

The Board of Commissioners of Fayette County, Georgia met in a Special Called Meeting on Wednesday, May 29, 2002 at 8:30 a.m. in the public meeting room of the Fayette County Administrative Complex, 140 Stonewall Avenue, Fayetteville, Georgia.

COMMISSIONERS PRESENT: Greg Dunn, Chairman
Linda Wells, Vice Chair
Herb Frady
Peter Pfeifer
A.G. VanLandingham

STAFF MEMBERS PRESENT: Chris W. Cofty, County Administrator
Carol Chandler, Executive Assistant
William R. McNally, County Attorney
Dennis Davenport, Assistant County Attorney
Karen Morley, Chief Deputy Clerk

CITY OF FAIRBURN REPRESENTATIVES PRESENT:
Mayor Betty Hannah
Roy Farr, Council person
Harvey Melear, Council person
Doug Crawford, Council person
Frankie Arnold, Council person
Nancy Falkner, Clerk
Gail Denman, Zoning Administrator
Brad Sears, Attorney

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

DISCUSSION OF FAIRBURN'S ANNEXATION REQUEST:

Chairman Dunn asked Attorney Sears if there was a quorum present representing the City of Fairburn and he responded yes. He introduced the Board of Commissioners to the audience.

Attorney Brad Sears introduced the City of Fairburn Council Members as well as staff. He remarked that Council person Glen Higgins was absent. He remarked that City Clerk Nancy Falkner and Zoning Administrator Gail Denman were also present.

Chairman Dunn remarked that Director of Fire and Emergency Services Jack Krakeel, County Attorney Bill McNally, Assistant County Attorney Dennis Davenport, Executive Assistant Carol Chandler and County Administrator Chris Cofty, Chair of the Fayette County School Board Janet Smola, Superintendent of Schools John DeCotis, and the Director of Planning Chris Venice were also present.

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Chairman Dunn said the purpose of the meeting today was for the Board of Commissioners to get as much information as possible from the City of Fairburn representatives regarding the nature of this annexation application. He said the Board would like to ask the City Council and staff questions regarding this annexation request.

Chairman Dunn said the Board wanted to make sure that the City of Fairburn had the total opportunity to explain this annexation and the need for it from the City's point of view so that the Board of Commissioners could make a judgment that makes sense for both communities. He said the Board would take all of the information that it could. He said after this meeting, the Board would have thirty days to respond to the City of Fairburn. He said if the Board did not respond to the City, he would assume that the City of Fairburn would proceed with the annexation. He said if the Board did respond, the City would have some other choices to make.

Chairman Dunn asked Attorney Sears to explain the specifics of the annexation request.

Attorney Brad Sears remarked that on behalf of the City of Fairburn and the Bedford School that they did appreciate the opportunity to come before the Board of Commissioners in order to make this presentation. He said they also appreciated the Board resetting the meeting date with the Council members schedules. He remarked that the Director of the Bedford School Betsy Box was unable to attend this meeting because school was still in session. He said final exams were scheduled today. He said Ms. Box was the person who actually made the application. He said if the Board had any questions for her, he could certainly get her to respond to those in writing. He said in the original application Ms. Box did say that one of the reasons she wanted the annexation was because of public safety.

Chairman Dunn asked Mr. Sears if he had a copy of the application. He said the Board had not received a copy. He clarified that no property owner or representative of the Bedford School was present. Mr. Sears presented the Board with a copy of the annexation application. A copy of the application, identified as "Attachment No. 1", follows these minutes and is made an official part hereof.

Attorney Sears remarked that this particular procedure was relatively new. He said he realized the City had come up once before under this particular section on another request that had come to the City of Fairburn. He said this procedure was not passed by the Legislature to allow cross county annexation until the 2000 Legislative Session and this had become effective on March 17, 2000. He stated that under the terms of the statute when there was a request for cross county annexation there were four factors that were set forth. He said each one of those four factors contain a number of other issues to be considered whether the annexation ordinances are reasonable for the long range economic and overall well being of the county school districts and municipalities affected and whether the health, safety and

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welfare of property owners and citizens of the county and municipalities would be negatively affected by the annexation and whether the proposed annexation has any negative fiscal impact on the county's school districts and other municipalities that have not been mitigated by an agreement in the interest of the property owner seeking the annexation. Mr. Sears said this was the first time it was a give and take situation and we have never been involved in one of these before. He said he didn't think in checking around the State that there have been many of this type of annexation requests that had been initiated since this particular statute was changed.

Mr. Sears presented a little history on the Bedford School. He said the Bedford School came to the City of Fairburn approximately six years ago. He said the owners of the school was interested in buying a tract of land in Fulton County along Milam Road to build their new facility. He stated at that time they annexed that particular 46-acre tract. He said at that time they annexed approximately 37-acres of the 46-acre tract into the City of Fairburn to receive the services provided by the City of Fairburn and to construct their facility under the City of Fairburn's Building Department. He said further at that time there was not a procedure to include the 9-acres that was located in Fayette County of the 46-acre tract as a part of the annexation into the City of Fairburn. He said it has only been since this March 17, 2000 date that this procedure was in place that would allow the initiation of the annexation of the Fayette County land into the City of Fairburn. Mr. Sears asked if there were any questions concerning the historical perspective at this point with this particular tract.

Mr. Sears said he would touch on the four factors with regard to the annexation's effect on the long-range economic and overall well-being of the affected counties, municipalities, and school districts. He commented in factor number one, Ms. Box said it was basically a public safety issue. He said when there was a public safety issue, she was able to call the City police and fire department to respond to those particular issues. He said if things occur on this particular tract, she states she is unsure as to who to call. He said the school did not have any short-term plans for any development for this particular piece of property, but there is in the long-term goal of the school to develop a campus-like setting down on that particular area.

Vice Chair Wells interjected what Mr. Sears meant when he said a "campus-like setting".

Mr. Sears said he was not aware there were going to be any dormitories. He said it was just the school setting as a tract, much like the setting of Sandy Creek or like Fayette County, just other facilities besides the main building. He said he wasn't sure but this was part of their long-term goal. He stated they made the commitment when they built the new facility. He commented the City of Fairburn at this point is the gateway into Fayette County, because one comes off the Interstate at 74 and you travel south into this particular area. He added that over the last several years, the City of Fairburn has annexed a good bit of property on both sides

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of Highway 74 in an attempt to control the development that takes place along Highway 74. He said Fairburn has adopted what he calls a quality control district overlay in an attempt to regulate the style and aesthetics of the facilities that are being built along Highway 74. He said economic development protection of the area along the corridors is a high priority for everyone and certainly for the City of Fairburn to be able to do that. As to this particular tract, again, it's a vacant tract at this point in time and any development that would take place of course would be under the City of Fairburn's regulations for that area. He mentioned with this particular institutional-type developer, he felt it was safe to say, that this would not be developed in anyway that would detract from the current development of the property that is already in the City of Fairburn and the facilities that are located there.

Vice Chair Wells, asked Mr. Sears if the County Commissioners had been given a copy of Fairburn's O-I regulations.

Mr. Sears said a copy of O-I regulations was included with the request that came to the City but he was not sure if the County had a copy. He said he thought these regulations were included in the packet sent to the county.

Vice Chair Wells said she did not remember seeing them.

Chairman Dunn said the County has Fairburn's zoning categories and what they included but if there is a specified category of land use along that corridor, the Board was not aware of that.

Ms. Wells asked if the land use along that corridor was delineated in Fairburn's regulations.

The County Commissioners discussed that they did not have the overlay regulations.

Mr. Sears said the second factor was whether the health, safety, and welfare of the property owners and citizens of the county, municipalities, and the property to be annexed would be negatively affected. He commented that in this particular case, 80% of the property owned by Bedford School was located in the City of Fairburn already and 20% in Fayette County. He said this did set up two different types of regulations for the development of the property and annexation would unite the property under one set of development regulations. He remarked the provision of police, fire and garbage services to the area would come within the City of Fairburn and be united under that particular situation with that 9-acre tract being within the City of Fairburn.

Mr. Sears further remarked that in addressing factor number three, the possibility of a negative fiscal impact on the county, school districts, and other municipalities have not been addressed by an agreement. He stated he did not think there would be any negative impact because it was a vacant tract. He added it was owned by an institution itself. He said he did not know

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if this 9-acres was taxed in Fayette County or not since it was owned by a non-profit school.

Nancy Falkner, Clerk for Fairburn, confirmed the 9-acres was not taxed by Fayette County.

Mr. Sears confirmed that at this point in time there were no taxes being levied on the particular tract so there would be no loss of any tax dollars that would go to the unified Fayette County school system, or to Fayette County at this point in time. He commented there would be no negative fiscal impact on the county, school district or other municipalities. He said the reverse being said from the county's standpoint, that if it was in the City of Fairburn, then any obligations that the County would have to attempt to provide fire service, or to attempt to provide police services through the Sheriff's Department to the 9-acre tract would be removed at that point in time.

Mr. Sears stated in answer to factor number four, it was the interest of the property owner seeking the annexation, and the property owners were the ones making this request for the annexation and that was why they were here today. He said this basically covered the four factors and if there was anything else the Board would like him to discuss or Ms. Denman to discuss from the development side, they would be happy to answer any questions.

Commissioner VanLandingham questioned if the land that lies within Fairburn limits now was fully developed.

Mr. Sears said he did not know if the facility that housed the main school operations previously existed when they moved there. He said he assumed they had provided for some expansion in building the new facility to take care of future growth, but whether or not the site itself was one hundred percent developed he could not say. He informed them further Ms. Box said she was not planning any short-term development on this particular tract because he thought they had plenty of land to continue developing at this point in time.

Commissioner VanLandingham clarified that according to the application, it was zoned O-I. He further asked if this would allow them to build public facilities to lease to other people as a source of income.

Mr. Sears said he would assume just like any other type of O-I type facility, yes. He added if they wanted to, they could lease out the current facility for a church to use.

Commissioner Frady interrupted and asked if it could be zoned commercial as well as anything else.

Mr. Sears said the proposed zoning was O-I.

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Commissioner Frady said he was not asking that question. He said this had already been established. He said it could be zoned commercial if someone wanted to if it was in the City of Fairburn.

Ms. Falkner stated this request for commercial would have to go through the zoning process.

Commissioner Frady said he had a technical question regarding the information before him. He said the information stated a legal description of property to be annexed is "Exhibit A" and that particular legal description was illegal for all of the acreage.

Mr. Sears stated it showed the entire 46-acres. He said if that is the description of the entirety of the property shown on the plat the County has and the plat designates the 9-acre tract sets it out that the 9-acre tract is in Fayette County.

Commissioner Frady said the Board knows this but it is not shown on the plat as such. He added it shows on the plat but it doesn't say that it is the parcel to be annexed. He said we know that and you know that but he was not sure that was what it was, this is just what it says. He commented a legal description and the plat would be a full plat of the 47-acres. He asked if we needed something more firmed up then that about the piece of property that is going to be annexed.

Mr. Sears said he would furnish the County with a legal description this afternoon.

Chairman Dunn said what we are confirming is that we have the same impression as you, that we have never seen a legal description of what you are trying to annex. He added that the Board has seen the legal description of what he believes to be the original annexation request. He confirmed that the other property had to be annexed into Fairburn recently.

Mr. Sears said he believed this was in 1996 or 1997. He said he would be glad to get the exact date.

Chairman Dunn said he wanted to clarify some things for the record here. He mentioned the Board received a letter from Mr. Sears on April 26, 2002, and the letter said that the City of Fairburn received a request from the applicant on May 4, 2001 and he was wondering why it took a year to notify the county. He said Mr. Sears had just now handed the Board this document which was an application from the person that said they applied for it on March 26, 2002. He said he was just trying to get this all straight.

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Mr. Sears apologized for the May 4, 2001 date was probably the date that the City received the annexation request on the piece of property that was before the Board last June and he was afraid that his automatic typing facilities did not remove that date.

Commissioner Wells asked what the correct date would be and Mr. Sears replied the correct date was March 26, 2002.

Chairman Dunn pointed out that the application form itself was not signed by the applicant nor dated but there was a cover letter. He said, however, in the cover letter, the applicant gave no reasons for wanting to be annexed except that they loved the City of Fairburn.

Mr. Sears said this was why they were hoping that Mrs. Box could have been here. He added this was why he started out by stating that Mrs. Box was mostly concerned with the safety issues. He noted that the property owner had signed the application.

Commissioner Frady remarked Mrs. Box stated 6-acres in her letter and the application said 9.58-acres. He asked if Mrs. Box was aware of what was going on.

Mr. Sears said he would have to confirm this with someone in the tax office. He stated at one time the Fayette County Tax Office showed this property as being 6-acres located in Fayette County. He added that when the surveyor actually surveyed the property and attempted to delineate the line, at that point in time he estimated that there were approximately 9-acres located within Fayette County. He said he felt the discrepancy here was there was a little uncertainty as to exactly where the Fayette County line and the Fulton County lines crossed that particular piece of property. He said when he asked the surveyor to do the best job that he could, which was similar to what had to be done originally when the other 37-acres was annexed, he quoted a figure of approximately \$25,000 dollars to attempt to locate where the Fulton-Fayette County line was located. He said this was a somewhat exorbitant to try to actually get him to go out there and find that line. He agreed there was a discrepancy as to whether there was 9-acres or 6-acres but he thought this was probably where the problem lies as to exactly where the line was located.

Chairman Dunn asked Mr. Sears if Mrs. Box had personally told him that she had public safety concerns.

Mr. Sears said Mrs. Box was quoted in the newspaper.

Ms. Falkner said she talked with Mrs. Box yesterday. She said Mrs. Box had contacted the City of Fairburn several months ago and when she first applied for the annexation she did not have her plat, just the parcel that was in Fayette County so it was sent back to Mrs. Box. She said the City had not accepted the application because the City knew more information was

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needed. She said it took Mrs. Box several months to get the plat from the surveyor. She said they were having trouble communicating on exactly what she needed. Chairman Dunn said the county did not know why Mrs. Box wanted to be annexed.

Ms. Falkner said she talked with Mrs. Box yesterday to be sure she was going to be able to come to the meeting today and she expressed her regrets because she could not come. She said Mrs. Box told her that the main reason for the annexation was public safety.

Chairman Dunn asked if it would be fair for him to say from the answer that he just heard that the City of Fairburn apparently was in favor of annexing this property but did not know why until yesterday.

Mr. Sears said no, this was not correct. Mr. Sears replied that it was difficult to say because Bedford School was annexed in 1996, 1997 or 1998 because the City was annexing down Highway 74 during that time. He mentioned that since the annexation they had constructed the school and they have been in the school for at least a couple of years now. He said Mrs. Box has been talking about annexing or wanting to annex this particular tract in Fayette County since the day she originally filed the application. He said in fact, in answer to the Commissioner's questions about the 47-acres, that was what she wanted to annex from day one when she came in. He said unfortunately the way the statute was setup, the City could not annex that part of the land in Fayette County so she has been talking about this since then. He added that City representatives had sat down with her back in the early years and explained to her why the 9-acres could not be annexed. He said the City had known all along that she wanted to annex and why. He said the City had not sat down with her to put anything in writing but this had been going on for a long time.

Commissioner VanLandingham questioned where Mrs. Box resided and Mr. Sears said he had no idea but he could find out. Mr. VanLandingham said the annexation petition required a signature for the registered voter and it was not filled out, nor did she sign that portion of it and he was wondering if she lived in another county and that was the reason she did not.

Commissioner VanLandingham stated in her letter it appeared to him that this just came to her attention in her cover letter, that the annexation of the property would be necessary because part of it was in Fayette County. He said according to what we have been told, the City had been dealing with this for several months and then she made the statement that it had come to her attention without an explanation.

Mr. Sears said he did not know what she had in mind. He said the fact that Ms. Falkner said that it may have recently only come to her attention that with the change in the law, that she could annex the property at this point in time.

Chairman Dunn apologized for the problem with the sound system.

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Mr. Sears stated that annexations into the City of Fairburn operate under what was called the 60% method under the Code and then that was changed to allow under the 100% method. He said further that under the 60% method it was required that 60% of the property owners in an area to be annexed and 60% of the registered voters in an area to be annexed had to sign off on the petition. He added that this was just a petition that the City of Fairburn had. He said this current request was 100% annexation so only the one property owner has to sign off on it, plus the fact that this facility was owned by a corporate body and corporations in Fulton County were not allowed to vote so there was no registered voter.

Chairman Dunn asked if Mrs. Box was the owner of the property.

Mr. Sears stated she was on the Board of Trustees and was the school's Director.

Chairman Dunn confirmed that she was not the owner of the property.

Mr. Sears said the Bedford School owned the property.

Commissioner VanLandingham asked if Mrs. Box was the school's legal representative and Mr. Sears replied yes, she was the Director.

Commissioner VanLandingham responded that the legal representative and the Director could be different.

Commissioners Frady asked if Mr. Sears was the legal agent for the school and he replied that he was not.

Mr. Sears replied that he was representing the City of Fairburn.

Commissioner VanLandingham asked if any other Fayette County property owners approached the City of Fairburn for annexation.

Mr. Sears replied there have been none from Fayette County since a year ago.

Vice Chair Wells said she felt Mr. Sears had kind of skipped over the four factors he spoke of earlier, especially number one, and she asked if he would address this one again.

Mr. Sears said to the extent that the Bedford School being a private school in dealing in special needs children with learning disabilities and that sort of thing, that as a society we have determined that this was an important offer to our citizens for those types of facilities to exist. He said though they may rent out some portion of the school in order to make money, this was not a commercial type endeavor that was going to generate sales tax money or those

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types of issues. He said if they expanded the school this would, of course, produce some jobs to the extent that there would be additional custodians and teachers and those sorts of things. He added this was not a manufacturing concern, that was selling a product. He commented it was not the type of development that we normally think about from the economic side of producing dollars for the community. He mentioned it produced a service to those who were not as fortunate as others within their learning capability.

Vice Chair Wells interjected that particular benefit could be as well served whether it was annexed or not.

Mr. Sears said he would not disagree with that. He said this was strictly from the property owners standpoint and what the property owner had viewed to be in the best interest of the property owner to consolidate those issues that had previously been discussed.

Commissioner Frady asked what the school could do with the property if it was annexed that they could not do under the current zoning.

Ms. Falkner said the property owner would have to access the property and the only way that they can get to the backside of the property. (Person did not speak at the microphone and could not be heard clearly.)

Chairman Dunn said he would like to clarify what Ms. Falkner said. He said access to their property was from Milam Road which was in Fayette County and they could use the back of their property if they so desired now.

Ms. Falkner said the property owner would like to develop the backside of the 9-acres.

Chairman Dunn pointed out that it had already been said there was no development at the back of the property.

Mr. Sears explained that he thought what Ms. Falkner was trying to say was if this particular property was in Fayette County, then if they went in and wanted to build a building on that property, what would Fayette County say. He said he could not answer that.

Commissioner Frady asked if Mr. Sears was telling the Board that they wanted to annex this and have not researched the county's zoning ordinances to see whether or not they could use that property as is. He said that did not make sense.

Chairman Dunn said if they wanted to do certain types of development on Fayette County property they would be unable to do so. He said Fayette County had some properties along its borders now that were split with part in one county and one part in another. He remarked

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that was not unusual in any counties. He added that we even have a school that is partially in Fulton County and Fayette County.

Ms. Falkner said one problem that Mrs. Box would have that the annexation would solve is that problem with the property line, not knowing exactly where it was. She said if Mrs. Box were to come to Fayette County for an application, she still would not know specifically whether it was 6-acres or 9-acres.

Chairman Dunn said Mrs. Box needed to get a good surveyor.

Commissioner Frady said Mrs. Box would have to bring the survey with her to the zoning department when she comes to apply for her permit.

Mr. Sears said he felt that the development issue was probably a secondary issue because this property was going to be a long term issue. He said the main thing was the public safety issue that the school had in its mind, to have all of their property located within the City of Fairburn.

Commissioner Frady said he thought the City of Fairburn should stack their public safety up against Fayette County's because this county has one of the best public safety operations in the entire State of Georgia.

Mr. Sears said there was no intent to compare one to the other.

Commissioner VanLandingham said he wanted some clarification on something the lady said about changing this property line. He asked if this would, in fact, change the county boundary.

Mr. Sears said it would not change the boundary.

Commissioner VanLandingham said Mrs. Best would still have a county line there, but it would just be in that municipality.

Mr. Sears said that was correct.

Commissioner VanLandingham stated that line would still have to be established at some point in time. He added he did not see any more access there with annexation. He asked if they were going to build a new road.

Mr. Sears replied no. He commented he thought the answer Ms. Falkner was responding to was that if she attempted to come on a tract of land that was like this, if she attempted to come to the City of Fairburn to get a building permit under the City's development regulations, that

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9-acre tract would have to front itself on a public road. He mentioned he did not know what Fayette County's building regulations would say. He stated if she walked in to get a permit, Fayette County might say you have to access from a Fayette County road as opposed to coming onto her tract through the City of Fairburn to the property. He said he thought that was what she was trying to touch on. He said again, she just wanted her property to be covered under one municipality's jurisdiction.

Chairman Dunn asked what services did the City of Fairburn provide to this property now. Mr. Sears responded they have water, sewer and police and fire protection.

Chairman Dunn said the City of Fairburn did not have a Fire Department.

Mr. Sears explained there was a contract with Fulton County to furnish manpower and the City of Fairburn owned the station and equipment. He said the city employs the Fire Chief and there was an inter-governmental agreement to provide firefighters by Fulton County.

Commissioner Frady asked Mr. Sears what the City of Fairburn's budget was for fire protection and also what was the total budget.

Mr. Sears responded the total budget was \$15 million.

Commissioner Wells asked if the City of Fairburn had a 911 system and Mr. Sears responded yes.

Chairman Dunn asked if this system was separate from Fulton County.

Mr. Sears replied no, that the system was part of the Fulton County system.

Commissioner VanLandingham asked if there had been a study done and a report made on the services that would be going to this property by the City of Fairburn.

Mr. Sears remarked the City of Fairburn would service this property just as it was doing now to service the school.

Vice Chair Wells asked Mr. Sears if he know what the ISO rating for Fairburn was.

Ms. Falkner said it was a six for the City. He said the City only had one fire station.

Assistant County Attorney Dennis Davenport interjected concerning Commissioner VanLandingham's question about the extension of services. He said he believed he was

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talking about a report that was a component of an annexation request, an extension of service report. He asked if one of those reports was put together for this annexation.

Ms. Falkner stated no. She said the first step to the annexation procedure was to come to this Board. She said Ms. Box had not had an opportunity to present her case yet to the Council. She commented that the Council had not heard much of this information. She mentioned that Fairburn did not continue on with annexations until after the 30-day negotiation period. She said the reason for this was to keep advertising and other study costs down if there is some reason that the annexation will not be able to go through.

Vice Chair Wells questioned what the population was and the location of Fairburn's only fire station in reference to this particular piece of property.

A representative from the City said at the maximum the fire station was 1.5 miles away from the Bedford School. This person also stated the population at 5,800.

Vice Chair Wells said she was getting conflicting information from two parties here. She stated Chief Krakeel said the distance from the fire station to the school property was 3.2 miles. She confirmed that this distance was measured by staff. She asked about how long it would take to get to the school from the fire station.

A representative from the City said about 5 minutes.

Vice Chair Wells inquired where Fairburn received its fire services from and who the City contracted with for these services.

Ms. Falkner said the City contract with Fulton County.

Vice Chair Wells asked how long it took someone from Fulton to respond.

Mr. Sears said it was the same distance.

Vice Chair Wells asked Mr. Krakeel how long it would take for one of our stations to respond to that property.

Chief Krakeel said the closest station would be in Tyrone and our average respond time was six minutes. He added the distance from Tyrone would be 4.2 miles.

There was a brief discussion about how far away and how long it would take to get to the property from various fire stations. There was not much variation between the distance and time.

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Commissioner Wells asked Mr. Sears for the population of Fairburn and he replied 5,800. Commissioner Wells asked where the one fire station in Fairburn was located in reference to this particular piece of property.

Ms. Falkner replied that the fire station was located in downtown Fairburn and approximately 1.5 miles from the school.

Commissioner Wells said she was getting some conflicting information. She remarked that Chief Jack Krakeel was stating that it was 3.2 miles.

Commissioner Wells asked how long it would take for a response team to arrive at the school from the fire station.

A council member responded approximately five minutes.

Commissioner Wells asked where the City of Fairburn got its EMS services.

Mayor Hannah responded that these services were contracted out through Rural Metro through Fulton County.

Commissioner Wells asked how long it would take for someone to get from there to the school.

Mr. Sears responded it would take the same time as it would a fire truck. He said these vehicles were also based at the fire station.

Commissioner Wells asked if this was contracted through Fulton County.

Ms. Falkner responded yes. She said the EMS service was through Rural Metro who had a contract with Fayette County and the City of Fairburn had a contract with Fulton County. Commissioner Wells clarified that if all of this property was annexed then Fayette County would respond to citizens living on property in Fayette County and this would change the ISO rating from 4 to 6. She asked if that was correct.

Ms. Falkner responded yes. She said Fayette County's rating was 4 and the City of Fairburn's rating was 6.

Commissioner Wells asked how fast one of the Fayette County stations could respond to that particular piece of property.

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Chief Jack Krakeel replied that the closest station to the property currently was the Town of Tyrone and their response time would be approximately six minutes and was 4.2 miles from the school.

Commissioner Frady asked if the emergency trucks would travel down S.R. 74 to get to the property.

Mr. Sears replied yes. He said the response teams would travel on S.R. 74 and turn right on Milam Road.

Commissioner Frady interjected that the fire station was in the very center of Fairburn. He said it took him longer than that to drive on the expressway to Fairburn.

Mr. Sears remarked that in order for Tyrone to respond they would have to go into the City of Fairburn and then through the developed property to reach this particular property. He said he did not believe there was an access off S.R. 74.

Chairman Dunn asked Mr. Sears if he was aware of the fact that the county has automatic aid with Fulton County on Fire and EMS and Mr. Sears replied yes.

Chairman Dunn also asked Mr. Sears who he felt would respond to a fire or health problem in the school right now and Mr. Sears replied the City of Fairburn.

Chairman Dunn said if you were not the closest unit at the time, who would respond. He asked Chief Krakeel if we responded routinely to this area now.

Chief Krakeel said there were some points of clarification that needed to be made with respect to the fire response issue to the school and to the properties that lie within the City of Fairburn and Fulton County in close proximity to Milam Road. He said further that Fayette County Fire and Emergency Services currently had an Automatic-Aid Agreement with Fulton County Fire which essentially operated the City fire station under contract to the City of Fairburn. He said our agreement is with Fulton County. He said that Automatic-aid was different from what normally was considered mutual-aid. He commented automatic-aid was a system whereby when a call was placed to the 911 center, whether that 911 center was located in Fayette County and/or the City of Fairburn and/or Fulton County, there was an automatic reciprocal dispatch of equipment from both jurisdictions to the property. If the call from the Bedford School would go into the PSAP, in the City of Fairburn, there would be a transfer of that call for fire protection to the Fulton County 911 center and fire dispatch. He said this was his understanding as to how that would be routed. He added there was a transfer that takes place from the Fairburn PSAP to the Fulton County dispatch center. He commented that when Fulton County dispatch center receives the alarm to respond fire

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protection apparatus to the Bedford School, they would notify Fayette County immediately and ask us to respond simultaneously with them because we have the Automatic-Aid Agreement.

Chief Krakeel remarked should there be a situation in which a call in error reached our center for whatever reason, we would likewise notify Fulton County dispatch that we were responding to the Bedford School and they would likewise, simultaneously dispatch their equipment to the scene as well. He stated irrespective of where the call was placed, apparatus from both jurisdictions respond to this area and the contiguous area on Milam Road and S.R. 74 under an Automatic-Aid Agreement.

Chairman Dunn confirmed this was the reason Fayette County contracted with Fulton County for a Mutual-Aid Agreement. He asked if it would be fair then for him to say as a matter of clarification that it did not matter to you or to Fulton County fire people where that county line was, the first units that can get there to save lives will do it.

Chief Krakeel said it was strictly a geopolitical boundary, it has absolutely no implication with respect to respond or services provided.

Commissioner Frady asked Chief Krakeel if Fayette County responded would one of our fire trucks have to go over railroad tracks to get there.

Chief Krakeel replied no.

Vice Chair Wells said as a point of clarification, the issue that prompted the lady to bring this petition was public safety, not knowing who to call. She said what she was understanding from Chief Krakeel was that it was immaterial, any call to 911 in any jurisdiction was going to provide an immediate response from both jurisdictions, so there was no concern about public safety from that point of view.

Chief Krakeel said that was right under our current Automatic-Aid Agreement with Fulton County but he could not address law enforcement issues. He added there was no Automatic-Aid Agreement on EMS issues because Rural Metro was the regional provider for Fulton County in that area so they have that network and Fayette County has not engaged in any kind of Automatic-Aid Agreement on EMS. He said, however, should EMS be needed, we have that capability and we certainly can assist and provide that.

Chairman Dunn said even if we send a fire truck, everyone was EMS qualified and we have all of the equipment on the vehicle so no matter who arrives at the scene first, both services would be on sight.

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Chief Krakeel said there was one other point he would like to make and that regarded developmental issues. He said outside of zoning regulations and those kinds of things, since this was a school, educational institutions from a construction perspective were governed by the State Fire Marshal's Office so those regulations were uniform throughout the State of Georgia and did not vary between jurisdictions with respect to the type of fire protection and building code requirements that are required within an educational institutional.

Vice Chair Wells asked Chief Krakeel for more information on Rural Metro and he advised her that Rural Metro was one of two national corporations that provide contract ambulance service to communities, both in the 911 setting and in the non-emergency arena. He advised that EMS in the State of Georgia was regulated through a zoning process that is administered by Regional Emergency Medical Services councils. He added these councils determine the process by which a zone was awarded to a contractor in cooperation with local government. He said he was not sure whether Fairburn has its own EMS zone or if that zone was part of the South Fulton zone but that was totally regulated outside of general government, although it is done in cooperation with government. He said Rural Metro was a private, for-profit, organization.

There was further discussion of grading levels of expertise with private contractors and whether there was a way to compare these types of services with what Fayette County has. Chief Krakeel said this would be difficult to do without specific information relative to the firm in question as well as information as to what Fulton County requires.

Commissioner VanLandingham said it was his understanding, whether there was an annexation or not, that the safety and welfare of the Bedford School would not be at risk any greater than if it was left exactly like it is.

Chief Krakeel said there would be no fundamental change in our operations with respect to fire response to the school.

Chairman Dunn said he wanted to point out to the City of Fairburn that it was not unusual that we have the same Automatic-Aid on our border with Coweta County, Clayton and Spalding Counties.

Chief Krakeel said we did not have any agreement with Coweta County.

Commissioner VanLandingham asked if the City of Fairburn was expecting any services from Fayette County, either through services or monies or anything because of this annexation and the answer was no.

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Chairman Dunn asked for clarification on the services that the City provides directly to the property owner here. He asked that this be discussed once more.

Mr. Sears responded services provided by Fairburn were water, sewer, fire, police, trash and cable.

Chairman Dunn asked which of these services were contract through someone else.

Ms. Falkner said the City contracts with BFI for trash pickup and there were contracts for fire and EMS.

Chairman Dunn said it was his understanding that sewer was contracted through Fulton County and Mr. Sears stated Fairburn owned its sewer system but contracts with Fulton County who provides treatment. He asked where the City got its water.

Mr. Sears commented the water was purchased now from the City of Atlanta. He added the City was in the process of working with Union City and the City of Palmetto to construct a reservoir.

Vice Chair Wells asked how many gallons per day of water the City used and was advised that they did not bring this information with them.

Mr. Sears said he believed that the current water agreement had no limit on it.

Vice Chair Wells asked if the City of Fairburn had times last year during the drought period where water was rationed or there were serious problems with water.

Mr. Sears replied that he was not aware of any rationing that took place. He said the City of Fairburn was on the odd/even watering system. He said he was not aware of anything beyond that.

Chairman Dunn asked if there were no taxes being paid on the property now because it was a school, did the City intend to tax the people if the City took the school.

Mr. Sears replied no.

Chairman Dunn asked why the City of Fairburn consider annexing this property.

Mr. Sears said because the City had been asked to by an institution that was already in the City of Fairburn.

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Chairman Dunn asked if this annexation took place, would the City of Fairburn be willing to forego any portion of the Local Option Sales Tax that they could get from Fayette County by becoming our sixth city.

Mr. Sears replied in taking a look at the Local Option Sales Tax issue, that was more people oriented and this had been discussed to the extent that any division of the Local Option Sales Tax monies would be between the municipalities. He said he understood the way it worked was that the largest municipality in the county gets together with the county and determines essentially how much money the county would take and how much money the municipalities would divide up at that point. He said this would really be an issue between the City of Fairburn and the other municipalities. He remarked his experience from that was because it had been people oriented and at this particular point in time since we are beginning the LOST negotiations for all of the cities and counties in the State of Georgia, and since there were no people on this property, the City of Fairburn would not be in a position to ask for any monies along that line. Mr. Sears said in a perfect world there were issues that come into play as opposed to simply dividing up monies by population. He commented he felt at this point in time, as to the 2002 negotiations, yes, the City of Fairburn would not be asking for any LOST monies on this particular tract.

Mr. Davenport clarified the question that Chairman Dunn was asking because while it might look like it might not be people oriented today, it certainly could be in the future and the question specifically was if the City of Fairburn would be willing to forego any portion of the Local Option Sales Tax that could be due on this property as a result of this annexation.

Mr. Sears said he felt the answer to that would be yes.

Chairman Dunn asked if that would be in perpetuity.

Mr. Sears replied this would only be for the next ten years. He added that this particular council could not bind another council ten years down the road.

Chairman Dunn said the reality of this piece of property was, and we have had it here and your county has too, where schools develop and then schools move, and then we would have a 46-acre piece of property that would be ripe for development along the Highway 74 corridor which the City of Fairburn was developing rather intensely right now. He stated if this land were to end up with a lot of people on it, the question was would the City forego the LOST taxes that it would then be entitled to as a sixth city in Fayette County.

Vice Chair Wells said that any response the Board would get today was probably extremely premature because the Council had not even considered anything so any statements made at this point in time were not predicated upon a vote that the Council has taken, or a

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discussion that they have had. She said Attorney Sears' answer to the question was immaterial.

Commissioner Frady asked if it was appropriate to ask the Council members what their view was on this annexation and Mr. Sears replied yes. He stated he would like to know how the Council members felt about this annexation request.

Councilman Melear replied that the City had been approached by an individual requesting to be annexed into the City of Fairburn. He said he had no objection to them coming into the City of Fairburn or no objections to the property staying in Fayette County. He commented if the petitioner would like to come into Fairburn, the City would love to have them. He said there was probably more disadvantages to the City than there were advantages because the City would have to provide more services. He said he did not think it mattered who provided the services as this was not the major issue because both the City and the County would respond.

Commissioner Frady questioned if Councilman Melear thought there were enough advantages for the individuals making this request to be intrusive into Fayette County in this fashion.

Councilman Melear replied that he did not know.

Commissioner Frady stated if there were no advantages then why would anybody care to do this. He asked Councilman Melear why he would support anyone who wanted to do that.

Councilman Melear replied the Bedford School was his neighbor, and were part of the City now and he would like to have them.

Commissioner Frady clarified that Councilman Melear was saying he would support anyone who would come and make a request to annex into Fayette County.

Councilman Melear clarified that Commissioner Frady had asked him about this particular annexation.

Commissioner Frady said he was asking him now if he would support anyone who would ask for annexation into Fayette County.

Councilman Melear replied no and stated he would have to look at each individual situation and was only referring to this particular annexation.

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Commissioner Frady mentioned an article in the newspaper indicating that there was a property owner near Rivers Road just waiting to request annexation for high density housing if this request was passed.

Councilman Melear replied that he had not heard this. He said if that happened there would be at least one vote against it. He was asked what he meant by high density and Mr. Melear said he thought apartments constituted high density.

Chairman Dunn asked Mr. Melear if this land owner wanted to de-annex into Fayette County would he support them.

Councilman Melear replied he would not have any objection to it because that is what they want to do. He said he was just going on the wishes of the petitioner on this request. He reiterated he did not think there were any advantages to the City of Fairburn, either way.

Commissioner VanLandingham said he wished to comment on two things that Councilman Melear said. He stated Mr. Melear commented that if the petitioner wished to come into the City of Fairburn he would welcome them. He pointed out the petitioner was already in Fairburn.

Councilman Melear clarified he meant he would welcome annexing the 9-acres.

Mayor Hannah commented she had dealt with this situation from the beginning. She stated they called her approximately nine years ago. She said they were located off Delay Drive over near Greenbriar, in that area in a Christian church. She mentioned they ran out of space and they had bought this property on Milam Road. She said they asked her and the City Manager to come and meet with the Board and they asked what the procedure was on the property to annex it into the City of Fairburn. She said they informed them of the procedure and did not hear from them for quite some time. She said Dr. Dyer who is Chairman of the Board at the school lived in the area of Christian City and every time she would see him he would tell her that they were coming in because they wished to be within the City of Fairburn. She said they had been using the property and on the back of the property, she thought there was a stream and a wooded area. She said this was probably the location that was being discussed. She mentioned that they had used this property for their summer camp. She stated Ms. Marks who was the Founder of the school approached the City to annex all of this property into the City of Fairburn. Mayor Hannah said in looking at the maps they realized there was about 9-acres in Fayette County and at that time the law stated that the City could not annex into another county and they dropped their request for annexation. She remarked the law changed within the last two or three years and she felt this started the process for annexation. She said this was not about Fayette County or Fairburn or Fulton County, it was about all of the property being in the City of Fairburn. She stated they have had a good

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relationship with the school, we have seen them build the building and they did it well. She commented families had moved into the area in order to get their children in that school because of the special needs there.

Commissioner Frady asked Mayor Hannah if she had been approached by anyone in the last couple of years requesting annexation into the City of Fairburn.

Mayor Hannah said there had been no requests from Fayette County for annexation other than the one they had last year.

Commissioner VanLandingham asked if it was possible at a later time to develop this property by placing more on the property than the private school which currently exists. He said he understood that they were not developed on the property that the school was on now that they were not currently using. He commented his concern was not so much today, we can kind of control what we do today, but as Mr. Sears pointed out, we cannot bind the future Board by the actions of this Board. He remarked Fayette County has to look at the possibility of tomorrow when making decisions today. He said while he had no problem with the Bedford School operating as it was right now with the boundary where it was, he would not have a great problem if he was assured that all of these things would take place but he pointed out that there was no assurance. He said the process that we were going through now was to reveal those things and try to understand a little bit better about what was going on today and what could go on tomorrow.

Chairman Dunn asked Mayor Hannah if she agreed that altering jurisdictional boundaries was a significant event for both parties. He added this did change the way goods and services were provided for both City and County. He added that it did potentially affect our tax bases, tax digests and our tax paying public. He said the Board was asking a lot of questions because this was a significant event for the county, to change to bring a sixth city into Fayette County. He said this was the second request for annexation that apparently the City was supporting along the County's northern border. He said he was trying to point out that the Board needed answers to these questions so that it could make an informed decision on the County's part. He said this Board was not trying to give the Council a hard time but this was just very important to the county and he just wanted clarification.

Mayor Hannah replied they understood. She said she was sure when they get the petition that they will ask all of the questions that the Board had already asked. She said she appreciated the arrangement of time so that they did not have to come last week.

Chairman Dunn asked if the Bedford School was planning on expanding their summer camp on this property.

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Mayor Hannah responded she did not know.

Chairman Dunn reiterated that it was possible at some time in the future that this land could be developed commercially. He said it could be developed industrially as well. He said it was O-I today but that was a temporary situation as this could change and then Fayette County would have no control over the zoning on that piece of property once it was in the City of Fairburn. He also asked if there were any improvements planned for Milam Road at the current time.

Mayor Hannah replied not at this time.

Chairman Dunn asked if the City had any traffic surveys that would indicate the use of the road at this point.

Mayor Hannah responded that she was sure the City had this information but she did not have the answer to this question now. She added she was sure it would have to be improved because there was a lot of traffic coming out of Fayette to Highway 74 as a cut through to Highway 92.

Chairman Dunn asked if there were any developments or proposals along Milam Road or in the vicinity of this property that were planned.

Mayor Hannah said no. She said the City has two housing developments on the left as you travel to the Bedford School where it stops at the county line. She said these properties were built out but there was an expansion over towards Plantation Road.

Chairman Dunn said he did not hear before when we asked what the population was.

Mayor Hannah said she thought it was right at 5,800. It was clarified that Fairburn was expected to have a population of 15,000 within four to five years.

Chairman Dunn confirmed that the City of Fairburn was planning on tripling in size.

Commissioner Frady asked had many square miles Fairburn consisted of.

Mayor Hannah said she really didn't know square mileage but she guessed that maybe it was ten square miles now.

Commissioner VanLandingham asked if there was a limit on the height of buildings that can be built in Fairburn now.

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Ms. Falkner said that would be thirty-five feet.

Chairman Dunn asked if any of the other Council members would like to come forward and speak and hands were raised. He adjourned the meeting for a 5-minute recess and then reconvened the meeting.

Chairman Dunn informed those present that we had one School Board member who wished to speak and wanted to make a quick comment because she had to leave.

Ms. Janet Smola with the School Board said one of the most important things that was clarified here today was that when or if this annexation occurred, the boundary line for Fayette County would remain the same. She said for them to please understand that this means that everything on the Fayette County side of that boundary, whether now or in the future, would become the responsibility of the Fayette County Board of Education. She said if, and understanding that this is a non-profit organization that could very well in the future have financial issues, could sell off that property and if it cannot be bound for development by this Mayor and Council, if high density housing were put in there, that would become the burden and responsibility of the Fayette County Board of Education. She commented she just wanted to be sure that these members of the Commission understood that.

Commissioner VanLandingham said in reply to Ms. Smola, he checked with one of the attorneys during the break and our understanding is that any resident in the City of Fairburn could attend Fayette County Schools.

Ms. Smola replied that she did not believe that to be true. She added that it was set by boundary lines. She said in other words what Commissioner VanLandingham was saying was we could accept them but we are not bound constitutionally to do so was her understanding. She said, if in fact, those people were living on the Fayette County side of that annexation even though they were in the City of Fairburn, the answer to that question would be yes. She stated in terms of someone living, and this was a question raised during HB-1187 when schools became over crowded, this was defined during the last session that the overcrowding you could switch from school to school within the confines of your own county. She said we could certainly clarify that with our legal counsel but her understanding was it would be set by boundaries and we would only be bound to those children living within Fayette County at this time. She said that could change but at this time, this was her understanding. She commented she knew that this question still sits in the legislative issues for the next term as well.

Chairman Dunn asked Attorney Davenport if he did not have specific background with respect to that question, but with a geographical entity expanding its limits, the question would then be, for example, he was thinking back to cell phone providers as an example. He said they need

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to know where you live in order to know what political jurisdiction to charge the dollar to. He mentioned that sometimes this information wasn't available on that specific level so what you wound up doing was accepting all of the jurisdictions because you couldn't define specific addresses within a particular area. He said the potential was certainly there, but he could not give a firm yes or no with respect to the legislation Ms. Smola was talking about. He remarked it would be prudent to look into it further just to insure we have a good answer to that question.

Ms. Smola said at this time it is a constitutional question.

Chairman Dunn stated we do know for sure that any property lying in Fayette County that might be developed, would be the responsibility of the School Board.

Ms. Smola said she did clear this with her Counsel before coming here.

Attorney Sears asked to answer the question with regard to the school. He said those children living in Fulton County would not be able to attend school in Fayette County except under some transfer policy of Fayette County allowing out-of-county students from other counties to come to school. He said the geographical line as Ms. Smola said would be the line. He stated if at some future date there was residential development on these 9-acres, then at that point in time obviously the property would go back on the tax roles and would begin to generate school taxes and well as county taxes. He said any children living on the 9-acres in Fayette County would be the responsibility of the Fayette County School System. He mentioned this was very similar to Palmetto. He said Coweta County does not accept transfer students from out-of-county, only those students living within those portions in Palmetto that lie in Coweta County can attend Coweta County schools, the rest have to go to Fulton.

Chairman Dunn remarked that Fayette County has students from Fulton County that somehow migrate into our school now and it was a constant challenge for our School Board to make sure where people live.

Chairman Dunn asked if the City of Fairburn had a telecommunications tower ordinance and Mr. Sears replied that it did have an ordinance. Chairman Dunn asked if it was possible that they could build a tower on the 9-acres.

Attorney Sears said he believed that it was limited to industrial.

Chairman Dunn said Mr. Sears said before that this could change to an industrial piece of property.

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Mr. Sears said he did not state that. He said we were asked if there was a possibility that this could be rezoned commercial, not industrial.

Chairman Dunn said he clarified with the Mayor that there was a possibility that the property could be commercial, residential or industrial.

Mr. Sears said this was the same that Fayette County could rezone it to include cell towers.

Chairman Dunn asked how high the ordinance allowed for towers and Mr. Sears said he believed it was limited to 150 feet under the ordinance.

Vice Chair Wells said the City must have some dead areas then because 150 feet was not very high.

Chairman Dunn asked if the City requires a public hearing to put up a cell tower.

Mr. Sears said he didn't believe there were any other towers up in the City of Fairburn other than the one owned by the City. He confirmed that a public hearing had to be held in order to have a cell tower.

Chairman Dunn asked what the current millage rate was in Fairburn and Mayor Hannah said it was 4.5. He asked if there was any anticipation that this was going to increase, decrease or stay the same and their reply was they hoped it could stay the same.

Chairman Dunn asked if the City of Fairburn had any plans to annex any other property into the City of Fairburn from Fayette County at this time. He also asked if the individual who had a request last year came back, he would be denied.

Mr. Sears said this would be up to the Council. He said the Council would initiate the same process as before and we would probably come before this Board once more.

Commissioner Frady confirmed that the City of Fairburn only has one millage rate.

Chairman Dunn inquired what the minimum house size was for a zoning district which allows for the highest density. He asked which was the highest density zoning category and the reply was R-4.

Chairman Dunn confirmed this was 4 houses per acre. He confirmed the size of the home would be 1200 square feet.

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Commissioner VanLandingham asked if the Bedford School owned any other property anywhere in this area.

Attorney Sears replied not that he was aware of.

Chairman Dunn asked if the City had any zoning categories now that allow for mixed use.

Ms. Falkner said the property was subject to commercial. Note: Person did not speak at the podium and could not be heard.

Chairman Dunn confirmed the zoning on this property could be residential and commercial together.

Commissioner Frady asked how many acres one had to have to build commercial here.

Could not hear the response to Mr. Frady's question. Speaker was not at the podium.

Commissioner Frady stated the county has PUD which can have commercial in it but you have to have 100-acres to use it.

Chairman Dunn clarified that the owner of the property could put a house and a strip mall on the same piece of property as there were no requirements for the amount of acreage one needed.

Response from female could not be heard. Not at the podium.

Attorney Sears said there were buffering requirements that would be required between the mixed uses. He said further that if they were both located on Highway 74 and you were standing on the highway looking, you might see the strip mall on your right and residence on your left but there would have to be a buffer in between.

Commissioner Frady asked what size buffer did the City require.

Mr. Sears said assuming you could get the densities.

A female said it would depend on the type of use. She said she thought there was some flexibility there on how much buffer would be imposed on that property.

Commissioner Frady asked how many feet the ordinance required.

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Female said the ordinance was flexible and size of the buffer depended on the use. She added the buffer required for zoning was 20-feet.

Mr. Sears referred back to the buffer ordinance and said he felt the ordinance for this zoning would be more like 40-feet.

A female is speaking but cannot be heard because she is not speaking at the podium.

Mr. Sears stated there would be a larger buffering requirement between single-family and a commercial and multi-family and commercial use.

Chairman Dunn said you could still stick a lot of stuff on a small piece of property.

Mr. Sears spoke that the use would have to meet the density requirements.

Chairman Dunn inquired if the City has a waste water treatment agreement with Fulton County and how many gallons per day were treated.

Mr. Sears replied the agreement was unlimited.

Chairman Dunn said he didn't believe this was unlimited.

Mr. Sears repeated that there was no gallon limit set in the agreement. He added this was not really unlimited, but it would be to the extent that EPD would not let them put any more in the plant.

Chairman Dunn said what he was talking about was, while the City is waiting for their plant to come on line, they have made an agreement to provide X amount of dollars per day of sewer treatment and asked if this was correct.

Attorney Sears said no. He commented that whatever Fairburn sends, Fulton treats. He said there was no limit on the gallons that Fairburn can send.

Commissioner Frady inquired if Tyrone had a limit and Mr. Sears said that Tyrone has a limit of 250,000 gallons.

Chairman Dunn asked what the capacity was for the plant they intended on building.

Mr. Sears said it was probably at this point in time, between a million and two million.

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Chairman Dunn clarified that initially the new plant's capacity was one million and they were now attempted to build a plant that would handle two million gallons.

Vice Chair Well stated they were planning for build out at 15,000 people.

A representative from Fairburn said they were not asking for any permit.

Chairman Dunn asked if the system was going to be a land application system.

Mr. Sears said it was right now. He said he was in the process of working with the City of Palmetto and working with EPD to provide sewer treatment services to the City of Palmetto and initiate a stream discharge under Palmetto's stream discharge permit. He commented assuming that the EPD has given their preliminary approval to that, they are waiting on the final approval. He said they want to see a design of the plant, the numbers are being worked together because this has to be almost a drinking water level quality discharge that does back into the stream. He said this was being worked out at this point in time. He said if those agreement were put in place and EPD approves it, then there will not be a land application.

Chairman Dunn confirmed the City would be putting two million gallons per day of treated wastewater into a stream in Palmetto.

Mr. Sears said no. He commented the ultimate capacity would be discharged into the same stream that the City of Palmetto is currently discharging from its wastewater treatment plant. He remarked assuming all of the agreements were in place, all of the discharge would go into Bear Creek. He said the City of Palmetto was currently discharging a certain number of gallons into the Creek so it would not increase by two million, it would only increase by a smaller amount.

Chairman Dunn asked if there was a Water and Sewer Authority and if so, would they own the treatment plant.

Mr. Sears said there is an Authority but they would not own the plant.

Chairman Dunn asked why Fairburn would be part of a tri-city Water and Sewer Authority and own your own sewer plant. He asked what this was about and which entity were people in the future going to have to deal with.

Mr. Sears said he could not speak for Union City and Palmetto but the residents will deal with the City of Fairburn. He commented the South Fulton Regional Water and Sewer Authority was created with the first step to provide a water source and treatment of water for drinking purposes to the three cities. He said Palmetto currently has its own source and treatment

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facility and buys some water from the City of Atlanta and the Fairburn and Union City currently buy their water from the City of Atlanta. He added that in connection with that, there having been plans for development, a treatment plant that would be located to the north, to provide limited treatment services. He said from the City of Fairburn's standpoint, it would be for sewage generated on the eastside of the railroad tracts that would continue to go to Fulton County after Fairburn's treatment plant is completed.

Chairman Dunn said he was curious if we did latch up, who would we deal with when it comes to water and sewer issues in the City.

Mr. Sears said we would deal with the City of Fairburn.

Commissioner VanLandingham questioned how many citizens a 2 million gallon plant would support.

Mr. Sears said he had no idea.

Commissioner Frady asked Ms. Falkner how many gallons did Peachtree City have and she said she didn't remember. Mr Frady guessed that Peachtree City wasn't using more than 3 million gallons per day.

Attorney Davenport said in comparison to Union City who has a population of 15,000 which may be a little high, and the capacity they are having treated now was right at 1.4 million so two million would probably bring it to a population around 20,000.

Commissioner Frady said if you doubled that you would be at 30,000.

Chairman Dunn asked how many gallons of water per day Fairburn used now.

No one knew how many gallons Fairburn used.

Chairman Dunn said he was on the Governor's North Georgia Water Board and it was his understanding that the Camp Creek facility in Fulton County and Chairman Ken had agreed to provide the City of Fairburn with 2 million gallons per day, maximum.

Mr. Sears said he didn't think the contract specified the number of gallons per day.

Chairman Dunn stated when the Board looked at the contract Fairburn was making with the Town of Tyrone, his understanding of that was you were going to treat 2 million gallons per day for your City and 250,000 gallons was reserved for the Town of Tyrone. He asked if this was accurate.

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Attorney Sears said he would have to pull the agreements and read them again with Fulton County but he did not recall there being a limit in the Fulton County agreement.

Chairman Dunn said he had not seen the agreement recently, but we certainly had cause to look at it not long ago.

Commissioner Frady pointed out that it seemed like they would have. He said the plant they are sending it to must have a capacity. He said the plant Fairburn was sending it to must have a capacity, was granted by the EPD so it can't be anything.

Attorney Sears said that this was correct. He said at some point EPD could go in there and shut it off at whatever the capacity was set at.

Chairman Dunn asked how the City of Fairburn would supply the 9-acres if something were to be built on the property.

Mr. Sears said they would hook it up to the waterline already down there. Mr. Sears stated the City of Fairburn had its own water system and the City of Fairburn buys water.

Chairman Dunn clarified the City of Fairburn was not producing its own water and that it would be Atlanta water that would serve that site.

Mr. Sears said the City of Atlanta makes Fairburn buy the water at the point that it enters the Fairburn system, and at that point in time it becomes the City of Fairburn's water. He said the former well system has been capped off.

A representative from the City informed everyone present that back in 1955 or 1957, Fulton County had an improvement plan whereby Fulton took over all services and we started to purchase water then. He said the City had its own water system at one time.

Commissioner Frady commented he thought Fairburn might have had its own system but had to subsidize it with Fulton County.

Mr. Sears explained the City of Fairburn also had its own sewer treatment facilities.

Chairman Dunn asked if this 47-acre property be subdivided in Fairburn.

Mr. Sears said it could if they tore down the school, got it rezoned to residential, built a road down the center of the property.

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Chairman Dunn asked what the maximum number of lots was that could be put on the property.

Mr. Sears said that it depended on the typography and what all was there.

Chairman Dunn clarified that the City did have a C-4 zoning and multi-family zoning as well.

Mr. Sears pointed out that there was only one piece of land in the City of Fairburn that was currently zoned multi-family that is not developed multi-family. He said the Council has not rezoned any multi-family property except under the P-D.

Chairman Dunn said this was why all of the apartment houses we see were zoned that way along time ago.

Attorney Sears said the property was except for one tract, the one that is undeveloped at this point.

Chairman Dunn asked the Council members what they thought would be the appropriate zoning in the proposed area.

Mr. Sears said there had been several attempts in the last couple of years to down zone to higher densities, R-1 and R-2 zoned properties to R-3 and R-4 zoned properties and the Council has not down zoned those properties. He added right now the Council was in a mode to develop the land as it is currently zoned within the City of Fairburn and not to add any higher density which would be R-3 and R-4. He commented at this point in time the City has been considering for several months, a conservation overlay that would allow to set aside of additional open space/greenspace and allow clustering, therefore, allowing higher density within the area, but the total density would not be reduced. He said they were looking at this to try and be responsive to the developers who want smaller lots, but not at the expense of increasing density within the City.

Commissioner Frady asked if the overlay zone on Highway 74 covered this piece of property.

Chairman Dunn said he didn't believe so.

Commissioner VanLandingham asked if any of Fairburn's zoning ordinances ever been challenged in court with a lawsuit against the City of Fairburn.

Mr. Sears replied there was one suit.

Commissioner VanLandingham asked what the outcome of the suit was.

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Attorney Sears replied that the case was dismissed.

Commissioner VanLandingham asked if there was a case pending and Mr. Sears said not in the City of Fairburn.

Chairman Dunn asked if the City of Fairburn were to annex this piece of property, would it be your intention to do a development agreement with the owner to limit the use of the 9-acres.

Attorney Sears said that no thought had been given to doing that. He said if under the terms of any resolution adopted by this Commission to condition it on limiting it to the school, then certainly yes. He said the Council would give that the full weight.

Chairman Dunn confirmed that the City had not given any thought to limiting their use of the property.

Attorney Sears said no because the City did not limit their use of the current property except as O-I.

Chairman Dunn said if they were to go away we could have a 47-acre O-I development there with a huge number of offices.

Commissioner Pfeifer clarified the correct population number of 15,000 was anticipated in the next three or four years. He asked if they had a projection at build out at current density.

Ms. Falkner said the City was currently working on this.

Mr. Sears said he believed the number realistically would double in the next 5 years.

Chairman Dunn said the number we were given was triple.

A Councilman spoke from the audience and could not be heard to get a statement.

Attorney Sears said he felt the question was with regard to what build out might be. He said build out was estimated at 15,000 for the limits of the City of Fairburn. He said on this one particular project, the last projection he saw was 4,000 residents in it. He said if this one projects develops then that by itself will double the population, but the remaining properties to be developed would only be an additional 5,000. He continued that realistically we were looking more like 7 to 10 years to reach the 15,000, because if you look at the people who have this property, the people who developed Eagle's Landing, and a couple of those other developments looked at a 7 to 10 year build out on those particular tracts so he didn't think the City would triple in the next 4 to 5 years but it could double.

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Chairman Dunn said we would be getting that here as a DRI. He added it sounds like a huge project.

Mr. Sears said this has already been through the process before it was annexed.

Commissioner Pfeifer asked if the City required sewer on all residential.

Commissioner VanLandingham asked if any concessions were given by the City of Fairburn on the lawsuit that was dismissed.

Mr. Sears said the only challenge that the City had was filed on the refusal to rezone residential property to a commercial use and the representative of the developer in that case forgot to make a constitutional challenge on the record and so we filed a motion to have it dismissed and it was.

Commissioner Pfeifer clarified that the City currently had no plans to annex further properties in Fayette County. He asked if the City was currently considering any other annexations in Fulton County.

Attorney Sears replied there was a 3-acre tract and the City had heard of another one that was out on the northwest side.

Commissioner Pfeifer asked if Mr. Sears knew how many annexations Fairburn had done in the last 5 years.

Ms. Falkner responded she had to research this recently and she guessed there were approximately 10.

Commissioner Pfeifer asked what the property size was and no one knew but said they would get this information to the County. He also asked if the County could get the zoning density under City zoning and what it was before it was annexed as well. He asked in this period of time, had the City turned down any annexation requests and Ms. Falkner replied yes.

Commissioner Pfeifer asked what the annexation was.

Mr. Sears replied the one he could remember was mutual in the extent that it became obvious when it went through the Planning Commission and the recommendation to the Council was denial because the density was too high. He added that under the annexation dispute resolution agreement with Fulton County, there was some remediation issues on additional buffers that the City agreed with and was going to impose on the developer and, again, that one was more or less a mutual understanding that the City was not going to annex it without

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imposing what Fulton County saw as a remedial situation on that one. He commented this was too and it seemed like there was one in the last 5 years that came before the Council that he did not remember the circumstances on but the Council denied it. He said he would check his files for this information if the Board wanted him to do that.

Chairman Dunn asked Attorneys Davenport and Sears if the City of Fairburn decided to annex this piece of property, would this not trigger the County having to enter into a service delivery strategy under HB 489.

Attorney Sears replied it would.

Chairman Dunn said this would be something large that the County would have to deal with.

Chairman Dunn asked if there were any other questions.

Commissioner Frady asked Mayor Hannah how long she had known Mrs. Box.

Mayor Hannah said she had known Mrs. Box for the past 8 years. She said she did not know her personally.

Chairman Dunn stated the Board had asked a lot of questions and he hoped they had all the information needed. He said it was incumbent upon this Board now to analyze everything we have heard and to try and make a decision. He added just to reenforce that within 30 days if the City had not heard from the County, it should proceed as it desired. He said if the Commissioners did not agree with this then the Board would have 30 days to notify the City with a Resolution. He said after that the City would determine how to proceed from there.

Attorney Sears thanked all Board members for letting the City come before them with this request. He said that it would be interesting to see how often or if this had come up in the last 2 years since this particular statute was changed. He said he knew this was their second appearance before the Board. He said the last one was somewhat brief and was one that the City certainly decided not to pursue under the circumstances. He said the City appreciated the Commissioners' valuable time and for letting them represent their constituents.

Chairman Dunn thanked everyone from the City for coming to this meeting. He said he wished to reiterate that the depth of questioning was not unusual. He said the developers go through this when they come in here and we jealously guard every inch of Fayette County and that was why this was the best County on the planet. He said the Board tried not to let anything happen to this wonderful County and it had to do this on behalf of its taxpayers and the County's future.

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Commissioner Frady commented he knew the City had some good people on its Council and he would like to ask Council members to seriously think of all of the complications this would bring into Fayette County and the implications of things that would be a nuisance to us. He said he could not see that there was going to be much gain if this property was annexed into Fairburn because there is a status quo there as far as that goes in his opinion on services and everything else.

There being no further business to come before the Board, Chairman Dunn adjourned the meeting at 11:00 p.m.

Karen Morley, Chief Deputy Clerk

Gregory M. Dunn, Chairman

The foregoing minutes were duly approved at an official meeting of the Board of Commissioners of Fayette County, Georgia, held on the 13th day of June, 2002.

Karen Morley, Chief Deputy Clerk

Prepared by: Linda Rizzotto