

The Board of Commissioners of Fayette County, Georgia met in Official Session on Thursday, April 27, 2006, 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
Robert Horgan
Peter Pfeifer

STAFF MEMBERS PRESENT: Chris Venice, County Administrator
Dennis Davenport, Assistant County Attorney
Carol Chandler, Executive Assistant
Karen Morley, Chief Deputy Clerk

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

PROCLAMATION FOR THE MONTH OF MAY AS OLDER AMERICANS' MONTH:

Commissioner Wells read and the Board presented a Proclamation to representatives of Senior Services proclaiming the month of May as Older Americans' month in Fayette County. A copy of the Proclamation, identified as "Attachment No. 1", follows these minutes and is made an official part hereof.

PUBLIC HEARINGS/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 3 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.

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.

PETITION NO. RDP-005-06:

Director of Community Development Pete Frisina read Petition No. RDP-005-06, Morning Creek, Pod A, Dan Fields of John Wieland Homes and Neighborhoods, Inc., Owner, and Bryan Lightweis, Agent, request approval of the Revised Development Plan for Morning Creek, Pod A for a new site layout due to soil conditions not conducive for septic systems. He said this property consisted of 118.37 acres with 43 single-family dwelling lots. He said this property was located in Land Lot(s) 193, 194, 223, and 224 of the 5th District, fronted on S.R. 92 North, and was zoned C-S. He said the Planning Commission recommended approval 3-0 and Staff recommended approval.

PETITION NO. RDP-006-06:

Director of Community Development Pete Frisina read Petition No. RDP 006-06, Morning Creek, Pod B, Dan Fields of John Wieland Homes and Neighborhoods, Inc., Owner, and Bryan Lightweis, Agent, request approval of the Revised Development Plan for Morning Creek, Pod A for a new site layout due to soil conditions not conducive for septic systems. This property consists of 248.743 acres with 97 single-family dwelling lots. He said this property was located in Land Lot(s) 194, 223, and 224 of the 5th District, fronted on S.R. 92 North and Eastin Road, and was zoned C-S. He said the Planning Commission recommended approval 3-0 and Staff recommended approval.

Chairman Dunn interjected that the Board would discuss both Petition No. RDP-005-06 and RDP-006-06 at this time.

Scott Auer remarked that he was the Vice President of John Wieland Homes and Neighborhoods, Inc. He said the basic idea behind the amendment was that John Wieland Homes was requesting to reconfigure some of the lots due to some of the soil conditions that would make it more conducive to having more suitable soils to prevent future septic failures.

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

John Thompson said he lived at 105 Lofty Eagle Lane in Fayetteville. He said the opposition that he had right now regarded the repositioning of the lots. He said they proposed moving detention ponds for stormwater runoff and there was uncertainty if there was going to be a third one added. He expressed concern that there really had not been a final decision made as to whether or not the third detention pond would be put in. He felt for the Board to make a decision to approve the revised plan without knowing whether or not that third pond was going to be put in seemed a little premature to him. He said his biggest concern about storm detention ponds in general was if they were not properly maintained they would be a breeding ground for insects like mosquitos. He said his property basically abutted up to where these proposed lots were going to be. He said the third detention pond would be close to his home and the uncertainty of the pond was something that needed to be resolved before the Board voted on the plan.

Chairman Dunn asked if anyone else wished to speak in opposition. Hearing none, he asked if petitioner had any rebuttal comments.

Bryan Lightweis said he was the engineer for the proposed plan. He said in the initial stormwater analysis they had written a blanket statement that they would comply with all Georgia Stormwater Manual Guidelines. He said they would still be in agreement with those guidelines regardless of whether there was a third pond or not. He said they would do another analysis when it reached the final design phase and make a decision at that time if a third pond would be necessary.

Commissioner Wells asked if the location of the third pond was currently known.

Mr. Lightweis said there was an idea of the proposed location. He said that would be in pod A along the south property line in the middle area. He said the third detention pond would not be nearly as large as the other two ponds. He said there would only be a third pond if the State required it. He said the final analysis regarding stormwater should be done in the next six to eight weeks. He said they had discussed this issue with the engineering department.

Chairman Dunn asked for the Board's pleasure on both of the above applications.

On motion made by Commissioner Pfeifer, seconded by Commissioner Horgan to approve Petition No. RDP-005-06 and RDP-006-06 as presented, discussion followed.

Chairman Dunn remarked that he would support this motion but when it was known whether or not there was going to be a third detention pond, he would like to see that information.

Mr. Frisina said in the Board's packet the engineering department did discuss a possible area that might be needed between Lots 20, 21, 30 and 31. He said County Engineer Phil

Mallon had been in discussions with Mr. Lightweis. He said there was an area included in the plan that would give the applicant some flexibility to move the 1.8 acre tract. He said until the construction drawings were completed, a good determination could not really be made.

The motion carried 5-0.

ORDINANCE NO. 2006-07 - AMENDMENTS TO THE FAYETTE COUNTY ZONING ORDINANCE REGARDING ARTICLE III. DEFINITIONS, SECTION 3-20. CABANA (POOL CABANA):

Director of Community Development Pete Frisina remarked that this item was for Board's consideration of proposed Amendments to the Fayette County Zoning Ordinance regarding Article III. Definitions, Section 3-20. Cabana (Pool Cabana). He said the Planning Commission recommended approval 3-0. He said there had been some problems with the definition of pool cabana. He said the issue that had caused the problems was the definition had included the phrase "one room". He said there were problems with people wanting to put restrooms, dressing rooms or pool storage areas for equipment. He said staff would like the definition not to specify that this had to have only one room. He said another interpretation was that it had to have at least one open side. He said staff would like this to have the ability to be fully enclosed rather than leaving it open to the elements. He said one open side would still be allowed but it would also be allowed to be fully enclosed as well. He said staff did not want to require someone to have open sides. He said this would give everybody the option.

Chairman Dunn asked if anyone wished to speak in favor of this proposed change to the ordinance. Hearing none, he asked if anyone wished to speak in opposition to the change and there were none. He asked for the Board's pleasure in this matter.

On motion made by Commissioner Pfeifer, seconded by Commissioner Wells to approve the Amendments to the Fayette County Zoning Ordinance regarding Article III. Definitions, Section 3-20. Cabana (pool cabana). The motion carried 5-0. A copy of Ordinance No. 2006-07, identified as "Attachment No. 2", follows these minutes and is made an official part hereof.

FURTHER DISCUSSION OF MAKING OLD HIGHWAY 138 OPEN TO THRU TRAFFIC:

Chairman Dunn remarked that this item was tabled from the April 13th Public Hearing that Old Highway 138 be opened to thru traffic. He remarked that Commissioner Frady had requested that it be tabled to this meeting.

Commissioner Frady said he had spent some time reviewing this. He said he was not present at the meeting when the Board voted on this in October of 2002. He said he had left word at the office that he was opposed to closing the road. He recalled that the Public Works Department staff was opposed to closing the road and they felt a better solution would be to widen the portion of old Highway 138 highway by making it approximately 20 feet wide. He

said if that was done, the school buses would not have any problems. He pointed out that there were only three houses on the road with the barricade. He said it made no sense to him to have a school bus go all the way around and then come back out on Georgia Highway 138 with a school bus full of children. He said the speed limit on Highway 138 was 55 miles per hour but most people seemed to be going at least 15 miles per hour over that. He said he had gone to this area this morning and he had trouble getting out. He felt it would be a dangerous situation to put a school bus full of children in that situation. He said he would prefer to go with the Public Works recommendation to widen the road to 20 feet. He remarked that this would only involve approximately .3 of a mile with only three houses on that portion. He said he would prefer the barricade be removed.

Commissioner Horgan remarked that he had gone to the transportation department for the Board of Education. He commented on the rules that they follow regarding school buses crossing multiple lanes of traffic. He said as far as the School Board knew this rule had been in effect for over seven or eight years. He said at that point if the school bus had to go back out on Highway 138 it would be full of forty or more students on that bus. He said he also agreed that putting up a blockade to slow or stop traffic was not really an effective traffic device. He said there were a lot of subdivisions where a lot of cars go through and he felt there were other ways that traffic could be slowed down. He said this could be achieved through the Sheriff's Department enforcement, speed bumps and so forth. He said it might have been appropriate when the barricade first went up but he felt with this subdivision and the safety of the children it should be taken down.

Commissioner Pfeifer remarked that he felt the barricade should remain there.

Commissioner Wells said she found it interesting that Commissioner Frady said he was opposed to this. She said on October 10, 2002 the motion was made to direct Public Works Director Lee Hearn to continue the appropriate review of the issue to determine and proceed with the most suitable design and construction of a cul-de-sac on old Highway 138 in North Fayette County. She noted that the motion carried 5-0. She said the Board had revisited this issue several times. She said this was a small strip of roadway through the existing subdivision and they were no rights-of-way. She said it would be very difficult to widen the road. She said there were impediments that would prevent the County from appropriately widening the road. She said her position had not changed on this issue. She felt if the barricade was taken down the Board would be accommodating a group at the health and safety of another group. She said she disagreed with Commissioner Horgan on this matter. She said the Board had looked at several subdivisions throughout the years where people cut through from other areas of the County. She said the Sheriff's patrol had gone to these areas to monitor the speed of vehicles and these patrolmen just could not sit on a road all day long to do this. She said the Sheriff's Department did not have enough manpower to do this nor should they be sitting on a road all day long monitoring speeders. She said speed bumps, speed humps, stop signs, rumble bars and several other devices have been tried to make sure that people drive safely through subdivisions. She said none of these had worked. She said

this was a request that was made in good faith and a request that was honored. She said the school buses would not have to cross all of the lanes of traffic and remarked that there were other ways to deal with this. She said she just could not jeopardize the safety of one subdivision for the convenience of another subdivision.

Commissioner Frady clarified that he had never voted against reviewing any issue. He pointed out that the final vote on this issue was taken on October 24, 2002. He said he remembered that date because it was his birthday. He said he never voted against issues being examined or people planning things. He said this was the only way to do things but there were people on this Board who do not do that though. He said he would never vote against having an issue reviewed.

Chairman Dunn remarked that he could not in good conscience take the wall down when he knew of and watched conditions in Highland Hills Subdivision before the Board voted for the barricade in 2002 and had seen conditions now with the wall in place.

Chairman Dunn asked if the Board needed to make a motion to leave the wall in place.

Commissioner Wells said the Board would not need to make a motion because it would not take any action on this request which would mean that the wall would remain in place.

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

Commissioner Frady said he would like to make a motion.

On motion made by Commissioner Frady, seconded by Commissioner Horgan to instruct the Public Works Department to remove the blockade on old Highway 138 at Highland Hills Subdivision and also investigate expanding the roadway to 20 feet for safety reasons. The motion failed 2-3 with Chairman Dunn, Commissioner Wells, and Commissioner Pfeifer voting in opposition.

Chairman Dunn remarked that the motion had failed so the wall would remain in place.

CONSIDERATION OF REQUEST FROM SUSAN GODA TO AMEND THE COUNTY'S ZONING ORDINANCE, ARTICLE VII, SECTION 7-1 (B) PARAGRAPH 2 WHICH CURRENTLY REQUIRES A 300 FOOT SETBACK WHEN A-R PROPERTY ADJOINS ANOTHER A-R PROPERTY FOR A CONDITIONAL USE FOR A KENNEL OR VETERINARY HOSPITAL OR CLINIC:

Mike Faulkner remarked that he was representing Susan Goda who was the owner of Puppy Tubs which was located in Peachtree City. He said Ms. Goda wanted to have a pet concierge's resort hotel in her existing 10,000 square foot building that was on 12.57 acre site on the Southern end of Redwine Road at S.R. 74. He said this building was uniquely set up

to house this type of operation. He said Ms. Goda would normally have 10 to 15 dogs there with 5 or so dogs that would spend the night. He said the zoning ordinance Article VII, Section 7-1(B) paragraph 2 currently stated that all structures, pens, runs or enclosures shall not be located closer than 300 feet from any A-R or residential zoning district. He remarked that Ms. Goda was only asking for relief on the setback requirement. He said since the ordinance defined this as a kennel and a conditional use, there was no forum for any type of variance. He said therefore, Ms. Goda was asking that the Commission amend the ordinance to reflect that the 300 foot buffer be established not from the adjoining property lines, which was not necessarily spelled out in the wording, but from the boundaries of the overall A-R district. He pointed out that there was also a lake and wet area near the structure that would not allow a house to be within 300 feet of the structure. He said the applicant was mainly asking that the Commission more specifically define the line instead of a property line and that this be done from the boundaries of the overall A-R district. He said this seemed to fit the overall intent of the ordinance which was to keep kennels away from houses. He remarked that the surrounding houses which were actually located in Peachtree City were 650 feet away. He said if Ms. Goda had to build a facility in the center of the property to be able to meet the 300 feet requirement, this would actually put a kennel closer to houses.

Mr. Faulkner further remarked that another option might be to create a conditional approval per the ordinance to establish the existing facility as a pet resort. He remarked that this property was agricultural and was surrounded by agricultural property. He said Ms. Goda could fill this property full of livestock and have 300 lambs, pigs, chickens or cows per the ordinance which would be much louder than fifteen dogs inside a pet concierge. He said the applicant was not asking for any change in the number of pet requirements. He said the applicant was only asking for relief from the setback requirement. He stated based on the intent and the distance from any houses, it already met the ordinance but it was the way the ordinance was read and defined that this house could not accomplish this without some kind of relief. He said Ms. Goda was asking that the Board work together with her to find a way by amending the ordinance thereby allowing some type of variance or creating a conditional approval for this building to work with the setback requirements so she could provide the needed pet care without having to build a new building on this property. He introduced Ms. Goda so that she could explain the pet resort to the Board.

Sara Goda thanked the Board for the opportunity to speak this evening. She said she and her husband Dick were the owners of Puppy Tubs Self-Service Dog Wash and Professional Grooming located in Peachtree City. She said their customers had expressed a need for additional boarding space in the area. She said anyone owning a dog or cat had probably experienced the anxiety of taking them to a kennel when the owner goes on vacation or out of town for business. She said this was a kin to taking the pet to jail. She said they loved everyone's pets and they had no desire to own or operate a standard type kennel. She said they were asking for permission to open a pet resort which was a huge difference. She said the dogs and cats would have full days of supervised play time. She said they get to watch videos that were made for dogs and cats. She said puppies received puppy training and have

nap time to music and even have the option of sleeping in pet suites. She said more importantly they would be getting lots of love. She said when the Redwine property came up for sale they purchased it and felt it was perfect. She said the property was 12.5 acres of beautiful land next to a horse boarding facility and away from any residential. She said there was a very large home in disrepair and it was perfect for their use. She said the home was also very conveniently located. She said the home was not visible from the road and was more than 300 feet from any residential building and by using it from where it stands they could continue to allow the neighbors to use the property for their boarded horses. She said the best part was that everyone could continue to enjoy the current view.

Ms. Goda further remarked that the home was in disrepair and they planned on refurbishing it, landscaping it and enclosing any outside areas where the dogs might play with a privacy fence. She said the only area that they planned to use for the dogs to be outside was between the house and the trees. She remarked that the area would be out of view from any neighbors, from the street or anywhere in the area. She said the conditional use ordinance required them to have at least a 300 foot setback from all of the property lines around them because they would be housing more than three dogs and/or cats. She said the only way that they could meet this requirement was to build a pet resort right in the middle of the property. She said this would mean moving the horses and cutting down the trees and really ruining the view. She said nobody would win if this had to be done. She said what they really wanted was just to find a way to make this work for everybody. She thanked the Board for their consideration to this request and she hoped the vote would be in favor of her request.

Mr. Faulkner pointed out that the area on the map located in the back of the property site was where the actual O-I site was being graded off Highway 74. He said the continuation of the lake was located just behind the house and then there were power lines coming overhead. He said the entire quadrant was not something that was going to be developed into houses. He said the two flag lots could never be developed because of the access requirements. He said the applicant was asking for the Board's consideration for an amendment or change to the ordinance, to find a way to do a variance on the conditional use, or create a conditional usage for this property so that it would never be anything else.

Commissioner Horgan asked if the house had been an actual residence and if Ms. Goda was going to convert the entire house to a pet resort.

Ms. Goda replied yes that was correct. She presented pictures to the Board so that each member could have an idea of what a pet resort would be and what they had in mind. She said the Board could see from these pictures that they were trying to provide a something nice for the community and everyone that they had spoken to was very much in favor of their request.

Mr. Faulkner further remarked that this was a 10,000 square foot building that was square with an open area in the middle of it. He said this was set up like a little hotel with rooms going

around the perimeter and the inside hallway. He said Ms. Goda was going to utilize each of these rooms plus additional rooms for the dogs and cats. He said these animals would be inside all of the time except for once or twice a day to go out on the East side in the small fenced in area for the animals.

Commissioner Horgan asked how large the outside area was going to be.

Ms. Goda replied the outside area for the animals would not be visible on any side of the property.

Chairman Dunn asked the Board if there were any questions.

Chairman Dunn said he had difficulty with this request. He said he could understand from Ms. Goda's point of view why this was a perfect solution to her problem if the building was located 300 feet from the property line and if it was, none of this would have to be discussed. He said the problem he had with this request was the conditional use in A-R. He said a variance or any other kind of adjustment could not be obtained on a conditional use. He remarked in order to accommodate Ms. Goda the Board would have to vote to change the County Ordinance which would allow everybody in Fayette County who had a piece of property and wanted to do something like this with animals to do it closer than 300 feet. He said then the Board would not be able to do anything about it. He remarked in this particular request the applicant had taken care of a lot of concerns and it would probably be a super operation if it was able to be done without changing the law. He said at this point in time he would have a hard time changing the law because he could conger up at least one hundred different uses that the County would not be able to prevent if the law was changed. He said citizens all over the County who were protected from things like this being right on their property lines would no longer be protected. He said this was the problem he had with this request.

Commissioner Pfeifer said he could not support this request either. He said this was similar to many issues that come up before the Board all of the time. He said it seemed very simple on the surface that one person wanted the Board to do one thing that would not appear to have any impact on others when, in fact, the broader issue was the far reaching principle of the rules and laws currently in place. He said if the Board took it upon itself to really, really change the law to suit specific instances, then nobody here could rely on the law or on the Board of Commissioners. He said one would never be sure of what whim might take hold of the Board from one moment to the next. He said anybody purchasing a home or a business would not know what was going to happen in that area even if they did their due diligence because the Board might come along and change the rules in a heartbeat. He said because of that he would not be able to support this change regardless of it being a great idea.

Commissioner Frady said he also had a problem with this request. He said he was the one person looking for a place to board his dog when he goes out of town. He said one could not imagine the problems the Board had encountered with this issue. He said citizens on the

South side with a lot more acreage almost required the County to have a patrol car there to keep things from being chaotic between neighbors. He said this was just something that was hard to do. He said A-R was a residential district just like R-72 or anything else. He said the borders would be the same as any border. He said you could not go the subdivision to make these issues work. He said it would have to work within the entire district. He said he wished he could support this request, but he just could not. He said he agreed that there was a need for this type of facility but he just could not support it.

Ms. Goda said she felt this ordinance only applied to cats and dogs yet her neighbor had a boarding facility for horses. She said the neighbor had horses, goats, lamas and his dogs can come right up to her fence. She said because she was dealing with dogs and cats that were always going to be supervised and not running loose like horses, goats and lamas, she was not allowed to have the same type of enterprise because it was dogs and cats. She said most people feel like a dog or cat was their best friend and did not want to send them to a kennel. She said now that she and her husband would like to provide a service that was really the perfect answer, they were being stymied because of a particular rule. She said they were in a position where there could not be a variance nor an exception. She said there was no way around this issue. She said she certainly believed in rules and agreed the rules and the laws had to be obeyed. She felt this ordinance had put them in a corner where there was no solution. She said they had no problem being watched or checked on. She said the way this ordinance was set up, it was only legal to have horses, cows, lamas and pigs. She asked why this ordinance could not apply to the pets that everyone loves like dogs and cats. She said she just did not understand. She said she wished there could be a way to make this work for everyone.

Chairman Dunn asked Ms. Goda if she was aware of this problem before she purchased the property.

Ms. Goda replied that actually she had called the Planning Department before she purchased the land and had spoken with Mr. Aaron Wheeler. She said she realized that Mr. Wheeler was no longer employed by the County. She said Mr. Wheeler's only concern the first time she had spoken to him was that she was going to have somebody on the property twenty-four hours. She said she felt this was a good thing especially with animals being there around the clock. She said then Mr. Wheeler said that was not a problem because that would be the same as having someone on the payroll. She said she asked Mr. Wheeler what she needed to do and he told her that she needed to get a site plan, put it all together and bring it to the Board. She said she asked Mr. Wheeler who she should call and Mr. Wheeler recommended Omni. She said Omni spoke to Mr. Wheeler before they purchased the property and Aaron Wheeler gave Omni the impression that this was not going to be a problem and that was the reason they went ahead and moved forward. She said she realized that Mr. Wheeler was no longer employed with the County and it was not the County's fault or the Board's fault. She said they would not have purchased the property if they had known and if Mr. Wheeler had been up to

date on what the rules were and shared them with her at the time she asked him. She said if they had known this information, they would not have purchased the property.

Commissioner Frady asked Pete Frisina how many dogs and cats could someone have in a residential district.

Mr. Frisina replied three.

Mr. Faulkner interjected that Ms. Goda was not asking the Board to change that part of the ordinance at all.

Commissioner Frady said Ms. Goda if she was going to board animals and if there would be more than three animals.

Mr. Faulkner replied yes that was correct. He said a kennel was allowed in an A-R district per the ordinance. He said the only stipulation as a conditional use was that it was a 300 foot setback. He stated that the way the ordinance read was that all structures shall not be closer than 300 feet from any A-R or residential zoning district. He said this was where the problem came in and that was where the County was defining that. He asked if that was a property line or the overall district and Chairman Dunn replied it was the property line.

George Sparrow asked if he could address the Board and he was allowed to speak. He said he had approximately twenty-five years in local government experience. He asked if it would be possible to table this request to determine if some creative legal minds could perhaps draft something that would reflect all of these concerns and maybe address this in an improvement to the ordinance structure. He said he understood that there had to be some rigidity and validity to the laws but there also needed to be a public that was served. He felt there might be a solution that would work for both parties.

Chairman Dunn said he did not have a problem with not taking action on this request. He said if the Board did not take action, then the applicant could not take any action. He asked Mr. Frisina for the land use for the property that surrounded the land.

Mr. Frisina replied it was low density residential with one unit per one to two acres.

Chairman Dunn said the other potential if the Board allowed this was that someone else could purchase adjoining properties in the future. He said right now there was no problem but future purchasers might be able to get the property rezoned as one or two acre lot subdivisions. He said some of the people who currently lived there had talked about doing that. He said in the future there might be one to two acre lots on adjoining properties. He said it would appear that there was no problem now with the property, but in the future there could be. He said the Board must consider those issues too.

Commissioner Wells interjected that she felt there was a bigger issue. She said this situation in isolation looked like there was a simple solution to the problem. She said there would be no one around and nobody would be impacted but there were two things that the Board must keep in mind. She said one was that this was a conditional use and the policy of the Board was that there could be conditional uses on certain pieces of property for certain uses but it was always to be interpreted strictly. She said this was an exception that could encroach upon the neighborhood. She said this Board had always held very strictly to whatever those conditional uses were. She said what the applicant was asking the Board to do was to change the entire County Ordinances on this one issue. She said in this particular situation it did not look like there was a tremendous impact but some place else in the County it could have a huge impact if somebody wanted to come in and do a conditional use less than 300 feet from an A-R property of one to two acres. She said the applicant was asking the Board to rewrite the entire County Ordinances for this one particular situation. She said the Board had always interpreted conditional uses strictly. She said the Board did this so that the existing population was not going to be burdened. She said this Board could not make a blanket statement that it was, in the future, going to consider that an A-R boundary rather than the property line would allow a structure less than 300 feet from the boundary. She said this was not an easy solution. She said she had two dogs that she loved dearly. She said the solution to this problem would not be for the Board to rewrite the County Ordinances to create this situation because the detriment would be far more pervasive than the assistance that the Board would be giving Ms. Goda.

Commissioner Wells said she understood what Mr. Sparrow was saying but if the Board started trying to extend the conditional uses in this situation, then the Board would have to continue extending the conditional uses to allow a church, synagogue or a dry cleaners. She said this would just result in a domino effect and the County would be on a slippery slope before anyone was aware of it and the conditional uses would mean absolutely nothing. She felt Commissioner Pfeifer was exactly right in that people depend on the Board making very clear guidelines as to what they can expect to appear on their doorsteps in the future. She said if there were no rules or if they were easily changed for the convenience of one very good situation, then the Board had done a disservice to the entire citizenry. She said she did not think the Board could do this in fairness to everybody,

Chairman Dunn remarked that the two O-I lots surrounding the property near Highway 74 were zoned A-R a year and a half ago. He said the zoning may change over time. He commented on land use and said if there was development on that property it would be one or two acre lots if the zoning was changed in the future. He said everything else about this proposal was almost perfect but this problem was one that the Board could not overlook. He felt one of the things that distinguished Fayette County from many of the neighboring counties was that Fayette County holds to these kinds of standards just to keep the quality of life for everyone as could as it could be. He felt that was really the strength of this County and that was people who buy here can rely on the conditions around them as opposed to most of the neighboring counties who have made exception after exception. He said he could not support this

application and he was not sure if the Board had to vote on anything. He felt the Board did not need to vote on anything tonight. He said he realized that the building could not be moved. He said the building was definitely unique and he did not feel Ms. Goda could have found anything better for her uses. He said the building was constructed like a little motel.

Ms. Goda interjected this was the reason they purchased the property. She said they had spoken with the Fayette County Planning Department and had asked them all of the right questions and they proceeded with the purchase.

Chairman Dunn said he did not know what to say about the former zoning administrator not knowing the law. He said Mr. Wheeler was no longer employed here so this would never happen again.

Mr. Faulkner added that on the conditional uses he could appreciate the County being firm on those but there was no avenue or forum for getting before piers to even ask for a variance or take a look at something that made sense. He felt at some point in time the Board might want to take a look at conditional uses from being so absolute that they prevented certain situations that did make sense for the County and the citizens of the County that there was no appeal forum or a variance process.

Chairman Dunn remarked that the idea of a conditional use was an exception to the zoning policy. He asked how far the Board could get from policy.

Mr. Faulkner remarked that everything in local or State government should have an avenue for an appeal before piers. He felt local law should not be absolute regarding conditional uses.

Ms. Goda interjected that a lot of people in this room support this request and she also felt that the Board would like to do this project but it could not. She said she would like to asked the Board again why horses, goats and lamas were alright but dogs and cats in a building were not. She said this made no sense to her and she really wanted the reason for this.

Mr. Faulkner asked if kennel was a conditional use because of barking dogs.

Chairman Dunn said he was not on the Board when this was done but he did not think horses would bother their neighbors like barking dogs would.

Mr. Faulkner interjected that 400 cows, buffalo, sheep and pigs could be on this site and would be allowed by the ordinance.

Commissioner Frady said a hog farm would also be allowed.

Mr. Faulkner remarked that buffalo and cows would make a lot of noise. He asked if it was the barking that would make kennel be a conditional use.

Commissioner Pfeifer said the uses that Mr. Faulkner had described were not conditional uses and anyone in that area would have to be cognizant of the fact that those uses could go in next door. He said this was a situation where there was a conditional use and a vehicle to appeal it, however in his view, that should only be used in cases where it was very clear that there was an unintended consequence from a law. He said there were too many people who take an interpretation of a law and try to have it mean what was the most convenient for them. He said this was the interpretation that some people would want to put on everything. He said he could not go along with that.

Mr. Faulkner said he had two issues with this request. He said there was local law that was zoning ordinance that was absolute and could not be brought before the Board of Commissioners to even be reviewed for any kind of variance at all. He said the other issue was wondering from the applicant's standpoint why kennels were singled out as a conditional use for A-R property. He questioned if it was the noise or what. He asked what it was about a kennel that makes it be singled out for a conditional use. He noted that nothing else in the ordinance was singled out. He said in the next section of the ordinance one could have a animal clinic or a veterinarian that required a 50 foot setback but as the County had defined kennel it had to be 300 feet.

Commissioner Frady agreed that some of these needed to be looked at. He expressed concern with pig farms on five acre lots and remarked that was currently allowed. He said some of these needed to be reviewed and he agreed with Mr. Faulkner wholeheartedly.

Mr. Faulkner said they would like to request that the Board review the County's Ordinance regarding conditional uses and also that the Board answer the question why a kennel was a conditional use whereas a pig farm or a buffalo farm was not.

Chairman Dunn said if any citizen wanted to bring a suggested change to an ordinance, the Board would certainly consider it.

Mr. Faulkner said this was what they were asking for and that was that the Board take a look at removing kennel as a conditional use.

Chairman Dunn said he would not be of a mind to ask the staff to reconsider this but if Mr. Faulkner brought something to the Board then the Board would consider the request.

Mr. Faulkner and Ms. Goda thanked the Board for their time.

CONSENT AGENDA: Commissioner Frady requested item #3 be removed for discussion. On motion made by Commissioner Wells, seconded by Commissioner Horgan to approve consent agenda item nos. 1, 2, 4, 5, 6, 7, 8, 9, 10, 11 and 12 as presented. The motion carried 5-0.

BID #549 - KIWANIS BALLFIELD FENCING: Approval of staff recommendation to award Bid #549 for Kiwanis ballfield fencing in the amount of \$33,412 to the low bidder Martin-Robbins Fence Company and authorize the Chairman to execute the contract. A copy of the recommendation and contract, identified as "Attachment No. 3", follow these minutes and are made an official part hereof.

WATER SYSTEM: Approval of staff recommendation to purchase Trace radio read water meters from Badger Meter, Inc. In the amount of \$26,366 and authorize the Chairman to execute the contract. A copy of the recommendation and contract, identified as "Attachment No. 4", follow these minutes and are made an official part hereof.

PEACHTREE CITY WATER AND SEWER AUTHORITY: Approval of request to allow the Peachtree City Water and Sewer Authority to serve Mountbrook Subdivision.

Commissioner Frady said the Board had received a letter from the developer of the particular property in question. He said he would like to have this letter included in the minutes as an attachment. He said he was particular interested in the last two paragraphs of the letter which stated "We should point out that we are not asking for an increased lot density in order to serve them with sewer, so allowing these lots to connect to sewer does not set a precedent for denser development. No laterals or sewer stub outs will be provided to serve additional properties. With the State mandate to connect to sewer and the environmental benefits of doing so, we feel it is in the County's best interest to approve our plan. Again, this is a unique parcel due to its proximity to sewer and the opportunity to protect a special environmental site without setting precedence for intense zoning density on sewer."

On motion made by Commissioner Frady, seconded by Commissioner Horgan to approve consent agenda item no. 3 as presented and to include in the permanent record a copy of a letter from Scarbrough and Rolader Development. The motion carried 5-0. A copy of the request and the letter, identified as "Attachment No. 5", follow these minutes and are made an official part hereof.

LIBRARY: Approval of budget adjustment for the Library for donations in the amount of \$800.00 by increasing the Revenue Account and increasing the Books and Magazines Expenditure Account resulting in a zero impact on the Library's budget. A copy of the request, identified as "Attachment No. 6", follows these minutes and is made an official part hereof.

LIBRARY: Approval of budget adjustment for the Library from ICLE Satellite in the amount of \$705.00 by increasing the Revenue Account and increasing the Public Relations Expenditure Account resulting in a zero impact on the Library's budget. A copy of the request, identified as "Attachment No. 7", follows these minutes and is made an official part hereof.

ELECTIONS DEPARTMENT: Approval of budget adjustment to transfer funds in the amount of \$2,250 from the County's Contingency Account to be transferred to the Elections Department Land and Building Rental Account to pay rental fees for polling places used for the March 21, 2006 Special Election. A copy of the request, identified as "Attachment No. 8", follows these minutes and is made an official part hereof.

SHERIFF'S DEPARTMENT: Approval of a budget adjustment to transfer funds in the amount of \$7,046.52 from the County's General Fund to the Sheriff's Department Traffic Division Vehicle Repair Account as a result of insurance reimbursement for a motor vehicle accident. A copy of the memorandum, identified as "Attachment No. 9", follows these minutes and is made an official part hereof.

SHERIFF'S DEPARTMENT: Approval of a budget adjustment to transfer funds in the amount of \$1,403.17 from the County's General Fund to the Sheriff's Department Administration Division Vehicle Repair Service Account as a result of insurance reimbursement for a motor vehicle accident. A copy of the memorandum, identified as "Attachment No. 10", follows these minutes and is made an official part hereof.

SHERIFF'S DEPARTMENT: Approval of a budget adjustment to transfer funds in the amount of \$ 821.17 from the County's General Fund to the Sheriff's Department Traffic Division Vehicle Repair Service Account as a result of insurance reimbursement for a motor vehicle accident. A copy of the memorandum, identified as "Attachment No. 11", follows these minutes and is made an official part hereof.

PURCHASING DEPARTMENT: Approval of staff recommendation for a budget adjustment to transfer funds in the amount of \$6,000.00 from the Purchasing Department's Salary Account to its Technical Services Account. A copy of the recommendation, identified as "Attachment No. 12", follows these minutes and is made an official part hereof.

TAX ABATEMENT: Approval of tax abatement for Duchem Industries in the amount of \$7,359.00 plus penalties and interest thereon for 2004 taxes. A copy of the request, identified as "Attachment No. 13", follows these minutes and is made an official part hereof.

MINUTES: Approval of minutes for Board of Commissioners meetings held on January 4, 2006 and February 1, 2006.

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.

Jerry Pate: Jerry Pate, 195 Morris Drive, Fayetteville discussed a recent open records request for County documents. He said he was appearing as a citizen of Fayette County to discuss a situation between the County Commission and the Sheriff's Department. He said it had been reported this past week in the local newspaper that there had been a forensic accountant hired to do an audit of the funds at the Sheriff's Department. He said if those funds had been allocated and if this was true under Federal guidelines, The Citizen News had the right to request a copy of the audit and of the invoice and any minutes from a Board of Commissioners meeting in which this was discussed and approved. He said he understood that attorney/client privilege had said that information was not available at this time. He said the five Commissioners were on this Board as elected officials and stewards of the citizens' tax money. He said by law the citizens were required to give this money to the Board. He said the citizens elected each and every member of this Board to be good stewards of tax dollars. He remarked that the tax revenue that was collected by the County should be spent wisely. He said in addition and more importantly the money that the Board authorized to be spent should never be spent in secret with no oversight from the very citizens who elected this Board to spend that money. He remarked that this Board might spend the money whether or not the citizens agreed or disagreed with the reason. He said the Board's obligation to report that expenditure to the citizens was immediate. He said if this Board had spent any taxpayer money, it would bear no outcome to the litigation in this case. He said he was not asking for the results of the audit if in fact there was one. He said that would come out in due time and he understood that. He said what he was asking for now was (1) if the Board did authorize a forensic accountant to perform an audit of Sheriff's Department funds. He said whether the Board did or did not played no part in the litigation. He asked (2) how much did this audit cost the taxpayers of Fayette County. He noted that the amount that the County spent would have no outcome on the litigation. He said if the County spent the money, the taxpayers were entitled to know how much it cost and this should not be a secret. He asked (3) if the County Commission voted to have this audit, what was the date of the meeting that the Board voted to have the audit and if there were minutes available. He said those minutes would not bear outcome on the litigation. He said all the citizens wanted to know if the Board voted to have the audit or not. He asked (4) if in fact that had occurred, when was the meeting. He asked if this was a regularly scheduled meeting, a Wednesday meeting, a Thursday evening meeting or was anyone notified other than the sitting County Commissioners that it would occur.

Mr. Pate said in closing that he would like to thank the Board of Commissioners for their time and service. He said he was requesting that these questions be answered immediately. He remarked that the Board of Commissioners were the stewards of the taxpayers' money and

the Board was accountable to the taxpayers for those dollars. He said his main concern was if the forensic audit was done, how much had been spent. He said the Board should tell the taxpayers as soon as possible.

STAFF REPORTS:

SPECIAL CALLED BUDGET MEETINGS: Executive Assistant Carol Chandler remarked that the Commissioners would hold special called budget workshop meetings on May 2 and May 3, 2006 from 8:30 a.m. to 5:00 p.m. in the Commissioners Conference Room at the Administrative Complex, 140 Stonewall Avenue, Fayetteville.

MAY 3, 2006 COMMISSIONERS' MEETING CANCELLED: Executive Assistant Carol Chandler asked for the Board's consideration to cancel the Commission Workshop meeting that was scheduled for Wednesday, May 3rd at 3:30 p.m. because of a lack of agenda items.

On motion made by Commissioner Wells, seconded by Commissioner Frady to cancel the Commission Workshop Meeting scheduled for May 3, 2006 at 3:30 p.m. The motion carried 5-0.

LIFEPAK 12 PATIENT MONITOR APPROVED: County Administrator Chris Venice asked for the Board's consideration to approve the purchase of a Lifepak 12 Patient Monitor from Medtronic Emergency Response Systems in the amount of \$25,871.56. She said this was a budgeted item but because it was over \$20,000 it would require Board approval.

On motion made by Commissioner Wells, seconded by Commissioner Frady to approve the purchase of a Lifepak 12 Patient Monitor from Medtronic Emergency Response Systems in the amount of \$25,871.56. The motion carried 5-0. A copy of the request, identified as "Attachment No. 14", follows these minutes and is made an official part hereof.

ARMY CORPS OF ENGINEERS - MEMORANDUM OF AGREEMENT REGARDING LAKE MCINTOSH: Attorney Dennis Davenport asked for the Board's consideration in authorizing the Chairman on behalf of the Board to execute the Memorandum of Agreement from the Army Corps of Engineers for archeological, historic and cultural resources at Lake McIntosh.. He said this was one of the last remaining items prior to the 404 Permit for Lake McIntosh.

On motion made by Commissioner Frady, seconded by Commissioner Wells to authorize the Chairman to execute the Memorandum of Agreement as presented. The motion carried 5-0. A copy of the Agreement, identified as "Attachment No. 15", follows these minutes and is made an official part hereof.

EXECUTIVE SESSION: Attorney Dennis Davenport requested an executive session to discuss three legal items with the Board.

Commissioner Frady requested an executive session to discuss questions regarding open records act and one legal item.

Assistant County Attorney Dennis Davenport asked Commissioner Frady if he had two legal items or did he wish to discuss something about the open records act.

Commissioner Frady remarked that according to the seminar he attended this week at the A.C.C.G. meeting the open records act was discussed.

Chairman Dunn asked if discussion of the open records act was litigation.

Attorney Davenport remarked that if any member of the Board wanted legal advice on the interpretation of a law, that was something that would apply to a legal item under executive session.

Commissioner Frady clarified that he was requesting to discuss two legal items with the Board.

UPDATE BY PUBLIC WORKS DIRECTOR LEE HEARN: Mr. Hearn updated the Board on repairs to some of the County's bridges. He said approximately three and a half years ago he went to the Georgia Department of Transportation after receiving a really poor grade on several of the County's bridges. He said he had asked the State Bridge Engineer if there was help available for local governments on low volume roads. He said the problems were the wood pilings on these bridges. He said these pilings have a life span of 30 years and these were 28 years old. He said the Bridge Engineer at that time told him that there was a Federal program that would help with this. He said this week the Lowery Bridge opened for traffic with steel beams placed there by Georgia D.O.T. He said on March 4th the Inman Road Bridge reopened. He said the Georgia D.O.T. had removed the super structure with a crane and then removed the wood pilings and placed steel ones in their place and then set the super structure back in place. He said where the County's transportation plan had \$500,000 budgeted for just one bridge on Inman Road, this work was done at no cost to Fayette County. He noted that Georgia D.O.T. spent almost \$400,000 on that project. He said the only thing that the County was responsible for was traffic control and signage and also helping with some of the dirt and shoulder work so that some of the anchors for the guardrail could be anchored properly. He said he just wanted to let the Board know that staff was working hard at Georgia D.O.T. and using the County's good relationships there to help Fayette County to get the very best.

Mr. Hearn further remarked that he was aware that the Board had received some complaints about Hampton Road and its condition. He said he wanted to assure the Board tonight that Public Works had put a topping layer on that and it was complete. He said only some striping and shoulder work were remaining.

EXECUTIVE SESSION: On motion made by Commissioner Wells, seconded by Chairman Dunn to adjourn to Executive Session to discuss five legal items. The motion carried 5-0.

LEGAL: Attorney Dennis Davenport and County Administrator Chris Venice discussed a legal matter with the Board.

The Board took no action on this matter.

LEGAL: Attorney Dennis Davenport and County Administrator Chris Venice discussed a legal matter with the Board.

The Board took no action on this matter.

LEGAL: Commissioner Frady discussed a legal matter with the Board.

The Board took no action on this matter.

LEGAL: Commissioner Frady discussed a legal matter with the Board.

The Board took no action on this matter.

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

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 five legal items were discussed in executive session. The motion carried 5-0. A copy of the Executive Session Affidavit, identified as "Attachment No. 16", 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 10:45 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 7th day of June, 2006.

Karen Morley, Chief Deputy Clerk