

BOARD OF COUNTY COMMISSIONERS

Eric K. Maxwell, Chairman
Randy Ognio, Vice Chairman
Steve Brown
Charles W. Oddo
Charles D. Rousseau



FAYETTE COUNTY, GEORGIA

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

140 Stonewall Avenue West
Public Meeting Room
Fayetteville, GA 30214

AGENDA

August 23, 2018
6:30 p.m.

Welcome to the meeting of your Fayette County Board of Commissioners. Your participation in County government is appreciated. All regularly scheduled Board meetings are open to the public and are held on the 2nd and 4th Thursday of each month at 6:30 p.m.

Call to Order

Chairman Eric Maxwell called the August 23, 2018 Board of Commissioners meeting to order at 6:30 p.m.
A quorum of the Board was present. No members were absent.

Invocation and Pledge of Allegiance by Commissioner Steve Brown

Commissioner Steve Brown offered the Invocation and led the Pledge of Allegiance.

Acceptance of Agenda

Vice Chairman Randy Ognio moved to approve the agenda with the addition of the consideration of Resolution 2018-14 and 2018-15 related to 911 charges. Commissioner Brown seconded. The motion passed 5-0.

PROCLAMATION/RECOGNITION:

- 1. Recognition of Erik O. Brandt-Nielsen, for his Eagle Scout Service Project for the Fayette County Animal Shelter.**

Animal Shelter Director Jerry Collins gave a brief background regarding Erik Brandt-Nielsen's Eagle Scout Service Project. He stated that Erik built benches to be used at the animal shelter. Mr. Collins presented Erik with a Certificate of Achievement and Chairman Maxwell presented Erik with a Letter of Congratulations from the Board of Commissioners.

PUBLIC HEARING:

- 2. Consideration of Resolution 2018-12 adopting the 2018 Property Tax Millage Rates.**

Chief Finance Officer Mary Parrott informed the Board that Resolution 2018-12 was for the purpose of approving the 2018 property tax millage rates. She stated that the growth in the tax digest was approximately \$139,000,000 and was slightly offset by an increase in the exemptions related to that in \$12 billion. She stated that the net increase for the digest for new growth was \$126,953,226, which was a 2.27% increase. The reassessments were \$153,000,000, which was 2.73% of the digest. She stated that the recommendation was for a rollback to allow for no change in a taxpayer's reassessments. She stated that there was a continued decrease in the motor vehicles at \$30,000,000. She stated that all the changes made an increase to the tax digest of \$280,506,000 (51%). She stated that the rollback would save the citizens approximately \$700,000. She stated that the county moved from \$5.6 billion to \$5.9 billion. The recommendations for the millage rates was 4.392 which was a decrease of 0.117;

2.6% decrease. The recommendation for the Special Revenue Fund was to stay flat. Mrs. Parrott continued the presentation to show an example of how each dollar of the property was being allocated between the Board of Education, the respective municipalities (the Town of Brooks, City of Fayetteville, Town of Tyrone and Peachtree City) and the county. She stated that the rollback for Fayette County was \$700,000 and the accumulative five-year rollback was \$21.7 million because of five years that the county did a rollback.

Colonel (retired) Jack F. Smith stated that he attended the community budget meeting that was held at New Hope Baptist Church. He stated that he took exception that when the county rolled back the taxes that the county was losing revenue. He stated that the money was not the county's money and that the county was giving the money to the owner of the money. He stated that a rollback was not lost money to any government entity. He stated that the county passed the SPLOST (Special Purpose Local Option Sales Tax), passed the ESPLOST (Education Special Purpose Local Option Sales Tax) and the assessments have been rising 20% to 25% in the last three years. He stated that until the Board of Education and others in the government understood that it was not the county's money, then they were not doing much for the citizens at all. He stated that he was concerned with what was happening with the SPLOST dollars and why those dollars were not offsetting other taxes in the county.

Vice Chairman Ognio moved to approve Resolution 2018-12 adopting the 2018 Property Tax Millage Rates. Commissioner Brown seconded.

County Administrator Steve Rapson addressed Mr. Smith's comments. He stated that ESPLOST was a school board issue. He stated that regarding the SPLOST, those dollars could not be used to offset general fund type expenditures. He continued that the comments regarding Antioch Road and moving the waterlines was at the cost of the water rate customers and not the general fund or property tax issues. He stated that he took pride in the fact that the county had dialed back the general fund expenditures over the last five years. He stated that he agreed that it was tax payers' money and that was why the county approved to rollback, because they acknowledged that it was tax payers' money.

Chairman Maxwell stated that after the passing of the SPLOST, the county rescinded the stormwater fee for all unincorporated Fayette citizens.

Vice Chairman Ognio moved to approve Resolution 2018-12 adopting the 2018 Property Tax Millage Rates. Commissioner Brown seconded. The motion passed 5-0.

3. Consideration of Petition No. 1257-16, TSTT Investments, LLC, Owner, requests to rezone 212.832 acres from A-R and R-40 to PUD-PRD to develop a Single-Family Residential Subdivision with 91 lots; property located in Land Lots 4, 5, 28, 29, and 30 of the 7th District and fronts on Ebenezer Church Road and Davis Road.

Community Development Director Pete Frisina read the *Introduction to Public Hearings for the Rezoning of Property* into the record.

Chairman Maxwell stated that in 2016 the Board voted to deny this rezoning. He stated that a lawsuit was filed, and Judge Edwards made a ruling that was averse to the county. He stated that the Board appealed to the Supreme Court of Georgia and the court said, "no". He stated that the decision from Judge Edwards was included in the Board's agenda package.

Attorney Kathy Zickert stated that she represented the applicant. She stated that the case was vigorously defended by the county attorney, but in the end her client prevailed. She read the following portion of the court order: "...the plaintiff's rezoning application or another configuration thereof, which yields economically viable lots, is hereby remanded to the county's board of commissioners for rehearing as soon as defendant is able to advertise and sign/post the property in compliance with the zoning

procedures law. The county will evaluate the application under the comprehensive plan in effect in 2016 when the application was denied. If plaintiff remains convinced that the new decision of the board of commissioners is also unconstitutional then it may reappear before the court via application for contempt.” She stated that was what would happen if there was not an affirmative decision to approve an economically viable plan. She stated that a number of years ago the Planning Commission recommended a R-80 zoning. She stated during the trial of the case, they also addressed the zoning and whether the zoning and the number of lots, which would have resulted from that compromise, could have yielded a reasonable economical return. She stated that the court decided that it could not do so. She stated that it was not a compromise that was available. It needed to be the PRD with the 91 lots and that was the request before the Board for approval. She stated that she knew this was a “bitter pill to swallow” and she felt bad about that, however her client had the constitutional right to develop the property and that constitutional right had been upheld by the trial court and by a unanimous opinion by the Supreme Court of Georgia.

No spoke in favor of this request.

The following spoke in opposition:

Todd Patterson stated that he owned a home and eight acres on Country Trace. He stated that it was adjacent to the proposed rezoning. He stated that Country Trace had five homes on approximately 90 acres with a density of 0.066 homes per acre. He stated that the planned development proposed 91 homes on 212 acres, density of 0.411 per acre. He stated that this density was 6.2 times higher. He stated that the density was shown in the plan with one-acre actual lots with a density 15 times higher than the adjacent property. He stated that this density must be viewed as incompatible use. He discussed the concern of rain run-off from the neighborhoods from the north of his property and the increase of this concern with this proposed development. He continued his presentation to the Board that included concerns of added impact to the traffic. He asked how, if the one acre lots and road area would be wiped out, would Pelham Creek handle over 500,000 square feet of non-porous surfaces including streets, sidewalks and roofs, and what would be in place to improve the two Ebenezer Church intersections; adding turns lanes similarly. He stated that he was not asking that the five-acre lot sizes be maintained however, two to three-acre lot sizes would allow development and protect the rights of all involved.

Jack F. Smith stated that he 422 feet of his property line adjoined the proposed development. He stated that he had been asked to express the desire of some of his neighbors, that the zoning request of 212 acres bordering Ebenezer Church to the south, Country Trace to the west and Davis Road to north and Martha’s Cove and the Crafts property to the east be denied regardless of the court order. He stated that he submitted a petition in 2016 with over 500 signatures of those who did not want this development. He stated that he recommended that the request be denied for two reasons. One of those reasons was that the Superior Court ruling denied the county commission one of its key services to the county of approving and enforcing, “building, zoning and development regulations.” He continued his comments. He stated that this development did not meet the 2016 Fayette Land Use Plan and should be denied. He stated that the negative aspects of the plan were: 48 less than two-acre lots along Country Trace and Davis, three one-acre lots adjoined to Craft’s 150-acre lot, two one-acre lots on Ebenezer Church Road, amenity area was not thought out, no plan to manage or maintain stream area, no consideration of topography or hydrology. He stated that property right of land owners was subject to these type hearings and that TSTT Investment LLC was not a person, but a company whose sole purpose was to maximize profits for its investors. He stated that they have no presence in the county, no stake in the current future of the county and have zero concern for the impact of this development on the surrounding communities. He stated that he would hope that the course of action would be to talk the developer into two to three-acre homes across the property so that there would not be one-acre developments.

Lou Jean McKnight stated that it was her desire that the Board would deny the petition from TSTT Investment. She stated that the gentleman that purchased the property knew what it was zoned when he purchased it. She stated that she was told that this area was no longer considered rural. She gave examples of “rural” characteristics within the immediate area. She stated that there was no sewer system in the area, so a septic tank would be a given for the 91 homes. She continued that her greatest

concern was a pond that she and her husband built for recreation for her kids, grandkids, family and friends. She stated that she did not build it for the Fayette County stormwater system. She stated that when the stormwater tax was implemented she discovered that her pond was part of it and no one had asked if she wanted to store runoff water from uphill from the lawn "pesticide, containment subdivisions". She stated that currently the culverts were at maximum capacity during heavy rains. She stated that the additional road surface and concrete driveways would make it worse. She stated that if the dam was breached, she was not sure what would happen to Ebenezer Church Road. She shared other concerns including power shortages and traffic issues. She stated that she could not handle 91 homes and she would not be able to afford to rebuild the dam.

Norm Nolde stated that every developer that wanted to develop property, such as this, showed an access road onto Davis Road. He stated that Davis Road was a dirt road and could not handle additional traffic. He stated that he spoke with the county engineer and there were no plans to pave Davis Road in the near future. He stated that he would ask the Board to deny any access to Davis Road by anyone that wanted to develop property that would back into Davis Road. He stated that residents got the best treatment of that road when the county put down the chemical on the road to reduce the dust. He stated however, the road was unsafe for additional traffic.

Anthony DeMonti Jr. gave further explanation of the presentation from Mrs. McKnight. He stated that if 91 homes were allowed to be developed, the fire stations would not be allowed to handle the load. He stated that there would have to be some type of automatic aid agreement with Peachtree City which he doubted would happen. He stated that there was one entrance to the neighborhood and [emergency] trucks would not be able to perform properly the way the entrance was currently designed. He stated that it would be an increase in traffic on Ebenezer Church Road. He stated that there was not enough room on that road to go around those who ride bicycles. He stated that allowing the homes would put more people in danger because of the increase in car loads on Ebenezer Church Road.

Larry Dove stated that he lived on Ebenezer Church Road and he was the most downstream from the other speakers. He stated that all the water would flow across his driveway which was not a big driveway. He stated that he read the court paperwork and understood, however he disagreed with the judge and his interpretation of the law. He stated that it was not incumbent on the county to make money for any developer at any time. He stated that the developer bought the land at A-R and he saw the overlay and took the opportunity to buy the property. He stated that if we wanted to keep the center of Fayette County rural, then he would ask the Board and the Planning Commission to make it incumbent that the Board addressed having a developer purchase a tract of land zoned A-R and having it changed to a higher density. He expressed that this decision would set a precedent to allow for that to happen.

Sylvia Nolde stated that the discussions have covered the water runoff issues, traffic issues, safety issues and the impact of the residence of this parcel of land. She stated that she would like to bring up an additional thought of how the development would impact the entire county. She stated that if each home had a minimum of two children, it would bring 182 additional children to the county schools. She stated that if 25 children were placed in each classroom, it would require 7 additional classrooms and additional staff. She stated that this was an overall picture of how 91 homes in this small area would affect everyone.

Larry McNeil stated that "post change" of zoning had been addressed numerous times before. He stated that TSTT Investment LLC, knew the zoning and restrictions when purchasing the property. He stated that he doubted that anyone would object to them building homes on five-acre lots. He stated that he did not think the developers would have been successful had there not been a profit in five-acre lots. He stated that the neighborhood was rural, regardless of what the judge thought. He stated that the judge's ruling that the property was worthless unless the zoning changed, was false.

Ms. Zickert made rebuttal to comments. She stated that it was important for those in attendance to understand that the county defended the lawsuit based on the citizens' concerns. She stated that the county raised the issue of Davis Road being dangerous, the issue of water runoff, the issue of precedence being set, but the county could not argue that the rezoning did not

comply with the land use plan because it did at the time. She stated that was why the county subsequently changed the land use plan. She stated that the concerns were heard, but unfortunately, they were not offset by the other issues that had to be considered in a typical zoning challenge. She stated that she did not want the citizens to think that their issues were not heard or that the county did not try to communicate the concerns, because they did, and it was the basis of the county's defense. She stated that if there was any silver lining, the water situation may improve. She stated that there was testimony from county staff that the stormwater controls that were in effect and the developers would be required to a better job of controlling the runoff. She stated that Davis Road was the county public works' idea. She stated that they wanted to have the access point there. She stated that anyone had the right to disagree with a judge or whomever. However, it was not just one judge that made the ruling, it was a unanimous Supreme Court of Georgia that decided it was not worth hearing. She stated that she would ask the Board to abide by the court order.

Chairman Maxwell asked if the request was for the zoning to go to PUD or to some other zoning. Ms. Zickert stated no, PUD/PRD and 91 lots.

Commissioner Charles Rousseau asked if she was open to any other considerations. Ms. Zickert stated no.

Commissioner Brown read the following statement into the record:

The County's Land Use Plan efforts signify our ability to regulate property development to promote efficiency and to regulate use which is desirable to the citizens and the health of our community as a legitimate practice. (In each of these cases, the United States Supreme Court upholds a significant legislative interference with private property interests on the basis of the states' [and the county through the state] power to regulate for the public welfare. See *Midkiff*, 467 U.S. 229; *Penn Cent. Transp. Co.*, 438 U.S. 104; *Euclid*, 272 U.S. 365.)

The Board of Commissioners' decision was based on the sound logic of preventing an adverse impact on the citizens of Fayette County by depleting vital road capacity and obstructing normal usage of the rural road system in the area as well as the impact on safety and the environment.

The zoning decisions in the County's land planning efforts reflect the will of Fayette County citizens and their desire to protect critical infrastructure, the immediate environment and their safety. The County unquestionably has the power to protect the public health, safety, morals and welfare of the jurisdiction, dating back to *Village of Euclid v. Amber Realty* in 1926.

Justice Sutherland, writing for the majority in the *Euclid* ruling, stated, *"Until recent years, urban life was comparatively simple; but, with the great increase and concentration of population, problems have developed, and constantly are developing, which require, and will continue to require, additional restrictions in respect of the use and occupation of private lands in urban communities."* Those were prophetic words regarding what we experience in metropolitan Atlanta today.

There are numerous valid land uses available to the property in question and the action taken by the Board of Commissioners in no way resembles an unreasonable exercise of the County's police power constituting a taking without just compensation.

To claim that the County's decision on the applicant's requested zoning change rendered the property worthless is highly impracticable and the property has ample economic viability. The continued success of Fayette County depends upon a logical and reasonable defense of the County's land use plans, meeting new growth conditions and maintaining the community's unique values. The County is not responsible for insuring the highest and most profitable outcome for land speculators and developers, nor does there exist any constitutional right to that end.

There was a rezoning denial on this property back in 2005 and another failed attempt in 2007. Obviously, there have been several land speculators over the years who have attempted to ignore the well-reasoned expectations and plans for the County.

We should always demand that the County Attorney should vigorously defend and the Courts honorably and judiciously rule regarding such zoning matters.

Our land plan changes are a response to modern metropolitan population growth issues and the erosion of our transportation infrastructure, causing traffic congestion, safety issues and some environmental concerns.

The County has significant discretion in rezoning cases.

The judge has ruled-out a couple of land uses and I question the soundness of that decision which was propped-up by the plaintiff's outrageous claim that the property is deemed worthless. There is almost an infinite number of other zoning possibilities using the variations allowed by ordinance, so in fairness to the applicant, I invite the applicant to provide an alternative to those options that have been eliminated by the Board of Commissioners and the Court.

I took an oath of office, on behalf of the citizens of Fayette County and I refuse to succumb to outlandish tactics designed to manipulate local government decisions outside the best interests of the county and its citizens.

Vice Chairman Ognio stated that there was so much in the judgement that was wrong. He continued that the zoning was set up in order to get the input from the citizens around that parcel. He stated that the citizens showed up and filled out petitions, but then the judgement said, "that the mere existence of neighborhood opposition was not legal sufficient reason to uphold the rezoning denial." He stated that if the citizens did not have a say in it, that was wrong. He stated that the judge issued an order that would hold the Board in contempt if they did not comply and that was wrong. He stated that Commissioner Brown was right, there are other options. He stated that he did not agree with the numbers in the order and there were other things that he did not agree with in the order. He stated that he sure did not agree with the fact that the order said that the value was essentially zero for the property. He stated that he did not know of any property in Fayette County that had a zero value no matter the zoning. He stated that he did not agree with this order. He continued that he battled with what to do and that he did not want to be in contempt of court, but he was not in favor of the zoning.

Commissioner Charles Oddo stated that this was very complicated. He stated that the first time he did vote for this zoning because it did conform to the land use plan. He stated that his position, with this and with everything that came to him, was that he had to be as even-handed as he could be and try to consider the wishes of everybody and look at the fact that the county had a plan for growth. He stated that if the Board did not want to abide by the plan then they should do away with what they have. He stated that the Board had to try to control how the county was going to look in the future and the plan was laid out. He stated that the Board changed the land use plan and now this area had a minimum three-acres. He stated that this put the Board in a difficult position. He stated that he did not understand the basis for the judge's decision. He stated that his issue was that he thought it conformed to the land use plan the first time around. He stated that the decision was the judge's opinion. He stated that he hoped the developer would design the retention pond to hold the rain and stop the rain from going downstream. He stated that the idea behind the PUD was to be more flexible. He stated that the Board had a plan to help guide them and if the Board was not going to go by the plan then they should get rid of it. He stated that was what he had to use to govern himself.

Chairman Maxwell stated that there was a note in the agenda that said that the Planning Commission recommended approval for rezoning from R-80 with one condition. He asked what the Planning Commission meant by that.

Mr. Frisina stated that the Planning Commission recommended R-80 zoning as opposed to PUD/PRD. He stated that R-80 was a three-acre minimum residential lot. He stated that the one condition was dedication of right-of-way along Davis Road.

In accordance with the Americans With Disabilities Act, accommodations are available for those who are hearing impaired and/or in need of a wheelchair. The Board of Commissioners Agenda and supporting material for each item is available on-line through the County's website at www.fayettecountyga.gov. This meeting will be telecast on Comcast Cable Channel 23 and on the internet at www.livestream.com.

Chairman Maxwell asked if the Board chose R-80 with the one condition, where would that put the Board. He asked, when the petitioner put the property before the Board for rezoning, did that open the entire gamut of what the Board could rezone the property.

County Attorney Dennis Davenport stated that in response to the use of R-80; the R-80 zoning was a three-acre zoning district and it was covered specifically in the court order. He stated that A-R was five acres and R-80 was three acres and as he read the order, both of those zoning districts would not be eligible for this geographical location consist with the order from Judge Edwards. He stated that any time a petitioner filed an application for rezoning the Board's procedure allowed the Board to consider the application as presented and also to consider any zoning district that this property should be, as long as it was less intense than what was applied for. He stated that the theory behind that was that the Board put notice to the public at-large, through the advertising in the paper and posting of the signage, so if the Board was going to put notice of a particular district, they could not make it more intense than what was advertised but they could make it less intense than what was advertised.

Chairman Maxwell stated that the recommendation from the Planning Commission was R-80 and that was not going to help the Board because of the court order. The R-78 zoning was a two-acre minimum lot size. He asked what that would look like and how many homes that would be.

Mr. Frisina stated that he did not know.

Chairman Maxwell asked if R-78 was an option. Mr. Davenport stated that it had the same density, but the issue would be the lack of flexibility to get the requisite number of lots; 91 lots. He stated that it became a question of did that mean it was more or less intense. He continued that it was not more intense because you could produce a greater number of lots or was it less intense because you cannot. He stated that it was a tough question to answer. He stated that it did not appear to be more intense, but it appeared to be the same or less and that was his subjective opinion based on the question.

Chairman Maxwell stated that he could not go with R-80 because of the judgement and with the R-78 he did not know how many lots that would yield. He stated that to him that, and anything below that, would be in play. He mentioned R-45.

Mr. Davenport stated that the Board needed to stay at the two-acre and not go down to R-45. He stated that because it was advertised for one zoning district and the general principle was that it could not be rezoned to something more intense and one-acre, R-45 would be more intense.

Chairman Maxwell stated that Commissioner Brown attempted to expand the land use plan to three-acre lots and unfortunately that was also addressed in the order. He stated that the Board had to go back to the land use plan that was in place when this come to the Board. He stated that after the Board received the court order, the Board decided to appeal. He stated that he did not agree with the order. He stated that the unanimous decision from the Supreme Court of Georgia said that the order was right. He stated that he received an email from someone that said, "the Board was elected to do the will of the people" and he generally agreed with that. He continued that he had to do the will of the people in the context of making a legal decision that was consistent with what he had been told to do by a judge and the Supreme Court of Georgia. He stated that he would love to make a decision that was averse to the decision that was handed by Judge Edwards. He stated that he did not see any outs. He stated that a vote to do anything that was against the order, the Board would sit in jail.

Commissioner Rousseau stated that the Board was strongly encouraged to make a decision. He stated that even though Mr. Frisina did not have a schematic design of a potential R-78, R-75 or a zoning less intense, did it prevent the Board from making a recommendation for R-78 or R-75.

Mr. Davenport stated that the plain reading of the order said, A-R and R-80 was not available. He stated that it said to rezone it to a constitutional zoning district.

Commissioner Rousseau stated that R-78 and R-75 did fit that definition.

Mr. Davenport stated that R-78 and R-75 are not included in the order so they would be eligible from that argument.

Commissioner Rousseau asked Mr. Frisina what doors would potentially be opened if they made a recommendation for R-78 or R-75, as an example, without having a schematic and knowing what the acreage would allow.

Mr. Frisina stated that at this point he did not know how many lots could be yielded under either of those zoning districts. He stated that he did not know if it would yield the prescribed lots that are asked for under the PUD.

Commissioner Rousseau stated that his issue was being in compliant with the order and some reasonable compromise that the Board did not end up being in contempt. He stated that he would like to take action and be in compliance. He stated that he would like to see R-78 for the property.

Chairman Maxwell asked if every acre of the 212 acres was developable would that be 106 lots.

County Administrator Steve Rapson stated that with 212 acres and typically about 10%-15% for infrastructure, that would be about 90-95 range for developable lots, but there were a lot of stormwater issues on this site, so it was probably even less. He stated that 20% would be closer to 80 homes.

Commissioner Brown stated that the land plan did not state the PUD designation. He stated that it said a certain number per acre.

Mr. Frisina stated that the land use plan said units per acres was dense. He stated that the PUD and other flexible zoning districts gave the ability to meet the density and the flexibility.

Commissioner Brown stated that the county did not guarantee density because of the wetlands on properties and other mitigating factors on properties. He stated that the county did not guarantee a certain density per acre of lots because the entire lot was not buildable.

Mr. Frisina stated that the property would be buildable to the degree that it was and the PUD gave a way to mathematically come up with a number.

Commissioner Brown stated that they have extended an offer for the Board to be as flexible as they can be so they can build as many lots on a piece of property that a guy paid a substantial sum of money for without any conditions on the purchase and the Board was supposed to guarantee his risky speculation on a piece of property based on a number that included wetlands and other mitigation factors on land that he could not build, but the Board was supposed to give him the exact same number of homes for the total acreage of the lots.

Mr. Frisina stated that the calculation took flood plain out.

Mr. Rapson stated that there was no guarantee.

Commissioner Brown stated that there was no PUD and PUD was not zoned in the land use plan. He stated that the petitioner could come back with another viable zoning, which was what the judge said they could do, as long as it was not the two that the county attorney mentioned and make another offer.

Mr. Davenport stated that this was not the first rezoning hearing to be sent back to the Planning Commission. He stated that this was the second rezoning hearing with a two-year hiatus because of litigation. He stated to treat this like a standard rezoning hearing could be at the Board's jeopardy.

Commissioner Brown stated that he understood. He stated that he was shocked at Judge Edwards' ruling. He stated that he was not sure Judge Edwards read the document because some of it was so outlandish and out of the box. He stated that the Supreme Court said it did not meet the criteria to hear the case, so they let it stand. He stated that the contempt thing was a side story and he did not care. He stated that if the Board allowed judges to rezone the entire county, then they are in "dire straits". He stated that they should not allow judges to take over the land use and transportation system. He stated that he would entertain the R-78. He stated that the Board had the ability to deny the request and ask for an alternative because the judge said whatever the viable zoning qualification was.

Commissioner Rousseau stated that he asked and they were not willing. He stated that Ms. Zickert said no on behalf of her client.

Chairman Maxwell stated that he was prepared to make a motion for R-78. He asked Mr. Davenport if that was something he could defend.

Mr. Davenport stated that he would have refer back to his earlier answer; it cannot be A-R and it could not be R-80, it had to be at a constitutional zoning district. He stated that was the direction by Judge Edwards. He stated that if Chairman Maxwell felt R-78 was within that parameter, then it was his prerogative to do so. He stated that he did not know what Judge Edwards would say.

Chairman Maxwell stated that he would take that as a yes, he could defend that.

Chairman Maxwell moved to approve Petition No. 1257-16, TSTT Investments, LLC, Owner, requests to rezone 212.832 acres from A-R and R-40 to R-78 to develop a Single-Family Residential Subdivision with 91 lots; property located in Land Lots 4, 5, 28, 29, and 30 of the 7th District and fronts on Ebenezer Church Road and Davis Road with one (1) condition that the owner/developer shall provide at no cost to Fayette County a quit claim deed for 40 feet of right-of-way as measured from the centerline of Davis Road prior to the approval of the Final Plat and said dedication area shall be shown on the Preliminary Plat and Final Plat. Commissioner Brown seconded.

Commissioner Oddo stated that if it was to go to R-78 and it was accepted it would be a difference of how many homes. He stated that R-78 was two-acre minimum and the developer would still put as many homes as possible on the property. He stated that they are not talking about not doing the development.

Commissioner Brown stated that there was no constitutional guarantee for anyone to be in PUD/PRD zoning.

Commissioner Rousseau asked at what point would the developer come back with a schematic.

Mr. Frisina stated that once the property was rezoned it did not come back before the Board.

Chairman Maxwell stated that R-78 was 2,500 square foot was the minimum.

Vice Chairman Ognio stated that it was 3,000.

Chairman Maxwell moved to approve Petition No. 1257-16, TSTT Investments, LLC, Owner, requests to rezone 212.832 acres from A-R and R-40 to R-78 to develop a Single-Family Residential Subdivision with 91 lots; property located in Land Lots 4, 5, 28, 29, and 30 of the 7th District and fronts on Ebenezer Church Road and Davis Road with one (1) condition that the owner/developer shall provide at no cost to Fayette County a quit claim deed for 40 feet of right-of-way as measured from the centerline of Davis Road prior to the approval of the Final Plat and said dedication area shall be shown on the Preliminary Plat and Final Plat. Commissioner Brown seconded. The motion passed 4-1. Commissioner Oddo voted in opposition.

The Board recessed at 8:34 p.m.

Mr. Rapson announced for the record that the Peachtree City Little League Baseball Team was leading 7-3 in Round 1 of the Little League World Series. The team ultimately won Round 1 of the series.

The Board reconvened at 8:51 p.m.

4. Consideration of Petition No. 1276-18, Christine Thornton & Claudine Morris, Owners, and Trent Foster, Agent, request to rezone 18.172 acres from A-R to R-75 to develop a Single-Family Residential Subdivision consisting of six (6) lots; located in Land Lot 105 of the 7th District and fronts on Dogwood Trail.

Trent Foster stated that the future land use map was one unit per acre on this parcel. He stated that he was requesting R-75 which was one unit per two acres. He stated that each lot was basically three acres. He stated that it would not overburden the road. There was a condition for only three driveway accesses. He stated that was only half of what they could potentially get on that road from this parcel on the future land use maps and they were being restricted "driveway wise", which he felt was unnecessary.

No one spoke in favor or in opposition of this petition.

Commissioner Rousseau stated that Mr. Foster indicated that he thought the conditions were unnecessary. He asked Mr. Foster to expound.

Mr. Foster stated that if there was a driveway at 100 to 125 feet apart, he did not see the reason to restrict to three driveways. He stated that he would understand if this was Highway 74, Highway 85, 314 or even Tyrone Road to limit the driveway, but to limit the driveways was basically reducing the use of the property because they would have to come in at certain locations. He stated that there would have to be a driveway between two lots and that would basically be sharing a driveway if there were people coming in and out at the same time. He stated that could create a hazard. He stated that he would prefer to have six individual driveways.

Chairman Maxwell stated that it was his understanding that happened at one of the other properties.

Mr. Frisina stated that those properties were a little more dispersed and there were flag lots and larger lots where it seemed to be very uniformed and this was a similar condition that was put on rezoning that was on Jeff Davis. He stated that it was better to restrict the number of curb cuts.

Chairman Maxwell asked if this was restricted because the Planning Commission thought it would be better or was it by ordinance.

Mr. Frisina stated that it was by condition of the staff. He stated that it was based on input from the Road Department.

Chairman Maxell asked if all the driveways would be accessible onto Dogwood.

Mr. Foster stated yes. He stated that it would be 125 feet lot widths between each lot. That was the width of each lot.

Commissioner Brown asked if there was a maximum width for the driveways under this scenario.

Public Works Director Phil Mallon responded. He stated that the condition was put in by staff based on the input from the Board on similar requests. He stated that originally it was set to meet what staff took to be the Board's desires. He stated that since then, staff had gone out to take field measurements of sight distance and found that the property did have some serious sight distance concerns. He stated that it was likely that they could not get six lots even using shared driveways. He stated that even though there were conditions, when the preliminary plats were submitted, staff would check each lot to be sure that it had adequate sight distance for a safe driveway and if not, then staff would not recommend that preliminary plat. It would have to be revised. He stated that he spoke with someone on the applicant/developer side, and they thought the sight distance was satisfied. He stated that he could not resolve at this point, their measurements versus the staff's measurements. He stated that he wanted to let the Board know that if it was not a condition of rezoning it would be a condition of preliminary plat approval to use some shared driveways and even doing so, they may not get six lots.

Commissioner Brown stated that Dogwood Trail was a cut-thru and he understood why this was done for safety. He stated that he could not imagine that the traffic number would stay the same and not going the safest route by looking at the unified driveways.

Commissioner Rousseau stated that Mr. Foster referenced Jeff Davis and Mr. Mallon referenced that the Board had shown a preference. He stated that he wanted to be careful that we were not "cookie cutting". He stated that it put him a little at ease because staff went out to look at the lots. He asked about Jeff Davis.

Mr. Frisina stated that there were similar concerns; busy road. He stated that he was not sure if there was a sight distance issue, but it was cutting down the number of areas where cars could come into the road. It went from four driveways to two driveways to limit the incident areas.

Commissioner Rousseau stated that he wanted the applicant to hear that there was reasoning behind that decision even though he may not agree. He stated that Mr. Mallon also offered the option of the final plat that could be reevaluated.

Mr. Mallon stated that it was based on the applicant. He stated that it was based on preliminary data and staff may not be able to approve six lots regardless of the zoning. He stated that staff would not approve a new lot if it did not have a safe driveway.

Commissioner Oddo stated that it would be up to the developer, but could he not build frontage road with access off Dogwood Trail and everyone would have their own driveway.

Mr. Foster stated that it could be possible if the county did not have a problem with a frontage type road. He stated that it would give him the six lots.

Mr. Frisina stated that he did not know if there were standards for that type of road system in the county.

Mr. Mallon stated that this would have to be a side street that was build off Dogwood Trail that had a cul-de-sac and a minimum length of 75 feet to the cul-de-sac. He stated that it was an option and his experience was that it was a very expensive option for six lots.

Mr. Foster stated that if a driveway could be shared down the centerline, could he not run a driveway to one end of the property to the other and just have driveways and not a county road. He stated that it would be a longer wider driveway basically at the edge of the front right-of-way. He stated that it would be the same as splitting the driveway down two parcels, but it would be split down six parcels into individual driveways.

Mr. Mallon stated that it would be great in terms of maximizing sight distance, but as for county regulations it only allowed two homes per driveway.

Commissioner Brown asked if the Board could make that a condition.

Mr. Davenport stated that the Board would need to amend the code to take that out because it was a maximum of two per driveway. This was part of the zoning regulations. He stated that if it was something that the Board wanted to do, it could be done without a hearing before the Planning Commission. He stated that it was a code amendment, but it would have to be on a different agenda. He stated that currently the code allowed a maximum of two lots per access point so it would be in conflict with the code.

Vice Chairman Ognio stated that he did not have a problem with rezoning it to R-75. He stated that if the Board needed to change the code then that could be done. He stated that staff could work with the developer regarding the driveway.

Mr. Foster stated that he agreed with the condition as written and that he would work out the driveway issues later.

Mr. Davenport stated that when the Board voted on a conditional zoning it could not be changed. He stated that if the Board wanted to change the zoning, it would have to go back to the Planning Commission and then back to the Board because it was a conditional zoning.

Commissioner Brown stated that he would oppose six driveways on that road. He did not believe that was safe.

Commissioner Oddo stated that he would be ready to vote for this item, but he would like Mr. Foster to see about the one curb cut. He asked if it had to be decided tonight.

Mr. Foster stated that due to contract restraints it needed to be voted on during this meeting.

Vice Chairman Ognio moved to approve Petition No. 1276-18, Christine Thornton & Claudine Morris, Owners, and Trent Foster, Agent, request to rezone 18.172 acres from A-R to R-75 to develop a Single-Family Residential Subdivision consisting of six (6) lots; located in Land Lot 105 of the 7th District and fronts on Dogwood Trail with no condition.

Vice Chairman Ognio amended the motion to approve Petition No. 1276-18, Christine Thornton & Claudine Morris, Owners, and Trent Foster, Agent, request to rezone 18.172 acres from A-R to R-75 to develop a Single-Family Residential Subdivision consisting of six (6) lots; located in Land Lot 105 of the 7th District and fronts on Dogwood Trail with one (1) condition that the six (6) lots shall be limited to three (3) driveway curb cuts. Commissioner Brown seconded.

Commissioner Oddo stated that he would like staff to figure out a solution to this type problem.

Vice Chairman Ognio amended the motion to approve Petition No. 1276-18, Christine Thornton & Claudine Morris, Owners, and Trent Foster, Agent, request to rezone 18.172 acres from A-R to R-75 to develop a Single-Family Residential Subdivision consisting of six (6) lots; located in Land Lot 105 of the 7th District and fronts on Dogwood Trail with one (1) condition that the six (6) lots shall be limited to three (3) driveway curb cuts. Commissioner Brown seconded. The motion passed 5-0.

5. Consideration of Petition No. 1277A-18, William Taylor III, Owner, request to rezone a total of 46.26 acres from A-R to R-70 to develop a Single-Family Residential Subdivision consisting 23 lots; located in Land Lot 196 of the 13th District and fronts on Westbridge Road.

Item #5 and Item #6 are companion petitions. They are for the same development.

William Taylor stated that he was a ten-year resident of an adjacent community; Country Lake. He stated that all of his family lived in the area and anything done to the area would be impactful to him and his immediate family. He stated that he purchased the property with the purpose of developing a luxury subdivision. He stated that there was no intent to build a 1,500 square foot home or any of that sort. He purposed it so that it would be one of the paramount communities that would match Country Lake, Dix-Lee-On, Northridge and surrounding communities. He stated that the intent to covenant the property such that, once approve, no one else could come in and build the small "cookie cutters" that was not atypical of this community. He stated that it was a low-density community with a 3% increase to traffic and the surrounding area. The homes would be 100% custom homes. He stated that although the minimum square foot for the homes was 3,000 square feet, none of the homes shown were 3,000 square feet. The smallest was 4,100 square feet. He stated that he was requesting R-70 and the other communities in the area are R-40 with less than 1,500 square feet requirements. He stated that he requested 1,500 square feet but neglected to go to a larger square footage because on the property lived Carlos Dimas and his wife, the previous property managers for the Evander Holyfield estate. He stated that they would like to purchase that home and to accommodate them he selected R-70 so the home could be purchased by them. He stated that it would be an outparcel. He stated that there was another home on the Westbridge side in a similar condition. He stated that it was a young man working pro bono in hopes of purchasing the home.

Commissioner Brown asked if the two outparcels would have no connectivity to the subdivision.

Mr. Taylor stated that there would be connectivity but it would be shielded by natural fencing.

Commissioner Oddo asked Mr. Taylor if he would consider carving the two outparcels and leaving them A-R.

Mr. Taylor stated that if he left them A-R they would be five-acres parcels and that may impact things.

Vice Chairman Ognio stated that there were concerns from citizens regarding the size of the homes. He stated that there was no guarantee of at least 2,500 square feet. He asked Mr. Taylor if he would consider rezoning all of it to R-75 with a condition to bring back the two homes for R-70.

Mr. Taylor stated that he would not have an issue with that.

Mr. Frisina stated that with enough time and money he could do that. He stated that he would get R-75, then develop the subdivision, cut out the lots and then bring the two homes back.

Mr. Taylor asked if he could do the inverse so that he could cut out the lots at R-70 and zone the subdivision R-75 since the subdivision would not be completed in six months.

Mr. Davenport stated that it was one tract of property and the Board was looking to delineate at least a two-acre parcel to surround the house. He stated that nothing had been put before the Board to give a legal description of that area. He stated that it was just a concept. He stated that concept wise, it was doable but he could not say what was being zoned R-70. He stated that there was not a legal description of the lot. He stated that the cleanest way to do the two-step process would be to go with R-75. He deferred to Mr. Frisina for a time to come back with the R-70. He stated that there were issues with putting the plat together

for the subdivision to meet the Board's requirements. He stated that he did not want to mislead the petitioner. He would not want the subdivision requirements to hinder him from being about to produce a two-acre lot surrounding an existing house.

Mr. Frisina stated that he did not think he had the ability to bring those back with a legal description until they were at the final plat stage. He stated that meant that the road was in and all the lots staked. He stated that it would be sometime after the final plat was approved or prior to the final plat that he could bring it back.

Mr. Davenport stated that there would need to be a time frame on doing that. A two-year timeframe. He stated that the issue that most concerned him was not knowing the distance of the southern property and the distances that would be required to develop the subdivision and the standard that would be needed for the two-acre carve out for the existing house.

Mr. Frisina stated that the conceptual plan showed the houses sitting on the lots.

Mr. Davenport stated that he was pointing out the risk.

Mr. Taylor made statements regarding bringing the driveway from Old Ford Road. (comments were inaudible).

Mr. Oddo stated that one of the concerns was the size of one house that did not meet standards.

Mr. Frisina stated that there was one house that needed a utility roof to be completed.

Mr. Davenport stated that he had sufficient time to do that. He stated that there were two issues. He stated that the major issue was having the lot carved out. He stated that he would not think the urgency of bringing the house to the minimum size would take precedence over getting the lot carved out, but he would bring the house up to the minimum size in the process that he was working through before carving the lot out. He stated that it was a step to take that did not carry the same sense of urgency that it typically carried because of what would need to be done to carve the lot out. He stated that he would recommend 18-months. He stated that Mr. Taylor should be able to come back and rectify the remaining two lots probably before the 18-month period.

Commissioner Rousseau stated that it would be R-75 with a condition of 18-months to return after the property had been staked out, to allow the two houses to act as outparcels.

Mr. Davenport stated that the condition would be similar to what the Board typically put on as a condition when there was an undersized house. He stated that they would have 18-months to correct the problem, in addition, to carve out the two-acre lot from the R-75 and apply for the rezoning to R-70 for the two lots. He stated that the Board did not have that type condition before but it was logical extension in respect to rezoning the undersized house.

Mr. Taylor stated that he wanted to be clear. He recapped that if he was to do the engineering work and carve out the plat with the legal description in a couple of months, then he could come back to the Board.

Mr. Davenport stated yes. He stated that the Board was giving a timeframe with the 18-months. He stated that if it was not done within 18-months then the county would have it rezoned back to the original zoning district. He stated that was the penalty but that was why the Board was recommending so much time.

Mr. Taylor stated that he was amendable and understood what was being proposed to bring the home on Westbridge up to square footage stand for R-70 and an 18-months timeframe to come back to make the zoning request.

Nora Blair spoke in favor of this request. She stated that she was a friend of the Dimas family. She stated that Mr. Dimas was on a mission trip and could not be present. She stated that the family lived in the house for 20 years and since Mr. Holyfield lost it, they have been paying to live there. She stated that the Planning Commission recommended approval although there were many people who attended the Planning Commission meeting in opposition. She stated that she appreciated the work that the Board was putting into this request. She stated that she understood why the Board was taking the additional step but did Mr. Taylor have to do all that work before the Planning Commission again. She thanked the Board for all they do.

Roy Bishop stated that he was not sure if he was opposed or in favor of this request. He stated that he was in favor of the request the way it was laid out right now. He stated that he was not in favor of the R-70 with the two existing houses remaining. He stated that R-75 would be acceptable.

Chairman Maxwell stated that the R-70 was a 1,500 square foot home and R-75 was a 2,500 square foot. He stated that the Board received several emails regarding this request and the emails were on the dais.

Vice Chairman Ognio moved to approve Petition No. 1277A-18, William Taylor III, Owner, request to rezone a total of 46.26 acres from A-R to R-75 to develop a Single-Family Residential Subdivision consisting 23 lots; located in Land Lot 196 of the 13th District and fronts on Westbridge Road with three conditions, (1) the owner/developer shall provide, at no cost to Fayette County, fifty (50) feet of right-of-way as measured from the centerline of Westbridge Road to create a total of 100 feet of right-of-way and said dedication area shall be shown on the Final Plat, (2) that the pavilion located on the eastern portion of the property be removed within 180 days form the effective date of this rezoning, and (3) that the owner developer rezone the proposed lot which will contain the existing dwelling to R-70 to address the issue of the minimum house size within 18 months. Commissioner Brown seconded. The motion passed 5-0.

6. Consideration of Petition No. 1277B-18, William Taylor III, Owner, request to rezone a total of 40 acres from A-R to R-70 to develop a Single-Family Residential Subdivision consisting 23 lots; located in Land Lot 221 of the 13th District and fronts on Old Ford Road.

No one spoke in favor or in opposition.

Vice Chairman Ognio moved to approve Petition No. 1277B-18, William Taylor III, Owner, request to rezone a total of 40 acres from A-R to R-75 to develop a Single-Family Residential Subdivision consisting 23 lots; located in Land Lot 221 of the 13th District and fronts on Old Ford Road with three conditions, (1) the owner/developer shall provide, at no cost to Fayette County, forty (40) feet of right-of-way as measured from the centerline of Old Ford Road to create a total of 80 feet of right-of-way and said dedication area shall be shown on the Final Plat, (2) that the pavilion located on the eastern portion of the property be removed within 180 days form the effective date of this rezoning, and (3) that the owner developer rezone the proposed lot which will contain the existing dwelling to R-70 to address the issue of the minimum house size within 18 months. Commissioner Oddo seconded.

David Brill thanked the Board for considering variations and accommodating what the neighbors and the applicant agreed on.

Mr. Taylor stated that he agreed with the conditions.

Vice Chairman Ognio moved to approve Petition No. 1277B-18, William Taylor III, Owner, request to rezone a total of 40 acres from A-R to R-75 to develop a Single-Family Residential Subdivision consisting 23 lots; located in Land Lot 221 of the 13th District and fronts on Old Ford Road with three conditions, (1) the owner/developer shall provide, at no cost to Fayette County, forty (40) feet of right-of-way as measured from the centerline of Old Ford Road to create a total of 80 feet of right-of-way and

said dedication area shall be shown on the Final Plat, (2) that the pavilion located on the eastern portion of the property be removed within 180 days from the effective date of this rezoning, and (3) that the owner developer rezone the proposed lot which will contain the existing dwelling to R-70 to address the issue of the minimum house size within 18 months. Commissioner Oddo seconded. The motion passed 5-0.

7. Consideration of Resolution 2018-13 to amend the Future Land Use Plan map of the Fayette County Comprehensive Plan for the area generally north of Harp Road, south of Seay Road, south of Perry Creek and east of Redwine Road from Rural Residential 2 (1 unit/2 acres) to Low Density Residential (1 unit/ 1 acre).

Vice Chairman Ognio recused himself from discussion of this item. He stated that his parents owned 52 ½ acres in the area and he did not want it to look like he was trying to...

Vice Chairman Ognio exited the room.

Mr. Frisina stated that at the Board of Commissioner Retreat in April, members of the Planning Commission came before the Board to request permission to review the land use plan because of the time they had to turn the plan around in 2017. He stated that they did not feel they had adequate time to look at the land use plan and the Board agreed to have the Planning Commission look at it again. He stated that staff agreed with the recommendation.

Planning Commission Chair Brian Haren stated that this was a house keeping issue. He stated that they looked at the comprehensive plan with the intention to go back and look at the map to see whether or not the recommendation matched well with what they saw on the ground. He stated that upon review of the plan there was one small section that was bounded by the roads mentioned in the agenda item. He stated that everything was at one acre and in that area alone, it did not make sense to push it to residential one unit, two-acre. He stated that it should be one unit for consistency as the zoning areas are broken out for the comprehensive plan. He stated that this was the only change that was recommended after the comprehensive plan was approved.

Planning Commission Member Al Gilbert gave a brief history of the zoning in this area. He stated that he was concerned that one day someone would say that it was one-acre zoning and now they have to do two-acre zoning.

Commissioner Brown stated that he understood wanting the consistency. He stated that the problem was with the acreage leftover. There would be a lot of homes if it was moved to one-acre as opposed to the two-acres. He stated that there was always a chance of a legal challenge. He stated that looking at the traffic situation and the amount of traffic being put on the roads that are not designed to handle a lot of traffic, he would rather see it remain as two-acres. He would like to keep the density as low as possible in the area.

Mr. Haren stated that was the Planning Commission recommendation and they would go with the Board's decision.

Commissioner Brown moved to deny Resolution 2018-13 to amend the Future Land Use Plan map of the Fayette County Comprehensive Plan for the area generally north of Harp Road, south of Seay Road, south of Perry Creek and east of Redwine Road from Rural Residential 2 (1 unit/2 acres) to Low Density Residential (1 unit/ 1 acre). Commissioner Oddo seconded.

Commissioner Oddo stated that he was looking at this as protection of the county because the higher density gave the appearance that, when it was annexed, it could be at a higher density. He stated that he did not disagree with what was presented, but that the Board should leave it.

Commissioner Brown moved to deny Resolution 2018-13 to amend the Future Land Use Plan map of the Fayette County Comprehensive Plan for the area generally north of Harp Road, south of Seay Road, south of Perry Creek and east of Redwine Road from Rural Residential 2 (1 unit/2 acres) to Low Density Residential (1 unit/ 1 acre). Commissioner Oddo seconded. The motion passed 4-0. Vice Chairman Ognio recused himself.

Vice Chairman Ognio returned to the meeting.

- 8. Consideration of staff's recommendation to approve new 2018 Retail Alcohol Beer and Wine License (C18-00363) for Qadeer Ullah, doing business as Kenwood BP, which is located at 1866 Hwy.85N, Fayetteville, Georgia 30214.**

Staff recommended tabling this item to September 27, 2018 meeting.

Commissioner Oddo moved to table staff's recommendation to approve new 2018 Retail Alcohol Beer and Wine License (C18-00363) for Qadeer Ullah, doing business as Kenwood BP, which is located at 1866 Hwy.85N, Fayetteville, Georgia 30214 to the September 27, 2018 Board of Commissioner meeting. The motion passed 5-0.

CONSENT AGENDA:

Vice Chairman Ognio moved to approve the Consent Agenda as presented. Commissioner Brown seconded. The motion passed 5-0.

- 9. Approval of the project and budget approval in the amount of \$465 for the 5th Annual Scarecrow Competition.**
- 10. Approval of staff's recommendations to liquidate asset #11455 (LeeBoy Patching Roller) on GovDeals to the highest bidder.**
- 11. Approval to authorize the Purchasing Department to take necessary actions associated with the disposal of assets acquired through the Superior Court of Fayette County and the Sheriff's Office and to sell these assets to the highest bidder on GovDeals.**
- 12. Approval of the August 9, 2018 Board of Commissioners Meeting Minutes.**

OLD BUSINESS: None.

NEW BUSINESS:

- 13. Consideration of staff's recommendation to object to the Peachtree City annexation of 30 properties totaling 105.45 acres on SR 54 and the rezoning of said properties from C-C, C-H and R-20 to GC (General Commercial) and LUR (Limited-Use Residential).**

Mr. Frisina stated that this was an annexation for proposal in Peachtree City. He stated that it was not a 100% method but a 40/60 method. He stated that meant that 60% of the owner of the property that apply for rezoning meant the other 40% can be brought in whether they consent or not.

Commissioner Rousseau stated that the 60/40 meant that 60% of the individuals, voting in the affirmative can begin the process for annexation and that it did not mean that the Board had to act on it favorable.

Mr. Frisina stated that it was the application process.

Mr. Davenport stated that 60% of the owners of the area, of land comprised of 60% of the area and 60% of the electors. He stated that in this case there were very few electors. He stated that it forced a public hearing in front of the annexing entity. He stated that the Board was only looking at whether or not to object to the annexation.

Mr. Frisina stated that there were some issues brought up by stormwater and public works regarding the impact on the increase of density on the county. He stated that the 2013 future conditions flood study plus the Metropolitan North Water Planning District and there was also concern that they would like a flood management plan to be completed. He stated that it was a one-acre area on fifty-acres with about 90 plus lots for the area, so that was doubling the residential density. He stated that public works also had issues with the possible impact of the intersection of Governor's Square and State Route (SR) 54. He continued that the sizable amount of funding that the county would lose from Fire and EMS by pulling in the existing commercial development along SR54.

Gary Ricards stated that he was a resident of Peachtree City and also a resident of Fayette County. He stated that he and his neighbors felt that the present zoning for the properties under consideration are appropriate for the perimeter edges of Fayette County that are agricultural of lower density. He stated that he was afraid that the annexation by Peachtree City into the east edges of the city would demand a lower quality of life from increased traffic and conflicts between the county and the city. He stated that he was pleased with the present zoning. He stated that he was speaking in opposition of this annexation.

Peachtree City-City Manager Jon Rorie stated that he was before the Board to object to the objection of this annexation. He stated that the SR54 East annexation, growth boundaries as defined on the perimeter of Peachtree City limits. He stated that he had been working on this project since September 2014. He stated that he wanted to talk about process. He stated that staff made a recommendation to object to the annexation because it shown to be a material increase in burden. He stated that related to the SR54 East corridor, there was commercial zoning. He stated that the commercial zoning was put in place many years ago by Fayette County and since then, the area had evolved. He stated that the area had begun to take on a characteristic of its own village, similar to other villages in Peachtree City. He stated that an email was provided in the agenda package that basically said that this was the high-level discussion that the county had with Peachtree City. He stated that this was an email shared with him stating the county's objection. He stated that he wanted to note that Peachtree City had a two-step annexation process. He continued that the email said, "I see that your elected officials have approved moving forward with on the annexation." He stated that Peachtree City Council had not authorized moving forward on the annexation. He stated that at this point, the Council had only officially accepted the application as being completed for consideration. He stated that the process for a two-step annexation did not indicate that the Council had approved the annexation. He stated that objections had been shared with the Board before the City Council had even acted on the application. He stated that he met with the developers and informed them that the city would not do certain things. He stated that one of the things was the objection to Fire & EMS which was about a revenue issue and Sheriff/Police was a rezoning and residential future. He stated that there was no objection to the rezoning to commercial. The only thing that was in question was the density related to the rezoning of 50 acres. He stated that the 50-acre rezoning was a limited use residential that abutted to the mobile home park that was zoned in Fayette County for 250 units, next to the 50-acres. He stated that throughout the process they approached the owner and asked if they would like to be included in this annexation process and was told no. He stated that it had been implied that Peachtree City would not consider annexing the mobile home park and he would deny that and as the city manager, he would consider annexing the mobile home park. He stated that the R-zoning; residential from 50-acres going from R-20, in the email said "112 units" and in the agenda package it said, "94 units". He stated that the objection provided by county staff talked about cart path connectivity. He stated there would have to be easement dedication for the cart path connectivity. He stated that there would have to be infrastructure to build quick response station, i.e.

medic stations. He stated that there was no intention to build fire stations. He stated that he wanted to be sure the developer dedicated a portion of the land for the construction of a residential type EMS response station. He stated that the Sheriff, Police and Fire & EMS were the remaining pieces. He stated that what was not included in the agenda package was his response to the email. He stated that his email response to the objection was, (dated June 30), "Peachtree City has a two -step annexation process. The first step simply provides an overview of the proposed annexation and identifies compatibility with the city's comprehensive plan. To clarify, the city council did not approve moving forward with the annexation, instead they simply authorized staff to continue with the second step of the process." He stated that step two required the submittal of additional and detailed information pertaining to the impact of the proposed annexation and subsequent development. He stated that the continuous through the second step of the review process, in no way implied that the City Council would ultimately approve the property for annexation. He stated that the city had yet to discover additional details regarding the annexation request, therefore any objections from Fayette County are premature. He provided feedback to the objects. Mr. Rorie referenced stated law. He stated that the county governing authority made by majority vote may object to annexation because of material increase of burden upon the county directly related to any or more of the following: (1) proposed change in zoning or land use, (2) proposed increase in density and (3) infrastructure demands related to the proposed zoning or land use. He stated that the inclusion of the word "and" was critical as related to the proposed increase in density. He stated that the statement that a LUR would create an objection since the zoning would create significantly higher density than what would be allowed under the existing zoning and classification. He stated that an increase in density had yet to be determined, however with the potential increase in density, how would the Board propose an objection consisting of a material increase of burden of either a financial impact or increase infrastructure demands. He stated that the Board may object based on rezoning or land use but a general statement of objection was not sufficient. He stated that the objection must provide documentation for the actual nature of the objection and financial impact. He stated that the point that the county would lose significant Fire & EMS tax dollars associated with removing the commercial zoning. He stated that as he understood Georgia code, the county could use service delivery to support a valid objection that would increase the demand but history had shown that property values increase when annexed into Peachtree City, so the county should realize the increase in ad valorem tax. He stated with that increase he was not sure how the county would define "significant loss" in net terms. He stated that with the current proposal the city would take on the responsibility of providing services to the annex area so the county would no longer be responsible for service delivery. He stated that he did not believe an objection based on revenue for Fire & EMS tax, where the county was no longer providing services was a valid objection. He referenced state law. He stated that "service delivery of services alone, could not be the basis for an objection but may be used as supporting evidence of an otherwise valid objection." He stated that it was presumed that if services were being provided or were to be provided, by the county regardless of the annexation or intended changes in municipal land use associated with the annexation, then the county would not have a valid objection on that basis. He stated that if the annexed property could have been legally developed in a way that would have placed a service burden on the county, while in the unincorporated area, this section would prohibit the county commission from making an objection. The language suggest that the county may not raise objections based on the inability to provide services or to continue providing services to the annexed area because of any intended revenue loss associated with providing services that would now be provided by the city. He stated what was at hand was a valid objection. He stated that if the proposal was to move forward with the annexation and the county wished to object, then the question was, if it was a valid objection and how it was defined. He stated that failure to provide documentation at the time of the initial objection would mean that the objection was not complete and was invalid. He stated that if the city did not receive a valid objection, then the city could move forward with the annexation. He stated that if it was a valid objection he wanted to get the second part moving, which stated that the county had to submit the document to the city by September 1. He stated that an arbitration panel would have to be set 15 days after that point. He stated that this item would go before the city council at the September 20 meeting and he did not know what action they would take and he had not recommending any action. He stated that the change in zoning and the density was a valid objection, he would agree.

Peachtree City Council Member Mike King stated that there have been objections on a personal level with citizens of Peachtree City to the Council. He stated that nine of the ten things that have come up have been worked out. He stated that the nearest

EMS service for that area of town was in Peachtree City. He stated that the traffic issue was a “wash” and Governor’s Square was not going to make a difference.

Mr. Davenport stated that he agreed with almost everything that he said. He stated that Peachtree City and Fayette County was not the problem. He stated that the problem was the State of Georgia. He stated that the framework was put in place that made the city and county adversarial to each other. He stated that the way the law was structured, the city’s letter was dated August 1, 2018 and it stated that the city had accepted the annexation and that they were getting it to the county within five business days as required by state law and the county was required to object, if the Board planned to object, within 30 days. If the county did not object within 30 days then the Board would lose the right to object. He stated that he would love to know what the plans are in more details, but the county did not have that luxury. He stated that if the Board objected, then an arbitration panel would be put in place within 15 days of the objection. He stated that the way Peachtree City did the annexation was probably better than any other municipality in the county because it gave the county a heads up because of their step one in the process. He stated that over the years he had tried to determine what was a valid objection. He stated that he could not tell the Board what was valid and what was not valid. He stated that was the reason for the arbitration panel. He stated that Peachtree City could not take a final decision on the annexation until after the 30 days. He stated that he did not have an answer about what to do to improve the process. He stated that if the city withdrew the notice it would stop the 30-day clock to allow the opportunity to work things out.

Mr. Rapson stated that he and Mr. Rorie started with step one. He stated that he understood that the deck was stacked against counties in Georgia when it came to annexation. He stated that the only hooks that the county primarily had was material burden and bonafide land objections. He stated that staff had written the best objections possible and the next thing to do was to let the arbitrators figure out who was right and who was wrong.

Commissioner Rousseau stated that when he heard that this had been worked on since 2014, his mind went to a conversation during retreat where he proposed for staff to get with the municipalities and look at the bordering properties and to come up with an amenable way in which the county and cities did not get in this adversarial push and shove. He asked how that was working.

Mr. Rapson stated that staff had made great strides. He stated that there was a draft map and the city managers and the county manager would give their thoughts and go back to the planning staff and present to the elected officials.

Commissioner Rousseau asked Mr. Rorie what information he was referring to that was shared before-hand.

Mr. Rorie stated that since there was a step two annexation process, Peachtree City staff shared the application with county staff prior to it being before the Board. He stated that Peachtree City staff should not have shared that with Fayette County. He stated that it was shared with Board as well.

Commissioner Rousseau stated that nothing was shared with him other than there was an annexation request.

Mr. Rapson stated that Mr. Rorie was referring to an email that was sent to the Board where he said based on the step one review, because at that point there was nothing before the Board.

Mr. Davenport stated that the county was basing all the decision on the August 1, 2018 letter that was received.

Mr. Rorie stated that the city would not withdraw the letter.

Commissioner Rousseau moved to object to the Peachtree City annexation of 30 properties totaling 105.45 acres on SR 54 and the rezoning of said properties from C-C, C-H and R-20 to GC (General Commercial) and LUR (Limited-Use Residential). Vice Chairman Ognio seconded.

Commissioner Brown stated that the mobile home park was significant in this request. He stated that eventually it would create an island. He stated that he was worried when the agricultural land to the south of home park came up in the annexation request. He stated that the island was a concern in terms of service. He stated that he would like to see both entities look at the home park with fire and EMS.

Commissioner Rousseau called the question.

Commissioner Rousseau moved to object to the Peachtree City annexation of 30 properties totaling 105.45 acres on SR 54 and the rezoning of said properties from C-C, C-H and R-20 to GC (General Commercial) and LUR (Limited-Use Residential). Vice Chairman Ognio seconded. The motion passed 5-0.

The Board recessed at 11:04 p.m.

The Board reconvened at 11:11 p.m.

14. Consideration of the Water Committee recommendation to approve the Water System to partner with American Rivers on the Water Efficiency for Streamflow Restoration in Georgia's Upper Flint River System Project.

Water System Director Lee Pope briefed the Board that this was free money because this was money that had to be spent to meet the Metropolitan Planning District Plan requirements for continued education. He stated that this grant was a partnership to assist with funding.

Commissioner Rousseau moved to approve the Water System to partner with American Rivers on the Water Efficiency for Streamflow Restoration in Georgia's Upper Flint River System Project. Vice Chairman Ognio seconded.

The grant was a joint grant with American Rivers. The county's commitment was \$35,978 with \$6,862 to be paid out and the remainder was in-kind commitment.

Gary Ricards stated that Mr. Pope met with the homeowner's association and he was impressed with Mr. Pope's contributions to the county. He stated that the equipment that Mr. Pope added to the lakes and monitoring, as well as the volume was appreciated. He stated that he supported this item.

Commissioner Rousseau moved to approve the Water System to partner with American Rivers on the Water Efficiency for Streamflow Restoration in Georgia's Upper Flint River System Project. Vice Chairman Ognio seconded. The motion passed 5-0.

15. Consideration of staff's recommendation to use 2017 SPLOST; Transportation; Infrastructure Preservation and Improvements; A.3 Paved Roads, Gravel Roads & Bridges to fund Dix-Lee-On Drive, Antioch Road, Buckeye Road, and county wide bridge maintenance projects for the estimated amount of \$1,082,690.

Vice Chairman Ognio moved to approve to use 2017 SPLOST; Transportation; Infrastructure Preservation and Improvements; A.3 Paved Roads, Gravel Roads & Bridges to fund Dix-Lee-On Drive, Antioch Road, Buckeye Road, and county wide bridge maintenance projects for the estimated amount of \$1,082,690. Commissioner Brown seconded.

Public Works Director Phil Mallon stated that the 2017 SPLOST Transportation had several projects and one was the routine maintenance of roads and bridges and this was a request to spend some of the money for that line item on these projects:

Full Depth Reclamation in Dix-Lee-On Subdivision for \$89,795; Resurfacing of Antioch Road for \$675,640; Gravel Road maintenance at Buckeye Road; Bridge maintenance for \$25,000,000.

Vice Chairman Ognio moved to approve to use 2017 SPLOST; Transportation; Infrastructure Preservation and Improvements; A.3 Paved Roads, Gravel Roads & Bridges to fund Dix-Lee-On Drive, Antioch Road, Buckeye Road, and county wide bridge maintenance projects for the estimated amount of \$1,082,690. Commissioner Brown seconded. The motion passed 5-0.

16. Consideration of Bid #1535-B to Atlanta Paving & Concrete Construction Inc. for Full Depth Reclamation (FDR) in the Dix-Lee-On Subdivision in the amount of \$89,795.00.

Mr. Mallon stated that this item was to award the funds for the contractor to do the full depth reclamation in Dix-Lee-On Subdivision. He stated that the road department started the resurfacing but discovered it was not an adequate base, so this was the solution. He stated that this was an unexpected expense.

Commissioner Brown moved to approve Bid #1535-B to Atlanta Paving & Concrete Construction Inc. for Full Depth Reclamation (FDR) in the Dix-Lee-On Subdivision in the amount of \$89,795.00. Vice Chairman Ognio seconded. The motion passed 5-0.

17. Consideration of the County Attorney's recommendation to approve the disposition of tax refunds, as requested by Shelley Bamonte, for tax year 2017 in the amount of \$62.60.

Mr. Davenport briefed the Board that this was a tax refund request where Shelley Bamonte inadvertently had her homestead exemption removed when she was married. The request was to reinstate the homestead and approve the tax refund amount of \$62.60 for tax year 2017.

Commissioner Oddo moved to approve the disposition of tax refunds, as requested by Shelley Bamonte, for tax year 2017 in the amount of \$62.60. Commissioner Rousseau seconded. The motion passed 5-0.

18. Discussion of Vice Chairman Randy Ognio's request to have the county attorney review the county ordinance as it relates to discharge of firearms.

Vice Chairman Ognio stated that this was to have the county attorney review the county ordinance as it relates to discharge of firearms. He stated that this was not voting on the ordinance but to give the county attorney the approve to work with him to get a final document.

Commissioner Rousseau asked if there were concerns that were inconsistent or was it for possible changes.

Vice Chairman Ognio stated that some changes were for safety and also so those with less than 25 acres would not be in trouble if they used their firearm in self-defense. He stated that this was not the final version.

Mr. Davenport stated that he would get with Vice Chairman Ognio after the meeting.

Commissioner Oddo stated that the Board had already addressed the acreage part of this discussion. He stated that he was fine with looking at the safety standpoint and he would rather consider the safety.

Commissioner Brown stated that Vice Chairman Ognio had his full support because he did not like restricting his colleague from doing something.

Arnie Geiger stated that he would suggest that any land zoned A-R be allowed to use firearms.

In accordance with the Americans With Disabilities Act, accommodations are available for those who are hearing impaired and/or in need of a wheelchair. The Board of Commissioners Agenda and supporting material for each item is available on-line through the County's website at www.fayettecountyga.gov. This meeting will be telecast on Comcast Cable Channel 23 and on the internet at www.livestream.com.

Janet Grill stated that she was on A-R and if necessary she could shoot but there are times when shooting firearms can be a nuisance problem. She stated that she was glad the issue was being addressed.

Vice Chairman Ognio moved to approve for the County Attorney to work with Vice Chairman Ognio and the citizen to review the firearm ordinance. Commissioner Brown seconded. The motion passed 5-0.

19. Approval of Resolution 2018-14 for updating and authorizing 911 charges on telephone services and wireless enhanced 911 charges other than prepaid wireless services.

911 Director Bernard Brown stated that the State of Georgia passed House Bill 751 which gave the state the authority to be the sole recipient of all 911 fees. He stated that this gave more control to an entity to monitor and audit the wireless carriers in the Local Exchange Carriers (LEC) to collect the funds and redistribute it to the communities that control the 911 Centers. He stated that the county was notified that a new resolution needed to be passed no later than August 31 to be submitted to the state.

Vice Chairman Ognio moved to approve Resolution 2018-14 for updating and authorizing 911 charges on telephone services and wireless enhanced 911 charges other than prepaid wireless services. Commissioner Oddo seconded.

Commissioner Rousseau stated that this was part of ACCG's lobbying efforts during the Legislative Session. He stated that one of the concerns was getting the Department of Revenue to ensure the county collects its portion.

Vice Chairman Ognio moved to approve Resolution 2018-14 for updating and authorizing 911 charges on telephone services and wireless enhanced 911 charges other than prepaid wireless services. Commissioner Oddo seconded. The motion passed 5-0.

20. Approval of Resolution 2018-15 for updating and authorizing 911 charges on prepaid wireless services.

Vice Chairman Ognio moved to approve Resolution 2018-15 for updating and authorizing 911 charges on prepaid wireless services. Commissioner Brown seconded. The motion passed 5-0.

PUBLIC COMMENT:

Arnie Geiger stated that he wanted to invite the Board and citizens to the POW MIA Ceremony on September 21 at 9:00 a.m. at Patriot Park. He stated that the reason for the ceremony was to honor those who have been in that position or are still waiting for those people to come home.

ADMINISTRATOR'S REPORTS:

A: Bid #1520-B: Animal Shelter Sewer Project

Selection Committee-Planning Commission:

Commissioner Brown moved to approve Commissioner Charles Oddo and Vice Chairman Randy Ognio to the Selection Committee for the Planning Commission. Commissioner Rousseau seconded. The motion passed 5-0.

Selection Committee-Zoning Board of Appeals:

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Commissioner Brown moved to approve Commissioner Charles Rousseau and Commissioner Charles Oddo to the Selection Committee for the Zoning Board of Appeals. Vice Chairman Ognio seconded. The motion passed 5-0.

Hospital Authority:

Mr. Rapson explained that there were two positions available on the Hospital Authority and four applications submitted. The Board of Commissioners sends three applicants per position for the Hospital Authority. Mr. Rapson asked how the Board would like to proceed. There have been two advertisements of this position.

Commissioner Brown stated that the Board could send the same three names for two positions.

Mr. Davenport stated that he did not think the Board could do that. He stated that if there were four names the Board could send three names for the one position. He stated that the Board was required to send different names for each position.

Commissioner Brown stated that he did not think it had to be different names.

The Board agreed to interview the three names and then re-advertise and if the other two want to resubmit then they can reapply.

Library Board:

There are three positions expiring December 31 on the Library Board. The positions are appointed by the municipalities.

ATTORNEY'S REPORTS:

Mr. Davenport reminded the Board that this being the last meeting in August, the Board needed to consider the legislative package for 2019. He stated that he was mentioning it now because the Board will need to adopt resolutions before the package can be sent. He stated that the target time for adopting the resolutions would be the second meeting in October. He stated that once the resolutions are passed he could get them to the legislature by the first week in December and then the resolutions could go in the hopper immediately.

Notice of Executive Session: County Attorney Dennis Davenport stated that there was item involving pending litigation and review of the Executive Session Minutes for August 9, 2018.

COMMISSIONERS' REPORTS:

Commissioner Brown:

Legislative Package: Commissioner Brown requested a synopsis of what was sent last time and what action was taken. He stated that the Board may want to resubmit some of those items.

Mr. Davenport stated that he would send an email to the Board of a report card from last year.

Commissioner Rousseau asked what the benefit of would be to include the local delegation. He stated that he would like to consider having a discussion with the local delegation.

Peachtree City Little League: Commissioner Brown congratulated the Peachtree City Little League Baseball Team on a 7-3 victory over Mid Island. He wished them the best in the championship game.

Water Guardians: He stated that the Water Guardians would be at Lake Horton on Saturday. He stated that it would be the last event for the year. He stated that he would recognize some of the key volunteers at the next meeting.

Commissioner Rousseau:

Kenwood Park Ribbon Cutting: Commissioner Rousseau thanked the staff on the work in dedicating the track and pavilion for Kenwood Park.

Election Board: He stated that he requested to have the Board of Elections come to talk to the Board at a meeting to educate the Board and public on the voting integrity of the systems, locally and statewide and to discuss future plans.

Vice Chairman Ognio:

Celebrations: Vice Chairman Ognio stated that his parents celebrated their 62nd wedding anniversary and his oldest turned 30 on August 26 and his father will turn 82 on September 5.

Chairman Maxwell:

Willie George Miller: Chairman Maxwell announced that on August 24 at 11 a.m. the Board would help to recognize a local veteran, Willie George Miller on his 95th birthday. He read the proclamation that would be presented.

Commissioner Rousseau extended a congratulations and apologized that he would not be in attendance for the event.

EXECUTIVE SESSION:

Notice of Executive Session: County Attorney Dennis Davenport stated that there was item involving pending litigation and review of the Executive Session Minutes for August 9, 2018.

One Item of Pending Litigation and review of the August 9, 2018 Executive Session Minutes: Commissioner Brown moved to go into Executive Session. Commissioner Rousseau seconded. The motion passed 5-0.

The Board recessed into Executive Session at 11:49 p.m. and returned to Official Session at 11:57 p.m.

Return to Official Session and Approval to Sign the Executive Session Affidavit: Vice Chairman Ognio moved to return to Official Session and for the Chairman to sign the Executive Session Affidavit. Commissioner Brown seconded. The motion passed 5-0.

Approval of the August 9, 2018 Executive Session Minutes: Vice Chairman Ognio moved to approve the August 9, 2018 Executive Session Minutes. Commissioner Oddo seconded. The motion passed 5-0.

ADJOURNMENT:

Commissioner Brown moved to adjourn the August 23, 2018 Board of Commissioners meeting. Vice Chairman Ognio seconded. The motion passed 5-0.

The August 23, 2018 Board of Commissioners meeting adjourned at 11:58 p.m.

Tameca P. White, County Clerk

Eric K. Maxwell, Chairman

The foregoing minutes were duly approved at an official meeting of the Board of Commissioners of Fayette County, Georgia, held on the 13th day of September 2018. Referenced attachments are available upon request at the County Clerk's Office.

Tameca P. White, County Clerk