

The Board of Commissioners of Fayette County, Georgia met in Official Session on January 11, 2001, at 7:00 p.m. in the public meeting room of the Fayette County Administrative Complex, 140 Stonewall Avenue, Fayetteville, Georgia.

COMMISSIONERS PRESENT: Greg Dunn, Chairman
 Linda Wells, Vice Chairman
 Harold Bost, Commissioner
 Herb Frady, Commissioner
 A. G. VanLandingham, Commissioner

STAFF MEMBERS PRESENT: Chris W. Cofty, County Administrator
 Carol Chandler, Executive Assistant
 William R. McNally, County Attorney
 Linda Rizzotto, Chief Deputy Clerk

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

PRESENTATION/RECOGNITION:

RECOGNITION OF FORMER COMMISSIONER GLEN GOSA:

Chairman Dunn asked former County Commissioner Glen Gosa and his wife, Judy, to come forward to be recognized.

Chairman Dunn stated this was an opportunity he cherished because when he was sitting in the audience before he decided to run for office, there were times when he did not agree with the vote that Mr. Gosa may have made or didn't make. He said there was a change on the Board when he and Commissioner Wells were elected and Mr. Gosa had to adapt to the change with different people working on the Board who operated in a different fashion than he did. He said Mr. Gosa could have done many things but to his credit, he worked beautifully with the Board. He said Mr. Gosa had helped the Board to accomplish many things over the last two years. Chairman Dunn commented that Mr. Gosa disagreed with the Board sometimes but it was always in a gentlemanly and professional manner. He said that Mr. Gosa had a very good relationship with the Board over the last two years, he had been a key member of the Board and anything the Board wanted to take credit for he deserved to get 20 percent of the credit because he was 20 percent of the vote. He commented even when the members of the Board voted against an issue, Mr. Gosa helped the Board to get whatever it was done, he worked with the Board on issues and to this end he felt Mr. Gosa deserved great credit.

Chairman Dunn commented that the average citizen did not know that for the last four years, Mr. Gosa has served as the Chairman of the Water Committee and that Committee touched everybody in this county. He said further this was a job done behind the scenes but it was a lot of hard work, you did it and you received no extra compensation for it, you just did it

Minutes

January 11, 2001

Page 2

because you were dedicated to the community. He stated that he asked Mr. Gosa if he would continue to operate in some fashion with our Water Committee because he had the expertise and knowledge in that area that none of the rest of us possessed. He said further that Mr. Gosa had agreed to take some of his time, but not as Chairman. He added there were two other men on the Committee who were former Commissioners as well. He said as long of these people served in the capacity they did as Commissioner for the four-year or eight year period, then came back and were still willing to serve the community with no recognition, this tells you of the quality of the person here. Chairman Dunn also thanked Mr. Gosa's wife, Judy, for her patience in letting Mr. Gosa handle his business with the county these last four years.

Commissioner Bost said he was probably the only person that had served in some capacity on different Boards/Committees with Mr. Gosa than anyone else in the county. He stated he first met Mr. Gosa when they served together on the Zoning Board of Appeals. He added they both ran for a seat on the Board of Commissioners and took their oaths of office at the same time. He said he appreciated Mr. Gosa as an individual and he appreciated all that Mr. Gosa had contributed to the county.

On behalf of the Board, Chairman Dunn presented Mr. Gosa with a plaque that said, "In appreciation to Glen Gosa by the Fayette County Board of Commissioners for your dedicated service to the citizens of Fayette County, Georgia, as County Commissioner from 1997 to the year 2000."

Mr. Gosa said it was his pleasure to work with the Board and the staff. He commented it was four years and it seemed like a shorter period of time than that. He said this was also a special occasion for him and his wife because they were celebrating their 37th wedding anniversary today. He stated with a laugh that he would miss being here and thanked everyone.

RECOGNITION OF FORMER MAGISTRATE JUDGE GRADY HUDDLESTON:

Chairman Dunn commented that Magistrate Judge Grady Huddleston was appointed in 1987 as Magistrate Judge by Andrew Whelan, Jr., who was looking for a good man to do good things for Fayette County and appointed Mr. Huddleston to the bench. He has served that bench ever since. Chairman Dunn stated he did not think we could find anyone in Magistrate's court, the Sheriff's office or a police officer of any of the departments in this county, that would not say this Judge was available 24-hours a day, that the Judge was tough, and that this Judge did what he had to do to keep this community a wonderful place to live. He said for this we all owe Judge Huddleston a great debt.

Chairman Dunn stated he also knew Grady Huddleston as a brother in the American Legion. He said Grady was one of the few remaining World War II Veterans in Post 105 and he was one of the relative few, WW II Veterans remaining in our county. He commented he had a

Minutes

January 11, 2001

Page 3

wonderful record in the military and he came back to this community after the war and had a wonderful record in this community. Chairman Dunn commented that it was people like Mr. Huddleston that made the difference. He said Mr. Huddleston gave his all to his country and came back and gave his all to his community and family. He said the Huddleston name was one of the older families in the county. He mentioned that Mr. Huddleston was born in the middle of Peachtree City on a farm many years ago. He said that the county's citizens appreciate what he has done for the county and he appreciated him for being a fellow veteran.

Commissioner VanLandingham stated that some of the people there tonight probably knew Mr. Huddleston a lot longer than he had but he knew some things about this man that the rest of the folks didn't know, but he would leave this information at Melear's. He mentioned he had known Mr. Huddleston since he moved to Fayette County. He remarked that their wife's families have feuded on and off for the last 150 years. He said this man was outstanding. He said he had known him in other areas of community life and he found him to always be a capable person. He said further that he was wise beyond his years. He concluded by saying Mr. Huddleston was a very good friend of his, he loved him like a brother, and he envied his position now of sitting in a rocking chair. He added that if we knew Mrs. Huddleston, we would know that he was not going to be able to use the chair much.

Commissioner Wells stated that about eight years ago she met Mr. Huddleston whenever she was working in her capacity as the Director for the Council on Battered Women back then. She explained that it took a little bit of education because they weren't use to someone coming into their courtroom and asking for some of the things that she was asking for, but to his credit, and the other judges in the Magistrate Court, they soon got on a clear understanding that as long as it was her way, it was great. She said he was very easy to work with as are all the people in the Magistrate Court and everyone here was going to miss him a great deal. She added they would also miss his integrity and passion and the sense of fairness that he brought to his office and to his post. She asked that the folks at the rear of the room who were there to say how much they respect him and love him to stand so that everyone could see that it was not just the Commissioners standing up here saying, what a great job. She stated the people he worked with days in and days out since 1987 were here to say they were going to miss this guy too.

Chairman Dunn read a plaque that read, "Certificate of Appreciation, presented to Grady L. Huddleston by the Fayette County Board of Commissioners for your many contributions to the Fayette Community through the dedicated service as Magistrate Judge from 1987 until the year 2000." Mr. Huddleston was also presented a rocking chair with his name inscribed on it.

Judge Huddleston said he appreciated all of this recognition very much. He added that he was probably one of the few people in the room who had seen Fayette County grow from approximately 5,000 people to roughly 100,000. He commented he had seen a lot of changes in the county and, good or bad, he had the privilege of getting a Charter for Peachtree City while he was in the General Assembly. He thanked the people of Fayette County and said he

Minutes

January 11, 2001

Page 4

appreciated the confidence that the people in Fayette County have placed in him to allow him to serve in public office for some 28 years. He stated that when he found out he wouldn't be back, he received a Christmas card in the mail with a one hundred-dollar bill and the card said "go buy yourself some fishing tackle," and he said that purchase has been made.

RECOGNITION OF EAGLE SCOUT SONNY TRAWICK:

Commissioner Bost commented that on January 6, 2001, Sonny Trawick was awarded the Eagle Scout Rank at a Court of Honor held at the Holy Trinity Catholic Church in Peachtree City. He read the Certificate of Recognition and presented it to Sonny on behalf of the Board of Commissioners. Commissioner Bost stated for those who weren't aware of the work that it takes to achieve this rank, in addition to working hard, you have to put forth God and country. He said this accomplishment represented a lot of energy and effort devoted to learning and serving others, and the Board was certain that Sonny's family and friends were very proud of his accomplishment in reaching this rank.

PUBLIC HEARING:

REZONING PETITIONS:

Commissioner Wells remarked at this point in the agenda the Board would consider requests for the rezoning of property in our county. She said that the policy required at least two public hearings — the first before the Planning Commission and the second before the County Commissioners. She said at this hearing the Board would listen to the concerns of everyone, whether in favor or opposition to the rezoning petition. She pointed out when a rezoning petition was called, the petitioner or representative for the petitioner would be allowed 15 minutes in which to present the details of the request, followed by anyone who wanted to voice support for the request. She stated that the Chairman would then allow all those individuals who were opposed to the rezoning to stand for a moment to display their opposition. She said the Chairman would then ask those individuals who wished to come to the podium to speak to remain standing so the Board and staff could get an idea of how to allocate its time. She said the Board would allow up to three minutes for each speaker. She said when the persons speaking in opposition had finished, the petitioner would be given an opportunity to rebut any of the points raised. She remarked in fairness to all parties, the petitioner would be entitled to equal time to address the Commissioners as all those in opposition.

Commissioner Wells further remarked that these hearings were a part of the permanent record and speaking at the podium with the microphone helped staff with their task of recording comments and ensured everyone being heard. She remarked when it was an individual's turn to speak that they come to the podium, state their name and address and direct their comments to the Board only. She asked that after individuals speak that they sign the sheet that would be provided by the Marshal in order for names to be spelled correctly for the record.

Minutes

January 11, 2001

Page 5

Commissioner Wells stated that the Board wanted to hear from everyone who had something to say and they would pay close attention to each point raised. She said it would not be necessary for the same point to be raised over and over. She thanked everyone for their participation and announced that the Zoning Administrator would begin introducing each request in the order they appeared on tonight's agenda.

PETITION NO. T-010-00: Paul and Betty Ann Bowlden, Owners, and Michael W. Tyler of BellSouth Mobility, agents, requested a proposed tower (253 foot monopole) in excess of the 180-foot height limitation allowed for the non-highway corridor area. This property consists of 150.08 acres and is located in Land Lots 29, 30, and four of the 5th District, fronts on Harp Road, and is zoned A-R. The Planning Commission recommended approval subject to the recommended conditions (3-1). Staff recommended approval with conditions.

Attorney Mark D. Oldenburg stated he was an attorney and had his office in Peachtree City where he also lived. He remarked that he represented BellSouth Mobility which had brought this petition. He pointed out the property owners of the property at 607 Harp Road was Paul Bowlden and Betty Ann Warren-Bowlden. He said the purpose of the petition was to ask that a monopole be permitted to exist on this property at 607 Harp Road, to provide enhanced cellular telephone service to Fayette County. He said he was also a user of BellSouth Mobility in support of this petition because he had difficulty in his reception with his cellular phone in this very area.

Mr. Oldenburg presented photographs for review by the Board. He said the area was relatively highly wooded, and indicated the Georgia Power easement on the photograph. He stated originally the site where the monopole was to sit was going to be adjacent to the Georgia Power easement. He said as a result of both the recommendations from the staff and the Planning Commission, BellSouth Mobility agreed to move the site back away from the exact easement and power line so that, even if the pole did fall under some unlikely circumstances, it would not in any way be able to come in contact with the power lines.

Chairman Dunn asked Zoning Director Kathy Zeitler if the Board had a copy of the new design and Ms. Zeitler said she had not seen anything revised.

Mr. Oldenburg said he thought his party had just been given the revised plan tonight showing the site had been relocated 100-feet plus to satisfy the Planning Commission's recommended condition.

Chairman Dunn stated then this was not the same plan that went before the Planning and Zoning Board.

Minutes

January 11, 2001

Page 6

Mr. Oldenburg said that was correct. He said further that it was in compliance with the conditions that they indicated they would recommend this with one of these conditions being satisfied. He indicated in a photograph that this was closer to where the actual site was. He added that the site could not be seen from the roadway, at least he couldn't see it when he drove by. He said further that it was several yards deep into the owner's property so it could not be seen. He reviewed the site area indicating from photographs where the area was. He stated the pole itself, as proposed, was going to be 250 feet tall with an additional 3 feet for the antenna. He explained that there was a 6-foot antenna which was required to satisfy the requirements of the engineers and 3 feet of the antenna was above the top of the pole, so in total, it was 253 feet tall. He said further that there would be an equipment building which was 12 x 20 feet at the base of the building which would house the equipment. He stated the property was zoned A-R, agricultural-residential and was the appropriate property for a tower of this type to be placed. Mr. Oldenburg showed the Board another photograph of a monopole which was erected at a site in the Buckhead area of Atlanta. He said this was a relatively affluent area. He added that this was the type of pole with the station at the top that BellSouth Mobility wanted to put up on this particular site. He said this was indicated in the proposal.

Commissioner Wells asked how tall the monopole was in the photograph and Mr. Oldenburg replied 150 feet.

Mr. Oldenburg stated one of the values to this particular pole was its stability. He said he had information from one of the designers of this particular model. He added for this pole to lose its structural integrity, all of the structures like trees and shrubbery around the immediate area would have to be completely wiped out. He said the engineers who have tested the pole believe strongly in its integrity. He said further that any type of windstorm that Fayette County had faced would not be sufficient to knock this pole down. He said, nevertheless, as the revised site plan would indicate, even if it did fall for some unknown reason, it would not strike anything other than the land of the property owners.

Commissioner Dunn asked Mr. Oldenburg if the site was moved east or west and Mr. Oldenburg said the new site was south of the original site.

Commissioner Wells clarified that the east property line hadn't changed as far as the setback was concerned.

Mr. Oldenburg stated Ms. Wells' understanding was correct.

Commissioner Dunn clarified that the revised location for the pole was moved 350 feet south but they didn't move it west to avoid a variance they might need.

Minutes

January 11, 2001

Page 7

A representative from BellSouth Mobility said there would be no variance required.

The representative spoke again but not at the microphone and could not be heard clearly enough to quote him.

Mr. Oldenburg stated the actual revised location seems to be 310 feet.

Commissioner Wells asked Ms. Zeitler how many feet were needed in order to avoid a variance.

Ms. Zeitler said they needed to have everything, at least the height of the tower, away from the property line, including all the equipment buildings.

Commissioner Wells asked if the location was actually moved or did it just appear to be 310 feet.

Again the representative spoke but not at the microphone and he could not be heard.

Mr. Oldenburg indicated on a map which was discussed earlier, where the original pole was to be located as well as the structure, and the 10-foot boundary that goes all the way around the structure itself. He said this was the revised proposal.

Chairman Dunn asked what the distance was from the east boundary to the outbuildings.

Mr. Oldenburg commented that the landlord had agreed to the new location for the site in their documentation. He said with regard to the effect of this monopole on the property, there would be an 8-foot fence up to protect the building as well as the pole. He stated they proposed to plant Leland Cypress all the way around the fence, which would be a relatively fast growing vegetation, which should provide privacy so that no one could see the building unless they were looking for it. He said based upon the size of the property, the topography, the pole would not have any impact on nearby properties. He stated it would require very little access from BellSouth Mobility. He said it was his understanding this would be one time a week and then maybe occasionally to deal with various maintenance issues. He commented the pole would be built with the capability of adding five additional carriers and under our zoning ordinance of course, Fayette County would have access as one of those carriers. He said this of course would help to minimize the total number of towers by encouraging the joint use by the different providers in this area. He said the monopole would comply with all of the ANSY standards and all of the applicable FAA and FCC requirements and the plans which were submitted would be governed by those guidelines and would comply with all of those requirements and guidelines.

Minutes

January 11, 2001

Page 8

Mr. Oldenburg indicated the areas that received good reception and those areas where the reception was nonexistent, or inconsistent as a result of the change. He stated that the majority of this area would be able to serve the BellSouth Mobility customers, and as a result, he wanted to respectfully request the petition be approved by the Commission.

Chairman Dunn asked if anyone wished to speak in favor of this petition and hands were raised.

Calvin Appling, 636 Harp Road stated his property was across the road from this property, it looked straight down the barrel if you will, to where the tower would be. He said the power distribution lines shown on the drawing, cross Harp Road, at cross the west corner of his property. He added his property extended up to Young Circle that was about a quarter of a mile. He stated he would be one of the ones impacted by the installation of the tower and he saw no objection to putting it in. He said there were a lot more things he would rather have less than the monopole tower. He added right now the property was beautiful, it has cows on it, there were deer running across there, and he and the cows and the deer didn't mind.

Lane Brown, 160 Rollingbrook Trail, welcomed new Commissioner A.G. VanLandingham to the Board of Commissioners. He said he was building a house in Rolling Meadow Subdivision which adjoined this property. He claimed he was really not against this petition but that he was there to gather more information on this project. He said, concerning the dot on the map indicating the location of the tower, that his house was just to the north in the "Y" pictured on the map. He stated his concern was if he was sitting on his front porch, could he see this tower? He remarked he knew this area was 1,000 feet inside the property line from his subdivision, and there were trees on this property, but he didn't know if this was a fact. He stated the gentleman didn't say whether there were any blinking lights but he was sure if its 250 feet it has lights on it. He said he was just concerned about that, at 180 feet to 253 was a big jump and did they really need that. He added he didn't know how tall the trees were but he was concerned about it.

Ron Mundy, 165 Surrey Park Drive, Fayetteville, stated he was the Vice President of the Homeowners's Association for Surrey Park Subdivision. Mr. Mundy called attention to the photographs and drawings BellSouth representatives presented tonight and said he wasn't sure these were presented at the Planning Commission. He said there were questions he had which he requested be answered before the tower was approved. He noted the proposed site, which apparently had not been reviewed by the Planning Commission, since they openly admit that there have been changes and revisions to the original location of the site. He said he would like to see this addressed in a public forum once again before the Planning Commission or some other body other than this body so that the exact site of this location could be reviewed by all interested parties. He stated they used a lot of verbiage he was uncomfortable with. He noted they used terms such as relatively highly wooded. He invited each and everyone to come and sit in his back yard and see how wooded this property

Minutes

January 11, 2001

Page 9

really was. He said he was not a farmer but he knew you didn't graze cows in a wooded area. He added that was just common sense there. He remarked that they showed a photograph a little while ago that showed the Georgia power polls running through this power easement. He asked if anyone would care to guess what the height of a power pole was. He estimated a power pole not to exceed 100 feet and we are talking about a cellular tower that is going to be 253 feet. He said speaking of extraordinary power poles and cellular poles, at the Planning Commission meeting they bragged that during the Dunwoody tornadoes, their monopole was the only thing that remained standing after the tornadoes went through. He said it seemed to him they were more concerned with the integrity of this pole as it appears to the power lines as they are its impact on the citizens that are around it. He said further he wasn't ignorant, he realized that nobody wanted this in their back yard, and everybody sitting on the Board of Commissioners he believed would feel the same way. He claimed with progress, he knew they had to go somewhere. He said they individually admitted that their service was questionable in areas and he could say it was questionable in a lot of areas because he use to be a BellSouth Mobility customer. He added that there were other agencies providing coverage in these areas. He said the only thing he could see good coming out of this was, if this monopole was approved, they have indicated that some space could be provided to the county and municipalities and he hoped they would act in good faith and provide that at no charge.

Dan Lorton, 320 Surrey Park Drive, Fayetteville, stated he was a homeowner at 320 Surrey Park Trail in Surrey Park Subdivision and he was a BellSouth customer. He commented that he built his home about a year ago and was getting close to retirement. He said that he built a front porch on that home with the intention that when he retired he was going to sit on his front porch and watch what went on. He further said in looking at the materials that were provided tonight, it appeared to him that the change in movement would put the pole about 150 feet closer to the Surrey Park property. He said if he looked at that correctly it put the 253-foot tower, with probably 100 to 150-foot of visible tower and light, right in his front porch. He remarked he might be wrong but that was the way it appeared to him. He stated being a BellSouth customer, he did not use his cell phone that much but he understood about driving and not being able to utilize it. He said he also understood that these were momentary outages and they were only inconveniences. He commented the customers and the homeowners of Surrey Park Subdivision were going to be looking at this apparatus for many years to come. He also submitted in the presentation before the Planning Commission, it was proposed that this was the absolute best site in this area for this BellSouth Mobility pole. He said he was a member of one of the local churches on Georgia 85 and the church was approached about a year ago for this particular pole and they were turned down because we wanted to be good neighbors with the neighborhood adjacent to our church. He stated he knew that they had been looking at sites prior to this one. He said he had a great concern about this, it was not Buckhead, it was Fayette County and the pole in Buckhead was certainly in a different area then it was in this particular picture that we saw of Buckhead. He

Minutes

January 11, 2001

Page 10

commented he also had concerns about this small airfield running off of Lester Road. He said he understood that FAA concerns were being addressed but he did know that one of the things that he enjoyed on a Saturday and Sunday afternoon was watching all the local airplanes come in and out of there and he knew that this was going to be an issue for them. He requested that the Board consider this and maybe ask that this be placed in some other less obtrusive site.

Fred Payne, 150 Red Fox Run, Fayetteville, Willow Pond Airport off of Lester Road said he was currently the President of the Willow Pond Airport Association. He said he was also President of the Homeowners Association as well the airport property owner. He stated that he would like to go on record as opposing. He mentioned he thought the Board had received a letter dated December 22, 2000.

Chairman Dunn stated the Board received a letter from Attorney Doug Warner and Mr. Payne said that was the letter he was referring to.

Mr. Payne said the Associations opposed the construction of the tower due to the proximity of the approach to runway 31 at Willow Pond Airport. He said the distance from the tower to the airport was 1.6 miles as best he could determine from using GPS coordinates. He stated the Associations also wanted to question the type of lighting to be put on the tower for visibility purposes.

A. T. Aikens, 100 Noble Forest Drive at the corner of Harp Road, stated he opposed this petition and asked the Board to consider moving the pole to public property or the middle school in the area. He said it could be located on the highway and he felt it was ridiculous to put it in a residential area.

Bobby Lowe, 130 Hanover Circle stated his family moved here 12 years ago because Fayette County was not developed as far as towers were concerned. He commented he did not like the Pavilion. He said he used a cell phone and he liked it but he didn't know why the county couldn't have the maximum height set by the county at 180 feet. He said he would not like to have it on this property at all but if the Board approved this, he would like to see a shorter tower there.

Chairman Dunn clarified the Board didn't set the 180-foot maximum for towers, the Board set 180 feet maximum for what the staff could approve and anything higher than that came to this Board.

Joe Mascara, 150 Whippoorwill Way, Fayetteville, President of Rebecca Lakes Subdivision Homeowners Association, commented that he was not so sure this was the best location. He stated there was another location on commercial property a mile and a half north in back of

Minutes

January 11, 2001

Page 11

the town center which would be at the same elevation and would provide the same coverage. He said he was not so sure that the figures that were given to the Board tonight were the same figures that were given to the Planning Commission. He added the Planning Commission was given figures that this tower would be 2,551 feet north of Harp Road and to him it was adjusted down 310 feet so now we are at 2,241 feet and getting closer to Harp Road. He remarked the closer we get to Harp Road, the closer we get to Rebecca Lakes. He said, concerning the photograph shown earlier of the monopole in Buckhead of 150 feet, that this tower was going to be 100 feet taller. He added that this was another diversion, another inaccuracy given to you as Commissioners, and not giving the same figures to the Planning Commission. He stated he was not aware that Willow Pond Airport was in opposition to this but he felt there would be a safety issue involved.

Jeff Burke, 295 Young Circle in Rebecca Lakes Subdivision, Fayetteville, stated he was a previous member of the Homeowners Association for Rebecca Lakes. He commented what concerned him most about this was that we had the misleading photo of the 150-foot tower. He said it looked like the photographer laid on the ground and took the photo to make sure that the tree in perspective was taller than the tower and this proposed tower was obviously 100 feet taller. He said further he knew that the petitioner was trying to promote the tower.

Mr. Burke said since they plan to move the tower 310 feet, this puts it closer to his subdivision and makes it more visible. He remarked that he had personally visited the property and looked at the site. He said he noticed it was adjacent to the power lines and if it had fallen it would have hit the power lines. He added that this was not a concern of most of the citizens, that they cared about what it looked like. He told the Board the applicant had raised the tower which he noticed as he walked the property. He said he didn't know what the peak altitude would be at but he was sure it was a concern to the airport and the pilots. He said planes did frequent this area and they were at a fairly low altitude. He said he felt it was convenient for the applicant to move the tower 310 feet, not only because of the variances but because it raised the tower so they accomplished two things in doing that. He stated he believed if people had more time there would have been a packed room.

Gary Baumgardner, 160 Whippoorwill Way, Fayetteville, commented that several things that were brought out at the Planning meeting that he had not heard tonight because it might have caused too much emphasis to come to this issue. He said one of the words that was used at the Planning meeting was that this was a quasi-residential area. He added a quasi-residential area contained, in a quick count they made the other day, at least 300 to 400 homes within proximity of this proposed tower. He stated the site was very visible from the street. He remarked as Mr. Burke said, if you walk the site and look at where the pole was being moved, it would come up the hill and it would make it more visible. He stated no one wanted to look at a pole that was 253 feet tall. He said that he was in design and made some quick calculations and came up with the fact that this would be equivalent in height of a

Minutes

January 11, 2001

Page 12

building from anywhere from 18 - 21 stories tall. He added further that if you looked at the height of that in comparison to where it could be seen in Fayette County, it was going to be seen from more than just Harp Road, it was going to be seen from a lot of different places and he would like the Board to take this into consideration as it considered this tonight. He said one of the last things he found in doing research on this, and one of the things he kept coming across, over and over again, was many of the health issues that were connected with towers. He said further there were a variety of reports, many of them here in the United States, many of them from Europe that indicate there were serious concerns with health issues that could be caused by the emission of the waves from these towers. He also said there were many, many reports out there that said there was nothing wrong with them and he recognized that. He said, however, there were many reports from such places as Harvard and from the Vienna EMF Resolutions that did state there were serious problems that needed to be considered over long term. He commented one of the things that made him stop and look the other night, in consideration when he was doing research on this, was that this could almost be something in the future that was as strong as the asbestos situation was in the past and we won't know about it for a while. He said we needed to consider there were some health issues that could come from this.

Shirl J. Mills, 100 Moonview Place, Fayetteville, stated he was also on the Board of the Homeowners Associates at Rebecca Lakes. He commented there were homes located in the Rebecca Lakes Subdivision that sold for anywhere from \$250,000 and up to \$500,000. He said that was quite a bit of money the people had put in those homes. He said he did not want to see a tower like the one being proposed in his backyard. He added he knew the Board members did not want one in their backyard and this was going to be across the street from those who live in Rebecca Lakes. He remarked that after putting so much money into a home and he planned to be there the rest of his life he wished the Commissioners would think about this request. He said there is plenty of room for that tower on Highway 85. He mentioned that he talked to a friend of his that runs a trailer business on the highway and he said the man told him the tower could be located on his property, that he needed the money and there was plenty of room to the rear of the property. Mr. Mills stated he talked to other business owners who said they would be glad to have the tower in their business area also on Highway 85. He said the tower should be located in a commercial area. He concluded by saying it was going to be a tall tower to have to look at every day when he and his neighbors go in and out of their driveway. He urged the Board to have another hearing on this matter because the BellSouth Mobility people were deceiving them. He said with as much education as the representatives from BellSouth have here, they should be able to have the figures and know where the new location was, before they come here and try to sell the Board on their plan. He asked that the Board have another hearing before they approved this, and find out exactly where the tower was going to be and what impact it would have on the subdivisions of Surrey Park and Rebecca Lakes.

Minutes

January 11, 2001

Page 13

Kimberly Fien, 335 Youngs Circle, Fayetteville, said if the Board would look on the map where the red dot was, she lived just to the east and her backyard backed up to this property. She commented she moved here in August, 2000, and had three children. She said one of the things about her house was that there was a large deck on the back and at night she and her family liked to sit out and look at the stars. She further said it was a beautiful wooded area, but when they talked about this being a remote location, and heavily wooded, there were areas that were wooded but it was also pastureland so as you drive up Highway 85, you will see this tower going north or south. She commented that 253 feet was significantly different from the picture they showed of Buckhead. She said the tower in Buckhead was in Buckhead and we moved to Fayette County because of the rural area and wanted to enjoy the evenings. She claimed she was speaking for her family of five and none of us want this in our backyard. She mentioned the tower would have lights on it, blinking constantly, and that was not why we moved to this location. She urged the Board to listen to all it had heard tonight, take into account the pictures that have been presented, and the information that hasn't been presented. She remarked that at the Planning Commission meeting, Georgia Power was supposed to have given approval to be near and that was something that wasn't available at that meeting and as far as she knew tonight, it was still not available. She stated they were also suppose to have approval of the FAA for the airport. She said there was a lot to still consider here and she hoped the Board would take the time and get some more facts before it voted on this tonight.

Bob Craft, 200 Bridger Point, Fayetteville, stated he wanted to congratulate Commissioner VanLandingham for being elected to the Board of Commissioners. He thanked all of the Commissioners for the great job they were doing. He commented that we were talking about a variance here of an extension more than 180 feet which was a 40% variance. He said all this talk about the convenience of cell phones was nice. He said the concern about property values was a valid concern. He added that safety was his main issue on this. He said he had also used Willow Pond and there were two pilots on the Board of Commissioners. He said Willow Pond uses a vasi approach system which was a visual approach slope indicator which worked on a three to one glide ratio. He said, in other words, for example, if you were 5 miles out and 1,000 feet above the ground this would be your normal approach. He added that if the tower was 1.6 miles from the approach of the airport, the normal approach should be 480 feet above the ground. He explained the land to the east of the airport was 20 feet higher so basically one would miss the tower by 100 feet if its in line with the approach to the airport. He said he felt the Board needed an FAA check on this. He added he was more interested in safety than anything else on this particular issue. He commented that the lights would be a bother to people but it would be embarrassing to approve a tower like this and have someone run into it at night just because they were 100 feet below their approach to the airport.

Minutes

January 11, 2001

Page 14

Mr. Oldenburg stated his client, BellSouth Mobility was very concerned about any allegations that it was trying to pull the wool over anyone's eyes. He commented they had no intent to try to defraud or trick or surprise anybody and absolutely if that was a problem for anyone, then they welcome the opportunity to answer any and all questions or take it back to whatever appropriate authority there could be. He remarked with regard to the height requirement, obviously if BellSouth Mobility could have a 180-foot tower to satisfy the needs of the FCC with regard to this coverage area, it would do that because it wouldn't have to go through the public hearing process. He added that it could be approved by staff. He said the reason for the height of this particular monopole goes down to the basic engineering requirements of what was required in a cellular telephone grid. He said further you have to have certain of these poles in certain places, but they couldn't just be put anywhere. He stated you couldn't just say, well move it over behind the gasoline station or move it over behind the WalMart. He said this just wasn't from an engineering standpoint, something that could be done so that the coverage area requirement could be satisfied. He said the FCC mandates what the coverage requirements are for BellSouth Mobility as well as all of the other cellular telephone suppliers. He remarked the reason for the height and the location are not because they decided to pick this particular area, it was because of the grid requirements from an engineering standpoint.

Mr. Oldenburg said this was 150 acre-property and we understand that there are people who will be able to see this tower. He further said the nearest home was 1,000 feet away. He mentioned the airfield was not a problem, that they were required to obtain FAA approval before any construction could begin and if that approval was not granted, we will not be permitted to build this tower. He said all of the concerns of the pilots who use that airfield absolutely will be addressed and will be satisfied by the FAA.

Mr. Oldenburg stated in moving the tower from the location where it was presented at the Planning Commission meeting, again, that was done as one of the requirements for approval by the Planning Board. He advised that BellSouth Mobility would be just as happy to have it where it was originally proposed, but in moving it the 310 feet, it actually lowered the overall height of the tower by 9 feet so it wasn't getting taller, it was getting shorter as a result of that move.

Mr. Oldenburg said with regard to the health risks raised by Mr. Baumgardner, that Congress has mandated that you could not consider that as an issue because the evidence was simply not there to support that being a concern. He said indeed there was less radiation coming from one of these cell phone towers than there was from a 100-watt lightbulb. He commented that they were not required to get approval from Georgia Power. He remarked they did go to Georgia Power, submit the plans and asked if there was any opposition and Georgia Power said they did not have any opposition. He said they were also not required to get preapproval from the FAA, that would come before construction could begin. He stated BellSouth Mobility believed this location on this particular property was the least intrusive place to have this tower

Minutes

January 11, 2001

Page 15

to satisfy the coverage area needed. He said this was the place this tower needed to be and the height it needed to be to fulfill its obligations under the FCC regulations and to its customers, many of whom have spoken here tonight. He requested that the Board approve the petition.

Chairman Dunn brought the petition back to the Board for comment.

On motion made by Commissioner Frady, seconded by Commissioner Bost to deny Petition No. T-010-00. Discussion followed.

Commissioner Frady said he personally had a problem with this tower being as close to the airport as it was. He said he wouldn't want the light out on the tower if he was making an approach into this area. He added he felt towers of this type that were this tall needed to be in commercial areas and for this reason he could not support this for safety reasons. He said he felt it was more important to put it some place else then to have to wake up some day and find that someone flew into that pole.

Commissioner VanLandingham commented that he also disagreed with the location. He stated the county had an ordinance the ink was hardly dry on and already we were looking for variances on it. He said this was a bad way to start business. He stated the Board was going to have to give a variance on this in the end anyway because of this tower and the distance to other towers so there was a variance on it. He pointed out that there was not a variance on the height. He said he did not know who brought this to the Board for approval rather than letting it be done administratively but this was the reason this was put in the ordinance so something of this nature would not take place and put it in somewhere it should not be. He said he had another concern such as this being the best site for this tower. He asked if the petitioner knew how many other sites they had been refused on.

A representative from BellSouth stated that they had proposed four other sites.

Chairman Dunn clarified that BellSouth had been refused by the property owners and not any government.

Commissioner VanLandingham said the airport was another concern. He stated the FAA could give approval but they could not control a disabled aircraft trying to reach that runway. He said he was not a pilot but he did take the time to check with some pilots and some didn't have a concern and some did. He added this told him there were some daredevils and some were not, but he thought a disabled aircraft would have a serious problem with the tower in its glide path. He said he would rather hit a tree than a tower anyway. He mentioned another concern was that the Planning and Zoning Department were bypassed when normally it would review the plans before this Board saw them. He added he understood that BellSouth was

Minutes

January 11, 2001

Page 16

just given the plans today but it was a bad practice for us to start doing their job because we don't want them doing ours. He stated he could not support this petition as presented.

Commissioner Wells said she wanted to second this because she also had a problem with the variance because it was less than two miles from other poles. She stated that this was one of the procedures that was looked at long and hard and this would set a precedent. She said if the Board allowed this pole, especially at this height of 253 feet to be closer than two miles to other ones, then of course, there would be other carriers coming in and saying that they wanted the same treatment. She said pretty soon the Board would be going around what it was trying to achieve such as fewer poles and dotting the countryside. She commented if the county was going to go 253 feet, the least the Board could do was to stick with the minimum of at least two miles between each and every pole. She said she wanted to take exception with one thing. She remarked it was stated that in order to put that pole in that particular location, that height, etc., was a requirement of the FCC and that is slight misstatement of the requirements of the 1993 Telecommunications Act. She clarified the Act states that there would be coverage. She stated this Board was required as a governmental agency to insure that there was coverage but it did not say that each and every carrier provider had to have complete coverage. She mentioned she was uncomfortable when someone stood there and stated that it was a requirement by a higher authority such as the FCC or anybody else and misrepresented her general understanding of that. She said this was a scare tactic that she didn't particularly like. She said she was not intimating that this was the way it was used, it's just that it was inaccurate so you did have other options and other choices.

Commissioner Wells stated when this petition was presented at the Planning Commission meeting, we were told that there was a compelling reason not to relocate the tower. She remarked it was said that BellSouth Mobility couldn't move it from the east boundary, and part of the compelling reason was the access, because of the terrain and existing easements, the terrain was rough and it was going to be a hardship and it would be difficult. She said it was also mentioned that this particular area was on a crest. She stated the question was, "Is this the highest spot on the property?" and the Planning Board was advised by the agent that they didn't know. She commented the topography of that particular piece of property was rolling hills so there was a good chance that there were other areas at that location that would have been equally adequate or perhaps better. She said it was a convenience for the carrier rather than consideration of the burden that it would place on the nearby community. She remarked the petitioner was to be commended however for trying to address that particular issue tonight and moving it of your own volition but she was compelled by the fact that if the Board passed this tonight, it would already be saying that there had to be a variance to an ordinance that she felt was critical of this Board to maintain. She said she felt this Board would be extremely negligent if it started to make exceptions for that in any case, but especially for a pole of 253 feet. She said she could not support this petition because of that.

Minutes

January 11, 2001

Page 17

Commissioner Bost stated his concern originally was not the fact that it was in the glide path of the airport because at 1.6 miles, in thinking in terms of his own airplane, and it would only glide 1.7 miles per foot of elevation and if he was already down at 252 feet above ground, he could only make it a quarter of the way to the airport. He said however, that he had a Bonanza and it didn't float like a Cessna. He said the Cessna would go with just about no power at all and go forever so he had to take another look at it and he decided it could be a problem for some of those other aircraft. He said further that he didn't feel as comfortable now as he did originally. He stated with all that said he would like to clarify something a little bit further. He remarked there had been discussion about the Board giving a variance for a pole more than 180 feet. He stated in his view that was not a variance, it's just that you cannot have administrative approval if it is more than 180 feet. He added just because it comes to the Board with a public hearing, if we approve it, that was not giving a variance, it was just the way it was approached in order to get the approval. He said this was not necessarily an important issue but he wanted to clarify it that we are not giving a variance about the height. He claimed he also had some concerns about the laws this Board was required to abide by in order to make it possible for these cell companies to have coverage. He said this law was a little bit tricky so we were caught somewhat between that and the desires of the community and every time a cell tower comes up it was usually quite controversial and this has not been an easy one for him because of having the pressures from both directions. He said he felt that he would have to fall on the side of opposing this mainly because of the airport and the fact that some people do fly Cessnas.

Chairman Dunn said he bet the team from BellSouth could count well and what he said at this point would seem irrelevant. He stated he would like to point out that no where in the decisions the other Board members have made already, did he hear anything about thinking that BellSouth was deceiving the Board. He said he understood the reason for the tower being moved was to comply with our own Zoning Director. He added that showing a picture of Buckhead never went over big here but the fact was he didn't sense it and he didn't think that other members of the Board sensed that they were trying to deceive the Board, but that you were trying to accommodate all of the objections that have been raised to this point. He said he had no further comments to make about the good or bad of this proposal except to say that when the vote was finally taken, he hoped BellSouth would find a better place in Fayette County to put it because we needed better cell service in Fayette County.

On motion made by Commissioner Frady, seconded by Commissioner Wells to deny Petition No. T-010-00. The motion carried 5-0.

PETITION NO. 1066-00:

Minutes

January 11, 2001

Page 18

Bertha Morris, Owner, and Randy Boyd, Agent, requested to rezone 34.806 acres from A-R to R-50 to develop a proposed subdivision consisting of 23 single-family dwelling lots. This property is located in Land Lots 226 and 255 of the 13th District, and fronts on Westbridge Road. The Planning Commission recommended approval subject to the recommended conditions (3-1). Staff recommended denial.

Agent Randy Boyd stated he was representing Dan Stinchcomb in this rezoning application. He pointed out this was a 35-acre tract that was on the southside of Westbridge Road and they were proposing a 23-lot subdivision which would only be an additional 22-lots because there was already an existing house at the northwest corner. He said the house on the corner was built about 18 years ago. Mr. Boyd stated the property was currently zoned A-R and they were proposing R-50. He remarked they were going to use the one house already there as lot 23 and they proposed to build 22 additional lots. He commented that this property fit in the low density-residential in the Land Use Plan which was 0.5 to one unit per acre and this proposed development would be 0.73 dwelling units per acre which was within the Land Use Plan. He stated he had taken a tax map of the area and delineated the different zonings and he felt it really stood out with a little more clarity. He reviewed the rendering of the property bordered by Rustic Mill on the west, Brierfield on the north, Westbridge and Bentbrook Farms to the east and then various areas of R-40. He said all the red area on the map indicated R-40 or R-45 which was the one-acre tract. He said this intersects with Westbridge and Highway 92. He stated there were also a couple of commercial tracts in the area and the remainder in the white area was zoned A-R. He said what he found interesting today was there were eight lots coming down Westbridge Road before you got to the property that was non-conforming lots of record that were one to two acre tracts. He said Ms. Zeitler explained to him that this meant the lots were smaller lots but grand fathered because the lots were there prior to 1980. He stated the same situation exists on Kite Lake Road where there are an additional half dozen lots that were non-conforming lots of record but inferior to the 5-acre tract so we feel like this was a site in an area that would support the one acre and the additional 22 lots. He asked that the Board support this rezoning.

Chairman Dunn commented that directly across the road from subject property was Brierfield and you show that as R-50 which is a one-acre lot. He asked Mr. Boyd if he was familiar with the plat and Mr. Boyd replied that he did the plat. He then asked Mr. Boyd what was actually across the road.

Mr. Boyd responded that there were 5-acre tracts there.

Chairman Dunn stated he wanted the people to know that there are 5-acre lots there and not one-acre lots as Mr. Boyd shows on his plat. He confirmed that there were 5-acre lots along the road.

Mr. Boyd requested that this be approved as R-50.

Minutes

January 11, 2001

Page 19

Chairman Dunn asked if there was anyone to speak in favor of this petition. Hearing none, he asked if there was anyone opposed to this petition and hands were raised.

Rebecca Pell, 373 Westbridge Road, stated that she lived east of this proposed site. She commented that her family had lived on this 6 acres since 1985. She said her and her husband chose this spot as their home place to raise their three children because of the larger tracts of land. She added they moved here from the New Orleans area where their lot was 60 x 110 at about the same price. She remarked at that time in 1985 nearly every piece of property that was established along the Westbridge Road had 5-acres or more. She stated unfortunately the 217 acres across the street from them was now being developed due to a decision in April of 1998 (Brierfield). She said many from the community plead with the Board to keep the area zoned A-R. She added the only one who spoke in favor of the rezoning was the developer. She said contrary to a popular consensus of the neighbors, the developer got his desire, to develop and make large sums of money. She said developers do not live in these areas that they develop but think of profit only so it seemed. She asked the Board not to let maximum dollars for the developers overshadow the quality of life for the families. She requested the Board stop the feeding frenzy in the county and to please consider keeping this area as zoned, 5-acre tracts. She stated there was still a profit to be made keeping it 5-acres. She said let the developers live with the zoning they knew was in place when the land was purchased. She commented that this Board was the only group who could protect the neighborhood area. She asked if the roads, traffic, water supply, overcrowded schools and social services of Fayette County needed higher density housing. She asked that the Board not grant this rezoning request.

Aston Peart, 1808 Highway 92, Fairburn, commented he also drove on Westbridge Road and when he saw the sign he called to find out if the sign was accurate because the people were already told in that particular part of the county that under no circumstances will anything ever be zoned one acre. He said he also owned a large tract of land in close proximity to this proposed site so he were very surprised when this was being proposed and actually being approved by the Planning Commission even though staff recommended denial. He stated he was curious to know what type of house would be built and their size. He said this would make his area high density. He asked if the rezoning would set a precedent to bring in more high density subdivisions in this area.

Commissioner Wells said the homes would be a minimum of 2,100 square feet.

Chairman Dunn asked if Mr. Boyd wished to rebut any comments made at the podium.

Mr. Boyd said to answer Mr. Peart's question, that the homes would be similar to the ones across the street, and the price range would probably start at \$250,000.

Minutes

January 11, 2001

Page 20

On motion made by Commissioner Wells, seconded by Commissioner Bost to deny Petition No. 1066-00. Discussion followed.

Commissioner Bost stated that of the predominant border on this property, 65% of it was A-R. He said the houses across Westbridge, while they were zoned R-50, the conditional part of that rezoning was that those homes along the road had to be 5-acres and that was another 8% of the border. He added that the cemetery was another 8% of the border and R-45 which was the official one-acre zoning there and it only touched about 18% of the border of this property. He commented since the predominant border and the influence on that area or that particular property was A-R, he could not support this petition.

Commissioner Wells said she would have to agree with what Commissioner Bost said although it was within the Land Use Plan, it was not within the Comprehensive Growth Management Plan. She commented she was concerned about poor soils and the groundwater recharge area and this was something the Board needed to be more cognizant of. She stated that back in 1998 we weren't nearly as aware of the significant problems we were going to be facing in the near future with water. She said with what has happened this past year with rain we are currently at a deficit of 15 inches still and she thought we were going to have to be careful as far as protecting the groundwater recharge area and any area that was going to impact our water in the future. She stated as far as she was concerned, this was a good reason to put a stop to that type of development in that area, regardless of what may have been approved in 1998. She said she would support denial of the petition.

Chairman Dunn said he agreed with the comments the other Commissioners made. He stated the other thing he would add to that was he thought the Board should be historically consistent when it was dealing with land use in the county as best that it could. He commented several years ago when Brierfield went in there, from what he could determine from the old records, was that we put the five acres lots along Westbridge Road so it would be compatible with the other property. He said to go back now and rezone the other property, it would be incompatible with what we did years ago. He said this Board owed it to the people in that area that this land would be limited density. He stated he, too, was also concerned with 23 more septic tanks on this property when it was in a hot recharge area and so he would not be able to support this either.

The motion carried 5-0. A copy of the Resolution and Ordinance for Petition 1066-00, identified as "Attachment No. 1", follows these minutes and becomes an official part hereof.

ORDINANCE NO. 2001-01 APPROVED FOR DEVELOPMENT REGULATIONS REGARDING SOIL EROSION AND SEDIMENTATION CONTROL:

Consideration of proposed amendments to the Fayette County Development Regulations regarding Soil Erosion and Sedimentation Control by the Engineering Department. The Planning Commission recommended approval (4-0).

Minutes

January 11, 2001

Page 21

Ron Salmons Director of Engineering reviewed the proposed amendments to the Development Regulations regarding Soil Erosion and Sedimentation Control. He stated these changes which were being proposed were to comply with changes in the State law. He stated the State had given the county 90 days in which to enact these regulations and that was October 18, 2000, when we received notification. He said that January 16, 2001 was the deadline and at that point if our ordinances weren't revised, the EPD would start issuing land disturbance permits. He said in order to give the Board some flavor for what occurred in the last calendar year, his office issued more than 800 land disturbance permits from our office and that was done in about two weeks or less. He mentioned if he had to go to the State, or the developers, or single-family residence, it may take two or three months to get to these. He commented this information was to give the Board some idea of the kind of time frame he was working against.

Mr. Salmons stated he could go through the proposed eight changes or he could answer any questions the Board had about any of the issues.

Commissioner Frady asked Mr. Salmons if he felt this was leading up to detaining water, retention ponds and treating water and this type of thing. He said as he read this, it made him think of that very vividly.

Mr. Salmons stated he thought most of the issues that were addressed in these changes were concerning stream buffer zones and he felt that in the State they have had quite a problem with people not respecting those buffer zones and this impacted our water quality. He remarked there were a couple of things he wanted to point out to the Board that was somewhat confusing so that if it ever came back to the Board, it would at least be aware. He said a timbering operation was an exempt operation from our land disturbance permit operation. He commented that the State had changed the law to say that if a timbering operation violates a buffer, then that property cannot be used for anything else for the next three years except for a timbering operation. He said in other words, somebody can't come in and timber and destroy the buffer and then come back and try to develop it. He stated the other major changes in this were the monetary penalties. He said currently the ordinance had a maximum penalty of \$2,500 per day, per violation. He said there was also 60 days incarceration time that could be imposed. He commented that was in the previous law and they have added a minimum penalty for violations for single-family dwellings for owner occupancy. He said the minimum was \$250 per day, per violation. He added for all other land disturbances, it was \$1,000 per day, per violation. He stated in order to give the Board some since of the number of citations where penalties were imposed for violations, in the last calendar year, we had more than 1,300 warnings, 150 stop work orders, and out of the 150 stop work orders, we ended up with 15 citations that had to go before a judge.

Chairman Dunn asked Mr. Salmons if these were State imposed penalties, and Mr. Salmons said yes, they were State imposed.

Minutes

January 11, 2001

Page 22

Mr. Salmons remarked that basically Fayette County's ordinance was copied after the State's model ordinance and all these changes reflected the same changes that were in the State's model ordinance.

Commissioner Bost said these changes in this case were nothing more than housekeeping.

Mr. Salmons said that was true but he wanted the Board to be aware of some of the more important changes in case they came back to the Board at a later time. He said the main objective was not to penalize people but to have them comply with our ordinance.

Chairman Dunn asked if there was any public comment and there was none.

On motion made by Commissioner Bost, seconded by Commissioner Frady to approve the proposed amendments to the Development Regulations regarding Soil Erosion and Sedimentation Control. The motion was 4-0. Commissioner Frady was out of the room when the vote was taken. A copy of Ordinance No. 2001-01, identified as "Attachment No. 2, follows these minutes and becomes an official part hereof.

Commissioner VanLandingham asked Mr. Salmons concerning the definition of State water that if someone had a stream on their property and they wanted to create a lake, would that fall under this ordinance?

Mr. Salmons said it could fall under the land disturbance activity. He stated if someone was into building a lake, there were certain sizes that were exempt from regulations, and there was a size called Category II, that Fayette County has jurisdiction over. He commented anything above a Category II, the State has control over. He further said without seeing more of the particulars he could not tell him but he would be happy to look into any situation that he had.

Mr. Ashton Peart stated he was trying to get an understanding of this because it was the first time he had seen this. He asked when the county talked about erosion and streams did it also play into retention areas.

Chairman Bost asked Mr. Peart if he meant detention ponds and Mr. Peart said yes.

Mr. Peart asked how this would address the detention areas.

Mr. Salmons pointed out that this particular ordinance did not address detention. He said it was addressed in the development regulations and had to do with hydraulics and hydrology. He continued that basically after a property was developed we did not allow any more than 80%, from a 25-year event, a 50-year event or a 100-year event to be released onto the neighbor's property. He added that you would have to go through some detention system that was basically a pond to

Minutes

January 11, 2001

Page 23

accomplish this. He stated this ordinance had basically to do with the erosion that you have to have like silt fencing and those sorts of issues when you were building or having a land disturbance activity.

OLD BUSINESS:

TERMINATE AGREEMENT FOR THE INCARCERATION OF CITY DETAINEES AND FOR THE PURPOSE OF UPDATING THE AGREEMENT:

Commissioner Bost addressed the issue of terminating the Agreement providing a detention facility for the incarceration of city detainees for the purpose of negotiating another Agreement. He said he didn't know when, why, or who started the county housing the municipal court detainees for the cities at no charge, but the unfortunate thing was it did happen. He stated he didn't think this was the fair thing to do in the past and he sure didn't feel that it was the right thing to do for the future. He commented his reason for this position was very simple. He said since the municipal courts take in the fines/fees and put them into the city's coffers, he felt it was inappropriate for those folks who could not pay their fines or refuse to pay it, or for whatever reason they didn't pay it, for the county taxpayers to have to foot the bill for the housing. He said he felt that the same pot of money that takes in the fine should be the same pot of money that pays for the housing of the detainees that didn't pay.

On motion made by Commissioner Bost to notify the cities immediately that we are terminating the current Agreement, signed in December of 1993 to house their municipal court detainees at no charge, effective December 31, 2001. He further moved that we offer to enter into negotiations with the cities to house their municipal court detainees for a per diem charge plus medical expense. In addition he proposed that the county consider accepting the 10% surcharge as a partial payment against the per diem and medical charges that may accumulate to charge to the municipal courts. Commissioner Wells seconded the motion for discussion.

Commissioner Frady said he felt there was a misunderstanding as far as he understood the procedure. He stated this Agreement was made when both Commissioner Wells and he were on the Board and prior to that we weren't charging for the prisoners that were taken into the jail. He said if you will read the contract we have item number one, page one, where it states, "*The county shall provide a detention facility for the incarceration of the cities detainees. He added the services provided by the detention facility will include but not be limited to the following: housing, meals, clothing and such other services inherent to incarceration. The city does hereby agree, in every case in its municipal court and any other court, to impose a fine for any offense against a criminal or traffic law of this State or any ordinance of the city equal to the sum of ten percent of the original fine.*"

Minutes

January 11, 2001

Page 24

Commissioner Frady said any bonds that were set, that was posted, they would pay ten percent of that if the bonds were forfeited. He further said the money that was being paid for this year amounted to \$211,000. He noted that the breakdown was by cities, the amount of money that we would receive from them and he thought that the county had always kept prisoners over there. He remarked at this particular time, it would be best to continue this contract until some arrangement might be worked out at a later date. He said if we consider the prisoners that were going to Union City at the present time, there were 48 prisoners over there today. He said the cost for this was \$821,250.00 per year. He stated the county had in the bank now, monies from this fund, in the amount of \$1,120,374.73 and this was enough money to run this for almost 18 months if you use that amount of money. He added that the county would only have to subsidize \$5,750 at the end of 18 months if we kept it full all the time. He said he felt this was fine and he personally felt like if this money should run out, he didn't think it would, but if it did, then the cities should pay an additional cost to house these prisoners. He pointed out that this was a sizeable amount of money and it was growing all the time. He commented that he could not support the motion. He said this was uncalled for and personally he felt there were other things that could be done to work this out a lot better than just canceling the contract.

Commissioner Bost pointed out to Commissioner Frady that the \$211,000 was far beyond what we had collected and the contract we have had up to now was the people in the courts would pay a ten percent surcharge, not costing the cities a dime and the ten percent surcharge that we had been collecting had been going to the jail construction fund and had nothing to do with the keeping of prisoners and blending it in with what we were doing over in Union City. He said he didn't see where this had anything to do with that. He said the ten percent reflected up to this point was for the construction of the jail and that was where it should be going. He added for the cities to collect monies through their courts and then for the county taxpayers to pay for the cost to keep them over here, was just not right. He pointed out that the only thing he was talking about in his motion was the municipal court controlled detainees. He added it did not apply to the more serious offenses that were handled by the other courts here in the county. He said he was not talking about a good percentage of the more serious crimes that we process through the Magistrate Court, the State Court and Superior Court, where the crimes happened in the cities. He added that he was not talking about those at all, it was only those types of offenses that went through the municipal courts and they were able to collect fines and to pay it, otherwise we would get the detainee over here for the county taxpayer to pay. He noted that if someone was arrested in Fayetteville and went through their court system and they couldn't pay their fine, he didn't think this was proper for the citizens of Tyrone, Peachtree City, Brooks or the unincorporated area to help house those prisoners. He said it should come from the same pot of money that the fines went into from that court. He stated as far as trying to work something out with the cities, we have been talking with the cities for how long now and we have gotten absolutely no where so he didn't see there was any chance of having a discussion with them to get this issue solidified and rectified.

Minutes

January 11, 2001

Page 25

Commissioner Bost said his motion again was to notify them, giving them more than the six months notice, that we would terminate the contract as of December 31, 2001.

Commissioner Frady said his problem with this was twofold. He stated that of the \$211,000 collected, that the county had already collected over fifty percent of the money. He said there was nothing in this contract that he approved and Ms. Wells approved, that said this money was going to be used for a building fund. He commented it said that it would be used in a county jail fund and that was to operate the jail. He stated that he felt Commissioner Bost was misinterpreting the contract. He added that when the Board first voted for this contract, this was to collect money to help operate the jail with funds from this ten percent. He remarked that Commissioner Bost could call it anything he wanted to. He said if Mr. Bost wanted to say we will do away with the ten percent and just charge them a fee, that may be something else, but we are getting the ten percent, its working out very well and he felt it would work well this way.

Commissioner Bost commented this had worked out well because the county's taxpayers had paid it.

Commissioner Frady stated the county taxpayers were paying \$107,000 of it because we had prisoners over there as well and the courts were paying it too. He said that the cities were paying their share of this on a ten percent basis and that amounted to a lot of money.

Commissioner Bost claimed that if the county did have anyone in Union City, his point and his position would stay the same, it had nothing to do whatsoever with Union City.

Commissioner Frady said if we could get on the ball and get one of those buildings started right away and finish one of them, we wouldn't be 18 months waiting to start housing prisoners, and continue to collect this money, and we could put it toward the building fund someday. He remarked that he could not see the county terminating this contract in this fashion and he felt this was not fair to anyone.

Commissioner Wells commented she was on the Board when we voted for this too and part of it was inactive because we were handling those prisoners and getting absolutely no compensation. She stated in 1993, this was a good contract, it was a good way to proceed and regardless of whether we call it a jail construction surcharge, although that was what the cities were referring it to in their communication, so the understanding has obviously been on everybody's part that, that was what it had been used for. She remarked that what the Board was doing tonight was not saying that anyone had been negligent, or anyone had been trying to cheat anyone, what we were saying was that the present contract required a six-month notification that this contract would not be renewed and needed to be renegotiated. She said things have changed a great deal since 1993, we now have a need for a jail that we did not anticipate at that point in time. She said we knew we would need one but it was perceived that it was going to be much, much further in the future and things have changed in the cities and the county and so we

Minutes

January 11, 2001

Page 26

are now under some serious constraints over there. She said she thought it was fair and appropriate for the Board to renegotiate this contract to make sure that everyone was paying their fair share, that we didn't have an unnecessary burden on the county and that we didn't take unnecessary advantage of the cities. She stated we now have more prisoners and the fact that we were having to spend \$55,000,000 to build our complex over there, was not even perceived in 1993. She added it was unconscionable to believe that someone could continue paying the same thing in 1993 that they would pay in 2003, when we now have M & O, we have construction charges, we are having to increase our staffing, medical expenses have gone up, the cost of food, and the cost of housing has gone up. She said this wasn't pointing any fingers, this was just good fiscal management and what we were saying was it was time to renegotiate the contract so that everybody pays a fair share. She said she felt this was totally appropriate and didn't think there was any negative connotation here.

Commissioner Frady stated he didn't think there was anyone sitting on the Board in 1993 who could conceive the fact that we wouldn't have to increase the jail sizes at some point in time. He added down the road we should all do that.

Commissioner Wells remarked that she took exception to what Mr. Frady said when he stated that if this Board would get off its dime and get one of those buildings constructed, we wouldn't have to worry about this. She added that she had every confidence that we were moving forward in the most expeditious fashion possible and that to do anything else we would be derelict in using caution and using good sense. She said she did not think anyone was dragging their feet.

Commissioner Frady said he didn't mean to say it that way. He stated his interpretation would be that we could build one, maybe faster than we could build two in some respects.

Commissioner VanLandingham asked what the county's jail fund was and why did it exist.

Commissioner Bost explained that this fund had been accumulating money since 1993.

Commissioner VanLandingham asked for what purpose.

Commissioner Bost said it had always been his understanding, and in any and all conversations he has had, it was for jail construction.

Commissioner Frady said the contract reveals that it was not necessarily just for that, it says what we were going to do for the prisoners and that this money would be collected to pay for it.

Commissioner Bost stated let's forget and say that it was.

Commissioner Frady said he wasn't going to forget anything about it because he was going to remember all of it because he had been here a long time.

Minutes

January 11, 2001

Page 27

Commissioner Wells stated this money was earmarked in the budget for jail construction, regardless of what this contract called it, it was called the jail fund, but when we put it in our budget, and whenever the finance people were recording it, it was recorded as jail construction.

Commissioner Frady commented that when the county started this contract, the Board stipulated it would be for housing, meals, clothing, and such other services as necessary for the incarcerated prisoners. He added the Board also spelled out how it was going to collect money for it. He added he felt the wording in the contract was appropriate at the time.

Commissioner Bost stated, however, if it had been used to house prisoners, then there would be no money there because it would not have paid for all of the expenses to take care of the municipal prisoners. He added that the county had paid for maintaining the housing of the municipal court prisoners on regular tax collections and this had been set aside. He commented if we had been keeping up with it, then it would have been a big negative in that fund.

Commissioner VanLandingham asked if we had collected the forecasted amount of \$211,500.

The Board members told him no.

Commissioner Bost said the amount of \$211,500 was what was in the budget. He said he hadn't seen the numbers and didn't know where it was coming from, but he knew that the Board reviewed last year's collections. He advised he thought it was \$15,000 from Tyrone, approximately \$40,000 from Fayetteville and \$65,000 from Peachtree City.

Commissioner Frady stated the county had already collected over \$136,000 this year in six months.

Commissioner Bost said that part of the \$136,000 was part of the money reimbursed by Fayetteville because of an accounting problem.

Chairman Dunn commented he felt the amount of money was not as relevant as the principle of what we were talking about here. He stated the purpose of this fund according to State law, was that you could use it for construction, operation or staffing. He said the intent of this Board apparently was to use it for construction which was certainly within the law. He remarked that recently it was his understanding that this Board agreed to pay the bill in Union City from this fund, which would be included as operations. He added that because of this emergency situation, this fund was diverted from strictly construction to help us defray the cost of the diversion of prisoners to Union City. He said that would cost us in the next eighteen months well above the million plus dollars that were in that fund today if the cities paid us their ten percent for the rest of the year, because the bill over there would be in excess of two million dollars if we keep people there for a couple of years. He remarked we are lucky to have this fund and lucky that the cities have been contributing to it, but that was not the issue here. He said the motion he heard was to notify the

Minutes

January 11, 2001

Page 28

cities that we were going to terminate this agreement and renegotiate it at the appropriate time and we have to give them six months notification to achieve that. He added that the six-month notification has to be done prior to July 1, 2001, and the suggestion here was that we notify them now so all parties will now that we are facing this negotiation as the year goes by. He asked Mr. Bost to clarify his motion.

On motion by Commissioner Bost, seconded by Commissioner Wells that the county notify the cities immediately that we are terminating the current Agreement signed in December, 1993, to house their municipal court detainees, effective December 31, 2001 in an attempt to renegotiate. The motion carried 4-1 with Commissioner Frady opposing.

Commissioner VanLandingham called attention to paragraph four of the current Agreement and stated that it seemed to be in agreement between the entities that it could be renegotiated. He said he understood that there had been attempts to negotiate before and they would not negotiate. He asked if he understood that correctly.

Chairman Dunn said this was not the case, it was an operational matter. He said this thing had nothing to do with per diem on its face.

Members of the Board discussed the Agreement for further clarification.

Chairman Dunn explained the cities have opined that this Agreement means, without saying it, that we cannot charge a per diem for the municipal court prisoners, and when we read it, our attorney has agreed with their opinion on that. He said further that because the per diem was not addressed in the current Agreement we can't get it done so we have to terminate to renegotiate to get anything changed.

NEW BUSINESS:

Water System Manager Tony Parrott requested the Board approve payment to Coweta-Fayette EMS in the amount of \$55,510.37 for the electrical system construction cost to serve the South Fayette County Water Treatment Plant with funds to come from the Water System's Renewal and Extension Fund.

On motion by Commissioner Wells, seconded by Commissioner Bost to approve payment of invoice in the amount of \$55,510.37 to Coweta-Fayette EMC for the electrical system construction cost to serve the South Fayette County water treatment plant with funds to come from the Renewal and Extension fund. The motion carried 5-0.

Minutes

January 11, 2001

Page 29

CONSENT AGENDA: *On motion made by Commissioner Wells, seconded by Commissioner VanLandingham to approve the Consent Agenda as presented. The motion carried 5-0.*

ST. GABRIEL SUBDIVISION APPROVED AS A STREET LIGHT DISTRICT:

Approve request from the Engineering Department to approve St. Gabriel Subdivision as a Street Light District.

MINUTES APPROVAL:

Approve minutes for Board of Commissioners' meeting dated December 14, 2000.

PUBLIC COMMENT:

Members of the public are allowed up to three minutes each to address the Board on issues of concern other than those items which are on this evening's agenda.

There was no public comment.

STAFF REPORTS:

Attorney McNally stated he needed an Executive Session to discuss five items of potential or threatened litigation.

Commissioner Bost requested Executive Session to discuss one matter of personnel.

THE FIRE ACT GRANT:

Fire Chief Krakeel requested approval from the Board to proceed with some possible grant funding that may be forthcoming. He said Congress approved authorization of one hundred million dollars called The Fire Act. He said further that this was on a fast track and would require some matching funds in the amount of ten percent of the grant amount. He stated his department had some ideas with respect to some things we thought we could apply this grant to. He requested authorization to go ahead and start getting the paper work in line and bring it back to the Board before formal submittal.

It was the consensus of the Board to authorize Chief Krakeel to proceed with the grant paperwork and to bring information back to the Board before formal submittal.

LETTER TO CITIES CONCERNING THE PER DIEM FOR PRISONERS:

Chairman Dunn stated at the last meeting there was a lengthy discussion about sending the three cities a letter from the Board, stating its position reference the per diem for prisoners being paid

Minutes

January 11, 2001

Page 30

in the jail for municipal court prisoners. He said he would like to send the letter and requested that all Commissioners sign it.

On motion made by Commissioner Wells, seconded by Commissioner VanLandingham to have all commissioners sign the letter. The motion carried 5-0.

EXECUTIVE SESSION:

On motion made by Commissioner VanLandingham, seconded by Commissioner Bost to adjourn to Executive Session after a five-minute recess to discuss five items of threatened litigation and one item of personnel. The motion carried 5-0.

POTENTIAL LITIGATION:

Attorney McNally briefed the Board on a matter of potential litigation.

On motion made by Commissioner Bost, seconded by Commissioner Wells to authorize the County Attorney to proceed in this matter with a specified amount. The motion carried 5-0.

POTENTIAL LITIGATION:

Attorney McNally briefed the Board on a legal matter and no action was taken.

POTENTIAL LITIGATION:

Attorney McNally briefed the Board on a matter of potential litigation.

No action was taken.

POTENTIAL LITIGATION:

Attorney McNally briefed the Board on a certain legal matter and the Board directed that more information be obtained.

POTENTIAL LITIGATION:

Attorney McNally and the board discussed a matter of potential litigation.

On motion made by Commissioner Wells, seconded by Commissioner Bost to terminate the agreement with a specified person. The motion was 4-1 with Commissioner Frady opposing.

PERSONNEL:

Minutes

January 11, 2001

Page 31

Commissioner Bost briefed the Board on a personnel matter and it was agreed to get additional information prior to any action being taken.

EXECUTIVE SESSION AFFIDAVIT: *On motion made by Commissioner Wells, seconded by Commissioner Frady to authorize Chairman Dunn to execute the Executive Session Affidavit affirming the discussion of five items of potential litigation and one item of personnel.* The Affidavit, identified as "Attachment No. 3", follows these minutes and becomes an official part hereof.

There being no further business to come before the Board, Chairman Dunn adjourned the meeting at 10:45 p.m.

Linda Rizzotto, Chief Deputy Clerk

Gregory Dunn, Chairman

The foregoing minutes were duly approved at an official meeting of the Board of Commissioners of Fayette County, Georgia, held on the 25th day of January, 2001.

Linda Rizzotto, Chief Deputy Clerk