

The Board of Commissioners of Fayette County, Georgia met in Official Session on Thursday, June 27, 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

Chairman Dunn Called the meeting to order, offered the invocation and led the pledge to the Flag.

REZONING PETITIONS:

Commissioner Wells remarked at this point in the agenda the Board would consider requests for the rezoning of property in our county. She said the policy required at least two public hearings — the first before the Planning Commission and the second before the County Commissioners. She said at this hearing the Board would listen to the concerns of everyone, whether in favor or opposition to the rezoning petition. She 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. She 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. She 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. She said the Board would allow up to three minutes for each speaker. She said when the persons speaking in opposition had finished, the petitioner would be given an opportunity to rebut any of the points raised. She remarked in fairness to all parties, the petitioner would be entitled to equal time to address the Commissioners as all those in opposition.

Commissioner Wells 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. She 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. She 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 Wells stated that the Board wanted to hear from everyone who had something to say and they would pay close attention to each point raised. She said it would not be necessary for the same point to be raised over and over. She 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.

PUBLIC HEARINGS:

ALCOHOLIC POURING PERMIT FOR BEER AND WINE APPROVED FOR KIKU

JAPANESE RESTAURANT: Zoning Administrator Kathy Zeitler read the request for consideration of an Alcoholic Pouring Permit for Beer and Wine only for Kiku Japanese Restaurant, 190 Pavilion Parkway, Fayetteville, Georgia. Dong Chul Son, Owner/Applicant. She said this property was located in Land Lot 186 of the 5th District, fronted on Pavilion Parkway, and was zoned C-H. This request was for a new location.

Zoning Administrator Kathy Zeitler remarked that this request was for a new location at the Fayette Pavilion. She said this had been annexed but it would not go into effect until July 1st and the license would only be good for a couple of days.

PACKAGED BEER AND WINE LICENSE APPROVED FOR C.J.'S HWY 92 ONE STOP:

Zoning Administrator Kathy Zeitler read the request for consideration of a Packaged Beer and Wine License for C.J.'s Hwy. 92 One Stop, 2708 Hwy. 92 South, Fayetteville, Georgia. Christopher Layne Poole and Julie Baker Poole, Co-owners, and Christopher Layne Poole, Applicant. She said this property was located in Land Lot 118 of the 4th District, fronted on Hwy. 92 South, and was zoned C-C. This request was for a change of ownership only.

PACKAGED BEER AND WINE SALES LICENSE APPROVED FOR PIT STOP #17:

Zoning Administrator Kathy Zeitler read the request for consideration of a Packaged Beer and Wine Sales License for Pit Stop #17, 1183 Hwy. 54 East, Fayetteville, Georgia. Pit Stop Convenience Centers, Inc. (Katherine Margaret Palmer Hyde-100% stockholder), Owner, and W. Michael Hyde, Applicant. She said this property was located in Land Lot 137 of the 5th District, fronted on Hwy. 54 East and McDonough Road, and was zoned C-H. This request was for a new location.

Chairman Dunn asked if anyone wished to speak in favor or in opposition to these three requests.

John Bowers, 175 Downing Court, Fayetteville said he was a new resident of Georgia and had lived here less than ten years. He said he had moved from New York State. He said what was seeing occur in Fayetteville, Georgia occurred on Long Island in Nassau County. He said it started with gas stations and grocery stores on every vacant lot, vacant lots and then properties not developed. He said he was very worried about what was happening here in Fayetteville. He remarked that he had moved to Fayetteville because of trees. He felt there

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were enough establishments in Fayetteville already selling beer and wine. He said these were coming with gas stations and convenience stores. He asked how many more would come here. He wondered if these would be on every street corner. He said this was not here four years ago and now it was coming every week. He said this was his concern and the reason he was speaking.

Chairman Dunn asked if anyone else had any comments in favor or against the requests. Hearing none, he asked for the Board's pleasure in this matter.

Commissioner Frady commented that the property had been zoned for this particular service for many, many years and this was not a new item. He said the request fit the needs for the requirements for beer and wine license.

On motion made by Commissioner Frady, seconded by Commissioner Pfeifer to approve the alcoholic pouring permit for beer and wine for Kiku Japanese Restaurant, the packaged beer and wine license for C.J.'s Hwy. 92 One Stop and the packaged beer and wine sales license for Pit Stop #17, discussion followed.

Commissioner VanLandingham said he would like to address Mr. Bowers' comments. He said he also had a great concern but the legality of this was something that the Board was bound to. He said the morals of it was another matter. He said he was firmly against it but legally there was no way that the Board could prevent it.

The motion carried 5-0.

PETITION NO. 1091-02:

Zoning Administrator Kathy Zeitler read Petition No. 1091-02, John D. and Cathy A. Kegley, II, Owners/Agents, request to rezone 18.98 acres from R-40 and A-R to R-40 to establish one zoning district for Lot 69 of Huntington Creek Subdivision, Phase IV. She said this property was located in Land Lots 169, 170, and 183 of the 6th District and fronted on Downing Court. Planning Commission recommended approval and staff recommended approval.

PETITION NO. RP-019-02:

Zoning Administrator Kathy Zeitler read Petition No. RP-019-02, John D. and Cathy A. Kegley, II, Owners/Agents, request to subdivide Lot 69 of Huntington Creek Subdivision, Phase IV consisting of 18.98 acres into a total of four (4) single-family dwelling lots. She said this property was located in Land Lots 169, 170, and 183 of the 5th District, fronted on Downing Court, and was zoned R-40 and A-R (see Petition No. 1091-02). Planning Commission recommended approval and staff recommended approval.

John Kegley, 190 Downing Court, Fayetteville remarked that Petition No. 1091-02 and RP-019-02 were tied together. He said the this represented a house cleaning item. He said there was a large piece of property. He said he was seeking to take a dual zoning and make it one zoning district. He said it was presently zoned A-R and R-40. He said the petition was to rezone it all as R-40.

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Mr. Kegley remarked on the second petition. He said this pertained to taking three lots at the end of this property which was one acre and 1.2 acres for the sole purpose of selling them. He said the rest of the property could not be subdivided based upon the restrictions. He said there was a single family dwelling remaining on that property.

Chairman Dunn asked if anyone wished to speak in favor of this petition. Hearing none, he asked if anyone wished to speak in opposition to this petition.

Commissioner Wells asked for everyone in the audience who was present in opposition to this request to please stand so it could be duly noted. She remarked that three people stood up and two of those wished to speak.

Janet Manson, 130 Downing Court, Fayetteville said she was concerned about the changing of the zoning for one simple reason. She pointed out that Huntington Creek was Phase IV and she had heard there was going to be a Phase V which would be the adjoining lot to the East and to the North. She said if the lot was zoned R-40 and Mr. Kegley sells the land, he would be able to come into Downing Court possibly and put traffic from that acreage. She remarked that fifteen years ago this land did not perk. She said whoever purchases this property would get land that they could not build on.

Scotty McDonough, 120 Downing Court, Fayetteville said he was also a neighbor of the Kegleys and Mrs. Manson. He said he too was in objection to this petition to rezone this property. He said this property previously was zoned as a single lot development. He said when Mr. Kegley purchased the property he changed that zoning. He said Mr. Kegley's purpose at that time was to go back and sell the lots off. He said those lots had not perked initially when Mr. Walker owned the land and built the subdivision that currently existed. He said it was approximately 20 to 23 years old. He said he did not know what had changed in the County or the State rules that would allow that property to perk now when it did not perk in the 1970's and subsequently in 1987 at the time he purchased the land. He said these were his objections.

Chairman Dunn asked if anyone else wished to speak in opposition to the petition. Hearing done, he asked Mr. Kegley if he had any rebuttal.

Mr. Kegley said he had good neighbors and he was glad to see them come forward. He said he had spoken with a lot of the neighbors and had a good idea of what they felt. He said when he originally purchased the property he purchased the piece that he was trying to sell now. He said this property had perked, otherwise he would not have been able to purchase it. He said at that time he added 10.31 acres which was zoned at that time A-R. He said he did not change any of the zoning. He said in 1987 when an existing lot was added into a subdivision there was no hearing required to have that done. He said all of these years he had the dual zoning on this property. He said he sought to do what was correct. He said under the guidance of the various county departments, he decided to get this zoning corrected and the other property divided as well. He said this was one of those issues that came up that was passed but he wanted to correct it now and get in into the proper zoning district so that it would all be one single piece of property zoned R-40. He said at the same time it was his intention to go ahead and then split off those three lots which he had purchased first.

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Mr. Kegley further remarked on the issue of the fifth phase of Huntington Creek of which he was not aware. He said he could not subdivide and have entry into Huntington Creek from this property because of the restrictions. He said it would not meet the county road restriction requirements. He said this was a single family dwelling and that was all that it could be.

Chairman Dunn asked for the Board's pleasure in this matter.

Commissioner VanLandingham said he did not remember reading where this property would be one acre lots.

Chairman Dunn replied that there would be two one acre lots, one 1.2 acre lot and one lot that was the remainder of the property which was 15.78 acres.

Commissioner Wells said she would like to make a motion to approve these.

On motion made by Commissioner Wells, seconded by Commissioner Pfeifer to approve Petition No. 1091-02 and RP-019-02 as presented, discussion followed.

Commissioner Wells remarked that she could understand the concerns of the people in the audience who were living there. She said her first inclination was to deny this request. She said she did not like subdivisions, where after several years, someone tries to change what the subdivision looks like and to bring something new to the table after people have lived there for a number of years. She said the problem with this rezoning request from her perspective and why she cannot vote against it was it was consistent with the density of the property, the proposed density was consistent with Huntington Creek Subdivision and it was all part of the original subdivision. She said people were allowed to tweak the final plat and this was all within the purview of what the county allows people to do on a fairly regular basis. She said her problem with this was that there had been a great number of years between and she could understand that concern. She said she also understood the concern regarding percolation of the property. She said she had served for a number of years on the Board of Health and was very familiar with septic tanks. She said this was not something that the Board of Commissioners had to take into consideration. She said the Board was looking at the zoning tonight and whether or not it was appropriate for the area. She said based on all of the things that she had just said with great reluctance she would have to support this request. She felt it was the right thing to do with the county's prevailing rules and regulations.

Commissioner Pfeifer said this was the reason he had seconded the motion. He pointed out that some of the issues that were raised in the material and by some of the people who had come forward such as the perking, he said this would be addressed if and when any housing was built there. He said he was satisfied that the property could not meet the conditions to extend a road from the cul-de-sac. He said he would agree with Commissioner Wells that this was in keeping with the character of the neighborhood and matches the zones that were currently there.

Chairman Dunn said he was very sympathetic to the concerns of the individuals who spoke about the fact that they had a fear that this large piece of property in the rear of the subdivision would

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someday be developed further. He said it was his understanding through everything that he had read and through discussions that it would be virtually impossible to get any more homes on this piece of property.

Zoning Administrator Kathy Zeitler interjected that there were a lot of watershed protection areas on the property. She said it would be very difficult and would also require public hearings and approval by the Board of Commissioners before any additional lots could be added to the subdivision.

Chairman Dunn remarked that he did not see any way that they could get the required road frontage.

Ms. Zeitler said the road would have to be extended back to that portion. She said most of that area was watershed from the cul-de-sac on.

Chairman Dunn said when he looked at the total package he saw 18.98 acres which, if nothing foolish was done in the future, would only be able to have a maximum of four homes on it. He said at the time a permit to build was applied for if the lot did not perk then they would not get a permit to build. He felt this area was pretty well protected there. He said he would be able to support this motion.

The motion carried 5-0. A copy of the staff's analysis and investigation, identified as "Attachment No. 1", follows these minutes and are made an official part hereof. A copy of the Ordinance and Resolution granting Petition No. 1091-02, identified as "Attachment No. 2", follows these minutes and are made an official part hereof.

PETITION NO. 1092-02:

Zoning Administrator Kathy Zeitler read Petition No. 1092-02, K & R Mechanical Contractors, Inc., Owners, and Chuck Golden, Agent, request to rezone 1.646 acres from C-H Conditional to C-H to develop a Convenience Store and Gas Station. She said this property was located in Land Lot 137 of the 5th District and fronts on S.R. 54 East. She said the Planning Commission recommended denial for C-H but approval C-C with one condition (5-0). She stated Staff recommended denial C-H but approval C-C with one condition.

PETITION NO. 1093-02:

Zoning Administrator Kathy Zeitler read Petition No. 1093-02, Charles and Carol Lunsford, Owners, and Chuck Golden, Agent, request to rezone 2.838 acres from A-R to C-H to develop Retail Space. She said this property was located in Land Lot 137 of the 5th District and fronts on S.R. 54 East. She said the Planning Commission recommended denial C-H but approval C-C with one condition (5-0). She said Staff recommended denial C-H but approval C-C with one condition.

Chairman Dunn said the Board would discuss Petition No. 1092-02 and Petition No. 1093-02 at this time.

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Attorney Steve Fincher, 2262 Mt. Zion Road, Jonesboro, Georgia said he was representing Chuck Golden and his partners who have the property under contract for a proposed development. He said the property was currently occupied by some very obsolete uses. He said one was a mechanical contractor's operation. He said this office and storage facility with heavy equipment were in the back. He said the other piece of property was currently occupied by an old worn out concrete building that was being used for some miscellaneous storage. He said he believed this request was just exactly what the Board would want to see happen on that corner. He said that was that the old obsolete uses would be removed and that new modern structures in compliance with all of the new regulations and requirements are placed in their stead. He noted that both staff and Planning Commissions were recommending approval with a couple of conditions. He said one condition was that instead of C-H he was applying for C-C. He said they agree and concur with that recommendation. He said the other condition was that they comply with whatever the Department of Transportation wanted them to comply with. He said they did consent to that. He said there were three separate buildings. He said one was a convenience store/gas station and the other would be approximately 5,000 square feet of retail space. He said he would like the record to reflect that they felt the existing zoning was unconstitutional. He said he would like to reserve the balance of his time for rebuttal.

Chairman Dunn asked if anyone else wished to speak in favor of the petition.

Paul Otto said he was a C.P.A. in Fayetteville. He said he had been in Fayette County for thirty-two years and was very familiar with this piece of property. He said as a private citizen he believed the request for zoning was consistent and in harmony with the existing growth in the area. He said he believed that the requested zoning would bring the property more closely into agreement with the potential use of that property as determined by the County Board of Assessors.

Chairman Dunn asked if anyone wished to speak in opposition to the rezoning applications.

Morey Eubanks, 627 Rising Star Road, Brooks said he had nothing against the convenience store or the gas station. He said if they were going to build it to they needed to have two restrooms. He said if one restroom was out of order then there would be another one available.

Chairman Dunn asked if anyone else wished to speak in opposition. Hearing none, he asked for the Board's pleasure.

On motion made by Commissioner Frady, seconded by Commissioner Pfeifer to approve Petition No. 1092-02 with one condition and Petition No. 1093-02 with one condition, discussion followed.

Commissioner Wells said she wanted to clarify something for the people in the audience. She said petitioner had requested C-H and staff was recommending C-C instead. She said this was to keep down the intense use on that particular lot. She said on a C-H there could be fast food restaurants, building supplies, drive in theaters, funeral homes, hotels, manufactured home sales, pawn shops, rent-alls, tattoo parlors, automotive sales and repairs, and self-storage facilities were

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all permitted under C-H. She said although this was believed to be a commercial node area, the Board felt this would be too intensive for this particular location. She said the petitioner was kind enough to agree to a C-C zoning instead of a C-H. She said although there would be a commercial use there it would not be as intensive as it could possibly have been.

Commissioner Pfeifer remarked if the Board awarded zoning for a particular proposal and that was what would go in there and if there was a mistake made on the zoning then some day that business went away, then the mistake would have been made. He said this was the reason the Board was cautious on these kinds of rezonings.

Commissioner VanLandingham said he agreed with Mr. Eubanks about having two restrooms. He felt there also needed to be two.

Chairman Dunn said he would like to thank Mr. Lunsford and Mr. Fincher for working with the county planners and being willing to make the adjustments that this Board obviously felt were necessary. He clarified that it had been agreed that petitioner would agree to the G.D.O.T. requirements. He said the petitioner had also agreed to pay for all of those things. He said petitioner had also agreed to any requirements that the County Engineer would place on the petitioner.

The motion carried 5-0. A copy of the recommended condition, staff's analysis and investigation, identified as "Attachment No. 3", follows these minutes and are made an official part hereof. A copy of the Ordinance and Resolution granting Petition No. 1092-02 with one condition, identified as "Attachment No. 4", follows these minutes and are made an official part hereof. A copy of the recommended condition, staff's analysis and investigation, identified as "Attachment No. 5", follows these minutes and are made an official part hereof. A copy of the Ordinance and Resolution granting Petition No. 1093-02 with one condition, identified as "Attachment No. 6", follows these minutes and are made an official part hereof.

PETITION NO. 1094-02:

Zoning Administrator Kathy Zeitler read Petition No. 1094-02, Joan Carlton Busey, Owner, and Attorney Donald M. Comer, Agent, request to rezone 148.1248 acres from A-R to R-40 to develop a single-family residential subdivision consisting of approximately 102 lots. She said this property was located in Land Lots 217, 218, 231, and 232 of the 13th District and fronted on Helmer Road. She said the Planning Commission recommended approval with one condition (5-0) and Staff recommended approval with one condition.

Don Comer said he was representing Joan Carlton Busey. He said this was an application before the Board that was seeking a rezoning of approximately 140 acres of property located off Helmer Road. He said this property was just adjacent to the Fayette County and Clayton County line on Camp Creek. He said this property was previously zoned R-40 and had been so for quite a few years as a result of a comprehensive countywide zoning. He said back in 1996 as a result of development to the North, the property owner/developer to the North negotiated with Ms. Busey for the purchase of approximately 153 acres. He said that property was rezoned at that time agricultural with a C.U.P. for golf course amenities. He said since that time the development has failed to come to fruition. He said development attempts have failed in the past few years. He

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said the property would normally be subject to simple reversion back to the previous zoning of R-40. He said in speaking with Attorney McNally it was the Board's suggestion and Ms. Busey would be willing to comply with that suggestion and that was to come before the Board with this reapplication to revert the zoning back to R-40. He said Ms. Busey had submitted a subdivision plat had no plans to develop this property herself and no plans to sell this property. He said she had been a very good steward of the property. He said Ms. Busey was willing to do most anything to comply with the Board's suggestion. He said those suggestions were actually pre-empted by Ms. Busey and that was stipulating that a buffer be presented and held between any proposed development that may come in the future and the Legacy Hills Subdivision. He said Ms. Busey was also willing and agreeable to commit a certain portion of this acreage and the Zoning Board had indicated this to be eight to ten acres that would be dedicated for conservation use. He said this was a stipulation that was proposed by Ms. Busey to help the Board of Commissioners with their green space program. He said Dr. and Mrs. Busey were present in an effort to address any concerns that the Board might have. He said he would also be glad to answer any questions. He asked for the Board's consideration in this matter.

Chairman Dunn asked if anyone wished to speak in favor of this request. Hearing none, he asked if anyone wished to speak in opposition.

Jimmy Torrell said he was a resident in Country Lake Subdivision. He stated that his comments were not actually in opposition. He said he was an owner and builder in Legacy Hills Subdivision. He said he was made aware of the buffers that Mrs. Busey was willing to put in through the conceptual plans. He said he had a couple of concerns after looking at the conceptual plans but now that they had said Mrs. Busey had no desire to actually build a residential subdivision, his concerns had been alleviated. He said as a resident of Legacy Hills and a builder of three speculative homes, this would really raise a concern. He said in looking at the conceptual plans for 102 potential homes, there were some concerns that he had on the conceptual plans with there being no rear or side setbacks on the conceptual drawings, no proposed easement or right-of-ways of existing streets. He said the conceptual drawings were not to scale and there was no storm water detention or retention facilities mentioned. He said these issues had brought him some concern and he hoped they would be addressed when this was actually addressed by the Board.

Chairman Dunn said he was sure they would be. He said Mr. Torrell should also be reassured that Dr. and Mrs. Busey had already said that they would work very closely with the residents in Legacy Hills if they ever did develop the property.

Chairman Dunn asked if anyone else wished to speak in opposition. Hearing none, he asked for the Board's pleasure in this matter.

Commissioner Frady remarked that the last time this property was rezoned it was for the purpose of putting a golf course in that vicinity. He said that would have been a great thing for that area. He said the Board had zoned the property to accommodate that. He said he had no reason to deny this petition and he would like to make a motion to approve the request.

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On motion made by Commissioner Frady, seconded by Commissioner VanLandingham to approve Petition No. 1094-02 with one condition, discussion followed.

Commissioner Wells pointed out that this property was truly an island amongst R-40. She said every single piece of the territory in the boundary was bounded by R-40. She said this would be the only area inside that would be A-R. She said this was actually not a rezoning to a new density but a reversion back to the old zoning. She said there had been a good bit of compromise with the eight to ten acres of green space. She said Dr. and Mrs. Busey had worked very well with the Board in the past and they seemed to be very concerned about the conserving of the green space. She said she was very appreciative of it. She said the Board would look very closely at all of the setbacks. She said the Zoning Administrator Kathy Zeitler was very good at checking that at and she assured Mr. Torrell that this would not be a problem.

Chairman Dunn remarked that the Board appreciated everything that Dr. and Mrs. Busey had done last year. He said in a totally unrelated issue Dr. and Mrs. Busey sold the county some land and also donated some land to the county's wetland mitigation plan for the new reservoir and also some land that the county could use for green space permanently. He said the Board really appreciated their efforts last year. He said he saw no way to deny this request and in all fairness the property needed to revert back to what it was before.

The motion carried 5-0. A copy of the recommended condition, staff's analysis and investigation, identified as "Attachment No. 7", follows these minutes and are made an official part hereof. A copy of the Ordinance and Resolution granting Petition No. 1094-02 with one condition, identified as "Attachment No. 8", follows these minutes and are made an official part hereof.

PETITION NO. RP-020-02:

Zoning Administrator Kathy Zeitler read Petition No. RP-020-02, Travis and April Parker, Owners/Agent, request to add 1.84 acres to Lot 7 of Meadowview Subdivision currently consisting of 7.72 acres. She said this property was located in Land Lots 124 and 125 of the 4th District, fronts on Haddock Point, and is zoned A-R. She said the Planning Commission recommended approval (5-0) and Staff recommended approval.

Travis Parker said this was a simple request to add property to existing property. He said the 1.84 acres would not change the existing property nor would it change the property as far as the zoning for that area.

Chairman Dunn asked if anyone wished to speak in favor of this petition. Hearing none, he asked if anyone wished to speak in opposition to the petition. Hearing none, he asked for the Board's pleasure in this matter.

On motion made by Commissioner VanLandingham, seconded by Commissioner Frady to approve RP-020-02. The motion carried 5-0.

PETITION NO. 1095-02:

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Zoning Administrator Kathy Zeitler read Petition No. 1095-02, Fayette Baptist Church, Owner, and THG Properties, LLLP, Agent, request to rezone 6.8 acres from A-R and R-40 to C-H to develop a convenience store with a gas station and retail shops. She said this property was located in Land Lot 39 of the 5th District and fronted on Seay Road and Hwy. 92 South. She said the Planning Commission recommended denial (5-0) and Staff recommended denial.

Attorney Steve Ott said he was representing THG Properties who currently owned 6.8 acres that were zoned C-H across the highway from the property that he was seeking to be rezoned. He remarked this was at the corner of S.R. 92 and Seay Road. He said he was not present tonight to ask the Board to add additional commercial zoning in the south side of the county. He said he had been before the Board in the past to oppose such development. He said when he was approached with this plan and looked at it carefully, he saw the benefits of moving the commercial zoning from one place to the other from the mid block parcel that was currently owned to the corner parcel on S.R. 92 and Seay Road.

Chairman Dunn asked for the size of the mid block commercial zoned property. He asked how many acres this consisted of.

Attorney Ott replied it consisted of 6.8 acres. He said the current zoning was two lots. He said one lot was now a wooded lot and the other lot had a house on it with a sign in front that said "For Lease". He said the drawing that he presented to the Board showed the same amount of commercial development fits on each parcel of property. He said the decision for the Board was where it wanted to see the commercial development. He said what was anticipated as the first piece of development was a convenience store with a canopy and gas stations and then perhaps one small building such as a bank or dry cleaners. He stated the property would be allowed further retail development although that was not planned at this moment. He said the current property was bordered by a church on one side and residential properties. He said at the current time the property had trees on one side and a single family house on one side. He said he was asking that the Board rezone not just the current property and make it a condition that the property now zoned commercial highway would be zoned back to a residential zoning. He said it was absolutely that point that he must insist on. He said THG had no interest in developing two pieces of property in that area commercially. He said if the zoning was approved on the corner lot, THG would want to have the other piece as residential and it would just be sold and developed residentially.

Attorney Ott said the larger concern that was a concern for him and THG was where the property was currently located as a mid block location. He said this immediately did not propose as much of a concern as it would pose in the future as S.R. 92 was widened. He said as S.R. 92 had been widening in Spalding County it was a four-lane highway with a concrete median in the middle. He said a mid block parcel would not have a median cut. He said in order for people to go to this facility to the retail space that would be here, they would have to make a circle. He said when he had presented this proposal to the Planning Commission there was some speculation that people would not do that. He said what he had seen in other locations was people would circle the block to save a penny in gasoline and this would cause some further traffic concerns. He said if the commercial development was moved to the corner lot then at the time the highway was widened there would be a median cut. He said the entrance off of S.R. 92 would be a right in and right out

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and there would be no median cut there. He said the median cut would certainly come at Seay Road. He said THG had agreed to conduct a traffic study to see what improvements would need to be made at the intersection of Seay Road with their concern being the safety of their development as well. He said they would certainly comply with what needed to be done there whereas the current location could simply be developed and complied with the current standards.

Attorney Ott further remarked that there had been some opposition to commercial development as a whole in the south side of the county. He said he had attended meetings before for the same reason. He said there might have been some confusion even at the Planning Commission meeting that he had said there were problems with the development of the current property. He stated there were no problems with developing it commercially. He said the preliminary plans had already been made. He said the problems come in with a mid block location. He said the current wooded lot would not remain under a commercial zoning. He said there would be no reason to mention constitutionality. He said his client had instructed him very clearly that there would be no lawsuit to follow this if the request was denied. He said his client would simply develop his other piece of property. He said one of the things that he would like to point out was that there was a daycare center which was a commercial property and a very popular church that draws a large number of people. He said with this commercial development across the highway there would be even more concern that the corner part of Seay Road and S.R. 92 be zoned commercial but it would certainly not be by THG. He said at this opportunity with having one owner for both, zoning this to commercial highway with the condition that the other property be zoned to residential would eliminate that possibility in the future. He said a representative from THG was present if the Board had any questions. He asked for the Board's consideration in this request.

Chairman Dunn asked if anyone wished to speak in favor of the petition. Hearing none, he asked if anyone wished to speak in opposition to the petition. He asked those people present who were opposed to the application to stand and be counted.

Commissioner Wells remarked there were eighteen people standing in opposition.

Chairman Dunn asked those to remain standing who wished to speak in opposition and he stated there were five people.

Bob McElroy, 120 Dawn Drive, Fayetteville said the Board should have a copy of his letter dated June 14th. He asked for the Board's consideration tonight in some of the issues. He said the County Land Use Plan on page 61 specifically identified strip commercial and defined it as undesirable. He said strip commercial was characterized as architecturally unattractive conducive to traffic problems and cluttered in appearance. He said for those familiar with the area of Harps Crossing, it was clearly a residential area. He said this was an area of homes, churches, and proposed churches and this was not an area for commercial development. He said the Land Use Plan stated that a policy to prohibit the encroachment of commercial development in well established residential neighborhoods. He said the residential zoning districts in the established county zoning ordinance were designed to protect against the depreciating affects of land uses that were incapable with the residential environment. He pointed out that this was a residential environment.

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Mr. McElroy remarked that this proposal was the reason there was a County Land Use Plan and the reason for the County's Zoning Ordinance. He said the laws, policies and standards were all established in those documents and intended to help the citizens protect their homes, preserve their neighborhoods and protect their quality of life and secure their financial investment against the depreciating facts of incompatible land uses. He said this was a residential area and the law recognized zoning as a way to protect the neighborhoods and keep them stable. He said S.R. 92 was a very busy two lane road and the close proximity of intersections and curb cuts make the Harp's Crossing area very congested. He said the intersection of Harp Road, Seay Road and S.R. 92 was very tricky and could not support the commercial traffic associated with this development. He said he had tried to address the specific problems as stated in his letter. He said the County's transportation policy required that safety of the State highway and intersections be protected from adverse land development. He said this area was not suitable for commercial curb cuts and the petition should be denied. He asked for the Board's consideration and efforts in this matter.

Debbie Webb, 130 Seay Road, Fayetteville said she just wanted to add a couple of comments to what had already been said. She said the same concerns driving the decision to reject the previous proposal were still in effect today with added emphasis on safety issues. She said of paramount concern were the safety hazards that a development of this type would bring to the community. She said Ingles Supermarket located a little more than two miles from the subject property was robbed recently at the close of business ending in a police chase and a tragic fatality. She said everyone could attest to the increasing crime brought on by the development of the Fayette Pavilion. She said it seemed where there was commercial development the potential for danger increases ten fold. She said another safety concern due to this proposal would be the gasoline that would be brought in and stored in tanks underground. She said an underground leak would pose a threat to residential ground wells compounded with the potential for an explosion. She said this proposal called for intense commercial development abutting up next to established residential homes. She said many homes in this area were currently zoned A-R and on five acre tracts or more. She said continued commercial development could be expected on S.R. 85 South of Ingles, on S.R. 92 South of Ingles and on sections of Jimmy Mayfield. She felt one of the pre-existing C-H parcels would be a better choice for this type of development. She asked the Board to consider their options carefully and vote no on this proposal.

Chester Nash, 230 Long Shore Way in Harbor Lakes Subdivision, Fayetteville stated there were 92 homeowners in the Harbor Lakes Subdivision. He said virtually all of them had moved there because of the rural aspect and county planning that was to allow the southern portion of Fayette County remain a rural and scenic location desirable to live. He said the traffic that has been generated in that area has already been discussed so he would not go into that further. He said the traffic was a major concern for people residing in Harbor Lakes and people traveling up S.R. 92. He said he appreciated the Planning and Zoning Boards' findings several weeks ago and he hoped the Board would agree.

Kevin Dempsey, 176 Harp Road, Fayetteville said he had 92 signatures who concurred as he did with the gentleman who had spoken previously from Long Island, New York. He said he just did

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not want another gas station/convenience store at the end of his driveway. A copy of the petition, identified as "Attachment No. 9", follows these minutes and is made an official part hereof.

David Davis, 1667 S.R. 92 South, Fayetteville stated he owned a business on S.R. 92 South. He said he sure knew about the traffic problems. He said he had 208 signatures on a petition that he would like to present to the Board. A copy of the petition, identified as "Attachment No. 10", follows these minutes and is made an official part hereof.

Chairman Dunn asked if anyone else wished to speak in opposition. Hearing none, he asked if Attorney Ott would like time for rebuttal.

Attorney Steve Ott remarked the only issues that he would like to rebut was the issue of citizens not wanting to see commercial zoning in this area. He said there could be no mistake that this was what was going to be in this area. He said it was simply the Board's decision as to where it was going to be. He said it could be developed on property currently owned with a little control by the county or it could be moved to the corner location where the traffic study would be conducted to see what would need to be done to correct those traffic problems. He said the new location would give cars somewhere to go other than stopping on the highway to go to this facility. He said where it was currently allowed, there was no where else but stopping on the highway to go in and out of the facility. He said this was an opportunity to look forward and anticipate what problems there could be in the future and see which of those could be corrected by rezoning the current property with a condition that the owners of the property be zoned to the residential use as it was in the application. He said that application was already ready and just needed to be signed and submitted to staff for review. He said any concerns that were with any commercial development or any development under this rezoning request were no different from those concerns for commercial development on the existing C-H property. He said there was an opportunity now to look forward, anticipate additional issues and correct them now while there was that opportunity. He thanked the Board for its time and consideration in this rezoning.

Chairman Dunn asked for the Board's pleasure in this matter.

On motion made by Commissioner Wells, seconded by Commissioner Pfeifer to deny Petition No. 1095-02, discussion followed.

Commissioner VanLandingham said it would be ludicrous to ask someone to build a service station on a cul-de-sac because no one would go to it. He commented on the concern regarding underground storage tanks. He said there had been a great demand put upon the service station owners that they were closely monitored and double shelled and it was almost impossible now to have a problem and it not be corrected before the groundwater was contaminated. He said those two concerns were not his concerns. He stated that the houses were there before the commercial. He felt it would be wrong for a convenience store to be put on one of the most pleasing areas on the south side part of the county to drive through on a State highway. He said the homes there were beautiful and the community has great pride in what they have done there. He felt the commercial development on S.R. 92 would take away from that. He said he could not support moving this. He felt the other one should not have been allowed either. He felt for the Board to move commercial in that direction would be wrong because it would affect other people

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who have established themselves under the assumption that commercial would not be there. He said he could not support this rezoning for the simple reason that he felt it did not belong there. He said there were other areas on highways that would be more beneficial to everyone than this area.

Commissioner Frady remarked that in the beginning the State influenced this property to be commercial so there would be some sort of retail sales down there. He said Mike had owned this property twice. He said he had sold it once and then bought it back again. He said the people knew that piece of property was already zoned commercial and he did not feel the other side of the road needed to be disturbed. He said he could not support this rezoning.

Commissioner Wells said the Board had received a lot of phone calls, letters and e-mails from citizens. She said they had all made very valid points. She remarked that this piece of property was before the Board not too long ago in a similar area where a school was being proposed and the Board decided that it would be too burdensome to the area. She said it would have had too much of a traffic impact on that area. She said she agreed with staff's reasons for denial. She said it would be a burdensome use on the roads and utilities and would adversely affect the existing and adjacent properties. She said this rezoning would not be in keeping with the Land Use Plan. She said she admired Attorney Ott's willingness to try to negotiate this on behalf of his client as far as swapping out a commercial for a residential. She said she thought that was very creative and maybe in another location that might work. She said at this point in time she did not feel the Board was in a position of swapping zonings for that because it would just be too much of a burden on this particular community. She said at this point in time, this was the reason she made the motion that she did.

Commissioner Pfeifer remarked that he had seconded the motion for the same reason. He said he agreed with Attorney Ott that when the property was developed down there, there would also be unhappiness. He said he found exception with moving it across the street to somebody who did not expect it.

Chairman Dunn said the Board has had this property before it previously. He said one of the major problems that the Board had before with the large school and a small church going in was the traffic and safety problems. He said this would be a lot more intense than the church or school would have been. He said there was data in the books that would indicate that as many as 7,000 trips in and out of the center would take place on a weekend. He said if this was developed as it currently was there would be 9½ trips per day out of two homes there. He said this was just too intense for that area. He said it was a residential area. He said he believed the only thing that the Board could do tonight was to deal with the issue before the Board and that was what to do with this piece of land that had been requested for zoning. He said the Board was not addressing zoning on the other piece of land tonight. He said the Board was aware of the offer that had been made but he would have to go along with the motion as well to deny the request.

The motion carried 5-0. A copy of Resolution No. 1095-02 denying this petition, identified as "Attachment No. 11", follows these minutes and is made an official part hereof.

RESOLUTION NO. 2002-08 - BUDGET FOR FISCAL YEAR 2003 APPROVED:

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Chairman Dunn remarked that this was the second reading of the proposed budget for Fiscal Year 2003, beginning July 1, 2002 and ending June 30, 2003.

Finance Director Mark Pullium presented the proposed budget Resolution for the fiscal year 2002-2003. He read Resolution No. 2002-08 to the Board. He pointed out that the total general fund was \$44,658,759, total special revenue fund was \$9,717,993, total solid waste fund was \$179,883, total Water System was \$12,557,182 for a total of all funds of \$67,113,817.

Chairman Dunn remarked that this figure was slightly higher than the first reading. He asked Mr. Pullium to explain this.

Mr. Pullium responded that there had been an additional request received from the District Attorney's Office for the 5% surcharge fund for victim assistance. He said the District Attorney's Office had been providing assistance to victims of crime in Fayette County. He said in order to continue that support and providing that service required that they be certified by the State of Georgia which they had done. He said it was staff's recommendation to ask the Board to increase the budget in the victim's assistance special revenue fund. He said this money did not come from taxes but from a surcharge on fines levied in the court system. He said this sum was \$49,127.

Commissioner Wells said some money had also been given to the Solicitor's Office out of that fund.

Mr. Pullium said that was in the budget in the last reading.

Commissioner Wells clarified that it had come out of that same fund. She asked how much that amount was.

Mr. Pullium replied that the amount for the full year would have been \$64,000. He said for one half year it was approximately \$32,000. He said when the new judicial complex comes on line in January the Solicitor's Office will begin the new program.

Commissioner Wells asked if the money for domestic violence was also in this.

Mr. Pullium replied yes.

Commissioner Wells clarified that was an additional \$10,000. She said her point in this was to say that \$81,000 of the budget was not coming from taxpayer dollars but coming from fines and forfeitures and people who had violated the law.

Commissioner Frady asked how much the general fund had increased this year.

Mr. Pullium replied that the dollar figure from last year to this year was \$1,266,745. He said the total budget increase including the Water System and all funds was \$1,552,330.

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Commissioner Frady said he would support this budget but he might have a problem when it comes time to set the millage rate in September. He said he was hearing things like this and the reassessments that were coming in. He said people who had reassessments last year of \$189,000 were now \$289,000. He said he had heard other people say that they were doubled. He said most of this was in commercial. He said there were other people who own land that it just seemed outrageous with the amount of increases they received. He said he was going to wait to see what the digest turned out to be before he would support the millage rate it takes to support this budget. He said it seemed to him to be outrageous and something had to be done about the increasing taxes. He said people were going to be run out of Fayette County.

Mr. Pullium said he understood. He said it was true that the Tax Assessor's Office had done a countywide reassessment of commercial property and accordingly with the increased market value they had reassessed those values. He remarked that citizens did have the opportunity to appeal those reassessed values through the Board of Equalization and anyone who had a complaint was being urged to take advantage of that.

Commissioner Frady remarked that this house was not a commercial piece of property and it went up \$50,000 in four years. He said if his assessment had risen this much, then so had everybody else's assessment. He said he was going to wait and see what the digest was going to do.

Commissioner Wells said she had also heard a lot of people complaining and voicing concern about their commercial assessments going up tremendously, doubling and even more. She said she was going to suggest under staff reports that the Board direct staff to create a notice to the newspapers letting the citizens know that this was not an action on the part of the Commissioners but was handled by the Board of Assessors and telling them exactly what they needed to do to appeal it. She said a lot of people think this was something that the Board of Commissioners was doing. She said citizens do not know where to go to appeal their assessment, did not know the process, did not know the phone numbers and did not have any of that kind of information. She felt it would behoove the county to make that information available. She said some citizens had some very serious issues. She said this was one of the things that she wanted the Board to ask staff to do.

Commissioner Frady remarked that this Board had the ability to roll back the reassessments. He said the Board had not done so in the last several years and the Board needed to take a look at that as well. He said this was also something that the Board could do. He stated the Board of Commissioners had the power to roll taxes back if it so desired. He said it was his desire to do that.

Chairman Dunn remarked that would be a decision when the Board discusses the millage rate. He pointed out that he had received several complaints from citizens as well on the reassessments. He said he had a meeting at the Board of Assessors. He said the Board of Assessors felt like they had done an accurate job. He said in some pieces of property it was so high from one year ago that it seemed almost impossible to him. He said the Board of Assessors had formulas from the State of Georgia as well as all of the recent sales data. He said he would encourage anyone who had gotten one of the outrageous assessments to go to the Board of Assessors with it. He said he was aware of at least two cases where there was an assessment

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on the property right now that was higher than the appraisals that the property owners had received within the last couple of months. He said if that was so, it just could not be accurate. He felt people needed to get into the Assessors' Office quickly if there was a problem with their assessment.

Commissioner Frady said he could verify one that went from \$150,000 to \$186,000. He said when the person sold the property all he could get was \$150,000. He said it was appraised \$36,000 higher than the market indicated. He said he was aware that it was a bad market right now but that did not mean the entire thing was correct.

Chairman Dunn said an assessment was supposed to be what a reasonable exchange would be in the market and not some wild projection.

Commissioner Frady said the Board of Assessors would show people how their assessment was figured. He said he was not an appraiser but they were appraisers and were professionals. He said he did not agree with them. He felt it was going to get to the point where homes and commercial property force people to move out of Fayette County and go South. He said he sure did not want that to happen.

Chairman Dunn said he certainly did not want to criticize the Board of Assessors but people needed to take advantage of their right to appeal. He said some people needed to do that this year.

Commissioner Wells said the citizens needed to know how to do it.

Commissioner Frady said he was not "knocking" the Board of Assessors but he did not have to like the assessments either.

Chairman Dunn remarked that this was a public hearing. He asked if anybody in the audience wished to comment on the budget.

Emory McHugh, 205 Royal Ridge Way, Fayetteville said he did not own any commercial property but he had received a high assessment too.

Mr. McHugh remarked that recently he had the opportunity to attend a conference that was put on by Tom Allen who was the Chairman of the Governmental Accounting Standards Board. He said GASB sets the standards for government. He said the topic was going to be a GASB update. He said it was interesting that the gentleman talked a lot about the sustainability of government. He said Mr. Allen looked at what was going wrong in different places such as Atlanta, East Point and those type situations that were occurring now where they were running into problems. He said after the conference he had the opportunity to spend approximately six or seven hours in the library. He said it took a lot of time to go through about six books that really did not tell you what was going on. He said it took a lot of time but that was exactly what he did. He said he had come last year and talked a little bit about some of the things that he had found in last year's budget. He said it was deemed to be philosophical differences. He said he would be bringing those philosophical differences up again this year. He said he was going to talk about those.

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Mr. McHugh felt he was going to be limited to three minutes just as he was last year. He said he had brought some things for the press and for any citizens. He said it was a summary of things that he would not be able to cover.

Commissioner Frady said since this was a public hearing Mr. McHugh might be allowed more than three minutes.

Mr. McHugh said he was only allowed three minutes last year. He said he had asked that and sent in a public record's request and he was told three minutes.

Mr. McHugh said his comments were related to four or five main areas. He said the first was deficit spending; the second was deferred maintenance; third was utilization of budgeting practices which were contrary to the sustainability or the going concern concept that Tom Allen discussed. He said the fourth item was really inconsistencies with funding on the new courthouse and jail system.

Mr. McHugh said the first thing he wanted to talk about was the proposed budget for FY 2003. He said this budget continued the current Board's propensity for deficit spending. He said this was the Board's philosophy if the newspaper from last year was correct. He said the total governmental fund budget called for spending more than \$4.3 million than what the county expected to take in. He said the general fund proposed budget was \$3.6 million which meant the county would have a revenue short fall of 8.86%. He said this comes on the heel of last year when it was \$6.5 million. He felt this was really amazing. He said the fire fund was another one and it was \$280,000. He said the deficit spending would continue.

Mr. McHugh remarked on the second item which talked about the current philosophy of deferred maintenance. He said one of the things that had been created here was the motor vehicle replacement fund that had been put in place. He said last year nothing had been funded but \$160,000 to go in that fund when the county's own financial statement said it needed to be close to \$1.4 million. He said that was what the depreciation was. He said the county was continually deferring maintenance. He said he found it interesting this year when the county had transferred some money over but then the county turned around and spent it to purchase new equipment. He said that was in one of the other books. He said the county was really continuing this deferred maintenance once upon again. He said if all of the numbers were reviewed at the end of 2003 there would be another deficit of \$5 million in that particular fund. He said when the \$5 million and the \$4 million were added this came to some very serious money.

Mr. McHugh remarked on the third item which was sustainability. He said he found some of the things actually kind of funny when he went through it. He said the first thing was the Capital Improvements Program. He said the county was going to fund a new communications system and the way this would be funded would be through a lease purchase. He said he found it interesting that the county would not be paying any of the money back. He said he had never gone to a bank where he could borrow money and did not have to pay some of it back. He said this was certainly an interesting concept. He said another interesting concept was that in one book \$720,000 of State aid revenue was claimed. He said the State aid revenue was for reimbursement on L.A.R.P. programs and none of those State expenditures would be found. He said he could

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guarantee the Board that the D.O.T. was not going to reimburse the county for that. He said where it had appeared later on was in the Capital Improvements Program. He said there was an offset over there. He said he doubted the D.O.T. would be reimbursing the county twice.

At this point the three minute timer went off.

Commissioner Frady interjected that he would like Mr. McHugh to continue with his comments.

Mr. McHugh said he was speaking about the equivalent replacement fund. He said that would be at \$5 million. He said there would be \$1,211,000 for operating and transfer and the county would be spending \$570,000 of that for new equipment. He said this was not what the money was for and the county was not really meeting that obligation.

Mr. McHugh remarked that boarding fees for the jail was another interesting thing that the county did. He said the county was using jail construction money to pay for boarding and fees. He said the county would need to get a legal opinion but he was not even sure if the laws allowed this to be done. He said this was for operation of the jail or construction of the jail and not for boarding prisoners in another jail. He said he would defer to Attorney McNally on that issue.

Mr. McHugh said this was a one time revenue source that the county was pulling down \$350,000 that had been accumulated before to pay for a current expenditure that would not be there next year. He said the county just keeps building up these large deficits and it was going to run into some money some day.

Mr. McHugh further remarked that the really amusing thing was the Local Option Sales Tax. He said the county had projected an 11% increase in the Local Option Sales Tax. He said having worked for the State of Georgia, the State's projections were a little bit lower than that. He said the other thing that was also remarkable was that this was going to be the year that the allocation was going to be renegotiated. He said he could almost guarantee that given the numbers in this budget that the county would not have an 11% increase but would actually see a decrease in L.O.S.T.

Mr. McHugh commented on interest income. He said if the county was spending down all of this money \$10 or \$11 million that had already been done, he said he did not see how the interest income given the rates, would be continued like it had in the past.

Mr. McHugh remarked on philosophical inconsistencies about the debt service on the new building. He said the 2001 budget stated that the reason for the millage rate that year was to pay for the debt service on the building. He said he had read in the newspaper that during the current year where the county refunded those bonds and saved a whole lot of money. He said he did not see any decrease in the millage rate to pay for that. He said he received a reassessment and his taxes were going up.

Mr. McHugh stated that the most amusing thing was the recognition of the problem that the Board's philosophy was really the first step in solving it. He said it stated the reason the Board

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of Commissioners' budget was going up this year was because of the litigation that the Board was involved with. He felt that spoke volumes.

Chairman Dunn asked if anyone else wished to speak on the budget.

Attorney Steve Ott remarked that this year he had not had occasion to study the budget as carefully as he did this time last year. He said having studied it last year and certainly not from this same avenue but from the avenue of finding waste in the budget, he certainly did not find any last year. He said he would assume that to be the same this year. He said the challenge of government in coming up money to meet each and every service was an incredible burden. He said he wanted to take the opportunity while he was present tonight to thank the Board for its funding of the recreation in the county. He said he would certainly like to see a commitment from the Board to increase recreation funding and not just for kids but for everybody to provide facilities for people in the county to go to each and every year. He said he had seen the Board taking steps toward that each and every year and he just wanted to say that he appreciated it. He said the Board had done a fine job with fiscal responsibility.

Chairman Dunn asked if anyone else wished to speak on the budget. Hearing none, he asked for the Board's pleasure in this matter.

Commissioner Wells said she would like to make a few comments strictly for the people in the audience. She said the gentleman who had spoken so eloquently about the county's deficit problems with its spending was until two years ago the Chief Financial Officer. She said Mr. McHugh had decided to leave the county's employment. She felt that some of that could possibly color what he had to say. She said she also wanted to say that the county had continued to receive awards and recognitions for the way that the county was handling its finances. She said the county was constantly being audited and looked at very carefully. She said the Board would give Mr. Pullium an opportunity to come up and refute some of the comments that were made. She asked that people realize that some of the comments were colored by personal feelings and emotions that were not necessarily accurate.

Commissioner Wells further remarked that Mr. McHugh's parting shot was that one of the reasons that the Board of Commissioners' expenses had gone up was because of increased litigation costs. She said that was because the Board had been sued on a number of avenues and there had been a number of people who had disputed the Board's petitions for rezonings and densities. She said citizens always have the right to take that to litigation. She said Fayette County had excellent representation in the legal arena and that type of representation did cost money. She said this was not a frivolous spending and this was something being generated outside of the Board's control.

Commissioner Frady asked if Mr. McHugh had left the county employment on his own or was his fired.

Chairman Dunn replied that Mr. McHugh resigned.

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Commissioner Frady said Mr. McHugh had resigned because he had another job offer. He said Mr. McHugh went to work for the Georgia Regional Transportation Association in Atlanta. Commissioner Wells said she would like to have Mr. Pullium come up and address some of the issues that were raised.

Finance Director Mark Pullium said first of all he would like to address the budget plan that had been presented to the Board. He said first of all it was true that the county was appropriating some fund balance this year. He suggested the Board check the fiscal policies. He said the county's fiscal policies indicated that if the county has a surplus that it was appropriate to utilize the surplus for one time capital expenditures. He said in this budget it was indicated that the county would spend almost \$5 million for one time capital expenditures. He said the amount of money that the county was appropriating from the fund balance was much less than that. He said it was nearly \$2 million. He said the amount of money talked regarding deficit spending was going to be utilized for a one time capital project. He said this was clearly consistent with policies that had been long standing in Fayette County. He said in addition those policies were policies that were recommended by the Government Finance Officers Association of America.

Mr. Pullium said he would like to state that Fayette County continues, and the auditors addressed this when they presented the audit report, its excellent financial condition. He said the county's bond rating continued to maintain a stable rating and it was a high rating. He said the county had received indications that when the Board of Commissioners adopts the five year C.I.P., which was the Capital Improvement Plan, that the county's bond rating would notch up another level. He said staff had worked diligently to bring this to the Board of Commissioners. He said the five year C.I.P. addresses deferred maintenance and also identifies much needed projects that this county will need to adopt. He said some of those projects that he will bring to the Board's and the public's attention would include roads. He said Fayette County was in desperate need to begin a long range plan in Fayette County. He said this effort had been undertaken with a transportation study. He said he would be bringing to the Board in the near future a transportation study which included some transportation projects which would be looking out to the future to try and put off some of the problems that were seen in terms of roads.

Mr. Pullium further remarked that in addition, the Board of Commissioners and staff had been working to develop a recreation need's assessment. He said there was a tremendous need in Fayette County to begin to think in terms of recreational activities and facilities and look at what the citizens want. He said the county would have undertaken that process. He said the five year C.I.P. would address long term capital improvements but it also had an element of maintaining the infrastructure that the county currently owned. He said this was a well thought of and well-planned action. He said it was one that was programmed. He said staff takes the time to look at the service delivery needs, what the citizens want and then in turn come back and try to develop a plan to try and address those needs. He said it was true that the county had short resources and the county was a good steward of those resources. He said he could assure the Board and the public that staff had worked every way that it could in this budget to try and trim this budget back and take out any unnecessary waste to avoid duplication in services to deliver the citizens a service that was well thought out and well planned. He said he could also assure everyone that neither he nor any staff member would ever recommend to the Commission a budget that was going to use up the reserves, downgrade the county's bond rating and leave the county in a

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situation of having to hit the taxpayers with an all of a sudden increase in the millage rate. He said this budget was well thought out and well planned.

Mr. Pullium said he would also like to comment on the growing sustainability of the county's growing concern. He said he could assure everyone that Fayette County would be able to continue. He said there was a strong vibrant economy and the unemployment rates even in the worst of times was one of the best in the nation. He said this was not by coincidence but by design. He said the county's actual sales tax collections even during these hard times have met or exceeded the county's projections. He said the Board would recall and also members of the public who studied the budget last year, staff had forecasted in the budget an actual down turn in the economy. He said sales tax projections had been adjusted accordingly. He said when the hard times came, staff did not have to come back to the Board and say to the citizens that 10% of appropriations in cut services would have to be withheld back by this amount. He said staff saw this coming and planned for it accordingly.

Mr. Pullium further remarked on the E-911. He said it was true that this Board of Commissioners had adopted in its mind the idea to deliver an 821 megahertz E-911 communications center. He said it was also true that the Communications Director working with the County Attorney and staff was in the process of developing a spending plan. He remarked that this had not been finalized and it was not included as an item in this budget. He said it would be brought back to the Board of Commissioners when that spending plan was finalized. He said it was premature to bring it to the Board of Commissioners until every "i" had been dotted and every "t" crossed.

Mr. Pullium said in terms of the millage rate, the digest and the Local Option Sales Tax he felt this budget was very well thought out. He said an increase in the digest had been predicted in this budget of 6%, 6¼% for the general fund and 6% in the fire fund. He said he heard what Commissioner Frady and some of the other Commissioners were saying about commercial values. He said it would be his hope that, if possible and when the digest was certified by the State, that staff could actually come in and make a recommendation to reduce that millage rate. He said he did not know if that would be the case but if it were he would certainly like to see that. He said, as he had previously stated, the digest had not been set.

Commissioner Frady asked how much had been budgeted in for reassessment.

Mr. Pullium replied that historically the natural growth had made up of approximately 40% of the increase in the digest where reassessed values have made up approximately 60%. He said that had been a historical trend in Fayette County for some time.

Commissioner Frady asked Mr. Pullium how much he figured the sales tax was growing each year. He said this was certainly not 11%.

Mr. Pullium responded that the sales tax projection was an increase of \$400,000 and he felt this was certainly reasonable given the county wide increase in retail establishments.

Commissioner Frady interjected that last year the sales tax took in \$16,158,000 and \$400,000 was not 11%. He said possibly multiple years might have been used which the county did publish

what it thought would be the increase for five years. He said that maybe where the 11% came from.

Mr. Pullium remarked that he was not sure where the numbers came from.

Commissioner Wells asked for the county's current bond rating.

Mr. Pullium replied that the county's bond rating was AA.

Commissioner Wells remarked that a lot of counties would die for that.

Chairman Dunn said with the county's current population, it was hard to even get that rating.

County Administrator Chris Cofty remarked there was only one other high rating in the entire State of Georgia. He said he wanted to point out a couple of things. He said obviously this concerned him a little bit. He stated that under Mr. Pullium's guidance since he had come on board as the county's Finance Director, the county had instituted performance-based budgeting. He said there was a true program budget. He said programs had to qualify to be included in the budget. He urged any citizen in Fayette County to ride around the county and see what was going on. He said there were a multitude of projects that had been completed and that was in the process of being completed. He said recreation was being addressed significantly. He said the landfill was much better for the citizens. He said four fire stations had been built. He said he could go on and on and on. He said he would be more than happy to take the press around and show them all of these projects. He stated there was a tremendous amount of work going on in Fayette County right now.

Chairman Dunn remarked that even the survey done by the Atlanta Journal indicated that the County was doing just well.

Commissioner Frady remarked that commercial industry made up approximately 25% of the total digest. He said last year it was more than \$3 billion. He said the industry was paying their portion of the digest and it was just that amounts of money that homeowners did not have to pay. He said he had some concerns about the assessments that he had heard in every aspect for homes and businesses.

Commissioner VanLandingham said the budget that the Board was adopting did not mean that the county would be spending the money tomorrow. He said this was what was planned for the year. He said if this much money was not collected, the County would not be able to spend that money. He said when the words "deficit spending" was put out there he felt it had a lot of fear in people's hearts that it should not have if people were responsible. He said he did not have a budget for his house but he had been there long enough that he knew about how much he could spend a month. He said the same principle applied here. He said the county did not spend what it did not have. He remarked the budget was something that the Board wanted to accomplish this year, everyone recognized the fact that if there was a shortfall then some of that would not be done. He said there would not be deficit spending by this Board as far as he knew.

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Commissioner Frady said he felt Mr. McHugh was referring to was that it appeared to him that the county was having to use reserve funds which would make the county have deficit spending in the budget. He said there would not be a budget adopted where there would not be enough money for it. He said it was a balanced budget.

Chairman Dunn said that over the last two or three years the Board could have done the politically popular and that would be to reduce the millage rate somewhat. He said the Board knew all of the expenditures that were coming. He said new people would have to be hired for the jail and courthouse. He said new firemen would also have to be hired. He said the Board had all of these plans in place and it knew of these expenses coming. He said the only reason that the Board can handle these expenses now without raising the millage rate was because the Board planned for it. He said there was no deficit here at all. He said the county still had the fund balances that the county was required to have by its policy. He said the county also had substantial monies for contingencies if there were natural emergencies such as storms or anything. He said the financial condition of the county was probably as strong as any government in the Country.

Mr. Pullium remarked that last year this Commission had set aside an emergency fund and it was based on a recommendation that staff made. He said he felt that was a wise move. He said none of us could have foreseen the events of September 11th. He said it was wise to have some reserve money or emergency money available should something like that come up and no one would know. He said hopefully nothing like that would happen in Fayette County but the county had to be prepared to the best of its ability should it occur.

Commissioner Frady said he had always been a firm believer in government that it should be able to operate with natural growth. He said there was enough money there to operate with natural growth. He said 4% to 6% natural growth which would include new businesses and houses coming in and then that would be a lot of money with this type of increase and a digest that was that large.

Mr. Pullium said he could understand what Commissioner Frady was saying. He said in this day and age where there were tremendous needs in public safety from a law enforcement and from a fire and emergency services perspective that it depended on whether or not this could be done. He said these services must be provided that the citizens demand in order to provide a safe and healthy community. He said he agreed with Commissioner Frady philosophically that this would be an ideal situation, however it might not be possible in all cases. He said it would depend on the needs.

Commissioner Frady said the county would have to live within its needs and within its revenue.

Chairman Dunn remarked that one of Mr. McHugh's remarks was that the county's projections were not like the State of Georgia. He said to the degree they were not the county was probably better off. He said he had never known the State of Georgia to be a great State for projecting budgets or anything like that. He said the county had always done a superb job in this arena. He said it almost sounded like Mr. Pullium was trying to defend to the Board what Mr. McHugh had said. He said that was not necessary. He said Mr. Pullium had done an extraordinary job. He said Mr. McHugh was a citizen and he was a very knowledgeable citizen and the Board would

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take what he said and look at it. He said he knew some of the things that Mr. McHugh said were inaccurate. He said he did not feel it necessary to go through that but the public should know that the Board would look at Mr. McHugh's input. He said if there was something there that makes sense then the Board would deal with it. He said the job that Mr. Cofty and his staff had done on this budget was extraordinary and the people should know that the staff went over probably thousands of hours before this Board even looked at it. He said staff was able to eliminate \$7 million in spending on some things that departments thought they needed but the county already had, some things that could be achieved in other ways and some things that were just not needed.

Commissioner Frady said the only thing that Mr. McHugh had said that he thought was correct was the fact that the millage rate was raised last year 1.5 mills. He said that generates approximately \$4,600,000. He said the county's payoff on the jail was approximately \$4 million a year.

Chairman Dunn said the staff did not need to back up to anybody. He said the budget was one fine document. He said it was also the first attempt at any long term capital improvement program where the citizens would be able to get visibility of what this Board intended to do over the next eight years. He said that had never happened here before. He said staff was still putting that together and it was in its first year. He said once it was done everybody in Fayette County would be able to look on their computer and find out exactly what their government was intending to do for the next eight years. He said this had not been done anywhere that he knew of around here. He said the fact was that staff was doing a great job. He said he was 100% behind the effort. He said if something was found then it could be changed. He said nobody was perfect. He said if the sales tax was a bomb this year, then there would be the some things that just would not be done. He said the county would not spend money that it did not have. He said he was thrilled with all of the work that staff had done and what had been accomplished.

Commissioner Pfeifer said he would like to add that as a taxpayer he would like to thank the staff, department heads, Mr. Pullium and Mr. Cofty. He said the opening of the jail was a tremendous project and to be able to hold down the budget as it did and still absorb that was a tremendous achievement. He said as a taxpayer he appreciated it. He said he had received one of the assessment notices himself.

On motion made by Commissioner Wells, seconded by Commissioner Pfeifer to adopt the budget for fiscal year 2003 beginning July 1, 2002 and ending June 30, 2003 as recommended by staff. The motion carried 5-0. A copy of Resolution No. 2002-08, identified as "Attachment No. 12", follows these minutes and is made an official part hereof.

CONSIDERATION OF TRANSFER AGREEMENT FORM 394 FROM AT&BROADBAND TO COMCAST, INC.

County Administrator Chris Cofty said he had just met with Andy Macke of AT&T earlier. He said it was required that the Board take action within 120 days from presentation of that request. He said tomorrow would be the 120th day. He said the county had proposed a resolution to AT&T/Comcast and there seemed to be a few issues in that. He said they needed a little more time to work these issues out. He said AT&T had requested an extension and had written the

county a letter waiving the 120 days until July 26th. He asked for the Board consideration in honoring that request and allow a little more time to work out these issues. He said there were three components that were currently being looked at under this transfer. He said one would be the refund of the liquidated damages that Fayette County was able to collect from AT&T to the unincorporated cable customers governed by the Fayette County franchise. He said secondly would be the advent of high speed data throughout Fayette County to give residents additional choices in terms of their in home computer use. He said thirdly would be audit and review of back dated franchise fees. He said they were working on those areas now and they were pretty close to reaching an agreement but AT&T had requested an extension. He asked for the Board's consideration to honor that request to July 26th.

Andy Macke representing AT&T said they were in agreement on the three issues. He said the only issue was how these can be worked out in formalizing the document.

Chairman Dunn clarified that Mr. Macke was committing AT&T to help the county give a rebate to every AT&T customer in the unincorporated county.

Mr. Macke responded that was absolutely correct. He said AT&T was ready to proceed with that at the county's will.

On motion made by Commissioner VanLandingham, seconded by Commissioner Wells to grant AT&T's request for an extension to July 26, 2002. The motion carried 5-0.

CONSENT AGENDA: Commissioner VanLandingham requested item 2(b) be tabled to the July 25, 2002 Commission meeting. On motion made by Commissioner VanLandingham, seconded by Commissioner Frady to approve Consent Agenda items 1, 2(a), 3, 4 and 5 as presented. The motion carried 5-0.

Commissioner Wells said she would honor the request to table item 2(b) in order to get further information but she was in no way supporting a change in that particular issue as it stands at this time. She clarified that she would not support a change.

FINANCE DEPARTMENT: Approval of request from Finance Director Mark Pullium asking for authorization of the Chairman to execute Appropriation Certificate for the FY 2003 Fiscal Year for the ACCG-GMA Local Government Equipment Lease Pool. A copy of the memorandum and Appropriation Certificate, identified as "Attachment No. 13", follow these minutes and are made an official part hereof.

BADGER METER FOR SALVAGE WATER METERS: Approval of recommendation from Water System Director Tony Parrott to (a) award bid to low bidder Badger Meter for Salvage Water Meters; and (the following item was tabled to July 25th meeting) (b) award the annual contract for Waterline Extensions to the low bidder Shockley Plumbing. A copy of the memorandum, identified as "Attachment No. 14", follows these minutes and is made an official part hereof.

RIGHT-OF-WAY AGREEMENT PR-359(113) - HAMPTON ROAD @WOOLSEY

CREEK: Approval of authorization for the Chairman to execute the County Right-of-Way Agreement regarding PR-359(113) Fayette County - Hampton Road @Woolsey Creek 80' R/W. A copy of contract PR-0359-(113), identified as "Attachment No. 15", follows these minutes and is made an official part hereof.

AMENDMENT TO FAYETTE COUNTY CODE OF ORDINANCES: Approval of amendment to Fayette County Code of Ordinances, Article V, Division II, Section 120, increasing the dollar value threshold of inventoried County property from \$1,000 to \$5,000, as recommended by the United States Government Finance Officers' Association for State and Local Governments. (See staff reports)

MINUTES: Approval of minutes for Board of Commissioners regularly scheduled meeting held on June 13, 2002 at 7:00 p.m.

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.

BOB McELROY: Bob McElroy commented on protecting Fayette County neighborhoods from commercial development. He said Petition No. 1095-02 that was discussed tonight and this was about commercial development at Seay Road and S.R. 92. He said there was a lot of community involvement regarding that request. He said the large group had attended the Planning Commission meeting and there were approximately 400 signatures on petitions. He remarked that all of these citizens oppose commercial development at that location. He said at this point the citizens had done about all that they could do. He said the citizens needed the help of the County departments and the Commissioners to help protect their neighborhoods. He said the petitioner stated that it was his intent to develop the same project across the street. He said petitioner had also stated this at the Planning Commission meeting. He said petitioner wanted to do this on a thirty-year old zoning. He said if the commercial development was not appropriate for one side of the street, then it was really not appropriate for the other side of the street for the same reasons.

Mr. McElroy further remarked that in 1972 when this C-H zoning was approved there were no residential neighborhoods being encroached upon, no traffic congestion on S.R. 92 and no history of accidents at the intersection of Seay Road and S.R. 92. He said there was no negative impact on adjacent or nearby residential properties and no concern for a County Land Use Plan. He said today there was all of that. He stated that trying to activate a thirty-year old zoning in today's environment would be like trying to use an electric typewriter to surf the internet. He said this just would not work. He said the citizens really needed the Board of Commissioners' help. He said he would try and draft a letter in the next couple of days. He said if this development was not appropriate for one side of the road, for the same reasons it would not be appropriate for the other side of the road. He said he respected the Board's position on this but he also had a position. He said he felt like the citizens of Fayette County need the help of the County to mitigate the situation and make it where the residential communities would be protected. He said he

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would try and get a letter to the Board in the next couple of days and he asked for the Board's consideration in looking at the letter.

STAFF REPORTS:

EXECUTIVE SESSION: Commissioner Frady requested an executive session to discuss one potential legal matter.

ATTORNEY MCNALLY: Attorney McNally asked for the Board's consideration in authorizing Chairman Dunn to execute the L.A.R.P. Agreements regarding paving for the City of Fayetteville and the City of Peachtree City. He said both Mayors had executed the Agreements.

On motion made by Commissioner Wells, seconded by Commissioner Pfeifer to authorize the Chairman to execute the L.A.R.P. Agreement regarding paving for the City of Fayetteville and the City of Peachtree City. The motion carried 5-0. A copy of the Agreement, identified as "Attachment No. 16", follows these minutes and is made an official part hereof.

DATE SET FOR L.O.S.T. DISCUSSION: Attorney McNally asked for the Board's consideration in setting a date for a Special Called Meeting in order to discuss the Local Option Sales Tax distribution.

Attorney McNally remarked that the law required a first meeting with all of the cities so that the county could receive input as to their feelings relative to the Local Option Sales Tax. He said after that the requirement was that the County and the largest city in the County reach an agreement. He said it was hopeful that the County and all of the cities would reach an agreement, however, there were provisions that in the event any city other than the largest city did not agree with the distribution then the County and the largest city could agree. He said a percentage would be assigned to that city who refuses to sign.

Chairman Dunn said there were some cities who had never signed but they would still get the money based on their population.

Commissioner Wells remarked that the composition of the first meeting would be for everyone coming for dialogue.

Attorney McNally said the County would invite the City. He said the City could have the entire Mayor and Council come or send representatives. He said this would be up to each individual city what their decision would be. He said most of the time there would be a legal representative and either a Manager or perhaps a Mayor.

Commissioner Wells suggested Wednesday July 24th at 8:30 a.m. and possibly July 31st if the July 24th date was not convenient for the cities.

On motion made by Commissioner Wells, seconded by Commissioner Frady to hold a Special Called Meeting on Wednesday, July 24, 2002 at 8:30 a.m. to discuss the Local Option Sales Tax. The motion carried 5-0.

ORDINANCE NO. 2002-08 ADOPTED: Attorney McNally explained to the Board the reason for item no. 4 on the consent agenda, and asked for the Board's consideration in authorizing the Chairman to execute Ordinance No. 2002-08 which would amend the Fayette County Code of Ordinances. He said in Section 2-120 of the County Code it provided for a permanent inventory of all property over \$1,000. He said this provision had become outmoded over the years and the Georgia accounting officials now recommend that all items over \$5,000 be accounted for.

On motion made by Commissioner Frady, seconded by Commissioner Wells to adopt Ordinance No. 2002-08 regarding Amendment to the Fayette County Code of Ordinances, Article V, Division II, Section 120 and authorize the Chairman to execute same. The motion carried 5-0. A copy of Ordinance No. 2002-08, identified as "Attachment No. 17", follows these minutes and is made an official part hereof.

COMMISSIONER VANLANDINGHAM: Commissioner VanLandingham remarked on the letter he had received from the Department of Human Resources and the appointment to the Board of the West Georgia Emergency Council. He said the appointment would have to be made before July 16th, 2002.

Executive Assistant Carol Chandler remarked that this was a City appointment and a name would have to be received from them.

EXECUTIVE SESSION: Attorney McNally requested an executive session to discuss three legal items and one real estate acquisition.

EXECUTIVE SESSION: On motion made by Commissioner Wells, seconded by Commissioner Frady to adjourn to executive session to discuss four legal items and one real estate matter. The motion carried 5-0.

LEGAL: Commissioner Frady advised the Board on a legal matter

The Board took no action on this matter.

LEGAL: Attorney McNally advised the Board on a legal matter.

The Board took no action on this matter.

LEGAL: Attorney McNally reported to the Board on a legal matter.

The Board took no action on this matter.

REAL ESTATE: Attorney McNally discussed a real estate matter with the Board.

On motion made by Commissioner Wells, seconded by Commissioner Frady to authorize Attorney McNally to proceed in this matter. The motion carried 5-0.

LEGAL: Attorney McNally discussed a legal matter with the Board.

The Board took no action on this matter.

EXECUTIVE SESSION AFFIDAVIT: On motion made by Commissioner Wells, seconded by Commissioner Pfeifer to authorize the Chairman to execute the Executive Session Affidavit affirming that four legal items and one real estate matter were discussed in executive session. The motion carried 5-0. A copy of the Affidavit, identified as "Attachment No. 18", 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 11:15 p.m.

Karen Morley, Chief Deputy Clerk

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 25th day of July, 2002.

Karen Morley, Chief Deputy Clerk