

The Board of Commissioners of Fayette County, Georgia met in Official Session on April 14, 2005, 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 Venice, Acting County Administrator  
                                      William R. McNally, County Attorney  
                                      Carol Chandler, Executive Assistant  
                                      Peggy Butler, Chief Deputy Clerk

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

**NEW BUSINESS:**

**CONSIDERATION OF CHANGE OF HEIGHT RESTRICTION FOR RESIDENTIAL NEW CONSTRUCTION:**

Joe Colombo, of the Cascade Development Group, said his company had bought Legacy Hills, a subdivision off Highways 314 and 138. He said they had a height situation with one of the homes they were building. He said they wanted to talk about the criteria for determining height. He introduced George Bailey, the architect that had helped design the plans.

Mr. Colombo showed a plan of the original house they had designed and explained the house that was in question was designed from that plan. He said the house in question was the same shell and roof line but they had upgraded and updated it to become another house.

Commissioner Dunn asked if the new house had been built. Mr. Colombo said it had.

Mr. Colombo said they were not aware that there was a problem with height until approximately three weeks ago.

Commissioner Wells asked why they were not aware of that. Mr. Colombo said height had not been an issue before anywhere they had built. He said this was a Fayette County height restriction and they were not aware of it.

Mr. Colombo said from the picture you could see the roof line from the back and the front. He said if you looked at the original plan, which was a two-story without the finished attic, the height was the same.

Commissioner VanLandingham asked if that was the plan he presented at the time of the permitting. Mr. Colombo said it was not. He said he did not have that plan.

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Commissioner VanLandingham said they needed to know what he presented for a permit to see where they were on this. He said they did not build the house that they permitted for. Mr. Colombo said that was correct. He said this was a mistake that was their fault, they built a house that they did not get a permit for. He said they were not aware of the height restriction.

Chris Venice, Acting County Administrator, said that the 35 ft. height restriction was on the building permit that the person signed when they got the permit.

Mr. Colombo said they met the height restrictions, but what was in question was the criteria for determining the height.

Commissioner VanLandingham asked if he met the requirements, how could there be an error in determining the height restrictions.

Commissioner Frady asked if the houses were sprinkled. Mr. Colombo said they were not.

Commissioner Wells said she thought they had two issues here. She said one was that he had built a house that was not permitted, and by not building a house that was permitted, there were not those safety stop gaps in the process that would have alerted him that he had a problem. She said he obviously had a problem understanding the 35 feet and how it was measured.

Mr. Colombo said that was correct. He said they were all having a problem understanding, including the building department and the zoning department.

Commissioner VanLandingham said it had not been over three to five months since this height ordinance had been reviewed. He said he thought everyone was well aware of the interpretation. He said they even had the Emergency Services people in on this for fire protection.

Mr. Colombo said one plan was submitted that they received the permit on and it was the same criteria that the house in question was. He said it was the same roof line with a third story. He said one passed inspection and the other one did not.

Commissioner Frady asked how far the house was above grade. Mr. Colombo said they were both 50% above grade.

Chris Venice said it was her understanding that adding the fourth story and changing the roof line did increase the height. She said it might be the same basic house plan but the configuration did make it taller. Mr. Colombo said it did not, the rooms were tucked into the same roof line. He said nothing had been increased in the height.

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Commissioner Wells said what she would like to see happen was to send it back to staff to see if they needed to tweak the clarification for height restriction. She said to make it clearer so that builders would have a better understanding of it.

Commissioner Wells said they had worked very hard on this ordinance and she had absolutely no desire to increase the height of any of the houses. She said they looked at this very long and very hard. She said to increase the height from 35 feet from the way they had decided to measure it was a no-go.

Chairman Dunn said he thought he heard it said they were trying to determine how to measure the height of the house. Mr. Colombo said according to the way the height of this house was determined, this house missed it by two feet.

Chairman Dunn said it should be pretty plain, it was written in the regulations as to how to measure. He said the problem seemed to be that they had built something other than what they had permitted for.

Mr. Colombo said that he understood. He said he took full responsibility for that. He said he could change this house to meet the requirements, but they had a dozen more plans that were the same type of house that he would not be able to build.

Commissioner Wells said she guessed they would have to change their plans.

Commissioner VanLandingham said it seemed they were asking the Commissioners to change their ordinance to fit their house plans. Mr. Colombo said that was correct.

Chairman Dunn asked why didn't they build the ones they originally got a permit for. Mr. Colombo said they were doing that also.

Paul Zackos, Cascade Development Group, said not permitting the right house was a issue. He said the square footage was the same as the original house they had permitted and they were not trying to sneak something in to save the cost of getting a permit. He said the height restriction seemed to be the issue. He said if they built the same house again that was in question tonight it was going to measure the same.

Commissioner Wells said they did not just measure from the street. Mr. Zackos said he understood the County measured by going below a certain amount. He said their frustration was that they enjoyed building houses in Fayette County and the houses they built were selling for a large sum of money. He said they were trying to build bigger and increase tax base and were being penalized.

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Commissioner Wells said Fayette County appreciated the value and quality of the homes they were building but the problem was that the Board felt they had spent a great deal of time and energy in developing this height restriction and it said on the permit how to measure the house. She said just because they failed to follow that, it would not keep the next developer from coming in and claiming they forgot to read and the Board had allowed someone else to use that excuse and would therefore expect the same treatment. She said not asking for permission and begging for forgiveness did not work with the Board.

Commissioner Frady asked Chris Venice to explain why houses could not be over 35 feet. Chris said the reasons were safety and esthetics. She said it had been 35 feet since the ordinance was first adopted in the early 80's.

Commissioner Frady said he wanted to asked Fire Chief Jack Krakeel a question. He said he wondered if sprinkler systems in a house of this size would make them safe. Chief Krakeel said they encouraged the use of residential sprinkler systems in any structure, but there was nothing that would require a builder or developer to utilize residential sprinkler systems.

Commissioner Frady asked if residential sprinkler systems could be required. Chief Krakeel said the Board could approve an ordinance for residential sprinkler systems in new construction based on certain parameters.

Chairman Dunn asked Chief Krakeel if he would advise anyone in this County, considering the safety equipment they had, to build anything taller than 35 feet. Chief Krakeel said he would not. He said the maximum reachable limit they had was 35 feet.

Mr. Zackos said if they built the same house again they would not be able to finish the attic and it would pass the height ordinance.

Chief Krakeel said his fire marshal just informed him that there was a requirement for sprinkling the residential property located in the building code once the house became four stories.

Commissioner VanLandingham said if they were to pass an ordinance allowing this type of house to be built, he did not think they could legally restrict it to a subdivision. He said they had a current situation on one of the major roads in Fayette County where someone built a monestrous house next to a modest house and those people were having to look out at a block wall instead of a landscaped yard. He said this would create problems in other areas, not just the subdivision being discussed tonight.

Chairman Dunn said he would like to give them encouragement to help solve this dilemma but in solving their dilemma they would be unfair to everyone else who had been held to the standard in this County by the Board over the years.

Commissioner Wells said she wanted to direct staff to look at the language of this ordinance so there would be no misunderstanding as to how a house was to be measured.

**REIMBURSEMENT PROGRAM PROPOSAL:**

Connie Boehnke, Director of Human Resources, said she was presenting to the Board a proposal to modify the way in which reimbursement claims were processed. She said these included dental and vision claims. She said the Board had been provided with the current plan, history and method of processing the claims.

Ms. Boehnke said they were at a crossroad, that the Human Resources Department would have to purchase new software to continue to process the claims in the method they were currently using. She said that cost would be \$15,000 and a \$3,000 per year maintenance fee. She said this proposal would shift the responsibility of processing the actual claims from the Human Resources Department to Guardian. She said the benefit level would remain the same at 80%. She said the benefits would be that the employee would no longer have to pay out 100% of the charge at the time of the visit, they would only have to pay 20%. She said if the employee went to a dentist in the network, they could receive additional discounts and extend their \$1,000 benefit. She said Guardian was guaranteeing Fayette County a refund of 4.5% which was their annual claims management refund. She said the premiums and structure would remain the same. She said she wanted to propose that Fayette County try this for one year, as a trial period, and if it was not as successful as anticipated, Fayette County would revert back to the current system.

Ms. Boehnke said there would be communication to the employees so that they understood that with the current plan they could go to a dentist of their choice and there was no rate structure. She said they were likely to get different rates from different dentists. She said this plan would put some restrictions in place as to number of x-rays and procedures to be performed in a year.

Commissioner Wells said she thought it was an excellent idea for the various reasons already mentioned. She said she liked the idea that employees did not have to pay 100% of a procedure upfront and wait for reimbursement. She said she also felt employees would get a better return for their \$1,000 cap. She said since they knew they were going to have to replace the computer system for \$18,000 this year it seemed good to out source this.

Commissioner Frady said he saw a problem in this in reference to cost. He said they had been doing this program since 1988 and had only changed the software twice and this would be the third change. He said the cost for the new program would be a \$26,000 yearly cost verses \$3,000 yearly cost for the software. He said the software had lasted eight years and the cost was \$18,000.

Ms. Boehnke replied that there was an internal cost to that processing that was not calculated in. She said it required an employee 25% of their time to process those claims. She said there was an indirect cost that this company was charging.

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Commissioner VanLandingham asked how much time the employee worked on this. Ms. Boehnke replied that for a month's worth of claims it took four days to process all of the dental and vision reimbursement claims from start to finish. Commissioner VanLandingham asked if they would be able to eliminate a position with this new process. Ms. Boehnke answered that they would not.

Chairman Dunn said the reason Human Resources was able to process these claims last year was because they had a TANIF employee working in the office which enabled the staff to process the claims while they were doing another part of their job. He said they no longer had a TANIF employee, and as the County continued to grow and claims continued to grow, they may eventually have to hire another employee to process these claims.

Commissioner Frady said he was looking at it from the taxpayers' dollars and he thought this was a lot of money and could get up to as much as \$180,000 over a period of an eight year span.

Commissioner VanLandingham said in his discussion there was some concern about the organization that was selected when the RFP was put out about being able to fulfill the job. Ms. Boehnke said in reference to the reimbursement software, the original vendor that was awarded the bid, upon receipt of that award, instantly requested additional funds to meet the minimum requirements of the RFP. She said there was a substantial difference between that vendor and the other vendor.

Chairman Dunn confirmed there was a guarantee of a 4.5 % refund. He asked if we processed more than that would we get more back. Ms. Boehnke said that was correct.

Motion was made by Commissioner VanLandingham, seconded by Commissioner Pfeifer, to adopt the proposal as presented, for a period of one year. Motion carried 4-1 with Commissioner Frady voting in opposition. A copy of the proposal information, identified as "Attachment No. 1", follows these minutes and is made an official part hereof.

**EMPLOYEE ASSISTANCE PROGRAM PROPOSAL:**

Ms. Boehnke, Director of Human Resources, explained the consideration of adding an additional vendor to handle the Employee Assistance Program. She said the County had been with Newnan Hospital for a long period of time and they had provided employees with excellent service. She said there was a fee of \$1.50 per month, per employee. She said their physical locations were limited to Fayette County. She said Guardian had offered to provide this service, free of charge, because the County had life insurance and disability insurance with them. She said their physical locations were in McDonough, Griffin, Stockbridge, and Douglasville, areas in which many county employees lived.

She said the services were limited to three face-to-face contacts and unlimited telephone counseling. Ms. Boehnke was recommending the County try this service with Guardian for a year and keep the current system now in place, at no cost.

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Chairman Dunn stated that the current vendor had unlimited visits where as with Guardian it would be three face-to-face visits only. Ms. Boehnke said that was correct.

Commissioner Wells asked if the employee could access both. Ms. Boehnke said that they could.

Chairman Dunn asked if Guardian had locations within Fayette County. Ms. Boehnke said they did not and that was why she was recommending the County keep the current vendor also.

Motion was made by Commissioner Wells, seconded by Commissioner Frady, to adopt the proposal as presented for a period of one year. Motion carried 5-0. A copy of the proposal information, identified as "Attachment No. 2", follows these minutes and is made an official part hereof.

**DIRECT DEPOSIT FOR ALL EMPLOYEES:**

Director of Business Services, Mark Pullium, requested that all employees be moved to direct deposit. He said at present there were ninety-five employees who were receiving a paper paychecks. He said they would like to make it mandatory for all employees to have direct deposit. He said if the employee did not have the ability to open a checking account they would be provided with a check card.

Commissioner Frady said he thought direct deposit was great but he did not know if they should make it mandatory.

Commissioner VanLandingham said he had some difficulty with this. He said some people, especially older people, liked to get their money and put it in their pocket. He said to force someone to do direct deposit was something he had a problem with. He said he did not see where it would save that much effort on the people in Finance. He said they had to enter data somewhere to get it into the bank. He said he would rather not see this be done.

Commissioner Wells asked if an individual wanted to have money in hand could they go and take that cash card and pull all of their money out of the bank. Mr. Pullium said they could. Mr. Pullium said it was the same as taking a paycheck and converting it to cash.

Mr. Pullium said there was cost savings in terms of the check stock, number of lost checks, and issues in terms of bank reconciliations and the number of transactions that staff had to process.

Chairman Dunn asked the difference in staff in issuing cash cards and checks. Mr. Pullium said it probably equaled one-half of a day of every pay cycle.

Commissioner Frady asked if the cash card would have to be cashed at a Wachovia Bank. Mr. Pullium replied that it did not, it was a Visa card and could be cashed at any Visa terminal.

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Commissioner Wells asked if there was a charge for converting the card to cash. Mr. Pullium said there was not. Mr. Pullium said if they took it to a foreign teller machine there would be a charge.

Commissioner Wells said that it had not been clarified as to how this would be better for the County. She asked if there was a dollar amount, an error savings, or why would this be better other than for convenience. Mr. Pullium said part of the problem they had was increasing workloads with his staff. He said they had higher dollar volumes, more transactions to process, and he was suggesting they become more efficient in the processing of all procedures or they were going to have to hire more staff.

Commissioner VanLandingham said he saw very little difference in issuing a check and issuing a cash card as far as the amount of time spent on that task.. He said he failed to see where it would offset the inconvenience and change for the employees.

Commissioner Pfeifer said a card would not be issued every pay period. He said one card would be issued and it would be credited every pay period. He said you had to go to a bank or check cashing service to cash a check and you could cash this card at any ATM machine which you could not do with a check or go to Wal-Mart and get cash which could not be done with a check.

Commissioner Wells said she did not see a problem in doing this if she could be told why the County needed to do it if the employee did not want it. Mr. Pullium said there could be instances where someone could object out of the program, but that would be a rare case and the County would not force them to do this if they had a bonafide objection.

Mr. Pullium said they were having to run two processes which was costing the staff four hours every two weeks of extra time to process the second process. He said in reference to the bank reconciliation process, that was costing the staff in a month's time another hour of time. He said it seemed like a small amount of time, but the staff in the Finance Department was already at a maximum in terms of productivity and capability.

Commissioner Wells asked in reference to the ten hours what was the dollar value. Mr. Pullium said in staff time they would save four to five hundred dollars and ten hours a month.

Commissioner VanLandingham asked if the department had the ability to do this with the computers they had now. Mr. Pullium said they did, there was no cost in implementing this feature. He said the money would be placed on the card electronically.

Motion was made by Commissioner Wells, seconded by Commissioner Pfeifer, authorizing the Director of Business Services to implement a mandatory direct deposit for all employees and to accommodate the 95 employees who currently did not have checking accounts. Discussion followed.



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Commissioner Frady asked what was meant by accommodate. Commissioner Wells said if there was someone who strongly disagreed with having a cash card Mr. Pullium would work with them.

Chairman Dunn said he thought most of the ninety-five people would be ok with a cash card or opt for direct deposit. Mr. Pullium said that was correct, but he had no way of knowing how many of those ninety-five would take the card.

Commissioner VanLandingham said with not knowing how the employees might respond he did not think he could support this.

Motion carried 3-2 with Commissioner Frady and Commissioner VanLandingham voting in opposition. A copy of the recommendation and Direct Pay Card Service Agreement, identified as "Attachment No. 3", follows these minutes and is made an official part hereof.

**SCHEDULED PAYDAY CHANGED FROM FRIDAY TO WEDNESDAY:**

Chairman Dunn said he wanted to clarify that with the information given to them from the finance director, that people who got a card would also be paid on Wednesday instead of Friday. Mr. Pullium said that was correct.

Chairman Dunn said if there was someone who had opted out and were to receive a check, would they get a check on Wednesday or Friday. Mr. Pullium said they would get a check on Wednesday.

Chairman Dunn clarified that employees would not be getting paid for days they had not worked. He said the pay period would cover the Thursday and Friday from the previous week. Mr. Pullium said yes, the pay period ended in the previous week.

Motion was made by Commissioner Wells, seconded by Commissioner Frady, to adopt the direct deposit to be Wednesday instead of Friday. Motion carried 5-0. A copy of the recommendation, identified as "Attachment No. 4", follows these minutes and is made an official part hereof.

**NOISE ORDINANCE 2005-08:**

Commissioner Pfeifer said this was a recommendation to revise the current Noise Ordinance. He said to briefly to introduce this, he was going to read the declaration of policy from this draft amendment. He read: "The problem of noise in unincorporated Fayette County has been observed by the Board of Commissioners and County staff. It has been documented by complaints in the Marshal's Department. The Board of Commissioners finds that it is necessary to minimize said noise to protect the citizens of Fayette County from the psychological and psychological dangers of excessive noise, and to promote the public health, safety and welfare, as well as to control the level of noise in a manner which promotes the use, value and enjoyment of property and the quality of the environment".

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Commissioner Pfeifer said this proposed amendment did not restrict or prohibit anything or any behavior except when that behavior intruded upon neighbors. He said if they used the example of a dirt track, you could build one, obeying all laws, and operate vehicles on one as long as you were not making excessive noise and Fayette County would say to have fun.. He said if you destroy the tranquility neighborhood with noise then Fayette County comes down on the side of your neighbors who also deserved to enjoy their property.

Commissioner Pfeifer said he wanted to ask for public input.

Chairman Dunn said it was not a public hearing, but if the Board so desired they could allow people to speak. He put the question to the Board. Commissioner Pfeifer said he wanted to hear from the audience. Commissioner Frady said he was not sure he wanted to, but he did want to stop the noise so the people could have tranquility. Commissioner Wells said they had not advertised this meeting as a public hearing and that was her problem with presenting this as a public hearing.

Chairman Dunn asked if a permit was needed to build a dirt track. Attorney Dennis Davenport said in respect to any disturbance activity a permit was needed for land disturbance activity. He said as far as the amount of land disturbance activity was concerned, he would defer to Engineering in respect to what they used as their guideline for what the minimum disturbance was needed for a permit.

Commissioner Frady said he wanted to make it clear to these people that if they disturbed land they may be subject to prosecution. Commissioner Wells said that he clearly said it could be done within legal parameters. Commissioner Pfeifer said that was correct.

Commissioner VanLandingham said that was another angle on this. He said if land was disturbed it had to be planted in grass so there would be no erosion. He said they could not leave a bare track and let it erode.

Attorney Davenport replied that there was a component of making sure that what ever land was disturbed maintained integrity and did not cause erosion.

Commissioner Wells said they would not necessarily have to plant grass, sometimes it was moved and as long as it was not eroding and not moving downstream, that was legal. She said there was no ordinance that said it had to be planted in grass.

Attorney Davenport said typically what happened was that during the process there were several different mechanisms that could be used. He said grass, silk fence and other mechanisms were permitted. He said depending on the construction time period, different things would be required.

Commissioner Pfeifer said this was not a dirt track ordinance, this was a noise ordinance.

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Commissioner Wells said it was not advertised as a public hearing so she did not want to let people speak tonight.

Commissioner Pfeifer said he asked staff if this would be handled as a public hearing, and if people who came tonight would be able to speak, and they said yes.

Commissioner Wells asked if Commissioner Pfeifer wanted to put it on the next meeting's agenda as a public hearing. Commissioner Pfeifer replied that he did not.

Commissioner Wells said she had a problem having a public hearing on this since it was not advertised. She said there may be people who would really like to talk about this if they had known about it. She said now we have a public hearing they did not know about and they would feel left out.

Commissioner Pfeifer said it was his understanding that because this was an amendment to an existing ordinance, it was not a public hearing matter.

Attorney Davenport said public hearing procedures typically related to the zoning ordinance. He said with respect to this noise ordinance not following the zoning procedures act, it was not required to have a public hearing. He said they could choose to have a public hearing if they so desired.

Commissioner Frady said he would like to have a hearing tonight.

Commissioner VanLandingham said he would not mind, but he did not want to hear from fifty people.

It was the consensus of the Board, 4-1, to let the people speak on this subject at this meeting. Commissioner Wells was in opposition.

Chairman Dunn said there was a change in an ordinance and the purpose of this ordinance seemed to be to stop the noise that had occurred in at least three sections of the County from dirt bikes on private properties. He said this did not only address dirt bikes, it was noise from anything that disturbed the neighbors at certain levels that were considered not to be safe.

Chairman Dunn asked those who supported a change in the present noise ordinance to stand. Eighteen people stood. Chairman Dunn asked how many people wanted to speak. He said he thought he saw five hands.

Chairman Dunn asked how many people in the audience did not want a change in the ordinance. No one responded.

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ED ANDERSON, 155 LUCY'S PLACE, a subdivision off of Quarter's Road. He said they moved out there about five years ago and about a year ago the property next to them was cleared and the neighbor built a twelve acre motorcycle track. He said as far as they could tell, without any permits and there had been no erosion control. He said his lot was directly adjacent to that and twenty hours or more a week on average they were subjected to noise levels that exceeded 85 decibels. He said there were more than 20 competition bikes on that track. He said they had a petition from over 60 members. A copy of the petition, identified as "Attachment No. 5", follows these minutes and is made an official part hereof.

AMY ANDERSON, 155 LUCY'S PLACE, said this motor cross coarse was about 100 yards from her house and 100 feet from her property line. She said these bikers rode professionally and were very serious about their sport. She said some days they rode from eight to ten hours at one time. She said there was no where in her house she could go to get away from the noise. She said she heard it over her television set. She said it was 62 decibels in her girls' bedrooms. She said the noise was very intrusive and the kids had trouble doing their homework. She said many of the neighbors had complained to the owner and he had no consideration for the neighbors. She said they needed help.

MARGARET SISSON, 434 KELLEY ROAD, said they live in a different area than the previous people who spoke, but they had they exact same problem. She said they bought the house about five years and had spent close to \$100,000 in improvements. She said about nine months ago their neighbors built a dirt bike track and the noise had been incredible. She said on Sundays they rode all day long. She said now it was harassment because they have called the marshal's office and complained. She said they had to move now. She said there were kids riding on this track that did not live at that house. She said when it rained there was mud that washed onto their land from the track.

Commissioner Frady asked Chris Venice to make a note to ask the Marshal's office to go out and check the Sisson's property to see if the land had been disturbed enough to make the flow of water change.

County Attorney McNally said he had already consulted with the Engineering Department on that subject and the track he was referring to did not need a grading permit.

BOB COOK, 159 ARNOLD ROAD, said his back property line ran the whole length of that track and they were now riding on his property. He said he called the Sheriff's office to make a report and the Sheriff's office said they would have to catch the riders.

MICHAEL OBENSHAIN, 150 LUCY'S PLACE, said their neighbor was riding until 10:00 p.m. at night. He said they had endured this for over a year and were asking the Board for help in amending this problem.

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ABRAM WINTERS, 290 NELMS ROAD, said this was not a problem until he opened his windows this spring. He said one day he drove by and found a commissioner on the road and stopped and while they were there they noticed people going and coming pulling bikes. He said these were not family members. He asked where were the people on the other side of this argument. He said they were not here tonight.

TYLER BATTLES, 140 HILLSDALE COURT, said he understood the complaints here tonight, but none of the people who ride the bikes were here tonight. He said it seemed like a sneak attack that there was no representation for the bike riders.

AMANDA MOWREY, 145 LUCY'S PLACE, said the bikers are about 40 feet from the property line when they were riding their bikes. She said they lived in the heart of Fayette County and had a quality of life that has been totally shattered.

Commissioner VanLandingham said at the beginning of this he was not aware of the magnitude of the noise several people were having to endure. He said he thought it was at one location. He said he had strong reservations about imposing regulations on all of Fayette County because of one person. He said it seemed like this was a growing problem and they had to address it some way and he was not sure they needed this detailed of an ordinance. He said he wanted to vote for this ordinance tonight but wanted staff to look at a way that they could deal with this and still not intrude into the lives of other people that created noise periodically. He said to restrict people in the way they were doing in this ordinance was not good government. He said he would vote for the ordinance and he felt those people here tonight had been very patient and understanding in giving the Board time to work something out. He said they had to encompass many different aspects of life in Fayette County to take care of this one.

Commissioner Frady said he was going to support the ordinance. He said this ordinance was very broad and difficult to enforce in some areas. He said his intent was to relieve the people who spoke at the meeting tonight from their problem and if this was a start to do that he was going to support the ordinance.

Motion was made by Commissioner Pfeifer, seconded by Commissioner Wells, to adopt the amendment to the noise ordinance.

Commissioner Pfeifer said he wanted to thank the staff for their extensive work on this, including Chris and the previous Chris, the attorney's office and County staff. He said this proposed amendment to the ordinance had been run by the Farm Bureau to get them to check off on it. He said he also wanted to note that the Marshal's office was obtaining the equipment necessary to monitor the noise. He said the Marshal's office was open on Sunday's but the regular phone number did not work and we needed to get that number.

Commissioner Wells said what the people had been experiencing was what on the law books referred to as a public nuisance. She said people did not have a right to come into the area and

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create such a nuisance, whether it be by smell, dirt, or noise. She said she did not think this ordinance was overly broad. She said they needed to be careful to not create an ordinance for one issue.

Commissioner Wells said in reference to Mr. Battles' remarks, she said she appreciated his comments because that was the reason she said she was reluctant to have a public hearing tonight. She said she had no problem with supporting the ordinance but she said they also needed to be careful as a governmental body of having a public hearing that they did not let everyone know about. She said the people who were now going to be violating the law had a right to participate in decision making processes. She said she commended the young man for coming forward and stating his feelings.

Commissioner Wells stated that they did need to keep in mind that this was a noise ordinance not a dirt bike ordinance or recreation ordinance.

Chairman Dunn said he had a different perspective in reference to Mr. Battles' comments. He said he needed to understand that these people here tonight had been going through this problem for over a year. He said the marshals had been on these properties and talked to the land owners that were doing this numerous times to no avail. He said this item was posted in the newspapers so anyone could find it. He said they did know what was going on. He said he did understand his comment.

Chairman Dunn said he did not know how this had been going on for the last year and a half and he had not known about it. He said the Board had been very much aware of this problem for the last few months. He said to the people who spoke tonight that he was amazed that they had put up with this for so long and it showed him that they were the kind of neighbors that were tolerant.

Chairman Dunn said this ordinance would not prevent people from making noise once in a while. He said he did not see where this ordinance was overly restrictive.

Chairman Dunn called the question. Motion passed 5-0. A copy of the Noise Ordinance 2005-08, identified as "Attachment No. 6", follows these minutes and is made an official part hereof.

**CONSENT AGENDA:** Motion was made by Commissioner VanLandingham, seconded by Commissioner Wells, to adopt the Consent Agenda as presented. Motion carried 5-0.

**DONATION TO THE LIBRARY FROM ICLE SATELLITE:**

Approval of budget adjustment for donation to the Library from ICLE Satellite of \$780, by increasing the revenue account and decreasing the other supplies account resulting in a zero impact on the Library's budget. A copy of the donation check, identified as "Attachment No. 7", follows these minutes and is made an official part hereof.

**GA DEPARTMENT OF TRANSPORTATION CONTRACT:**

Approval of authorization for the Chairman to execute Georgia Department of Transportation contract #C36877-05-000-0 base and plant mix paving for portions of Snead and Quarters Roads. A copy of the contract, identified as "Attachment No. 8", follows these minutes and is made an official part hereof.

**WORKER'S COMPENSATION RENEWAL:**

Approval of Worker's Compensation Renewal. A copy of the proposed renewal, identified as "Attachment No. 9", follows these minutes and is made an official part hereof.

**REIMBURSEMENT TO THE SHERIFF'S DEPARTMENT GENERAL FUND BUDGET:**

Approval of reimbursement of \$13,755 to the Sheriff Department's General Fund budget for damage to a Sheriff's vehicle. This action replaces previous action of Board taken on March 24, 2005. A copy of the request, identified as "Attachment No. 10", follows these minutes and is made an official part hereof.

**LARP REQUEST FOR FOURTEEN COUNTY ROADS:**

Approval of authorization for the Chairman to execute the Certificate of Ownership and Agreement for the approved LARP request LAR05-S007-00(761) Fayette County, fourteen county roads, 10.080 miles. A copy of the Certificate of Ownership and Agreement, identified as "Attachment No. 11", follows these minutes and is made an official part hereof.

**BOARD MINUTES:**

Approval of minutes for Board of Commissioners meeting held on March 2, 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.

JACK KRAKEEL, PUBLIC SAFETY DIRECTOR, stated that the telephone system in the Marshal's office rolled over to E911 if the Marshals were out of the office.

**STAFF REPORTS**

MARK PULLIUM: Mr. Pullium, Director of Business Services, asked for the approval to transfer funds from the Contingency account to refurbish the septic system at the McCurry Park softball field due to septic system failure. He said the failure created a hazzard to the public health. He said they wanted to close down Field 3 on a temporary basis until the repair was made. He said staff had outlined a plan that would correct this problem and connect this failing system into the system that was built several months ago. He said the cost of the system was \$11,000. He said they had received a permit from the Environmental Health Department. He said they had sought and received bids. He said they had received a qualified bid for \$11,831 and were asking permission from the Board to move forward to get this corrected. Mr. Pullium shared with the Board pictures of the damage.

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Commissioner VanLandingham asked who brought this plan together.

Mr. Pullium said it was a combination of Greg Ownby, Director of Buildings and Grounds, and Rick Fehr from the Environmental Health Department.

Commissioner VanLandingham asked if this was going to overload the new system. He wanted to know if there was a qualified opinion on this.

Mr. Pullium answered that they conferred with the company that installed the new system.

Anita Godbee, Director of Recreation, said Rick Fehr looked at the current system at the Soccer Fields and said no additional strain would be caused from installing a system at the softball facility. He suggested that when there were large tournaments to coordinate the timing to prevent overloading the system.

Commissioner VanLandingham asked if an engineer or sanitation person had looked at this.

Ms. Godbee said an environmental engineer had looked at this situation. She said Martin McElwaney, Engineer for the system, was consulted and agreed that it would meet with the approval.

Motion was made by Commissioner Wells, seconded by Commissioner Frady, to approve the transfer of funds to repair the failed septic system. Motion carried 5-0. A copy of the transfer and bid, identified as "Attachment No. 12", follows these minutes and is made an official part hereof.

DENNIS DAVENPORT: County Attorney Dennis Davenport asked for an Executive Session to discuss two legal items.

EXECUTIVE SESSION: Motion was made by Commissioner Wells, seconded by Commissioner Frady, to adjourn to Executive Session to discuss two legal items. Motion carried 5-0.

**EXECUTIVE SESSION:**

**LEGAL:** Attorney Davenport discussed a legal item with the Board.

The Board took no action on this matter.

**LEGAL:** Attorney Davenport discussed a legal item with the Board.

Motion was made by Commissioner Wells, seconded by Commissioner Dunn, authorizing the attorney to proceed in this matter. Motion carried 5-0.



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EXECUTIVE SESSION AFFIDAVIT: Motion was made by Commissioner Wells, seconded by Commissioner Frady, authorizing the chairman to execute the Executive Session Affidavit affirming that two legal items were discussed in Executive Session. Motion carried 5-0. A copy of the affidavit, identified as "Attachment No. 13", 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 9:35 p.m.

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Peggy Butler, 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 26 day of May, 2005.

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Peggy Butler, Chief Deputy Clerk