

The Board of Commissioners of Fayette County, Georgia met in Official Session on Thursday, January 22, 2004, at 7:00 p.m. in the public meeting room of the Fayette County Administrative Complex, 140 Stonewall Avenue, Fayetteville, Georgia.

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

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

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

Commissioner Wells asked for the Board's consideration to amend tonight's Agenda to add the consideration of the Agreement with Design Previews, Inc. d/b/a 11 Fingers for maintenance and redesign of the county's web site to go under Old Business.

On motion made by Commissioner Wells, seconded by Commissioner Frady to add old business to tonight's agenda regarding consideration of agreement with Design Previews, Inc. d/b/a 11 Fingers for maintenance and redesign of the county's web site, discussion followed.

Chairman Dunn remarked that he did not support the agenda being amended tonight for this item to be considered. He said for the last month he had tried to get additional information that he felt he needed in order to support this. He said he had not yet been able to get that information. He said he disagreed with this item going on tonight's agenda. He said if this item did go on tonight's agenda, he would not be able to support it.

The motion carried 4-1 with Chairman Dunn opposing the motion.

**REZONING PETITIONS:**

Commissioner Wells remarked at this point in the agenda the Board would consider requests for the rezoning of property in our county. She said the policy required at least two public hearings — the first before the Planning Commission and the second before the County Commissioners. She said at this hearing the Board would listen to the concerns of everyone, whether in favor or opposition to the rezoning petition. She pointed out when a rezoning petition was called, the petitioner or representative for the petitioner would be allowed 15 minutes in which to present the details of the request, followed by anyone who

wanted to voice support for the request. She stated that the Chairman would then allow all those individuals who were opposed to the rezoning to stand for a moment to display their opposition. She said the Chairman would then ask those individuals who wished to come to the podium to speak to remain standing so the Board and staff could get an idea of how to allocate its time. She said the Board would allow up to 3 minutes for each speaker. She said when the persons speaking in opposition had finished, the petitioner would be given an opportunity to rebut any of the points raised. She remarked in fairness to all parties, the petitioner would be entitled to equal time to address the Commissioners as all those in opposition.

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

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

**PETITION NO. 1118-04:**

Acting Zoning Administrator Chris Venice read Petition No. 1118-04 Harry L. and Evelyn P. McNeil, Owners, and Randy Boyd, Agent, request to rezone 3.00 acres from A-R to R-80 to develop one single-family dwelling lot. She said this property was located in Land Lot 3 of the 7<sup>th</sup> District and fronted on Ebenezer Church Road. She said the Planning Commission recommended denial 4-1 and Staff recommended denial.

Larry McNeil, 486 Ebenezer Church Road, Fayetteville said he was the petitioner in this rezoning matter. He said he wanted to explain what had been requested and what actually took place. He remarked that approximately six months ago one of his neighbors came to him and ask him if he would sell two acres off the back of his five acre lot. He said the neighbor has horses and cattle and needed more pasture. He said he had not solicited the sale of this property. He said he told the neighbor if he could get a contract based on a rezoning then he would be interested. He said the parcel was approximately a quarter of a mile deep and 250 feet wide. He said he began the process by going to the Fayette County Zoning Commission Office where he felt he had just wasted his time. He said he proceeded in collecting all of the paperwork that was necessary and discovered that this was more of a challenge than an individual citizen could accomplish on his own and he

**January 22, 2004**

**Page 3**

therefore employed Randy Boyd to assist him in this endeavor. He said he had chosen to let Mr. Boyd speak at the Planning Commission. He said his neighbor only wanted two acres of his land for more horses and cows. He said it was currently two acres of woods. He said to one side of his property it was zoned R-70 and his neighbor had rezoned his property so that his mom and dad could build a house on his five acres. He said in this case he was not asking to build a house, put in a septic tank or anything. He said he was just asking for permission for the neighbor to purchase two acres of land to fence in their horses. He said at the Planning Commission the attitude that he felt had come from the other side of the table was that there was an adversarial position here in Fayette County. He said nothing was going to change. He said even the documents that the Board of Education had sent stated that it was going to cost an additional \$6,000 per year for the extra student. He said there was not going to be an extra student, no house and there was nothing. He said this was just two acres of land for horses and cows. He said Mr. Boyd had suggested that he withdraw the petition. He said he did not really care if this petition was withdrawn, approved or not. He said he was trying to do a favor for a neighbor. He said he had invested approximately \$1,000 between Fayette County, attorneys and Mr. Boyd and he was very disappointed in the overall process of how this works. He said if the Board wanted to consider this request, that was fine and if they did not want to consider it that was fine too.

Chairman Dunn said the Board would consider this petition.

Mr. McNeil asked if everyone had actually read all of the paper work in this rezoning request and Chairman Dunn replied yes absolutely.

Mr. McNeil asked why the Superintendent of Schools thought there was an additional student involved.

Chairman Dunn said every member of the Board of Commissioners had read this request and understood that there was not going to be another student.

Chairman Dunn asked if anyone wished to speak in favor of this petition. Hearing none, he asked if anyone wished to speak in opposition. He asked those people to stand and the Chairman counted ten people.

Mike McClellan, 118 Nelms Road, Fayetteville said his home was located approximately one mile from the subject property. He said he would like to argue that there was no compelling reason for this rezoning. He said this was partly because of the petitioner's own comments that he did not care whether or not this was approved. He said regardless of petitioner's comment that this would result in an additional house, it would still set a precedent in the area that he would not like to see. He questioned whether this rezoning proposal was in conformity with the Land Use Plan. He said this was an area where five

acre parcels were predominant. He said if this property were rezoned, it would result in a landlocked parcel without any further action taking place. He said he did not see where that was tied in with this where that would automatically become a piece of the neighboring parcel. He said this would end up with two zonings on the same lot. He said for those reasons, he respectfully requested that this be denied.

John Fredericks, 135 Hillred Drive, Fayetteville said he was present to represent Al and Gina Agnone, 165 Hillred Drive, Fayetteville who could not be present tonight. He said Mr. and Mrs. Agnone were also opposed to this rezoning. He said the reason they were opposed was because this rezoning would set a precedent in the area.

Chairman Dunn stated that Mr. McNeil had a chance for any rebuttal at this time.

Mr. McNeil remarked that he was just asking to add two acres on to his neighbor's lot so that the neighbor could have cows and horses. He said his next door neighbor was already zoned R-70. He said it would not be landlocked because he had a contract based on the zoning that it would be sold to his neighbor Mrs. Long.

Chairman Dunn pointed out that the contiguous property was A-R and Mr. McNeil was asking for the two acre parcel to be R-80. He asked Mr. McNeil if he had any comments in rebuttal to the comments that were made.

Mr. McNeil replied no. He said the people either agreed or they did not agree. He said this was merely adding two acres of land on to his neighbor's property and putting a fence around it.

On motion made by Commissioner VanLandingham, seconded by Commissioner Wells to deny Petition No. 1118-04, discussion followed.

Commissioner VanLandingham said the reason he was recommending denial was because he could see some legal problems coming out of this from the aspect that the Board would be creating a land locked lot He said by rezoning this parcel to R-70 did not preclude what would happen in the future on this lot. He said this request would create two zonings on one piece of property.

Commissioner Wells said she would like to apologize for the difficulty that Mr. McNeil had in this process. She said she did defend the county staff and the fact that they protect the integrity of Fayette County and its zoning. She said she would have to vote against this request because the preponderance of this particular piece of property was A-R. He said if the Board did approve this request, it would be a "donut hole" in the middle of A-R zoning. She felt the precedent that this would set would be a domino effect. She said this

**January 22, 2004**

**Page 5**

would not be consistent with the lot size, the zoning district and would result in spot zoning.

Commissioner Pfeifer said he would also support the motion for denial essentially for the same reasons that Commissioner Wells had just stated. He felt this would create an island of spot zoning. He said the next person might come along and want to put a house on this property. He said technically the person would be correct. He said there appeared no reason to him for this rezoning to be done. He said he could not support it.

Commissioner Frady felt the legality of this was that the Board would be land locking a lot. He said there would be two zonings on one piece of property.

Chairman Dunn said he was going to support the motion for denial as well. He said he felt as strongly as the rest of the Board did about maintaining zoning and land uses in this county. He said the people living on Hillred Drive were in a subdivision. He said if the Board approved what petitioner was requesting, then the plat for this subdivision would have to be legally changed. He said the people living in the subdivision now did so assuming that the subdivision would be in tact while they lived there. He said this could set a precedence for the county. He said this Board tries to maintain approved plated subdivisions as well as it could unless there was some compelling reason not to do it. He said in this case he did not see a compelling reason. He said he understood what the petitioner had tried to do and he hoped that did not stop him from trying to help his neighbors in the future. He said he happened to live a little less than a mile from this property. He said he had a five acre piece of property that he had purchased recently. He said he did not want that area to be chopped up by this Board anymore than anyone else would want their property to be chopped up. He said people purchase property with expectations and he felt the Board needed to keep these in tact for other property owners. He said this was an unusual request and in some other place it probably would have been approved but in this place where the entire area was basically A-R with large lot size already for the existing residents, this Board could not approve it.

The motion carried 5-0. A copy of the Ordinance and Resolution denying Petition No. 1118-04, follows these minutes and is made an official part hereof. A copy of the Ordinance and Resolution denying Petition No. 1118-04, identified as "Attachment No. 1", follow these minutes and are made an official part hereof.

**PETITION NO. 1119-04:**

Acting Zoning Administrator Chris Venice read Petition No. 1119-04 Alton Edsel Martin and Geneva Martin, Owners, and Randy Boyd, Agent, request to rezone 0.594 acres from A-R to C-H to allow C-H uses. She said this property was located in Land Lot 39 of the 7<sup>th</sup> District and fronted on S.R. 54 West and Huiet Drive. She said the Planning Commission recommended approval with one recommended condition.

Randy Boyd said he was the agent in this rezoning request and represented Alton Edsel Martin and Geneva Martin. He said this was a tract of land that applicants had owned since 1972 and was located at the Southeast corner of State Highway 54 and Huiet Drive. He said this was a non-conforming A-R lot of record. He said the property consisted of 0.594 acres and somewhat chopped up with right-of-ways and this was all that was left. He said the property located to the North on the other side of S.R. 54 was zoned C-H. He said the property located to the East was zoned C-H as well as the property located to the South was zoned C-H. He said this was a difficult piece of property to try and get anything to stand alone. He said once the building lines are drawn there was not a whole lot left. He said they had measured a lot of different buildings including Brusters and so forth to try and get a building, parking, septic, detention and so forth and it would be tough. He said it was their intention that this would compliment the C-H South of the property and this might be an additional entrance to the property. He said they did not have a user at this point but he hoped that this property could be rezoned to be in line with the property to the South so it might possibly be used as a secondary entrance. He said the C-H property to the South did not have direct access to S.R. 54 and that would be off Huiet Drive. He asked for the Board's consideration in rezoning this property C-H which was in line with the East, South, and the North.

Chairman Dunn asked if anyone wished to speak in favor of the petition. Hearing none, he asked if anyone wished to speak in opposition. He asked for the Board's pleasure in this matter.

Commissioner Frady said he had been watching this property for quite a while. He recalled it was over a one acre lot at one time. He said the highway had taken some of it and now it actually extended into the right-of-way of the prescriptive easement of Huiet Drive. He said the landowner had spoken to him about this many years ago. He said he would like to make a motion to approve this request.

On motion made by Commissioner Frady, seconded by Commissioner Wells to approve Petition No. 1119-04 with one recommended condition, discussion followed.

Commissioner VanLandingham said he had looked at this property. He said he did not feel the property was A-R useable at all. He felt this would be a better benefit to rezone this C-H with one condition.

Commissioner Pfeifer said he had looked at this property and he felt this made perfect sense.

Chairman Dunn pointed out that the condition would be that the entrance would come from S.R. 54 rather than on a residential street which was Huiet Drive.

Mr. Boyd interjected that petitioner agreed with the condition.

Chairman Dunn said he had looked at the property earlier in the day. He said he usually looked to try and not change A-R to commercial but in this case there was no potential use for this individual with A-R property. He said the land surrounding the property had changed and this was a very small lot. He felt this request was appropriate and he would support the motion. He said he hoped that if someone did develop the property that they could work out something to use the same entrance as the other business so that there would not be two entrances so close together.

The motion carried 5-0. A copy of the recommended condition, staff's analysis and investigation, identified as "Attachment No. 2", follow these minutes and are made an official part hereof. A copy of the Ordinance and Resolution approving Petition No. 1119-04, identified as "Attachment No. 3", follow these minutes and are made an official part hereof.

**MASTER GARDENER/COMPOSTER DEMONSTRATION:**

Senior Planner Pete Frisina said he was appearing before the Board on behalf of himself and the Director of the Fayette County Extension Service Sheldon Hammond. He asked for the Board's consideration to approve a Master Gardener/Composter demonstration and compost bin distribution event in the County Administrative Complex parking lot on March 27, 2004.

Mr. Frisina further remarked that the State of Georgia had legislation which addressed solid waste and as a result of this legislation it was mandated that each county and city have a solid waste plan. He said Fayette County did have a solid waste plan approved by the State. He said the cities had also entered into this plan with the county. He said a short term work program had just been updated late last year. He said the main portion of the legislation that the county had to deal with was the reduction of solid waste going into landfills. He said the target was to reduce this by 25%. He said public education was one of the elements that the county had to address as far as the reduction of solid waste. He said this was the type of event that would aid the county to meet its goals for public education, peaks the interest of the public in this effort and the opportunity to sell these bins would generate a greater interest in coming to the demonstration. He said Norseman Plastics Corporation specialized in these events. He said they partner with local governments in trying to achieve these kinds of solid waste reduction goals. He said in the materials they had partnered with some 63 cities and counties across the United States in these same type of events. He said recently they had done one in Fulton, Oconee and Floyd Counties. He said it was at that time that Norseman began contacting surrounding governments. He said these bins would sell at this event for \$36 and normally they would retail for \$80. He stated that they also include booklets and information on how to

**January 22, 2004**

**Page 8**

compost. He said the tie in with the Master Gardeners/Composters was that composting produced a soil supplement that was beneficial for gardening and horticulture and people interested in this will come and want to purchase a composting bin.

Mr. Frisina further remarked that the type of composting involves household waste, vegetable scraps and fruit scraps mixed with leaf debris and grass from yards. He said the master gardeners would hold plant clinics, gardening and composting seminars and also the Extension Office would be open during that time on a Saturday to take in soil samples and also give out information and help with the public education. He said they were trying to coordinate this to have two locations with one here at the Administrative Complex and simultaneously another event in Peachtree City's parking lot. He said the City of Peachtree City would have to approve the event for their location. He said Fayette County and Peachtree City would be the sponsors of this event. He said the target date was March 27, 2004. He said Norseman would handle all of the promotions, newspaper ads and inserts for the Fayette County water bills. He said they were also asking for permission to include this information in citizens' water bills. He said the master gardeners would participate as volunteers in unloading and moving the bins. He said Norseman would handle all of the sales and would be responsible for all of the money that was collected. He noted that there was no obligation. He said this was just an event to try and fulfill some of the county's educational goals from the solid waste plan and promote composting as a reduction.

Commissioner Wells felt this was a great idea and she said she was in favor of this.

On motion made by Commissioner Wells, seconded by Commissioner Pfeifer to approve the Master Gardener/Composter demonstration and compost bin distribution event to be held in the County Administrative Complex parking lot on March 27, 2004 and also to allow this information to be inserted in citizens' water bills by the Fayette County Water System, discussion followed.

Commissioner Pfeifer said he also felt this was a terrific program. He said in the past he had been a big supporter of reducing solid waste. He commented that he had founded the Adopt A Mile Program in the county and also was an executive director of Beautiful Fayette. He said he was a good Republican and did not believe in forcing people to do things that may or may not be good for them. He said this was something that was entirely voluntary, a great idea and he felt it was wonderful. He said he would be at this demonstration and hoped to purchase one of these bins.

Mr. Frisina clarified that they were also asking that this information be included in citizens' water bills and Commissioner Pfeifer said that was part of the motion.

Chairman Dunn said he also agreed with this education program 100%. He said he would also like to say publicly that he did not believe anyone on this Board endorses Norseman's equipment as opposed to anyone's equipment used for composting. He said Norseman was the company who wanted to demonstrate it and that was fine, but this Board in no way was endorsing this product. He said this Board was only endorsing the idea and the education.

The motion carried 5-0. A copy of the memorandum and information, identified as "Attachment No. 4", follows these minutes and is made an official part hereof.

**AGREEMENT WITH DESIGN PREVIEWS, INC. d/b/a 11 FINGERS:**

Finance Director Mark Pullium said staff was presenting an economic proposal to the Board of Commissioners for consideration and action. He said this proposal when legislated would either allow staff to proceed with the proposal or if it was the wisdom of this governing body the proposal would end for lack of support. He said he supported this recommendation on the following basis. He said economically the proposal would result in savings of \$18,124 during the remainder of fiscal year 2004. He said further that the County would save at least \$42,192 in fiscal year 2005. He said these funds could be reprogrammed for other necessary items to the benefit of county citizens. He said the web page would be updated on a contemporaneous basis and cost \$6,280 or less during fiscal year 2004. He said in addition the web page would be redesigned to achieve easier navigation by visitors to the county's web site and enrich the user's experience once the redesign was completed at a cost of \$7,500. He said there were three actions needed in order for staff to proceed. He said these were (1) authorization to contract with Design Previews, Inc. d/b/a 11 Fingers retroactively from November 1, 2003 through June 30, 2004; (2) authorization to contract with Design Previews, Inc. d/b/a 11 Fingers to redesign the County's web site; and (3) permission to transfer \$18,124 from the information Systems Department back to the County's contingency fund in FY'2004.

On motion made by Commissioner Wells, seconded by Commissioner Frady to approve the Agreement of design Previews, Inc. d/b/a 11 Fingers for maintenance and redesign of the County's web site, discussion followed.

Commissioner Frady clarified that Mark Pullium the County's Finance Director was supporting this motion and Mr. Pullium replied that was correct.

Chairman Dunn remarked that as he had stated before he did not agree with doing this tonight. He said that was not to say that it would never be the appropriate action. He said he had been trying to get information and he had not been able to get it. He said he has had several meetings and not been able to get the information that he had asked for repeatedly. He said he supported the action to contract out this service. He said the county could perform this service cheaper for taxpayers by doing it with a contractor than

having it done in house. He said he also wanted to make a comment that this had nothing to do with the owner of this company or the company itself. He said he had gone to the web site and had checked on a lot of the web sites that this company currently have designed and were managing. He said their work was fine. He said they do good work. He said their sites were pretty, user friendly and easy to navigate. He said this had nothing to do with their competence.

Chairman Dunn further remarked that he had discussed this with some other people and some other people felt that the county could get this done cheaper than this. He said he did not know if the county could or not but this was the kind of information that he had been asking for and unable to get. He said he was not going to be able to support this but he supported the idea of contracting it out but he did not have the information that would make him comfortable that the county was getting this at the right price. He said he did not know if the county was not either but he did not know if the county was. He said all he had were statements from other people saying that this was an expensive redesign of an existing web site. He said he could not support it at this point in time. He said he would continue to try and find out this information on his own from this point on.

Commissioner Frady said he felt comfortable with this because county staff did look around and does search out companies. He felt the price for this fit the action. He said he did not have a problem with this.

Chairman Dunn said this project was not put out for bids. He remarked that it was done internally. He said there was no legal requirement that the county must but normally the county would.

Commissioner Frady remarked that he had not said that they did. He said staff had searched around.

Chairman Dunn remarked that staff had only made four phone calls. He said there were at least 100 people within a short driving distance that could have been called. He said he did not believe that the Board had the proper information and he could not support it.

The motion carried 3-2 with Chairman Dunn and Commissioner Pfeifer opposing the motion. A copy of the Agreement, identified as "Attachment No. 5", follows these minutes and is made an official part hereof.

**CONSENT AGENDA:** On motion made by Commissioner VanLandingham, seconded by Commissioner Frady to approve the consent agenda as presented. The motion carried 5-0.

**E-911 COMMUNICATIONS:** Approval of request from the Director of 911 Communications Cheryl Rogers to transfer insurance funds from the general fund to department line item 21530800-522234 Radio Repair Services. A copy of the request, identified as "Attachment No. 6", follows these minutes and is made an official part hereof.

**WHITEWATER MIDDLE SCHOOL BAND BOOSTERS:** Approval of request from the Whitewater Middle School Band Boosters to place a sign on the old courthouse lawn from January 29<sup>th</sup> through February 6, 2004 advertising their annual band fundraiser to be held on February 6, 2004. A copy of the request, identified as "Attachment No. 7", follows these minutes and is made an official part hereof.

**SHENANDOAH ESTATES - STREET LIGHT DISTRICT:** Approval of request from the Director of Engineering to approve Shenandoah Estates as a street light district in Fayette County. A copy of the request, identified as "Attachment No. 8", follows these minutes and is made an official part hereof.

**BOARD OF HEALTH APPOINTMENTS:** Approval of recommendation to reappoint Lynette Peterson and Lynn Redwood to the Fayette County Board of Health for another six-year term commencing on January 1, 2004 and expiring on December 31, 2009. A copy of the request, identified as "Attachment No. 9", follows these minutes and is made an official part hereof.

**RESOLUTION NO. 2004-04 - QUALIFYING FEES FOR 2004 ELECTIONS:** Approval of Resolution 2004-04 establishing qualifying fees for 2004 elections in Fayette County. A copy of Resolution No. 2004-04, identified as "Attachment No. 10", follows these minutes and is made an official part hereof.

**MALLETT CONSULTING - SNEAD ROAD ACQUISITION:** Approval of request from the Director of Public Works Lee Hearn to approve the sum of \$5,900 to Mallett Consulting for the surveying services for right-of-way acquisition on Snead Road. A copy of the Agreement, identified as "Attachment No. 11", follows these minutes and is made an official part hereof.

**PUBLIC COMMENT:**

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

**Mark Rogers:** Mark Rogers, a resident of Fayette County, said he and his wife Gail had lived in Fayette County for the past thirteen years. He said they had two children Walker who was age 12 and Kara age 9. He said up until mid November he was employed by Fayette County as their web developer. He said he held that position for over three years. He said he worked

in the Information Systems Department. He said in the interest of time he had two points that he wished to make this evening. He said, first, in February of 2003 changes began to occur within the Information Systems Department. He said two staff members from the Information Systems Department were reassigned to the Purchasing Department. He said concerns were raised by various members of the Information Systems staff regarding the possibility that one or more of them could end up unemployed due to the ongoing changes being made in the Information Systems Department. He said they were assured that no one was going to lose their job. He said Mr. Pullium stated that he would not be able to live with himself if any changes resulted in someone losing their job. He said in addition the County Administrator told them to stop worrying about it and said that no one was going to lose his job. He said after those assurances there was no reason to worry about it because both the County Administrator and the Finance Director told them in person that no one would lose their livelihood. He said, in fact, in a private meeting with Mr. Pullium toward the end of August, 2003 Mr. Pullium told him that he was a model employee. He said all of his work evaluations for the county have been excellent. He said, secondly, according to the Board of Commissioners' Agenda of Actions for November 13, 2003 it was mentioned that "outsourcing the web developer position would be substantially cheaper than the way the county was doing it now." He asked the Board to look at that issue.

Chairman Dunn interjected that Mr. Rogers was getting close to commenting on an item on tonight's agenda.

Mr. Rogers replied that he was not going to talk about the contract and he would save that for another evening.

Commissioner Frady interjected and asked Mr. Rogers if he had taken any legal action in this respect.

Mr. Rogers replied that on advice of council he was not going to answer that.

Commissioner Frady said if Mr. Rogers had legal action in progress the Board could not talk with Mr. Rogers or let him speak about it. He questioned Attorney Davenport about this.

Attorney Dennis Davenport said it sounded to him like Mr. Rogers had an attorney and was getting advice from council. He said this appeared to be a potential legal issue. He said he would advise the Board to stop commenting on this issue entirely.

Mr. Rogers interjected that he had not indicated that he was represented by legal council at this time.

Chairman Dunn remarked that Mr. Rogers had said it was on advice of council that he not answer questions.

**January 22, 2004**

**Page 13**

Mr. Rogers remarked that there was a difference between signing a paper indicating that someone was hiring an attorney and the attorney that someone speaks with.

Commissioner Frady said the Board could not allow him to talk on a legal issue at this meeting because he was airing something he might have gotten advice from legal council on. He said Mr. Rogers would have to do this in court. He said the Board of Commissioners was not a court.

Mr. Rogers said that was alright he would do it the Board's way. He said he tried to do it the easy way.

Chairman Dunn remarked to Mr. Rogers that if he wanted to confine his statements to something that was not discussed here tonight that was why he was up here tonight.

Mr. Rogers asked if he could read one paragraph and then he would end it.

Chairman Dunn replied no, not if it had to do with what was done before.

Mr. Rogers remarked that this did not have to do with the contract.

Commissioner VanLandingham asked Mr. Rogers if it had to do with the web page in any way.

Mr. Rogers said he was just going to make a comment.

Commissioner VanLandingham interrupted Mr. Rogers and ask him to answer his question first before any comment was made.

Mr. Rogers remarked that the Board had a weird way of showing appreciation to a county employee.

Mr. Rogers asked if he could come back in two weeks and talk about this if it was not on the agenda.

Chairman Dunn replied that he could always come back if it was not on the agenda and talk. He said Mr. Rogers could talk in every meeting that the Board has if he wanted to as long as it was not discussed prior to that.

Commissioner Frady said he had no problem with Mr. Rogers discussing anything unless he had a legal case against the county.

Chairman Dunn said if Mr. Rogers took any legal action against the county, the Board would not be able to discuss this. He said Mr. Rogers was doing fine and if he talked about this in

the future when it was not on the agenda, it would be fine. He said there were reasons for these rules and as a county employee of the past Mr. Rogers understood the rules. He asked Mr. Rogers to comply with these rules and he would be fine.

Mr. Rogers interjected that the 2003 meeting schedule was still on the county's web site. He said it needed to be changed to 2004. He said it was now January 22 and this had not been changed.

Chairman Dunn remarked that this would complete Mr. Rogers' five minutes. He said they would talk to him next time.

**STAFF REPORTS:**

**EXECUTIVE SESSION:** Attorney Davenport requested an executive session to discuss three legal items.

Chairman Dunn requested an executive session to discuss one personnel matter.

**EXECUTIVE SESSION:** On motion made by Commissioner Wells, seconded by Commissioner VanLandingham to adjourn to executive session to discuss three legal items and one personnel matter. The motion carried 5-0.

**LEGAL:** Attorney Dennis Davenport updated the Board on a legal item.

On motion made by Commissioner Frady, seconded by Commissioner Wells to authorize Attorney Davenport to proceed in this matter. The motion carried 5-0.

On motion made by Commissioner Frady, seconded by Commissioner Wells to authorize Attorney Davenport to proceed in this matter. The motion carried 5-0.

**LEGAL:** Attorney Dennis Davenport updated the Board on a legal item.

The Board took no action on this matter.

**LEGAL:** Attorney Dennis Davenport reported to the Board on a legal item.

The Board took no action on this matter.

**PERSONNEL:** Chairman Dunn discussed a personnel matter with the Board. Staff was not present for this discussion.

The Board took no action on this matter.

**January 22, 2004**  
**Page 15**

**EXECUTIVE SESSION AFFIDAVIT:** On motion made by Commissioner Wells, seconded by Commissioner Frady to authorize the Chairman to execute the Executive Session Affidavit affirming that three legal items and one personnel matter were discussed in executive session. The motion carried 5-0. A copy of the Affidavit, identified as "Attachment No. 12", follows these minutes and is made an official part hereof.

There being no further business to come before the Board, Chairman Dunn adjourned the meeting at 9:10 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 4<sup>th</sup> day of February, 2004.

\_\_\_\_\_  
Karen Morley, Chief Deputy Clerk