

The Board of Commissioners of Fayette County, Georgia met in Official Session on September 5, 2001, at 3:35 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 Chair
 Herb Frady
 Peter Pfeifer
 A.G. VanLandingham

STAFF MEMBERS PRESENT: Chris W. Cofty, County Administrator
 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.

OLD BUSINESS:

PEACHTREE CITY ANNEXATION: Chairman Dunn said the first item on the agenda was a response to Peachtree City in reference to the annexation that we discussed at our last meeting. He stated the reason this issue was moved forward was because Peachtree City had a meeting scheduled for tomorrow evening, to make their final decision on what they want to do. He said whatever response this Board was going to give them needed to be in there ahead of time so they could make their decision.

Chairman Dunn clarified that Attorney Davenport was going to be here to discuss this issue, however, he was handling a personal matter and would not be here.

Chairman Dunn called attention to letters which were to Mr. Lenox, Mr. Lenox's response to the county and our proposed response to Mr. Lenox. He said the only thing he was asking tonight was that we approve sending the response to the Mayor. He said basically the letter states that the Board did not object to what Peachtree City wanted to do now that Mr. Lenox has provided the information that he has. He added we now need to take the next step which would be to jointly have an Annexation Agreement with the developer, with the City of Peachtree City and the county as is required by the Annexation Dispute Resolution.

On motion made by Chairman Dunn to approve sending the letter to Mr. Lenox, dated September 5, 2001, which was our response to his letter of August 27, 2001.

Commissioner Frady clarified that Commissioner Dunn was referring to the letter of September 5, 2001. He commented he thought the motion was made to notify them that we approved that annexation was rather clear. He said we did not object to the annexation and the only thing we requested was that they not use that twenty acres for a school or greenspace.

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He said personally, he didn't feel that this response was one we needed to send. He said he felt the response to Mayor Lenox was not adequate concerning the facts, that we just approved it and the response that they received went a lot deeper than what the motion meant. He said the only response to the motion he guessed was that the county was also concerned that the parcel designated for a school site could be used for homes in the event the school was not built on it. He said that was just a request so he didn't know what we needed to do. He asked if we needed to send them some response and start negotiating through this matter, or do we just tell them that we don't disapprove of the annexation. He asked what would happen then?

Chairman Dunn remarked that the wording of Commissioner Frady's motion at the last meeting was sort of prohibitive. He said if we approve the annexation request, we can't object to anything or we can't even proceed, right? He said we have to make an objection to have the process go forward.

Commissioner Frady stated there was no objection meant with his motion.

Chairman Dunn said he could see by the wording that we have a problem but the objection that we were talking about was that we didn't tell them ever to build more than 350 homes on the combined properties. He added we had a concern that if we didn't interject that if the school didn't build a school on that property in the future, the developer may build more homes.

Commissioner Frady remarked that Zoning Director Kathy Zeitler, stated that Wieland showed the entire subdivision, the city and county portion when they went through the rezoning for the city portion. He said further Ms. Zeitler commented that the city conditioned Wieland to a total of 350 units for the entire subdivision, including the county's portion so that was fairly clear to him too. He said they were operating on the assumption that it would be in the city and it would still only be 350 units. He stated he couldn't question them on that because he thought they would do that.

Chairman Dunn said at that point in time when they apparently made some sort of an agreement with the developer, that was long before the city came to the county asking for a rezoning of property. He stated at that point, the property was not in the city and was not being contemplated for annexation, so whatever agreement the city made with the developer back then, it had nothing to do with the county.

Commissioner Frady said that Kathy Zeitler stated that the City Council put a condition on the zoning property that it be limited to a total of 350 houses in the subdivision, and this was part of the subdivision.

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Chairman Dunn remarked the county's 82 acres was not part of that rezoning at the time. He said further that they had come to the county and rezoned it.

Commissioner Frady said according to Kathy Zeitler, the county property was considered as part of that when the city voted on it, making it 350 units.

Chairman Dunn said the only thing that the Commissioners had before them was the intent of the developer. He said when the city forwarded information to the county it did not take a position on it at all, the city just said in accordance with the process we're forwarding this request to you for annexation. He said the city took no stand, and they did not say they were going to hold the developer to any certain number and all we had was the developers intent. He said he thought it was the wish of this Board to hold them to that number of houses and to make sure in the future, that if a school was not built there, that no homes would be built there. He commented we sent the city a letter basically saying that and then the city sent a letter to the county saying there would not be more than 350 houses under any circumstances.

Commissioner VanLandingham stated someone from our Planning and Zoning Departments talked with someone in Peachtree City because they have a concept plan, and he understood that it was only a concept plan, but they shifted some of the units out of the city on to the county portion of land but they still came up with a 350 unit subdivision. He added this was what we were concerned about to begin with, that the total number would be 350 homes.

Commissioner Pfeifer said he understood the Board's objection to be the 20-acre school site, if you built 350 homes on the property and left the 20-acre site and later came back and built more houses on the 20-acres, that we would be over 350 homes.

Commissioner VanLandingham said that was our only objective.

Chairman Dunn said this was the only issue that he was aware of too, but we had to put the language in there, that we object based on that, and the objection we forwarded to them was just that we did not want more than 350 houses, whether or not the school was ever built there. He said when he looked at the motion of the previous meeting, it said, we did not object, so we probably should not have sent them anything.

Commissioner Frady said he thought that was exactly right.

Chairman Dunn said then how do we get the information concerning the school and to try and limit the number of homes.

Commissioner Frady said he felt the city's intent was to only put a total of 350 homes in that subdivision. He mentioned he could not go beyond that and say that they were not being

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faithful and he was not going to send them a letter even insinuating that. He said there was nothing that he could come up with where this Board put any objections on that annexation request and that was the intent of his motion. He said you can always make a request that you would like to see a specific thing done and this would not be a condition.

Attorney McNally stated he felt there had been some confusion as to the annexation procedure in both the city and the county up to this last round of annexation that had come in. He said in actuality the only path the county had to take when this notice was sent to us was to either agree to the annexation, or to object to those portions in the annexation which the county did not agree with. He said to express concerns was exactly that, you were expressing concerns that did not have any weight as far as the annexing city was concerned. He remarked that what he saw evolving here was a little bit of understanding on everybody's part as to exactly how this procedure should go. He said the ideal thing would require that the city send the county every bit of information they had when they were telling the county of an annexation. He said this was so that the Commissioners could make a clear decision whether or not this was good and for the benefit of the county and the city to annex the property. He said in this case the Board's choices were to either accept the annexation on the information it received or to object so that the city would provide the county with all of the information that it needed to make this decision.

Mr. McNally said as far as the decision our Board arrived at, that was up to the Commissioners, but the agreed to procedure needed to be followed and we need to insist on the cities following it as well as us in our response.

Chairman Dunn said the city initiated the process by not following it but as he saw the previous motion Mr. Frady made where he said we do not object then we cannot go any further. He asked the attorney if this was correct.

Vice Chair Wells said we could go further with a request that we would like to see more information but that was it.

Commissioner Pfeifer said the way he saw this was the Board approved it with an objection.

Vice Chair Wells said we approved it but with a concern.

Commissioner Frady said the intent of the motion was that we approve this but we were requesting they use that property for a school or a greenspace. He added this was what he intended the motion to be.

Chairman Dunn said what we found out when we were trying to impose the will of the Board was you must put this in the form of an objection and the objection can only be based on the intensity of the land use or a change in land use. He said we took it and tried to put it in those

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terms to try and get it before the city. He added the city responded back to the county in no uncertain terms saying that there will be no more than 350 houses on that entire piece of property. He said in subsequent discussions he has had with the Mayor, he said they would make this a part of their Annexation Agreement with Mr. Wieland. He stated he mentioned to the Mayor that if this process went as it should then all three of us would be a part of that agreement. He said at this point it might be appropriate for us to just withdraw our objection since we know what the city was going to do now because we did not follow Commissioner Frady's motion precisely.

Commissioner Frady stated since the minutes had not been adopted yet, we could change the motion and he would ask that the word request be put in there, that to approve the annexation request and further request that the city either develop the twenty acres..."

Chairman Dunn said that this would be two separate actions and it would be outside the resolution process if we just send them a letter of concern or if we send them a request. He commented that if we did not send them an objection it would not trigger any action on their part.

Vice Chair Wells said we weren't asking them for any action, we were asking them for consideration.

Chairman Dunn said we were asking them to commit that they would not build more than 350 houses. After further discussion Chairman Dunn said he would withdraw his motion and notify them that we have withdrawn our objection.

Attorney McNally said he thought this was an appropriate time that the Board understood that this procedure was very strict in its terms. He said if the Board had concerns that it truly wanted addressed, the only choice it had was to object because this would then trigger the mechanism where the county and the city could reach agreement. He said if we were given further assurances we could withdraw our objection or the city could determine not to annex because of the county's concerns or there was a further option to mediate if need be. He said we had to express the fact that we object if we want to put the city and ourselves in a position where we arrive at what we would like done there. He stated this was the only way according to the procedure that we have of arriving at where we want to be.

Commissioner Frady said the Board did okay on the other two annexation requests because the Board did mention its concerns and with Peachtree City we didn't.

Chairman Dunn said this one looked like we worked awfully hard to put it in the form of an objection but Mr. Frady's motion said we approve the city's request and now we have no objection.

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Commissioner Frady said he asked Mr. VanLandingham about his "no vote" on this and he explained that he felt like we were putting something in the letter that had no meaning and he was exactly right.

Chairman Dunn stated that in the future agreements that the cities make with the developers that we don't know anything about we cannot deal with here. He said we can only deal with the packets that are put in front of us. He said further that if we have concerns then we better express them as objections until that information was provided.

Commissioner VanLandingham said he felt like this was exactly what the process was all about. He commented if there was something that came up between the county and a developer or the city and the developer, if we don't understand it, we object and then we find out. He remarked that we have an avenue of educating the cities and the county combined at the Association meeting. He said this should be reviewed before everyone so we understand it and follow procedure. He said the procedure was not hard to follow if you knew what you were doing. He said this was something that needed to be put on the Association's agenda to clear this up because there seemed to be some misunderstanding on their part too.

Chairman Dunn said he felt this was caused by fact that the procedure had been in place for about a year and a half and this was the first time it had been used by either one of us. He said his motion died for lack of a second.

Commissioner Frady asked if it would be better since the previous minutes had not been adopted yet to change the motion. He said he would be happy to do this if this was what the Board felt this was necessary.

Chairman Dunn remarked that the county did know the intent of the city now very clearly by what they sent back to us and said he would change his motion.

On motion made by Chairman Dunn to notify the Mayor immediately after this meeting that the county had withdrawn its objection so that they could proceed tomorrow with their meeting and do whatever they had to do.

Vice Chair Wells seconded the motion for discussion.

Commissioner VanLandingham said personally he would mention the fact that we received their letter and consider the matter closed and they could do their annexation.

Attorney McNally said he believed the letter the county received from the city clarified the point that we thought the Board of Commissioners had, and that was that you wanted to limit the development to 350 units including the annexed portion and that was clearly what the city has

said in their letter. He said he didn't think they were clear before, at least nothing that he saw had that clearly spelled out.

Chairman Dunn said he wanted to stop the process and asked what was the best way to do this because right now if the process was in place then we have to have an agreement with them.

Commissioner Frady said that Mr. Dunn could write a letter to the city and advise that it was the intention of this Board at its last meeting was to have no objection to their annexation.

The motion carried 5-0.

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

FOWLER HOUSE REPAIRS: Ratification of award of Bid #319 for the Fowler House repairs to Windows America in the amount of \$42,680.

MCCURRY PARK FOOTBALL COMPLEX CONCRETE WORK: Ratification of approval for Barrow's Masonry, Inc. to do the concrete work on the McCurry Park Football Complex in the amount of \$6,350.

ROADS ACCEPTED INTO COUNTY'S ROAD SYSTEM: Approve request from the Engineering Department to accept the following roads into our road system, subject to the terms and conditions of the maintenance bond: Imperial Way, St. Clair Court and Holly Amber Lane.

PROVIDENCE SUBDIVISION ACCEPTED AS A STREET LIGHT DISTRICT: Approve request from the Engineering Department to accept Providence Subdivision as a county streetlighting district. The petition represents 100% participation in favor of the street lighting.

AMERICAN LEGION POST 105, SALUTE TO VETERANS: Approval of request by American Legion Post 105 to use the Heritage Fountain and Administrative Complex parking lot to hold a Salute to Veterans, Yesterday, Today and Tomorrow from 9:00 a.m. to 4:00 p.m. on Saturday, November 10, 2001.

ELECTIONS, WOOLSEY: Approve request to conduct the Town of Woolsey's Elections on November 6, 2001 with the Town of Woolsey responsible for their cost.

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ELECTIONS, FAYETTEVILLE: Approve request to conduct the City of Fayetteville's Elections on November 6, 2001 with the City responsible for their cost.

APPROVAL OF MINUTES: Approval of minutes for Board of Commissioners' Special Called Budget Workshop held on June 13, 2001 and Commissioners' meeting held on August 23, 2001.

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 requested Executive Session to discuss six legal items of on going potential litigation and one item of real estate acquisition.

Commissioner Frady: Commissioner Frady stated he had no knowledge of the letter being sent out and his name was on the stationery. He said he would like to reiterate the fact that years ago he requested this same thing be done and he did not want any more letters sent out with his name on the stationery unless he knew about it beforehand.

EXECUTIVE SESSION: *On motion made by Vice Chair Wells to adjourn to Executive Session to discuss 6 legal items and one item of real estate acquisition after a five-minute recess.*

EXECUTIVE SESSION:

LEGAL:

County Attorney Bill McNally discussed options concerning a legal matter.

On motion made by Commissioner VanLandingham, seconded by Vice Chair Wells to proceed in this matter. The motion carried 4-1 with Commissioner Frady opposing the motion.

LEGAL:

County Attorney Bill McNally briefed the Board concerning a legal matter.

On motion made by Commissioner VanLandingham, seconded by Commissioner Frady to accept the proposal as stated. The motion carried 3-2 with Commissioners Dunn and Wells opposing.

LEGAL:

County Attorney Bill McNally briefed the Board concerning a legal matter.

No action was taken.

LEGAL:

County Attorney Bill McNally briefed the Board concerning a legal matter.

On motion made by Vice Chair Wells, seconded by Commissioner Pfeifer to authorize the County Attorney to proceed with this matter. The motion carried 5-0.

LEGAL:

County Attorney Bill McNally discussed a legal matter with the Commissioners and no action was taken.

LEGAL:

County Attorney Bill McNally briefed the Board concerning a legal matter.

On motion made by Commissioner VanLandingham, seconded by Vice Chair Wells to authorize the County Attorney to proceed in this matter. The motion carried 4-1 with Commissioner Frady opposing.

REAL ESTATE ACQUISITION:

County Attorney Bill McNally briefed the Board concerning a matter of real estate acquisition.

On motion made by Commissioner Frady, seconded by Vice Chair Wells to authorize the County Attorney to proceed with negotiations in this matter. The motion carried 5-0.

AFFIDAVIT:

On motion made by Vice Chair Wells, seconded by Commissioner VanLandingham to authorize the Chairman to sign the Executive Session Affidavit affirming that six legal matters and one item of real estate acquisition were discussed. The motion carried 5-0. A copy of the Executive Session Affidavit, identified as "Attachment No. 1", follows these minutes and is made a part of the official record.

There being no further business to come before the Board, Chairman Dunn adjourned the meeting at 5:40 p.m.

Linda Rizzotto, Chief Deputy Clerk

Gregory M. Dunn, Chairman

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The foregoing minutes were duly approved at an official meeting of the Board of Commissioners of Fayette County, Georgia, held on the 27th day of September, 2001.

Linda Rizzotto, Chief Deputy Clerk