

The Board of Commissioners of Fayette County, Georgia met in Official Session on Wednesday, April 6, 2005, at 3:30 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 Venice, Acting County Administrator  
William R. McNally, 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.

**PROCLAMATION FOR NATIONAL RED HAT SOCIETY DAY:**

Chairman Dunn read and the Board presented a Proclamation to the ladies of the Red Hat Society declaring National Red Hat Society Day on April 25, 2005. A copy of the Proclamation, identified as "Attachment No. 1", follows these minutes and is made an official part hereof.

**PROCLAMATION FOR CONFEDERATE MEMORIAL DAY IN GEORGIA:**

Chairman Dunn read and the Board presented a Proclamation to Scott Gilbert and other members of the General LaFayette McLaws Camp #79 declaring April as "Confederate History and Heritage Month" and also recognizing April 26<sup>th</sup> as "Confederate Memorial Day" in Fayette County. A copy of the Proclamation, identified as "Attachment No. 2", follows these minutes and is made an official part hereof.

**DIRECTOR OF HUMAN RESOURCES CONNIE BOEHNKE AND GUY MORRISON OF STRATEGIC BENEFITS SOLUTIONS TO DISCUSS THE REIMBURSEMENT PROGRAM PROPOSAL:**

Chairman Dunn announced that this item would be tabled to the April 14<sup>th</sup> Board of Commissioners' meeting in order to give staff more time to prepare their presentation.

**DIRECTOR OF HUMAN RESOURCES CONNIE BOEHNKE AND GUY MORRISON OF STRATEGIC BENEFITS SOLUTIONS TO DISCUSS THE EMPLOYEE ASSISTANCE PROGRAM PROPOSAL:**

Chairman Dunn announced that this item would be tabled to the April 14<sup>th</sup> Board of Commissioners' meeting.

**CONSIDERATION OF PROPOSED ANNEXATION FROM FAYETTEVILLE FOR 49.25 ACRES IN LAND LOT 89 OF THE 5<sup>TH</sup> DISTRICT LYING BETWEEN JIMMIE MAYFIELD BOULEVARD AND SOUTH JEFF DAVIS ROAD:**

Chairman Dunn said the Board had received a request from the Mayor of Fayetteville earlier today who asked to speak at this meeting. He said the Board agreed that this would be appropriate.

Mayor Ken Steele thanked the Board for allowing him to speak. He stated that approximately eighteen months to two years ago the Southside Master Plan was proposed. He remarked that this piece of property was the last piece of the Master Plan. He commented that the City's annexation philosophy was one that it must be beneficial to the taxpayers and residents of the City of Fayetteville and at the very minimum had to be at least neutral to the residents living in the county. He said the ideal scenario was where it was a beneficial event for both City and County. He said in the recent past the owners of the Stinchcomb property had come to the City discussing the possibility of annexation into the City. He said he had forwarded a letter to Chairman Dunn as well as the Commissioners that the City had no interest in that property unless it was a three party event between the County, the City and the property owners to the mutual benefit of everybody. He said there was an item on the Board's agenda today that had also been discussed with the City of Fayetteville and the City had expressed the fact that it had no interest whatsoever in that particular property.

Mayor Steele remarked that this annexation request for the Burch/Thraillkill property was a perfect example of the benefit of an infill annexation. He said all of the property surrounding these two parcels of land was in fact already developed. He said these two pieces of land were owned by long time Fayette County property owners who had made the decision at this point in their lives that they were ready to sell the land. He said being long time Fayette County residents they wanted to leave behind a legacy for the community rather than maximize their profits. He felt the Board would see that as the proposal moved forward. He said this land was surrounded by one half, two thirds and one acre parcels. He said the proposal that they had brought to the City called for an R-30 PUD and with a Conservation Subdivision. He said as the Board was aware the Conservation Subdivision was something new coming forward throughout Metropolitan Atlanta and throughout the Nation. He said the City had the second reading of the Conservation Subdivision ordinance on their agenda for tomorrow night and he felt confident that the Council would approve that and put it on the books. He said additionally the City was keeping the R-30 PUD on the books which would give the City an even greater impact on a development of land. He said the City had not recreated the wheel on the conservation subdivision but had taken the best from many ordinances throughout the metro region and the Nation. He said the City's ordinance to a degree goes along with Fayette County's Conservation Subdivision ordinance in that the City requires deed of property with 40% open space, etc.

Mayor Steele remarked that it was proposed on this development that there would be two housing clusters separated by a 32.5 acre park with another three acre open area. He said the parcel of land was absolutely beautiful with three or four pristine lakes on it. He said this was part of the park land that would be deeded to the City and was already landscaped, developed and ready to be enjoyed by the community. He said for a number of years the current land owner had allowed people to walk this property on informal walkways, etc. He said with this proposal, it would also allow the Southside connector road, which was part of the Fayette County Transportation Plan, to be built at a great savings to the taxpayers and it would be built sooner rather than later. He said this was in fact the City's first priority in the transportation plan in the City. He said the City had already set the priorities and designated the S.R. 92 connector Jimmie Mayfield intersection for the first expenditure of S.P.L.O.S.T. funds. He said by having a developer build the road connecting South Jeff Davis and S.R. 92 South would allow the City to take some of the S.P.L.O.S.T. dollars and commit them to other worthwhile and needed transportation projects in the City.

Mayor Steele remarked that the developer was asking for 101 lots. He said the City code would not allow approval of more than 99 lots. He said this proposal was in keeping with and blended with the surrounding developments. He said all of the one acre county lots would be abutted by park land and this would be a significant benefit. He said the one acre developments in the county would not be impacted and would all abut the park land. He said this was one of the readily apparent and discernible benefits of this proposal and why the City was in fact very much in favor of moving forward with this park land of 35.5 acres. He said the current land values for property in and around Fayetteville was approximately \$40,000 to \$50,000 per acre. He felt 35.5 acres of land being donated for a park represented an approximate value of \$1,597,500 to the taxpayers of the City of Fayetteville. He said with the developer putting in the road and allowing the City to spend S.P.L.O.S.T. dollars elsewhere in the amount of \$450,000 for 1,560 linear feet of road and with no cost to the taxpayer, the S.P.L.O.S.T. money could be used on other needed projects.

Mayor Steele remarked that the projected home prices in this development were actually higher than the surrounding properties and would be approximately \$350,000 per unit because of development cost. He said with 99 lots this would equate to a \$34 million increase in the tax digest for the county and at a 40% assessment rate this would be \$13.6 million accruing to the county and property tax \$81,600 per year. He said this was a good situation for the County as well as for the City. He said this property had traditionally and always has been within the service area of the City of Fayetteville. He said the City currently provided the police and fire protection for this property and was also in the City's water and sewer service district. He said the \$81,600 accruing to the County was for no increase in the infrastructure or service needs of the county. He said for these reasons

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and the fact that the City was ready to move forward with this. He said he would be very happy to answer any questions that the Board might have.

Commissioner Pfeifer remarked that he was surprised to hear that the Fayetteville Police were currently responsible for this area.

Mayor Steele replied yes and stated the City police currently served that area. He said the only way to get to this development was through the City. He said the Sheriff's Department had jurisdiction throughout Fayette County. He said if the property was part of the City of Fayetteville, it would be serviced by the City of Fayetteville Police Department.

Commissioner Pfeifer clarified that it was not right now.

Mayor Steele responded technically no but one could not get there without going through the City. He said the only access was through the City.

Chairman Dunn remarked that 32 acres would remain in the county and Mayor Steele agreed.

Commissioner Wells asked the Director of Zoning to discuss the objections that the zoning staff had.

Chairman Dunn clarified that the zoning staff had recommended denial. He said the county could not deny this but it could object to the request.

Director of Zoning Aaron Wheeler remarked that this was first shown as 81 acres but the true annexation request was for 49.2 acres. He said the requested number of homes was 101. He stated that after reading their request it was shown at 99 in the county as a one acre and it was being shown that it could have a total of 45. He said the county had received a letter from the City later saying that they were considering this for a CS (Conservation Subdivision) zoning. He said staff proceeded in reviewing this from two standpoints. He said firstly the 49 acres would yield approximately 22 lots according to the county CS zoning. He said staff also went back and reviewed the 81 lots just for reference and that would give approximately 36 lots in the county. He remarked that the recommendation for denial was that this would be a number higher than what would be allowed in the county. He said at one acre it would be a significant increase over what would be allowed in the county at 99 versus 45 homes. He said because of this, staff had recommended denial.

Commissioner Frady asked if this meant that the county would have to zone this one acre.

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Mr. Wheeler replied yes and said that staff had made this decision predicated on the fact that it might be zoned one acre and not that it was zoned one acre. He said currently the property was A-R which would allow approximately nine to ten lots.

Commissioner Frady asked when was the last time that the county had zoned one acre parcels in a five acre zoning.

Mr. Wheeler replied that he could not remember one.

Commissioner VanLandingham said he did not think it would happen now either.

Chairman Dunn asked what the land use was for this area.

Mr. Wheeler replied that it was low density residential with one unit per one to two acres.

Commissioner Wells pointed out that in staff's report under Engineering that the 32.5 acres that would be donated to the City but would remain in the unincorporated county and the Fayetteville Police would not really have jurisdiction on that property. She said the Sheriff's Department would be responsible for patrolling the area.

Mr. Wheeler said that was correct. He remarked that the Sheriff actually wrote those comments and staff inserted them. He said Major Wayne Hannah wrote the comments.

Chairman Dunn pointed out that if the property was located in the county then the Sheriff's Department would have primary jurisdiction over it. He said this was true even if it was a City park.

Mr. Wheeler said he believed that was correct.

Commissioner Wells asked if the written comment regarding the Sheriff's Department and the intersection at the Southside connector road had come from the Sheriff's Department or the Engineering Department. She remarked that it stated at present it was questionable whether the intersection for the Southside connector road would intersect South Jeff Davis Drive or if any portion of this was within the unincorporated county and the Sheriff's Department would be responsible.

Mr. Wheeler replied that the Sheriff's Department had written that comment as well.

Commissioner Wells clarified that there was a small section where the Sheriff was responsible and a larger section where the Fayetteville Police were responsible.

Mr. Wheeler agreed but said he was not 100% certain.

Mayor Steele interjected that the intersection was at a red light where S.R. 92 and Jimmie Mayfield intersect. He pointed out that the City had already committed S.P.L.O.S.T. allocations to expand that intersection and make it four lanes in all directions.

Commissioner Wells said she was concerned with the appropriate officials responding to situation.

Mayor Steele remarked that he did not feel that this was a problem.

Commissioner Pfeifer asked Mr. Wheeler to address the creation of an island.

Mr. Wheeler replied that after speaking with the City, this was the reason the 32 acres was being left in the county so that an unincorporated island was not created. He said this was the reason they had not requested to take in the total 81.7 acres.

Commissioner Pfeifer asked if the Sheriff would still be responsible to respond to that island.

Mr. Wheeler said the park area would be owned by the City but would technically be in the county. He said the area represented as a possible island would still be county so the answer was yes the Sheriff's Department would have to respond.

Commissioner Frady felt the Sheriff's Department responds to all calls in the City anyway.

Chairman Dunn said the Sheriff and the Chief of Police could determine that.

Commissioner Pfeifer said he was talking about the county island.

Chairman Dunn and Commissioner VanLandingham both interjected that there was no island.

Commissioner VanLandingham said there was no island with this presentation.

Commissioner Pfeifer remarked that what would have been the island was still the responsibility of the Sheriff's Department.

Major Wayne Hannah remarked that these were his notes that were listed in staff's report. He said the arrest powers were what come into play there. He said the City of Fayetteville may receive a call there for service and the City Police may respond but if the property was not within the City boundary they would not have arrest powers, therefore this would be the county's jurisdiction.

Commissioner Wells said the City Police could detain while the Sheriff's patrol was in route to the scene.

Major Hannah commented on the intersection situation. He said he was not sure if all four sides of the intersection were in the City or the county. He said if any part of the intersection was in the county, then the entire intersection was in the county and it would be the Sheriff's Department's responsibility. He remarked that the number of car crashes would increase at that intersection and this would impact the Sheriff's Department. He said the courts had ruled that technically on an annexation and jurisdiction boundary it was up to the right-of-way and that would still be the Sheriff's Department's responsibility.

Commissioner VanLandingham said he would like to make a motion.

On motion made by Commissioner VanLandingham, seconded by Commissioner Frady to return the petition for annexation with no objection to the City of Fayetteville, discussion followed.

Commissioner Pfeifer clarified that this would be a density increase.

Chairman Dunn remarked that it was definitely an increase in density.

Commissioner Pfeifer said he would not support it.

Commissioner Wells said she could appreciate the presentation and the fact that none of the county property was going to be abutting up to the smaller lots. She commended the fact that this was addressed. She said she agreed with Commissioner Pfeifer that the density was still tremendously higher than what was projected in that area. She said she was not addressing the caliber of the development and she was sure that it was going to be a fine, fine development. She said she was concerned with the higher density and the fact that the county had planned for a much lower density. She said it could possibly impact some of the county's services and she was not in favor of giving up county property for density.

Commissioner VanLandingham said he did not like density either and that was the reason he lived where he lived. He said there were other people who did not mind density. He said this property was contingent to the City and it was a well known fact that density existed in the City. He said whether the Board objected or not, it was going to happen. He said he saw no reason to stir up an objection and this was the reason he made the motion. He said he did respect the opinions of his fellow Commissioners.

Commissioner Wells agreed and stated that people did expect higher density in the City. She said this was the reason she lived in the City. She said she liked Fayetteville, paid

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her taxes and liked what she got for them. She said the property in question for annexation was not currently in the City and she felt the people living in the surrounding area had the anticipation that this property would stay in the county and there would not be that density.

Commissioner Frady said to him it made sense as a good CS zoning. He said there was 81 acres and there could be as many as 71 or 72 houses on that property. He felt the park had to be considered as an asset for everyone there.

Commissioner Wells interjected that the park was there so that there was no land locked property.

Chairman Dunn said the problem from a density standpoint was that the City was not planning to annex 32.5 acres so the density was a lot greater on the buildable property than the county would put on that same buildable property. He said he had always been consistent in objecting to large differences in density. He said he also wanted to say that he understood that this property was going to be annexed into the City of Fayetteville. He said he was going to object in the hopes that the City of Fayetteville would then sit down with the county and try to in some ways reduce the density at least somewhat. He said this had successfully been done recently on some of the other annexations. He said everyone on this Board was aware that the City was going to annex this property. He said perhaps this process might help in cutting down on the density somewhat. He said if it did not, the Board had registered its concern. He said after the City received the County's letter, he would look forward to at least giving the Board some time to possibly working something out.

The motion failed 3-2 with Chairman Dunn, Commissioner Wells and Commissioner Pfeifer voting in opposition.

**BRIAN CARDOZA REPRESENTING THE FAYETTE COUNTY DEVELOPMENT AUTHORITY TO DISCUSS THE DODGE TOUR DE GEORGIA BIKE RACE TO BE HELD ON APRIL 20, 2005:**

Brian Cardoza representing the Fayette County Development Authority said he briefly wanted to discuss a one of a kind event coming to Fayette County. He said this was the Dodge Tour de Georgia would be in Fayetteville on Wednesday, April 20<sup>th</sup> which is two weeks from today. He said this was considered North America's premier event and would have 128 riders of 16 teams representing 24 countries from around the world. He said the race would start in Augusta, Georgia on April 19<sup>th</sup>, stage two would be here in Fayette County on April 20<sup>th</sup> and wrapping up the six day event in Alpharetta on April 24<sup>th</sup>. He said this was a wonderful sporting event and it also benefitted a great cause. He said the Georgia Cancer Coalition would be the benefactor of this with proceeds going to improve Cancer research and Cancer awareness and education. He said most of the calls that

they were getting in their office were about Lance Armstrong. He said Lance Armstrong would be there to defend his title and he remarked that Lance was a six time winner of the Tour de France. He said country music star Mark Wills would also be here to sing the National Anthem. He said he was also pleased to announce that Thomas Watkins who was a twenty-three year old cyclist who lived here locally would start the race. He said Thomas had just recently been diagnosed with Leukemia and just finished his second round of chemotherapy.

Mr. Cardoza further remarked that the race would begin at 1:30 p.m. on Wednesday, April 20<sup>th</sup> just across the street at the Old Courthouse. He said Stonewall Avenue would be closed from S.R. 85 over to Jeff Davis from 9:00 a.m. to approximately 2:30 p.m. He said the media had done a great job of getting the word out to the public. He said over 50 organizations had helped with this race and make this event be a success. He said he particularly wanted to recognize the Fayette County Sheriff's Office, Fayette County Public Works and Fayette County Fire and Emergency Services. He said he wanted to thank the Board for the support that it had given him and everyone involved and ask that the Board continue to support the county agencies as they make this race become a success. He said he also noticed on the consent agenda that the Board was going to declare April 20<sup>th</sup> as Dodge Tour de Georgia day and he wanted to thank the Board for that as well.

Chairman Dunn said this was a great opportunity for people to come and see the City of Fayetteville, Peachtree City and Fayette County.

Mr. Cardoza said the bike route covered the entire county.

Chairman Dunn remarked that most of the burden was going to fall on the City of Fayetteville as far as providing services.

Mr. Cardoza remarked that all of the local law enforcement had been great.

Chairman Dunn said the county would do whatever it could to facilitate the operation. He thanked Mr. Cardoza for all of the work he had done on this event.

**CONSIDERATION OF REQUEST BY ROCHESTER & ASSOCIATES TO INITIATE CHANGES TO THE FAYETTE COUNTY ZONING ORDINANCE THAT WOULD ALLOW FOR RESIDENTIAL MIXED USE DEVELOPMENT OF APPROXIMATELY 1,100 ACRES LYING BETWEEN SANDY CREEK ROAD AND S.R. 54:**

Bill Schmid, Vice President of Rochester & Associates, Inc. out of their Gainesville, Georgia office, stated that it was his understanding from staff that they were invited here today as a result of a filing of a request for a text amendment change to the county's zoning ordinance by Mr. Daryal Danley, an employee of Rochester & Associates' Fayetteville office. He said with him today was Todd Terwilliger, Vice President of land

acquisition for Del Webb. He said he would fairly rapidly discuss the information contained in the packet that he had presented to the Board.

Chairman Dunn remarked that Mr. Schmid would have fifteen minutes for his presentation and the Board would not count the time when the Board asked questions.

Mr. Schmid remarked that there was a significant increase both in terms of population and households as the baby boom population moved throughout the entire Country and more particularly through Fayette County. He said statistically significant levels are encountered in Fayette County far beyond the levels found in the rest of the State or even the rest of the Southeast. He said active adults were a group of people who were really predominately looking for increased leisure time, smaller housing, and smaller lots. He said they have less impact on the public infrastructure than traditional home buyers did. He commented on economic stimulus. He said each household was roughly equivalent to 3.7 factory jobs. He said this goes to the point of showing that seniors or active adults were often thought of as not having disposable income and have both significant assets and income in their later years. He said most of the people in this age group would really prefer not to have to move and if given the opportunity would prefer to remain in the communities where they have established themselves. He said they do have a predominantly and significant preference for a smaller house and a smaller lot. He said this was information was derived from the American Community Survey of 2003. He said the primary facilities that people typically think of for people as they age was unfortunately considered being retirement housing. He said the simple fact was that less than 5% of those people 65 and above actually lived in some form of care facility. He said the balance of people were going to find housing somewhere and this would predominantly be single family detached.

Mr. Schmid remarked on age qualified and what it meant. He said age qualified communities started in the West and in Florida in the 1960's. He said in reaction to that the baby boom group recognized that there was a large number of children and intended that those people be allowed to have children in their homes. He said in 1968 the Fair Housing Act allowed children to be in this type of housing. He said many people think that was where this stopped but that was not the case. He said in 1988 the Fair Housing Act was amended and it required that significant services would be included on the property. He said in 1995 this changed once again by the Housing for Older Persons Act and the significant facilities requirement was removed. He said active adult communities range from both those that have significant improvements and those that did not.

Mr. Schmid commented on the next graphic coming from the Fayette County Recreation Plan. He said this showed the significant increase in the population in Fayette County by age cohorts. He said of the households roughly 19,000 or 45% of the households in Fayette County by 2009 would be 55 and older. He said this graphic depicted the gap that

existed between currently housing stock for age specific to that which was expected by the end of the decade. He noted a significant difference over 3,000 households in the age bracket of 60 to 64. He pointed out that this was a significant jump in that one area alone.

Mr. Schmid said he would move now to the question of why Rochester & Associates or Mr. Danley would have proposed an age qualified ordinance for Fayette County. He remarked that Fayette County's current ordinance anticipated and described in the first instance four units attached per net acre. He pointed out that single family was the preferred means both here in Fayette County and of those in that age bracket. He said the second item of the PRD described one unit per net acre for detached. He said if one correlated the one unit per acre to the four units, it would require four times the amount of land to accommodate the same population or the same type of lifestyle. He said the current version of the PRD permitted only three specific residential uses. He said they had been careful to clarify these with the staff before proceeding to try and draft an ordinance for the Board's consideration. He noted that golf was not one of the permitted uses presently in the county's PRD but was often an element in these type of communities as well as a retail commercial component for the needs of the residents. He said Fayette County was innovative in that in 1973 it adopted a mixed use category for its PUD class and that stood for more than two decades and was only recently eliminated. He said there was a precedence in the county for an ordinance along these lines.

Mr. Schmid remarked that the main points of the ordinance were that it based the density on a function of infrastructure so that where water, sewer and roads were present that higher density would be suitable and where those were not the density would not necessarily be appropriate. He said it did allow for golf as a recognized component and required high amenities and it allowed for the mixing of commercial uses so that they can serve the needs of the residents. He commented on setbacks and buffers. He said currently there were no such requirements for such in the PRD. He said it also encouraged public use of the green space access and limited uses in the green space area. He said currently a PRD did not require underground utilities and it sets up a procedure by use of development agreement so that the County Commission could be assured of specific development activity over the course of the project. He said the purpose of this and the reason it had been brought up was because Fayette County had significant both existing and future demand for this kind of housing. He said it would allow those individuals in this community to stay here and preserve social fabric and provide significant economic stimulus without school impact.

Mr. Schmid asked if the Board had any questions on either active adults, age restriction or in particular the PAQ ordinance. There were no questions from the Board. He said he would now like to introduce Todd Terwilliger who is with Del Webb which was a division of Pulte Homes. He said Todd was the Vice President of Land Acquisition for Del Webb and he would be taking on the balance of the program. He said there had been an article

in the newspaper today regarding a project that Todd was familiar with and he would like to give the Board an overview of that. He asked how much time they had left to speak.

Executive Assistant Carol Chandler said they had a little over ten minutes left to speak.

Commissioner Pfeifer remarked while Todd was getting his presentation ready he would like to make a statement. He said early on he had a question regarding age restriction and how that was accomplished. He said that question had been answered to his satisfaction.

Mr. Schmid stated that he would asked for the Board's consideration that no formal or final action be taken today. He said he did not know what the pleasure of the Board would be but he would like to make that request.

Chairman Dunn asked Mr. Schmid and Mr. Terwilliger if they would be discussing changing the ordinance. He said this was what was listed on the Agenda.

Commissioner Wells said the request on the Agenda was to change the county's ordinance.

Mr. Schmid said the ordinance described two elements both the PAQ that had been filed as well as specifics about an 1,100 acre project.

Chairman Dunn remarked that Mr. Schmid had rewritten a section that he wanted to go in the county's ordinance.

Mr. Schmid stated that was correct.

Commissioner Wells said that was what was on the Agenda.

Mr. Schmid said he would be happy to answer any questions the Board might have.

Chairman Dunn asked if Mr. Terwilliger wanted to discuss the proposed project in the last ten minutes left for their presentation.

Mr. Terwilliger said he would rather discuss the ordinance.

Chairman Dunn said the ordinance would be a hurdle that would have to be overcome before the specifics of this project were discussed. He said he did not want anyone in the audience to think that the Board was being short with these gentlemen. He said four of the five Commissioners had already spoken in detail privately with each of these gentlemen. He said Mr. Terwilliger and Mr. Schmid had sent press packets to all of the newspapers and now the newspapers were printing what they said. He said a lot of people were aware

of the scope of this project. He said the one fundamental issue here was that what was proposed was not in any manner, shape or form fit in the ordinances of Fayette County. He said this developer has decided to create for the county a proposed change to the county's ordinance that would accommodate this project and that was what this was about.

Mr. Schmid replied that the county's ordinances did come close particularly the four unit density in the PRD but that specifically required an attached product and it would be the interest here not to have to do attached housing throughout the property.

Chairman Dunn said Mr. Schmid had a whole book that said how they wanted to change the ordinance.

Mr. Schmid replied yes, after significant consultation with staff.

Commissioner Wells said what the Board had before it today was a request to amend the county's ordinance. She said the Agenda Request Form asked what action these gentlemen would be asking from the Commissioners and the applicants had filled in that they were seeking permission/direction to staff to begin the process of amending the county's zoning ordinance. She said since this was what was presented to the Board today she had absolutely no interest in doing this. She said she would like to make a motion denying this request.

On motion made by Commissioner Wells, seconded by Commissioner Pfeifer to deny this request and not to have staff proceed in this matter, discussion followed.

Commissioner VanLandingham asked Commissioner Wells to restate her motion.

Commissioner Wells remarked that the action was for permission/direction to staff to begin the process of amending the county's zoning ordinance. She said she was adamantly opposed to that and her motion was that the staff not be directed to do this and that the Board not consider redoing the county's zoning ordinance.

Chairman Dunn said he would like to state in fairness to these gentlemen that the Board did tell them that they could talk for fifteen minutes and they had only talked for five minutes.

Commissioner Wells remarked that did not have anything to do with their request.

Chairman Dunn said their request was to talk about the ordinance.

Mr. Schmid said they had followed a prescriptive standard in the county's existing zoning ordinance.

Chairman Dunn clarified that these gentlemen were going to be talking about changing the law in Fayette County to accommodate this development.

Mr. Schmid remarked that this was presently anticipated in the county's zoning ordinance.

Chairman Dunn remarked that approximately twelve ordinances would have to be changed in order to accommodate this.

Mr. Schmid disagreed and he stated they were proposing one ordinance.

Chairman Dunn clarified that they were proposing one ordinance which would change twelve other ordinances just to accommodate this development.

Mr. Schmid said they could agree to disagree but that was not their perspective.

Chairman Dunn said he just wanted to clarify what was being done.

Mr. Schmid stated that was not their perspective.

Chairman Dunn said he felt the Board had given these gentlemen time and he wanted to make sure they had this amount of time to speak to the Board.

Commissioner Wells asked Mr. Schmid if he or Mr. Terwilliger had anything else that they wanted to discuss about rewriting the ordinance.

Mr. Schmid responded that he did not have anything else specifically to say other than they were following an adopted standard that the county already had as to the means to amend the ordinance. He said he would differ as to the degree of difficulty in accomplishing this. He said it was not their intent to amend twelve specific ordinances but rather to use one ordinance to allow a project like this to be developed.

Chairman Dunn said actually what he thought it came down to was that they wanted to ignore those twelve ordinances and create a new one that would take care of all of these problems for you. He said that was what it looked like to him.

Commissioner Wells said regardless of what it looked like, this was what was being put before the Board and she wanted to clarify that. She said the action that they were seeking was permission to direct staff to begin the process of amending the county's zoning ordinances to meet what they had written for the Board.

Mr. Schmid said he believed that was written by staff and that was not their request.

Commissioner Wells asked Mr. Schmid if that was what he was here for.

Mr. Schmid replied they were asking the Board to act in accordance with the zoning ordinance of Fayette County which establishes a procedure for a text amendment to be considered.

Commissioner Wells said her motion was that she was not interested in any amendment to the county's present ordinance. She said if this was what Mr. Schmid was asking for then her motion stands.

Chairman Dunn asked Mr. Schmid and Mr. Terwilliger to stand by because the Board might have some questions for them. He asked if any Board members had any questions.

Commissioner VanLandingham said he felt to cut this off without staff taking this ordinance that they had presented and comparing it to what the county currently had and then to bring the Board some sort of report, he felt a vote right now would be premature. He said he was not opposed to anything right now because the Board had really not had a formal request for anything other than them seeking an ordinance change. He said staff had not been given the opportunity to compare this and bring the Board a report on it. He felt for the Board to vote on this right now would be premature. He said he would rather see the Board just ask staff to compare this with the county's current zoning ordinances and see what the real findings were.

Commissioner Frady said he agreed along those same lines. He said what Mr. Schmid was doing as far as he was concerned was giving the Board a recommendation for an ordinance change. He said he was not going to vote to send this to staff unless he himself was convinced that he would like to do or like to see staff to do. He said he had not seen this in the sense that he was ready to make a decision on it. He said he would like to be more fair about it. He said he would take it and look at it himself and then if the Board comes up later and have a decision to make on it then a decision could be made but he was not prepared today to tell staff to do anything. He said he certainly wanted to be aware that he was ready to do something first or not do something. He remarked that he had not read this well enough to make a decision on it.

Commissioner Wells said the Board would have to be really careful here not to set a precedent. She said most of the developers who come before the Board make a pretense of following the county's ordinances. She said these applicants have come forward and said they wanted to build something here and the county did not have applicable ordinances for them to do so. She said the Board could not rewrite ordinances in order for this development to be built. She said if the Board allowed that to happen with this developer, then anyone who crosses the county border could come in and say that they did not like the county's existing ordinances because they would not allow them to build

what they wanted. She said it would be asking county staff to do the developer's work for them and this would inundate county staff to look at ordinances that the county might not need. She said she had absolutely no intention of supporting something that would allow the county to increase density in that area to the magnitude that was being suggested regardless of the ordinance being put forward. She said the Board just had an issue with the City of Fayetteville increasing the county's density slightly and now this developer wanted to increase the county's density by putting 3,000 houses in the Sandy Creek area. She felt this was ludicrous. She said she was not going to ask staff to waste their time to look at something that was going to benefit the developer and harm the county. She said if the Board was philosophically opposed to having 3,000 residences in that area, she did not know why the Board would ever prevail upon staff to look at an ordinance.

Commissioner Frady agreed with Commissioner Wells.

Commissioner Pfeifer said he felt this was a wonderful project for the people who would sell it and would live there. He said he did not feel as it currently stands that it was wonderful for everybody else and that was his dilemma at present. He said he hoped that if the motion that was made was passed that the developer did not go away. He said he did not know what the developer's plans were. He said he was aware that the developer had spent money to get as far as he had. He said he did not know if it was going to be possible for him to ever support this. He said somewhat factiously before that he could easily support this if the developer could purchase a piece of land somewhere else in the county of equal size and do nothing with it. He said there might be a way for him to be able to support this but he agreed that the proposal before the Board was way too dense. He said he saw no way to support it. He said he felt sometimes elected officials fall in love with concepts and they were wonderful, however, the execution when the project actually comes forward it might not come to the fruition that people had anticipated for that project but the fallout and the side effects for it could be devastating. He said that was what he felt a tremendous responsibility for and that was not to do anything along those lines that somebody else could come along and say a decision was made for the developer. He said he loved this project and felt this company was first class. He felt these gentlemen had handled this approach very well and he appreciated that. He said they had addressed and answered his questions specifically about the age issue and he was 100% satisfied on that.

Chairman Dunn said he had some questions. He asked what made the developer want to build this project in Fayette County.

Mr. Terwilliger replied that they felt the demographics supported the ordinance and it was an appropriate ordinance for Fayette County. He said they felt out of all the potential locations on the Southside of Atlanta for Sun City that Fayette County's demographics blended well and the quality of life in Fayette County blended well with what the Sun City lifestyle was all about and that was what led us to Fayette County. He said the idea

behind the ordinance was that they preferred not to build all attached housing which they could submit for under the PRD ordinance. He said they felt detached housing would be more appropriate and that Fayette County's demographics would support consideration of an ordinance.

Chairman Dunn clarified that the developer wanted to come to Fayette County because of the quality of life and it was a great place and Mr. Terwilliger agreed.

Chairman Dunn asked Mr. Terwilliger if he believed if people come to Fayette County because it was a great place and then try and change the rules to accommodate them, then how long would it remain a great place. He said the size of this project exceeded the population of the county's third largest city which was Tyrone.

Mr. Schmid interjected that the county's own projections suggested that Tyrone would be larger than this community. He pointed out that this project was a ten year build out.

Chairman Dunn said he understood what it was but remarked that it was larger than the current city of Tyrone. He said in the press packet that had been provided to the newspaper it indicated if the Board turned down this project, the developer was going to do everything possible to get it in Fayette County anyway. He said this was indicated in the press packet.

Mr. Terwilliger replied not that specifically. He said the developer felt it was a great opportunity for Fayette County and it was a great opportunity for Del Webb and both could benefit by providing this type of housing solution to the residents of Fayette County.

Chairman Dunn said there was a question in the press packet asking if the request was denied by the county what would the developer's next step be. He said the answer to that question as stated in the press packet said that Del Webb planned to exhaust every reasonable resource and explore every possible avenue in an attempt to bring Sun City to Fayette County. He said that was the answer to the question if the Board turned this request down.

Mr. Terwilliger replied that was intended financially as well as from an ordinance standpoint. He said they could continue to submit under the PRD ordinance.

Chairman Dunn remarked that the developer had gone to the City of Fayetteville before coming to the County to explore the likelihood of annexation.

Mr. Terwilliger replied that they had gone to the City of Fayetteville to talk to them because they were curious about their sewer availability to sewer the unincorporated Fayette County.

Chairman Dunn said it was his understanding that the City of Fayetteville invited the developer to come to the County because they had very little interest in this project.

Mr. Terwilliger remarked that they had been directed that the City did not sewer unincorporated property and that the property was located in the unincorporated Fayette County and they would need to discuss this with the County. He said they had gone to the City to discuss sewer with them.

Chairman Dunn remarked that this property was contiguous to the City. He said the developer would have the legal right to ask for annexation and the developer had indicated that this was what was going to happen if the county turned this down.

Mr. Terwilliger said they would have to look into all of their options but this was not their preferred choice.

Chairman Dunn said he was under the impression that the City of Fayetteville had given the developer cause to believe that they were not interested in annexing this project.

Mr. Terwilliger felt it was a little premature to make that conclusion. He said it was a question about sewer.

Chairman Dunn said the Board was here today to determine whether or not it should approve directing the staff to do a new ordinance to accommodate this project. He said the developer had already tried to get this project on the Planning Commission's Agenda and it was rejected.

Mr. Schmid remarked that they had received a letter today from staff that they would not accept, per instruction from the County Attorney, the request for consideration of the project until the Board of Commissioners took action on the PAQ ordinance. He said it did not preclude the Board taking such action.

Chairman Dunn remarked that first of all the County Attorney did not make the decisions on zoning issues here. He felt what the County Attorney was trying to say was that the Board could not accept it because it did not comply with any of the county's existing ordinances.

Mr. Schmid asked if the developer was to file a PRD that was consistent with the county's existing zoning for four units attached, was there a location in the county that the Board would approve.

Chairman Dunn replied that this was a hypothetical question and he would only be able to give a hypothetical answer.

Mr. Schmid said he was trying to determine if they should proceed in that vain.

Chairman Dunn said he was trying to determine exactly where everything stands now. He said Mr. Schmid was asking the Board to change the ordinance. He said it appeared that some of the members of this Board did not want to do that. He said if the Board did not do that, then it looked like to him that the developer's only option was to seek annexation.

Mr. Terwilliger remarked that they could file as a PRD and the housing would be all attached. He said they were trying to offer an appropriate ordinance to allow detached owned housing.

Chairman Dunn said this developer could do a lot of things including suing the county although nothing had been said to him about that. He said he just assumed if the Board felt this was not an appropriate place for this development and the City did not, then the developer would probably seek another location in the State of Georgia for it.

Commissioner Wells said that would be supposition on the Board's part.

Attorney McNally said he could perhaps shed some light on this and why these gentlemen were here today. He said the zoning staff called him at one point where they were being submitted lists of questions to answer as far as what could be located in the county. He said at this point, since the questions were directed in a situation which would be drastically different than has been permitted to develop in the county, it was his suggestion to the staff that they indicate to the gentlemen in front of the Board today that it would be better to determine whether or not there was any interest on the part of this Board to drastically change its philosophy to this point. He said this was not a hearing on a text amendment. He said this was their presentation to the Board of a development and an indication on the Board's part as to whether or not it wanted the staff to proceed to change the county's ordinance. He said there was nothing here that said that these gentlemen could not apply for a text amendment if they wanted to change to a PRD or to try and fit their development into what the county currently had. He said that had a procedure for them to go through. He said the sole purpose was to try to save them many hours and staff's many hours in trying to respond to questions which could never come to fruition because the ordinance as currently existing could not cope with the development that was being presented. He said the sole purpose was to give the developer an indication as to whether they should go on which they were perfectly free to do anyway or exactly what the Board's feelings were as far as that was concerned.

Chairman Dunn asked Mr. Terwilliger if he recalled the meeting they had where they asked him if it was worth their while to proceed and just wanted to know generally if it was worth their time and effort. He said they indicated that they did not want to spend millions of dollars getting ready for something that they might not have a chance of succeeding. He

said he was aware that this project did not comply with the county's ordinances but he would ask staff to provide on paper the major problems with non compliance of county ordinances for this project. He said staff had done a matrix and there were approximately twelve ordinances that would be affected. He said he had provided these gentlemen with that information.

Mr. Terwilliger replied that he had not received this listing but they had discussed this with him.

Mr. Schmid interjected that Chairman Dunn had given him the information from staff.

Chairman Dunn said he had indicated to them that they would have an uphill battle here because there were so many ordinances and laws that they would not comply with. He said the next thing he saw was a recommendation from the developer to come up with a completely separate category that applied only to this developer which would take care of all the problems that were found in the other twelve ordinances. He said this would be done just for this particular project. He said he was very uncomfortable with the procedure that would be making changes to this community and the quality of life that people who come here like and enjoy just to accommodate one developer. He asked how the Board would deal with the next developer who said he wanted to do something else and was willing to write a new county ordinance to achieve it. He said he could not support doing things like that. He said the county already has existing ordinances and if a developer complied with these ordinances then the Board would consider the request. He said right now the developer could not get this project accepted by the Planning and Zoning Department because it did not comply with the county's laws.

Mr. Terwilliger remarked that the developer could tweak it and apply as a PRD with four units attached but they would not be able to include golf because golf was not permitted as a recreational use.

Chairman Dunn remarked that the county did not permit any development in wetlands and the entire golf course would be located in wetlands.

Mr. Terwilliger replied that they could built it in the uplands.

Commissioner Frady felt the Board was sitting here trying to fight a battle and he did not feel that the Board should be fighting a battle. He asked Commissioner Wells to restate her motion.

Commissioner Wells remarked that her motion was that the Board was not going to direct staff to go forward in looking at a rewriting of this ordinance along the lines of what the

developer had submitted. She said Attorney McNally had stated that was just exactly what the Board was here for.

Commissioner Frady said this would not be stopping everything.

Commissioner Wells agreed and stated that it was just preventing staff from doing extra work.

Commissioner Pfeifer said he would like to state again that the reason he had seconded the motion was that he did not object to changing the county's ordinance and especially looking at mixed use and detached housing. He said there were several other issues that he would like people to look at but this was not one of them.

Chairman Dunn said he would like to make one statement. He said he did get the proposed ordinance and read it in detail and he could not support it at all. He said if the developer submitted something else that they felt would comply with the laws of the county, then the Board would take it seriously.

Commissioner Frady said this was his point earlier on. He said this project would not fly here.

Commissioner Wells remarked that county staff was not going to do the developer's work for them.

Commissioner Frady stated that the developer could bring something else to the Board for consideration but this proposal would not go to staff. He asked Chairman Dunn to call the question.

The motion carried 4-1 with Commissioner VanLandingham voting in opposition.

Chairman Dunn thanked these gentlemen for coming before the Board to discuss this and remarked that there were other options for the developer.

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

**SHERIFF'S DEPARTMENT:** Approval of request from the Sheriff's Office to transfer of funds in the amount of \$689.03 from the General Budget Fund to the Sheriff's Department Vehicle Maintenance Budget Category 10030323-522233 as a result of a vehicle accident. A copy of the request, identified as "Attachment No. 3", follows these minutes and is made an official part hereof.

**SHERIFF'S DEPARTMENT:** Approval of request from the Sheriff's Office to transfer funds in the amount of \$828.99 from the General Budget Fund to the Sheriff's Department Vehicle Maintenance Budget Category 10030323-522233 as a result of a vehicle accident. A copy of the request, identified as "Attachment No. 4", follows these minutes and is made an official part hereof.

**LIBRARY:** Approval of request from the Director of the Library Chris Snell to approve new constitution and bylaws as adopted by the Fayette County Library Board on March 15, 2005. A copy of the request, bylaws and constitution, identified as "Attachment No. 5", follows these minutes and is made an official part hereof.

**DODGE TOUR DE GEORGIA BIKE RACE:** Approval of request from Brian Cardoza of the Fayette County Development Authority to adopt a Proclamation establishing April 20, 2005 as Dodge Tour de Georgia Day. A copy of the Proclamation, identified as "Attachment No. 6", follows these minutes and is made an official part hereof.

**BOARD OF HEALTH - TERRY WILLIS APPOINTED TO MCINTOSH TRAIL COMMUNITY SERVICE BOARD:** Approval of recommendation from the Fayette County Board of Health to reappoint Terry Willis to the McIntosh Trail Community Service Board for a four year term commencing on July 1, 2005 and ending on June 30, 2009. A copy of the request, identified as "Attachment No. 7", follows these minutes and is made an official part hereof.

**RECREATION DEPARTMENT:** Approval of recommendation from the Director of Recreation Anita Godbee to approve project budget transfer from the Kiwanis Activities House to the Recreation Center in the amount of \$6,000. A copy of the request, identified as "Attachment No. 8", follows these minutes and is made an official part hereof.

**COMMUNICATIONS - E-911 BUDGET:** Approval of recommendation from the Director of Finance Mark Pullium to amend County E911 budget by increasing Miscellaneous Revenue and appropriations for legal expenditures in the amount of \$2,926. A copy of the request, identified as "Attachment No. 9", follows these minutes and is made an official part hereof.

**COMMUNICATIONS - CINGULAR WIRELESS CONTRACT:** Approval of recommendation from Director of Communications Cheryl Rogers to approve a contract with Cingular Wireless to provide Phase I service to Fayette County which

provides the cellular telephone number of the calling party to the 911 operators. A copy of the request and contract, identified as "Attachment No. 10", follows these minutes and is made an official part hereof.

**RECREATION DEPARTMENT - BID #505 AWARDED TO BARROWS MASONRY, INC. FOR KIWANIS GYM EXTENSION:** Approval of recommendation from the Director of Purchasing Tim Jones to award Bid #505 Kiwanis Gym Extension to low bidder Barrows Masonry Incorporated in the amount of \$25,750. A copy of the request, identified as "No. 11", follows these minutes and is made an official part hereof.

**ROAD DEPARTMENT - BID #506 AWARDED TO APAC SOUTHEAST, INC., E.R. SNELL CONTRACTOR, INC. AND BALDWIN PAVING COMPANY, INC. FOR ASPHALT:** Approval of recommendation from Director of Purchasing Tim Jones to award Bid #506 for asphalt to low bidders APAC Southeast, Inc., E.R. Snell Contractor, Inc., and Baldwin Paving Company, Inc. A copy of the request, identified as "Attachment No. 12", follows these minutes and is made an official part hereof.

**ROAD DEPARTMENT - BID #507 AWARDED TO FLORIDA ROCK FOR GRAVEL:** Approval of recommendation from Director of Purchasing Tim Jones to award Bid #507 for gravel to low bidder Florida Rock. A copy of the request, identified as "Attachment No. 13", follows these minutes and is made an official part hereof.

**WATER SYSTEM - BID #510 AWARDED TO SOUTHEASTERN POND MANAGEMENT, INC. AND AMERICAN SPORTS FISH HATCHERY:** Approval of recommendation from Director of Purchasing Tim Jones to award Bid #510 regarding fish for Lake Horton to low bidders Southeastern Pond Management, Inc. in the amount of \$23,649.60 and American Sports Fish Hatchery in the amount of \$2,900. A copy of the request, identified as "Attachment No. 14", follows these minutes and is made an official part hereof.

**BUILDINGS AND GROUNDS MAINTENANCE:** Approval of recommendation from Director of Buildings and Grounds Maintenance Greg Ownby to approve purchase of a 30 gallon 3 section 132" Shielded Sprayer in the amount of \$4,749 with available funds originally designated to purchase a second mower. A copy of the request, identified as "Attachment No. 15", follows these minutes and is made an official part hereof.

**FINANCE DEPARTMENT:** Approval of recommendation from Director of Business Services Mark Pullium to approve the Vehicle Replacement Committee's

recommendations to replace eight County vehicles which meet the criteria for vehicle replacement. A copy of the request, identified as "Attachment No. 16", follows these minutes and is made an official part hereof.

**WATER SYSTEM:** Approval of Water Committee recommendation to award bid to Tank Pro for the repainting of the Peachtree City water tank in the amount of \$121,627. A copy of the request, identified as "Attachment No. 17", follows these minutes and is made an official part hereof.

**MINUTES:** Approval of minutes for Board of Commissioners' Special Called Meeting held on March 19, 2005.

**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.

There was no public comment.

**STAFF REPORTS:**

**EXECUTIVE SESSION:** Attorney McNally requested an executive session to discuss four legal items.

**EXECUTIVE SESSION:** On motion made by Commissioner Wells, seconded by Commissioner Frady to adjourn to executive session to discuss four legal items. The motion carried 5-0.

**LEGAL:** Attorney McNally updated the Board on a legal matter.

On motion made by Commissioner Wells, seconded by Commissioner VanLandingham to authorize Attorney McNally not to proceed with this matter. The motion carried 5-0.

**LEGAL:** Attorney McNally discussed a legal matter with the Board

The Board took no action on this matter.

**LEGAL:** Attorney McNally reviewed a legal matter with the Board.

The Board took no action on this matter.

**LEGAL:** Attorney McNally discussed a legal matter with the Board.

The Board took no action on this matter.

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**EXECUTIVE SESSION AFFIDAVIT:** On motion made by Commissioner Wells, seconded by Commissioner VanLandingham to authorize Chairman Dunn to execute the Executive Session Affidavit affirming that four legal items were discussed in executive session. The motion carried 5-0. A copy of the Affidavit, identified as "Attachment No. 18", 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 6:00 p.m.

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Karen Morley, Chief Deputy Clerk

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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 28<sup>th</sup> day of April, 2005.

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Karen Morley, Chief Deputy Clerk