

The Board of Commissioners of Fayette County, Georgia met in Official Session on Thursday, August 22, 2002, at 7:00 p.m. in the public meeting room of the Fayette County Administrative Complex, 140 Stonewall Avenue, Fayetteville, Georgia.

COMMISSIONERS PRESENT:   Greg Dunn, Chairman  
                                  Linda Wells, Vice Chair  
                                  Herb Frady  
                                  Peter Pfeifer  
                                  A.G. VanLandingham

STAFF MEMBERS PRESENT:   Chris W. Cofty, County Administrator  
                                  Carol Chandler, Executive Assistant  
                                  William R. McNally, County Attorney  
                                  Karen Morley, Chief Deputy Clerk

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Chairman Dunn called the meeting to order, offered the Invocation and led the pledge to the Flag.

**REZONING PETITIONS:**

Commissioner Pfeifer remarked at this point in the agenda the Board would consider requests for the rezoning of property in our county. He said the policy required at least two public hearings — the first before the Planning Commission and the second before the County Commissioners. He said at this hearing the Board would listen to the concerns of everyone, whether in favor or opposition to the rezoning petition. He pointed out when a rezoning petition was called, the petitioner or representative for the petitioner would be allowed 15 minutes in which to present the details of the request, followed by anyone who wanted to voice support for the request. He stated that the Chairman would then allow all those individuals who were opposed to the rezoning to stand for a moment to display their opposition. He said the Chairman would then ask those individuals who wished to come to the podium to speak to remain standing so the Board and staff could get an idea of how to allocate its time. He said the Board would allow up to 3 minutes for each speaker. He said when the persons speaking in opposition had finished, the petitioner would be given an opportunity to rebut any of the points raised. He remarked in fairness to all parties, the petitioner would be entitled to equal time to address the Commissioners as all those in opposition.

Commissioner Pfeifer further remarked that these hearings were a part of the permanent record and speaking at the podium with the microphone helped staff with their task of recording comments and ensured everyone being heard. He remarked when it was an individual's turn to speak that they come to the podium, state their name and address and direct their comments to the Board only. He asked that after individuals speak that they sign the sheet that would be provided by the Marshal in order for names to be spelled correctly for the record.

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Commissioner Pfeifer stated that the Board wanted to hear from everyone who had something to say and they would pay close attention to each point raised. He said it would not be necessary for the same point to be raised over and over. He thanked everyone for their participation and announced that the Zoning Administrator would begin introducing each request in the order they appeared on tonight's agenda.

**PETITION NO. 1096-02:**

Zoning Director Kathy Zeitler read Petition No. 1096-02, Kenneth D. and Cynthia J. Reynolds, Owners, Ann Hayes, Agent, request to rezone 6.6006 acres from A-R to C-C to develop retail shops, a bank, and medical offices. She said this property was located in Land Lot 18 of the 6<sup>th</sup> District and fronted on Redwine Road and S.R. 74 South. She said the Planning Commission recommended to deny C-C but to approve as O-I (5-0). She said the Staff recommended to deny C-C but to approve O-I. She remarked that this item was tabled by the petitioner from the July 25, 2002 Commission meeting.

Chairman Dunn interjected that he had received a campaign contribution from Randy Hayes. He said according to the County's Ethics Ordinance he would not be able to discuss this issue or vote on it. He said he would not be participating in this discussion.

Commissioner Pfeifer interjected that he also had been a recipient of a contribution from Randy Hayes to his campaign. He said he would not be able to participate or vote in this discussion.

Commissioner Wells said she would then chair the meeting and asked the agent for petitioner to come forward.

Ann Hayes remarked that she was the agent representing the sale and the rezoning application for this property. She said this property was probably familiar with the Board. She said they realized the Planning Commission did deny C-C and did recommend O-I. She said she wanted to explain why the applicant had wanted the C-C zoning. She said the property across the highway had been rezoned C-C in the last two years. She said that was a plus. She said the Pailer property which was to the left of this parcel was rezoned O-I. She said when the applicants purchased this property in 1986 it was listed in the Land Use Plan as commercial. She said the property had been an old gasoline station. She said this was there when the applicants purchased the property. She said the applicants did not use this as a gas station but let civil air patrol and various other organizations use it on a volunteer basis. She said in 1994 the County changed the Land Use Plan involving this property back to agricultural/residential. She stated at this point there was probably no one truly interested in this property to build a home on. She said the noise and the traffic count was fairly high. She said this was a very busy intersection that had required a traffic light. She said these were the reasons for going with commercial including the services that it would bring the community. She said applicants realized and respected the Planning Commission's recommendation.

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Commissioner Wells asked if anyone wished to speak in favor of this petition. Hearing none, she asked if anyone wished to speak in opposition and if so she asked that they stand up. There was no one present in opposition to this request. She asked for the Board's pleasure in this matter.

Commissioner Frady clarified that applicant was requesting C-C. He asked if this was the only zoning that they wished to occur and Ms. Hayes replied no.

Ms. Hayes replied that applicants wanted to explain why they had originally asked for C-C zoning. She said applicants had not felt that it was extraordinary to request C-C especially with C-C just across the street. She said she had listed this property for sale for several months and had not received any calls except for commercial use. She said there had never been a request to build a home or anything of that nature on the property.

Commissioner VanLandingham stated there had been an environmental concern discussed by Dennis Chase. He said after looking at this further, he felt the O-I would not be as destructive as something else that might go in. He said he saw no objection to O-I.

On motion made by Commissioner VanLandingham, seconded by Commissioner Frady to deny the request for C-C but approve the rezoning for O-I for Petition No. 1096-02. The motion carried 3-0-2 with Chairman Dunn and Commissioner Pfeifer abstaining from the vote. A copy of the staff's analysis and investigation, identified as "Attachment No. 1", follow these minutes and are made an official part hereof. A copy of the Resolution and Ordinance approving Petition No. 1096-02 as O-I, identified as "Attachment No. 2" follow these minutes and are made an official part hereof.

#### **FURTHER DISCUSSION OF PROPOSAL FOR THE DISTRIBUTION OF LOCAL OPTION SALES TAX:**

Chairman Dunn remarked that this year because of the census that came in last year the county would have to redo the Local Option Sales Tax in the County which was a 1% sales tax. He said the Board had to decide tonight what the break out should be of the monies that come from that between the County and the Cities. He said this was the issue for discussion tonight.

Finance Director Mark Pullium said he had prepared a comparison of the actual Local Option Sales Tax distribution as it stands currently to a potential 50/50 split between the County and the respective Cities. He presented a chart to the Board for discussion. A copy of the chart, identified as "Attachment No. 3", follows these minutes and is made an official part hereof. He remarked that the respective jurisdictions were Fayette County, Brooks, Fayetteville, Peachtree City and Tyrone. He said the respective populations based on the 2000 census. He said the population for Fayette County for that census was 91,263. He said the percentages represented were the amounts per the executed sales tax distribution which had been in effect since 1992. He said the percentage for Fayette County was 47.5%, Brooks

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was .6%, Fayetteville was 11.4%, Peachtree City was 35.6% and Tyrone was 4.9%. He said the next column represented the gross digest. He said this represented 40% of the actual assessed value. He said the next column was the Net M&O Digest. He said this was for the year 2001 and it was what was considered to be the taxable digest for 2001. He said Fayette County was \$3,266,658,227, Brooks was \$16,108,862, Fayetteville was \$482,064,209, Peachtree City was \$1,270,272,327 and Tyrone was \$141,801,757.

Mr. Pullium further remarked that in calendar year 2000 the respective amounts that each jurisdiction received of the local option sales taxes was represented in the column entitled Amount of L.O.S.T. He said during the year 2000 Fayette County received \$7,366,893.87, Brooks received \$91,504.58, Fayetteville received \$1,761,850.83, Peachtree City received \$5,527,496.79 and Tyrone received \$761,504.19. He stated that the next column was headed Millage Rollback. He said this was the computed roll back or the amount of mills that the county and the cities were required by law to roll back the mills. He said the equivalent mills that it was for each of the respective jurisdictions was calculated and shown as Fayette County was 0.00226 mills, Brooks was 0.00586, Fayetteville was 0.00365, Peachtree City was 0.00435 and Tyrone was 0.00537.

Mr. Pullium remarked on the next column. He said assuming a home with an assessed value of \$200,000 for each of the respective jurisdictions. He said in the county there was a homestead exemption of \$5,000. He said this amount would be subtracted from the \$200,000 and then multiply that times the 40% assessed value to get \$75,000 which was the taxable amount in the county and \$80,000 in each of the respective cities. He said if the \$75,000 was multiplied by the mills of 2.26 there would be a calculated sales tax credit for every \$200,000 home in Fayette County at \$169.14 from the county. He said in the cities the respective calculated credit in Brooks was \$468.53, Fayetteville was \$292.38, Peachtree City was \$348.11 and Tyrone was \$429.62.

Mr. Pullium remarked that the next column was the amount a city or an individual living within an incorporated area would receive in addition to the city roll back which was the county roll back. He said the \$169.14 would be added to the \$468.53 to get the total credit that an individual with an assessed value home of \$200,000 would receive. He said an individual in Fayette County would have a total credit of \$169.14, Brooks would have \$637.67, Fayetteville would have \$461.52, Peachtree City would have \$517.25 and Tyrone would have \$598.75. He said these were actually the numbers based on the 2000 Local Option Sales Tax and the 2001 Digest. He said this was the way the Georgia law says this must be distributed.

Chairman Dunn said tonight the Board needed to discuss what the percentages should be for the future. He said the explanation that Mr. Pullium had presented was the current distribution and the example used was for a \$200,000. He said the credit that people would get on their taxes would be different based on the value of their home. He said the percentages that the

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county and the cities get were in accordance with the existing local agreement and this was what the Board needed to discuss.

Commissioner VanLandingham commented on the end of the column headed Total Credit. He said after all was said and done, this was the roll back that shows on the tax form that they receive from the Tax Commissioner as to what the individual's taxes roll back.

Mr. Pullium responded that was correct. He said this was the amount that should appear on the tax bills for a \$200,000 home.

Commissioner VanLandingham stated if there was a difference in price there would be a proportionate percentage in the credit and Mr. Pullium agreed.

Mr. Pullium remarked that he was presenting a scenario. He said he was presenting now was a scenario using the same information however it would represent a 50/50 split of the Local Option Sales Tax with the county receiving 50% and the respective cities sharing 50% among them.

Chairman Dunn questioned the percentages shown. He said the figures did not appear to be accurate to him. He said if the county received 50% then the cities would have to get a total of 50% between them.

Mr. Pullium said the numbers shown were for calculation purposes. He said it was the amount of population and that represented the theoretical amount that each of the cities would receive. He said the percentages could not be compared. He said he had done this so that he could determine in the next column the respective amount in theory.

Attorney McNally said these figures were needed in order to make the comparison.

Chairman Dunn said if 50% was listed for Fayette County then all of the figures on the bottom would be cut in half and that would be the percentage that the city residents would get in roll back in total.

Mr. Pullium said he had not presented these numbers for the purpose of determining the same percentage that was at the top. He said he was trying to calculate if there was a 50/50 split and there was 50% of the money going to the county and 50% of the money going to the respective cities then he questioned how much would each city receive based on population of the 50%. He said of the 50% Brooks would receive 1.17%, Fayetteville would receive 23.62%, Peachtree City would receive 66.91% and Tyrone would receive 8.30%.

Commissioner Wells said this would depend on the cities continuing on the same distribution they have done their distribution in the past.

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Commissioner Frady said this would have to be hypothetical because the cities would do their distribution the way they wanted to.

Chairman Dunn clarified that this was just a hypothetical example and Mr. Pullium agreed that it was.

Commissioner Frady said this was the reason he would like to see it done on the percentages at the top so it would be a little more clearer just from the hypothetical end of it.

Mr. Pullium remarked that he was trying to determine the effect of this change by jurisdiction. He said he also presented the Gross Digest or the Net M&O Digest for 2001 for the county and the respective cities. He commented on the column headed Revised Local Option Sales Tax distribution. He said the total amount received in the county during the year 2000 was \$15,509,000. He said under this scenario the county would receive \$7,754,000. He said if the \$7,754,000 was multiplied by the 1.17% then the number would be derived for Brooks. He said the same logic could be used for Fayetteville, Peachtree City and Tyrone. He said these numbers would be based on the respective city's population shares of the 50% for the cities. He said the next column was a revised calculation of the millage roll back. He said those numbers would change a little bit because a different number was being rolled back for each respective jurisdiction. He said the way to calculate this was to divide the Local Option Sales Tax distribution by the Net M&O Digest. He said this would determine the decimal formula. He said if the decimal was moved three places to the right it would result in 2.37 mils.

Mr. Pullium commented on the next column assuming that it was for a \$200,000 assessed value on a home. He said there would be an exemption of \$5,000 for a home in the county and 40% of the \$200,000 would be the taxable amount or \$75,080 respectively. He said the taxable amount would then be multiplied by the new calculated millage roll back and this would determine a new calculated credit in the county of \$178.04, Brooks of \$465.23, Fayetteville of \$303.97, Peachtree City of \$326.78 and Tyrone of \$362.99. He said in the respective unincorporated areas of \$178.04 would be added to the roll back credit received from the city tax roll back. He said this would leave a total credit of \$178.04 for an individual in the unincorporated area. He said Brooks would receive a total of \$643.27, Fayetteville would receive \$482.01, Peachtree City would receive \$504.82, and Tyrone would receive \$541.03.

Mr. Pullium commented on the far right column. He said this column represented the amount of the difference between the present distribution formula and the theoretical 50/50 split. He said the difference of a home of \$200,000 would be that a Fayette County resident would receive \$8.90 more in credit, a Brooks resident would receive \$5.60, Fayetteville residents would receive \$20.49, Peachtree City residents would receive \$12.43 less and Tyrone residents would receive \$57.72 less.

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Commissioner Frady commented that Mr. Pullium was using the amount of money collected in 2000 which was \$15,509,000 but he was using the digest from this year which was \$3,500,000,000.

Mr. Pullium replied no and stated that he was using the digest from 2001 and that was the legal way to apply it. He said he must take the calendar year Local Option Sales Tax collected and roll it back on the next digest year. He said the digest year for 2002 had not been finalized.

Commissioner Frady said he understood. He said Mr. Pullium was using the \$3.2 billion but was using the collections for the year 2000. He asked if this would make a difference because \$750,000 more last year than the year before last.

Mr. Pullium said all he was doing was following the State law. He said the sales tax was collected in a calendar year and then by State law the county was required to roll that back on the next digest year. He said all of the jurisdictions apply this the same way.

Chairman Dunn clarified that at the present time the county's share of the L.O.S.T. was 47.5% and the collective cities share 52.5%. He said the Board needed to decide whether or not to leave this alone or make a change. He said if the Board made a change then a recommendation would be made to Peachtree City. He said the 50/50 split would mean that everybody in the county whether they lived in the city or the county would get slightly more in their county roll back because the county would be taking slightly more as a county share. He said some cities would get slightly less because of the way it was broken out among the cities right now. He said the example that Mr. Pullium was showing was not necessarily what it would be. He said this would be the example if the cities took their 50% share and broke it up simply by population. He said this was based on a \$200,000 home. He remarked that two cities would go down and two cities would go up. He said that was only if the cities among themselves determine to break out the money strictly on population. He said the law required this Board to make an agreement with Peachtree City because they were the largest population. He said once the cities get their share they could break it down any way they wanted to. He said the Board was not proposing to tell the cities what they should do. He said this was just an example. He said the only thing the Board would be doing would be to recommend a total share and the cities among themselves would negotiate each city's share.

Attorney McNally remarked that the example shown would be the minimum that a city who would not assign for anything more or less could be assigned by the two entities who have to sign it.

Commissioner VanLandingham remarked that even after an adjustment to a 50/50 split the people who reside in the unincorporated area would still be getting a lot less than the citizens

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in the cities. He said in the least case they would get over twice as much roll back on their taxes. He said this was a peculiar law that created this tax because it did not allow for fair distribution. He said there was no way that this could ever be distributed fairly to everyone's satisfaction. He said he wanted everyone to understand that this was a consumer tax. He said this tax was not only paid by the citizens of Fayette County but other citizens who come into Fayette County and pay tax on goods that they purchase. He said this was constructed for the express purpose of property tax relief. He said there had been many illustrations and many points of view submitted from points of collection to population. He said after everything was considered you would still have to go back to this total credit. He said you would have to look at that. He remarked that this was a tax that was collected to pay a tax. He said to him this was absurd. He said he had made a purchase last week and he paid \$47 in sales tax on that one purchase. He said this was almost one third of what he would get on a roll back. He said he had 364 more days of shopping to do. He said he was the only member of the Board who lived in the unincorporated part of the county. He said he had been approached recently several times that he represented every citizen in Fayette County. He said the 50% that the county would receive would go to every citizen whether they lived in the county or whether they lived in the unincorporated areas. He said this would be divided among every citizen. He said the cities divide their share among their citizens. He said this comes down to a simple solution of being fair to everybody.

Commissioner VanLandingham further remarked that he has had many discussions with citizens on the Local Option Sales Tax. He said frankly he felt this was a bad tax. He said it was equivalent to someone putting money in a savings account and having to pay the interest instead of receiving the interest. He said he was certain that he pays more than \$178 in sales tax every year. He said he did not get that much in a roll back. He said regardless of what anyone said he was subsidizing other citizens' property tax. He said there were businesses here who did not spend \$10,000 or \$15,000 as far as taxable goods in this county every year but they get thousands of dollars in roll back on their property tax. He said there was no fair distribution on this tax. He said he did not like it but he liked it better when it was equitable. He said he would support a 50/50 split with the understanding that this would be examined again and it would be brought into focus a little clearer and it would be more equitable in the future. He said he just could not understand how anyone could look at this last figure and say that they deserved this much more money than the unincorporated area. He said he just did not believe that they could do that and be honest about it. He said in considering everything that was in the county and everything that was in the cities, everything was Fayette County.

Commissioner Frady stated that he certainly did not disagree with that. He said there had been a meeting between the Board and the cities approximately two weeks ago. He said the cities said they were fairly happy with the way things were at the present time. He said his discussion in that part of the discussion was that he would not accept anything less than the 47.5% that the county was currently receiving. He said he could be persuaded to leave the percentage the way it currently stood. He said he did not know what the Board would do but



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he had no problem with the percentage staying where it was. He stated that this did not mean a lot of money to anyone but it could mean a lot of problems on the way to get there. He said sometimes negotiations are necessary to find out just where it would go. He said these were his feelings on the matter.

Commissioner Pfeifer remarked that he would support what Commissioners VanLandingham and Frady said. He said he understood the situation that Commissioner VanLandingham described. He said this was just something that the Board would have to work through and try and make some sense of. He said it also made it very difficult to calculate the value and distribution of services in the county as well. He said this was the reason that he was leaning toward support of the 50/50 split.

On motion made by Commissioner Pfeifer, seconded by Commissioner Wells that the County would propose to the City of Peachtree City that the Local Option Sales Tax distribution be a 50/50 split between the County and the Cities, discussion followed.

Commissioner Frady said it appeared that most of the cities would get more money under this scenario and the county would get some more as well. He said there were 35,000 citizens in Peachtree City and Tyrone who would be losing some money. He said Fayetteville had 11,000 citizens and Brooks had 500 citizens and this would mean that 16,000 citizens would be receiving more money. He said there were 35,000 citizens who would be receiving less. He said he would support the motion to see what Peachtree City has.

Chairman Dunn interjected that the cities could divide up the 50% any way that they wanted. He said the cities could flatten out the numbers and give everyone an equal share if they wanted to. He said the way the cities would divide up the money was not the county's concern.

Commissioner Frady further remarked that there were a lot of people coming into Fayette County to shop. He said Fayette County was receiving a lot of money from outside the county.

Chairman Dunn commented that this law was a complex law and it was handed to the county from the State Government. He said there was no easy or fair way in which to implement it with all of the constraints on it. He said the purpose of the law was to give citizens property tax relief. He said every citizen regardless of where they live does pay property tax. He said the people in the cities pay more property tax than people living in the county. He said property tax relief was the major purpose of the law and it did not say only one type of property tax but said property tax. He said some citizens have city and county property tax and some people have just county property tax. He said it would stand to reason that the cities would get some more money than the county because of that. He said the law also required the Board to consider many things and one of the major things that it makes the Board look at was the

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day time population of all of the jurisdictions involved. He said because the commercial centers were in the cities, they had a large amount of people from inside and outside of the county and there was an additional strain on infrastructure because of that. He felt the tax was not weighted and balanced very well but a 50/50 split would move it over a little bit. He said to try and make every taxpayer in this county to try and get the same amount dollarwise in a tax roll back would really break the back of the cities. He said the cities had become dependent on this money as the county had become dependent over the years. He said in Peachtree City there was \$5 million alone and if Peachtree City was to lose a substantial portion of that the ultimate change would be that the City would have to cut services or to raise the City property tax. He said the Board did not want to create something here that would go against the intent of the law, but the Board wanted to make it a little more fair. He said this was why he could support a 50/50 split. He said if the cities take 50% and they wanted to divide it up with some other rule they would certainly be free to do that. He said if there was more impact on one city than another, they could flatten out that difference if they chose to. He said he would support a 50/50 on the basis of that.

Commissioner VanLandingham remarked that he was unable to attend the meeting where the initial contact occurred. He said he had read the minutes and commented that there had not been a lot of direction afforded the County Commission. He said the Commission had to move forward to reach some sort of a presentation tonight. He said in ten years this would have to be renegotiated but it could be done before then if it was so desired. He said he would still support the 50/50 split with the understanding that if it did not work, something else could be done.

Chairman Dunn said this agreement should be a ten year agreement unless everybody agreed to re-look it.

The motion carried 5-0.

**MODIFICATION OF THE SPEED ZONE RADAR LIST REGARDING SCHOOL ZONES  
IN THE UNINCORPORATED FAYETTE COUNTY:**

Major Wayne Hannah of the Sheriff's Department remarked that this request pertained to the list of roadways where speed detection was used that was permitted by the State Department of Public Safety. He said he had discussed this with the State Department of Transportation approximately seven months ago. He said he had discussed expanding the school zone on S.R. 85 South where the new Mintor Elementary School had opened a few weeks ago. He said it had taken them some time to survey that location and come up with the distances but they had approved the expansion of that school zone further South to include this new school. He said this one school zone was the only change on the list. He said there might be some expenses for moving some signs or lights. He said Public Works Director Lee Hearn had been in some discussions with the State D.O.T. regarding that. He said Mr. Hearn would have some figures for the Board regarding those expenses.

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Commissioner Frady remarked that Quarters Road was not an improved road and he asked Major Hannah if the Sheriff's Department could enforce speed controls on Quarters Road.

Major Hannah replied no, not with a speed detection device.

Commissioner Frady said Attorney McNally had previously stated that the Board could set a speed limit on Quarters Road but the Sheriff's Department could not enforce it.

Attorney McNally interjected that the State law stated that a speed limit could not be set higher than 35 miles per hour on a dirt road. He said the speed limit could be set lower but not set higher.

Major Hannah said the only way the Sheriff's Department could enforce the speed limit on Quarters Road would be for Quarters Road to be included in the ordinance. He said it was his understanding from the Department of Public Safety that it was up to the Department of Transportation to check it first and then relay that information to the Department of Public Safety. He said the Sheriff's Department would not be allowed to use speed detection devices on a dirt road.

Chairman Dunn said there would be other charges that the Sheriff's Department could look at and Major Hannah replied that they could look at wreckless driving, too fast for conditions and so forth.

On motion made by Commissioner Frady, seconded by Commissioner Wells to approve the modification to the speed zone radar list regarding school zones in the unincorporated portion of Fayette County. The motion carried 5-0. A copy of the revised radar list, identified as "Attachment No. 4", follows these minutes and is made an official part hereof.

**CONSENT AGENDA:** On motion made by Commissioner Wells, seconded by Commissioner Pfeifer to approve the consent agenda as presented. The motion carried 5-0.

**STREET RESURFACING AGREEMENTS FOR BROOKS, WOOLSEY AND**

**TYRONE:** Approval of request from the Director of Public Works Lee Hearn to authorize the Chairman to execute the Street Resurfacing Agreements between the County and the Town of Brooks, Town of Woolsey and the Town of Tyrone. A copy of the Agreements, identified as "Attachment No. 5", follows these minutes and are made an official part hereof.

**CLOSING OF CEDAR TREE WELL APPROVED:** Approval of request from the Director of the Water System Tony Parrott to authorize the Chairman to execute the

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application for a modified Permit to Operate a System thereby closing Cedar Tree Well as a water source. A copy of the application, identified as "Attachment No. 6", follows these minutes and is made an official part hereof.

**PROJECT #STP-164-1(30) - RECONSTRUCTION AND WIDENING S.R. 54/34 FROM FISCHER CROSS ROAD TO S.R. 74:** Approval of request from the Director of the Water System Tony Parrott to authorize the Chairman to execute Memorandum of Understanding for Project #STP-164-1(30) to reconstruct and widen S.R. 54/34 from Fischer Cross Road to S.R. 74. A copy of the Memorandum of Understanding, identified as "Attachment No. 7", follows these minutes and is made an official part hereof.

**INTERGOVERNMENTAL AGREEMENT WITH SECRETARY OF STATE - ELECTRONIC VOTING MACHINES:** Approval of an Intergovernmental Agreement with the Secretary of State's Office which addresses the ownership, delivery, care, maintenance, use, etc. of state provided electronic voting machines. A copy of the Agreement, identified as "Attachment No. 8", follows these minutes and is made an official part hereof.

**GEORGIA YOUTH BALLET - SIGN REQUEST:** Approval of request from the Georgia Youth Ballet requesting permission to place a sign on the old courthouse lawn from November 30<sup>th</sup> through December 8, 2002 to advertise the Nutcracker that will be held on December 6<sup>th</sup>, 7<sup>th</sup> and 8<sup>th</sup>. A copy of the request, identified as "Attachment No. 9", follows these minutes and is made an official part hereof.

**MINUTES:** Approval of minutes for Board of Commissioners' Special Called Meeting held on July 24, 2002 and regular meeting held on August 7, 2002.

**PUBLIC COMMENT:**

Members of the public are allowed up to five minutes each to address the Board on issues of concern other than those items which are on this evening's agenda.

**TERRY WHITLOCK:** Terry Whitlock, 228 Claridge Curve, Peachtree City brought to the Board's attention some issues that had occurred in the past State Legislative Session that affected the way services were delivered to citizens of Fayette County who were receiving mental health, mental retardation and substance abuse services. He said the County Commission does appoint two representatives to a region board and one position had been left vacant for a while. He said recently someone had made either a written or e-mail request for the Board to appoint someone to that vacant position. He said he wanted to recommend Dan Smith, 300 Windsor Road, Peachtree City be appointed to this volunteer citizen board position which was on the Region II Mental Health Developmental Disabilities and Addictive

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Diseases Regional Planning Board. He said the Region II area presently included thirteen counties. He said filling this position was vital to ensuring that Fayette County residents had adequate representation for these service needs. He said these members would serve a vital role as planning board members, help assess local needs and make recommendations to the State Department of Human Resources based on the local priorities for services. He said they also served as a consumer and family voice in making decisions about priorities and advocating with local leaders such as the Board of Commissioners for services for Fayette County residents. He asked for the Board's consideration in nominating Mr. Smith to be appointed to this Board.

Mr. Whitlock said he would also like to invite the Board of Commissioners to attend the McIntosh Trail Community Service Board's Public Forum which would be in Fayette County to hear input specifically from Fayette County residents. He said this forum would be conducted at the Fayette Community Hospital in their public room on August 27<sup>th</sup>, 2002 at 6:00 p.m. He said the McIntosh Trail Service Community Board presently served seven counties. He said there were some proposals on changing that. He said the seven counties were Spalding, Henry, Butts, Pike, Lamar, Upson and Fayette. He said the purpose of the forums that were being conducted throughout the Summer and the Fall was to receive comments from county residents and local citizens, service providers and other advocates as to what they forecast their needs, their level of service that was currently provided and the efficiency of the Community Service Board in meeting the needs of county residents. He said the attendance of the Commissioners at this forum would go a long way to help the Board realize that Fayette County was currently being under served by the Community Service Board.

Commissioner Frady asked Mr. Whitlock to furnish the information regarding this appointment to the Board.

Chairman Dunn interjected that this appointment would be on the September 4<sup>th</sup> Board of Commissioners' meeting agenda. He said he wanted to meet Mr. Smith and speak with him before making a recommendation for an important position such as this. He said the Board had no problem appointing Mr. Smith but it did not make appointments until the Board felt this was the right person for the right job.

**KERI KLARL:** Keri Klarl, 203 Mann Road, Tyrone discussed an issue involving tree cutting along Line Creek. She said she wanted to thank the members of the County Engineering Department and the Administration who had been working on the situation that she was about to bring to the Board's attention. She said she appreciated the site visits that had been made and the efforts they had made to keep her informed. She said everyone had been very pleasant to deal with.

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Ms. Klarl remarked that she wanted to express her frustration and disappointment at the County's lack of interest in Line Creek in this situation. She said she was referring to two adjacent tracts of land in the Northwest corner of the county in Land Lot #145 where Fayette and Fulton Counties adjoin at Line Creek. She said these two tracts together comprise approximately 56 acres. She said the property was bordered on the West by Line Creek for a distance of almost 1,500 feet. She said the land was zoned A-R and was sold in June, 2002. She said since August 18<sup>th</sup> the owner of this land had been clearing the land of trees with the intention of turning this property into a pasture. She said her concern was that most of this activity had taken place directly next to Line Creek. She remarked that according to the Watershed Protection Ordinance, Line Creek was a designated major water supply source and even where agricultural uses are concerned the ordinance specifies a natural buffer of 400 feet from the bank or 100 feet from the flood plain. She said this land had been cleared completely to the creek in some places and well into the flood plain in others. She remarked that one neighbor had told her yesterday that he had actually seen a track hoe in Line Creek. She said the Engineering Department could not confirm that the machine had been in the creek but he did say that the tracks were visible up to the stream. She said this was a large operation and not just a few trees that were coming down. She remarked that she had been told that on one of the tracts that the owner of this property was fully within his rights to clear the land because this property was grandfathered. She said she could appreciate a landowner's rights to use his land as the law permitted. She questioned as to whether those rights should extend to what was supposed to be a protected stream. She said even with the ordinance in place while allowing exemptions for agricultural uses the ordinance stated that best management practices should be followed. She said she could not imagine that in this case those practices were being followed. She said it just seemed that the classification of grandfathered gives a property owner unrestricted freedom to conduct any type of land disturbing activity even near a creek such as Line Creek. She stated that even Mr. Brent Dykes at the Georgia State Water and Soil Conservation Commission told her that regardless of who a person was they could not dump sediment into a stream. She said she was certain that this activity was going to result in that. She said in this case she felt like a lot of damage had been done but if nothing else she hoped that by bringing this issue to the Board's attention that the Board might be inclined to take a closer look at the extent of land disturbing activities permitted near a major water supply source on grandfathered property.

Chris Cofty said that he had been out to Ms. Klarl's house several times as well as visited the site several times. He said he was certainly no engineer nor an attorney but it was his understanding that the gentleman who was clearing the property was well within his rights. He said the gentleman's intent was for agricultural purposes only. He said the gentleman was kind enough to tender a letter to Fayette County, a copy of which the Board had received, stating that his property would be used strictly for agricultural purposes. He said the gentleman was not going to build a house on the property at a later date. He said the gentleman had taken measures above and beyond what he was supposed to do in terms of putting up a silt fence and trying to prevent any erosion going into Line Creek. He said there

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were actually two sections of the property. He stated the other property was subdivided prior to 1988 and the gentleman had no restrictions whatsoever on that property. He said the gentleman could do with the property whatever he wanted to. He said the intended use and the use prior to that was for agricultural. He said staff had gone out and ask the gentleman to get a survey which he did. He said this survey did delineate the flood plain from Line Creek. He said staff had asked the gentleman to stay off the flood plain and not remove any trees. He stated there was an area where the gentleman did remove some trees that were within the flood plain. He said the County had sent him a letter and would be sending him another letter and he would have to replace those trees that he took down. He said he would be glad to answer any questions that the Board might have.

Chairman Dunn asked Zoning Director Kathy Zeitler for the current buffering requirements on this property.

Ms. Zeitler replied that the buffer would be 100 feet from the 100 year elevation or 400 feet from the stream bank whichever was the greater of the two. She said this would be the standard residential use. She stated for agricultural use it might be different she was not sure.

Attorney McNally interjected that the Watershed Protection Ordinance comes into play upon the change of use. He said this was installed in 1988 and prior to that if a landowner had land which was in a certain zoning classification and use prior to that, it would not apply to that particular piece of property. He said the problem here was that the land had always been agricultural land and now the gentleman was now clearing. He said since there was no change appropriate to this particular incidence the property owner could take advantage of that.

Chairman Dunn said he did not question the property owner's right to clear the property but did agree with Ms. Klarl that this gentleman did not have the right to dump anything in this stream.

Attorney McNally said he agreed. He said the Engineering Department would have to be depended upon to make sure that there was no soil erosion if the gentleman did do something like that. He said Fayette County was probably the strictest county in the entire area as far as what was permitted and also in enforcement of its erosion and sedimentation controls. He said if the gentleman was in violation, the Engineering Department would cite him.

**STAFF REPORTS:**

**EXECUTIVE SESSION:** Attorney McNally requested an executive session to discuss one item of real estate acquisition.

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**EXECUTIVE SESSION:** On motion made by Commissioner Pfeifer, seconded by Commissioner Frady to adjourn to executive session to discuss one item of real estate acquisition. The motion carried 5-0.

Commissioner Wells was absent for executive session.

**LEGAL:** Attorney McNally advised the Board on one item of real estate acquisition.

On motion made by Commissioner Frady, seconded by Commissioner VanLandingham to authorize Attorney McNally to advise a certain party that the County has no interest in this acquisition. The motion carried 4-0 with Commissioner Wells being absent.

**EXECUTIVE SESSION AFFIDAVIT:** On motion made by Commissioner VanLandingham, seconded by Commissioner Pfeifer to authorize the Chairman to execute the Executive Session Affidavit affirming that one item of real estate was discussed in executive session. The motion carried 4-0 with Commissioner Wells being absent. A copy of the Affidavit, identified as "Attachment No. 10", follows these minutes and is made an official part hereof.

There being no further business to come before the Board, Chairman Dunn adjourned the meeting at 8:30 p.m.

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Karen Morley, Chief Deputy Clerk

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Gregory M. Dunn, Chairman

The foregoing minutes were duly approved at an official meeting of the Board of Commissioners of Fayette County, Georgia, held on the 4<sup>th</sup> day of September, 2002.

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Karen Morley, Chief Deputy Clerk