

The Board of Commissioners of Fayette County, Georgia met in Official Session on May 10, 2001, 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
 A.G. VanLandingham

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

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

NEW BUSINESS:

4-H SHOTGUN SHOOTING RANGE: Dan Bates, Massingale Road, stated he lives on one of the last peaceful rural gravel roads in Fayette County. He remarked he was before the Board tonight to ask for their help. He commented that a very small part of the Fayette 4-H Club has built a shotgun range near their homes. He added the noise of the gunfire was disturbing and the government of Fayette County was letting them get away with it. He said this issue was simply about respect for one's right to live peacefully in their own homes.

Mr. Bates advised the Commissioners that he was in the 4-H Club himself as a child, he learned to shoot rifles at 4-H summer camp, his mother was a County Extension Agent in Ottoway County, Virginia. He said he was familiar with 4-H and he knew what it stood for.

Mr. Bates stated he appeared before the Commissioners tonight at a slight disadvantage because the county directly supports the 4-H Club. He said he did not know who was going to speak tonight from the county but he assumed the Board was more familiar with them than they were with him and perhaps the Board would be more comfortable with this person's words than his. He commented that about a year ago, he began to hear a lot of noise around the house, a lot of shotgun fire. He remarked that he let it go on for about three weeks before he called the Sheriff's Department in an attempt to find out what was going on and they referred him to the Marshal's Office. He said we could not imagine his surprise and disappointment when he found out that Fayette County had approved a permit for the 4-H Club to put a shotgun range in between three subdivisions, homes along Georgia 85, homes on Massengale and actually up against the Starr's Mill School Complex. He stated the same marshal's deputy told him the office had received a lot of complaints. He said within days of learning about that range he drove down to the shooting range, was met by Mr. Denny Kuhr

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and he explained the program to him, and he was polite. He added at that time he informed Mr. Kuhr that the local residents were being bothered by the noise.

Mr. Bates stated that on April 24, 2000, he phoned the county complex in an attempt to find out how in the world this could happen, he was referred to the Commissioner's Office, he was then placed in contact with an Assistant County Administrator, Mr. Chris Cofty. He added Mr. Cofty was helpful, provided him with copies of the permit, application for permit and applicable shooting ordinances. He said also upon his request he provided him with a copy of the Noise Control Ordinance. He commented he quickly realized after reviewing the copies, in Fayette County, if one has ten acres of land, 100 acres from a road, 200 yards from a structure and the barrel was pointed in the right direction, you can shoot your shotgun from sunrise to sunset. He added that was the law. He said disappointed with that ordinance, he turned to the Noise Control Ordinance as that was all he had. He said he had copies if anybody wished to see the ordinance. He read from the ordinance . . . *"It shall be unlawful for any person to willfully make, continue or cause to be made or continued any unusually loud noise which disturbs the peace or quiet of any neighborhood or which causes discomfort or annoyance to any reasonable person of normal sensitiveness residing in the area."* He said that in Fayette County one could not have their dog bark too much or their bird chirp too much and if you have a motor, it has to have a muffler on it. He said on the back, in Sections five and six, this was because . . . *"mufflers will effectively prevent loud or explosive noises therefrom."* He further said he would argue to the Board that a shotgun was very good at doing that.

Mr. Bates stated after he looked at the Noise Control Ordinance, he phoned Chief Butch Hall with the Marshal's Office and requested that a noise determination be made. He added that within a day, Mr. Cofty gave him a call and asked if he, Attorney McNally and Chief Hall could come to his house and listen to the noise. He commented that Wednesday afternoon they showed up, he was impressed and the 4-H Club did not fire a shot. He remarked they had been shooting down there about every day for weeks, except for Sunday. He said not to be deterred the same officials came back the next day, Thursday, and the 4-H Club shot and after about fifteen minutes, Mr. McNally made the determination that the noise was not loud enough to constitute a violation of the Noise Control Ordinance. He stated he disagreed with that. He said first and foremost, before they came, and he didn't blame them, they wanted to make sure the 4-H Club was shooting, they told the boy's club they were going to be there. He said sure enough, the shooting was less loud, it was less frequent. He said Mr. Will Sumpter who was in attendance here tonight was on a back deck and he can attest to this. He said, secondly, he did not believe a single observation, one day for fifteen minutes could possibly facilitate a fair determination. He commented it was actually quieter at his house than a lot of the houses around the perimeter of that range. He stated he would like to put the gunfire in perspective and advised the folks hear it on Old Greenville Road, they hear it on the 85 Connector, Padgett Road, Woodcreek Subdivision off of Redwine Road. He said further that his wife received a call Monday night from her friend in Kimmer Ridge Subdivision and was

asked if the 4-H Club was shooting. His wife advised her friend they were shooting. He said the call came from three subdivisions deep into Peachtree City. He continued that to suggest that it was not loud on that range was wishful thinking. He advised of the guns that were fired on the range and how many rounds they shot. He said 1,000 shots per night was a conservative estimate of how many shots were fired. He mentioned he could hear the gun firing going on over the TV set. He stated there was not a reasonable honest person in attendance at this meeting tonight that would want that nuisance near their home. He noted that if one home was for sale, and their realtor had a potential buyer who needed to come over right away, would anybody want that shooting to be going on. He said he had to make assumptions tonight because this was not a give and take meeting. He said there was a war on words in the local newspaper recently. He commented that the boys' clubs use sound level measurements in making comparisons in an attempt to state as fact that, that shooting is not loud and it is not intrusive. He said he needed to mention the value of meters and a difference of opinion. He quoted from Dr. Juan Plodrow, who has a PhD. from the University of Wisconsin. *"Some people believe the decibel scale is an objectionable scale because they see it printed in books and on the face of a machine when in fact its inter-subjective and lacking in precise meaning. At this point it is extremely crude in its un-weighted and weighted forms and commonly misused to make a point on either side of the noise issue. It fails to account for age, history, vocation, individual sensitivity, preference and a host of other psycho-acoustic factors that mean a lot to people."* Mr. Bates said in another article, Mr. Plodrow says, *"the worst aspect of decibel meters is they lead unsuspecting users to think they know a whole lot more about noise than they actually do. In my two years of teaching an upper level chemistry course, and the physics of music, the chief value I found for the decibel meter was to use it as a foil. As a tool for measuring loudness in an intermittent way is another failure."* Mr. Bates states he was not an acoustic engineer, he was an engineer, but there was much more to the perception of noise than decibels. He said, for instance, gunfire was to traffic as a clap (he clapped his hands) was to the sound of his voice. He continued that if that clap and his voice were exactly the same volume that clap would interrupt and disturb you much more. He mentioned that he also knew that lower frequencies of sound travel much further and tend to be more penetrating. He said a perfect example, if you were a mile outside of a football stadium on a Friday night when you hear the band, you don't hear the piccolos at a mile away, you hear those bass drums. He said he didn't know what it was about gunfire but it goes a long way in rural areas. He commented when the 4-H Club took their sound and measurements, Mr. McNally made his determination, how cold was it, which way was the wind blowing, what was the humidity that day, how much foliage was in the trees, which gauge shotgun were they shooting with, they use twelves and twenties, there was a lot of ammunition being used, which way was the barrel being pointed, how many shooters were on the line, all of those things could affect the sound level. He remarked that the noise was louder on some days than others.

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Mr. Bates stated here was the bottom line and its difference of opinion on this noise. He asked if that noise was necessary or was it unnecessary. He questioned whether it was invited or uninvited. He stated this was not the sound of progress, it was not the sound of jobs, it's not the sound of children playing, it was the sound of gunfire. He asked that the Commissioners not misunderstand him, as he did not want to be at odds with the 4-H Club. He said he felt that most of the folks agree that this was not a case of what this Club was doing but where they were doing it. He commented he felt the concept of competition and safety was commendable, but how did one justify to these same sixth to twelfth graders that it was okay to disturb others as long as you did it with a gun. He added it was also a case of how much they do it, one hour a day, one day a week. He said he wouldn't be here. He remarked that personally he did not object to a private citizen going out there, shooting his gun to maintain his sportsmanship to protect his family, as long as he does it safely and doesn't take advantage of someone. He said it was simply a matter of respect. He said he did take offense to a thousand rounds an evening of twenty and twelve-gauge shotgun shells. He said this was disrespectful, and it's selfish.

Mr. Bates remarked he was going to show a video tonight to show you and some may have seen that video tape. He commented this past Monday he visited Mr. and Mrs. Wilbur Nixon's home to get a short video clip to give the Board some idea of how it was. He said as a result of the limitations of his camcorder, limitations of this room and the equipment that the county has, it would have hurt his argument. He said that was an exercise in futility but the good thing about it was when he visited at the Nixon's house, and he heard how loud that gunfire was, he was ashamed of himself for thinking that he was upset because he could hear it inside his house. He stated if folks went to Peachtree City on the 4th of July and saw the wonderful fireworks display on the boat docks, honestly, it was not any louder than what Mr. and Mrs. Nixon listened to on these spring evenings. He commented that the boys' club should be ashamed of itself, they ought to go up to Mr. and Mrs. Nixon and look them square in the eye and apologize. He further said that he was outnumbered this evening, Fayette 4-H Club, most Fayette clubs have deep roots in the community. He commented the boys' club enlisted the outside help of the National Rifle Association. He said that was an interesting, an unusual and in his opinion, an inappropriate relationship. He stated he had his NRA card to rejoin the NRA this week and he would not be renewing his membership with the NRA.

He asked everyone to please remember that most of these people that are here tonight in support of the 4-H Club, do not live near this shooting range.

Chairman Dunn asked those present to refrain from shouting whether they were pro or con. He added that this was not a public debate. He stated all the talking will be between Mr. Bates and this Board.

Mr. Bates continued by saying they drive from their quiet homes, they drive down to our backyards, they shoot their guns all night long, they get back in their cars and they hopefully drive back to their peaceful homes. He asked that the Board please weigh that in its decision tonight. He stated he knew these shotgun club members and perhaps the Board feels that these folks need a place to shoot. He said he wanted to mention something his parents taught him a long time ago. He added there was a big difference between needs and wants, he suggested that what these folks had was a want to shoot, they want a convenient place to shoot and he didn't blame them as he would too. He said, however, need was something one needs for his welfare, his health, job, food and shelter, a need to be able to live without being bothered by shotguns and strangers, for no other reason than these people enjoy shooting. He said he knew these folks were in clear violation of this Noise Control Ordinance, even the most liberal one. He remarked that in that ordinance there was no difference between a subdivision in the rural areas, there was no mention of decibel levels and there was no specific exemption for civic organizations. He commented it would be simple to say that one of us was unreasonable and over sensitive as far as noise was concerned, but he wasn't alone here tonight, he had the people with him. He said these people truly lived around here, near the range, and they truly care and he didn't want anybody on his side of the aisle tonight that did not truly care.

Mr. Bates stated according to the NRA, there may be an ordinance out there, its Georgia State law that prevents local noise control ordinances from protecting the citizens of Fayette County. He said he did not know if this was the case or not, if that was the truth he asked that the Club's permit be revoked and do it on the basis that the government of Fayette County has failed to protect its citizens' right to peace and quiet. He commented if the ordinance that we have on the books today prevent that, he asked that the county beef up those ordinances, modify them and then revoke their permit. He stated should the Board of Commissioners support his folks tonight, it would not be a death sentence for this Club. He said they have shot their guns for two seasons at the expense of our peace and quiet, the very thing most of them live down there for. He remarked they have eight more months to find another location before their season begins again. Mr. Bates stated he knew the 4-H Club, when they pull the triggers on their guns, they do not mean to disturb Dan Bates or the other people he had there tonight, but somewhere along the line, the county let us down and in their attempt to help the 4-H Club, they forgot about us. He asked the Board to use its compassion, power, and wisdom to help them.

Vice Chair Wells asked Mr. Bates to have the people who were in support for his cause to stand up and they did. Ms. Wells asked those in opposition to stand which they did.

Chairman Dunn told Mr. Bates he appreciated the professional and courteous manner in which he presented his item. He asked if any members of the Board had any comments.

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Commissioner VanLandingham stated he lived off of Calloway Road, about two miles from the county owned firing range for our peace officers. He commented he could hear every shot they fired. He said he also owned some livestock, his chickens haven't quit laying, they still go about their chicken business just like normal because they have become accustomed to it and for the most part so had he. He added that he could tell every round that was fired and he looked at the inconvenience and then he looked at the benefits, and somehow he felt the benefits outweigh the inconvenience. He said this was probably the way he would look at the 4-H range also. He commented the 4-H Club was not just about shooting shotguns at targets, they are constantly building character, responsibility, for the future of our county and he felt very good about what the 4-H has done in the county. He stated he was not saying Mr. Bates and his neighbors didn't have noise, he wasn't saying that at all, but he didn't know of any place in this county that it could be located, that it would not produce the same noise. He commented he felt the 4-H Club had done a tremendous job, they put out a lot of effort to be good citizens, they have cleaned up the area, they have cleaned up the road, they have restricted the firing, legally they could do a lot more firing than they do now, but they have voluntarily restricted themselves. He claimed after all was said and done, he could not see any violation of anything that we have on our books. He said he knew this would not stop the noise but in weighing everything, he felt like the 4-H Club was worth the effort and inconvenience that it produces.

Commissioner Frady stated he felt this was a healthy thing that we were doing for our children, and it was in accordance with our ordinances because you can deer hunt on ten acres with a shotgun, and this was on two hundred and seventy acres so it was perfectly legal to do. He said there may be some inconvenience or noise but for the most part, he had, had about twenty-five letters and some people adjoin this property and they don't seem to have a problem with it. He commented he could not see changing the ordinance to stop this.

Vice Chair Wells said that she appreciated Mr. Bates situation and the inconvenience that you and the other individuals were experiencing but the Board always had to keep in mind that less government is better government. She stated she was always concerned when the Board starts to change ordinances or creating laws that seem like on its face were a good thing for a small group of people. She commented Mr. Bates did make the statement that the shots of the guns went all night long and she knew that they were not shooting that long although it may seem that way to him. She said the season was only three months long, but if we were to go out and start limiting things of this nature, then where do we stop. She asked if we should stop with this or do we go to the bands, do we go to the cheerleading squads, do we stop the good wholesome involvement of our youth. She remarked she was much more offended by boom boxes in cars that pull up next to her with their music blaring. She commented that the government had to be very careful as we can become overly restrictive, we can become so in tuned to controlling everything that we as individuals surmise that as an offense, and that pretty soon no one in our country has any rights or any liberties. She said

she thought that we were best advised to execute discretion very carefully and very slowly. She commented this Board was not making a decision tonight. She remarked she could speak for everyone here because she knew everyone on the Board well. She said the Board members were not speaking here because of the number of people, or because there were more for the issue, or fewer against the issue. She said this was not the way the Board made its decisions, everything that was considered was weighed very carefully. She said she thought it was impressive that when one citizen complains, we have our Chief Marshal, the County Administrator and the County Attorney show up on this citizen's doorstep to determine whether or not this individual has a legitimate complaint. She added that in a lot of areas, one would have drawn a deaf ear. She stated the Board had to be very careful about using its authority creating ordinances that were infringing upon the healthy legitimate rights of our citizens. She said she found that not every student wants to play football, soccer or whatever, but if you visit the fields where they play or you live in the area, you were going to hear a lot of noise. She added that she lived in Fayetteville and could often hear the bands during the football season if she stepped outside. She said it's a fact of life and this was wholesome for our young people and our citizens to be able to express their selves in that fashion. She stated she wanted the audience to know tonight that the Board's decisions were being made upon the fact that we actually believe that there was no violation of the ordinance. She said we do not believe the ordinance needs to be increased in any fashion and the Board could understand the citizens inconvenience and its discomfort with that. She commented for this Board to exercise an increase in the ordinance she felt at this time would be an abuse of its power.

Chairman Dunn stated that he agreed despite the fact that some of his friends were sitting behind Mr. Bates. He commented that he agreed with everything that had been said here but he wanted to curtail his remarks simply to the noise aspect of this. He said he felt it was obvious how good the program was for our youth and the positive things they have done out there, the way they manage and run the range. He added it was safe, it was not a danger to anyone in the community that he could see, but he would make some comments about the noise. He stated not only did the Marshal, the Administrator and County Attorney go to the property to listen to this, so did he. He said he went out there to listen to the firing first hand. This time of the year, this time of the evening, well, a little earlier than this, just this week as a matter of fact, and he previewed the movie that Mr. Bates had made and whether or not that would have helped his case was a decision he made not to play it. He said he went to the exact spot where Mr. Bates filmed the video. He said it was easy for him to find that spot along the road. He said he went and he listened to the range firing and he went and he spent a few minutes in Mr. Bates' driveway and in some of the neighbors' driveways. He mentioned that there were three firing positions on the range so you were never going to get more than three people firing at a time and there was some noise with the shotgun shooting, not as much as with rifles but there was noise. He said, however, the noise of the traffic on Highway 85, to him, was obliterating the sounds of the shotguns. He added he was standing there trying

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to pick out the shots while the cars were going by and the cars are going by on 85 all the time now. He stated he was sincerely out there looking to see how bad a problem this was from different spots around there while they were firing and he could hear them firing but he was straining at times to hear the shots. He said one could say they were shooting the other way, of course they always shoot the other way, if you were over at the school, you would hear a louder noise then you can hear at your property. He added the school noise with the bands playing and football games' makes more noise than these shooters do in his mind. He commented he supports the 4-H program, he didn't think there should be any changes made to the ordinance at this point. He said he sincerely tried to go out and measure Mr. Bates' problem from his perspective and he didn't find it to be noxious or anything beyond what a reasonable person would tolerate and that was what was in the ordinance. He remarked he felt he was a reasonable person and so therefore he had to support the program as it was now. He mentioned that one of his concerns was how far did the government move to prevent things. He stated he liked to tell people we aren't a suburb of Atlanta and we're not going to become one. He said one of the reasons the folks moved here was how nice it was and the fact that we have different types of life in this county, we are not a big cement jungle, we have farms, we have farm animals, we have cities, we have activities, ball games and we have a couple of ranges. He mentioned we have a range we train on and we have this range and these are life styles that we want to retain in the county. He said a lot of these young people would have no place else in this county to shoot if they didn't have that, and the reason that's such a good spot was because it was a two hundred and fifty-acre piece of property that nothing else was happening on. He said that was hard to find in this county today. He said that was not private property with somebody's animals on it.

Chairman Dunn stated he had to agree with everybody on the Board and that as far as he was concerned, there would be no change in the 4-H program. He said Mr. Bates had a right to make his position known as did his supporters, and the opposition had the same right. He said he appreciated people letting him know how they felt on the issue. He said he had 26 phone messages and a communique from the NRA which he threw in the trash because it had nothing to do with this issue. He added that the NRA was fine with him but the fact was it had nothing to do with what we are doing here tonight. He said unfortunately this was not going to make Mr. Bates or his neighbors happy but he felt in the interest of all of the people of Fayette County, the good of the majority of people were better served by leaving this program in tact as it was and where it was.

Commissioner VanLandingham commented he wished to thank Mr. Bates for his efforts and his involvement. He said there was just a difference of opinion here and he hoped that everyone would leave here with a feeling that everyone had their opportunity. He remarked that Mr. Bates made an effort to get on an agenda to speak and the others just showed up. He commended Mr. Bates for doing what needed to be done to bring this out in the public and he hoped they were still friends. He stated a good friend of his who lived in Wildwood Estates

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called him last evening, he could be here because he was going out of town on vacation, and he has known this man for several years. He said he was in opposition to this and he advised him last night that there was no violation of the ordinance and he could not please him. He said it was not Mr. Bates, but it was just the situation.

CONSENT AGENDA: *On motion made by Vice Chair Wells to remove item two (2) from the Consent Agenda and to approve items one (1) and three (3) as presented. Commissioner Frady seconded the motion. The motion carried 4-0.*

ROADS ACCEPTED INTO THE COUNTY'S ROAD SYSTEM: Approve request from Engineering to accept Tomaro Estates, involving Zoie Court (Lots 1 - 20) into the County's road system. The requirements of the Subdivision Regulations have been met.

MINUTES APPROVAL: Approval of minutes for Special Called Meeting held at 4:00 p.m. on April 26, 2001 and Commission meeting held on May 2, 2001.

PUBLIC COMMENT:

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

There was no public comment.

STAFF REPORTS:

The County Attorney stated he had two (2) items of real estate acquisition and one (1) legal item for Executive Session.

On motion made by Vice Chair Wells, seconded by Commissioner VanLandingham to adjourn to Executive Session to discuss two real estate items and one legal. The motion carried 4-0.

Chairman Dunn called for a five minute recess and then reconvened into Executive Session.

EXECUTIVE SESSION:

REAL ESTATE ACQUISITION: The County Attorney advised the Board on a matter of real estate acquisition for future county use.

The Board authorized the County Attorney to proceed.

REAL ESTATE ACQUISITION:

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The County Attorney advised the Board on a matter of real estate acquisition.

The Board authorized the County Attorney to proceed.

LEGAL: The County Attorney briefed the Board on a legal issue.

No action was taken by the Board.

EXECUTIVE SESSION AFFIDAVIT: On motion made by Vice Chair Wells, seconded by Commissioner VanLandingham to authorized Chairman Dunn to execute the Executive Session Affidavit affirming that two items of real estate acquisition and one legal item was discussed. The motion carried 4-0. A copy of the Affidavit, identified as "Attachment No. 1," follows the minutes and is made an official part hereof.

There being no further business to come before the Board, Chairman Dunn adjourned the meeting at 9:00 p.m.

Linda Rizzotto, 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 6th day of **June, 2001**.

Linda Rizzotto, Chief Deputy Clerk