

BOARD OF COUNTY COMMISSIONERS

Eric K. Maxwell, Chairman
Randy Ognio, Vice Chairman
Steve Brown
Charles W. Oddo
Charles D. Rousseau

FAYETTE COUNTY, GEORGIA

Steve Rapson, County Administrator
Dennis A. Davenport, County Attorney
Tameca P. White, County Clerk



140 Stonewall Avenue West
Public Meeting Room
Fayetteville, GA 30214

MINUTES

April 25, 2017
7:00 p.m.

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

Call to Order

Chairman Eric Maxwell called the April 25, 2017 Board of Commissioners meeting to order at 7:02 p.m. A quorum of the board was present.

Invocation and Pledge of Allegiance by Commissioner Steve Brown

Commissioner Steve Brown offered the Invocation and led the audience in the Pledge of Allegiance.

Acceptance of Agenda

Commissioner Brown moved to accept the agenda with the change of moving item #5 after item #3. Vice Chairman Randy Ognio seconded. The motion passed 4-1 with Commissioner Charles Oddo voting in opposition.

PROCLAMATION/RECOGNITION:

1. **Proclamation honoring April as "National Donate Life Month".**

Commissioner Charles Oddo, on behalf of the Board of Commissioners, presented Ms. Cynthia Jenkins of LifeLink a proclamation honoring April as "National Donate Life Month". Ms. Jenkins gave comments regarding the importance of organ donations. A copy of the request, identified as "Attachment 1", follows these minutes and is made an official part thereof.

2. **Recognition of the Fayette County Master Gardener Extension Volunteers.**

Horticulture Program Assistant Sandy Edwards presented the citizens of Fayette County with a faux check for over \$200,000 to represent the amount of volunteer hours for 2016 from the volunteers that work with the Master Gardeners Extension Volunteers. A copy of the request, identified as "Attachment 2", follows these minutes and is made an official part thereof.

3. **Proclamation of May 1, 2017 as "Water Professionals Appreciation Day."**

Chairman Maxwell, on behalf of the Board of Commissioners, presented Water System Director Lee Pope and staff with a proclamation honoring May 1, 2017 as "Water Professionals Appreciation Day". Mr. Pope gave comments about the hard work of the Water System staff. A copy of the request, identified as "Attachment 3", follows these minutes and is made an official part thereof.

PUBLIC HEARING:

Community Development Director Pete Frisina read the *Introduction to Public Hearings for the Rezoning of Property*. A copy of the Introduction to Public Hearings for the Rezoning of Property, identified as "Attachment 4," follows these minutes and is made an official part hereof.

4. **Consideration of Petition No. 1264-17, Oscar C. Cavender Family Limited Partnership, Owner, and Bryan Forester, Agent, request to rezone 21.80 acres from A-R to R-70 to develop a Single-Family Residential Subdivision on property located in Land Lot 59 of the 7th District and fronting on Ebenezer Road with one (1) condition.**

This item was discussed after item #5 due to the motion at the Acceptance of the Agenda.

Chairman Maxwell recused himself from the discussion and vote because it involved someone he had done business with in the past. He stated that Rod Wright was a friend. He stated that he and Mr. Wright had visited each other's home recently. He turned the meeting over to Vice Chairman Ognio.

Mr. Frisina stated that there was one condition placed on the rezoning by staff and the Planning Commission and that it was dealing with the additional dedication of right-of-way and that both, staff and the Planning Commission, recommended approval with the one condition. He stated that the concept plan was provided on the dais.

Mr. Newton Galloway spoke on behalf on Rod Wright in favor of this item. He stated that the property was currently zoned A-R and the proposal was for R-70. He stated that his comments would be brief because Mr. Frisina' report was accurate and thorough. He stated that the development was consistent with the low density residential classification under the future land use map. He stated that the property was bound on the south and southwest of Ebenezer Road by property that was already zoned R-70. He stated that the developer agreed to the one condition which related to the additional 10 feet of right-of-way off of Ebenezer Road. He requested that the Board approve.

Mr. David Cavender spoke in favor of this item. He stated that he was the executive of the estate and he asked the Board to approve the request.

Mr. Keith Larson spoke in favor of this item. He stated that he saw this as a constructive use of the plan. He stated that his concern was that many times the lots that are available do not provide opportunities for starter homes. He stated that he was hopeful that the developer would consider pricing the homes for reasonable accommodations and access for young families.

No one spoke in opposition.

Commissioner Brown stated that the Board had seen this property before under a different meeting and different scenario and the Board did not approve. He stated that the Board had just approved the new land use plan proposal and the plan does not conform to what was being requested. He stated that the old land use plan was one unit to one to two acres and the new plan was one unit to three acres. He stated that he would not want the Board to breach the new plan with the first request out the gate. He stated that the applicant had thirty days to bring it back and that would mean it would come back to the June 8 Board meeting.

Commissioner Rousseau stated that the plan that was just voted on was tentative and was a proposal to submit to the state, pending their approval. He stated that the current land use plan was still in effect.

Vice Chairman Ognio stated that there was an error in the backup information on the minutes from the Planning Commission that stated that John Culbreath was absent, but that he voted. Mr. Frisina acknowledged the error.

Commissioner Oddo stated that as stated by Commissioner Rousseau the current plan was still in effect and that the request was low density and that he did not see a reason to table or deny the request.

Commissioner Brown stated that he was comfortable with tabling this item until the Board receives a full review from the regional and state entities and have it ready to present on June 8.

Commissioner Rousseau stated that the Board was asked for a lower level of density with this request when it was brought to the Board last year and he believed that was accomplished.

County Attorney Dennis Davenport stated that the Board should be aware of the concept of vested rights. He stated that this gentleman marshaled his resources and made application to the Board when documents before the Board was at a certain position. He stated that he relied on that and had gone forward with his request. He stated that if the land use plan that was just approved by the Board was approved by ARC, it does not address the applicants' issue of potential vested rights. He stated that some would argue that the Board was bound by the way the ordinances were at the time the application was made. He stated that he would caution the Board not to rely on the a future decision by ARC, so much as to look at the condition of the land use plan and ordinances as existed before the vote was taken on the last item.

Commissioner Brown stated that the Board wanted to go to a much lower density and that was the direction given to the Steering Committee.

Commissioner Brown moved to table the Petition No. 1264-17, Oscar C. Cavender Family Limited Partnership, Owner, and Bryan Forester, Agent, request to rezone 21.80 acres from A-R to R-70 to develop a Single-Family Residential Subdivision on property located in Land Lot 59 of the 7th District and fronting on Ebenezer Road with one (1) condition. Commissioner Rousseau seconded. The motion failed 1-3-1 with Commissioners Oddo, Ognio and Rousseau voting in opposition. Chairman Maxwell abstained.

Vice Chairman Ognio stated that there was a lot of R-70 on one end but a lot of A-R around it. He stated that in the past when the Board rezoned the R-70 the applicant was asking for R-40 and the Board approved R-70. He stated that he would like to see it not rezoned.

Commissioner Brown stated that was why he requested that a moratorium be put in place so that the Board would not end up in a situation like this.

Vice Chairman Ognio stated that as mentioned by Mr. Davenport, the Board could not apply the new land use plan even if approved because it was not in place when the application was made.

Commissioner Oddo stated that to the topic of the moratorium, there was no guarantee that nothing would come. He stated that there have been six rezonings approved since the request of a moratorium and Commissioner Brown made a motion to approve four of the six. He stated that there was not a flood of rezonings. He stated that this one had been in the works. He stated that this request should move forward.

Vice Chairman Ognio stated that he did not know if anyone had addressed the driveway that comes out onto Ebenezer Road. He asked for the speed limit. Public Works Director Phil Mallon stated that he did not know for sure. It was suggested that the speed limit might be 40 to 45 miles per hour.

Commissioner Oddo moved to Petition No. 1264-17, Oscar C. Cavender Family Limited Partnership, Owner, and Bryan Forester, Agent, request to rezone 21.80 acres from A-R to R-70 to develop a Single-Family Residential Subdivision on property located in Land Lot 59 of the 7th District and fronting on Ebenezer Road with one (1) condition. Commissioner Rousseau seconded. The motion passed 3-1-1 with Commissioner Brown voting in opposition. Chairman Maxwell abstained. A copy of the request, identified as "Attachment 5", follows these minutes and is made an official part thereof.

5. Consideration of the Fayette County Comprehensive Plan 2017-2040 prior to submittal to the Atlanta Regional Commission and Georgia Department of Community Affairs for review.

This item was discussed prior to item #4 due to the motion at the Acceptance of the Agenda.

Mr. Frisina stated that based on a 2015 population estimate from the Atlanta Regional Commission (ARC) was 110,975 and that the estimated population projection for 2040 was 143,255 which indicates an increase over the next 23 years of 32,280 people and a 29% increase. He stated that the County conducted an online public survey with 1,550 responses and interviewed a number of stakeholder groups to create the direction of the plan. Mr. Frisina continued the PowerPoint presentation for the Board. The following are goals that were discussed in the Comprehensive Plan:

- Maintaining the rural character of the county
- Issues with subdivision entrances in older subdivisions
- Maintaining large lots to reduce traffic and density
- Traffic congestion/ road maintenance and better road improvements
- Elected officials and governmental services being improved to include leadership and reducing the tax burden on citizens
- Coordinating development with provision of adequate infrastructure
- Developing a county-wide multi-use paths system, sidewalks, off-road cycling facilities
- More parks, recreation areas and greenspace
- Lack of cultural facilities
- Working together between the county and cities to coordinate planning
- Pursuing economic development to create jobs, balance the tax base, but not to the detriment of the county
- Hospital/Pinewood area was prime location for development
- State Route 74 corridor was primary area for industrial and technical development
- Pursue agriculturalism as a way to maintain rural character and encourage owners an incentive to maintain large lots

He stated that the vision: "The county is to be a county that provides a great quality of life for its citizens and provides a county where the citizens can live, learn, work, play and shop in safety and comfort and where the quality of life is the plan's cornerstone." He stated that the county had a choice of lifestyle with the unincorporated county and the five municipalities. He stated that discussions also included rural character, transportation, regional development and development patterns. He continued with discussions about the land use plan and the two options for the Comprehensive Plan. He stated that perception of the public was that the county was developing too quickly and densely which was increasing traffic. He stated that there was concern of the citizens that the county was losing its rural character. He stated that in the current plan there are three major land use categories; low density residential (1 unit per 1 to 2 acres), rural residential (2 to 3 acres) and a five acre area at the southern portion of the county. He stated that the

recommendation was to go with four land use categories; low density residential at one unit per one acre, rural residential two at one unit per two acres and a rural residential three at one unit per three acres and the five acre would remain the same. He stated that the Planning Commission had recommended staying with the original land use plan to be approved by the state. He stated that the Planning Commission did not feel there was adequate time to take into consideration all the changes. He continued the presentation and provided recommendations. He stated that there were some typos in the plan. He stated that the table on page 70 regarding the fire stations and equipment was updated with corrections to the dates and locations of the stations. He stated that on page 71 there were some duplicate paragraphs that were removed and on page 141 there was some areas that were left blank. He stated that the area of the county was 127,726, sewers are roughly 36,447 acres at 29% of the county and the unincorporated area was 91,279 acres.

Chairman Maxwell asked for the Planning Commission's recommendation. Mr. Frisina stated that the Planning Commission's recommendation was to stay with the original land use plan and the original residential categories. Chairman Maxwell stated that was a three to one vote. He asked Mr. Frisina if he was consistent with that vote. Mr. Frisina stated that he worked with the Steering Committee so his recommendation was to go with the Steering Committee and staff's recommendation which was the second option.

No one spoke in favor.

Rod Wright stated that after his review of the proposed plan he noticed the change of one additional zoning which was inconsistent with what the Board wanted in May of 2016 in keeping this area R-70.

Commissioner Brown stated that he served on the Steering Committee. He stated that the one of the unique items of the Comprehensive Plan was commitments regarding the cities as well as unincorporated Fayette County. He stated that he would like to share the information that was gathered with the municipalities. He stated that one of the goals was to protect rural character which was the hallmark of the county. He stated that he was looking at protecting the rural corridors, paying attention to traffic flow and the nexus of traffic flow with land use. He stated that older subdivision covenants had either expired or are about to expire. He stated that when that happened there would be no enforceability on certain covenants. He stated that if the county's ordinances did not cover the issues there would be problems. He stated that road side appears was another concern and so was the fate of the Fayette Pavilion shopping center. He stated that the committee looked at how the land use affect transportation and affect traffic flow and that would be protected with the second map shown.

Commissioner Oddo stated that if the old version was approved could the Board go back in two months and adopt the new version.

Mr. Frisina stated that staff has to submit the plan to Atlanta Regional Commission (ARC) and the Department of Community Affairs (DCA) so during that process there cannot be any changes. He stated that after June 30 there can be changes made.

Commissioner Oddo stated that it was a lot of information to read. He stated that he had some concerns expressed to him from a member of the Planning Commission that it wasn't that he was opposed to the plan, but that he wanted more time to review the plan. He stated that he would like to give the Planning Commission more time and to allow them to look at this again.

Vice Chairman Ognio stated that with the new plan the Planning Commission could go back and look at it again and make some adjustments if needed. He stated that he was not a big fan of the commercial lot off of the East Fayetteville

Bypass because he did not want to see it built up commercial along the bypass. He stated that he liked the rest of the plan. He stated that there was a lot of useful information in the plan and he can tell a lot of time was spent on the plan.

Commissioner Charles Rousseau stated that he shared some of Vice Chairman Ognio's observations. He stated that particularly regarding looking at the issue of senior services and the growth that was occurring with the senior population. He stated that it was interesting to look at the lack of greenspace and recreation amenities. He stated that there was work to do and money to spend in making a commitment to add the services to enhance citizens' quality of life. He stated that not only in keeping the rural character but also in service delivery. He stated that he knew a great deal of work went into creating the Comprehensive Plan and that he did not portend to know that the Board cannot go back and make changes.

Chairman Maxwell stated that in the supporting documents there were 52 names on the list. He read the list of stakeholder groups involved in the plan. He stated that unfortunately the Board was under a time crunch. He stated that he wanted the Planning Commission to know that their work was appreciated. He stated that he was in favor of the second map, option two.

Commissioner Oddo stated that either way the Board decided there can be changes. He stated that he would like to give the Planning Commission more time and have it come back to the Board.

Mr. Frisina asked if the Board wanted to review the intersection that Vice Chairman Ognio mentioned. The Board reviewed further.

Commissioner Brown moved to approve the Fayette County Comprehensive Plan 2017-2040 as submitted by staff using the Steering Committee plan and going to low density residential. Vice Chairman Ognio seconded. The motion passed 5-0. A copy of the request, identified as "Attachment 6", follows these minutes and is made an official part thereof.

CONSENT AGENDA:

Commissioner Brown moved to approve the Consent Agenda as written. Commissioner Rousseau seconded. Vice Chairman Ognio mentioned that a new chart was included on the dais for item #6. Commissioner Brown amended the motion to include the new chart. Commissioner Rousseau amended the second. The motion passed 5-0.

6. **Approval of Resolution 2017-07 to adopt the Fayette County 2016 Annual Report on Fire Services Impact Fees (FY2016), including Comprehensive Plan amendments for updates to the Capital Improvements Element and Short-Term Work Program (FY2017-FY2021.) A copy of the request, identified as "Attachment 7", follows these minutes and is made an official part thereof.**
7. **Approval of the draft contract between the Georgia Department of Transportation and Fayette County for the Fayette County Master Path Plan study (GDOT PI # 0015075 / ARC Project # FA-356). A copy of the request, identified as "Attachment 8", follows these minutes and is made an official part thereof.**
8. **Approval of staff's recommendation to approve the bid from Peek Pavement Markings, LLC for Bid #1280-B Roadway Striping Services in the amount of \$92,104.00. A copy of the request, identified as "Attachment 9", follows these minutes and is made an official part thereof.**
9. **Approval of the April 13, 2017 Board of Commissioners Meeting Minutes.**

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

OLD BUSINESS:

10. **Consideration of staff's recommendation to approve Ordinance 2017-07 to repeal the Stormwater Utility. This item was tabled from the April 13, 2017 Board of Commissioners meeting.**

Mr. Davenport stated that the Board was looking at the issue of repealing the Stormwater Utility ordinance and there was an issue of whether that could interfere with collection of delinquent fees. He stated that rather than repealing the fee wholesale the Board asked him to come back with a document that would have the effect of protecting the ability of the County to collect the delinquent fees. He stated that he was proposing to add a section to the Stormwater Utility ordinance section 28-199 which would have the effect of keeping that portion of the Stormwater Utility code viable for the collection of delinquent fees, but not viable for the assessment of new fees post April 25, 2017. He stated that a sunset provision was added as of December 31, 2017 for the entire Stormwater Utility code to go away. He stated that it was up to the Board to make the effective date as approaching December if the delinquent collections was not what the Board anticipated, then the Board had the ability to move that date farther out.

Vice Chairman Ognio moved to approve Ordinance 2017-07 to repeal the Stormwater Utility as presented.
Commissioner Oddo seconded.

Commissioner Rousseau stated that he wanted to be clear that he still wanted to have conversations about how to go about collecting the outstanding balance.

Mr. Davenport stated that he recommended putting it on a tickler system so that in October or November at the latest it comes back up again.

Mr. Rapson stated that he would have recommendations at the May 11 meeting on how to address those concerns.

Commissioner Brown stated that the County needed to set money aside for future years so that there would not be a need for a Special Purpose Local Option Sales Tax (SPLOST) again to repair all the damaged stormwater systems because the pipes do have a shelf-life and will decay again. He stated that there needed to be a line item to replenish the stormwater infrastructure in the future.

Vice Chairman Ognio moved to approve Ordinance 2017-07 to repeal the Stormwater Utility as presented.
Commissioner Oddo seconded. The motion passed 5-0. A copy of the request, identified as "Attachment 10", follows these minutes and is made an official part thereof.

NEW BUSINESS:

11. **Consideration of the award of RFP #1226-P, SR 74 Comprehensive Corridor Study to POND & Company for a lump sum amount of \$296,000 (GDOT PI No. 0015076 / ARC Project No. FA-357).**

Mr. Mallon briefed the Board that this item was a follow up to the State Route (SR) 74 Corridor Study which was a federally funded ARC project in conjunction with several other local governments. He stated that an RFP was posted and seven proposals were received and reviewed. He stated that this one was ranked higher than all others. He stated that the Gateway Coalition for this project asked if there were some easy recommendations for projects to look at early on to continue building momentum and progress along the corridor.

Mr. Rapson stated that approach should go through the Transportation Committee for their adoption. He stated that there are funds set aside for the SR 74 Corridor projects. He stated that he wanted to mention that there was a request of \$17,000 from the South Fulton Community Improvement District to be allocated in addition to the funds set aside even though the budget for the project was larger than the actual contract.

Chairman Maxwell stated that he wanted staff to address why the low bid was not the chosen contract.

Mr. Rapson stated that stated that the RFP was weighed through an RFP process where 70% was weighted on the technical review of the committee. He stated that the committee members rated based on "project understanding, team experience schedule and quality of written proposal". He stated that in this case POND rated the highest. He stated that next the committee looked at price and POND was rated 26.2 and based on the best proposal including technical scores and cost, POND was selected.

Commissioner Brown stated that obviously there was a big difference in scores for "quality of written proposals". He asked staff what those differences would include.

Mr. Mallon stated that it would vary by each person that was scoring. He stated that he could only speak on his personal evaluation and sometimes that would include good use of graphics, the presentation of the proposal and spelling and grammar. He stated that he reviews the proposals to determine how well the message came across.

Commissioner Rousseau stated that there should be a clarification that there was a provision. He stated that lowest responsible and responsive bidder was not always the lowest price. He stated that staff needs to be careful that the scope and outline was quantitative as opposed to subjective. He stated that if staff was able to ensure him of that then he was prepared to vote on the item.

Mr. Rapson stated that one thing done, as a County, was to have in-house training on this process. He stated that some raters are tough and some are easy, but there was a need for consistency.

Commissioner Rousseau stated that he did not want it to linger that the County was accepting the higher bid when there was a lower bid. He stated that there were reasons behind that.

Mr. Rapson stated that the process was more interesting if it was a state or federal procurement. He stated that the price proposals aren't opened until after the technical scoring and if the first one opened was one that could be lived with, then the others aren't opened at all. He stated that there would be more such proposals as staff goes through the SPLOST process because most of the transportation projects are tied to federal dollars.

Commissioner Rousseau stated that the training was critical in these type situations.

Vice Chairman Ognio stated that there was seven bids which was great. He stated that he also looked at the fact that there were five bids higher than the bid being recommended. He stated that he was not always for taking the lowest bid because sometimes it can be more trouble than good. He commended staff on getting it to this point.

Chairman Maxwell stated that he looked at the score sheets and he accepted the numbers for what they are. He stated that there was a difference of \$20,000 that the Board would go to the next higher bidder. He stated that he saw what happened with the unfortunate event with the school board when something like this occurs.

Mr. Rapson stated that was not the first time the concern was raised. He stated that if the County was to select a company with a low technical score there may not be a savings because the change orders may exceed that amount. He stated that he would be more concerned if the evaluators did not have the skill set for the evaluation and that was not the case.

Chairman Maxwell stated that the highest one was \$387,000 and the lowest was \$278,000 which was around a \$100,000 difference on a relatively small contract. He stated that there were two that were relatively low and five that are much higher.

Commissioner Oddo stated that one of the issues was also quality. He stated that he would be concerned if the price difference was much more. He stated that the second lowest was being recommended and going with the lowest bid does not mean that they would do the best job.

Vice Chairman Ognio stated that the project team experience and scheduling are two key things.

Commissioner Rousseau moved to approve award of RFP #1226-P, SR 74 Comprehensive Corridor Study to POND & Company for a lump sum amount of \$296,000 (GDOT PI No. 0015076 / ARC Project No. FA-357). Vice Chairman Ognio seconded. The motion passed 5-0. A copy of the request, identified as "Attachment 11", follows these minutes and is made an official part thereof.

12. Consideration of the Town of Tyrone annexation of 1919 and 1925 SR 74 North and the rezoning of said property from R-70 (Single-Family Residential) to O-I (Office-Institutional).

Mr. Frisina briefed the Board on this item. He stated that this property was located on SR 74 with two small lots with a house on each lot. He stated that it was almost totally surrounded by the Town of Tyrone. He stated that the proposal was to annex the property and rezone to Office-Institutional. He stated that it was currently zoned residential and remains in the low density residential category on the current land use plan. He stated that the law states that we had to determine if there was a material burden. He stated that he did not see a material burden on the county with the annexation of these two parcels. He stated that even though there was a change in land use zoning and/or land use density, he did not see a need to object. He stated that his recommendation was for the County not to object to the annexation.

Commissioner Brown asked if there was an intended developer.

Mr. Frisina stated that what he gathered from the Town of Tyrone Planner was that at this time it was to convert the two homes into offices.

Commissioner Oddo moved to not object to the Town of Tyrone annexation of 1919 and 1925 SR 74 North and the rezoning of said property from R-70 (Single-Family Residential) to O-I (Office-Institutional). Commissioner Brown seconded. The motion passed 4-0-1. Commissioner Rousseau stepped out of the meeting. A copy of the request, identified as "Attachment 12", follows these minutes and is made an official part thereof.

13. Consideration of the City of Fayetteville annexation of 1373 SR 85 North and the rezoning of said property from A-R (Agricultural-Residential) to C-3 (Highway-Commercial) and of 135 and 145 Walker Pkwy including an

undeveloped lot between 121 and 135 Walker Pkwy and the rezoning of said properties from C-H (Highway-Commercial) to C-3 (Highway-Commercial).

Mr. Frisina briefed the Board on this item. He stated that the A-R lot located on SR 85 was the three lots along Walker Parkway. He stated that the area was land use for commercial. He stated that the three buildings currently on the property would be demolished and the plan was to have a shopping center in the area. He stated that he could not find a material burden being placed on the county from this annexation/rezoning. He stated that it was a similar land use of what the county entertains for the area. He identified a portion of property that came up for rezoning a while back and was withdrawn and it was denied annexation by the city. He stated that at the time he talked to the property owners and they requested that a privacy fence be placed along the property line which was being considered as a condition. He stated that he spoke to the city when the annexation came through and he made the same suggestion and he would make it again. He stated that there was also discussion with the City of Fayetteville Public Works Director to work out an agreement to take over the administration and maintenance of the roadway. He stated that if the annexation takes place and both jurisdictions are agreeable that would be done through a transfer of the right-of-way after the annexation. He stated that he recommends the County does not object to this annexation.

Commissioner Oddo moved to not object to the City of Fayetteville annexation of 1373 SR 85 North and the rezoning of said property from A-R (Agricultural-Residential) to C-3 (Highway-Commercial) and of 135 and 145 Walker Pkwy including an undeveloped lot between 121 and 135 Walker Pkwy and the rezoning of said properties from C-H (Highway-Commercial) to C-3 (Highway-Commercial) and that the City of Fayetteville consider adding the privacy fence to the residential property. Commissioner Brown seconded.

Vice Chairman Ognio stated that he wished the City of Fayetteville could use the TAD areas instead of adding the strip malls up and down SR 85. He stated that they do not stay occupied.

Commissioner Brown stated that three of the properties are already zoned commercial under the county and that it was important that the City of Fayetteville wants to sell the TAD the make them work, then they will need to stop producing shopping centers everywhere else.

Commissioner Oddo moved to not object to the City of Fayetteville annexation of 1373 SR 85 North and the rezoning of said property from A-R (Agricultural-Residential) to C-3 (Highway-Commercial) and of 135 and 145 Walker Pkwy including an undeveloped lot between 121 and 135 Walker Pkwy and the rezoning of said properties from C-H (Highway-Commercial) to C-3 (Highway-Commercial) and that the City of Fayetteville consider adding the privacy fence to the residential property. Commissioner Brown seconded. The motion passed 5-0. A copy of the request, identified as "Attachment 13", follows these minutes and is made an official part thereof.

14. Consideration of the City of Fayetteville annexation of 0.96 acres and the rezoning of said property from R-20 (Single-Family-Residential) to C-3 (Highway-Commercial). This subject property is a portion of a 28 acre parcel fronting on Ellis Road.

Mr. Frisina stated that this was the J & R Clothing shopping center. He stated that there was a new proposal that the City of Fayetteville was reviewing to redo the shopping center and put in a grocery store. He stated that the annexation was for a 75 foot strip that was 75 feet deep and 500 feet long. He stated that the required buffer was 75 feet. He stated that the property would become the buffer for the shopping center. He stated that he did not see a material burden on the county although there was a change in the land use and density. He stated that his recommendation was to not object.

Vice Chairman Ognio stated that the strip would be purchased by the people who own the J & R Clothing. Mr. Frisina stated yes it would be added into the property.

Vice Chairman Ognio moved to not object to the City of Fayetteville annexation of 0.96 acres and the rezoning of said property from R-20 (Single-Family-Residential) to C-3 (Highway-Commercial). This subject property is a portion of a 28 acre parcel fronting on Ellis Road. Commissioner Brown seconded. The motion passed 5-0. A copy of the request, identified as "Attachment 14", follows these minutes and is made an official part thereof.

15. Discussion regarding a request from the Fayette County Republican Party to reverse the Board of Commissioners' decision to seek attorney's fees from the Petitioners in regard to their efforts to remove Marilyn Watts from the Board of Elections.

Chairman Maxwell stated that he would recuse himself from the discussion and vote on this item. He stated that he currently represents Marilyn Watts on a case and that he had known her for 25 years. He stated that he had also represented Lane Watts, the son of Marilyn Watts, about a year ago.

The Board recessed at 8:59 p.m.

The Board reconvened at 9:06 p.m.

Attorney Mr. John Sparks stated that he was appointed by the County to represent Marilyn Watts. He stated that he read the letter presented by Scott Fabricius and the Republican Party. He stated that he sees this as a family fight between the Fayette County Republican Party. He stated that this action started with a petition that was not verified as required by law. He stated that he took Mr. Fabricius' disposition in 2014 and he asked him did he have any personal knowledge of the allegation contained in the petition and he stated no because he was not here in 2011. He stated that he raised the issue of the petition not being verified and two days after doing so he received a petition that was signed by Mr. Fabricius. He stated that the petition said that the allegations contained in the petition are true, except for those things upon information. He stated he reviewed the petition and nothing was upon information. He stated that Mr. Fabricius' attorney Mr. Hobbs stipulated that Mr. Fabricius had personal knowledge of anything contained in the petition which was in contradiction. He continued to explain the information in this case in reference to the letter provided by the Republican Party. He stated that there was \$30,000 spent on a law suit. He stated that the County should "make the people who brought the frivolous law suit reimburse the citizens of Fayette County."

Fayette County Republican Party Chairman Tyrone Jones stated that he was present to request that the County Commissioners reverse the decision to seek attorney's fees from the petitioners in regards to their efforts to remove Marilyn Watts as the Fayette County Republican Party's representative to the Board of Elections. He stated that there should be no debate about this request in light of the decision by the Administrative Judge, who based on the evidence presented, found Mr. Lane Watts was guilty of voter fraud. He stated that it was the cover up of that fraud that prompted the Fayette County Republican Part to seek a replacement for Ms. Watts. He stated that with all due respect to the Board, this was not the first time that the Board of Commissioners improperly involved itself in the internal workings of the Republican Party relative to the appointments to the Board of Elections. He stated that the Republican Party had the authority to appoint and/or replace its representative and it was the sole duty of the Board to recognize or certify that decision. He stated that Ms. Watts lost her appeal with the GOP at every level. He continued to explain the history of this case to the Board. He stated that if the Republican Party decided to make a change and it was improper for the County to pay an attorney to fight that decision. He stated that moreover, to suggest that the County should pay her fees because she was acting in the course and scope of her employment was not sure. He stated that Mr. Sparks during the

course of the litigation called him and requested that he drop the lawsuit and to reappoint her to the Board of Elections. He stated that he believed without a doubt that was unethical and should not have happened.

Republican Party Second Vice Chairman Bob Ross stated that Mr. Sparks' comment about this being a family feud diminished the scope of what was being discussed. He stated that he personally served as an investigator in the Fayette County Republican Party during the presidential primary a few years ago when Ms. Watts was supporting the numbers and the question was raised if it was appropriate. He stated that in the course of his investigation he determined that Ms. Watts was not doing that in her capacity as a member of the Election Board, but as a private citizen and he recommended that she be found not guilty. He stated that one month ago the Republican Party held its county convention and both Lane and Marilyn Watts were elected as delegates for the GOP District Convention and alternates for the State Convention and that was done without any interference from any party member. He stated that to say it was a family feud was improper. He stated that he was also present to ask the Board to reverse the decision to seek attorney fees from the petitioners. He briefed the Board on information regarding this item. He stated that after the redistricting Lane Watts' residence was redistricted to the thirteenth district. He stated that three weeks later Mr. Watts submitted a voter registration change of address form to the Board of Election transferring his home to the rental home in Peachtree City. He stated that the matter was forwarded to the District Attorney. He stated that the petitioners appeared before the State Elections Board and also advised that body of what had transpired in Fayette County. That Board directed the Fayette County Office of the Attorney General to perform an independent investigation on the matter. He stated it was that investigation that resulted in the Lane Watt's conviction of voter fraud. He stated that the appointment of Marilyn Watts to the Board of Elections was invalid because Lane Watt's voter registration was invalid at the time he made the appointment.

Attorney Scott Fabricius referenced the letter that was sent to the Board of Commissioners. He stated that the respondent's motion for attorney's fees was based on two theories, neither supported legally or factually. He stated that the first theory, that somehow perjury was committed in the verification of pleadings, should be initially noted that the requirement of verification under Rule 11 is a statement from the person making the verification that the contents of a pleadings, in this case the petition, are true to his knowledge as except in those matters stated information and belief those matters are believed to be true. He stated that was the exact language used in drafting the verification in this case. He stated that the Respondent suggests that because the petition did not contain the words that it was based on "information and belief" that the signing of the verification constituted perjury since the person who signed the verification did not have personal knowledge of all the content of the petition. He continued to explain the case to the Board. He stated that for Mr. Sparks to suggest that the Board already has \$30,000 that is incorrect. He stated that the Petitioners intend to appeal if the Board does not vote to reverse their decision. He continue to brief the Board on information in this case. He stated that voting was one of the most sacred rights and it was abhorrent when there was even the appearance of improprieties in the actions of the Board of Elections. He stated that we should encourage citizens to hold public officials accountable and not seek to punish them when they do.

Vice Chairman Ognio stated that the Board was not here to be a legal arm, but to only make a decision on the legal fees.

Mr. Davenport stated that he heard from Chairman Jones and Mr. Fabricius that the county interfered. He stated that the appointment to replace Marilyn Watts was on the agenda and that was not interference. He stated that it was only after a temporary restraining order was filed by Mr. Sparks and Ms. Watts that the Board did not go forward with the appointment and that was not interference, but instead respect for the judicial system. He stated that Mr. Sparks put the County on a temporary restraining order because the County was part of the process. He stated that the County does not approve anything, but only certifies. He stated that it was the Republican Party that makes the appointment and the County certifies the appointment. He stated that he has had no conversation at any point with Chairman Jones. He stated that he did have a conversation with Mr. Fabricius and he explained to Mr. Fabricius that the county did not have

a “dog in this fight”. He stated that the county had no duty to argue because the County was listed on the temporary restraining order because the County certifies the appointment. He stated that the County simply respected the judicial system.

Commissioner Rousseau stated that he found that his colleagues had recused themselves at different points during this matter. He stated that the Board was dealing with an issue that the courts had dealt with. He stated that the court preceding had been rehashed at this meeting. He stated that the court had made a ruling in one of the rulings was for the Board to exercise the right to seek reimbursement of attorney’s fees. He stated that he read the letter that was received from the Republican Party, he pulled minutes from previous meetings that lead up to this discussion and he was at a point where the Board has in good faith acted on the behalf of the citizens of the county. He stated that he was confused about why this was on the agenda because the Board had already voted on this issue. He stated that nothing that came before the Board was anything new. He stated that procedurally he had some issues with rehashing an item that had previously been voted on. He stated that he was perplexed because the Board was being asked to stay out of an issue that got out of control. He stated that the Board was to be good stewards of the tax payer’s dollars.

Vice Chairman Ognio stated that the fact that the Board received a letter from the Republican Party and needed to reply to the letter needed to be done with the consent of the entire Board. He stated that could not be done without putting it on the agenda. He stated that this was not court and the Board was not making a judgement of right, wrong or indifferent on either side and was instead responding to a letter that was sent.

Commissioner Oddo stated that the Board’s duty was to the entire county and not a particular group. He stated that the court gives the Board a method to come to a conclusion or resolution and that was what happened. He stated that when the Board agreed to pay the charges, Ms. Watts agreed to repay the county if she lost. He stated that he could not see how this matter should come to the Board and not continue its conclusion in the court. He stated that at this point he was comfortable letting this proceed. He stated that nothing was said that was different from the past.

Commissioner Brown stated that there were plenty of findings in this case. He stated that the Board had to consider if there was no clear effort to be frivolous or create some extraordinary nuisance by raising a concern over a governmental official then he would highly caution the government from snapping back after those people because it creates a chilling affect that says, “if you talk against me you will face the penalty”. He stated that the government has lots of money and that was why the government has to be extremely cautious on going back on things like this. He stated that if there was any validity at all then the Board needs to pay attention. He stated that Mr. Sparks did file for dismissal and he believe that the Superior Court rejected that. He stated that when the case was presented to the Chairman of the Republican Party saw enough merit to send the case to the District Attorney. He stated that the District Attorney saw enough to elevate it to the Secretary State who then sent it to the Attorney General’s Office. He stated that the Attorney General’s Office saw enough creditable evidence to take it to trial and that judge ruled guilty. He stated that there was enough “cloudy stuff” to be careful to say that the Board will go after citizens who raise a complaint. He stated that if the Petitioners appeal and win, the County would be out of a lot of extra money. He stated that if lane Watts was found in violation then he would have to deem that he was not a valid elector at that point and if he was not a valid elector and made the Chairman of the Republican Party, then he was an invalid Chairman of the Party and his appointment would then be an invalid appointment. He stated that the person that has the most voter registration and training in the history of Fayette County was Marilyn Watts. He stated that the importance of that was because she was unable to answer questions regarding voter registration and the penalties concerning that. He stated that this case was not frivolous. He stated that the Board should not go after the citizens because it was pursuing people’s individual liberties, freedom of speech and their right to petition grievances with local government. He stated that the Board should err on the side of caution in those situations.

Commissioner Rousseau stated that it appears that the situation that caused this happened in the reverse. He stated that it should have been the "Lane situation" before the "Marilyn situation". He stated that he spent a reasonable amount of time cultivating healthy relationships with Party members and he view them as citizens. He stated that the comments in response to the "Lane situation" are extremely valid, chilling and troubling. He stated that however what brought the Board to seeking the fees had to do with Marilyn Watts's case which was before the "Lane's ruling." He stated that he shared some of the things said about the effect that the Board could vicariously be sending. He stated that the Petitioners went forward with the case and chose that route and the Board had to make a decision as well.

Commissioner Brown stated that the situation with Ms. Watt's son was well in advance of Lane Watts' case. He stated that it just took the process that long.

Commissioner Rousseau stated he was only dealing with the ruling of attorney's fees.

Commissioner Brown stated that if there was an obligation from government that if there was any merit to the case the Board should at least give them the benefit of doubt.

Commissioner Rousseau stated that if the process was still going forward with appealing the judge's ruling on attorney's fees then let it all play out.

Commissioner Oddo stated that the Board does have a fiduciary responsibility to citizens. He stated that there was two sides and that was why it was going to the court and the Board should not be changing things now. He stated that the court should handle this.

Commissioner Brown moved to refrain from any movement from receiving legal fees and "chalk it up" to protecting the liberties and openness of the system and telling the citizens that they do have a right, without threat, of petitioning their local government. The motion died for lack of second. The original decision stands.

Vice Chairman Ognio stated that it was hard to sit as a member of the Republican Party and knowing that three of them are members of the Party, and that he understands Commissioner Brown's point and that the Board had to look at the ruling. He stated that the Board had a fiduciary responsibility, but that he looked at this and wondered how it would look if a special interest group that three of them was involved in asked for something special would they do it just because they are part of the group. He stated that this had put the Board in a weird situation that no one wanted to be in.

Commissioner Brown stated that he wanted to be certain it was clear that the Watt's verdict in the State Court was after the Board made the other decision. He stated that in fairness to the petitioner in this case there had been more evidence. He said for the record, "I would do this for the Democratic Party, I would do it for the Libertarian Party, I would do it for the Communist Party; anybody who petitions the government and as a decent grievance...something that is just not extraordinarily frivolous they have my full support. I will not allow the government to pursue them back."

Commissioner Rousseau stated that he could not allow that comment go forward as though he would not. He stated that speaking for himself he would defend that right, but he would also say the Board had a duty to be accountable when things are not comfortable. He commended Chairman Ognio for his comments because of the very difficult compromising position; yet he was able to wade through it.

A copy of the request, identified as "Attachment 15", follows these minutes and is made an official part thereof.

Chairman Maxwell returned to the dais.

PUBLIC COMMENT:

Public Arts Committee Chair Donna Thompson made comments regarding Vice Chairman Ognio's comments from the April 13, 2017 Board of Commissioners meeting regarding Martin birdhouses and the birdhouse project, Easter projects and the using of gift cards for prizes for the Public Arts Committee. She stated that the committee had kicked off the birdhouse project and it was doing well. She stated that Martin birdhouses are more expensive and the committee hopes that maybe an Eagle Scout project would get behind the Martin houses. She stated there are 80 birdhouses, 35 of the 80 have been donated and registered. She stated that 17 had gone to Southern Conservation Trust, 14 went to Tyrone and she was still holding three of them to go to public spaces. She stated that Martins are not the only birds that aid in the control of mosquitos. She stated that the committee did not pursue any Easter event because the county was saturated with Easter events. She stated that the cities and churches have them. She stated that in regards to going to gift cards for prizes. She stated the committee had a lengthy discussion on this and the thought was that it would elevate the competition and get more people involved because people would go for money. She stated that last year they had a hard time getting the gift cards donated.

Roy Bishop made comments regarding the West Fayetteville Bypass and the mowing on the county roads in the north end of the county and near his home. He stated that during the last meeting the Board talked about cutting grass. He stated that he was unable to determine if the discussion was to cut grass on the State roads. He stated that the Board should look at some of the county roads at the north end of the county because nothing had been done as far as cutting the grass. He stated that Commissioner Rousseau was the only one that had come out to view the new bridge. He stated that it looked good on top but it was never completed like the prints. He stated that Phillip said that he had to cut the grass three times a year, he stated that he would like to know how many of the Commissioners could get by with only cutting the grass three times a year in the growing season.

Board of Election Member Aaron Wright thanked the Board members who attended the Board of Elections meeting. He stated that the Board of Elections had gone through an overhaul and the Board of Elections are in the process of rebuilding the public's trust in the office. He stated that they were proud of Elections Supervisor Floyd Jones and that he was doing a phenomenal job as well as the rest of the staff. He stated that the Board of Elections are continuing to look at redrawing the precinct lines and they would keep the Board informed.

ADMINISTRATOR'S REPORTS:

West Fayetteville Bypass

Mr. Rapson stated that the Notice to Proceed for the West Fayetteville Bypass had moved to June. He stated that staff cut 279, 314 and North 85 that was approved to enhance that grass cutting, but had not addressed the county area.

Accolades to Mr. Jones

He stated that he also thought Floyd was doing an outstanding job.

Coweta County mowing contract

Commissioner Rousseau asked for an update regarding the mowing contract. Mr. Rapson stated that the letter to Coweta County had gone out to terminate the contract.

Selection Committees

County Administrator Steve Rapson stated that he needed a Selection Committee for the Planning Commission.

Commissioner Rousseau moved to appoint Commissioner Brown and Chairman Maxwell to the Planning Commission Selection Committee. Commissioner Oddo seconded. The motion 5-0.

Mr. Rapson stated that he needed a Selection Committee for the Board of Assessors. Commissioner Brown moved to appoint Commissioner Rousseau and Chairman Maxwell to the Board of Assessors Selection Committee. Vice Chairman Ognio seconded. The motion passed 5-0.

Highway 54 utility relocate

Mr. Rapson stated that he received a notification from Georgia Department of Transportation in regards to the Highway 54 utility relocate. He stated that they put out a bid and received quotes. He stated that the Board originally approved up to \$1,289,446 and the actual contract amount was \$1,124,653.05. He stated that the Board had already taken action on this but now the County had received an invoice so there would be a check released.

Purchase of mowing equipment

He stated that the Board approved staff to procure equipment for the right-of-way state route and to purchase equipment up to \$225,000. He stated that there was a state contract where all five of the equipment was on a state contract and the aggregate for all the pieces of equipment combined to Sun South was \$204,652,012. He stated that it was good that it was under \$225,000 but that it was bad that it breached \$200,000 because that was his cap for approvals and so he would need the Board to approve. Commissioner Rousseau moved to authorize the Chairman to execute the contract for the purchase of the mowing equipment that was approved at the April 13, 2017 Board of Commissioners meeting. Commissioner Oddo seconded. The motion passed 5-0.

Retreat

He reminded everyone that the retreat would be held on May 3 and 4 and the Board can pick up the retreat packages Thursday at noon.

ATTORNEY'S REPORTS:

Notice of Executive Session: County Attorney Dennis Davenport stated that there was one item of pending litigation and for review of the Executive Session minutes for April 13, 2017.

COMMISSIONERS' REPORTS:

Vice Chairman Ognio:

County branding initiative

Vice Chairman Ognio stated that he attended the reveal of the branding for Fayette County. He stated that the new tag was "Create Your Own Story, Fayette County, Georgia". He stated that "They said Fayette County had a lot of history so that was why they wanted people to create their own story." He stated that he was not sure how the Board would address this and if it would become something that the County would use and how to use it. He stated that it would need to be placed on an agenda. He stated that he just wanted the citizens to know.

Mowing

He stated that the mowing of the State right-of-ways would increase the mowing on the county roads because there was more equipment and staff would section off quadrants were the equipment would be used and therefore more mowing.

Commissioner Brown:

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

Commissioner Brown stated that he received a letter from GDOT and it was a response to a letter that he wrote as Chairman in 2014 about the round-a-bouts on Highway 92. He stated that he asked that a copy be placed in the Commissioners' mailboxes.

County branding initiative

He stated that a lot of people think the logo was all there was to the branding campaign. He stated that it was not it and that there was an entire three year marketing campaign with explicit instructions on what the local jurisdiction would do, how business could participate and how private citizens could participate through social media. He stated that he would ask that the County would start incorporating the new brand before making reorders of business cards and things of that nature.

Commissioner Oddo:

Commissioner Oddo thanked everyone for attending.

Commissioner Rousseau

Mowing staff

Commissioner Rousseau asked staff when the Board would receive the update on the staff for the mowing. Mr. Rapson stated at the May 11 meeting. He stated that it was a huge thing for the residents to see that the County was responding and that their communities are being maintained.

Thank you to Elections Board

He stated that he wanted to say, "thank you" for the comments from the Board of Elections especially with the work that was being done. He stated that he agreed that Floyd was a great addition.

Chairman Maxwell

Chairman Maxwell stated that last week he wrote an email that said he would write a letter to GDOT if the issue with the Highway 54 speed limit had not been resolved. He asked Mr. Mallon if that was resolved. Mr. Mallon stated that he would recommend holding off because a work order had been entered by GDOT.

EXECUTIVE SESSION:

One Item of Pending Litigation and Review of the April 13, 2017 Executive Session Minutes: Commissioner Brown moved to go into Executive Session. Vice Chairman Ognio seconded. The motion passed 5-0.

The Board recessed into Executive Session at 10:41 p.m. and returned to Official Session at 10:53 p.m. Chairman Maxwell was absent following Executive Session.

Return to Official Session and Approval to Sign the Executive Session Affidavit: Vice Chairman Ognio moved to return to Official Session and for the Chairman to sign the Executive Session Affidavit. Commissioner Brown seconded the motion. The motion passed 4-0-1 with Chairman Maxwell absent.

Approval of the April 13, 2017 Executive Session Minutes: Vice Chairman Ognio moved to approve the April 13, 2017 Executive Session Minutes. Commissioner Brown seconded the motion. The motion passed 4-0-1 with Chairman Maxwell absent.

ADJOURNMENT:

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

Commissioner Brown moved to adjourn the April 25, 2017 Board of Commissioners meeting. Vice Chairman Ognio seconded the motion. The motion passed 4-0-1 with Chairman Maxwell absent.

The April 25, 2017 Board of Commissioners meeting adjourned at 10:53 p.m.

Tameca P. White, County Clerk

Eric K. Maxwell, Chairman

The foregoing minutes were duly approved at an official meeting of the Board of Commissioners of Fayette County, Georgia, held on the 11th day of May 2017. Referenced attachments are available upon request at the County Clerk's Office.

Tameca P. White, County Clerk