



Action Agenda

Board of Commissioners

May 14, 2009

7:00 P.M.

The Board of Commissioners of Fayette County, Georgia, met in Official Session on May 14, 2009, 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
Lee Hearn
Robert Horgan
Eric Maxwell

Staff Present:

Jack Krakeel, County Administrator
Scott Bennett, County Attorney
Karen Morley, Chief Deputy Clerk
Floyd Jones, Deputy Clerk

Call to Order, Invocation and Pledge of Allegiance

Chairman Smith called the May 14, 2009 Board of Commissioners meeting to order at 6:59 p.m.

Commissioner Hearn gave the invocation.

Chairman Smith led the audience in the Pledge of Allegiance.

Acceptance of Agenda.

Commissioner Horgan moved to accept the agenda as published. Commissioner Frady seconded the motion. The motion passed unanimously.

PUBLIC HEARING:

- A. Presentation of an update on the Federal Neighborhood Stabilization Program and the grant awarded to Fayette County in the amount of \$1,178,544. The public will be allowed to comment or ask questions.**

Chairman Smith announced that this hearing was scheduled for the current meeting but due to a slight problem the presentation had been readvertised and would be heard during the May 28, 2009 Board of Commissioners meeting.

PUBLIC COMMENT:

Chairman Smith informed the audience that the Board had decided to make a slight alteration with Public Comment and the change would apply to those who came to comment on the proposed alignment to the West Fayetteville Bypass. He said public comment for that item would be allowed at the time the item was addressed by the Board so there would be no disjunct between the topic and its related public comments.

No one spoke during Public Comment.

CONSENT AGENDA:

Commissioner Horgan moved to approve Consent Agenda Items 1-13. Commissioner Frady seconded the motion. Chairman Smith stated that staff has requested Consent Agenda Item 11 be removed from the agenda and for the Board not to consider the item during the current meeting.

Commissioner Horgan amended his motion to approve Consent Agenda Items 1-13 with the exception of Consent Agenda Item 11 which is to be removed from the agenda. Commissioner Frady seconded the amended motion. The amended motion passed unanimously.

1. **Approval of staff's request to purchase and convert a new 2009 Ford E-250 Van for use by Animal Control, at an aggregate cost of approximately \$27,736.**
2. **Approval of staff's recommendation to award a service agreement for five years to Yancey Power Systems for preventative maintenance and inspection of a generator located at Fayette County Jail and Justice Center at an aggregate cost of \$20,574.26**
3. **Approval of the Vehicle Replacement Committee's recommendation to replace a 2005 Ford Crown Victoria used by the Sheriff's Department, Field Operations Division, which was involved in a traffic collision.**
4. **Approval of Sheriff's Department request to amend the Overtime Budget Account for the Fayette County Sheriff's Office Criminal Investigations Division by \$2,502.96 for reimbursement for employees assigned to work with various Federal agencies.**
5. **Approval of staff's recommendation to accept Boatwater Bend, Wood Canoe Court, and Dock Street Alley of Longboat Subdivision into the County Road System, subject to the terms of the letter of credit. This subdivision is located in Land Lot 70 of the 7th District, fronts on SR 54 West, is zoned R-40, and consists of 25 single-family dwelling lots.**
6. **Approval of staff's recommendation that Fayette County enter into a Memorandum of Agreement (MOA) with Coweta County that establishes cost sharing between the two counties for the cost of floodplain mapping and modeling.**
7. **Approval of staff's recommendation that Fayette County enter into a Memorandum of Agreement (MOA) with Peachtree City that establishes cost sharing between the County and Peachtree City for floodplain mapping of both Line and Camp Creeks.**

8. **Approval of staff's recommendation that Fayette County enter into a Memorandum of Agreement (MOA) with Town of Tyrone that establishes cost sharing between the County and Tyrone for the cost of floodplain mapping of Line Creek.**
9. **Approval of staff's recommendation that the annual cost of street lights in designated districts in unincorporated Fayette County be increased to cover the actual cost incurred by the County for payment of the lights.**
10. **Approval of the Water Committee's recommendation to award the bid for air conditioning at the Crosstown Water Treatment Plant Pump Station and the Flint River Pump Station to the low bidder Powers Heating and Air at a cost of \$70,496.**
11. **Approval of the Water Committee's recommendation to change the location of an easement to access a mitigation tract owned by Fayette County in Meriwether County, in accordance with a request by the adjacent property owner whose land the easement will traverse.**
12. **Approval of staff's request to increase Parks and Recreation's Donation Revenue Account and Non Self-Sustaining Expenditure Account by \$1,000 in order to recognize a donation from the Department of Human Resources District Four Health Services.**
13. **Approval of April 23 2009 Board of Commissioners minutes.**

OLD BUSINESS:

B. Presentation of the proposed alignment of Phase II of the West Fayetteville Bypass by the Public Works Department.

Public Works Director Phil Mallon and David Jaeger of Mallet Consulting gave a status report on Phase II of the West Fayetteville Bypass as well as its most current alignment. Mr. Mallon and Mr. Jaeger then answered questions from the Board.

Chairman Smith then opened the floor for public comment on this issue.

David R. Blount: Mr. David R. Blount, a resident of Lee's Mill Road, spoke in opposition to Phase II of the West Fayetteville Bypass. He spoke about the difficulties the proposed alignment created for his family, and how upset his family was over the prospect of losing their home especially in these difficult financial times. He asked the Board to consider other options that would save homes and meet its desired goal. He closed by asking the Board to ensure his family was treated fairly so they would be able to have the same type of home that they may lose, and concluded that roads and bypasses do not win elections, but homes do.

Steve Smithfield: Mr. Steve Smithfield, a resident of Lee's Mill Road, spoke in opposition to Phase II of the West Fayetteville Bypass. He said he represented the West Fayetteville Bypass Coalition, or WFBC, which is a group of citizens "opposed to the West Fayetteville Parkway project". He contended that when SPLOST was originally passed the voters were misled since this particular item was not on the ballot. He added that for years the citizens had heard of a "Bypass", but the impacted property owners knew nothing about the project until they were notified that the "Bypass" would cross their property. He questioned why the designation "Bypass" was changed to "Parkway". He referenced and discussed the *SPLOST Project R-5 West Fayetteville Parkway Phase II* document distributed by the County at the May

5, 2009 open house meeting, suggested the West Fayetteville Bypass was being constructed for developers, and added that the public would be required to pay \$800,000 for the bypass which would destroy eight wetland areas. He reiterated that existing residential land owners would be compelled to surrender their property and homes to Fayette County for the good of developers.

Dennis Chase: Mr. Dennis Chase, a resident of Crabapple Road and President of the Line Creek Association of Fayette County, spoke in opposition to Phase II of the West Fayetteville Bypass. He reminded the Board he had commented on this issue in the past so what he had to say would not be anything new. He informed the Commissioners that he had been in contact with a number of federal agencies and, since he is a retired federal employee, he has a number of contacts at the Army Corp of Engineers, the Environmental Protection Agency, and the Fish and Wildlife Service. He stated it is very difficult to get clear information from Fayette County on this project, and while the Road Department has been helpful to some respect, it is nearly impossible to obtain information pertaining to what is going on, where it is going, and other alternatives. He stated he gave Mr. Smithfield the \$800,000 estimate for mitigation from a document supplied to the Corp of Engineers on April 19, 2009 from Fayette County, and he suggested that the estimate is a "low-ball" estimate. He informed the Board that the Regional Administrator of the Environmental Protection Agency has communicated through conversations and correspondence that he anticipates seeing an environmental impact statement on this project. He reiterated that similar discussions had occurred with the Corp of Engineers before stating the Board is heading down a road that is going to end up "with a restart one way or another". He let the Board know that he was familiar with "all the details and how the process works for 404 permits" and that he had "intimate knowledge" regarding how the Natural Environmental Policy Act works, that he is working with the Environmental Protection Agency, and that the County would have to "toe the line in every single detail more than any other applicant who has come before them for similar projects." He concluding by saying he thought he understood why the Board was continuing with this project but as a person who sees his tax dollars going into the SPLOST he is concerned that the County is continuing to spend money on a project that will have to be redone.

Paul Parchert: Mr. Paul Parchert, a resident of Janice Drive, spoke in opposition to Phase II of the West Fayetteville Bypass. He stated that little had been discussed about the impact of the Bypass on Janice Drive before saying the proposed alignment would affect an entire community and that every house on Janice Drive would be impacted by the road and its associated noise. He explained that the Bypass would run along his side fence and would be 50 feet from his bedroom window. He also spoke about the danger of a privately-owned earthen dam that has nearly overflowed several times and warned if the dam broke it would "wipe out the road" and would probably kill everybody on the road. He returned to the impact of the proposed alignment to the community and said it defeated the reason he moved to the community. He continued that home values would decline and potential buyers of homes, namely first-time home buyers with small children, would be dissuaded from purchasing homes located next door to a major road. He closing by repeating that the proposed alignment would hurt all of the homeowners in the neighborhood and that property would depreciate measurably.

Mrs. Stuart Barnes: Mrs. Stuart Barnes, a resident of Lakeview Court, spoke in opposition to Phase II of the West Fayetteville Bypass. She said this issue became a concern of hers when she learned people could lose their homes and of the cost of the Bypass. She stated "not one person should have to worry about their home in Fayette County". She was also concerned that the residents would not receive "anything" based on current resale values. She questioned the length of time to complete the project, who would be hired to complete the project, and if the workers would be from Fayette County. She expressed concern since similar projects seem to get more expensive. She continued that when voters chose to have SPLOST taxes they expected roads to be repaired. She concluded that the project was based on an outdated concept, that the County does not need more "engines" running through it, and that the Board should table the discussion and rethink the project.

Meaghan Blount: Ms. Meaghan Blount, a resident of Lee's Mill Road, spoke in opposition to Phase II of the West Fayetteville Bypass. She said it was hard to imagine that her home would one day be a "spot in the road" and that she and her family were trying to understand the reason for the project even though the answer was hard to grasp. She said the only logical answer was that this was part of God's plan and would hopefully be a blessing, but that it has been difficult on her family who has been coping with this issue for the past month. She added it was difficult to look optimistically at the situation when "you don't know what you will have or where you will live". She stated that the main benefit to all of this was she still had her family and it was something the Board would not be able to take from her. She said her family had been understanding with the Board and implored that the Board be understanding with her family and provide them with the fair amount to replace what they will lose. She concluded that while money could not replace memories and experiences shared in the home, it could help recreate what they have in a different location. She asked the Board to take all of this into consideration when it makes its final decision before thanking the Board for listening and trying to understand the situation.

Latrelle Burcher: Mrs. Latrelle Burcher, a resident of Lee's Mill Road, spoke in opposition to Phase II of the West Fayetteville Bypass. She presented the Fayette County Comprehensive Growth Management Plan for 1991-2020, commented from pages 29, 31, 32, and 54, and stated that the West Fayetteville Bypass would violate what was stated in the Plan. She said the Bypass would damage the headwaters for Whitewater Creek which is the County's major water supply, and that it would damage the filtration area for the County's drinking water, that it would not be aesthetically pleasing, that it would not maintain the rural character of Fayette County, and was not "growth management". She mentioned that there are two viable ways to "get from Highway 54 to Highway 92" by using either Gingercake Road or Flat Creek Trail. She spoke about the number of school buses that would have to cross Highway 92 going "into Lee's Mill", and suggested if the Board approved the proposed alignment it would put children's lives at risk. She concluded that the Board would annihilate and destroy one of the most natural and beautiful areas of Fayette County to construct a bypass with culverts, that it would hide Fayette County's natural beauty, and would allow the headwaters for Whitewater Creek to be polluted which would pollute Fayette County's drinking water.

Edgar Williams: Mr. Edgar Williams, a resident of Lee's Mill Road, spoke in opposition to Phase II of the West Fayetteville Bypass. He said he was concerned about the pollution and "similar results" involved with the West Fayetteville Bypass, and he told the Commissioners that he would gather "a small army" by going to schools and business meetings for the purpose to "vote out" every one of the Commissioners who vote in favor of the proposed alignment, and to vote for every Commissioner who votes in opposition to the proposed alignment.

Gordon Furr: Mr. Gordon Furr, a resident of Tyrone, Georgia, spoke in opposition to Phase II of the West Fayetteville Bypass. He said he was familiar with the land in five counties around Fayette County due to his 25 to 30 years of experience installing septic tanks, that he did not want to see the wetlands "dwindle to nothing and dry up" due to the installation of culverts, and he did not know why the County would not construct bridges instead of culverts. He asked about how wildlife would get from one side of the Bypass to the other without stop signs. He referred to the culverts on Kirkley Road as an example of the problems that can exist when wildlife are unable to cross the road by saying it looked as if someone went there with a double-barreled shotgun. He reiterated when culverts are built they dry up the wetlands, and if that occurred, Fayette County would resemble Henry County whose streams are polluted. He mentioned that Fayette County's water was "not so good", and questioned what would occur when the wetlands dried up. He added when development was constructed on Gingercake Road in the 1970s it nearly destroyed Crystal Lake and caused the lake to be a mudhole for years. He suggested that development of the West Fayetteville Bypass would "wipe out" Crystal Lake. He summarized that the Board was not doing right by its people by destroying the wetlands and drinking water, and that generations to come will have to put up with the Board's actions since it does not know what it was doing if it approves the proposed alignment.

Ellen Morley: Ms. Ellen Morley, a resident of Fayette County, spoke in opposition to Phase II of the West Fayetteville Bypass. She reminded the Board that she had spoken to several of the Commissioners before, that her property was at the end of Janice Drive, and that her property would be “cut off” from the subdivision. She said she was reassured by many of the Commissioners that the Bypass was not meant for developments, and she wanted to believe the Commissioners, but she saw a map in the permit office and knew the land would be developed. She said it was obvious her home would be affected by the proposed alignment, that she was a Master Gardener who had willingly worked for the County free of charge and loved doing so, and that her home would no longer be a certified natural habitat due to the road which would be constructed directly in front of her house.

David Sexton: Mr. David Sexton, a resident of Lee’s Mill Road, spoke in opposition to Phase II of the West Fayetteville Bypass. He informed the Board that one of the alternative alignments which was reviewed and considered would have been adjacent to and taken some of his property. He said he met with some of the County’s planners in the past to express his concerns, and one of his concerns was that the County was operating with “very dated information”. He said his initial conversations involved the need for bypasses around the east and west side of Fayetteville for the purpose of moving traffic from SR 85 on one end of Fayetteville to SR 85 on the other end of the city. He suggested that the West Fayetteville Bypass will not accomplish its goal since it is meant to only go to West Bridge Road and SR 92 since there is no good access from that location to get back to SR 85 or the Fayette Pavilion. He suggested that the current plan would only increase traffic on SR 92, Gingercake Road, New Hope Road, and cut-throughs to New Hope Road. He was also concerned about the East Fayetteville Bypass, since he understood it would be constructed with federal money and would therefore be slowed by more requirements and impact studies than its West Fayetteville Bypass counterpart. He was concerned that the delay with the East Fayetteville Bypass would cause undue traffic along the West Fayetteville Bypass and the people living in the Lee’s Mill area. He questioned how many people were in support of the West Fayetteville Bypass and where was their record of support on the issue. He said it seemed to him that with the Main Street Development choices being made in downtown Fayetteville and the lack of retail that exists around the Square and in the city, it did not make sense to take traffic off the roads in downtown Fayetteville and thereby decrease the support for local businesses in the community.

Tom Waller: Mr. Tom Waller, a resident of Sandy Creek Road, spoke in opposition to Phase II of the West Fayetteville Bypass. He stated that language matters and that words mean things, and when the term “Bypass” is used it does not mean “hooking up” a four-lane highway with a two-lane road. He said the project was not a Bypass, but, as the newspapers called it, a road to nowhere funded by \$12 million tax dollars. He asked if the term “Parkway” was being used in place of “Byway” in an attempt by the County to make the project more palatable, and suggested that the plans provided for the project do not meet *Webster’s* definition of a parkway. He also asked if the project would be maintained in the same poor quality as other roads are in Fayette County since he often has to clear-cut his portion of the County right-of-way along Sandy Creek Road. He also referenced Flat Creek Trail as an example of poor maintenance. He asked the Board to recognize that the Bypass was not adequate and the need for a Bypass would continue even after this portion was constructed. He suggested that the Bypass would do no more to alleviate traffic than Gingercake Road currently does. He added that Gingercake Road traverses along a ridge, violates only one waterway, is straighter, and has the same speed limit that is proposed for the West Fayetteville Bypass. He concluded by asking the Board not to vote in favor of the proposed alignment and to recognize that stewardship of the taxpayers’ dollars matters. He closed saying the project is not a bypass or a parkway, but a road to nowhere.

Chairman Smith thanked the audience for coming to the meeting and voicing their opinions because it is an important part of the County’s proceedings to hear from people who are impacted by the decisions made by the Board. He said he wished he could go through every item that was brought up during each of the comments and told the audience to be assured that all of their concerns are and already have been taken into consideration. He stated staff had been asked to make multiple changes and multiple realignments to see how the County can best complete this project. He said,

unfortunately, it was impossible, in any decision, to satisfy one hundred percent of the people one hundred percent of the time. He added this is a decision that the Board does not take lightly, and it is a decision that the Board understands will impact families and entire areas whether they are wetlands or subdivisions or neighborhoods, and it is important that the Board tries to make the best decision for the County as a whole.

Chairman Smith clarified that it was not the Board's intention to vote on this item but to only receive staff's report and recommendation. He said the Board intended to study this issue until the next meeting and would consider and weigh the comments and questions. He said the Board did not intend to vote on this item until the next meeting which would be held on May 28, 2009.

ADMINISTRATOR'S REPORT

Budget Meeting: County Administrator Jack Krakeel reminded the Board that Tuesday, May 19, 2009 would be a Budget Workshop meeting for consideration of Fiscal Year 2010 budget. He said the meeting is scheduled to begin at 8:30 a.m. in the Conference Room adjacent to the Board of Commissioners' Chambers.

ATTORNEY'S REPORT

Contract Change Order Three: County Attorney Scott Bennett stated he had a Contract Change Order associated with the Jimmy Mayfield Boulevard Widening Project. He said the original engineer's estimates for aggregate base layer and asphalt binder were lower than what was actually needed for the project, and the net change in the contract for the additional aggregate is \$156,621. He said the County's Project Manager, David Jaeger, sent him a proposed Contract Change Order which he asked to have brought to the Board for approval so that the project can be completed. He said the change increased the total cost of the project to \$2,689,404. He said the total was still lower than the original estimated cost of the project which was \$2.8 million dollars, but the change order is needed to get the additional aggregate to complete the project.

Commissioner Horgan asked who the contract was with, and David Jaeger replied the contract was with Southeastern Site Development. Commissioner Hearn told the County Administrator and involved staff that he would like to install a system of checks and balances so that the quantities could be inspected a little closer in order to ensure that the County will not face similar discrepancies in the future. Discussion followed.

Commissioner Horgan moved to authorize the Chairman to sign Contract Change Order Three with Southeastern Site Development at an additional cost of \$156,621 due to quantity overages for Asphalt Paving and Graded Aggregate Base materials associated with the Jimmy Mayfield Boulevard Widening Project. Commissioner Hearn seconded the motion. No discussion followed. The motion passed unanimously.

Contract with Mill Creek Environmental Services, Incorporated: County Attorney Scott Bennett reminded the Board that on March 12, 2009 the Board approved a bid award for a Corrective Action Plan for the Public Works Fueling Facility to Mill Creek Environmental Services at a cost of \$5,700. He said he had a contract for the work, that the County had received the insurance and required bonds, and they have signed the contract with the County. He asked for approval for the Chairman to sign the contract so that work could begin.

Commissioner Horgan moved to authorize the Chairman to sign a contract with Mill Creek Environmental Services, Inc. for the preparation of a Corrective Action Plan for the Fayette County Fleet Maintenance Facility at a cost of \$5,700. Commissioner Hearn seconded the motion. No discussion followed. The motion passed unanimously.

First Amended and Restated Animal Control Agreements: County Attorney Scott Bennett announced that for several years the County has provided animal control services to municipalities located within Fayette County. He said the County achieves “certain economies” by operating one animal shelter and having one set of officers, but in order for the County to exercise authority within the cities’ jurisdictions, there must be certain contracts in place delegating authority to the County to enforce Animal Control laws. He explained those contracts were enacted in the late 1990s but in a recent case, in Judge Sams’ court, Judge Sams’ deemed that those contracts were insufficient and the County needed to revise them. He reported he has been working with each of the municipalities and their lawyers to come up with an agreement that would satisfy the legal requirements for the County to exercise jurisdiction over the cases. He said the County has reached an agreement with Tyrone, Fayetteville, and Peachtree City, and that work is continuing with Brooks and Woolsey. He added he wanted to get these agreements into effect so that the County could resume animal enforcement within these three municipalities and said these agreements basically restate the original agreements between the cities and the county. He informed the Board that the agreements also appoint Judge Sams to serve as Municipal Court Judge with respect to animal control services. He said that is a technicality for Judge Sams to exercise jurisdiction of those types of cases in his court, and the agreement also appoints the County Solicitor as a Solicitor for Municipal Court purposes for these types of cases. He said these are legal technicalities that are required and that the cities are in agreement with them. He said from the County’s standpoint nothing will change with the exception of some minor changes that clear up technicalities. He asked for authority for the Chairman to sign the contracts with the cities. He mentioned the contract will expire at the end of Judge Sams’ term of office, if he is not reelected, and then the County would need to renew the agreements for the new judge. Discussion followed.

Commissioner Horgan moved to authorize the Chairman to sign First Amended and Restated Animal Control Agreements between Fayette County and the City of Peachtree City, the City of Fayetteville, and the Town of Tyrone as presented by the County Attorney. Commissioner Hearn seconded the motion. No discussion followed. The motion passed unanimously.

Mr. Bennett clarified that there is no problem with the Town of Woolsey or the Town of Brooks, but that the County has just not gotten in touch with them.

STAFF REPORT

There was no Staff Report.

BOARD REPORT

There was no Board Report.

EXECUTIVE SESSION

Litigation: County Attorney Scott Bennett announced that an item of litigation needed to be discussed in Executive Session. Commissioner Horgan moved to adjourn into Executive Session for the purpose of discussing an item of litigation. Commissioner Hearn seconded the motion. No discussion followed. The motion passed unanimously.

The Board of Commissioners adjourned into Executive Session at 8:23 p.m. and returned to Official Session at 8:55

Executive Session Affidavit: Chairman Smith asked for the record to state that no action was taken in Executive Session and that a legal matter was discussed.

Commissioner Hearn moved to authorize the Chairman to sign an Executive Session Affidavit stating one item of litigation was discussed in Executive Session. Commissioner Horgan seconded the motion. No discussion followed. The motion passed unanimously.

ADJOURNMENT

No further business came before the Board. Chairman Smith adjourned the May 14, 2009 Board of Commissioners meeting at 8:55 p.m. without an objection from the Board.

Floyd L. Jones, Deputy Clerk