the initial parking area. These facilities are essential for the successful introduction, marketing, and fund raising activities for the Camp.
- 4.) Essential Operations Phase: This phase of development will include constructing the lodging, dining hall and health center required to open the facility for its intended use.
- 5.) Non-Essential Phase(s): This phase would incorporate all other nonessential buildings and activity venues such as multi-purpose building(s), pool and all other recreational elements that are considered necessary to broaden the attendee base and enhance the Camp experience.



Agreements, Provisions and Covenants:

This project will be privately owned and operated. As such, all of the facilities and infrastructure will be designed, maintained, and operated in accordance with all local, state, and governing authority requirements. If required by any governmental authority, a Property Owners Association ("POA") will be formed and shall be the responsible entity for the ownership and maintenance of any shared infrastructure such as the private roadways and stormwater facilities only associated with the residential tracts.

It is intended that the CSG will employ or contract with individuals or companies to ensure that all facilities and systems are properly operated, maintained, tested, and certified in accordance with applicable codes, ordinances and state or federal laws. It is specifically understood and agreed that the potable water and wastewater construction and operations will comply with the aforesaid regulations. As previously stated, the CSG Board of Directors will administer all Camp operations, including any off-season activities. In addition, the Camp and the off-season activities will be professionally managed by an accredited group.





# COUNTY AGENDA REQUEST

Page 21 of 108

Department:

Presenter(s):

Meeting Date:

Type of Request:

## Wording for the Agenda:

Consideration of Petition No. 1261-16. Bob & Nancy Usry, Owners and Derrick Johnson, Agent request to rezone 3.286 acres from C-H & M-1 to C-H to maintain a HVAC Company and Auto Sales located in Land Lots 137 of the 5th District and fronting on SR 54 and Denesha Todd Court.

## Background/History/Details:

Staff recommends approval of rezoning 1261-16 from C-H & M-1 to C-H. Planning Commission recommended approval of rezoning 1261-16 from C-H & M-1 to C-H.

John Culbreth made a motion to recommend approval of Petition 1261-16. Brian Haren seconded the motion. The motion passed 3-0. Al Gilbert and Arnold Martin were absent from the meeting.

## What action are you seeking from the Board of Commissioners?

Approval of Petition No. 1261-16. Bob & Nancy Usry, Owners and Derrick Johnson, Agent request to rezone 3.286 acres from C-H & M-1 to C-H to maintain a HVAC Company and Auto Sales. This property is located in Land Lots 137 of the 5th District and fronts SR 54 and Denesha Todd Court.

## If this item requires funding, please describe:

Has this request been considered within the past two years?

If so, when?

Is Audio-Visual Equipment Required for this Request?\*

Backup Provided with Request?

**\* All audio-visual material must be submitted to the County Clerk's Office no later than 48 hours prior to the meeting. It is also your department's responsibility to ensure all third-party audio-visual material is submitted at least 48 hours in advance.**

Approved by Finance

Reviewed by Legal

Approved by Purchasing

County Clerk's Approval

Administrator's Approval

## Staff Notes:

**PLANNING COMMISSION RECOMMENDATION****DATE:** October 6, 2016**TO:** Fayette County Commissioners

The Fayette County Planning Commission recommends that Petition No. 1261-16, the application of Bob & Nancy Usry to rezone 3.286 from C-H & M-1 to C-H, be:

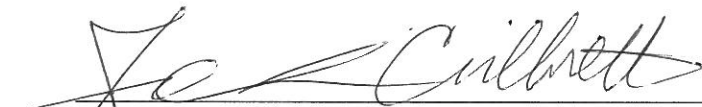
X Approved <sup>3-0</sup> \_\_\_\_\_ Withdrawn \_\_\_\_\_ Disapproved

\_\_\_\_\_ Tabled until \_\_\_\_\_

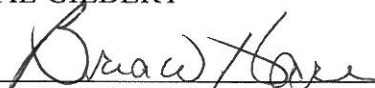
This is forwarded to you for final action.

  
 \_\_\_\_\_  
 JIM GRAW, CHAIRMAN

ABSENT  
 \_\_\_\_\_  
 ARNOLD MARTIN, III, VICE-CHAIRMAN

  
 \_\_\_\_\_  
 JOHN CULBRETH

ABSENT  
 \_\_\_\_\_  
 AL GILBERT

  
 \_\_\_\_\_  
 BRIAN HAREN

**Remarks:**

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

**STATE OF GEORGIA  
COUNTY OF FAYETTE**

**RESOLUTION**

**NO. 1261-16**

**WHEREAS**, Bob & Nancy Usry, Owner, and Derrick Johnson, Esq., Agent, having come before the Fayette County Planning Commission on October 6, 2016, requesting an amendment to the Fayette County Zoning Map pursuant to "The Zoning Ordinance of Fayette County, Georgia, 2010"; and

**WHEREAS**, said request being as follows: Request to rezone 3.286 from C-H & M-1 to C-H, in the area of S.R. 54 & Denesha Todd Court, Land Lot 137 of the 5th District, for the purpose of developing a HVAC Company / Auto Sales ; and

**WHEREAS**, the Fayette County Planning Commission having duly convened, and considered said request;

**BE IT RESOLVED** that the decision of the Fayette County Planning Commission, that said request be **APPROVED**.

This decision is based on the following reasons:

In compliance with the Fayette County Comprehensive Plan.  
Compatible with the surrounding area.

**PLANNING COMMISSION  
OF  
FAYETTE COUNTY**

**ATTEST:**

  
\_\_\_\_\_  
**JIM GRAW  
CHAIRMAN**

  
\_\_\_\_\_  
**PC SECRETARY**

**4. Consideration of Petition No. 1261-16. Bob & Nancy Usry, Owner Derrick Johnson, Agent request to rezone 3.286 acres from C-H & M-1 to C-H to develop a HVAC Company / Auto Sales. This property is located in Land Lots 137 of the 5th District and fronts SR 54 and Denesha Todd Court.**

Chairman Graw asked the petitioner if they would like to continue.

Derrick Johnson replied yes.

Derrick Johnson stated that he would be representing Bob and Nancy Usry regarding the rezoning. He said that they want to rezone the entire 3.2 acres to C-H. He added that most of it is already C-H and part of it is M-1. He stated that the issue with the M-1 zoning is that it doesn't allow for the cars to sit there. He said that the address is 1154 Highway 54 and there are older cars sitting there. He added that the cars belong to a tenant of Mr. Usry and they have been trying to contact him to get rid of the cars since February. He stated that they have been unsuccessful and have filed for a dispossessory to get them taken out, but he is not responding to it. He said that if he doesn't show up Mr. Usry is ready to do what is necessary to get rid of those autos. He added that if he makes the entire area C-H he can have an auto sales business where the older cars were. He stated that the auto sales business would have newer vehicles than the ones that are there currently. He said that they are set for the 3<sup>rd</sup> or 4<sup>th</sup> of November to address the dispossessory. He added that if he doesn't show up it goes forward anyway and if he does and hasn't responded it; so it's still in a position to where the dispossessory goes forward and Mr. Usry will be able to get rid of those autos, and clean up that area. He stated that when they were contacted by Zoning Department there were two (2) issues, and the two (2) issues were: there was a land disturbance in terms of there should be gravel parking, and Mr. Usry has address that; and the other issue was the autos, and in early November they will address that. He reiterated that most of the property is already C-H except for that small area of M-1, and he would like to get it rezoned to C-H. He said once the property is cleared out and becomes one (1) type of business there, which is his HVAC Company; it will look more complete and be cleaned up. He added that they are asking for their approval of the rezoning.

Chairman Graw asked if anyone would like to speak in favor of the petition. Hearing none he asked if anyone would like to speak in opposition to the petition. Hearing none he brought it back to the Planning Commission.

Brian Haren asked if his long term intent was to combine those three (3) lots if the rezoning is approved.

Bob Usry replied yes sir that is my intent is to combine all lots to be C-H. He stated that he has been at the location since 1978.

John Culbreth stated that he has no question and is going with staff and their recommendation of approval.

Chairman Graw asked if he was currently selling cars on that property.

Bob Usry replied no, he was renting the space to someone who sold the cars.

Chairman Graw asked if he had the HVAC Company there now.

Bob Usry replied yes, and that the HVAC Company has been there since 1972 but he bought the property in 1978.

Chairman Graw asked if he wanted to be able to sell cars on that property.

Bob Usry replied that what he would like to do is rent to someone who would like to sell cars.

Chairman Graw asked staff if Mr. Usry could do what he wanted to do in the M-1 zoning district.

Pete Frisina replied yes, I think it is.

Chairman Graw asked if it was also permitted in C-H.

Pete Frisina replied yes.

Chairman Graw asked Mr. Usry why he wants to rezone to C-H since the current zoning M-1 lets him do what he wants to do.

Bob Usry replied that Denesha Todd Court comes up one (1) side of the property and then he has an easement on the other side of the property. He stated that he wants to make the entire property C-H instead of M-1, so if he ever had to sell it he wouldn't have to rezone it for any reason.

Chairman Graw asked who cemetery is that on the property.

Bob Usry replied that he does not know and it goes back to the 1800's. He stated that there were some Civil War people back there and that the cemetery is fenced in. He said that he asked Dennis Dutton if he needed to clean up the cemetery. He added that Dennis Dutton replied that wasn't his problem.

Chairman Graw asked if anyone has come out to the cemetery and taken care of it.

Bob Usry replied no sir, they have not.

Chairman Graw asked staff if this is approved will there have to be an easement given to that cemetery.

Dennis Dutton replied that the next step if they approve the rezoning, there will have to be a plat showing the property being put all together and show where the cemetery will be designated. He stated that they will have to go through a public hearing to notify any family members of the deceased. He said there will be a 20 foot easement for access to the cemetery indicated on the plat.

Chairman Graw asked if there were any protections for a cemetery in the Zoning Ordinance.

Dennis Dutton replied that the only protection there is, is to not deny access for family members.

Derrick Johnson stated that there is a clear entrance into the cemetery.

Brian Haren asked if any family members been out to visit those graves.

Bob Usry replied no sir. He stated that he has been at the property since 1978 and to his knowledge no family members have knocked on his door about the cemetery.

Brian Haren asked if there were any conditions.

Pete Frisina replied there are no conditions.

Chairman Graw asked if there were any other questions or comments. Planning Commission replied no.

Chairman Graw stated that he doesn't feel comfortable with C-H zoning. He said his reason for it was because it's surrounding area on that side of Highway 54 is M-1 and it's C-H on the south side of Highway 54. He reiterated that he didn't feel comfortable with it because of what it could do and the precedent it could set.

Bob Usry stated that the C-H is on Highway 54 the frontage and M-1 is on the rear.

Chairman Graw stated that M-1 is on the north side where he is and C-H is on the south side of Highway 54. He asked the petitioner had he seen the zoning map.

Bob Usry replied no.

Chairman Graw reiterated that he was afraid of precedent it will set. He stated that Pete Frisina said that the land use is commercial, so C-H could be a proper zoning for it. He said that he is looking at all of the surrounding area and he doesn't feel comfortable.

Derrick Johnson stated that he understood the blue represents M-1, and where Mr. Usry C-H is there are two (2) other parcels that are C-H. He said it would make it more uniform in this one area and it would be the same as the other area that is to the right of all this property.

Bob Usry reiterated that he wanted to change the entire parcel to C-H.

Brian Haren stated that the property owner is looking to the future and wants the best use for his property. He said that C-H zoning is in compliance with the land use plan. He added that the Mr. Usry just want to get the property rezoned, combine the parcels to make it a single parcel, to make it easier to deal with in the future.

Derrick Johnson agreed with Brian Haren and added that they want the property to be uniformed. He stated that if Mr. Usry is doing business in a C-H area and it crosses over a little bit into the M-1 area than we have another issue. He said that the issue may be of him coming over 10 or 20 feet. He added that if his entire area is C-H than there is no problem with what he is doing.

Chairman Graw asked Mr. Usry what his future plans were for the property besides HVAC and Auto sales.

Bob Usry replied at the present that is all.

Brian Haren asked Pete Frisina why the north side of Highway 54 was zoned M-1 and the south side was zoned C-H.

Pete Frisina replied that there has been a mixed of both out there. He stated that many years ago this area was land use for M-1 and they had more request for C-H. He said that when they changed it to commercial the first request they had for it was M-1. He added that either zoning is compatible in that area.

Chairman Graw stated that he has been on the Planning Commission for 22 years and this is the first request we have had for that part of Highway 54 in that area for any kind of rezoning.

Pete Frisina replied that there is a lot in the back that got rezoned from M-1 to C-H at the end of this cul-de-sac some time back. He stated no it is not the first time.

Chairman Graw stated that was an auto repair down there at the very end of the cul-de-sac. He said that he doesn't know if they are doing auto repair now, but they did some years ago.

Bob Usry stated that they have that zoned C-H and that is north of Highway 54.

Chairman Graw asked if you can do auto repair in C-H.

Pete Frisina replied yeah, that may have been there before we changed the ordinance. He stated that you can do limited auto repair.

Chairman Graw asked for a motion.

John Culbreth made a motion to recommend approval of Petition 1251-16. Brian Haren seconded the motion. The motion passed 3-0. Arnold Martin and Al Gilbert were absent from the meeting.

**PETITION NO: 1261-16**

**REQUESTED ACTION:** C-H & M-1 to C-H

**PROPOSED USE:** HVAC Company / Auto Sales

**EXISTING USE:** HVAC Company / Auto Sales

**LOCATION:** S.R. 54 & Denesha Todd Court

**DISTRICT/LAND LOT(S):** 5th District, Land Lot(s) 137

**OWNER:** Bob & Nancy Usry

**AGENT:** Derrick Johnson, Esq.

**PLANNING COMMISSION PUBLIC HEARING:** October 6, 2016

**BOARD OF COMMISSIONERS PUBLIC HEARING:** October 27, 2016

---

**APPLICANT'S INTENT**

Applicant proposes to maintain a HVAC Company and Auto Sales on three (3) lots consisting of a total of 3.286 acres.

**STAFF RECOMMENDATION**  
**APPROVAL**

1.

1261-16



## INVESTIGATION

### A. PROPERTY SITE

The subject property is a 3.286 acre tract consisting of three (3) lots fronting on S.R. 54 and Denesha Todd Court in Land Lot(s) 137 of the 5th District. S.R. 54 is classified as a Major Arterial and Denesha Todd Court is classified as an Internal Local road on the Fayette County Thoroughfare Plan. The subject property consists of lots 6 and 7 as depicted on the Final Plat for Fayette/54 Commercial Park and an adjacent 1.04 acre lot fronting on SR 54. The subject property is currently zoned C-H & M-1.

**History:** Rezoning petition 307-76, A-R to C-H for 22.62 acres, was approved on February 13, 1976. The subject property was within this aforementioned rezoning.

The Final Plat for the Fayette/54 Commercial Park was approved on September 9, 1980 the final plat was recorded on October 2, 1980.

Rezoning petition 531-85, C-H to M-1 for 3.5 acres, was approved on June 27, 1985. A portion of the subject property, lot 7 of Fayette/54 Commercial Park, was within this aforementioned rezoning.

### B. SURROUNDING ZONING AND USES

The general situation is a 3.286 tract that is zoned C-H & M-1. In the vicinity of the subject property is land which is zoned M-1, C-C, & C-H. See the following table and also the attached Zoning Location Map.

The subject property is bound by the following adjacent zoning districts and uses:

Direction	Acreeage	Zoning	Use	Comprehensive Plan
North (lot 4 of Fayette/54 Commercial Park)	1.00	C-H	Nonresidential	Commercial
South (across SR 54)	1.00	C-H	Nonresidential	Commercial
	.36	C-C	Nonresidential	Commercial
	.57	C-C	Undeveloped	Commercial
East (lots 1-3 of Fayette/54 Commercial Park)	1.00	M-1	Nonresidential	Commercial
	1.00	M-1	Nonresidential	Commercial
	1.00	M-1	Nonresidential	Commercial
West	3.12	M-1	Nonresidential	Commercial

### **C. COMPREHENSIVE PLAN**

The subject property lies within an area designated for Commercial. This request conforms to the Fayette County Comprehensive Plan.

### **D. ZONING/REGULATORY REVIEW**

The applicant seeks to rezone from C-H & M-1 to C-H for the purpose of maintaining a HVAC Company and Auto Sales .

#### **State Route Overlay**

Due to the frontage on SR 54 East, any new development on the subject property shall meet the requirements of the General State Route Overlay Zone. The Overlay Zone requirements are in addition to the zoning district requirements and any Conditional Use requirements, and in cases where there is a conflict between requirements, the most restrictive regulation applies. Overlay Zone requirements including, but not limited to, the following: a 100 foot setback from the right-of-way of SR 54, a 50 foot setback for impervious surfaces from right-of- way of SR 54, and architectural standards for buildings which require a residential character including a pitched peaked roof, a residential façade, and doors and windows of a residential character.

#### **Platting**

It is the owners' intent to combine the three (3) existing lots into one (1) lot. This will require a Minor Revision to the Final Plat for the Fayette/54 Commercial Park prior to the submittal of any site plans.

#### **Site Plan**

Should this petition be approved, the owner/developer must submit a Site Plan as required by Section 8-26., c. of the Development Regulations. Access must comply with the provisions of Section 8-53. of the Development Regulations and the Georgia D.O.T., as appropriate. The subject property must comply with Fayette County ordinances including but not limited to: Sections 5-18. Screening Required and 5-19. Screening Standards of the Fayette County Zoning Ordinance and 8-159. Fayette County Landscape and Buffer Requirements, Article VI. Tree Retention, Protection, and Replacement, and Article VIII. Off-Street Parking and Service Requirements of the Fayette County Development Regulations.

### **E. REVIEW OF CONCEPT PLAN**

The applicant is advised that the Concept Plan is for illustration purposes only. Any deficiencies must be addressed at the time of submittal of the Preliminary Plat, Final Plat, and/or Site Plan, as applicable.

The Concept Plan indicates a cemetery on the subject property. Prior to any site plan approval, the owner shall comply with Article II. - Cemetery, Burial Ground, Human Remains, or Burial Object of the Fayette County Code.

## **F. DEPARTMENTAL COMMENTS**

### **Water System**

No conflict.

### **Public Works/Engineering**

No Public Works or Engineering issues for the requested rezoning from C-H and M-1 to C-H.

### **Environmental Management**

**Floodplain** The property **DOES NOT** contain floodplain per FEMA FIRM panel 13113C0108E dated Sept 26, 2008.

**Wetlands** According to the National Wetlands Inventory wetlands are not present. However, a wetland study may be required upon field inspection by staff. Per Section 8-4 of Fayette County Development Regulations, the applicant must obtain all required permits from the U.S. Army Corps of Engineers prior to issuance of any permits from Fayette County for any phase of development affecting wetlands.

**Watershed** Watershed Protection **DOES NOT** apply based on geographic information systems review. However, state waters could be present and identified by staff during site inspection.

**Groundwater** The property **IS NOT** within a groundwater recharge area.

This development **IS** subject to all development regulations including Non-Residential Construction, Landscape and Post-Development Stormwater Management Ordinances.

### **Environmental Health Department**

No objects. Site to be served by onsite septic system.

### **Fire**

The bureau of fire prevention will neither approve nor deny request that fall outside the scope of ISO requirements.

**Georgia Department of Transportation**

There are no comments for this rezoning, however the property should know that there will be no additional access granted to the state route.

**STAFF ANALYSIS**

This request is based on the petitioner's intent to rezone said property from C-H & M-1 to C-H for the purpose of maintaining a HVAC Company and Auto Sales . Per Section 110-300 of the Fayette County Zoning Ordinance, Staff makes the following evaluations:

1. The subject property lies within an area designated for Commercial. This request conforms to the Fayette County Comprehensive Plan.
2. The proposed rezoning will not adversely affect the existing use or usability of adjacent or nearby property.
3. The proposed rezoning will not result in a burdensome use of roads, utilities, or schools.
4. Existing conditions and the area's continuing development as a non-residential district with a mix of commercial and light industrial development support this petition.

Based on the foregoing Investigation and Staff Analysis, Staff recommends **APPROVAL.**







# Rezoning 1261-16 Land Use Plan Map

RESIDENTIAL

OFFICE

CONSERVATION  
AREAS

COMMERCIAL

Fayetteville

COMMERCIAL

SUBJECT  
PROPERTY

Denesha Todd Court

SR 54

Callaway Road

LOW DENSITY  
RESIDENTIAL

PUBLIC  
FACILITIES/INSTITUTION



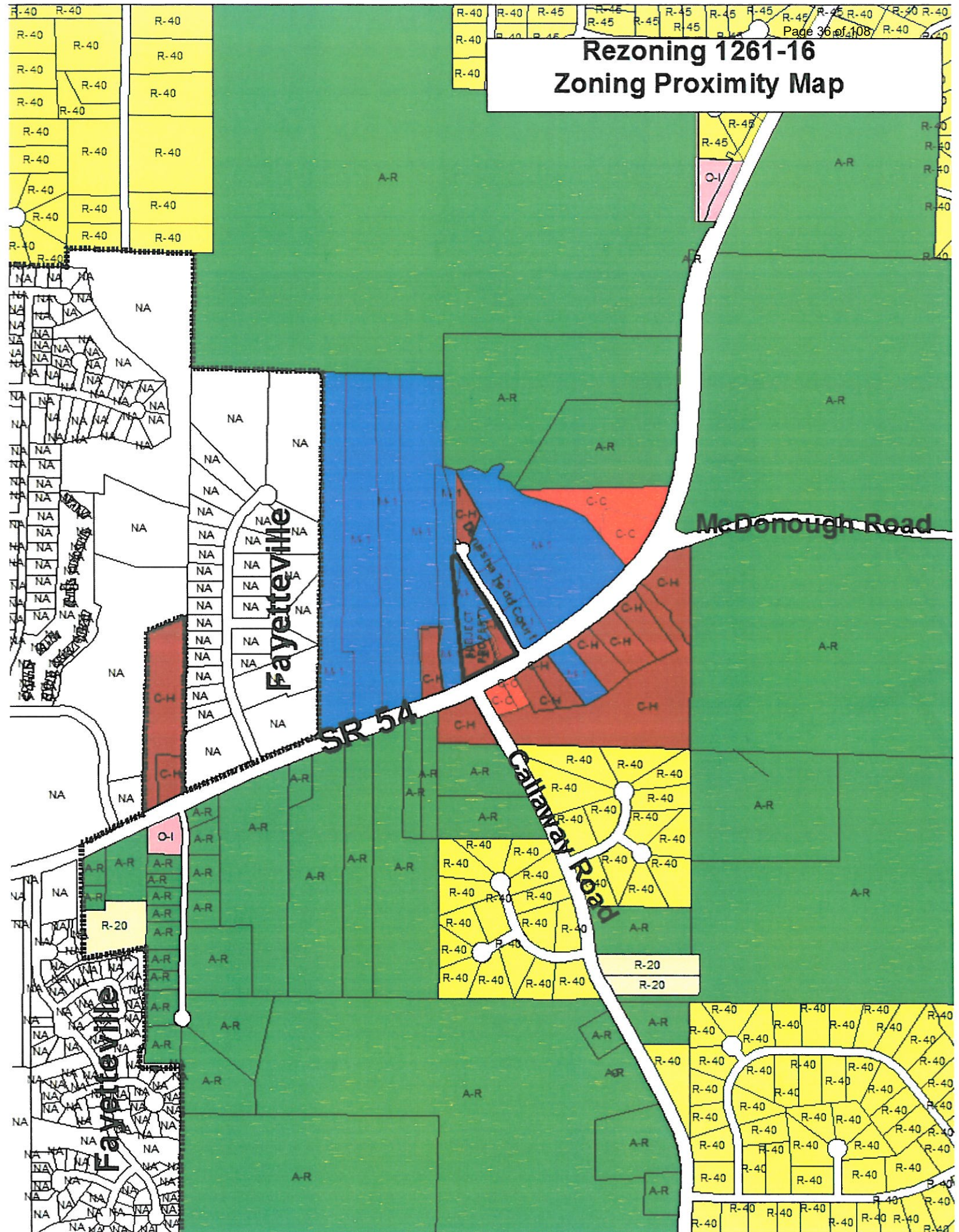
# Rezoning 1261-16 Aerial Map





Rezoning 1261-16  
Zoning Proximity Map

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APPLICATION TO AMEND  
TO AMEND THE OFFICIAL ZONING MAP OF FAYETTE COUNTY, GA Page 37 of 108

PROPERTY OWNERS: BOB AND NANCY USRY

MAILING ADDRESS: [REDACTED]

PHONE: \_\_\_\_\_ FAX: \_\_\_\_\_

AGENT FOR OWNERS: DERRICK JOHNSON, ESQ.

MAILING ADDRESS: 570 N. JEFF DAVIS DRIVE, SUITE D, FAYETTEVILLE, GA

PHONE: [REDACTED] FAX: 678-817-4088 30214

E-MAIL: DLJLAW@GAILSOUTH.NET

PROPERTY LOCATION: LAND LOT 137 LAND DISTRICT 5th PARCEL 0532 066  
LAND LOT \_\_\_\_\_ LAND DISTRICT \_\_\_\_\_ PARCEL 0532 0402

TOTAL NUMBER OF ACRES REQUESTED TO BE REZONED: 3.286 ACRES

EXISTING ZONING DISTRICT: C-4 & M-1 PROPOSED ZONING DISTRICT: C-14

ZONING OF SURROUNDING PROPERTIES: M-1, C-C, C-4

PRESENT USE OF SUBJECT PROPERTY: HVAC COMPANY and Auto Sales

PROPOSED USE OF SUBJECT PROPERTY: HVAC COMPANY and Auto Sales

LAND USE PLAN DESIGNATION: Commercial

NAME AND TYPE OF ACCESS ROAD: SR 54 and Deneshia Todd Court

LOCATION OF NEAREST WATER LINE: HWY 54

(THIS AREA TO BE COMPLETED BY STAFF): PETITION NUMBER: ZA - 1261 - 16

☐ Application Insufficient due to lack of: \_\_\_\_\_

by Staff: \_\_\_\_\_ Date: \_\_\_\_\_

☒ Application and all required supporting documentation is Sufficient and Complete

by Staff: [Signature] Date: 8/30/16

DATE OF PLANNING COMMISSION HEARING: October 6, 2016  
~~September 27, 2016~~

DATE OF COUNTY COMMISSIONERS HEARING: October 27, 2016  
~~September 27, 2016~~

Received from SouthernComfort Services, Inc. a check in the amount of \$ 250.00 for application filing fee, and \$ 40.00 for deposit on frame for public hearing sign(s).

Date Paid: 8/30/16 Receipt Number: \_\_\_\_\_

ADDRESS: [REDACTED]

## PETITION FOR REZONING CERTAIN PROPERTY IN THE UNINCORPORATED AREAS OF FAYETTE COUNTY, GEORGIA.

Bob USBY affirms that he is the owner or the specifically authorized agent of the property described below. Said property is located in a(n) C-4 Zoning District. He/She respectfully petitions the County to rezone the property from its present classification and tenders herewith the sum of \$ 290.00 to cover all expenses of public hearing. He/She petitions the above named to change its classification to M1.

This property includes: (check one of the following)

☐ See attached legal description on recorded deed for subject property or☐ Legal description for subject property is as follows:

PUBLIC HEARING to be held by the Planning Commission of Fayette County on the 1<sup>st</sup> day of September, 20 16 at 7:00 P.M.

PUBLIC HEARING to be held by the Board of Commissioners of Fayette County on the 22<sup>nd</sup> day of September, 20 16 at 7:00 P.M.

SWORN TO AND SUBSCRIBED BEFORE ME THIS 20<sup>th</sup> DAY OF September, 2016,

Sharon E Batte

NOTARY PUBLIC

[Signature]  
APPLICANT'S SIGNATURE

Name(s) of All Property Owners of Record found on the latest recorded deed for the subject property:

BOB USRY / NANCY USRY  
Please Print Names

Property Tax Identification Number(s) of Subject Property: \_\_\_\_\_

(I am) (we are) the sole owner(s) of the above-referenced property requested to be rezoned. Subject property is located in Land Lot(s) 137 of the 5TH District, and (if applicable to more than one land district) Land Lot(s) \_\_\_\_\_ of the 5TH District, and said property consists of a total of \_\_\_\_\_ acres (legal description corresponding to most recent recorded plat for the subject property is attached herewith).

(I) (We) hereby delegate authority to DERRICK JOHNSON to act as (my) (our) Agent in this rezoning. As Agent, they have the authority to agree to any and all conditions of zoning which may be imposed by the Board.

(I) (We) certify that all of the information filed with this application including written statements or showings made in any paper or plans submitted herewith are true and correct to the best of (my) (our) knowledge and belief. Further, (I) (We) understand that this application, attachments and fees become part of the official records of the Fayette County Zoning Department and may not be refundable. (I) (We) understand that any knowingly false information given herein by me/us will result in the denial, revocation or administrative withdrawal of the application or permit. (I) (We) further acknowledge that additional information may be required by Fayette County in order to process this application.

Bob Usry  
Signature of Property Owner 1

Address

Nancy Usry  
Signature of Property Owner 2

Address

Signature of Property Owner 3

Address

[Signature]  
Signature of Authorized Agent

Address

[Signature]  
Signature of Notary Public

Date

[Signature]  
Signature of Notary Public

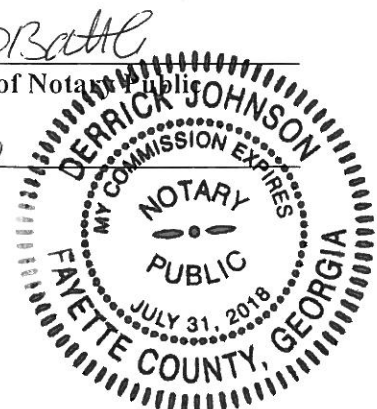
Date

Signature of Notary Public

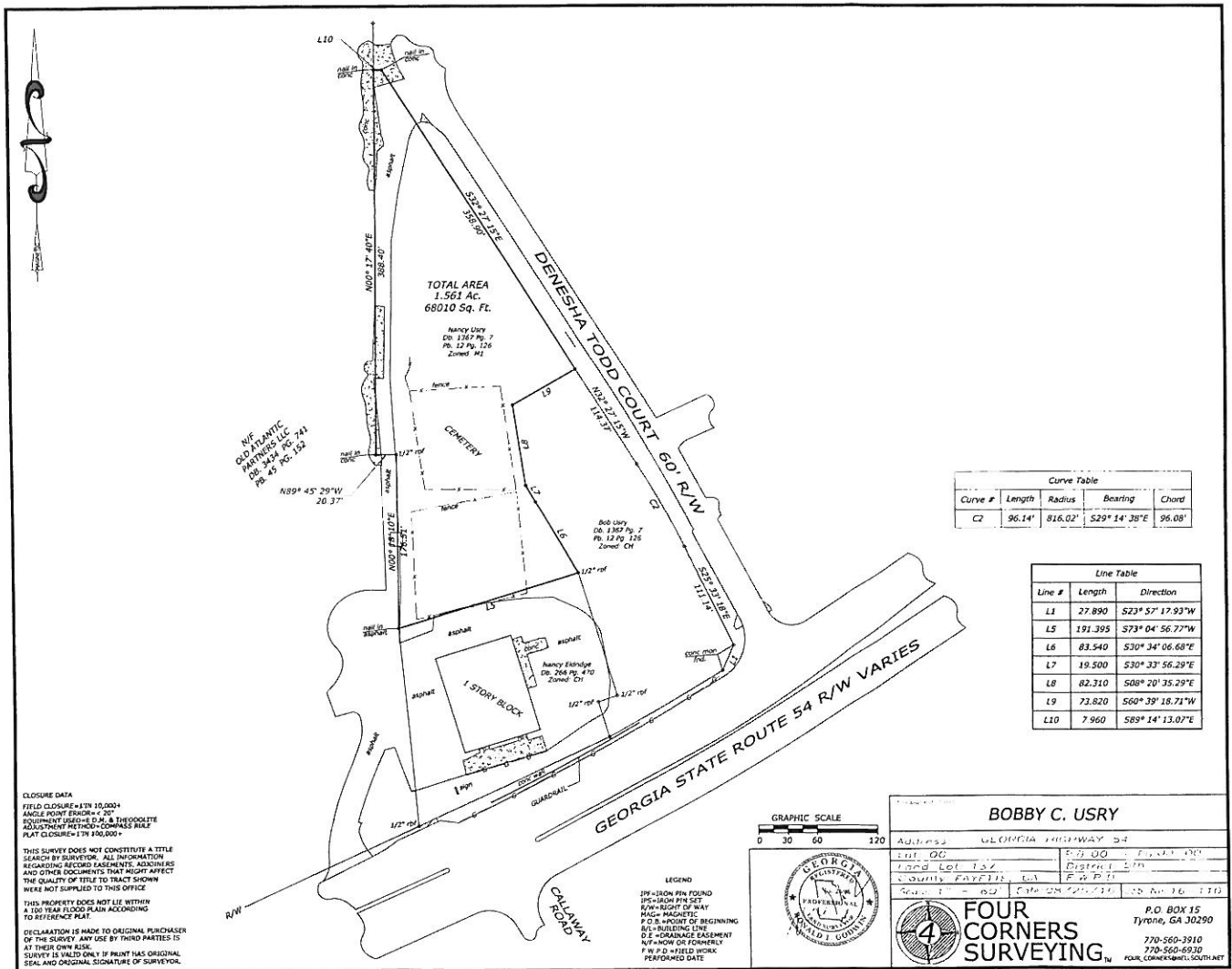
Date

Sharon Battle  
Signature of Notary Public

Date







**DERRICK JOHNSON, P.C.**

570 N. Jeff Davis Drive, Suite D  
Fayetteville, GA 30214

Fax: 678-817-4088

[DLJLAW@bellsouth.net](mailto:DLJLAW@bellsouth.net)

September 20, 2016

FAYETTE COUNTY ZONING ADMIN.  
ATTN: Dennis Dutton, Zoning Admin.  
140 Stonewall Avenue West, Suite 202  
Fayetteville, GA 30214

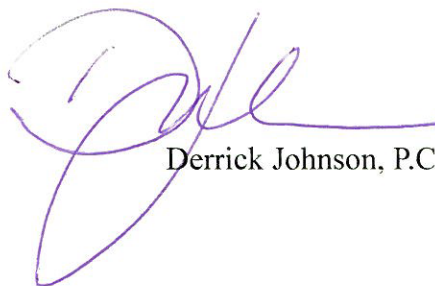
Re: **Bob and Nancy Usry/1134 Hwy 54 East, Fayetteville**  
Zoning Issue

Dear Mr. Dutton:

Please be advised that my office represents Bob and Nancy Usry in the above listed matter. Regarding the zoning of his property at the above-listed location, they seek to have the property rezoned as CH so that the entire property will be zoned the same, because the property is all connected together as one.

If you wish to discuss this issue in the meantime, please contact my office directly.

Very truly yours,

A handwritten signature in purple ink, appearing to read 'D. Johnson', with a large loop at the end.

Derrick Johnson, P.C.

cc: B/N Usry

# COUNTY AGENDA REQUEST

Page 42 of 108

Department:

Presenter(s):

Meeting Date:

Type of Request:

## Wording for the Agenda:

Approval of staff's recommendation to accept a donation from the Fayette County Resource Council, Inc. in the amount of \$2,266.98 for the purchase of Safety Equipment.

## Background/History/Details:

During the early 1990's the Fayette County Resource Council was established and incorporated to serve as a means to fund additional Hazardous Materials equipment and supplies for the three fire departments within the county. The three departments operate a multi-jurisdictional Haz Mat team. This Council received funding from the Local Emergency Planning Committee (LEPC) whose members consisted of local industry and business.

During the last 25 years the industry located within Fayette County that used materials that were considered hazardous and had quantities on hand that were federally reportable have diminished and been replaced with processes that are cleaner and require limited to no chemicals of this nature. With this decline the needs of the departments and the federal mandates for reporting and coordination have been relaxed.

This donation represents the final disbursement of funds from the Resource Council as the Council is in the process of dissolving the corporation.

## What action are you seeking from the Board of Commissioners?

Approval of staff's recommendation to accept a donation from the Fayette County Resource Council Inc. in the amount of \$2,266.98 for the purchase of safety equipment. These funds should be designated to the Fire Fund, line item 27030550 531117 Safety Supplies for the purchase of MSA Altair 4 Multigas detectors.

## If this item requires funding, please describe:

This will be a 2017 budget amendment to increase both Fire Fund Donations Revenues and Fire Fund Safety Supplies (expenditure) by \$2,266.98 to represent a zero impact to the Fund Balance.

Has this request been considered within the past two years?

If so, when?

Is Audio-Visual Equipment Required for this Request?\*

Backup Provided with Request?

**\* All audio-visual material must be submitted to the County Clerk's Office no later than 48 hours prior to the meeting. It is also your department's responsibility to ensure all third-party audio-visual material is submitted at least 48 hours in advance.**

Approved by Finance

Reviewed by Legal

Approved by Purchasing

County Clerk's Approval

Administrator's Approval

## Staff Notes:

**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

**MINUTES**

October 13, 2016  
7:00 p.m.

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**Call to Order**

Chairman Oddo called the October 13, 2016 Board of Commissioners meeting to order at 7:00 p.m.

**Invocation by Commissioner David Barlow**

Commissioner Barlow offered the Invocation.

**Pledge of Allegiance**

Commissioner Barlow led the Board and audience in the Pledge of Allegiance.

**Acceptance of Agenda**

Commissioner Brown moved to accept the Agenda. Commissioner Ognio seconded the motion. The motion passed 5-0.

**PROCLAMATION/RECOGNITION:**

- 1. Recognition of Drive Phase Track Club athletes who competed and won at the 2016 USA Track and Field Junior Olympics National Championship in Sacramento, California.**

Chairman Oddo, the Board, and Coach Lamar Grant recognized the Drive Phase Track Club athletes and presented each athlete with a certificate in recognition of their performance. A copy of the request, identified as "Attachment 1," follows these minutes and is made an official part hereof.

**PUBLIC HEARING:**

There was no Public Hearing item on the Agenda.

**CONSENT AGENDA:**

Commissioner Brown moved to approve the Consent Agenda as written. Commissioner Barlow seconded the motion. The motion passed 5-0.

**2. Approval of staff's recommendation to accept a donation of approximately 1,000 public safety radios from Fulton County 911.**

Commissioner Ognio thanked Fulton County for its contribution. Commissioner Rousseau asked for the Board to send a letter to the Fulton County Administrator or Fire Department thanking them for the contribution. A copy of the request, identified as "Attachment 2," follows these minutes and is made an official part hereof.

**3. Approval of staff's recommendation to award Bid #1132-B Annual Contract for Waterline Extensions for Fiscal Year 2017 to the low bidder, Shockley Plumbing, and authorization for the County Administrator to execute the contract and related documents. Copies of the request and contract, identified as "Attachment 3," follow these minutes and are made an official part hereof.**

**4. Approval of the September 22, 2016 Board of Commissioners Meeting Minutes.**

**OLD BUSINESS:**

**5. Consideration of Commissioner Brown's request to change the hours for the county lakes, to sunrise to sunset to allow more user opportunities and to align hours of operation with other outdoor parks.**

Commissioner Brown noted that an email had been received from RowAmerica and that it was placed on the dais. He stated that the coach from RowAmerica and from the Peachtree City Rowing Club expressed that neither one of the solutions works for them.

Commissioner Brown moved to table this matter to the first meeting in December.

Commissioner Brown explained that his motion in order to meet with the parties and come up with a solution. He said it occurred to him that this matter deal with a new lake with new uses, such as rowing, and that it might be better to start with a blank sheet of paper to determine what needs to be done and what are the possible solutions; rather than modifying the current rules. Commissioner Rousseau asked if this discussion would include the Parks and Recreation Department. Commissioner Brown replied that it would and that it would also include the Water System and all key members.

Commissioner Ognio seconded the motion to table.

The motion to table the item until the first meeting in December passed 5-0. Copies of the request and additional dais emails, identified as "Attachment 4," follow these minutes and are made an official part hereof.

**NEW BUSINESS:**

**6. Consideration of a recommendation from the Selection Committee, comprised of Chairman Oddo and Commissioner Brown, to appoint Letitia Naghise, Randy Ognio, and Joseph Tolbert to the Public Facilities Authority for a one-year term beginning July 24, 2016 and expiring July 23, 2017.**

Chairman Oddo stated that the Board recently had a similar issue with a grouping of candidates that did not go as smoothly as it could have. He asked for each nominee be addressed one at a time beginning with Letitia Naghise.

Commissioner Rousseau moved to appoint Letitia Naghise. Commissioner Barlow seconded the motion.

Commissioner Brown spoke about Ms. Naghise's desire to serve and he was thankful for her service. Chairman Oddo added that she would continue in a position that she currently occupies.

The motion to appoint Letitia Naghise passed 5-0.



Chairman Oddo asked for a motion to appoint Commissioner Ognio.

Commissioner Brown moved to reappoint Commissioner Randy Ognio to the Public Facilities. The motion died for lack of a second.

Commissioner Ognio stated he knew where and why this matter was going where it was. He felt there needed to be a member of the Board on the Public Facilities Authority and that he was the only commissioner who volunteered to be on the authority. He also understood that the Board passed a policy at the last meeting that makes this nomination an issue. He stated that the Public Facilities Authority dealt with millions of dollars' worth of bonds and there needed to be someone on the committee who had greater ties to the community than just an appointee to the authority. He wished his colleagues would volunteer to be on the Public Facilities Authority.

Commissioner Barlow asked if the decisions made by the Public Facilities Authority had to come before the Board of Commissioners. County Attorney Dennis Davenport replied that the Public Facilities Authority was put into place to potentially finance public buildings for the government. He stated there are several Public Facilities Authority in the state but not many more are being created since the state no longer looks favorably on creating more of them.

Mr. Davenport stated that the Public Facilities Authority can issue, through revenue bonds, funds to build things like the Justice Center. He added that the Justice Center was built due to the Public Facilities Authority. He explained that the Public Facilities Authority issued by bonds, but as a new entity, it has no track record or history. He continued explaining that the market would not buy bonds unless they are backed by someone with a track record or history, therefore, the Public Facilities Authority must turn to entities with a history, such as the county, to back the bonds. He explained that there would be an Intergovernmental Agreement with the Public Facilities Authority for the purpose of backing the bonds, giving consent to issue the bonds. He doubted that the Public Facilities Authority would even make it to market if they did not have backing.

Commissioner Brown moved to readvertise the position and to proceed with the other position, and to urge the other Commissioners to reapply.

Commissioner Rousseau stated there is a bigger issue. He said the issue three weeks ago was that a policy was passed to make every effort to not serve on multiple boards. He said if the issue is not dealt with then Commissioner Ognio would still be on two bodies. He said he would oppose Commissioner Brown's motion, in principle, since it would still keep Commissioner Ognio on the Public Facilities Authority until his replacement was found; meaning neither the spirit nor letter of the policy would be followed. He said the Board needed to be consistent. He said this was the first test of the policy that was passed on September 22, 2016. He repeated that Commissioners should not serve on any of the boards or similarly structured bodies since, if they are citizen driven, then the Board is looking for recommendations from the very people it represents.

Commissioner Rousseau asked for the Board, on a go-forward basis, if this issue is about floating bonds or financing matters, that that citizens who have a background in finance or similar backgrounds to serve in these capacities as the Board's eyes and ears for final board approval. He stated this was the way to be most intimate with the issues. He repeated that his concerns are: people should not be serving on multiple boards and that commissioners should not serve on the various boards and similar bodies. He said he wanted to deal with the process and not go down the slippery slope of not living up to the county's own rules.

Commissioner Ognio acknowledged that the Public Facilities Authority would have almost no chance to get a bond, but on the small chance they did get a bond they would have the ability to do so. Mr. Davenport agreed that they have the authority to issue bonds, but that no one would issue the bonds. Discussion followed.

Chairman Oddo stated the logical process is to put Mr. Tolbert in place of Vice Chairman Ognio, allowing for a full Public Facilities Authority.

Commissioner Brown amended his motion to nominate Mr. Tolbert to replace Vice Chairman Ognio and to readvertise for the position for the person remaining on the Public Facilities Authority. Commissioner Ognio seconded the amended motion. Commissioner Brown thanked Mr. Tolbert for his willingness to serve on the Public Facilities Authority. Mr. Davenport added that the Board would have to put together a Selection Committee and it would be for the Board to establish the Selection Committee to receive resumes coming in as a result of the advertising.

The motion to appoint Mr. Joseph Tolbert to succeed Vice Chairman Ognio on the Public Facilities Authority and to readvertise for the remaining position passed 5-0.

Commissioner Rousseau moved that the individuals on the previous Selection Committee who have already labored on the issue continue to work to bring the matter to conclusion.

Chairman Oddo clarified that the motion was to appoint Chairman Oddo and Commissioner Brown to the Selection Committee and Mr. Rousseau agreed to that clarified motion. Commissioner Ognio seconded the motion. The motion passed 5-0. A copy of the request, identified as "Attachment 5," follows these minutes and is made an official part hereof.

**7. Consideration of staff's recommendations for the Emerald Lake Dam Rehabilitation Project (Stormwater Utility Project #5509B): Award of Bid #1143-B to North Georgia Concrete, Inc. for \$2,743,859.00; award of Proposal #P869 – Contract Amendment 2 to Walden, Ashworth & Associates, Inc. for \$201,924.80; and associated budget adjustments to four Stormwater Utility line items.**

Public Works Director Phil Mallon briefed the Board on staff's recommendations for the Emerald Lake Dam Rehabilitation Project utilizing a PowerPoint presentation. The briefing lasted for approximately twenty-two minutes during which he answered questions from the Board.

Mr. Mallon stated that the dam was constructed on poor soil at the dam contributing to making this a larger, more expensive project while reducing one of the traffic management options. Commissioner Brown asked if the soils had to be evaluated when the original structure was constructed and if there were any documents showing the soils passed the test prior to the dam's construction. Mr. Mallon replied he had not seen any of those documents although there should have been. Commissioner Brown stated that if there is a document stating the soils passed the test, and based on a project that is nearly \$1 million over-budget, he would want to go back on someone's bonding or license. Commissioner Ognio and the Board agreed that it may be worth exploring since it appeared someone was negligent. Mr. Mallon responded that he did not know the history of the area before the upgrade in 1997 or 1998, but that often these lakes are the result of a dam that is 50 years old or older. Commissioner Brown replied that the matter should be researched.

Commissioner Rousseau stated that Country Lake has a dam too, and he stated that the County needed to be able to answer why the county entered into an agreement with the Emerald Lake Dam but not with the Country Lake Dam. He stated that the burden of the Country Lake Dam was being placed on those homeowners who do not have the needed funds, but that the county was taking care of the Emerald Lake Dam.

County Attorney Dennis Davenport explained that the road into the Woodlands Subdivision was built over Emerald Lake Dam. He stated that when a road is built over a dam, whether it is realized or not, the county owns the dam- whether or not it owned the dam beforehand. He stated that the county was able and fortunate to get a contribution from the developer, who was not obligated to contribute anything since it was completely the county's problem. Mr. Davenport explained that the agreement was put into place to notify all that the dam belonged to the county, that there was a contribution from the developer, but that the county was responsible for the dam since it accepted a road over the dam. Commissioner Rousseau asked if accepting a road over the dam was an "engineering marvel." Mr. Davenport replied that there would never be another subdivision with a road over a dam like this, and he explained that several have attempted to make that happen and all were turned down. Commissioner Rousseau understood there was a uniqueness to this issue, stated it was an engineering marvel, and that it was bad to accept the project in the first place. Commissioner Rousseau agreed with Commissioner Brown to see if there were avenues available to go after the original engineer.

Mr. Mallon stated this overall request was comprised of three separate, related requests. He mentioned that bids came in that were about \$1 million over what was budgeted so the recommendation was to remove money from two of the other dam projects and utilizing contingency funds to fund this project. Commissioner Brown asked what would happen to the other two dam projects. Mr. Mallon replied they would still have to be address and funding would have to be located in the future. He mentioned that enough money was left for those two projects so that they would not stall but could go through the design process. He did not think this recommendation would impact the schedules for repairing the dams, but they would have to be reprioritized if the Special Purpose Local Option Sales Tax (SPLOST) failed. Further discussion continued.

Commissioner Brown stated that as one looks over the project they will find that it defies common sense and he wondered what previous Boards of Commissioners were doing. He suggested that the Board take measures to make it legally impossible to create a one-way in to a new subdivision with a water hazard present. He said the county has been affected so many times with stormwater pipes and dams failing and with people being stranded in one-way in, one-way out subdivisions. He further suggested there should be no more roads over dams and spillways and he suggested that rule should be put in writing. Commissioner Brown added that the dams need to meet the 100-year storm requirement rather than the 10-year storm requirement, as it was originally built to withstand.

County Attorney Dennis Davenport recommended this matter be addressed with three separate motions.

**Mike Jorgensen:** Mr. Jorgensen spoke gave a history of the dam, spoke in favor of staff's recommendations, and presented a petition to the Board signed by seventy-six residents of the Woodlands Subdivision.

Commissioner Barlow moved to approve the Emerald Lake Dam Rehabilitation Project (Stormwater Utility Project #5509B) award of bid #1146-B to North Georgia Concrete, Inc. for \$2,743,859.00. Commissioner Brown seconded the motion.

Commissioner Brown hoped that the residents in the subdivision had already discussed and made an evacuation plan in the event of a heavy rain.

The motion to approve the Emerald Lake Dam Rehabilitation Project (Stormwater Utility Project #5509B) award of bid #1146-B to North Georgia Concrete, Inc. for \$2,743,859.00 passed 5-0.

Commissioner Barlow moved to award Proposal #P896—Contract Amendment 2 to Walden, Ashworth & Associates, Inc. for \$201,924.80. Commissioner Brown seconded the motion. The motion passed 5-0.

Commissioner Barlow moved to approve associated budget adjustments to four Stormwater Utility line items. Commissioner Ognio seconded the motion.

Commissioner Brown mentioned that the cost for the four items was \$960,350.82.

Commissioner Barlow amended his motion to reflect the cost of the four Stormwater Utility line items to be \$960,350.82. Commissioner Ognio amended his second to the motion.

The motion to approve associated budget adjustments to four Stormwater Utility line items in the amount of \$960,350.82 passed 5-0.

Commissioner Brown asked for staff to return to the Board in the future with a possible list of reprioritization of the remaining stormwater projects, with their impacts, for review and approval.

Copies of the request, PowerPoint presentation, and petition, identified as "Attachment 6," follow these minutes and is made an official part hereof.

**8. Consideration of the County Attorney's recommendation to deny the disposition of tax refunds, as requested by Ivonne Morrison, in the aggregate amount of \$6,186.05.**

County Attorney Dennis Davenport briefed the Board on this matter and he answered questions from the Board. He reiterated the findings on a memo provided in the Agenda package. He stated that the Department of Veterans Affairs approved Ms. Morrison's disability back to 2013 for their purposes, after which, she filed for a tax refund for the years 2013, 2014 and 2015. He mentioned that Ms. Morrison had not applied for a Homestead Exemption to this date, and, further, she had moved out of Fayette County in 2015. He stated she has received the Disabled Veteran's Exemption in the State of Virginia for the years 2014, 2015 and 2016. He stated this is a retroactive request and at a recent meeting a retroactive request was denied. He recommended denial for these reasons.

Commissioner Rousseau questioned how these types of requests come to the Board of Commissioners. Mr. Davenport briefed the Board on how the requests get to the Board. Commissioner Rousseau asked if the request could be stopped at the entry level or at an appropriate level prior to getting to the Board. Mr. Davenport replied that the request would come to the Board of Commissioners anyway. Mr. Davenport then explained how these requests would be handled on future Agendas.

Commissioner Brown moved to follow staff's recommendation to deny the refund request by Ms. Morrison in the amount of \$6,185.05. Commissioner Ognio seconded the motion.

Commissioner Brown stated that he did not have a problem doing these requests retroactively since the federal government takes a long time to get its paperwork completed. He then explained why she could not get the request based on legal concerns. Commissioner Ognio stated that state law did not allow for retroactive tax refunds. He mentioned that he had contacted a federal senator about this matter but was disappointed in the answer he received. Chairman Oddo stated there were many ramifications associated with approving these types of requests and that those ramifications should be thought through. Commissioner Rousseau added that he had contacted the Association of County Commissioners Georgia (ACCG) about this matter and it is on their radar. He suggested this could be a statewide initiative for similar requests to be approved. He noted that this particular request was borderline fraud and could not be approved.

The motion to follow staff's recommendation to deny the refund request by Ms. Morrison in the amount of \$6,185.05 passed 5-0. A copy of the request, identified as "Attachment 7" follows these minutes and are made an official part hereof.

**PUBLIC COMMENT:**

**Robert Goldberg:** Mr. Goldberg, the founder of "Concerned Citizens against Deer Eradication," stated that the Homeowners' Association of the Whitewater Creek Subdivision took a vote to "eradicate the deer herd in Whitewater Creek." He stated that the Homeowners' Association has jurisdiction in the subdivision, but he felt this matter really belonged to Fayette County. He said the concerned citizens wanted to prevent the eradication of the deer and had come to the Board to voice their concerns. He said this was a county issue since the County, through the Marshal, has to issue a permit to discharge a firearm in a neighborhood. He asked for that permit to not be provided.

**Suzie Tjarks:** Ms. Tjarks stated she lives in a different subdivision and that the deer in Whitewater Creek travel to the surrounding subdivisions. She stated that Whitewater Creek's decision affect her as much as it would affect Whitewater Creek. She explained that the culling of the deer would occur based on a yearly maintenance schedule which leads to no more deer at all. She stated there are other ways to manage the deer other than through lethal methods. She said the people did not see the deer as pests but as part of God's nature.

**Winnie Anderson:** Ms. Anderson, a resident of Tyrone, spoke about the numbers of large trucks traversing on Tyrone Road, Farr Road, Dogwood Road, and Flat Creek Trail. She spoke about the dangers those large trucks present by driving so fast. She stated that she almost killed at the corner of State Route 54 and Tyrone Road by a large truck. She stated she noticed a

dump truck turn so quickly on Dogwood Trail that it slid and almost hit a student standing by the road. She added that there are deep ravines on Farr Road so the road is not suitable for the trucks. She asked the Board to consider measures to limit or disallow the trucks to drive on those roads.

**Roger Ognio:** Mr. Ognio, the owner of Ognio Holdings, stated he acquired a permit to revamp a building located across from Dixieland Fun Park. He stated that he spent \$150,000 putting in a driveway and he also put in a septic tank. He stated that now, suddenly, the Fayette County Building Permits and Inspections Department states the building is too close to the highway. He said the plan was already approved before any work or purchase was made. He added that earlier today they department is stating the building cannot be a block building with metal siding. He stressed he already had a permit and he would be forced to get an attorney. He stated he works in every county of the state and never had this kind of trouble. He said the department and Fayette County will not run over him.

**Lee Miller:** Ms. Miller spoke on behalf of the deer stating she had tons of deer in her property all the time. She said she was disturbed by what was supposed approved, as reported on Fox 5, that a federal agency got permits to kill deer in residential neighborhood. She asked how a neighborhood could get the permit to shoot wildlife and she hoped that is not the case. She hoped something could be done to stop it.

**Elizabeth Couterie:** Ms. Couterie, a resident of High Grove, said it was special to have the deer in the neighborhood. She said she was disturbed that an association could "own" the deer and that the neighborhood can claim a right to shoot and kill the deer.

**Stephanie Cohran:** Ms. Cohran stated she does not live in the community but there are legal issues about this matter. She assumed someone came to the county and got a permit.

Commissioner Brown and Commissioner Rousseau stated there has not been a permit issued by the county.

Ms. Cohran stated that the Department of Natural Resources (DNR) states there can be no hunting at night, so by hunting at night in a subdivision would violate the DNR's own rules. She asked if the DNR is involved. She thought the homeowners had grounds to stand on by calling the DNR.

**Felecia Johnson and Jackie Craig:** Ms. Johnson and Ms. Craig, two former Fayette County employees, spoke at length about problems they experienced during their employment with the Road Department. They asked the Commissioners to investigate their claims and to better govern the departments.

Chairman Oddo stated the Board had received the letter and it is being looked into.

**Robert Goldberg:** Mr. Goldberg returned and stated his wife attended Whitewater Creek's Homeowners Association meeting, but he reiterated that the deer are a Fayette County issue. He said the Homeowner's Association gave inadequate notice about what was to be discussed and decided. He said he called the Homeowners' Association president and others but was unable to get adequate answers. He asked the county to not permit anyone to fire weapons in the subdivision.

**Donald Miller:** Mr. Miller spoke in favor of the deer saying there is consternation among the homeowners. He said everyone is trying to come up to speed about is going on. He said the people are asking the Board to slow the process until a full discussion can be held.

Commissioner Rousseau asked if Mr. Miller was pro or con for killing the deer. Mr. Miller replied that he is against culling the deer.

**Peter Sanson:** Mr. Sanson agreed with Mr. Miller and he read from a letter that went to the citizens of Whitewater Creek describing the culling of deer. He thought it was dangerous to fire weapons in someone's backyard. He further asked, if a deer falls over in his yard how someone could come into his yard to get the deer. He asked who would pay for a broken leg if a person is in a deer stand and falls, breaking their leg. He asked if the permitting process comes to the Board then he hoped the county would not approve the permit.

**Debra Bardeen:** Ms. Bardeen stated she and her husband, both of whom live in Whitewater Creek, oppose the eradication of the deer.

**Elly Anna Ellis:** Ms. Ellis, a resident of Whitewater Creek, opposed the eradication of the deer. She stated that there was no information provided to the residents about this matter or decision, but she had heard that the Homeowners' Association had already made a decision prior to their meeting. She said no one asked for her permission despite saying they have received many signatures from many residents. She did not know if her neighbor had signed an agreement, but she was concerned.

**Marilyn Rogers:** Ms. Rogers, a resident of Whitewater Creek, stated she was opposed to the culling of deer. The Board asked Ms. Rogers to provide a letter she received from Whitewater Creek to County Clerk Floyd Jones.

**Frank Gardner:** Mr. Gardner spoke about the deer problem in Fayette County and the problem with pipes along Davis Road. Mr. Gardner also thought it was a shame the Board could not work out problems with the Selection Committee's recommendations.

Public Works Director Phil Mallon stated that the Road Department replaced one pipe along Davis Road on Monday and the remaining pipes are scheduled for replacement during the Thanksgiving holiday since staff is trying to work around the Board of Education's schedule.

**Tom Waller:** Mr. Waller questioned the progress of completing the West Fayetteville Bypass (Veterans Parkway.) He also questioned about getting signs replaced that would prevent large concrete trucks from traveling on Sandy Creek Road.

#### **ADMINISTRATOR'S REPORTS:**

Chairman Oddo stated that if the Board had any questions on the items listed on the Administrator's Report then they could be deferred to Mr. Rapson at the next meeting. The Board indicated there were no questions on these items.

- A. **Contract #1094-A, Amendment 1: Utility Locate Services. A copy of the notice, identified as "Attachment 8," follows these minutes and is made an official part hereof.**
- B. **Request for Quotes #1188-A- Road Striping; Peek Pavement Marking, LLC. at a total price of \$59,635.40. A copy of the notice, identified as "Attachment 9," follows these minutes and is made an official part hereof.**

#### **ATTORNEY'S REPORTS:**

**Notice of Executive Session:** County Attorney Dennis Davenport stated that he had two items of Pending Litigation and review of the September 22, 2016 Executive Session Minutes for consideration in Executive Session.

## **COMMISSIONERS' REPORTS:**

### **Commissioner Ognio:**

**Response to Deer Concerns at Whitewater Creek Subdivision:** Commissioner Ognio stated that the Board received an email from a representative from the United States Department of Agriculture (USDA) stating that if an agreement is reached with Whitewater Creek subdivision they would then approach the county to have reprieve from any conflicting county ordinances. He stated that if the USDA did come to the county for reprieve, then it would be done in an open and advertised meeting of the Board of Commissioners. He stated that he did not want the deer in his yard killed either.

**Response to Mr. Waller's Public Comments:** Commissioner Ognio replied to Mr. Waller's comments stating that when a road is started too quickly and it is not planned properly, then it takes a long time to finish. He stressed that the road is nearing completion but it is not there yet.

**Citizens Encouraged to Vote:** Commissioner Ognio reminded everyone that early voting will begin next week and he urged everyone to exercise their right to vote.

**Comment on Deer Changing Color in the Fall:** Commissioner Ognio stated that at this time of year the deer change color by getting darker during the fall and winter. He stated they are hard to see during this time of year and that makes them very dangerous. He said the deer are used to people and cars and he urged people to pay attention to them.

### **Commissioner Rousseau:**

**Response to the Deer Concerns and Notice of an Upcoming Homeowners' Association Boot Camp:** Commissioner Rousseau stated he would use the deer issue as an example of when homeowners' associations' meet and the residents do not attend the meeting or where the information is not provided. He said the danger is that a small minority of people can make these kinds of decisions. He encouraged everyone to attend their homeowners' association meetings, to be vigilant, and to be aware of what is going on. He stated that homeowner's associations have challenges and he announced that he and a number of his colleagues are hosting a homeowners' association boot camp to talk about the legalities and critical issues with older subdivisions that are crumbling with people parking on their lawns. He stated the boot camp would take place on November 5 at 9:00 a.m. at the Convention Center in College Park next to the airport. He encouraged everyone to attend in order to learn how to strengthen their homeowners' association.

**Kudos to the Drive Phase Track Club:** Commissioner Rousseau gave kudos to the Drive Phase Track Club and to their accomplishments.

**Thanks to the Public Works Staff:** Commissioner Rousseau thanked the Public Work staff for their effort in working with Northridge Subdivision.

**Response to Employee Allegations during Public Comment:** Commissioner Rousseau stated that the Board does not get into employee related matters, per se, but the allegations that were raised during Public Comment were being taken seriously. He said the allegations were particularly troubling and he hoped they were not true, but he said the Board had a responsibility to look into it thoroughly.

**Review of County's Relationship with Wells Fargo:** Commissioner Rousseau stated he wanted to meet with the Finance staff to discuss the Wells Fargo issue. He thought it was unconscionable what Wells Fargo has does to the general public while the CEO's still get a golden parachute in the millions of dollars. He said if Wells Fargo was that unethical then the county needed to reconsider doing business with the bank. Chief Financial Officer Mary Parrott stated that her staff was already looking to the matter as a whole and that recommendations would be forthcoming. Commissioner Rousseau recommended that the recent issues should be considered in the decision making process.

**Commissioner Barlow:**

**50<sup>th</sup> Wedding Anniversary:** Commissioner Barlow stated that he and his wife had celebrated their 50<sup>th</sup> Wedding Anniversary on October 8, 1966. He stated that he participated in the Founders Day Parade in Tyrone during the anniversary and he thanked all the participants for coming out and celebrating his anniversary.

**Commissioner Brown:**

**Update on Water Guardians' Work at Lake Peachtree:** Commissioner Brown stated he was celebrating his 22<sup>nd</sup> Wedding Anniversary where he and his wife were going to Hilton Head, South Carolina to celebrate, but that Hurricane Matthew just about destroyed everything. He said he would have to make it up to her later.

**Call for Open Discussion about Deer in Fayette County:** Commissioner Brown updated the Board on the Water Guardians recent clean-up of Lake Peachtree. He thanked everyone for coming to clean the water and the Water System for the support they give to the effort.

Commissioner Brown stated that his wife ran into a deer on the highway and it damaged the car. He mentioned that he saw about twenty or thirty deer along State Route 74 on the way home from the airport that were standing very near the road. He stated that there needed to be attention paid to the ecological effects of the large amount of deer in the area. He spoke about how the drought in the late 1990s and early 2000s would have deer dropping out and it was found they were virtually starving. He thought it would be a great discussion to have and to have experts come to the county to provide an open, honest and balanced discussion on the matter.

**Chairman Oddo:**

**Comment on Numbers of Deer Accidents in Fayette County:** Chairman Oddo stated that Georgia has one of the greatest rates of deer accidents in the United States. He said there were issues on both sides for consideration and the right choices had to be made.

**Citizens Encouraged to Practice Water Conservation:** Chairman Oddo stated that it behooves the citizens to practice water conservation. He stated Fayette County is in decent shape but it was a good idea to be careful with the water.

**Discussion on County Administrator Steve Rapson's Absence:** Chairman Oddo pointed out that County Administrator Steve Rapson was absent since his son was getting married. He congratulated Mr. Rapson's son and his family. He added that Mr. Rapson was also celebrating his 31<sup>st</sup> Wedding Anniversary so there is a big family get together with a lot of celebrating.

**EXECUTIVE SESSION:**

**Two Items of Pending Litigation and Review of the September 22, 2016 Executive Session Minutes:** Commissioner Brown moved to go into Executive Session. Commissioner Ognio seconded the motion. The motion passed 5-0.

The Board recessed into Executive Session at 9:29 p.m. and returned to Official Session at 9:38 p.m.

**Return to Official Session and Approval to Sign the Executive Session Affidavit:** Commissioner Ognio moved to return to Official Session and for the Chairman to sign the Executive Session Affidavit. Commissioner Barlow seconded the motion. The motion passed 5-0. A copy of the Executive Session Affidavit, identified as "Attachment 10," follows these minutes and is made an official part hereof.



**Settlement of Second Condemnation of the Galimore Property:** County Attorney Dennis Davenport stated one item concerned condemnation pertaining to the West Fayetteville Bypass, namely the Galimore property. He stated there were two condemnations with the Galimore property of which one had already been resolved. He stated that the second condemnation had an issue over some trees that were taken during the condemnation that were not anticipated. He stated that the condemnation was resolved for an additional \$3,700.00 if it met with the Board's favorable consideration.

Commissioner Ognio moved to approve the settlement the County Attorney described. Commissioner Rousseau seconded the motion. The motion passed 5-0.

**Settlement of Emerald Lake Dam Property:** County Attorney Dennis Davenport stated another project that was working on that was described earlier tonight concerned the Woodlands Dam on Emerald Lake Drive. He explained that part of the project had to do with Real Estate Acquisition that was all substantially completed with the exception of one area. He stated that the county entered into negotiations and bought more of an area than needed, but it was the best deal for the county based on what it would have to go through otherwise. He reported that the county was able to close the property, subject to Board approval. He said it was a 1 ½ acre lot that backs up to the dam project, and the lot is not developable since it will not support a septic system. He said the land was needed for the dam project. He said the property was closed for \$7,500.00 and will be purchased from Mr. Love.

Commissioner Ognio moved to approve the settlement as described by the County Attorney. Commissioner Rousseau seconded the motion. The motion passed 5-0.

**Approval of the September 22, 2016 Executive Session Minutes:** Commissioner Ognio moved to approve the September 22, 2016 Executive Session Minutes. Commissioner Brown seconded the motion. The motion passed 5-0.

**ADJOURNMENT:**

Commissioner Brown moved to adjourn the October 13, 2016 Board of Commissioners meeting. Commissioner Ognio seconded the motion. The motion passed 5-0.

The October 13, 2016 Board of Commissioners meeting adjourned at 9:40 p.m.

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Floyd L. Jones, County Clerk

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Charles W. Oddo, 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 2016. Referenced attachments are available upon request at the County Clerk's Office.

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Floyd L. Jones, County Clerk

# COUNTY AGENDA REQUEST

Page 54 of 108

Department:

Presenter(s):

Meeting Date:

Type of Request:

## Wording for the Agenda:

Consideration of the Public Arts Committee's request for approval of proposed project request form and budget for the "Birdhouses" project.

## Background/History/Details:

The concept for the Birdhouse Project was presented on September 8, 2016 and the concept was approved.

The Birdhouse Project is a signature project for all citizens in the County. It will be an ongoing project and is an opportunity for all ages and all levels of artistic skill. Birdhouses are a natural fit for Fayette County with its rural character. Birdhouses also provide a safe nesting place for birds and protection from the elements. The birds in turn provide insect control. It also facilitates bird watching and encourages education about birds.

The Committee has developed the Guidelines and Registration Tracking Information and with approval will develop promotional materials providing details about the project. Additionally, we will partner with libraries, recreation departments and other entities to provide education regarding birds and birdhouses. We will also assist with scheduling "Decorate Your Birdhouse" events. The summary budget is estimated for \$2,000. This will allow for the purchase of identification tags, production of guidelines, registration materials and promotional materials. See Attachments.

This project concept has been discussed with entities across the County and has been received with great enthusiasm and support.

## What action are you seeking from the Board of Commissioners?

Approval of the Public Arts Committee's request for approval of proposed project request form and budget for the "Birdhouses" project.

## If this item requires funding, please describe:

Funding will be applied to purchase of identification tags distributed when birdhouses are registered. It will also cover production/printing of guidelines, registration forms, certificates and promotional materials.

Has this request been considered within the past two years?

If so, when?

Is Audio-Visual Equipment Required for this Request?\*

Backup Provided with Request?

***\* All audio-visual material must be submitted to the County Clerk's Office no later than 48 hours prior to the meeting. It is also your department's responsibility to ensure all third-party audio-visual material is submitted at least 48 hours in advance.***

Approved by Finance

Reviewed by Legal

Approved by Purchasing

County Clerk's Approval

Administrator's Approval

## Staff Notes:

FAYETTE COUNTY PUBLIC ARTS COMMITTEE - PROJECT REQUEST FORM			
Project Code:		PAC Approval	10/5/16
Project Name:			
Public Arts Committee Project: Birdhouses			
Estimated Total Cost:	\$2,000	Estimated Useful Life:	ongoing
Project Description:	<p>The Birdhouses will become a signature project for the FCPAC. It will be an ongoing project used not only for placement of decorated Birdhouses throughout the County, but also for potential insect control. This is a great way to engage the community in a County-wide art project that has a specific benefit. It can also be partnered with educational programs about birds and birdhouses. It is open to all ages and all levels of art ability. See Attachments for specifics.</p>		
Department:	Public Arts Committee		
Department Contact(s):	Donna Thompson		
Start Date (estimate):	November, 2016	Completion Date (estimate):	ongoing
Additional comments:			
Anticipated Costs - Direct & Indirect			
Materials		\$ Amount	
Estimate: 1,000 i.d. tags, outdoor quality, 2"x2", 7.5% discount		\$1,500	
Production of Guidelines, Registration Materials, Promotional Materials (paper, printing, postcards, incidentals)		500	
Total project cost		\$2,000	
Expenses			
Labor	Hours		
Total Labor Hours	0.0		
Equipment	Hours		
Total Equipment Hours	0.0		

## **Fayette County Public Arts Committee - PROJECT BIRDHOUSE**

### **Guidelines**


- \* Open to all Fayette County citizens.
- \* There is no entry fee to participate and you can decorate as many birdhouses as you wish.
- \* You can purchase or build a birdhouse that you will decorate.
- \* Design must be family friendly.
- \* Birdhouses should be weather resistant and fully functional.
- \* You may place the birdhouse at your own property. You will be responsible for the maintenance and upkeep of the birdhouse.
- \* You can also donate the birdhouse to be placed in public spaces. The FCPAC will partner with entities across the County for placement of the donated birdhouses. This could be with the Southern Conservation Trust, parks, lakes, paths, etc.
- \* The Committee will partner with volunteers to assist in the actual placement of birdhouses in public spaces. However, the entity involved will designate the locations for the birdhouses.
- \* If you plan to donate your decorated birdhouse, there will be several drop-off locations. (To date we have identified Fayette County Parks & Recreation office, Tyrone Public Library and Wildbirds Unlimited in Peachtree City. Others may be identified.) Birdhouses in public spaces will be monitored periodically for any maintenance needs.
- \* All birdhouses will be registered and provided a numbered identification tag.
- \* All registrations will be documented in a database.
- \* The FCPAC will create a Facebook page with ideas for birdhouses, plans for do-it-yourselfers, information about birdhouses and the types and specifications for specific birds, and display photos of completed birdhouses. There will also be a Birdhouse of the Month designee.

## FCPAC - Birdhouse Project

October 12, 2016

Company: [xpresstags.com](http://xpresstags.com) 300 Cadman Plaza West, Suite 1303, Brooklyn, NY 11201

Estimate provided by phone to Donna Rosser.

Tags, 2x2 plastic valve tag, outdoor quality	\$1.69		
Chain	0.28		
sub-total	\$1.97		
Quantity	800		
sub-total	\$1576.00		
potential discount for bulk purchase, 7.5%	-\$118.20	7.5% discount	
<b>estimated total</b>	<b>\$1457.80</b>		<b>\$1500.00</b>
Sample:			
Production/Printing: Guidelines	\$125.00		
Production/Printing: Registration Forms	\$125.00		
Production/Printing: Promotional Materials to include Posters and Postcards	\$125.00		
Production/Printing: Certificates (the certificate of occupancy) for birdhouse registration	\$125.00		
<b>estimated total</b>	<b>\$500.00</b>		<b>\$500.00</b>
		<b>Estimated Budget</b>	<b>\$2000.00</b>





No. \_\_\_\_\_

# Fayette County, GA Public Arts Committee

*"Art is Home in Fayette"* Birdhouse Project Division

## Certificate of Occupancy for Birds

General Artist Design Bureau

The following birdhouse has been artistically decorated in compliance with the parameters of the "Art is Home in Fayette" Birdhouse Project. This birdhouse and its location will now be registered as an official participant in the Birdhouse Project and a label will be issued as a permanent identifier on the Birdhouse.



Location: ☐ Designated: \_\_\_\_\_

☐ Beneficiary \_\_\_\_\_

Name(s) of Registree(s): \_\_\_\_\_

\_\_\_\_\_  
Chairman, FCPAC

\_\_\_\_\_  
Vice Chairman, FCPAC

\_\_\_\_\_  
Issuer:

# COUNTY AGENDA REQUEST

Page 59 of 108

Department: Board of Commissioners

Presenter(s): Commissioner Charles Rousseau

Meeting Date: Thursday, October 27, 2016

Type of Request: New Business #6

## Wording for the Agenda:

Consideration of Commissioner Rousseau's recommendation to amend Policy 100.19 to generally prohibit members of the Board of Commissioners from serving on the County's authorities, boards, commissions, committees and similarly established bodies and other form changes.

## Background/History/Details:

Fayette County has 19 long-term, established authorities, boards, committees, commissions, and similarly structured bodies. One body is required from the federal government, nine bodies are required from the state, two bodies are established through an Intergovernmental Agreement, and the remaining seven bodies are established by the Board of Commissioners. Each of the bodies have their own membership requirements.

County Commissioners or their elected representatives are able or required to serve on four state-established bodies. Currently, they serve on three of those bodies (Board of Health, McIntosh Trail Community Service Board, and Public Facilities Authority.)

County Commissioners or their elected representatives are also able or required to serve on four county-established bodies. Currently, two commissioners serve on the Transportation Committee and one commissioner serves on the Water Committee.

"Exhibit A" provides Commissioner Rousseau's and other commissioners comments in past meetings, and "Exhibit B" provides a listing of various bodies and general membership requirements.

## What action are you seeking from the Board of Commissioners?

Approval of Commissioner Rousseau's recommendation to amend Policy 100.19 to generally prohibit members of the Board of Commissioners from serving on the County's authorities, boards, commissions, committees and similarly established bodies and other form changes.

## If this item requires funding, please describe:

Not Applicable.

Has this request been considered within the past two years? No

If so, when?

Is Audio-Visual Equipment Required for this Request? No

Backup Provided with Request? Yes

***\* All audio-visual material must be submitted to the County Clerk's Office no later than 48 hours prior to the meeting. It is also your department's responsibility to ensure all third-party audio-visual material is submitted at least 48 hours in advance.***

Approved by Finance Not Applicable

Reviewed by Legal Yes

Approved by Purchasing Not Applicable

County Clerk's Approval Yes

Administrator's Approval

## Staff Notes:

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## FAYETTE COUNTY POLICIES AND PROCEDURES

### ADMIN-APPOINTMENTS

#### Board Appointment Policy

100.19

### PURPOSE

The intent of this policy is to establish procedures for advertising appointments to Fayette County's ~~Authorities~~authorities, ~~Boards~~boards, ~~Commissions~~commissions, ~~Committees~~committees and similarly established bodies; to establish procedures for accepting applications for advertised positions; and for appointing members to said bodies.

### POLICY

There shall be specific procedures for advertising appointments to Fayette County's ~~Authorities~~authorities, ~~Boards~~boards, ~~Commissions~~commissions, ~~Committees~~committees and similarly established bodies; procedures for accepting submitted applications for advertised positions; and procedures for appointing members to said bodies.

### PROCEDURE

Inasmuch as it is recognized that in order to promote and protect the integrity of the Board of Commissioners, staff, and Fayette citizens who have expressed interest in and are appointed to the County's ~~Authorities~~authorities, ~~Boards~~boards, ~~Commissions~~commissions, ~~Committees~~committees and similarly established bodies, the following procedures for the appointment of interested and qualified applicants shall be enacted and applied:

1. All vacancies to ~~Authorities~~authorities, ~~Boards~~boards, ~~Commissions~~commissions, ~~Committees~~committees, and similarly established bodies will be advertised.
2. The County Clerk or his/her appointee will advertise for all vacant positions for a period of one month with deadlines for receiving applications to be established by the County Clerk. Advertisements will be provided to the County's legal organ, to other newspapers deemed appropriate by the County Clerk, and will be posted to the County's website.
3. The Board of Commissioners will appoint up to two commissioners (referred to as the Selection Committee) to receive, review, and recommend an applicant for consideration of appointment to the vacant position.
4. The County Clerk or his/her designee will schedule interviews between the Selection Committee and the applicants.
5. Selection Committee meetings will be conducted in accordance with Title 50 of the Official Code of Georgia as it pertains to open meetings and open records.

6. The County Clerk or his/her designee will provide a meeting ~~Agenda~~agenda and supporting documents to the Selection Committees prior to scheduled meetings.
7. The Selection Committee will designate a member to ~~record~~produce the Action Agenda and Minutes of the meeting. The Action Agenda and Minutes will be provided to the County Clerk or his/her designee for keeping as official county records.
8. The Selection Committee will inform the County Clerk of ~~their~~its selection(s) once the interviews are completed. The County Clerk will then place the ~~selection~~selection(s) on the next available ~~Agenda~~agenda for the Board of Commissioners' formal appointment.
9. After all applicants have been interviewed, the Selection Committee may unanimously recommend re-advertising the vacancy. This recommendation will be ~~received~~ ~~by~~submitted to the County Clerk and re-advertisement will be authorized upon written approval by the Selection Committee. Once re-advertisement is authorized, the process, as specified in steps 2 through 8 will be repeated.
10. If ~~the Selection Committee cannot agree upon a recommendation~~ after the ~~second~~re-advertisement has occurred ~~and the Selection Committee cannot agree upon a recommendation~~, the County Clerk will provide each County Commissioner with all applications that have been received from both advertisements and seek Board direction.
11. ~~Notwithstanding anything to the contrary contained herein, all Appointmentsappointments to authorities, boards, commissions, committees and similarly established bodies which are mandated by state law or local ordinance will to the Communications Board and to the Region 4 EMS Council are not subject to this policy since appointments to each body are~~be made in accordance ~~to~~with the applicable state law or county ordinance.
12. The Board of Commissioners shall make every effort to avoid appointing an individual to more than one of Fayette County's ~~Authorities~~authorities, ~~Boards~~boards, ~~Commissions~~commissions, ~~Committees~~committees and similarly established bodies at the same time, except to the extent expressly permitted or provided by state or local law.
13. Except as otherwise provided by law, no member of the Board of Commissioners shall be eligible to serve on any of the County's authorities, boards, commissions, committees and similarly established bodies.

## ADMINISTRATIVE GUIDELINES

It shall be the responsibility of each employee to be familiar with and to comply with this policy. Department ~~Head~~heads and supervisory personnel shall be responsible for ensuring adherence to this policy. Reasonable limits, including time restrictions, shall be imposed by ~~the department head~~heads or other supervisory persons to ensure maximum productivity of all ~~department~~ employees ~~in~~with respect to this policy. Violation of this policy ~~will~~may result in disciplinary action in accordance with the County's Personnel Policy.

## **EXHIBIT A**

### **DISCUSSION CONCERNING COMMISSIONERS NOT SERVING ON BOARDS, AUTHORITIES, COMMITTEES, ETC.**



# DISCUSSION CONCERNING COMMISSIONERS NOT SERVING ON BOARDS, AUTHORITIES, COMMITTEES

## DECEMBER 10, 2015

**Consideration of staff's recommendation to adopt Ordinance 2015-16- Transportation Committee and in so doing adding a new division to the Fayette County Code of Ordinances to provide for the establishment of the Fayette County Transportation Committee.**

Commissioner Ognio stated that since he has been on the Board he found there was basically no planning for future traffic. He explained that even though he did not necessarily want to call the committee the "Transportation Committee" the ordinance does involve golf cart paths and bicycle paths so it became known as the Transportation Committee. He thought it was important for the county and municipalities to grow and plan together and to take a common message to the Atlanta Regional Commission (ARC) for state and federal funding. He pointed out that Commissioner Brown had made some suggested changes that he would support.

Commissioner Brown pointed out that there was a packet on the dais containing a red-lined version of Ordinance 2015-16 and he quickly briefed the Board on the recommended changes.

Commissioner Brown moved to adopt Ordinance 2015-16- Transportation Committee as written in the red-lined version on the dais. Commissioner Barlow seconded the motion.

County Attorney Dennis Davenport stated that the ordinance would be effective immediately upon adoption and he suggested that the effective date be in the future in order to put members on the Board through a resolution.

Commissioner Brown amended his motion to include population of the Committee within sixty days. Commissioner Barlow seconded the amended motion.

Commissioner Rousseau cautioned that the Transportation Committee did not need to get out ahead of the Board or staff and that the Transportation Committee needed to be very cognizant to not go out and speak on behalf of Fayette County. Commissioner Rousseau also expressed concern with having the Transportation Committee appoint a secretary who can be either an officer or employee of Fayette County. He asked how flexible time or overtime would be administered when staff spends an exorbitant amount of time at evening meetings since they are still technically at work on work time. County Administrator Steve Rapson said that matter needed to be taken into consideration. He said the preference is that the secretary comes from the committee itself instead of staff since; otherwise, it would wear out the County Clerk's staff. Mr. Rapson said it was staff's preference to strike the language making the committee generate its own minutes.

Commissioner Brown amended his motion to strike the wording "who may be an officer or employee of Fayette County," out of the ordinance. Commissioner Barlow seconded the motion.

The motion to adopt Ordinance 2015-16- Transportation Committee as written in the red-lined version on the dais, for populate the Committee to become effective within sixty days, and to strike the phrase "who may be an officer or employee of Fayette County" from the third line of page seven of the ordinance passed 5-0. A copy of the request, red-line version of Ordinance 2015-16, and final form Ordinance 2015-16, identified as "Attachment 27," follows these minutes and is made an official part hereof.

## JANUARY 28, 2016

### **Discussion concerning Fayette County's Ethics Ordinance. This discussion was tabled during the December 10, 2015 Board of Commissioners meeting.**

County Attorney Dennis Davenport reminded the Board that it directed him to give a recommendation for proposed changes to the Ethics Ordinance. He stated that a memo accompanied the draft ordinance that explained some of the significant changes that are being proposed.

He stated that the biggest change had to do with the body that hears the complaints. He stated that when you think about an ethics complaint being filed it is either against an employee, appointed official or an elected official. He stated that complaints are typically filed against elected officials. He stated that if it is filed against an employee, chances are that it is something that would be handled in the disciplinary policy through the employee handbook. In the proposed Ethics Ordinance, the Board of Commissioners would serve as the Ethics Board and would hear complaints filed against appointed officials. He stated that by having the Board of Commissioners serve as the Ethics Board there is a level of government that didn't exist before and will not exist again since, basically, there is no board to appoint members to, to take minutes for, or to make ensure they follow the proper rules and procedures. He stated that the Commissioners do all those things anyway as the sitting Board.

Mr. Davenport stated that if an ethics complaint was filed against one of the members of the Board of Commissioners, then the Board would not hear that complaint. He explained that in a previous ordinance there was put in place a panel of three county attorneys within a reasonable geographic proximity that would serve as the Ethics Board for a complaint filed against an elected official.

He further explained what the penalties would be for a violation of the Ethics Ordinance. Mr. Davenport drew the Board's attention to the section regarding a disclosure versus a recusal. He stated that the amount needed to be objective to determine when the threshold for disclosure is met. He informed the Board that they will need to set the amount for disclosure and the amount for recusal.

Commissioner Brown stated that he was concerned about using the Board of Commissioners as the body for hearing an ethics complaint since the Board should avoid the appearance of impropriety. He stated that he does not want to be in a position where the Board is hearing a complaint related to a person that was appointed by the Board and be accused of rendering a decision or not rendering a particular decision because the Board is the one that appointed the person. He stated that he would rather have another body appointed to hear the ethics complaints.

He further stated that he personally thought the proposed \$500 recusal amount was too high. He asked, in relation to the County Administrator and County Attorney, if they are included under the employee portion or under the Board of Commissioners portion in terms of the hearing that would be recommended.

Mr. Davenport stated that as part of the definition of county official and with respect to anyone that would not go through the disciplinary process, they would fit within the appointed official and not the elected official and as it is currently written, the complaint would be heard by the Board of Commissioners.

Commissioner Brown noted for the record that the proposed ethics ordinance would not apply to the Tax Commissioner, the Sheriff, the Judges or any other elected official or constitutional officer in the county.

Mr. Davenport stated that is correct.

Commissioner Brown pointed out that on page five, Section 2-204(c) it states, "the dispensing of special favors or privileges to anyone," and he wondered if the statement was too broad of a statement. He next pointed to section, Section 2-204(d) where it reads, "inconsistent with the conscientious performance" and

he stated that the interpretation was subjective. He also addressed concerns with Section 2-205 (b), referring to bringing the complaint, where it reads "six months from date if you weren't aware" and then in section (a) it provides for forty-five days.

Mr. Davenport replied that there is a forty-five day limit to file a complaint initially. He stated that if someone is not aware of the violation and has no reason to be aware of it, the violation can be reported after forty-five days because if the reporter was unaware, but under no circumstance can it be filed after six months.

Commissioner Brown asked, should someone be hiding something and it could be proven, would that nullify the complaint if it is found out a year later.

Mr. Davenport stated that if someone is intentionally hiding something then that act is occurring today, not six months ago. He stated that he would argue that "today" is day one of that act.

Commissioner Brown suggested the limitation should be increased to one year instead of six months. He continued that on page six, Section 2-205 (f); he would like for the ordinance to say "Griffin Judicial Circuit or Circuits that abut Fayette County" in the event there was an incident where someone was alleged to have an incident with an entity in another county who is also an elected official that causes everyone recuse themselves and where nobody wants to be a part of the hearing.

Commissioner Ognio stated that he is on the same page of not wanting the Commissioners to conduct the ethics hearings. He stated that he would like to see the three attorney panel handle that type of hearing and not have the Commissioners even appoint a committee. He believed it would place the Commissioners in a bad position to appoint people who will conduct the ethics hearing over the people who the Commissioners appointed.

Chairman Oddo stated that he had no objections to that.

Commissioner Brown stated that he would like to know the Board's thoughts on the recusal amount.

Commissioner Ognio stated that he does not disagree with that amount.

Commissioner Brown stated that one-hundred and one dollars is what the State recommends per filing.

Mr. Davenport clarified that the one-hundred and one dollars amount is for disclosure.

Commissioner Brown stated that he knows, but that it is a standard that has already been created and can be used as a rationale.

Chairman Oddo asked if three-hundred and fifty dollars is reasonable.

Commissioner Brown stated that he was just looking at the official reporting for the State and he would say anything at one-hundred and one dollars or over should be used to recuse.

Commissioner Ognio stated that customers he deals with in business will not even accept a cup of coffee, and if it is that way in the private sector, then it should be the same in the governmental sector.

Commissioner Brown stated that this would be for an individual who has a direct financial interest in whatever the decision is that is going to be made.

Mr. Davenport stated that in comparison to the Zoning Procedure Acts, Ethics in Government section with respect to zoning issues, it requires someone who donates two-hundred and fifty dollars to someone's campaign to disclose that prior to going before anybody for a zoning hearing. He reiterated that is just for disclosure and not recusal.

Commissioner Ognio suggested that the Board align the amounts with the Planning and Zoning Board.

Mr. Davenport reminded the Board that the amount is just a disclosure requirement.

Commissioner Ognio stated that the person would have to disclose it, but the Commissioner would have to recuse themselves.

Mr. Davenport stated that if it is aligned with their amount, even though it is a disclosure requirement with a two-hundred and fifty dollar ceiling, when the two-hundred and fifty dollars is reached, the individual would have to disclose on the Planning and Zoning side and recuse on the ethics side.

Commissioner Ognio stated that is correct.

Mr. Davenport reiterated that any amount from one-hundred and one dollars to two-hundred and forty-nine dollars would be disclosure, but not recuse.

Commissioner Brown stated that as a general policy, when he was in Peachtree City, if someone contributed to his campaign he would recuse himself.

Chairman Oddo stated that for recusal they could change the amount from five-hundred dollars to two-hundred and fifty dollars.

Commissioner Brown stated that he had no problem with that.

Commissioner Rousseau asked for confirmation that the amount is a state-based number.

Mr. Davenport confirmed that it is a state-based number for disclosure purposes.

Commissioner Rousseau asked if there would be a conflict if the Board changed that number for disclosure versus recusal.

Mr. Davenport stated that the practical effect would be if someone gave three-hundred dollars for a Commissioner's campaign and they came in to get property rezoned, the state requires they have to publicly disclose that they gave the Commissioner three-hundred dollars for his campaign, and Fayette County would require that Commissioner to recuse himself and not participate or vote on the item.

Commissioner Rousseau asked if the burden was on the person approaching the Commissioners or was it on the Commissioners.

Mr. Davenport stated that the state burden of the disclosure is on the petitioner for the rezoning and the ethical burden, from the county's perspective, is on the Commissioner because they received the dollars.

Commissioner Rousseau asked what if the Commissioner does not remember receiving the contribution.

Mr. Davenport stated that it is not whether you knew or not, it is an objective, did you receive it. He stated that if the Commissioner received the contribution and participated and voted in the hearing, even if they do not recall receiving the donation, it would be a violation of the Ethics Ordinance.

Commissioner Rousseau asked how to address that concern.

Mr. Davenport stated that to address that concern the reader would have to interject subjectivity into the arrangement. He stated the subjective is what should have been known versus the objective of "did you receive it." He explained that the objective requirement is the easiest to say is a violation. He stated that the subjective requirement is what a reasonable commissioner should have known. He stated that he did not include a limitation of time. He stated that a time frame may be something to consider if the ordinance will include these objective numbers.

Commissioner Rousseau suggested using an election cycle.

Commissioner Brown stated that he has had two complaints filed against him that were both dropped. He stated that what happens sometimes is what is known as a "slap suit" or strategic lawsuit against public participation, and he explained that is when someone files an aggravated ethics complaint against someone two months prior to an election in order to stir up the news media and to sway votes. He stated that he would love to see something where, if a complaint is being filed, that the person who is being accused has the ability to have a primary hearing to determine if the complaint is frivolous, and for the primary hearing to be held in an expeditious manner so that it does not become a weapon to be used against them.

Mr. Davenport stated that the determination would occur within thirty-days if it is not against an elected official. He stated that if the complaint is filed against an elected official it occurs, it would presumably be heard within thirty-days, but in reality it would be based on whatever time it takes to bring in a county attorney who is close by to make that determination. He stated that it is not something that he can set a time frame for because we are dealing with people who the county has no control over. He stated that to put in an objective number in the ordinance would be unenforceable and would be directive to them but not mandatory.

Commissioner Rousseau pointed out that the issue of the Board sitting as an Ethic Board has both pros and cons. He stated that if the Board did appoint an individual and they liked one department head but not like the other, human nature can creep in and the Board could be accused of making a decision based upon liking or disliking the department head. He stated that on that issue what is the pros and cons of the Board sitting on the Ethics Board that hears complaints for department heads and individuals that the Board appoints to various areas.

Mr. Davenport stated that the Board would not have to sit on a department head complaint since those complaints would go through the personnel process.

Commissioner Rousseau clarified that it is narrowed down to those the Board appoints and to the particular bodies under the Board's jurisdiction. He stated that the Board oversees their function and performance anyway and he asked what is the drawback of the Board in making a determination if a complaint is made.

Mr. Davenport replied that one level of review that is in the ordinance is that the standard for finding a violation is a "clear and convincing evidence" standard. He stated, to Commissioner Brown's point, where the Board has made appointments, the Board may not want to find against them. He stated that this is not quite the beyond a reasonable doubt standard, but it is greater than a preponderance of the evidence standard. He concluded that there has to be some real convincing evidence that this person violated the ethics ordinance.

He stated that the first review is the thirty-day period where they would sit as a body to determine whether or not there is sufficient information to make a valid ethics complaint.

Commissioner Rousseau asked what investigative powers the Board of Commissioners has as a body. He stated that obviously they can look at the ordinance and the bylaws and determine if something is amiss, but he asked if the Board could issue subpoenas, for clarity on the ability to conduct investigations, and if it could compel people to testify against their Fifth Amendment right if invoked.

Mr. Davenport stated that as the body hearing the complaint, the Board would not want to investigate the complaint. He stated that all that should be done is to look at the complaint and, assuming everything that is presented is true, determine if there is sufficient information that would be a violation of the ethics ordinance. He stated it is probable cause and nothing more. He stated that once it is determined that this is a violation of the ethics ordinance, the Ethics Board is the hearing arm and not the investigatory arm. He stated that it is up to the person who brought the complaint to provide the evidence showing that someone violated the ethics ordinance.

Commissioner Rousseau replied that he see dangers in that process since claims can be manufactured. He stated that if the Board does not do a reasonable investigation of truth then it would be taking people at their



word that could have a hidden agenda or vendetta. He stated the Board would be in a position of compromising someone's professional name or integrity if information is manufactured or untrue and a ruling is made against them.

Mr. Davenport stated that he understands what is being said, but that Commissioner Rousseau is mixing the duties of the hearing officer with that of the prosecutor. He stated that the Ethics Board does not have both duties.

Commissioner Oddo stated that if the ordinance is changed to the county attorneys sitting on the Ethics Board, they would have the expertise to conduct the hearings.

Commissioner Rousseau stated that he doesn't particularly object to attorneys from the Circuit, but he would prefer that the community make up the Ethics Board.

Commissioner Brown asked if the Board agreed that it should not be the Board of Commissioners who adjudicate the hearings.

Commissioner Rousseau asked, if not the Board, then who.

Commissioner Ognio stated that he sat through some of the ethics hearings and he watched how they were handled. He stated that when you have citizens who do not know the legal process, the hearing is not handled well. He stated that if attorneys would know the process so the hearings would be smoother.

Commissioner Rousseau asked what liability falls on the Board if legal counsel comes before the Ethics Board and the Board makes a procedural or legal mistake and winds up getting sued as a result of their decision for not knowing some level of the law.

Mr. Davenport stated that there are two answers. He stated that the first is that as long as a Commissioner is exercising their authority in good faith within the scope of duties, the exposure is limited to relatively an insubstantial amount. He stated that he did not address the role of the county attorney in the ordinance because he did not think the county attorney should play a role. However, he explained that if the Board of Commissioner is faced with a complaint and a defense that are both represented by legal counsel then there would be nothing wrong with having legal counsel advise about process and procedure.

Commissioner Rousseau asked if that would run up a legal bill.

Mr. Davenport stated yes.

Commissioner Rousseau asked if that would apply to anyone that is placed in this capacity and would they be represented by counsel in the performance of their duties.

Mr. Davenport stated that it depends on how the Board wants it to look. He stated that the starting point is that there is no counsel and when operating in good faith consistent with the scope of duties and responsibilities, the Board would be officially immune with respect to whatever happens when sitting in that capacity.

Commissioner Rousseau stated that he is open to the Board of Commissioners sitting as the Ethics Board.

Mr. Davenport recapped the issues discussed. He stated that on page five Section (c) the language regarding special favors is subjective and broad. He stated that the counter balance to that is the clear and convincing evident standard and it takes a majority of the Board to make that decision. He stated that the ordinance would be fine without Section (c) and it is workable with it, but that it is up to the Board to decide.

He stated that the election cycle can be added as a window to determine if someone received dollars from one date to the next. The consensus was to add that language.

Mr. Davenport addressed Section (d); the conscientious performance of governmental duties. He stated that it is the same issue as Section (c), it is a matter of preference. He stated that the reason this type language is included is because in his opinion, ethics ordinances are not meant to be lengthy pages of specific objectives of "don't dos". He stated that it is aspirational.

In regards to the disclosure versus recusal, Mr. Davenport stated that he is hearing that the Board wants to include greater than one-hundred dollars is disclosure and less than two-hundred and fifty dollars is disclosure and two-hundred and fifty or greater is recusal.

He stated that no one other than Commissioner Brown had comments regarding the six month in Section 2-205 (b) which is the length of time someone can file a complaint. He asked if the six month cap was reasonable.

Commissioner Brown stated that he would prefer one year.

Commissioner Rousseau stated that Equal Employment Opportunity Commission (EEOC) has a window.

Mr. Davenport stated that once someone receives their Right to Sue letter there is a ninety day window to sue.

Commissioner Rousseau stated that he would not want to go beyond that.

Commissioner Brown stated that it is different. He stated that the EEOC complaint could have happened a year ago.

Mr. Davenport pointed out that Commissioner Rousseau and Commissioner Brown were saying is two different things. He stated that the initiation of a complaint to EEOC is a long process. He stated that taking a complaint from the agency review to the court is a ninety day window. He stated that the reason it is so short is because "you don't want the window to be so long to keep the complaint outstanding and pending." He stated that the question is "is it reasonable that somebody should have known about this claim". Mr. Davenport stated that he will put in "blank" months and the Board can vote on what the final number will be.

The next concern was regarding page six with respect to the review being conducted to a "probable cause review" when a complaint is filed against an elected official. He stated that initially it is written for it to be a County Attorney with the Griffin Judicial Circuit. He stated that there is a reason to believe that it could impact someone outside of the county within the Circuit. He suggested a compromise could be within the Circuit; however, other circuits abutting this circuit could be utilized to the extent necessary.

Commissioner Brown and Chairman Oddo stated that they had no problem with the compromise language.

Commissioner Brown stated that on page five on Section (c) and (d) that there is a way to bring that in line without a list of things that we will hold people accountable for, but that the ordinance needs something that makes the language a little more specific.

Chairman Oddo stated that the difficulty is that ethics, by its nature, is subjective.

Mr. Davenport stated that he left out one item which is, does the Board of Commissioners sit as the Ethics Board in any capacity.

Commissioner Brown and Commissioner Ognio stated that they prefer not to have the Board of Commissioners as the Ethics Board. Chairman Oddo stated that he is fine with having the County Attorneys as the Ethics Board. Commissioner Rousseau stated that he is the opposite and he is not against the Board of Commissioners being the Ethics Board.

Commissioner Rousseau stated this his issue is that if the Board wants the pleasure of appointing people then it cannot run away from the responsibility of holding them accountable. He stated that it is called "leadership."

Chairman Oddo stated that he feels that is the correct approach but he could go either way.

Mr. Davenport stated that he would put in two opposing paragraphs and the Board could make a decision. He stated that he would bring this ordinance back at the February 25, 2016 Board of Commissioners meeting.

Commissioner Rousseau moved to table the Ethics Ordinance to the February 25, 2016 Board of Commissioner meeting. Commissioner Brown seconded the motion. There was no further discussion. The motion passed 5-0. A copy of the request, identified as "Attachment 4," follows these minutes and is made an official part hereof.

#### **Consideration of staff's request to adopt Ordinance 2016-03- Transportation Committee.**

Mr. Davenport reminded the Board that he was asked to look at matter and reconcile the ordinance with any changes that had been made so there would be no conflicts. He reported that he took the number of the proposed committee of twelve members and reduced it by one to make it eleven members, and he explained that an odd number is best to minimize the risk of an issue of not carrying a majority vote. He stated that if that suggestion was accepted, the quorum of this committee would reduce from seven members to six members. He stated that the original proposal was with two citizen members but that number would be reduced to one citizen member.

Mr. Davenport explained that there was some language that made it unclear whether or not elected officials from municipalities would be eligible to serve. He stated that he removed the language that caused that interpretation to be less than clear and made it clear that they can serve.

Mr. Davenport stated that there was some other language relating to disqualification. He stated that if a member of the committee qualifies or becomes an elected official they are disqualified from the committee. He stated that if a member of the committee is a city resident, qualifies, and is elected to city office, the ordinance allows for a city elected official on the committee. He stated that he bolded that text because that he was not sure whether the Board wants to keep that language since is an internal conflict by the way the committee is made up.

Commissioner Ognio stated his concerns regarding multiple elected officials from one jurisdiction serving on the committee saying the bolded text becomes an issue if someone becomes an elected official for a city that already has a member on the committee.

Commissioner Brown stated that the committee was now down to one citizen member.

Commissioner Ognio repeated that if that one citizen member happens to live in the city of Fayetteville and gets elected and the city of Fayetteville already has a representative on the committee, it becomes an issue.

Mr. Davenport stated that could be addressed by disqualifying that member since there is already one elected official from that jurisdiction on the committee.

Commissioner Ognio stated that would be great and that language needed to be included.

Mr. Davenport asked what if that citizen was elected to the County Commission and there were two County Commission already on the committee. He asked how the Board like to treat that situation.

Commissioner Ognio stated in the same manner as the others.

Mr. Davenport stated that he would amend the language to reflect, that if a sitting member of the committee who is not an elected official qualifies to run for office that would be an automatic disqualification to the extent that an elected official from that jurisdiction is already on the committee. Mr. Davenport stated that he can make that change consistent with that direction.

Commissioner Brown stated that on some of the commissions and authorities there is an attendance requirement. He stated that it would not be a bad idea to have that language in this ordinance as well.

Mr. Davenport stated that the issue with that language is there are multiple jurisdictions appointing multiple members. He asked who is the entity that decides who comes off.

Commissioner Brown replied that the individual jurisdictions would control their appointees to the committee. Mr. Davenport stated that typically that language says once a member misses three consecutive meetings without cause then the member is subject to being removed, and he reminded the Board that, in general, removal is done by the body that creates the committee.

Commissioner Ognio asked if this is something that can be addressed in the bylaws.

Mr. Davenport stated that it could. He stated that it could also be addressed in the ordinance, and he asked if the Board wanted the ability to remove jurisdictional appointments from the Transportation Committee.

Commissioner Brown stated no.

Mr. Davenport confirmed that the jurisdictions would remove their own appointees from the committee, and Commissioner Brown replied "yes."

Mr. Davenport cautioned that there is nothing that would require a jurisdiction from removing their appointee. He stated that it is going to be a regulation that might not be enforceable because the Board is not the one doing it.

Commissioner Brown stated that if the city is willing to allow no representation from their jurisdiction on the panel then they have the problem and it is not the Board's problem.

Commissioner Rousseau asked if the municipalities had been asked to agree with those terms upfront.

Mr. Davenport stated yes, but the problem with the analysis is that it is not a bright line test where if they miss three meetings and they are gone. He stated that it is if they miss three consecutive meetings without cause they are subject to being removed.

Commissioner Rousseau agreed that whoever originally appointed the person should be the one to remove them.

Commissioner Ognio stated that is why he said it is a bylaw issue since the Transportation Committee could send a letter to the jurisdiction and say we are going to have to remove your representative for lack of attendance. He stated this would not put the burden on the county or city to remove the person.

Mr. Davenport agreed that it is better for the committee to include the provision in the bylaw, but he added there is nothing the Board can do to create that bylaw. He stated that the committee would have to do so.

Commissioner Ognio stated that he understood and that it might be something that needs to be pushed to be put in the bylaws.

Mr. Davenport confirmed that he is only addressing the language that two elected officials from the same jurisdiction are not going to be on the committee at the same time.

Commissioner Ognio confirmed that is correct.

Chairman Oddo stated that he is in favor of a Transportation Committee. He stated that his concern is that there are elected officials on the committee. He explained that his concern was if there are members from elected officials, especially the Board of Commissioners, on the committee then they could direct the outcome of the committee resulting in the Board essentially making recommendations to itself. He stated

that he wants unsolicited and honest information from people who understand the road system, and he emphasized that he wanted the Board to receive information but not be on the committee providing the information.

Commissioner Brown replied that the committee would have no bearing on the decision making process since everything the committee does has to go back to the Board of Commissioners.

Chairman Oddo reiterated that the committee would be making recommendations on how the Board should proceed and, therefore, the Board should not be put in the position of guiding or directing the information that would eventually be coming to the Board.

Commissioner Brown stated that Commissioners are on the Hospital Authority and the Building Authority so that there is someone taking the county's view and making sure it is being applied in the mix.

Chairman Oddo stated that the other authorities were watching their money, but there was no money being spent by the Transportation Committee. He repeated his recommendation was to take the elected officials off the committee and come up with a different combination to make up the committee.

Commissioner Brown asked if that meant the municipal elected officials as well.

Chairman Oddo stated that the Board would have to make that decision. He stated that he would prefer take all elected officials off and let them put in their experts.

Commissioner Brown stated that he disagrees with that because staff does the research and they come to the Board or the city council or the town council and it is squashed immediately because there is no interaction between the two bodies. He stated that is why he does not mind having someone from the Board or the city council that can speak up if they see problems.

Chairman Oddo replied that staff can come to the Board in stages and say this is what the Transportation Committee is thinking and that the process does not have to be drawn out to the end before the Board is approached.

Commissioner Ognio thought it would be necessary to have an elected official on this committee since some of the elected officials have information regarding traffic. He stated that it is good to remember that these will be public meetings so citizens will be able to give input. He stated that it is important to have an elected official in this committee.

Chairman Oddo stated that the staff will have all the data and information and that Board members would not bring anything other than their political views.

Commissioner Ognio stated that there are only two representatives who go to Atlanta Regional Commission (ARC) with have no input from the other municipalities on what should be taken to the ARC. He explained that this is the ideal situation for that person to sit in the meeting to determine how the other municipalities feel.

Chairman Oddo stated that it is not that he is not willing to try but he thought the Board should first try the committee without elected officials and see what that brings.

Commissioner Brown suggested that the County Attorney could come back with two more drafts and the Board of Commissioners would vote on one of those drafts.

Mr. Davenport stated that there is not a laundry list of things to address. He stated that the only difference is elected officials or not. He stated that when the Board initially voted on this ordinance it became effective sixty days from the date it was approved, which will be the middle of February. He stated that this ordinance would supersede the earlier ordinance and it says effective within sixty days of adoption. He stated that it buys sixty more days if the Board votes on it now. He stated that if the only obstacle is whether elected



officials should be on the committee or not, there are two choices. The choices are to think about it more and come back later or to decide tonight if elected officials should or should not be on the committee.

Commissioner Brown moved to approve the adoption of Ordinance 2016-03- Transportation Committee as written contingent that the ordinance can be changed if the Board determines that it does not work. Commissioner Ognio seconded the motion. Discussion followed.

Chairman Oddo stated that as the member of the Board that represents at ARC, he would be receiving the information and recommendations from the Transportation Committee. He stated that he does not need to be on the Transportation Committee to take the information to the Atlanta Regional Commission. He suggested that the Board appoint a member of ARC to sit in on these meetings as a non-voting member.

Commissioner Ognio stated that if a Commissioner sat in the meeting they would get all the details that they may not get otherwise.

Chairman Oddo asked if there were any comments from the audience. There were no comments from the audience.

Commissioner Rousseau asked if this ordinance did not pass tonight would it come back to the Board within the sixty day timeframe.

Mr. Davenport replied that yes would. He stated that if no vote is passed tonight that members have to be put in place because the committee will be activated.

Commissioner Barlow stated that the Board needs to move forward with this and if changes need to be later then the Board can make those changes.

The motion to approve the adoption of Ordinance 2016-03- Transportation Committee as written contingent that the ordinance can be changed if the Board determines that it does not work passed 4-1 with Chairman Oddo voting in opposition. A copy of the request, identified as "Attachment 7," follows these minutes and is made an official part hereof.

## FEBRUARY 25, 2016

### Consideration of adoption of the Fayette County Ethics Ordinance 2016-04.

County Attorney Dennis Davenport briefed the Board regarding the proposed options for the Ethics Ordinance. He stated that he was directed to bring two options on how the hearings would be conducted for violations of the Ethics Ordinance. He stated that one option was to have the hearings conducted by a panel of three county attorneys for all violations and another option was to have the violations heard by the Board of Commissioners with the exception of a violation against a member of the Board of Commissioner, which would then be heard by a panel of three county attorneys. He stated that an issue that was discussed was to have the \$500 fee reduced to \$250 and to include the language that states, "in the current election cycle" which was included as directed. He corrected a typo on page six regarding the statement, "If a majority". He stated that the word "if" needs to be removed. He stated that Option A would include a probable cause determination to be heard by the Board of Commissioners to determine if it goes to a public hearing, unless it was a complaint against a member of the Board of Commissioner. He stated that the probable cause determination would then be heard by the county attorney panel as specified in the ordinance. He stated that Option A would be for the panel of county attorneys to handle all complaints and Option B mirrors Option A with respect to the language regarding the fee and the current election cycle. The remainder of the document also states that the Board of Commissioners would hear the complaints with the exception of those made against a member of the Board of Commissioners. The other issue is that if it is determined that there is a violation there is no language specifically stating what body would mete out the punishment. He stated that language should be spelled out in the ordinance so that there is no question of who will make the decision of what the punishment would be.

Commissioner Brown pointed out two changes. The first change was to the agenda request form under the background history/details, the fourth paragraph there is a correction to the number of attorneys stated. He stated that it should read "three" county attorneys and not "two" county attorneys. The other correction was to Exhibit A, page six, Subsection F, the word "proximally" was misspelled.

Commissioner Rousseau moved to approve Option A of the Ethics Ordinance 2016-04. Commissioner Brown seconded. Discussion followed.

Commissioner Rousseau stated that the ordinance should include language that says the attorneys are visiting attorneys and not Fayette County's attorneys. He stated that the document does not discuss compensation to the attorneys for their time and/or service when conducting the hearings. Commissioner Brown requested that the language be placed in the ordinance. He stated that what he has traditionally seen is that the "visiting" attorneys are paid the fee that is paid to their own county attorney.

Commissioner Rousseau asked if it could be done pro bono. Commissioner Brown stated that the attorneys would have to agree to do that and asked what would be their incentive to participate in the hearing if it is pro bono.

Commissioner Rousseau stated that conducting the hearings pro bono would take the process to an even higher level when adjudicating the ethical issues. He stated if the Board does agree to some form of compensation then it needs to be spelled out in the ordinance.

In addition, he asked that the Board consider reducing the number of days for a written decision to be rendered from a concluded hearing to be changed to fifteen days instead of thirty days.

Chairman Oddo asked Mr. Davenport what is typical in regards to payment.

Mr. Davenport responded that it ranges from mileage to expenses, to a per diem, it just depends.

Commissioner Rousseau agreed with a per diem and expenses to cover things like dinner because it would be an evening hearing more than likely.

County Administrator Steve Rapson stated that he has heard of having a stipend for the day. He stated that it could be tied to a hearing that has to take place. He stated that a similar process is done with the Zoning Board.

Commissioner Rousseau stated that he is open to suggestions and that he was only teasing about the pro bono; although he would like to have it.

Commissioner Brown suggested bringing this back to another meeting.

Mr. Davenport asked the Board to revisit the issue he brought up regarding who metes out the punishment. He asked if the Board was fine with it being left to interpretation as it is written or if the Board would like to have the language added to the ordinance.

Commissioner Rousseau stated that on page six, Section E, it speaks of the types of punishments that could be meted out.

Mr. Davenport replied that is correct.

The Board agreed that the county attorney panel would mete out the punishment for any hearings that they preside over.

The Board directed Mr. Davenport to investigate to determine what is the best approach regarding compensation and bring it back to the Board for consideration at the next meeting.

Commissioner Rousseau amended his motion to approve Option A of the Ethics Ordinance to include the number of days that a written decision shall be issued to be changed from thirty days to fifteen days upon the conclusion of the public hearing and that the full process would be carried out by the county attorney panel to mete out punishment. Commissioner Brown amended his second. Further discussion followed. The motion passed 5-0. A copy of the request and Ordinance 2016-04 identified as "Attachment 5," follows these minutes and is made an official part hereof.

## MARCH 10, 2016

### **Consideration of the adoption of Ordinance 2016-02 for the purpose of establishing an advisory committee known as the Fayette County Public Arts Committee.**

Commissioner Brown stated there was a proposal on the dais that is an amendment from what was in the Agenda. He requested that the membership be increased from five members to ten members since the art effort is made up of volunteers. He stated that he removed a section of the proposed ordinance pertaining to membership and not being an elected official. He stated that other changes, including the quorum number, were made in order to reflect the change of numbers of the membership. He stated that a disqualification was deleted since it related to elected officials serving on the Board. He stated that a phrase was added that "any project concerning a call for artists or a permanent art feature, the Board of Commissioners shall give final approval on the winning artist's proposal prior to awarding the project and funding." Commissioner Brown concluded that the proposed changes included a vice-chairman position since, if there is a meeting that is missing the chairman, someone needs to be able to run the meeting.

Commissioner Brown moved to approve Ordinance 2016-02 as amended. Commissioner Barlow seconded the motion.

Commissioner Rousseau stated the purpose was to bring form and clarity to the Public Arts Committee, and he said he favored public arts in the county. He said he did not have a problem with the suggestion to increase the numbers of members on the committee. He stated his concern was whether not elected officials should serve on the body since he was philosophically opposed to having elected members serve on these types of bodies. He acknowledged that his concern was mitigated since there are state-mandated bodies that require elected officials to serve on them such as the Board of Health and since other bodies are established by the Board of Commissioners requiring elected officials. He asked the Board to consider the impact elected officials have on these types of bodies since it is at least perceived that the elected officials bend the bodies to their particular direction. He asked for the Board to consider ways to limit or remove the influence elected officials have on these types of boards. He said the elected officials are citizens too, but that they should not serve as chairmen and vice chairman of these types of established bodies. He said the issue would set precedent on how the bodies would perform in the future. He understood that there is a difference between state-mandated bodies and those created by the Board of Commissioners. Commissioner Rousseau asked for the motion to be amended to address his concern. He spoke about how powerful these types of committees can become and he cautioned that these bodies do not become competitive with other county departments and their operations. He was concerned about how staff is utilized with these committees and their allotments of time.

Commissioner Brown stated that Commissioner Rousseau had made some great points, and he said the intention all along was to have citizen leadership. He said he had no problem with Commissioner Rousseau's position.

Commissioner Brown amended his motion to approve Ordinance 2016-02 as amended and for elected officials to not serve in the capacity as either Chairman or Vice-Chairman of the committee. Commissioner Barlow seconded the amended motion.

Chairman Oddo stated he had a couple of concerns as well and he appreciated Commissioner Rousseau's comments. He stated that he wanted the ordinance to have language pertaining to the committee's long-range goal or effort. Commissioner Brown stated that the ordinance was a structural document and he suggested that the Public Arts Committee could work up a Mission Statement. He stated there are bigger things coming but getting the structure in place is needed first. Chairman Oddo

stated that his concern was bigger than just individual projects since it pertained to the overall vision of the committee. Commissioner Brown stated that the vision was dependent on funding.

Chairman Oddo asked if County Attorney Dennis Davenport had reviewed the proposed changes. Mr. Davenport stated that he followed the changes as they were being discussed and that he had a minor comment for consideration. He stated that when committees are put together then they are comprised of an odd number of members in order to avoid a deadlocked decision.

Commissioner Brown amended his motion to include eleven members and for all the prerequisite numbers to be changed to reflect the change in the numbers of members. Commissioner Barlow seconded the amended motion.

Mr. Davenport stated that if the proposed ordinance was adopted then the currently existing Public Arts Committee would cease to exist on the first calendar day of the month following the enactment of the ordinance. He stated that the ordinance would be enacted sixty days after adoption in order to provide time to populate the committee.

**Carol Lunsford:** Ms. Lunsford stated that she has served on several county committees but not one enacted by the Board of Commissioners. She added that she has a degree in theater as well as a private businesswoman who has her own art studio. She stated that the entire forty-years she has lived in Fayette County there has been very little involvement in the arts. She suggested this was a step in the right direction. She stated that she did not know where to find documents pertaining to the Public Arts Committee and she did not know of the current committee's existence. She asked the Board to be more transparent with regard to this committee. Chairman Oddo stated that the information was available publically and much of the information would be on the county's website.

**Donna Thompson:** Mrs. Thompson spoke for fifteen minutes on the Public Arts Committee. She stated that structure for the committee was long overdue. She stated that the Public Arts Committee were placed in a box prior to its first meeting based on an email that was sent to each committee member, and she suggested that it has been in the box ever since. She stated that her concerns were about a citizen holding her government accountable. Mrs. Thompson then spoke at length of her concerns with the Public Arts Committee's performance.

Chairman Oddo reiterated that he wanted language added that would address the committee's long-term goal or vision. Commissioner Rousseau stated that the Board could charge the committee to provide that long-term goal.

Commissioner Brown addressed Mrs. Thompson stating he hoped the committee would not get into a position of judging what is good and what art is not good and that he would rather the committee simply work on creating art with people such as boys and girls and grandparents in the community. He said those who have participated in the projects have had a good time at a very small cost to the taxpayers. He acknowledged that there are people who do not want taxpayer money spent on arts at all and he said there needed to be sensitivity to that position as well. He said he was part of a metro-Atlanta arts program that is sponsored by the Atlanta Regional Commission and he reported that many of the arts programs are bleeding money. He said it will always require more money than it will provide back in revenue.

Chairman Oddo repeated his desire to place language in the ordinance addressing the committee's long-term vision. Commissioner Brown stated there needed to be a budget in order to determine the vision. Chairman Oddo stated that a goal needed to be understood prior to a budget. Commissioner Rousseau suggested that the language could be added at the end of the ordinance's preamble.

Mr. Davenport stated that the amendment would notify the reader that the purpose is in the body of the document, but the language is not in the body of the document. He said it was okay to amend the



preamble, although it is preferable not to amend the end of the preamble, but that language needed to be included in the document itself. He suggested that the language could be added in Section 2-501. He further suggested language could be added that reads something like "we would like the first order of business of the Fayette County Public Arts Committee to bring back to the Board of Commissioners a long-range goal for further projects in Fayette County."

Commissioner Brown moved to amend his motion to include the specific section as referenced by the County Attorney. Commissioner Barlow seconded the amended motion.

Commissioner Rousseau encouraged the Board to not give up on this matter since he was in favor of public arts and endowments. He said he was willing to give this effort a shot. He hoped everyone could come together and make it work since it could be a powerful entity for Fayette County.

Mr. Davenport read the motion to approve the Public Arts Committee Ordinance as amended by Commissioner Brown from the dais subject to there being no elected officials serving as Chairman or Vice-Chairman of the committee, that the committee number is amended to eleven, and that a sentence is added to Section 2-501 addressing the long-range visioning goal of the committee. He said he would provide language consistent to what he said earlier. Commissioner Brown added that all the numerical values would change based on the number of members being increased.

Commissioner Brown encouraged the Board to continue to keep the public arts initiative in perspective. Commissioner Barlow stated that everyone attended the meeting put together by Dan Cathy. He referred to the efforts undertaken by the City of Suwanee, Georgia. He said the city tripled its property taxes and now people travel from all over the world to the city. He said the citizens rebelled to the tax increases, but that he drove to the city and found it was absolutely phenomenal. He said the city has a tremendous art program. He said he supported the initiative since if it does not get started then nothing will happen.

The motion to adopt Ordinance 2016-02 as amended at the dais subject to there being no elected officials serving as either Chairman or Vice-Chairman of the committee, that the number of members be increased to eleven, that all numerical values be adjusted to reflect an eleven-member committee, and that a sentence be added to Section 2-501 addressing the long-range visioning goal of the committee passed 5-0. Copies of the request and Ordinance 2016-02, identified as "Attachment 9," follow these minutes and is made an official part hereof.

## JUNE 23, 2016

**Consideration of a recommendation from the Selection Committee, comprised of Chairman Charles Oddo and Commissioner Charles Rousseau to nominate Charlie Cave, Robert Johnson, Samuel Patton, Heather Cap and Donna Rosser to the Fayette County Public Arts Committee to serve a term of one (1) year beginning June 1, 2016 and expiring May 31, 2017.**

Commissioner Rousseau thanked everyone who submitted application for this appointment. He stated that he stands steadfast that this committee can do great things for the county. He also publicly thanked Commissioner Brown for bringing this committee to the forefront and to the residents who have participated in this committee and who see the greater vision and as a result, bring quality services to the county.

Chairman Oddo also offered thanks to Commissioner Brown for initiating the arts committee. He stated that it has matured and has reached a point where the citizens can take it over. He stated that they will continue to bring items to the Board for approval.

Vice Chairman Ognio asked the candidates stand for recognition.

Commissioner Rousseau moved to approve the recommendation from the Selection Committee, comprised of Chairman Charles Oddo and Commissioner Charles Rousseau to nominate Charlie Cave, Robert Johnson, Samuel Patton, Heather Cap and Donna Rosser to the Fayette County Public Arts Committee to serve a term of one (1) year beginning June 1, 2016 and expiring May 31, 2017. Commissioner Barlow seconded. Discussion followed.

Commissioner Brown read a prepared statement into the record regarding the Public Arts Committee. The statement read as follows:

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"I have a statement to read into the record.

I understand the political underpinnings of why I was not appointed to a project that I initiated, grew and worked tirelessly on, enjoying every moment of watching our citizens use their creativity. I do not appreciate the action, but I do understand how that system works.

It's one of the reasons I find government to be the single entity that needs accountability more than the rest.

When a colleague on the Board suggested language to me for the structuring document for the Public Art Committee that no elected official be in the leadership role, which was me, I accepted that arrangement. Wanting to move forward, I voted for the document and looked forward to working with an incredible bunch of citizens who enjoyed creating fun and successful projects for local residents.

I understand the dichotomy of "it's OK for some commissioners to be in leadership positions on committees, authorities and the like, or eligible for those spots, but not others," but I will never endorse nor encourage such discriminatory tactics.

During my years of government service, I have never attempted to espouse or participate in such undertakings.

Commissioner Barlow and I just recently stated to a hospital official that we insist that Chairman Oddo be reappointed to the Hospital Authority Board. I still make that recommendation. I have certainly not agreed with all of the Chairman's actions or lack of actions, but I am willing to see him actively participate as a representative of our Board on the Authority.

Chairman Oddo and Commissioner Ognio are serving on the new Transportation Committee and I voted in favor of both their appointments. Commissioner Ognio is serving as the committee's chairman and I am delighted that he is taking the lead.

In 2013, I asked Commissioner Barlow to take the Chairman's position on the county's Board of Health. He accepted and is now that Board's Chairman and doing a nice job.

I was saddened to see certain other persons left off the committee. One individual donated personal art works to the county and volunteered at various committee events. Another had an extensive arts background and was a vital part of creating and running a very successful event for the committee.

The disappointment comes from knowing that three people who were always critical of the committee, never volunteered for anything and even attempted to undermine committee projects got on the appointment list.

I refuse to subscribe to such tactics.

Since the appointees have been listed for approval en masse instead of individually as we normally do it, I will abstain from the votes so that it does not appear that I am voting against those on the list whom I think are qualified and capable of giving of themselves in a positive and constructive way."

Chairman Oddo responded to Commissioner Brown's statement:

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Commissioner, I will make one statement that this is not political and I do believe this is up to the citizens now and I am very grateful to all the citizens who offered incredible amount of talent. And I think it's up to them to take this and move forward with it. So I appreciate it and I will respectfully disagree.

---

Commissioner Rousseau moved to approve the recommendation from the Selection Committee, comprised of Chairman Charles Oddo and Commissioner Charles Rousseau to nominate Charlie Cave, Robert Johnson, Samuel Patton, Heather Cap and Donna Rosser to the Fayette County Public Arts Committee to serve a term of one (1) year beginning June 1, 2016 and expiring May 31, 2017. Commissioner Barlow seconded. The motion passed 4-1 with Commissioner Brown abstaining. A copy of the request, identified as "Attachment 17," follows these minutes and is made an official part hereof.

## **EXHIBIT B**

# **ESTABLISHING AUTHORITY AND MEMBERSHIP REQUIREMENTS OF AUTHORITIES, BOARDS, COMMITTEES, AND SIMILAR BODIES**

## **ESTABLISHING AUTHORITY AND MEMBERSHIP REQUIREMENTS OF THE VARIOUS AUTHORITIES, BOARDS, COMMITTEES, AND SIMILAR BODIES IN FAYETTE COUNTY**

### **ESTABLISHED AT THE FEDERAL LEVEL**

#### **Two Rivers Resource, Conservation, and Development Council**

The Two Rivers Resource, Conservation, and Development Council is one of eleven such councils in Georgia that operate under the United States Department of Agriculture's Natural Resources Conservation Service. Its services and programs are agricultural in nature and it operates under its own constitution and by-laws. Two Rivers is made up of fourteen (14) counties and four soil conservation districts between the Chattahoochee River and the Ocmulgee River. It is a non-profit group. Each member agency is entitled to one voting member and one alternate member. They operate from fees, grants, and dues. County dues are \$300 per year.

Members serve at the pleasure of the Board. The Council meets twice a quarter or on an as-needed basis. There is no compensation for serving on this Board.

Membership is provided by the represented counties, but there are no guidelines provided on who can be considered for membership.

Currently there is one county citizen and one staff member serving on this council.

### **ESTABLISHED AT THE STATE LEVEL**

#### **Board of Health**

The composition and duties of the local Board of Health are established by state statutes for the Georgia Department of Community Health.

The criteria for each of the seven appointments to the Board of Health are described with its establishing legislation. The Chairman of the Board of Commissioners or his/her designee holds a seat on the Board of Health.

Currently, Commissioner David Barlow fills that capacity as Chairman of the Board of Health.

#### **Board of Elections**

Local Legislation was adopted establishing Fayette County's Board of Elections. Elections activities fall under the jurisdiction of the Secretary of State and the Georgia Elections Code. The Board of Elections also works in accordance with by-laws established by the Board itself.

The Board of Elections is composed of one member each of the two major political parties and one appointed solely by the Board of Commissioners. The Board of Commissioners must "certify" the appointments of the two party appointees and file affidavits in the Court Clerk's office for all three.



Currently, Darryl Hicks serves as Chairman of the Board of Elections and is the Democratic Party's appointee. Aaron Wright serves as the Republican Party's appointee. Addison Lester is the appointee from the Board of Commissioners.

### **Board of Family and Children Services**

The Board operates under the jurisdiction of the Georgia Department of Human Services, Division of Family and Children Services, in matters pertaining to the welfare of families and children in need, both short term and long term. Refer to O.C.G.A. 49-3-21(a).

Currently, three members are appointed to this Board by the Fayette County Board of Commissioners based on guidance provided in the establishing document

Members are appointed by the Governing Authority (Board of Commissioners). *Elected officials may not be appointed to the County Board.*

### **Hospital Authority**

The creation of a Hospital Authority was authorized by the State of Georgia under O.C.G.A. 31-7-72. This authority was enacted by Fayette County through Resolution 2000-09 which was adopted in February 2000.

The nomination process and appointment process provided in the state law. Particular consideration is given to those who meet minimal requirement

Currently, no county elected official or staff member serve as voting members on the Hospital Authority. The County Attorney serves as the attorney to the Hospital Authority. The County Clerk serves as Secretary / Treasurer to the Hospital Authority.

### **McIntosh Trail Community Service Board**

Headquartered in Griffin, Georgia, this agency works under the Region Three Board and under the statutes of the Georgia Department of Behavior Health and Developmental Disabilities.

There have been recent fluctuations concerning how many members are required to represent Fayette County. The current configuration is that two Fayette Citizens may be appointed to the Board so long as they meet certain requirements, and the third member is an elected or appointed official who is able to serve provided they meet certain criteria.

Currently, Commissioner Steve Brown serves on the McIntosh Trail Community Service Board.

### **Public Facilities Authority**

In 1978, a local legislative act was passed creating the Fayette County Public Facilities Authority (House Bill 1946). The authority was enacted by Fayette County via resolution in October 1978.

Members were not appointed to this authority until the year 2000 when the county began plans to finance the new Jail Expansion and Justice Center.

Members must be residents of Fayette County and shall be appointed by the Board of Commissioners of Fayette County.

Currently, all members' terms have expired and staff is awaiting nominees from an established Selection Committee. Since 2013, Commissioner Randy Ognio has served on this authority and he has reapplied for reappointment to this authority.

#### **Region Four (4) EMS Council**

The Region Four (4) EMS Council is a Professional Services Council; *meaning appointment is based one's profession*. It is one of two Professional Services Councils in operation in Fayette County.

This agency was established by state law under the Department of Human Resources, Public Health, Office of Emergency Medical Services. It operates under its own constitution and by-laws. Its purpose is to develop, coordinate, and monitor the delivery of emergency medical services within its designated district.

The Federal Emergency Medical Systems Act of 1973 enabled the State Department of Human Resources to create "local coordinating entities" within each of the state's health districts. District Four, which includes Fayette County, established the Region Four EMS Council. Its by-laws describes the terms and qualifications of its members.

Recently, Fayette County added a fourth member to the council. The four members include two Fayette County Public Safety representatives appointed by the Board of Commissioners and two members of the Peachtree City Fire Department appointed by the City of Peachtree City.

#### **Region Six Mental Health Planning Board**

The Region Six Mental Health Planning Board operates under the Georgia Department of Behavioral Health and Developmental Disabilities. These regional agencies throughout the state work directly with the state regarding program support and funding of mental health services.

Georgia is divided into mental health regions, each with a staffed regional office as well as an appointed Board. The number of the board is determined by population. Fayette County has three seats on this Board. Certain criteria is desirable when making appointments.

Elected officials may be appointed to this Board so long as they do not serve on a Community Service Board. Currently, no elected official serves on this board.

## **Board of Tax Assessors**

The composition and duties of the Board of Assessors is set out by state statutes related to the Department of Revenue and its Commissioner. Refer to O.C.G.A. 45-5-291.

Qualifications for membership are established and provided by the state.

There is no language regarding the ability of elected officials to serve on the Board of Assessors.

Currently, no elected official serves on this board.

## **ESTABLISHED BY INTERGOVERNMENTAL AGREEMENT**

### **Fayette County Development Authority**

General Law allows local jurisdictions to create Development Authorities. Fayette County developed its first Development Authority in 1986. In 1992, the County and its municipalities combined their authorities into the Fayette County Development Authority. Numbers of members have increased from seven to nine.

An Intergovernmental Agreement was adopted by all represented municipalities, the Peachtree City Airport Authority, and Fayette County on August 28, 2014. In the agreement, the municipalities of Fayetteville, Peachtree City and Tyrone appoint one citizen member each. The Peachtree City Airport Authority appoints one member of the authority to the Development Authority. The remaining five appointments are made by the Fayette County Board of Commissioners.

Fayetteville City Mayor Ed Johnson is the only currently elected member to be serving on the Development Authority.

Darryl Hicks is a Fayette County appointee and he serves as Chairman of the Development Authority. It is noted that Mr. Hicks also currently serves as the Chairman of the Board of Elections.

### **Library Board**

The Library Board is an advisory board but it has some decision-making authority in its relationship to the regional Library Board. It is guided by its own constitution.

The Library Board has existed in some form since the 1930s. The Library Board has seven members comprised of one member from each of the municipalities of Tyrone, Fayetteville, and Peachtree City. The Board of Commissioners appoints the remaining Board members and ratifies the appointments of the municipalities.

The by-laws to the Library Board do not appear to address the issue of allowing elected officials to serve.

Currently, there is no elected official serving on the Library Board.

## **ESTABLISHED BY THE FAYETTE COUNTY BOARD OF COMMISSIONERS**

### **Communications Board**

The Communications Board is a Professional Services Board and is one of two such board utilized by Fayette County. Members of this board are appointed based on their professional service rendered to the County.

The Board was created on January 12, 1995 by Ordinance 95-01. This ordinance calls for the Board to be composed of the chiefs of public safety agencies in the county or their designees for the purpose “to oversee the operations of the Consolidated 911 Communications Center, exclusive of personnel matters.”

The only elected person serving on this Board is the Fayette County Sheriff.

### **Planning Commission**

The Planning Commission was established by the Board of Commissioners as a recommending body. The composition and duties are established in the Fayette County Zoning Ordinance.

Appointments originally were made based on the district members lived in, however, in recent years, the Board has removed the district requirements allowing citizens to be appointed at-large across the county.

Per the ordinance, no one shall hold any other public office except that one (1) member may also be a member of the Zoning Board of Appeals.

Currently, no elected official serves as a member of the Planning Commission.

### **Public Arts Committee**

The Public Arts Committee was established in March 2016 by Ordinance 2016-02. Composed of eleven citizens, members must be citizens of Fayette County.

The ordinance does not prohibit elected officials from serving on the Public Arts Committee.

Currently, no elected official serves on the Public Arts Committee.

### **Recreation Commission**

The Recreation Commission is an advisory body created by a county resolution.

The first Recreation Commission was appointed in 1976 when the county began to receive grants to develop facilities and to provide organized programs to the public.

When established, members were appointed based on their residency in the county's districts, however, in recent years the Board has removed the district requirements allowing members to be appointed at-large across the county.

There are no other qualifiers about who can serve on the Recreation Commission.

Currently, there is no elected official serving on the Recreation Commission.

### **Transportation Committee**

The Transportation Committee was established by the Board of Commissioners in 2016 via Ordinance 20165-03.

Membership includes two county commissioners, two members of the county staff, five members from the five county municipalities, a member of the Sheriff's Office, and one Fayette County citizen with technical expertise.

Currently, County Commission Vice Chairman Randy Ognio serves as Chairman of the Transportation Committee. County Commission Chairman Charles Oddo also serves as a member of the Transportation Committee.

### **Water Committee**

The Fayette County Water Committee was created by the Board of County Commissioners and is an advisory committee. It has existed in some form since the 1980s and has undergone numerous changes in composition.

Members are not appointed to particular term limits as each member serves at the pleasure of the Board.

Currently, the Chairman of the Board of Commissioners appoints a County Commissioner to the Water Committee. That appointment is Chairman Charles W. Oddo. Other members include the Water System Director, the Planning Director, the County Administrator, and two citizens appointed by the Board of Commissioners. Non-voting members are the County Attorney and the Water System's Consulting Engineer.

### **Zoning Board of Appeals**

The Zoning Board of Appeals was established by the Board of Commissioners. Its duties and composition is included in the Fayette County Zoning Ordinance.

Membership to the Zoning Board of Appeals was based on one's district residency in the county, however, in recent year the Board has removed that restriction allowing membership to be made across the county in an at-large fashion.



No member of the Zoning Board of Appeals shall hold any other public office, except that one (1) member may also be a member of the Planning Commission.

Currently, there is no elected official serving on the Zoning Board of Appeals.

## County Boards, Authorities and Committees

### Established at the Federal Level

Two Rivers Resource, Conservation, and Development Council

### Established at the State Level

Board of Health

Board of Elections

Board of Family & Children Services

Hospital Authority

McIntosh Trail Community Service Board

Public Facilities Authority

Region Four (4) EMS Council

Region Six Mental Health Planning Board

Board of Tax Assessors

### Established by Intergovernmental Agreement

Development Authority

Library Board

### Established by Board of Commissioners

Communications Board

Planning Commission

Public Arts Committee

Recreation Commission

Transportation Committee

Water Committee

Zoning Board of Appeals

# COUNTY AGENDA REQUEST

Page 90 of 108

Department:

Presenter(s):

Meeting Date:

Type of Request:

## Wording for the Agenda:

Consideration of the County Attorney's recommendation to adopt Resolution 2016-15 for the implementation of a reasonable and timely procedure for the receipt and processing of tax refund requests.

## Background/History/Details:

The purpose of Resolution 2016-15 is to set out the process for the consideration of all tax refund requests received by the Fayette County Tax Assessor's office.

Effective in 2012, the state of Georgia approved O.C.G.A. § 48-5-380(e); The governing authority of any county, by resolution, and the governing authority of any municipality, by ordinance, shall adopt rules and regulations governing the administration of this Code section and may delegate the administration of this Code section, including the approval or disapproval of claims where the reason for the claim is based on an obvious clerical error, to an appropriate department in local government. In disputed cases where there is no obvious error, the approval or disapproval of claims may not be delegated by the governing authority.

This resolution fulfills this requirement.

## What action are you seeking from the Board of Commissioners?

Approval of Resolution 2016-15 for the implementation of a reasonable and timely procedure for the receipt and processing of tax refund requests.

## If this item requires funding, please describe:

Has this request been considered within the past two years?

If so, when?

Is Audio-Visual Equipment Required for this Request?\*

Backup Provided with Request?

***\* All audio-visual material must be submitted to the County Clerk's Office no later than 48 hours prior to the meeting. It is also your department's responsibility to ensure all third-party audio-visual material is submitted at least 48 hours in advance.***

Approved by Finance

Reviewed by Legal

Approved by Purchasing

County Clerk's Approval

Administrator's Approval

## Staff Notes:

The Tax Assessor's office has reviewed and agree to the process outlined in Resolution 2016-15.

**STATE OF GEORGIA**

**FAYETTE COUNTY**

**RESOLUTION**

**NO. 2016-15**

**A RESOLUTION OF THE BOARD OF COMMISSIONERS OF FAYETTE COUNTY FOR THE PURPOSE OF ESTABLISHING A REASONABLE AND TIMELY PROCEDURE FOR THE RECEIPT AND PROCESSING OF TAX REFUND REQUESTS; AND FOR OTHER PURPOSES.**

**BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF FAYETTE COUNTY, GEORGIA THAT THE FOLLOWING PROCEDURE BE IMPLEMENTED FOR THE TIMELY PROCESSING OF TAX REFUND REQUESTS AS FOLLOWS:**

**WHEREAS**, the Board of Commissioners of Fayette County is the duly enacted governing authority for Fayette County, Georgia: and

**WHEREAS**, Fayette County is empowered to assess and collect taxes on property located within its territory for the proper and good function of its government and for the benefit of the residents of Fayette County; and

**WHEREAS**, in causing said assessment and collection of taxes it is anticipated that from time grounds may exist allowing a taxpayer to submit a request for refund of taxes; and

**WHEREAS**, the Board of Commissioners for Fayette County is the designated party with whom a taxpayer must file a request for refund of taxes in accordance with O.C.G.A. § 48-5-380; and

**WHEREAS**, the Board of Commissioners recognizes a need to timely consider all tax

refund requests; and

**WHEREAS**, the Board of Commissioners desires to create a clearly delineated procedure for receipt and consideration of all tax refund requests;

**NOW THEREFORE BE IT RESOLVED** that the Board of Commissioners of Fayette County does hereby adopt the following procedure for receipt, consideration and resolution of taxpayer requests for refund of local property taxes:

1. The Board of Commissioners will receive ALL tax refund requests through the County Clerk. All requests will be delivered to the Clerk's office in order to be considered "received" for purpose of further processing as a tax refund request under O.C.G.A. §48-5-380.
2. The County Clerk will immediately stamp the tax refund request as received and mark it with the date of receipt.
3. The County Clerk shall immediately submit the request to the County Attorney and the Office of the Tax Assessors.
4. The County Attorney's office will analyze the facts of each tax refund request within the appropriate legal framework and make a final recommendation to the Board of Commissioners.
5. The recommendation shall come before the Board of Commissioners at its appropriate and set time, which in no case shall be more than 90 days from the date of receipt of the original tax refund request from the taxpayer. The taxpayer shall be notified of said meeting date, time and place by the Board of Commissioners. At that meeting, the Board of Commissioners shall vote to approve or deny the refund and upon the amount of any

refund due thereby.

6. After the decision, a letter shall issue from the Board of Commissioners to the taxpayer.  
The letter shall notify the taxpayer of the final approval or denial of the request by the Board of Commissioners.
7. A copy of that letter will be sent to the County Attorney, the Tax Assessor's office, and the Tax Commissioner's office.
8. Upon receipt, the Tax Commissioner's office will ensure a check for any approved refund is sent, in the amount approved by the Board of Commissioners, to the requesting taxpayer within 60 days of the approval by the Board of Commissioners, in accord with O.C.G.A. §48-5-380(d).
9. The Tax Assessor's office shall make any necessary adjustments to the Fayette County Tax Digest.

**SO THEREFORE BE IT RESOLVED** this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

BOARD OF COMMISSIONERS OF  
FAYETTE COUNTY

(SEAL)

By: \_\_\_\_\_  
Charles W. Oddo, Chairman

ATTEST:

\_\_\_\_\_  
Floyd Jones, County Clerk

Approved as to form:

\_\_\_\_\_  
County Attorney



# COUNTY AGENDA REQUEST

Page 94 of 108

Department:

Presenter(s):

Meeting Date:

Type of Request:

## Wording for the Agenda:

Consideration of the County Attorney's recommendation to deny the disposition of tax refunds, as requested by Ralph Heim, in the aggregate amount of \$6,594.24.

## Background/History/Details:

When a taxpayer feels that an error has occurred with respect to taxes paid to Fayette County on Real Estate and Personal Property tax bills, they have the right to request a Refund under O.C.G.A. § 48-5-380. This request is given to the Tax Assessors' Office in order to be reviewed in detail by the County Attorney. Appropriate recommendation(s) are then forwarded to the Board of Commissioner's for their final approval of said requests.

A memo from the County Attorney is provided as backup with an explanation for denial of this request.

## What action are you seeking from the Board of Commissioners?

Deny the disposition of tax refunds, as requested by Ralph Heim in the aggregate amount of \$6,594.24.

## If this item requires funding, please describe:

The funding required will be for those refund requests where the overpayment of taxes (voluntarily or involuntarily) was a direct result of property that had previously been erroneously assessed and taxes have already been collected from the taxpayer(s).

Has this request been considered within the past two years?

If so, when?

Is Audio-Visual Equipment Required for this Request?\*

Backup Provided with Request?

***\* All audio-visual material must be submitted to the County Clerk's Office no later than 48 hours prior to the meeting. It is also your department's responsibility to ensure all third-party audio-visual material is submitted at least 48 hours in advance.***

Approved by Finance

Reviewed by Legal

Approved by Purchasing

County Clerk's Approval

Administrator's Approval

## Staff Notes:

## MEMORANDUM

To: Fayette County Board of Commissioners  
From: McNally, Fox, Grant & Davenport, P.C.  
Date: October 7, 2016  
Re: Tax Refund Request – Mr. Ralph Heim

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On February 4, 2003, Mr. Heim applied for a Standard Homestead Exemption. Because he was 65, he also applied for an exemption of 50% of the value of his homestead from Fayette County School District taxation. He qualified for both of the exemptions and has enjoyed them since that time. On September 22, 2016 Mr. Heim became aware an exemption for 100% of the value of the Homestead of those taxpayers that are 65 AND have an annual income of less than \$15,000. Mr. Heim has not provided the proof of income necessary to have been granted this exemption in the past or for the future. He claims that he lacked the knowledge of the exemption but should receive it, nonetheless. He now requests a refund of taxes paid on this parcel for tax years 2009 to present based on qualification for 100% Homestead exemption.

The Tax Commissioner provides notice of available tax exemptions in the annual property tax assessment mailed to every taxpayer in Fayette, along with the date by which they must be filed. Beyond this it would be impossible to individually notify each taxpayer of exemptions that may apply specifically to him or her for the coming year. Therefore, it is the taxpayers' duty to read the assessment and make themselves aware of the exemptions applicable to their circumstances.

In order to qualify for a 100% Homestead Exemption, an applicant must meet 4 requirements.

1. File an application requesting the Exemption
2. Show that the property is a Homestead
3. Show that he is 65 or older
4. Show that his or her annual income is less than \$15,000.

Mr. Heim met 3 out of 4 requirements but did not fulfill the 4<sup>th</sup>, as such, no exemption existed to apply to the years for which a refund is now being requested.

The Board of Commissioners must grant a tax refund in 2 scenarios. First, taxes are assessed and collected either in error or illegally. No error or illegal action has occurred to justify return of money that was rightfully collected. Mr. Heim was not qualified for the exemption because he had not filed for it. Second, taxes were voluntarily or involuntarily overpaid. Although Mr. Heim may feel he

overpaid his taxes, according to the law he paid only what was due at the time of payment. He was not qualified for the 100% exemption because he had not filed for it. No overpayment has occurred.

The requested refund is recommended for full denial.

Year	Amount	Recommendation
2010	\$1069.28	Deny
2011	\$1048.29	Deny
2012	\$867.01	Deny
2013	\$853.77	Deny
2014	\$854.57	Deny
2015	\$918.90	Deny
2016	\$982.42	Deny

Total recommended denial: \$6594.24

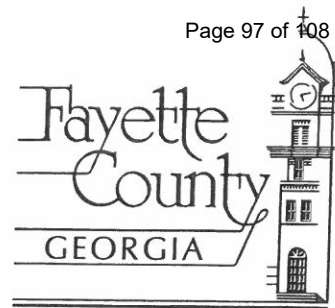
# Fayette County Tax Commissioner

140 Stonewall Avenue • Fayetteville, GA 30214

Tags: 770-461-3611

Tax: 770-461-3652

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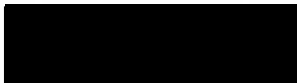


**George Wingo**  
Tax Commissioner

**Kristie King**  
Deputy Tax Commissioner

September 27, 2016

Mr. Ralph Heim



Dear Sir:

Your letter of September 25, 2016 has been received in this office. While I understand your disappointment in understanding that you may have been qualified for this exemption for several years, all exemptions are granted by application only and then after consideration by the Board of Assessors.

The tax bill you receive each year explains all of the exemptions available to taxpayers and the criteria for each exemption. I have enclosed a copy of your tax bill and highlighted the information regarding the L4 homestead exemption.

I have enclosed copies of your original application cards completed and signed by you on February 4, 2003. Your applications of that date were for the L1 basic homestead exemption, and additionally for the age 65 Senior exemption. The senior exemption entitles you to a 50% reduction in the school tax portion of your property taxes, from which you have benefitted since that date. Taxpayers are provided with copies of each exemption completed by this office. Please see the note on the 50% school exemption card indicating that you did not provide this office with a Georgia Income Tax return.

We will forward your inquiry to the Tax Assessors office for review. Once your request has gone through the proper channels, you will be notified of the outcome.

Sincerely,

Pamela White  
Property Tax Supervisor  
(770) 461-3652 x103  
pwhite@fayettecountyga.gov

cc: Joel Benton, Chief Appraiser

Those persons meeting certain criteria are eligible for homestead exemptions from ad valorem taxation. In addition to the regular homestead exemption authorized for all home owners, certain elderly and disabled persons are entitled to a larger homestead exemption. <sup>Page 98 of 108</sup> The full law relating to each exemption must be referred to in order to determine eligibility for the exemption. If you are eligible for one of these exemptions and are not currently receiving the tax benefit, you must apply for the exemption between the dates shown below in order to receive the exemption in future years. For more information on eligibility for exemptions or on the proper method of applying for an exemption, you may contact the office of the County Tax Commissioner.

If you feel that your property has been assigned too high a value for tax purposes by the Board of Tax Assessors, you should file a property tax return, appealing its value, between the dates shown below. This procedure provides you with the opportunity to appeal your assessment for tax purposes. Information on filing a return can be obtained from the Tax Commissioner's office.

The property return filing dates are between **JANUARY 1 AND APRIL 1** of each year. Applications for all exemptions can be made year round, but must be made prior to **April 1<sup>st</sup>** to be effective in the calendar year the application is made.

**NOTE:** State law requires all bills be sent to the property owner as of January 1<sup>st</sup>. If this property has been sold, please forward to the new owner or contact this office at 140 Stonewall Avenue, Suite 110, Fayetteville, GA 30214. Phone (770) 461-3652 or e-mail at [taxcomm@fayettecountygga.gov](mailto:taxcomm@fayettecountygga.gov). Fayette County Tax Commissioner's web site is [www.fayettecountytaxcomm.com](http://www.fayettecountytaxcomm.com)

If this bill is marked "appeal" it is calculated at 85% value. If you choose not to pay this bill by the November 15 due date, you may be subject to interest and/or penalty after your appeal is settled.

## SUMMARY OF FAYETTE COUNTY HOMESTEAD EXEMPTIONS AND QUALIFYING CRITERIA

(All exemptions require that the owner occupy the homestead on January 1. You are not required to file annually, but you must notify the Tax Commissioner's Office if you no longer qualify for the exemption.)

Tax Exemption	Exemption Amount	Type Tax Exempted	Other Qualifying Criteria
<b>Regular Homestead Exemption</b>	<b>2,000</b>	<b>State, School M &amp; O*</b>	<b>Own and occupy the homestead on January 1</b>
<b>Local</b>	<b>5,000</b>	<b>County M &amp; O* &amp; Fire</b>	
<b>Double Homestead Exemption</b>	<b>4,000</b>	<b>State, School M &amp; O* and Bonds</b>	<b>Age 65 on January 1</b>
<b>Local</b>	<b>5,000</b>	<b>County M &amp; O* &amp; Fire</b>	<b>Net income of both spouses less than \$10,000</b>
<b>50% School Tax Exemption</b>	<b>1/2 of the Assessed Value</b>	<b>School M &amp; O* and School Bonds</b>	<b>Age 65 on January 1 or Totally Disabled</b>
<b>Total School Tax Exemption</b>	<b>Total Assessed Value</b>	<b>School M &amp; O* and School Bonds</b>	<b>Age 65 on January 1 or Totally Disabled</b>
			<b>Net Taxable Georgia income less than \$15,000 for all family members residing in household.</b>
<b>Veteran's Exemption</b>	<b>70,465</b>	<b>All taxes up to 70,465 of assessed value</b>	<b>100% Disabled, Service connected</b>
<b>Senior Exemption</b>	<b>2,000</b>	<b>State</b>	
<b>Local</b>	<b>5,000</b>	<b>County M &amp; O* &amp; Fire</b>	<b>Age 62-65 on January 1</b>
	<b>4,000</b>	<b>School M &amp; O*</b>	

\*Maintenance and Operations

(L-2)

Map code # 051213003**APPLICATION FOR 50 PERCENT SCHOOL EXEMPTION**NAME: Heim, Ralph P. & Lois Paul

ADDRESS: [REDACTED]

CITY: [REDACTED]

SOCIAL SECURITY NUMBER: [REDACTED]

DATE OF BIRTH: [REDACTED]

The homestead of each resident of Fayette County who is totally disabled or sixty-five (65) years or older and who received more than \$15,000.00 of income during the preceding calendar year shall be exempt from Fayette County School District taxation in the amount of 50-percent of the assessed value of the homestead, as defined by 1985 Georgia laws, House Bill #780, for the year 1986 and future years.

(1) NET TAXABLE INCOME FROM YOU GEORGIA INCOME TAX RETURN: Didn't bring return.

(2) NET TAXABLE INCOME OF EACH MEMBER OF YOUR FAMILY: \_\_\_\_\_

## TOTAL

I, the undersigned claimant, do solemnly swear that the above statements made in support of this application are true and correct, that I am the bona fide owner of the property for which this tax exemption is claimed, that I actually occupied same as my residence on January 1 of the year for which this tax exemption is claimed, that on January 1 of the year for which this tax exemption is claimed, I was 65 years of age or older, and my net income together with the income of each member of my family who resides in the homestead, is as stated above and that no transaction has been made in collusion with another for the purpose of obtaining this tax exemption contrary to law.

This 4 day of February, 20 03.K. K. K.

Tax Commissioner or Receiver

X Paul Homestead ClaimantLois



## APPLICATION FOR HOMESTEAD TAX EXEMPTION 051213003 ✓

Name Helm, Ralph P. & Lois Paul Address [REDACTED] No. 051213003 Fville 30215

To the Tax Receiver or Commissioner of the State of Georgia, County, Georgia  
 In accordance with the Provisions of the State Constitution and Laws authorizing Homestead Exemption not to exceed \$2,000.00 in value  
 I hereby make application for Tax Exemption on the following described property.

NUMBER OF ACRES	LAND LOT NUMBER	NO. DISTRICT	STREET OR ROAD	MARKET VALUE LAND AND BLDGS.
			<u>Lot 3 Murphy Creek Landing</u>	
SIZE LOT	NO. AND NAME OF STREET	KIND OF HOUSE	NO. ROOMS	
		<u>1 story/v. single</u>	<u>3</u>	

Date of Purchase 11-27-02 From Whom Jeff Betsill Handy, Inc. Recorded: Book      Page       
 Kind of deed or conveyance       
 Purchase Price Land and all improvements to date \$ 238,735  
 Is there a lien of any kind against this Property? no What kind?       
 Amount of lien \$      How payable?       
 To Whom Payable      Address       
 Is any part of the above Property rented? no What part?       
 What Kind of business?      How much?       
 Are You in Military Service? no

## AFFIDAVIT OF HOMESTEAD EXEMPTION

I, the undersigned, do solemnly swear that the statements made in support of this application are true and correct, that I am the bona fide owner of this property described in this application, that I actually occupied same one on January 1 of the year for which application is made, that I am an eligible applicant for the homestead exemption applied for, qualifying or meeting the conditions named in paragraph      of the definition of the word "applicant" appearing on the back hereof, and that no transaction has been had in collusion with another for the purpose of obtaining a homestead exemption contrary to law. Sworn to and subscribed to before me, this February 27, 2003

APPLIED FOR HOMESTEAD EXEMPTION IN THE AMOUNT OF \$ 238,735

Christie Tax Receiver or Commissioner  
X. [Signature] Homestead Applicant  
[Signature] Approval by: Board of Tax Assessors

**RALPH P HEIM**



September 25,2016

Mr. George Wingo  
Fayette County Tax Commissioner  
P Box 70  
Fayetteville GA 30214

Dear Mr. Wingo:

Last Thursday I paid my 2016 real estate tax bill. For the most part the procedure was the same as it has been for the past 14 or so years I have been a resident of Fayette County. However things took an unexpected turn that later caused me research my real estate payments for the past several years.

Please allow me to explain.

As I was completing my business with your extremely friendly and knowable cashier, she suddenly stopped thanking me for my payment, looked at me for a second, glanced at the back of the bill for another second, and asked me if anybody in my household was employed. I answered "no." In that case she said for me to bring a copy of the 2016 Ga form 500 to the office and if line 15 of this form showed income below \$15,000.00 or a negative number I would receive 100% off my school taxes. A truly significant amount.

She even went so far as to rubber stamp my receipt with a fair size indicia in red ink which summarized what she already told me, saying "this may help you to remember."

As I stated earlier, this episode got me wondering about past taxes paid to the county. A review of my county tax bills and Ga form 500 clearly shows that for the year 2009 and forward to present I overpaid the county \$6,594.24. A copy of

the worksheet is attached for your review. Obviously I am requesting that the county reimburse me for the excess taxes I paid in good faith and because I honestly believe the county does not want to collect much less keep money on taxes they do not deserve to due an honest mistake by a citizen of the county.

I have a comment I would like to submit for your consideration as you review my request. But, before I start, I wish to admit that I DID NOT submit a copy of the GA form 500 with the county for any of the years for which I am asking a refund.

The reason is simply I did not know about this tax deduction for which I was fully entitled to nor the procedure to apply for same. I assure you Mr. Wingo had I been knowledge on the subject the applicable paper work would have been filed with the county well before the dead line as set by the county.

My most compelling argument for stating I had no knowledge of the law and/or the procedure on this issue is this:

A person would have to be insane, extremity lazy or worth a considerable amount of money not to take the few minutes necessary to deliver a form to the assessors office once a year in exchange for a tax reduction of close to a \$1,000.00 for each year this simple task was repeated. As I am none of these things the only reasonable explanation is due to lack of knowledge. While it is possible, not probable, that one year out of 9 could be missed but to miss all 9 falls out side the realm of possibility.

Every year I pay my real estate bill in person at you office. I do this as it gives me the opportunity to review my exemptions to insure I am receiving all of exemptions to which I am entitled. Every year I am told that I am up to date, except for my visit of last week. During that visit I was not only made aware of the additional deduction due me, my receipt was stamped as a reminder. These two actions were ever afforded me before. Had they been this issue would never have developed.

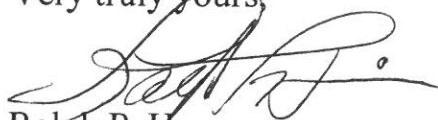
I have tried to present to you a clear picture how I ended up in this position. But

if any points are not clear or you need copies of any documents as mentioned in this letter, please let me know and they will be provided.

Please accept my apologies if I directed this letter to your office in error and for any inconvenience it may have caused you.. However should this be the case I respectfully request that you forward same to the correct individual/dept for the information I desire to resolve this issue.

Thank you in advance for your personal interest in this matter.

Very truly yours,



Ralph P. Hem

**OVER PAYMENT OF FAYETTE COUNTY PROPERTY TAXES**  
**PERIOD 2010 THROUGH 2016 INCLUSIVE**

YEAR	SCHOOL M & O	SCHOOL BOND	TOTAL PAID	BILL NUMBER	DATE PAID	LINE 15 GA FORM 500	for year
2010	\$ 987.80	\$ 81.48	\$ 1,069.28	2010-16763	10/06/10	\$ 5,551.00	2009
2011	\$ 968.40	\$ 79.89	\$ 1,048.29	2011-16874	09/16/11	(1,437.00)	2010
2012	\$ 808.40	\$ 58.61	\$ 867.01	2012-16846	09/28/12	\$ 5,126.00	2011
2013	\$ 796.00	\$ 57.77	\$ 853.77	2013-16825	09/16/13	(11,000.00)	2012
2014	\$ 796.80	\$ 57.77	\$ 854.57	2014-46812	09/18/14	(13,000.00)	2013
2015	\$ 860.80	\$ 58.10	\$ 918.90	2015-16984	09/23/15	(13,000.00)	2014
2016	\$ 919.56	\$ 62.86	\$ 982.42	2016-17099	09/22/16	(13,000.00)	2015
	\$ 6,137.76	\$ 456.48	\$ 6,594.24				

ALL TAX BILLS WERE CALCULATED @ 1/2 OF THE ASSESSED VALUE INSTEAD OF THE TOTAL ASSESSED VALUE

ALL DOLLAR VALUES SHOWN WERE TAKEN FROM THE OFFICIAL FORMS AND/OR STATEMENTS AS RECEIVED FROM THE FAYETTE COUNTY TAX COMMISSIONER OR SENT TO THE STATE OF GA.

**RALPH P HEIM**



October 10, 2016

Office of the Tax Assessors  
Fayette County Tax Offices  
P Box 70  
Fayetteville GA 30214

Dear Sir or Madam:

My Letter of September 25, 2016 address to Mr. Wingo was promptly answered by a Ms Pamela White on September 27, 2016.

In closing her letter she stated that my request for a refund for the taxes I over paid Fayette County in the amount of \$6,594.24 for the past seven (7) years had been refused. Her letter had gone on to say my letter had been forward for review to your office.

As that was eight working days ago, and I want this issue too kept active, this letter is to ask for a status of your review to my request for a refund.

At the risk of redounded, I cannot understand how I over paid my taxes to the county. But I did. It was due to an honest mistake. I paid these taxes in good faith and then when I discovered my error I simply requested reimbursement.

I believe the County is punishing me, punishing me most severely, for what human beings do from time to time.... to make a mistake. My error did not harm the County, quite the contrary, it profits from it. And not to promptly make a refund once the claim had been proven, which I believe I did, is unconsolable.

To add an insult to injury there was not even an offer to meet with the possibly of working out some agreement that would be fair to all parties concerned.

I would appreciate your review findings and/or any other comment you might offer.

It is my sincere hope that this matter can be resolved fairly between Fayette County and me. But should the County choose not to share my view on this matter I will be forced to explore other options that have been suggested to me. This is that last thing I wish to do. But I feel so strongly about this issue, I just cannot let this matter rest.

Thank you for your interest and I am looking forward to your reply,

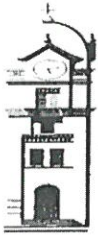
Sincerely,

A handwritten signature in black ink, appearing to read 'R. Heim', with a stylized flourish extending from the end.

Ralph P. Heim



## Administrator's Report: A



*Fayette*  
COUNTY

PURCHASING DEPARTMENT  
140 STONEWALL AVENUE WEST, STE 204  
FAYETTEVILLE, GEORGIA 30214  
PHONE: 770-305-5420  
www.fayettecountyga.gov

"WHERE QUALITY  
IS A LIFESTYLE"

To: Steve Rapson

From: Ted L. Burgess *B3*

Date: October 10, 2016

Subject: Request for Quotes 1204-A: Brooks & Kiwanis Park Fence Installation

There is a need to replace the fencing around the outfield and backstop at Brooks Park Softball Field #5, and around the tennis courts at Kiwanis Park. The Purchasing Department issued Request for Quotes #1204-A to obtain a contractor for this work. Notice of the opportunity was emailed to 19 companies. Another 132 were contacted through the web-based Georgia Procurement Registry. Since this was a Request for Quotes, and not a formal, sealed bid process, we did not pay to place an advertisement in the newspaper.

Four companies submitted quotes (please see the attachment). The Recreation Department recommends award of the purchase to the company offering the lowest price, Natural Enclosures, LLC.

Specifics of the proposed contract are as follows:

Contract Name	1204-A: Brooks & Kiwanis Park Fence Installation		
Vendor	Natural Enclosures Fence, LLC		
Contract Amount	\$63,340.00		

Budget:

Location	Org. Code	Object	Project	Current Balance	
Brooks Outfield	37560110	541210	6110M	\$45,000.00	- 32,000
Brooks Backstop	37560110	541210	7110A	20,000.00	- 12,805
Kiwanis Tennis Courts	37560110	541210	6110J	45,459.75	- 19,535
					<u>63,400</u>

*Available Budget*

Approval: *[Signature]* Date: 10/10/16

**Request for Quotes #1204-A**  
**Brooks and Kiwanis Parks - Fence Installation**

	<b>Books Park</b>			<b>Kiwanis Park</b>	
	<b>Field #5</b>	<b>Backstop: Field #5</b>	<b>Brooks Park Total</b>	<b>Tennis Court</b>	<b>Total Price Quoted</b>
McINTYRE FENCING	\$57,185.00	\$19,350.00	\$76,535.00	\$23,465.00	<b>\$100,000.00</b>
LINDAVID DBA C&C FENCE CO. INC.	\$51,500.00	\$15,750.00	\$67,250.00	\$27,600.00	<b>\$94,850.00</b>
CHAMBLEE FENCE COMPANY INC	\$49,126.00	\$19,000.00	\$68,126.00	\$24,000.00	<b>\$92,126.00</b>
NATURAL ENCLOSURES FENCE, LLC	\$32,000.00	\$12,805.00	\$44,805.00	\$18,535.00	<b>\$63,340.00</b>