

BOARD OF COUNTY COMMISSIONERS

Lee Hearn, Chairman
Edward Gibbons, Vice Chairman
Eric K. Maxwell
Charles W. Oddo
Charles D. Rousseau



FAYETTE COUNTY, GEORGIA

Steve Rapson, County Administrator
Dennis A. Davenport, County Attorney
Tameca P. Smith, County Clerk
Marlena Edwards, Chief Deputy County Clerk

140 Stonewall Avenue West
Public Meeting Room
Fayetteville, GA 30214

MINUTES

September 23, 2021
5:00 p.m.

Welcome to the meeting of your Fayette County Board of Commissioners. Your participation in County government is appreciated. All regularly scheduled Board meetings are open to the public and are held on the 2nd and 4th Thursday of each month at 5:00 p.m.

Call to Order

Chairman Lee Hearn called the September 23, 2021 Board of Commissioners meeting to order at 5:05 p.m. A quorum of the Board was present.

Invocation and Pledge of Allegiance by Commissioner Charles W. Oddo

Commissioner Charles W. Oddo offered the Invocation and led the Board and audience in the Pledge of Allegiance.

Acceptance of Agenda

Vice Chairman Edward Gibbons moved to accept the agenda as written. Commissioner Oddo seconded. The motion passed 5-0.

PROCLAMATION/RECOGNITION:

1. **Recognition of Fayette County 4-H'ers, Bryce Smith, Lesley Nichols, Jovie Ruf, Kareem El-Gayyar and Salih El-Gayyar for participating in the Northwest District Forestry Field Day Competition held on August 31st at Camp Westminster.**

Candace Goldbeck Fayette County 4-H County Extension Agent, on behalf of the Board, recognized Bryce Smith, Lesley Nichols, Jovie Ruf, Kareem El-Gayyar and Salih El-Gayyar for participating in the Northwest District Forestry Field Day Competition held on August 31st at Camp Westminster.

PUBLIC HEARING:

Community Development Director Pete Frisina read the Introduction to Public Hearings.

2. **Consideration of Petition No. 1312-21 A, WGS, LLC (Wendell E. & Morris W. Shelnett (Estate), and Martha Eleanor Albea, Owner, and Daniel Fields, Agent, request to rezone 56.26 acres from A-R to R-40 to develop a residential subdivision; property located Land Lot 120 of the 5th District and fronts on Callaway Road.**

Mr. Frisina stated that the rezoning request was approved by staff and the Planning Commission with five conditions. He stated the five conditions read as follows:

1. That all existing structures be removed from the subject property prior to approval of the Final Plat, or, if any structures are to remain, they must be shown to be compliant on the Preliminary Plat and Final Plat.

2. That no lot shall have direct driveway access onto Callaway Road. This shall be graphically shown on the approved final plat. (This condition will be administered by Public Works/Environmental Management.)
3. Require a 20-foot permanent easement be dedicated to Fayette County for the future construction of a multi-use path. The easement would be shown across all lots along the north property line. Beginning at the East property line on the Callaway Road right of way to the West property line at parcel 0525 070. The easement shall be within the Georgia Power 100-foot easement and the owner/developer shall submit a deed and final plat depicting the multi-use path easement at the time of final plat. (This condition will be administered by Public Works/Environmental Management.)
4. That the Owner/Developer shall dedicate from the centerline of Callaway Road, at no cost to the County, 40 feet of Right of Way along all frontages. The requirement shall be shown on the Preliminary Plat, Land Disturbance Plans, and Final Plat. A filed warranty deed shall be provided by the Owner/Developer per Fayette County Ordinances after recording of the Final Plat. The owners shall remove any structures and woody vegetation within the said right of way limits at no cost to Fayette County prior to dedication. (This condition will be administered by Public Works/Environmental Management.)
5. That the Owner/Developer shall provide a CBU unit pull off parallel to the proposed county road a minimum of 400ft from the entrance anywhere within the development and if available in front of proposed green space. The said pull off should allow for two cars to pull out of the traffic lanes of the proposed roadway. (This condition will be administered by Public Works/Environmental Management.)

Daniel Fields, representative for WGS, stated that he was grateful for the opportunity to speak before the Board and thanked them for their time and consideration. Mr. Field stated that the total size of the property in question was about 82-acres, of which Fayette County future land use plan showed to be zoned low density-residential. He continued stating with this in mind, the request was for R-40 which was one- acre per unit and in accordance with the future land use plan. Mr. Fields stated that the development was located on Callaway Road and noted that the surrounding area had R-40 zoning uses around it. Mr. Fields provided a PowerPoint presentation showing a few examples of the style, size, and price point of the homes that would be designed as part of the subdivision. Mr. Field stated that he was aware of some concerns regarding off-site drainage. He stated that they would be willing to work with surround property owners to the degree possible, to ensure no additional issues were created by the new development.

No one spoke in favor.

Larry and Merle Crowe of Fayetteville expressed their opposition and concern regarding the rezoning request. Mr. Crowe stated that he had a major issue with water drainage at his property. He continued stated that his property seemingly sits at the bottom of a hill and water from the properties above him drains into his yard. Mr. Crowe stated that with the water drainage problems already being a major problem he feared this new subdivision would exacerbate the water drainage issue and further damage is property.

Darrell Bruce of Fayetteville, reiterated concerns regarding water drainage problems, he stated that the added lots in the proposed development would increase the water draining onto his property.

Roger Wallace of Fayetteville stated that he also had concerns related to water drainage. Mr. Wallace stated that the proposed subdivision would be built at the high point in the area, as a result increased water drainage would inevitably run-down hill to the neighboring properties. Mr. Wallace stated that he was concerned about being flooded out because of the potential increase in water drainage.

Kimberly Kee of Fayetteville reiterated concerns regarding water drainage problems and the potential for flooding that already was issue, she added that this new development would only add to the problem. Ms. Kee also expressed her concerns related to increased traffic this proposed subdivision would bring.

Mr. Fields in response to comments made stated that in accordance with state law, the developer would not be allowed to discharge more water from a given property in a post-develop state than it was in at a pre-developed state. He added that they would abide to state law and regulation and be willing to with the development engineer review ways to help alleviate existing problems.

Chairman Hearn stated that the purpose of a retention pond was to not allow more storm water to drain in an area. He added that in hearing the comments and concerns for property owners in the area he commended Mr. Fields for his willingness to be a good neighbor.

Commissioner Oddo asked if there were detention ponds outlined on the concept map.

Mr. Fields stated yes, they were on the southside of the project.

Commissioner Rousseau stated that this rezoning request presented a challenge, because although it fits into zoning regulation and the County's land use plan there were pre-existing concerns that current property owners are experiencing, and the request could exacerbate those issues. He continued asking if it would be advisable to add a condition to the rezoning request requiring the subdivision developers, if willing, to work with the County to help the water drainage issues.

Fayette County Public Works Director Phil Mallon stated that state law already had stipulations in place for developers stating that "the rate of discharge could not exceed existing conditions". Mr. Mallon stated that this development would create additional water discharge as citizen comments highlighted, he added that the goal would be to detain it so that it would have less of an impact. Mr. Mallon stated that this proposal had been reviewed very closely based on feedback received from the Planning Commission public hearings. Mr. Mallon continued stating that he felt there were opportunities with the use detention ponds and drainage swales, to at the least, not worsen the problems and possibly improve the issues. Mr. Mallon added that his recommendation would be not to make this a condition.

Commissioner Maxwell stated that he had been involved with litigation involving homeowners and property issue cases in the past. He added that these were very expense cases and frustrating particularly for the homeowners. He asked how a homeowner would be able to accurately measure the difference in the amount of water draining onto their property once the subdivision was built. Commissioner Maxwell stated that in looking at the pictures provided by some of the property owners he had not heard enough that would convince him that this rezoning request would not exacerbate the problems, without the added design measured discussed by Mr. Mallon, to ensure the water run-off would not occur.

Mr. Mallon stated that in looking at the concept map what needed to be depicted was four primary drainage basins. He continued stating that the developers currently have two detention ponds identified, the County would need to require a third and possible a fourth detention pond; particularly to the south of the development near the Crowe's property which was a point of concern.

Commissioner Oddo stated that he had been in a similar situation and from personal experienced he understood the concerns of the property owners had. He added that based on that situation he knew that the developers had to adhere to state law and remain within certain limits regarding the water run-off. Commissioner Oddo stated that "in the end it all worked." Commissioner Oddo stated that based on his personal experience and his understanding of the law that the developers were obligated to abide to he was confident that the County would be working with and monitoring the process closely. Commissioner Oddo added that the request fit into the land use plan and was permissible based on the County's zoning regulations.

Chairman Hearn stated that the County was equipped with trained professionals in every department needed to handle these concerns appropriately and ensure this project is done according to the law.

Commissioner Maxwell reiterated his concerns stating that this development would exacerbate existing problems. He added that the expectation that citizens could, if needed, litigate against a developer to remedy a problem once the subdivision was built was mis-guided. Commissioner Maxwell stated that he understood that the County would work to assist in alleviating the drainage concerns but acknowledged that the County had done this in the past and had to incur the expense for such projects. Commissioner Maxwell stated that he did not feel like he had enough information to vote in favor of the request today, but he did acknowledge that the request did fit with the request fit into the land use plan and was permissible based on the County's zoning regulations.

Commissioner Rousseau stated that the challenge the Board was faced with was that they had to make a decision based on conceptual drawings, which were not definitive. He added that the Board was trusting that their professional team, would do their due diligence taking the comments and feedback provided today as guidance. He added that the Board was "putting them on notice" that this project was a critical project that would be closely monitored.

Vice Chairman Gibbons moved to approve Petition No. 1312-21 A, WGS, LLC (Wendell E. & Morris W. Shelnett (Estate), and Martha Eleanor Albea, Owner, and Daniel Fields, Agent, request to rezone 56.26 acres from A-R to R-40 to develop a residential subdivision; property located Land Lot 120 of the 5th District and fronts on Callaway Road, with five conditions. Commissioner Oddo seconded.

Mr. Fields agreed to the five conditions.

Vice Chairman Gibbons moved to approve Petition No. 1312-21 A, WGS, LLC (Wendell E. & Morris W. Shelnett (Estate), and Martha Eleanor Albea, Owner, and Daniel Fields, Agent, request to rezone 56.26 acres from A-R to R-40 to develop a residential subdivision; property located Land Lot 120 of the 5th District and fronts on Callaway Road, with five conditions. Commissioner Oddo seconded. The motion passed 4-1, with Commissioner Maxwell in opposition.

3. Consideration of Petition No. 1312-21 B, Thomas B. Chandler, Owner, and Daniel Fields, Agent, request to rezone 25.65 acres from A-R to R-40 to develop a residential subdivision; property located Land Lot 120 of the 5th District.

Mr. Frisina stated that similar to the previously discussed item this rezoning request was approved by staff and the Planning Commission with the same five conditions.

No one spoke in favor.

Larry Crowe of Fayetteville reiterated his concerns regarding the increase in potential flooding and water run-off the proposed development would cause.

Roger Wallace of Fayetteville expressed his concerns regarding the water drainage problems already being an issue he feared this new subdivision would exacerbate the water drainage and flooding of the creek near his property, and in turn flood his home.

Mr. Fields stated that he would personally go out to Mr. Crowe's property to do an evaluation and be willing to with the development engineer review ways to help alleviate existing problems.

Vice Chairman Gibbons moved to approve Petition No. 1312-21 B, Thomas B. Chandler, Owner, and Daniel Fields, Agent, request to rezone 25.65 acres from A-R to R-40 to develop a residential subdivision; property located Land Lot 120 of the 5th District. Commissioner Oddo seconded with five conditions. The motion passed 4-1, with Commissioner Maxwell voting in opposition

4. Consideration of Ordinance 2021-13, amendments to Chapter 104. Development Regulations, Article XV, Subdivision Regulations.

Mr. Frisina advised the Board that amendments had been made to Chapter 104. Development Regulations, Article XV, Subdivision Regulations. Mr. Frisina stated that this was a set of regulation that was reviewed about every ten-years. He added that creating these amendments was a team effort which he could not have accomplished alone, input from the Planning Commission, Phill Mallon, Robert Kurbes, Bryan Keller and local surveyors Randy Boyd and Warren Grey all helped in making these updates possible. Mr. Frisina provided the Board with an overview of the five major amendments to the Ordinance as well as some housekeeping updates that were made to wording and definitions to ensure terminology remained consistent throughout the Ordinance.

Mr. Randy Boyd thanked the Board for the opportunity to provide input and assist with creating the Ordinance 2021-13, amendments

Commissioner Oddo moved to approve Ordinance 2021-13, amendments to Chapter 104. Development Regulations, Article XV, Subdivision Regulations. Vice Chairman Gibbons seconded. The motion passed 5-0.

PUBLIC COMMENT:

Joy Andrew of Douglasville advised the Board of an issue she had regarding her dog. Ms. Andrews stated that her dog went missing in February and ended up being recently picked up in a criminal case in Fayette County. She continued stating that once she found out that her dog was in Fayette County Animal Shelter, she came to pick her up, but was advised that the dog would have to be spayed before being released. Ms. Andrews stated that there was some back in forth regarding the release of her dog and eventually because the dogs had been picked up in a criminal case she went to court regarding the issue. Ms. Andrews stated that she wanted her dog back regardless but felt it was a violation of her rights to require the dog be spayed before being released. She stated that she had proof that she was the owner, and did not understand why her animal could not be released to her in the same condition she went missing in. Ms. Andrews stated that if it cannot be resolved than she was advised by her attorney to file an injunction but stated that she did not want to do that, because this could be handled easily if her dog was release without being spayed.

CONSENT AGENDA:

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

- 5. Approval to acquire all fee simple right-of-way, easements, and appraisals for the proposed 2017 SPLOST Stormwater Category II, Tier II project: 223 Cedar Trail Culvert Replacement Project (19SBI).**
- 6. Approval to acquire all fee simple right-of-way, easements, and appraisals for the proposed 2017 SPLOST Stormwater Category II, Tier II project: 120 Shoal Creek Road culvert replacement project (19SBN).**
- 7. Approval of Amendment # 3 to Contract #1813-S:Sages Networks, Inc. for cloud based plan review, permitting and mobile inspections and two read-only licenses for the Water System for a one-time charge of \$44,000 and on-going annual cost of \$30,068 for a total \$74,068.00 amendment cost for fiscal year 2022.**
- 8. Approval of the September 9, 2021 Board of Commissioners Meeting Minutes.**

OLD BUSINESS:

NEW BUSINESS:

9. Consideration of the County Attorney's recommendation to approve the disposition of tax refund, as requested by Tannisha Cohen-Green for tax year 2018 and 2019 in the aggregated amount of \$158.78.

County Attorney Dennis Davenport stated that before the Board was a tax refund, requested by Tannisha Cohen-Green for tax year 2018 and 2019. Mr. Davenport briefly provided an overview stating that Mrs. Cohen had a name change in 2017, and as a result of her name change a Warranty Deed transferring her property in Fayetteville from Ms. Tannisha Cohen to Mrs. Tannisha Cohen-Green was filed. He continued stating that this filing erroneously triggered a change in ownership notification to the Fayette County Tax Assessors office, which caused an automatic removal of all exemptions as a result Mrs. Tannisha Cohen-Green homestead exemption status was erroneously removed. Mr. Davenport stated that Mrs. Cohen-Green tax refund request for 2018 and 2019 in the amount of \$158.78 was recommended for approval.

Commissioner Rousseau moved to approve the disposition of tax refund, as requested by Tannisha Cohen-Green for tax year 2018 and 2019 in the aggregated amount of \$158.78. Vice Chairman Gibbons seconded. The motion passed 5-0.

10. Consideration of the County Attorney's recommendation to approve the disposition of tax refund, as requested by Charles Lindsay for tax year 2018, 2019 and 2020 in the aggregated amount of \$237.15.

County Attorney Dennis Davenport stated that before the Board was a tax refund request, requested by Charles Lindsay for tax year 2017, 2018, 2019 and 2020. Mr. Davenport briefly explained that Mr. Lindsay homestead exemption was timely applied for but was never implemented. He continued stating that this error affected tax years 2017, 2018, 2019, and 2020. Mr. Davenport continued stating that due to the three-year statute of limitation for tax refund request tax year 2017 was time barred and had been recommended for denial, however tax years 2018, 2019, and 2020 had been recommended for approval in a total amount of \$237.15.

Mr. Lindsay thanked Mr. Davenport for his explanation of his tax refund request but added that he had received his tax refund in 2017. He also asked if the tax refund amounts could be reviewed because it seemed that the calculations mentioned differed than his own calculations.

Mr. Davenport stated that the tax refund amounts as noted in his recommendation memorandum to the Board was \$79.64 for tax year 2018, \$79.14 for tax year 2019, and 78.37 for tax year 2020.

Commissioner Rousseau moved to approve the disposition of tax refund, as requested by Charles Lindsay for tax year 2018, 2019 and 2020 in the aggregated amount of \$237.15. Vice Chairman Gibbons seconded. The motion passed 5-0.

11. Consideration of the County Attorney's recommendation to approve the disposition of tax refund, as requested by Joe Moore for tax year 2018, 2019 and 2020 in the aggregated amount of \$1,359.13.

Mr. Davenport stated that before the Board was a tax refund request, requested by Joe Moore for tax year 2018, 2019 and 2020. Mr. Davenport briefly explained that this request stemmed from the square footage of the finished basement being listed on the property record card incorrectly. He stating that the property record card listed the square footage as 2000 sq. feet, however, the square footage was 1367 sq. feet, this error was confirmed by the Tax Assessors Office. Mr. Davenport stated that Mr. Moore's tax refund request for 2018, 2019, and 2020 in the amount of \$1,359.13 was recommended for approval.

Commissioner Rousseau moved to approve the disposition of tax refund, as requested by Joe Moore for tax year 2018, 2019 and 2020 in the aggregated amount of \$1,359.13. Vice Chairman Gibbons seconded. The motion passed 5-0.

12. Consideration of the County Attorney's recommendation to approve the disposition of tax refund, as requested by Eddy Tan for tax year 2018, 2019 and 2020 in the aggregated amount of \$3,463.08.

Mr. Davenport stated that before the Board was a tax refund request, requested by Eddy Tan for tax year 2018, 2019 and 2020. Mr. Davenport briefly explained that this request also stemmed from the square footage of the residence being listed on the property record card incorrectly. He stated that the property record card listed the square footage as 5670 sq. feet, however, the square footage was 3717 sq. feet. Mr. Davenport stated that Mr. Tan tax refund request for 2018, 2019, and 2020 in the amount of \$3,463.08 was recommended for approval.

Vice Chairman Gibbons moved to approve the disposition of tax refund, as requested by Eddy Tan for tax year 2018, 2019 and 2020 in the aggregated amount of \$3,463.08. Commissioner Rousseau seconded. The motion passed 5-0.

ADMINISTRATOR'S REPORTS:

County Administrator Steve Rapson recognized Robert Kurbes Environmental Health County Manager wishing him well on his upcoming retirement.

Mr. Rapson stated that the Association of County Commissioners of Georgia (ACCG) Reconnect Conference was upcoming in November and the Board needed to select a Commissioner as the ACCG voting delegate.

Commissioner Maxwell moved to nominate Chairman Lee Hearn as the ACCG voting delegate. Vice Chairman Gibbons seconded. The motion passed 5-0.

Mr. Rapson advised that Animal Shelter Director Jerry Collins was available to respond to comments regarding the animal shelter.

Commissioner Maxwell stated that he was under the impression that there was the possibility of an injunction being filed, regarding the case involving Ms. Andrews. He continued stating that if that was the case, he did not feel it would be appropriate for the Board to make any comments regarding the case because of the potential for litigation.

Mr. Rapson stated that Fayette County Magistrate Court deferred and left the decision regarding the animal up to the discretion of Animal Control Director Jerry Collins. He continued stating that an email had been received and did reference an injunction and potential for litigation. Mr. Rapson stated that with this in mind he agreed it would not be advisable to make any comments regarding the case.

ATTORNEY'S REPORTS:

COMMISSIONERS' REPORTS:

Commissioner Maxwell

Commissioner Maxwell advised the Board that he recently had the opportunity to attend the Georgia Association of Public Pension Trustees (GAPPT) Conference, along with County staff. He stated that it was a three-day training and with a wealth of information which he enjoyed and valued greatly.

Vice Chairman Gibbons

Vice Chairman Gibbons stated he would be attending an Association of County Commissioners of Georgia (ACCG) training on Friday September 24th, which would be teaching and breaking down SPLOST Revenues for the County. Vice Chairman Gibbons thanked the Board for their support and for funding towards continued education for Commissioners and staff.

Commissioner Rousseau

Commissioner Rousseau congratulated the Fayette County 4-H'ers, Bryce Smith, Lesley Nichols, Jovie Ruf, Kareem El-Gayyar and Salih El-Gayyar for participating in the Northwest District Forestry Field Day Competition held on August 31st at Camp

Westminster. Commissioner Rousseau thanked Robert Kurbes for his dedication and service to the citizens of Fayette County both in his position in Environmental Health Office as well as on the Board of Health, he wished him well on his retirement. Commissioner Rousseau also recognized the efforts and service of Mr. Ted Toals would recently render his resignation of his position on the Fayette County Board of Health.

EXECUTIVE SESSION:

ADJOURNMENT:

Commissioner Oddo moved to adjourn the September 23, 2021 Board of Commissioners meeting. Vice Chairman Gibbons seconded the motion. The motion passed 5-0.

The September 23, 2021 Board of Commissioners meeting adjourned at 6:22 p.m.

Marlena Edwards, Chief Deputy County Clerk

Lee Hearn, Chairman

The foregoing minutes were duly approved at an official meeting of the Board of Commissioners of Fayette County, Georgia, held on the 14th day of October 2021. Referenced attachments are available upon request at the County Clerk's Office.

Marlena Edwards, Chief Deputy County Clerk