Minutes

Board of Commissioners
November 13, 2008
7:00 P.M.

The Board of Commissioners of Fayette County, Georgia, met in Official Session on Thursday, November 13, 2008, at 7:00 p.m. in the Public Meeting Room of the Fayette County Administrative Complex, 140 Stonewall Avenue, Fayetteville, Georgia.

Commissioners Present:	Jack Smith, Chairman Herb Frady, Vice-Chairman Robert Horgan Eric Maxwell Peter Pfeifer
Staff Present:	Jack Krakeel, County Administrator Scott Bennett, County Attorney Carol Chandler, Executive Assistant Karen Morley, Chief Deputy Clerk

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Chairman Smith called the meeting to order.
Commissioner Pfeifer led the Invocation.
Pledge of Allegiance.

ACCEPTANCE OF AGENDA: Commissioner Frady made a motion to accept the agenda as presented. Commissioner Horgan seconded the motion. The motion carried 5-0.

REZONING RULES:
Director of Community Development Pete Frisina read the rules for rezoning hearings. A copy of the Introduction to Rezonings, identified as "Attachment No. 1", follows these minutes and is made an official part hereof.

PUBLIC HEARING:

A. CONSIDERATION OF PETITION NO. 1211-08, J. NEIL AND T. KAY DAVIS, OWNERS/AGENTS, REQUEST TO REZONE 2.469 ACRES FROM R-70 TO O-I TO DEVELOP USES ALLOWED UNDER THE O-I ZONING DISTRICT. THIS PROPERTY IS LOCATED IN LAND LOT 127 OF THE 5TH DISTRICT AND FRONTS ON S.R. 54 WEST. STAFF RECOMMENDED DENIAL. THE PLANNING COMMISSION RECOMMENDED DENIAL (5-0). PETITIONER REQUESTED POSTPONEMENT FROM THE OCTOBER 23, 2008 COMMISSION MEETING BECAUSE OF THE LACK OF A FULL BOARD BEING PRESENT:

Chairman Smith announced that the Petitioners had requested to withdraw this item from the agenda.

Commissioner Maxwell made a motion to accept the Petitioners' request to withdraw this item from the agenda. Commissioner Horgan seconded the motion. The motion carried 5-0. A copy of the request to withdraw the petition, identified as "Attachment No. 2", follows these minutes and is made an official part hereof. A copy of the request as well as the Resolution and Ordinance withdrawing Petition No. 1211-08, identified as "Attachment No. 3", follow these minutes and are made an official part hereof.

B. CONSIDERATION OF PETITION NO. 1212-08, J. NEIL AND T. KAY DAVIS, OWNERS/AGENTS, REQUEST TO REZONE 4.437 ACRES FROM C-C CONDITIONAL TO C-C TO LIFT THE CURRENT CONDITIONS; ALSO TO USE THE OLD MILL STRUCTURE FOR A CORN GRIST MILL IN ITS HISTORICAL CONTEXT; AND TO ALLOW THE USES IN THE C-C ZONING DISTRICT; AND CONSIDERATION OF PETITION NO. RP-043-08 TO CHANGE THE USE OF LOT 1 OF CRYSTAL LAKE ESTATES CONSISTING OF 2.334 ACRES (PART OF THE 4.437 ACRES) FROM A SINGLE-FAMILY DWELLING TO THE USES ALLOWED IN THE C-C ZONING DISTRICT. THIS PROPERTY IS LOCATED IN LAND LOT 127 OF THE 5TH DISTRICT AND FRONTS ON S.R. 54 WEST AND OLD MILL COURT. STAFF RECOMMENDED APPROVAL WITH THREE (3) CONDITIONS. THE PLANNING COMMISSION VOTED TO APPROVE SUBJECT TO RECOMMENDED CONDITION #1 BEING AMENDED TO EXCLUDE MORE USES AND RECOMMENDED CONDITIONS #2 AND #3 AS SUBMITTED BY STAFF (3-2). NO ACTION WAS TAKEN ON RP-043-08 BASED ON RECOMMENDED CONDITION #3 WHICH MAINTAINS THE USE OF SINGLE-FAMILY DWELLING ON LOT 1 OF CRYSTAL LAKE ESTATES. PETITIONER REQUESTED POSTPONEMENT FROM THE OCTOBER 23, 2008 COMMISSION MEETING BECAUSE OF THE LACK OF A FULL BOARD BEING PRESENT:

Chairman Smith asked if the petitioners were present for the rezoning request.

Kay Davis said she and her husband Neil Davis were the petitioners in the rezoning request. She stated that they reside at 1113 S.R. 54 West in Fayetteville. She said they were petitioning the Commissioners to change the conditions of the existing zoning for the property located at 1095 S.R. 54 West in Fayetteville. A copy of her presentation, identified as "Attachment No. 4", follows these minutes and is made an official part hereof. She remarked that the current zoning had resulted in confusion to the degree that the County Planning and Zoning Department limits the use of the property to a very narrow definition. She remarked an example of this was that in August of 2008 they had a lease agreement with Sandy's Estate Sales of Peachtree City. She said this company wanted to open an antique mall and café at Bennett's Mill She said after the owner of Sandy's Estate Sales applied for a business license she was told that she would have to meet with the Planning and Zoning Department and get them to sign off on her request. She said Planning and Zoning staff informed her that the current zoning did not allow for the selling of antiques and only arts and crafts. She said Neil met with Planning and Zoning staff who informed him that the property would have to be rezoned in order to accommodate this request. She commented that during this meeting, Pete Frisina of the Planning and Zoning Department, advised Neil that situations like this were among the reasons why staff no longer recommended conditions to C-C zonings. She remarked that because of this impasse and other reasons, petitioners were asking for these conditions to be changed.

Ms. Davis provided a brief history of the lot in question. She said on September 4, 2008 they applied for one rezoning of 4.437 acres which was the property that extends from the intersection of Old Mill Court along S.R. 54 to a point at the edge of Whitewater Creek which was Petition No. 1212-08. She said the Planning and Zoning Department added Petition No. RP043-08 for the property formally known as Lot #1 of Crystal Lake Estates Subdivision and put up two different signs on the property. She pointed out that this created confusion. She stated that staff informed them that the plat for Crystal Lake Estates Subdivision had not been changed and they were not sure what to do because changes to the subdivision plats required a public hearing according to subdivision regulations implemented on October 26, 1995.

She said they wanted to make it clear to the public that the rezoning petition for Lot #1 was not necessary because the property was rezoned to C-C in 1984 and formed Lot #1 and real property was joined into one lot in 1987. She referred the Board to page 2-2 of the meeting package which summarizes the disposition of each petition. She presented the Board with a handout explaining the history of the property. A copy of the Davis handout, identified as "Attachment No. 5", follows these minutes and is made an official part hereof. She noted that the use of Lot #1 was changed from its original R-70 zoning to C-C in 1984 with the condition requiring a planted site buffer and decorative landscaping. She remarked on November 8, 1984 Neil purchased the 2..334 acre tract formerly known as Lot #1 nine months after its rezoning, therefore he purchased a commercial lot and not a residential lot. She said the use of Lot #1 was changed from its original R-70 zoning to C-C in 1984 which was before the County required subdivision plats and before Neil purchased the property.

Ms. Davis further remarked that in 1987 the County Planner who was Ron Martin required Neil to combine the two properties when he submitted the restaurant's site plans, therefore he combined the two lots to form one lot totaling 4.437 acre tract in July of 1987. She pointed out that for almost twenty-five years, the lot everyone is calling Lot #1 has been zoned C-C and has not been part of the Crystal Lake Subdivision. She said from 1983 until 1987 the lot had no conditions other than a planted site buffer and landscaping requirement and for twenty-one years former Lot #1 and the mill property have been recorded as one lot. She remarked in 1987 the County Commissioner approved Petition No. 608-87 and attached the twelve conditions that exist today. She pointed out that condition #12 stipulates the single-family dwelling condition for former Lot #1.

Ms. Davis remarked that given the downturn in the economy, there were restaurants everywhere that were struggling to survive and the limitations placed on this property were stifling its potential. She said it would help the Fayette County economy if there was a business capable of operating in the mill by providing a place for citizens to work and also through sales that would bring tax revenue into the County. She noted that some of the residents of Crystal Lake Estates were opposed to this request and said changing the current zoning conditions would not increase nor add any risk to them. She pointed out that the Planning and Zoning staff stated in their analysis on page 2-14 that the proposed rezoning would not adversely affect the existing use or usability of adjacent or nearby property. She said they also stated that the existing C-C zoning in place since 1983 and the development and utilization of the subject property in a commercial manner since that time coupled with the recommended conditions support this request.

Ms. Davis further remarked that in an effort to find common ground with the residents of Crystal Lake Estates Subdivision they met with approximately 50% of the homeowners and reviewed the Planning Commission's recommendations. She said during this meeting no one expressed any undue concerns with what the Planning Commissioner had recommended. She said a few days later J.D. Holmes called her to let her know that the residents had another meeting which she and Neil were not included and collectively decided that they opposed any rezoning changes. She said she was surprised since this was quite a change from the meeting just a few days earlier. She said she have no idea what the concerns of the residents were since she and her husband had not been invited. She noted that in 1991 there were some residents who objected to their development of the restaurant and now they love what she and her husband created.

Ms. Davis further remarked that the Planning and Zoning staff reviewed each of the existing conditions and determined that nine of them no longer applied because there were ordinances and regulations in place to handle these conditions and therefore, they recommended removal of these conditions. She said this left three remaining conditions. She remarked that both staff and the Planning Commission agreed to keep the two conditions specifically related to that section of the property known as lot #1. She said these conditions were shown as #2 and #3 of the Planning Commission's recommended conditions and she and her husband have no issues or concerns with regard to these two conditions as they stand. She noted that staff had revised condition #1 which had the most restrictions and they listed

conditions they considered prohibitive uses for the property. She said the Planning Commission reviewed this new proposed condition #1 and added other uses that they considered prohibitive to this site. She said they have no issue with these prohibitive uses except to request a couple of wording clarifications. She said firstly at the beginning of the second sentence be changed from these uses include to read "these uses are prohibited" and secondly that the reference auto parts and tire store, retail, be changed to read "auto parts and tire store-retail, so that it would be clear that the word retail was a part of this use by changing a comma to a dash since all listed conditions were separated by a comma. She remarked that it was their preference that these two modifications were made but if the Commission did not wish to make these wording changes, they would accept the condition as it stands.

Ms. Davis said they would like to thank the Planning and Zoning staff and the Planning Commission members for their hard work and efforts to lighten the current restrictions of their zoning. She asked for the Board's consideration to approve her rezoning request.

Chairman Smith remarked that this was a public hearing and he asked if there was anyone in the audience who wished to speak in favor of this rezoning petition. Hearing none, he asked if there was anyone who wished to speak in opposition to the petition.

Maurice Alexander: Maurice Alexander said he had purchased his home on Crystal Lake in May of 1987. He said since that time he and his neighbors had watched Kay and Neil Davis with curiosity and admiration as they remodeled the 171 year old grist mill that was attached to the dam that creates Crystal Lake. He said Kay and Neil had converted this into a restaurant and had done so in such a manner as to maintain the beauty of Crystal Lake to everybody traveling by on S.R. 54. He said when the Davis's opened the restaurant, the residents of Crystal Lake community enthusiastically supported them with their patronage. He said the residents of the community had also assisted the Davis's in their efforts to repair the dam. He said they supported them both in physical labor and financial contributions. He said the residents had contributed a total of $37,561 or over 61% of the total cost of the repairs to the dam. He said the dam had successfully been repaired and there have been other problems even with the drought over the last two years. He remarked that now the Davis's were asking residents to support their petition to rezone the lots across the front of Crystal Lake to allow for commercial businesses to be established, however this time they were not asking for a contribution but for a sacrifice. He said commercial businesses operating across the lake front and at the entrance of the subdivision could have the effect of sacrificing the beauty and ambiance of the lake and the value of their properties. He asked for the Board's consideration to deny this petition.

Teresa Joiner: Teresa Joiner asked for the Board's consideration to deny this petition. She pointed out that the current limitations were placed on this property in order to protect and ensure that this important lake community maintained its tranquil residential character and historic significance. She noted that the new zoning was a concession only meant to allow the restaurant. She said now the Board was being asked to open this zoning up to the possibility of 65 business uses. She said this was absolutely not in harmony with the 1987 zoning. She felt the Davis's only concern was the property value going down and being able to sell their property.

Jerry Williford: Jerry Williford remarked that he was representing the Board of Directors for Crystal Lake Estates as well as his neighbors and he presented a petition to the Board indicating their opposition to this rezoning request. A copy of the petition, identified as "Attachment No. 6", follows these minutes and is made an official part hereof. He pointed out that there were 28 homes in Crystal Lake Estates and only 25 signatures on the petition because three homes were unoccupied and for sale. He said the residents felt this community was a gem in the community with deep historical roots. He said they were concerned with the disruption of wildlife and the beauty of the lake. He said the residents were not in favor of this rezoning request and did not want any changes in the zoning conditions. He felt the Davis's request was solely based on economic considerations.

Ben Malcolm: Ben Malcolm remarked that he and his wife were residents of Crystal Lake Estates and had lived there since 1988. He said they had been in total support of the restaurant that the Davis's converted from an old grist mill. He said they had eaten there many times and hated to see it close. He expressed concern that the proposed rezoning would allow for commercial properties other than a restaurant to locate across the front of the lake. He said they felt any rezoning would affect the look of the beauty of Crystal Lake and reduce the value of their homes and property. He said they were very much opposed to this rezoning request and asked for the Board's consideration to deny it.

John Sciera: John Sciera asked for the Board's consideration to deny the rezoning request for the historical old mill properties. He said he and his wife were residents of Crystal Lake Estates and they wanted to preserve their property values, quality of life and private quiet. He noted that the minutes from the Commissioners' meeting held in November of 1983 were very specific to include the reversionary clause. He said the properties at that time were zoned residential. He noted that Chairman Barronton remarked that it was his understanding that one condition was reversion zoning which meant that in the event that the land was not used for a restaurant that the zoning would revert back to R-70. He said the petition to rezone was approved with "stipulations that have been discussed here tonight and are a part of the minutes of this meeting" back in November of 1983. He felt it was the intention of the Commissioners at that time to protect the Crystal Lake community from any other type of less desirable commercial enterprise. He noted that any other changes were made in support of a historical old mill restaurant and not for a possible multitude of other commercial ventures. He said he did not believe that taking a parcel from a residential neighborhood for commercial purpose was a desired practice in Fayette County. He said this was not an arbitrary or personal dispute with the current owners of the historical old mill but a neighborhood preservation plan for current and future owners of the old mill property to preserve the neighborhood and lake as it is known today.

Alice Rodriquez: Alice Rodriquez remarked that she lived on Old Mill Court and was an attorney practicing law for over twenty years in the Atlanta metro area. She said she and her husband had traveled all over the world and decided to settle on Crystal Lake in Fayette County. She remarked on the closeness of her neighbors and the bond they have. She also remarked on the wonderful wildlife living at Crystal Lake. She asked for the Board's consideration to deny this request.

Chairman Smith asked how much time the petitioner had left for rebuttal and Executive Assistant Carol Chandler replied the petitioner had one minute left.

Kay Davis said she appreciated the residents of Crystal Lake stating their concerns but reminded the Board that the property was already zoned commercial for restaurant use which was a high volume use when it was in full swing. She said the residents had never complained about the restaurant. She pointed out that another use of the property might have lighter vehicle traffic. She said with 30,000 vehicles passing in front of the property, she felt it should be a commercial piece of property.

Chairman Smith asked for the pleasure of the Board.

Commissioner Maxwell made a motion to deny Petition No. 1212-08. Commissioner Pfeifer seconded the motion, discussion followed.

Commissioner Maxwell commented that he had received dozens of phone calls and e-mails and he had met with Kay Davis as well. He said this property was unique and was one of the three signature properties that was located in Fayette County including the old courthouse, Starr's Mill and the Old Mill. He said because of the uniqueness of this property and it sitting on a lake he would find it very difficult for this Board to consider making this a commercial piece of property. He said he could only assume that was what the thought was back in 1983 when the application was made

for proposed use and development of property as a historical restaurant. He said that was the only thing that was listed on the petition back in 1983. He said this was one of the reasons to deny this request and another reason to deny it would be that part of this property actually started out as a subdivision. He said this current Board has a history within the last year of denying other pieces of property that were in neighborhoods so that they would not be commercial pieces of property. He remarked that a third reason for denial would be if this Board did open the door that it might be opening pandora's box. He said this property has operated fine since 1983 as a restaurant although there have been different tenants and just because there were hard economic times did not mean that it was time to do a rezoning. He said the pandora's box that this Board might open would be for the 65 other uses for the property which include appliance sales, auto parts and tire store, a laboratory, a Laundromat, a novelty shop, a parking garage, a tax service, a gas station and so forth. He felt there might be the potential for some enterprising entrepreneur with their attorney could challenge the actions of this Board tonight if this Board deemed to rezone the property for anything other than a historical restaurant. He said it was for these reasons that he was voting against this rezoning.

Commissioner Frady remarked that he had known Kay and Neil for many years and they were friends of his but he could not vote in favor of this petition. He said this Board has been asked to take lots off Lakeview Drive for other than residential use and we have refused to do that. He said he could not take this lot out of Crystal Lake Subdivision to make it O-I zoning. He said this was still a residential lot that was being used for parking and a septic system. He said for those reasons he could not support this petition.

Commissioner Horgan said he would also have to agree but felt this Board needed to maintain the original intent of the property as it was originally zoned as a historical restaurant and mill.

Commissioner Pfeifer agreed with Commissioner Horgan that the current zoning of the property was put into place at the request of the owners of the property. He said this was a special circumstance and special zoning and he did not see any reason to alter it at this point.

Chairman Smith said he also concurred with the conclusions of this Board. He asked if there were any other comments. Hearing none, he called for the vote on the motion.

The motion carried 5-0. A copy of the request as well as the Resolution and Ordinance denying Petition No. 1212-08, identified as "Attachment No. 7", follow these minutes and are made an official part hereof.

PUBLIC COMMENT:

KAY DAVIS: Kay Davis thanked the Board for listening to her rezoning request tonight but strongly disagreed and expressed concern with the Board's decision for denial.

DENNIS CHASE: Dennis Chase, President of the Line Creek Association of Fayette County, expressed concern with necessary documents for the West Fayetteville Bypass including a full blown environmental statement and also a Section 404 Permit under the Clean Water Act that were not included in the files. He remarked that he would be using his expertise and would be helping the property owners affected in the Phase II of the Bypass and preparing an environmental evaluation for them. He said this report including photographs would be forwarded to the Army Corps of Engineers, the Environmental Protection Agency, U.S. Fish and Wildlife Service and Georgia Environmental Protection Division as a basis for objection to at least Phase II of the Bypass. He suggested the Board go back and review everything involved with the West Fayetteville Bypass including the environmental issues.

PAT HINCHEY: Pat Hinchey commented on the defined benefit plan for Fayette County employees and felt there would be an unlimited liability for the County. A copy of Mr. Hinchey's handout, identified as "Attachment No. 8", follows these minutes and is made an official part hereof.

STEVE SMITHFIELD: Steve Smithfield said he represented a group of property owners who would be impacted by the West Fayetteville Bypass. He expressed concern and voiced his opposition to the Bypass. A copy of Mr. Smithfield's handout, identified as "Attachment No. 9", follows these minutes and is made an official part hereof.

BOB FUHRMAN: Bob Fuhrman commented on the defined benefits program for Fayette County employees. He felt this was not the best thing for Fayette County employees and he asked for the Board to vote this program down.

DAVID CREE: David Cree commented on the defined benefits program for Fayette County employees. He said the employees were very well paid and they needed to be the masters of their own finances. He asked for the Board not to pursue the defined benefits program for County employees.

DAVID WINSLET: David Winslet commented on the West Fayetteville Bypass and remarked that he did not understand the proposed route for the Bypass.

ELLEN MORLEY: Ellen Morley commented on the West Fayetteville Bypass. She said no one had ever discussed this with her and she heard through the grapevine that the Bypass would cut through her front yard.

BOB LOEY: Bob Loey commented on the defined benefits program for Fayette County employees. He felt there would be undefined long term liabilities to the taxpayers and the employees who might have a potential loss. He asked for the Board's consideration not to proceed with this plan.

PAUL PARCHERT: Paul Parchert commented on the West Fayetteville Bypass. He noted that the Bypass would be approximately 60 feet from his property in McClenney Estates. He expressed concern with the environmental impact on the wetlands and 200 year old trees in an area where the road would cut through that would be impacted.

MICHELLE VIA: Michelle Via remarked that she was opposed to the defined benefits plan for Fayette County employees. She urged the Board to make a motion at their next meeting to deny this plan.

JAMES WINGO: James Wingo said he was the Co-Chairman for Fayette Citizens for Open Government (FAYCOG) whose mission was to organize citizens independent of their political affiliation to raise awareness of the need for open government and to spread the word about issues that could have an impact on their lives. He commented that this group looked forward to working with local government officials to open the doors of government to all that seek knowledge concerning their local government. A copy of Mr. Wingo's handout, identified as "Attachment No.10", follows these minutes and is made an official part hereof.

SHERRI GREENE: Sherri Greene commented on the West Fayetteville Bypass. She remarked that she and her husband had purchased their home here approximately seven months ago and neither their realtor or the seller of the property had any knowledge about a proposed Bypass. She asked the Board to take a detailed look at the approach of the Bypass.

HAROLD BOST: Harold Bost said he was the Co-Chairman for the Fayette Citizens for Open Government (FAYCOG) along with James Wingo. He spoke in opposition to the defined benefits plan being proposed for Fayette County

employees. He noted the failure of these type of plans recently in the City of Atlanta as well as Henry County. He urged the Board to stop the defined benefits plan now and keep the current plan in place.

JOE ROVANG: Joe Rovang voiced opposition to the West Fayetteville Bypass and also stated that he was opposed to the defined benefits plan for Fayette County employees. He asked for the Board's consideration to take this issue off the table and felt there would be a lot of risk as well as the benefits being ill defined and speculative.

PAT EARNEST: Pat Earnest expressed concern over the West Fayetteville Bypass and she noted that she would be included in the Phase III of the project. She said it appeared the Bypass would greatly increase traffic in her area. She remarked that her interest in the Bypass was a very personal one. She said approximately twenty years ago her daughter was hit and killed by a car traveling on Redwine Road. She urged the Board to take a second look at the proposed Bypass.

GORDON FURR: Gordon Furr commented on West Fayetteville Bypass going through to West Bridge and the possible high density that would result in pollution of streams and septic tank failures.

DONALD FOWLER: Donald Fowler spoke in opposition to the West Fayetteville Bypass. He felt the Bypass did not improve anything in the County and he asked the Board to review the guidelines in spending taxpayers' money.

CONNIE BIEMILLER: Connie Biemiller expressed concern with the West Fayetteville Bypass. She said she was the Chair of the South Fulton Fayette Community Task Force. She said this was a group of citizens concerned with issues having an environmental impact on the community. She said this group would be looking at the impact of this Bypass on the area and would be involved in any discussions. She said she had a problem with the impact of wetlands as well as peoples' lives as a result of the Bypass.

DOUG BURCHER: Doug Burcher spoke in opposition to the West Fayetteville Bypass. He noted that the Bypass was projected to go directly through a subdivision with conservancy greenspace that would be impacted as well as a large creek. He asked the Board to reconsider the Bypass and uphold the decision to keep this greenspace. He commended the Board for upholding the ruling of a County Commission that was done approximately 25 years ago for the zoning of the Old Mill on S.R. 54.

EVAN STITT: Evan Stitt voiced opposition to the defined benefits plan for County employees. He remarked that most of the plans are costly and the burden would fall on the taxpayers. He encouraged the Board to reconsider this plan and keep the current plan in place.

J.D. HOLMES: J.D. Holmes commended the Board for denying the rezoning request tonight and said he was very proud of the Commissioners for their action. He also commented on the defined benefits plan for County employees and felt these type of plans were very questionable. He questioned the figures that were proposed for this plan and asked the Board to take another look at it.

ANDREA LYLE: Andrea Lyle remarked on the defined benefits plan and asked the Board not to take any action on this plan right now in light of the current down turn in the economy.

Commissioner Frady exited the meeting at this time.

BARRY LYLE: Barry Lyle expressed concern with the spending of taxpayers' money and asked the Board to really think about how they are spending money. He commented on the increased development in the County in recent years and how this had impacted schools and roads.

Commissioner Frady re-entered the meeting at this time.

CAPTAIN DENNIS BENSON : Captain Dennis Benson commented on the defined benefits plan and said he would like to see full disclosure from the Board on this plan. He asked the Board to reconsider the proposed plan for the County employees.

JANE GALLO: Jane Gallo asked the Board to reconsider the proposed defined benefits plan for the County employees. She expressed concern with a long term financial risk. She asked the Board to think about the problems in Henry County as well as in the City of Atlanta. She urged the Board to deny this

TOM WALLER: Tom Waller commented on the West Fayetteville Bypass and said he was in opposition to Phase I, Phase II and Phase III of the Bypass. He said he has never seen a study for this Bypass that would indicate a demand for it. He also discussed the downsizing of portfolios and loss of jobs. He recommended the Board look at out years and pointed out that the current recession was not going to be settled within the next year or two. He asked the Board to look at the funds coming in and determine how much money was coming in from outside of the County and what would occur when this money was reduced.

CONSENT AGENDA: Chairman Smith requested item no. 2 be removed for discussion. Commissioner Horgan made a motion to approve the consent agenda items, 1, 3, 4, 5, 6 and 7 as presented. Commissioner Frady seconded the motion. The motion carried 5-0.

WATER SYSTEM - ALTERNATIVE MAILING SYSTEMS AWARDED BID #687:

1. Approval of staff's recommendation to award Bid #687 Folder/Inserter and Postage Meter to the low bidder, Alternative Mailing Systems, for a three year lease in the amount of $37,812 for the Fayette County Water System. A copy of the request, identified as "Attachment No. 11", follows these minutes and is made an official part hereof.

MOTORIZED CART TRAVEL - APPROVED FOR BOATWATER BEND, WOODCANOE COURT AND DOCKSTREET ALLEY:

2. Approval of staff's recommendation that specified streets in the Longboat Subdivision including Boatwater Bend, Woodcanoe Court and Dockstreet Alley be authorized for the use of motorized cart travel in accordance with Ordinance No. 95-10. A copy of the request, identified as "Attachment No. 12", follows these minutes and is made an official part hereof.

Chairman Smith said the information packet that he had received did not have any indication that the appropriate test had been done by law enforcement to meet the ordinance requirements.

Director of Community Development Pete Frisina remarked that this subdivision was currently under construction and did not have any homes in it. He said normally the County had approved interior streets in this manner.

Chairman Smith made a motion to approve consent agenda item no. 2. Commissioner Horgan seconded the motion. The motion carried 5-0.

SHERIFF'S DEPARTMENT - OVERTIME BUDGET ACCOUNT AMENDED:

3. Approval of Sheriff's Department request to amend Overtime Budget Account for the Criminal Investigation Division by $4,942.76 for reimbursement for employees' assigned to work with various federal agencies. A copy of the request, identified as "Attachment No. 13", follows these minutes and is made an official part hereof.

SHERIFF'S DEPARTMENT - 2004 FORD EXPLORER TO BE DISPOSED OF:

4. Approval of request from the Sheriff's Department that a 2004 Ford Explorer be disposed of in accordance with information from the County's insurance carrier that the vehicle is considered a total loss and that proceeds from the insurance company be returned to the Sheriff's Department Federal Seizures Account. A copy of the request, identified as "Attachment No. 14", follows these minutes and is made an official part hereof.

ROAD DEPARTMENT - NEW DIMENSION ENGINEERING AWARDED SURVEYING AND ENGINEERING DESIGN SERVICES:

5. Approval of staff's recommendation to award surveying and engineering design services for the 2009 Special Local Option Sales Tax intersection improvements for Antioch Road at McBride Road (1-12) and Antioch Road at Goza Road (1-13) to New Dimension Engineering for the amount of $32,750. A copy of the request, identified as "Attachment No. 15", follows these minutes and is made an official part hereof.

ROAD DEPARTMENT - INTEGRATED SCIENCE & ENGINEERING AWARDED SURVEYING AND ENGINEERING DESIGN SERVICES:

6. Approval of staff's recommendation to award surveying and engineering design services for 2009 Special Local Option Sales Tax intersection improvements for Brooks-Woolsey Road at Highway 85 Connector (1-14) to Integrated Science & Engineering for the amount of $27,260. A copy of the request, identified as "Attachment No. 16", follows these minutes and is made an official part hereof.

ROAD DEPARTMENT - HOVEY & ASSOCIATES AWARDED SURVEYING AND ENGINEERING DESIGN SERVICES:

7. Approval of staff's recommendation to award surveying and engineering design services for 2009 Special Local Option Sales Tax intersection improvements for Kenwood Road at New Hope Road (R-6), Jenkins Road at Sandy Creek Road (R-4), and Lees Mill Road at Sandy Creek & Lake Road (R-4) to Hovey & Associates for the amount of $37,810. A copy of the request, identified as "Attachment No. 17", follows these minutes and is made an official part hereof.

NEW BUSINESS:

C. CONSIDERATION OF A PROPOSAL BY STAFF THAT THE COUNTY CONSIDER THE USE OF MAST-ARM STRUCTURES IN LIEU OF TRADITIONAL SRAIN POLES AND WIRES FOR SIGNALIZATION OF INTERSECTIONS IN THE UNINCORPORATED COUNTY:

Director of Public Works Phil Mallon remarked that at a controlled intersection there were three ways of putting up traffic signals and the mast-arm structures were growing in popularity across the Country, and in the Atlanta region they were preferred by both Peachtree City and Fayetteville. He said they were most common in smaller communities or any area that was trying to maintain a historic district or create a more aesthetic feel in the community. He said he number reason to go with the mast-arm structures was aesthetics. He said this eliminates a lot of wires and the signals can be aligned directly with the traffic lanes. He said they can also have decorative finishes and shapes to match the character of the area. He remarked that the average cost to upgrade from a spanned wire which was the traditional approach to a mast-arm ranged between $37,000 and $57,000 per intersection. He said the difference in cost was a function of how long a mast-arm needed to be, the size of the intersection and what the underground boring constraints might be and room for foundation of the poles. He commented on the maintenance of these poles. He said they were galvanized and were

essentially maintenance free. He commented that some communities claim that there might be better safety because of the visibility associated with mast-arm although there are no studies to prove that. He asked the Board if there was any interest in this that staff be directed to draft a policy identifying when the County would require or prefer mast-arm structures versus not mast-arm or just address this issue on a project by project basis.

Mr. Mallon remarked that some of the signals that staff was asking for approval of tonight regarding the four S.P.O.S.T. intersections were all going to be on State routes. He said D.O.T. was supportive but they would not pay for the difference so any cost to upgrade to mast-arm would come from the County.

Commissioner Maxwell asked Mr. Mallon if Peachtree City had a formal policy regarding mast-arm structures and Mr. Mallon replied no, that neither Peachtree City nor Fayetteville had formal policies. Mr. Mallon remarked that both municipalities prefer to use them and they were trying to use mast-arm structures wherever possible. He said there would be some advantages in trying to maintain the aesthetics look of the S.R. 54 corridor.

Mr. Mallon commented on the next item coming up related to staff asking for additional money for these but remarked that there was no urgency. He said staff could just develop a more formal policy or staff could provide information on a project by project basis and give the option for mast-arm or suspended wire.

Commissioner Horgan felt the project by project approach would be the best right now and Commissioner Maxwell agreed.

It was the consensus of the Board to address the use of mast-arm structures on a project by project basis.

D. CONSIDERATION OF STAFF'S RECOMMENDATION TO AWARD PROPOSAL #P688 TO LOW BIDDER OZBURN ELECTRIC FOR KIWANIS PARK BASEBALL FIELD #7 SPORTS LIGHTING IN THE AMOUNT OF $106,963 AND MCCURRY PARK SOFTBALL FIELD #3 SPORTS LIGHTING IN THE AMOUNT OF $72,893:

Director of Recreation Anita Godbee remarked that in the Fayette County Needs Assessment it was stated that there needed to be some sport lighting upgrades at all of the County's parks. She said light tests had been taken on all of the fields and it was discovered that some of the fields were low light levels and this did not make for safe playing conditions for some of the participants. She said the plan included the option that every year various fields would be relit in various parks. She said the plan began in 2004 and since that time staff had upgraded Kiwanis Park Fields #1, #3, #5 and #6 and McCurry Park softball fields #1,# 2 and #4 and McCurry Park soccer field #7 and Brooks Park Fields #1 and #2. She said in last year's budget and in this current budget, plans had been made to continue this upgrade plan. She said a Request for Proposal was submitted to potential contractors with five contractors responding to Fayette County's invitation for the proposal. She noted that Ozburn Electric had submitted the lowest bid. She said due to budget constraints, staff was only recommending the installation of lights at Kiwanis Park Field #7 and McCurry Park softball Field #3. She asked for the Board's consideration to award the contract to Ozburn Electric for Field #7 in the mount of $106,963 and McCurry Park softball Field #3 in the amount of $72,893. She said staff had chosen these two fields because they had the lowest light levels per the study. She noted that the current light system for the McCurry Park softball Field had been there for more than 20 years. She said it had been approximately 10 to 15 years for Kiwanis Park Field #7. She noted that this was a light pole and fixture replacement including below ground to the top of the pole. She remarked that there were two more fields at Kiwanis Park, three fields at McCurry Park softball, seven fields at soccer, three fields at football and one tennis complex and these were already approved in the current budget.

Commissioner Horgan made a motion to award Proposal #P688 to low bidder Ozburn Electric for Kiwanis Park Baseball Field #7 sports lighting in the amount of $106,963 and McCurry Park Softball Field #3 sports lighting in the amount of $72,893. Commissioner Maxwell seconded the motion. The motion carried 5-0. A copy of the request, identified as "Attachment No. 18", follows these minutes and is made an official part hereof.

E. CONSIDERATION OF STAFF'S RECOMMENDATION TO AWARD CONTRACT FOR CONSTRUCTION OF FOUR SPECIAL LOCAL OPTION SALES TAX INTERSECTION IMPROVEMENTS TO R.J. HAYNIE & ASSOCIATES IN THE AMOUNT OF $925,504.59:

Director of Public Works Phil Mallon said he was recommending award of this contract for four intersections all located on State highways to low bidder R.J. Haynie & Associates in the amount of $925,504.59 which included using mast-arm structures at each of these four intersections. He noted that the base bid was $778,534.59 for use of the strain poles. He said he was still working with D.O.T. to get their approval for a traffic signal at S.R. 74 and Sandy Creek and noted that the D.O.T. had not yet authorized the signal at this location. He felt there would be no hardship on the County if the signal was not approved and said it could be taken out of the scope of work.

County Attorney Scott Bennett said the contract would come to the Board for approval and the contract would specify what the County had paid with the signal or without the signal. He said the County would have the option of withdrawing that traffic signal and the corresponding payment would be included in the contract for the bid.

Commissioner Frady made a motion to award contract for construction of four special Local Option Sales Tax intersection improvements to R.J. Haynie & Associates in the amount of $925,504.59. Commissioner Horgan seconded the motion. The motion carried 5-0. A copy of the request, identified as "Attachment No. 19", follows these minutes and is made an official part hereof.

F. CONSIDERATION OF STAFF'S RECOMMENDATION TO AWARD PROPOSAL #P689 FOR STORM PIPE AND STRUCTURES FOR THE WEST FAYETTEVILLE BYPASS PHASE I TO STRACK, INC. IN THE AMOUNT OF $246,044:

Director of Public Works Phil Mallon remarked that this was a contract for installation of the storm pipe and structures for the West Fayetteville Bypass Phase I and out of nine total proposals staff was recommending low bidder STRACK, Inc. He noted that it was hoped that work would start in January, 2009.

Commissioner Horgan made a motion to award Proposal #P689 for storm pipe and structures for the West Fayetteville Bypass Phase I to STRACK, Inc. in the amount of $246,044. Commissioner Frady seconded the motion. The motion carried 5-0. A copy of the request, identified as "Attachment No. 20", follows these minutes and is made an official part hereof.

ADMINISTRATOR'S REPORT:

UPDATE ON ACQUIRED RIGHT-OF-WAY FOR SNEAD ROAD: County Administrator Jack Krakeel stated that as of this week the County had now acquired or had under contract all of the necessary right-of-way for Snead Road.

ALLEN McCULLOUGH APPOINTED EMERGENCY MANAGEMENT DIRECTOR: County Administrator Jack Krakeel asked for the Board's consideration to authorize the Chairman to execute two letters to the Georgia Emergency Management Agency appointment Allen McCullough as the new Public Safety Director of Fayette County and also acting Emergency Management Association Director for Fayette County.

Chairman Smith made a motion to appoint Allen McCullough as Public Safety Director of Fayette County and also nominate Mr. McCullough as the permanent seat as Emergency Management Association Director of Fayette County and authorize the Chairman to execute two letters to the Georgia Emergency Management Agency regarding the appointments. Commissioner Pfeifer seconded the motion. The motion carried 5-0. A copy of the letters, identified as "Attachment No. 21", follows these minutes and are made an official part hereof.

ATTORNEY'S REPORT:
None.

STAFF REPORTS:
UPDATE ON THE SAFE ROUTES TO SCHOOLS PROGRAM: Director of Community Development Pete Frisina briefly updated the Board on the grant application that he and Environmental Engineer Vanessa Birrell had discussed with the Board at the November 5th meeting regarding the Safe Routes to Schools Program that would be administered by the Georgia Department of Transportation. He said staff was looking to obtain some grant money to connect the pathways already in place on Redwine Road down to the Starr's Mill Complex. He said there were two sections of paths already in place from the entrance to Highgrove Subdivision down to the entrance of Timberlake Subdivision and then from Summer Place in Peachtree City down to the Starr's Mill Complex. He noted that a portion of this would be tying into a Peachtree City path located in the Preserve Subdivision that tunnels under Redwine Road. He said staff had obtained further information on the school's participation and/or Peachtree City's participation. He said staff had spoken to representatives at the school system and these individuals were both in support of this project and will work with the County to fulfill these goals. He said staff had also spoken to Peachtree City Planner David Rast who indicated that he was willing to work with the County. He noted that staff did not have a response from the Board of Education or the City Council of Peachtree City other then staff being in support of the project. He said this was a grant for up to $500,000 per project and the D.O.T. had contracted with a design firm who actually does the design and engineering. He said the grant deadline was December 12th and staff would be glad to provide further information at the December 3rd Workshop meeting if the Board so desired.

It was the consensus of the Board that staff proceed on this matter and provide an update at the December 3rd workshop meeting.

LANDSCAPING AT THE OLD COURTHOUSE: Bryan Keller of the Engineering Department asked for the Board's permission to proceed with a 319 Clean Water Grant to help pay for landscaping at the old courthouse. He said the Cooperative Extension Office and the Master Gardeners would be assisting in this project. He noted that the deadline for the grant was November 30th. He said the Engineering Department was asking for consideration to move forward with this grant. He said the amount of the grant had not yet been determined but noted that the limit was usually up to $500,000 and there was a 60/40 matching requirement but the 40% from the County could be in kind or through other sources such as the Extension Office.

Commissioner Maxwell said he was concerned that some of the older trees might be removed to make way for new landscaping. He said before anything was cut down, he would like to know.

Mr. Keller interjected that the current landscape plan would protect those trees and there were no plans to remove any of those trees.

It was the consensus of the Board that staff proceed with this 319 Clean Water Grant for landscaping at the old courthouse.

BOARD REPORTS:

CHAIRMAN SMITH: Chairman Smith recognized Allen McCullough as being appointed Fayette County Public Safety Director.

COMMISSIONER FRADY: Commissioner Frady asked for staff to look into a possible decel lane at Flat Creek Trail and S.R. 54.

CHAIRMAN SMITH: Chairman Smith remarked briefly on the remarks made under the Public Comment section of the agenda tonight regarding the West Fayetteville Bypass and the proposed defined benefits plan for Fayette County employees. He commented on the remarks made comparing the proposed defined benefits plan for Fayette County employees and the Delta Airlines and Eastern Airlines bankruptcies. He said those bankruptcies were caused primarily by a non-funding that occurred back before the rules were changed that said plans had to be funded every year. He said this was not really a fair comparison and he felt there was some misleading information there. He said in the Henry County plan they looked at historical retirement and decided to cover all employees for past history, which was what created their unfunded liability and this was not what Fayette County would be doing. He said this was the same situation for the City of Atlanta. He commented on the perception that the County would be giving away more money. He said the facts did not support that theory and noted that this retirement plan would actually cost less and was not in addition to the current County plans but would be replacing the current plan. He said rather than going with 4% the County was choosing 3.8%. He pointed out that this Board had authorized a retirement committee that had met for approximately nine months and their meetings were published in the legal organ and made public. He pointed out that very few people had shown up for these meetings.

Chairman Smith said there had also been a lot of comments regarding the bypass and the curb cuts and there being no notice. He said this bypass had been listed on the transportation plan since the late 1980's. He said when the sales tax Special Local Option Sales Tax was passed, the bypass was part of the funding mechanism and was adequately disclosed then and was voted in to be funded. He felt there was a lot of misinformation floating around and he suggested a summary of pros and cons of the retirement plan to be placed on the County website for the citizens to view. The Board agreed with this suggestion.

EXECUTIVE SESSION: County Administrator Jack Krakeel requested an Executive Session to discuss a real estate acquisition matter.

Chairman Smith requested an Executive Session to discuss legal and personnel matters.

Commissioner Frady made a motion to adjourn to Executive Session to discuss real estate acquisition, legal and personnel matters. Commissioner Horgan seconded the motion. The motion carried 5-0.

Commissioner Horgan made a motion to adjourn the Executive Session and return to open session. Commissioner Frady seconded the motion. The motion carried 5-0.

Commissioner Frady made a motion to authorize the Chairman to execute the Executive Session Affidavit affirming that real estate acquisition, legal and personnel matters were discussed in Executive Session. Commissioner Horgan seconded the motion. The motion carried 5-0. A copy of the Affidavit, identified as “Attachment No. 22", follows these minutes and is made an official part hereof.

Chairman Smith announced that there was no action to be forthcoming from the Executive Session.

ADJOURNMENT: Commissioner Frady made a motion to adjourn the meeting at 11:25 p.m. Commissioner Horgan seconded the motion. The motion carried 5-0.

Karen Morley, Chief Deputy Clerk

Jack R. Smith, Chairman

The foregoing minutes were duly approved at an official meeting of the Board of Commissioners of Fayette County, Georgia, held on the 11th day of December, 2008.

Karen Morley, Chief Deputy Clerk