

The Board of Commissioners of Fayette County, Georgia met in Official Session on Thursday, June 23, 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
Dennis Davenport, Assistant County Attorney
Carol Chandler, Executive Assistant
Karen Morley, Chief Deputy Clerk

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

PRESENTATION OF FAYETTE COUNTY MAP, CIRCA 1866:

Pete Frisina, Tony Parrott and John Dufresne of the Fayette Heritage Project Committee presented a framed Fayette County map Circa 1866 to the Board.

John Dufresne said the purpose of the Fayette Heritage Project was to promote the heritage of Fayette County. He said one of the ideas that the committee had was to find a replica of the oldest county map, make a copy of it and have it framed. He said they wanted to present this map to the Board of Commissioners. He commented that Pete Frisina was instrumental in getting this task done along with Tony Parrott both of whom were county employees. He said on behalf of the Fayette Heritage Project they were presenting this replica of the county map to the Board of Commissioners.

Chairman Dunn said the Board appreciated all of the work that the Heritage Committee does for the citizens of the county. He said the history of Fayette County was very interesting. He commented that Fayette County used to be a lot larger and included parts of Campbell, Fulton and Clayton Counties. He thanked all of the members of the Fayette Heritage Committee for all of their hard work and said it was greatly appreciated.

RECOGNITION OF BOY SCOUT TROOP #74:

Commissioner VanLandingham said it was with great pleasure that the Board recognize local Boy Scout Troop Number 74 from Grace Heritage Christian Church in Fayetteville. He said the Board had met with them a couple of times in the past and they had always been very well behaved young men. He said this was attributed to their leadership and their parents.

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RULES FOR PUBLIC HEARING:

Commissioner Wells reviewed the rules for public hearings. She said as each one of the items was introduced, the Board would ask if anyone wished to speak pro or con on these items. She said they would be asked to state their name and address for the record. She said each person would have up to three minutes to speak. She said when each person was finished with their comments the Board asked that they return to their seat. She said anyone wishing to speak on item B regarding the budget would just make their comments to the Board for three minutes. She said for item C the Chairman would ask if anyone wished to speak in favor or opposition to these items. She said the Chairman would ask anyone wishing to speak to stand so the Board could get an idea of how many people would be coming forward. She said anyone coming forward would have three minutes to express any comments pro or con on the petition. She said then the petitioner had the opportunity to come forward and address those concerns. She said at that point in time the issue would return to the Board and there would be no more comments from the public. She said sometimes people would have a moment to think and then decide that they wanted to discuss it after it had come back to the Board. She said after the issue came back to the Board, there would be a discussion and a vote taken. She remarked that item D was a request for a change in one of the county's ordinances. She said anyone wishing to speak would have the opportunity to do so for three minutes to express either support or opposition. She said the Board thanked everyone for coming out tonight and participating in their government.

RESOLUTION NO. 2005-08 - ADOPTION OF THE FY BUDGET FOR 2006:

Director of Business Services Mark Pullium reviewed the budget for fiscal year beginning July 1, 2005 and ending June 30, 2006.

Mr. Pullium said one of the highlights that he was most proud of was the reduction in property tax rates. He said this was about the fourth year in a row that property taxes had gone down in Fayette County. He said property taxes would be reduced at least .3283 of a mill in the general fund. He remarked that in addition, property taxes would be reduced at least .14 of a mill in the fire services special revenue fund. He said as a result, the property tax rates for both funds would be the lowest in more than ten years. He said he was proud to be part of a government and staff that takes taxpayers' money so seriously. He said all of the staff work hard to make sure that the county's funds were carefully managed. He said this budget included a \$47.6 million for the General Fund Operating Budget. He said this represented an increase of \$1.3 million or about 2.8%. He said the question had come to him the other day in regard to the \$196 million. He said one of the reasons for that increase was the Capital Outlay Program known as the Long-term Transportation Plan sometimes referred to as SPLOST. He said that program was \$115 million and the county would only collect \$20 million during the time span representing fiscal year 2006. He said these projects must be authorized on a project length basis. He said these projects would take place over many years. He said some of the projects may not be completed for fifteen or twenty years. He said this Board had to move forward with the authorization.

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Mr. Pullium further remarked that there were fifteen new position authorizations. He said in addition there were also three vacant positions that were eliminated in the budget. He reviewed the comparisons from FY '05 to FY '06. He pointed out that the property taxes in 2005 were \$24,042,550 and in 2006 they were slightly higher at \$24,135,000. He said this was a \$93,000 increase in taxes. He noted that the overall increase in the revenues in total for the general fund was approximately \$1.5 million. He said the respective increase in the expenditures was approximately \$1.12 million. He said \$1.4 million was being appropriated in the fund balance.

Mr. Pullium commented on the increase in public safety funding. He said the difference in funding from FY '05 to FY '06 was \$732,615. He said this was quite a bit of additional money flowing into the public safety arena. He said during the budget discussions there had been some requests made by the Board to make a few changes as it related to gasoline, computer equipment and salaries. He said staff was asking for the Board's consideration to move these dollar amounts from the respective departments into a county contingency fund. He said they wanted to be sure that in terms of gasoline with the rising prices that central control was maintained over that funding to be sure that the money was there for use against the anticipated rising prices. He said staff felt that could best be done in a central account.

Mr. Pullium further remarked on computer equipment. He said staff would like to put out a bid for all of the county's computer equipment and accessories at the beginning of the year for all of the items that had been identified. He asked for the Board's consideration in making a motion to accomplish this objective of moving these funds into contingency. He said this would also include the gasoline funds and funds allotted to merit pay that would be moved into the contingency fund.

Commissioner Frady clarified that when Mr. Pullium had read that the millage rates were going down it did not mean that citizens would get a tax break necessarily. He said some people would get a tax increase because of reassessments.

Chairman Dunn said that was a good point. He also said that everybody's taxes come on one bill so the cities and the schools were on that bill as well. He said the part that the Board was talking about was only the county's portion of the taxes. He said the millage rate had been reduced to compensate for the upward reassessment on the homes in Fayette County. He said this Board was keeping the county's portion of the General Fund taxes pretty stable over the last several years. He said the big fluctuations in the taxes were coming from the other entities on the tax bill.

Mr. Pullium read Resolution 2005-08 which was the budget Resolution for fiscal year 2005/2006 for the Board's consideration for adoption.

Chairman Dunn asked what last year's total budget was and Mr. Pullium replied that the total M & O budget last year was \$69,469,000.

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Mr. Pullium remarked that the total M & O budget for this year was \$70,685,000.

Chairman Dunn commented on the figure that Mr. Pullium quoted for the total of all funds being \$196,825,137. He said that was an accounting drill to account for the \$115 million of capital funds that were going to be used to build roads here in the next twenty years. He said the county did not have the money now and the county certainly was not going to spend it next year. He said he was referring to the one cent sales tax that the voters approved. He said this would be spent over a long period of time and not this year. He said in the following years this figure would not be shown but that was when the money was going to be spent.

Commissioner Frady remarked that the cities would get 30% of the money.

Chairman Dunn remarked that next year and the year after and subsequent years when a lot of the road money was being spent, it would not appear in the annual budget because it was already approved now. He said the county was spending approximately \$1.2 million more this year than last year.

Mr. Pullium asked the Board if there were any further questions.

Chairman Dunn replied no and commended staff for doing a very good job with the budget this year. He remarked that this was a public hearing and he asked if anyone wished to speak on the budget. He said this would be the last opportunity for anyone to speak on any part of the budget before the Board voted on it.

Judge Chris Edwards said he was a resident of Fayette County and was present to speak on behalf of the four women who work as judicial assistants to each of the four Superior Court Judges. He said as a matter of principle everybody agreed on limiting the size of government, limiting its expense and limiting the burden on taxpayers. He said there was a circumstance that had developed over time because judges were habitually reticent at the State level and elsewhere where significant disparities had arisen between the salaries that their administrative assistants were earning and those that they would certainly earn in the private sector. He said his own judicial assistant was an example. He said she had worked for Fayette County Superior Court for six years and six months and had a total of nineteen years of legal experience. He said she was previously a litigation secretary for a law firm in Atlanta. He said she had a Bachelor's Degree from the University of North Carolina and currently earned \$28,489. He said this was significantly below what she would earn in the market elsewhere. He said one of the judges had encountered the circumstance recently where his judicial assistant had elected to stay with him instead of going to work for the Public Defender. He remarked that they had seen the increase in the budget going toward the Public Defender. He said she had to make a decision to stay with the judge that she worked for and actually forego many thousands of dollars that she would have earned even as a starting secretary with the Public Defender's Office. He said it was fairly graphic when one comes to realize that the topped out end of the scale for a Public Defender's secretary was currently at \$46,000 and for

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a Superior Court Judge's secretary was at \$39,000. He said their judicial assistants were acutely aware that their colleagues who were judicial assistants in any other metropolitan county and many across the State had positions to assist them in their work. He said many of the other metropolitan counties including Fulton, DeKalb, or Cobb have Superior Court Judges who handle no more of a case load than Fayette County and who remain in one county and have no travel. He said Fayette County Judges travel and their judicial assistants also travel with them. He said the metropolitan judges typically have a State paid judicial assistant who receives a very substantial supplement from each of those counties. He said those judicial assistants also have the aid of a calendar clerk that handles all of the judges scheduling and coordination of case assignments and things of that nature. He said each judge also had their own law assistant. He said here in Fayette County the judges were perfectly happy to rely through a careful hiring process to have one talented law assistant who did research for all four judges. He said they were not asking for a law assistant for each of the four judges. He said as judges they had not really asked for anything and this request was for their judicial assistants. He said their judicial assistants had formed their own organization and were asking the State to redress this salary disparity. He said even district attorneys and public defenders' secretaries make more than the Superior Court Judges' secretaries. He said they should be studied and put at parity on a State level. He said if and when that occurred it would probably take at least two years. He said at that time they would ask that this supplement evaporate if they were all put at parity and it should expressly so provide.

Judge Edwards said he was asking for the Board's consideration tonight to ratify what the Upson County Commission had voted to do and grant the supplement that was being requested. He said the Pike County Commissioners and the Spalding County Commissioners had already voted to approve this supplement for judicial assistants. He said he would be glad to answer any questions that the Board might have. He said none of the employees were saying if this did not work out they would be leaving. He said he was completely satisfied that their loyalty to government service, loyalty to public service, loyalty to the judges and to the judiciary would remain regardless of whether or not this was approved. He said he had complete confidence in that. He said he personally felt it was a fair measure to undertake. He said part of their desire to have good government included being able to attract and retain people at salaries that were somewhat at parity with what the private sector paid without paying too much. He said all of the judicial assistants did a great job for them and they could not do their jobs without these assistants. He said these assistants were greatly appreciated.

Judge Edwards remarked that the law clerk supplement with Frank Harper departing and going to the Public Defender's Office and he was now going into private practice. He said with Frank Harper leaving and with the judges having a new law assistant to do research. He said the law assistant was an attorney and lived in Fayetteville. He said this was saving the county approximately \$21,000 this year. He said the current net impact of supplements on the county would have virtually no incidence at all. He said Frank Harper was provided a supplement by the county to put his State salary at parity with what an assistant district attorney makes so that Frank would stay. He said the State's scale did not have any increasing scale at all for a law clerk. He said typically law clerk's do not stay that long but Frank had been with the county for

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nine years and the Board was gracious enough to provide him with a supplement. He said with Frank leaving the county would be saving \$21,000. He asked if the Board had any questions.

Commissioner VanLandingham said Judge Edwards had mentioned that the judges were talking with the State Legislature about bringing parity to all of the secretaries. He asked if this was an active effort or was it passive.

Judge Edwards replied that it was very active. He said as the Board could imagine while they had mounted an effort for a supplement here in this circuit, this was not going to happen everywhere. He said all of the judicial assistants throughout the State had become quite motivated and were asking the judges that they work for and the judges in turn were asking legislators to take action on this. He said the judicial assistants regarded themselves as having been passed by. He said when the Public Defender Bill came through then the Council of Superior Court Judges realized that this was not right. He said it was obvious then that the Public Defender's secretary was going to be making a certain salary and the Superior Court Judges' secretaries were not. He said that was his fault and the fault of every Superior Court Judge in the State for remaining silent and hoping that somebody would notice that these salaries should be comparable. He said he understood that the Carl Vincent Institute of Government who typically studied salary schedules had undertaken a study. He said he understood that there was legislation underway to redress this issue.

Commissioner VanLandingham commented on Judge Edwards' statement about the supplement evaporating when this initiative was accomplished. He asked if the secretaries were aware of this.

Judge Edwards replied yes they were. He said there was absolutely no desire to establish any kind of a win fall here for them but in the near term to create a situation that was a little more fair than what it was currently. He said this was something that could have been asked for a long time ago.

Commissioner VanLandingham asked if Judge Edwards was asking for a progressive supplement or just a one time supplement.

Judge Edwards replied there was a schedule that had been submitted and discussed with Chris Venice and Mark Pullium. He said this varied to some extent based on the years of service. He said he did not think that at any point the supplement was going to reach the point where a judicial assistant was going to make as much as somebody in the Public Defender's Office would top out at. He said there had been a scheduled proposed specifically that listed 2 to 4 years in the amount of \$4,666. He noted from zero to 2 years of service there would not be any supplement and 5 to 7 years it would be \$5,500 and 16 years or more it would be \$8,000.

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Chairman Dunn questioned the withdrawal of the supplement. He said the county had been working with supplements for many years and it was his understanding that once a supplement was provided to an individual that it may not be withdrawn as long as that same individual was in that position. He asked Attorney Davenport to comment on that.

Attorney Davenport replied that was typically how supplements had worked in the past once a supplement had been put in place. He said a supplement was a part of the salary and component of the salary.

Chairman Dunn remarked that it might be Judge Edwards' intention to allow that to happen but he was not sure if that could be done.

Attorney Davenport said he personally had not seen that type of arrangement where it would evaporate but that was not to say that it could not.

Judge Edwards suggested that the enabling legislation could expressly so provide. He said he was sure that all of the current judicial assistants would be happy to sign a memorandum of understanding indicating that they understand that the supplement would go away. He said he was sure that any new hire would feel the same way.

Judge Edwards said he was not aware of any new statute that he was conversant with that said that once a county paid a supplement to a State employee that it could never go away. He said this would prevent the Board from its ability to control the county budget.

Chairman Dunn said this would be analogous to reducing the assistants' salary and that was what the Board had always been told that they could not do without cause.

Commissioner Frady asked if there were some differences between a constitutional officer and an employee.

Judge Edwards remarked that one reason this may be floating around where it might not apply. He said when a Superior Court Judge was paid a supplement and that Judge retired the Commission was obliged to continue to pay that Superior Court Judge the same percentage of that supplement as he or she gets of their State salary. He said he did not know of any other provision of the law that said that when a supplement was paid that it could not be withdrawn. He said the other day he was studying the question of whether or not a County Commission after it approved the budget could take a department's budget and cut it within that year. He said that could depend on whether or not it was a constitutional officer or whether it was discretionary spending.

Chairman Dunn questioned if judges were to receive a pay raise from the State of a substantial amount would it not also apply that judges should give up their supplements.

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Judge Edwards remarked if the Fayette County Commission elected to give them the \$35,000 supplements that they were receiving in Henry County, then that would be great.

Chairman Dunn stated that Judge Edwards had made some comparisons to the Office of the Public Defender. He said this Board had approved no supplements for them and did not intend to. He said he did not know how they had gotten salaries so high for those secretaries. He said it must have been part of enabling legislation to allow it but it certainly did not come from this Board.

Judge Edwards remarked that the State had imposed by law on counties a kind of a hybrid responsibility for funding in different areas and in that respect these supplements had become traditional.

Chairman Dunn thanked Judge Edwards for his comments and asked if anyone else wished to speak.

Judge Pascal English said he wanted to emphasize fiscal responsibility. He felt no one in this room was more cognizant of fiscal responsibility than the County Commissioners and the two Superior Court Judges. He said he was aware that the word supplement was a bad term to some people in this county. He said it was not without some great thought on the judges part. He said he had been a Superior Court Judge for 18 years in Fayette County. He said one thing that he did not do and neither did any of the other Superior Court Judges was to come to the Board of Commissioners with their hands extended. He said when they do it was always for a good reason. He said he was very, very strongly convinced that not only was this appropriate but it was the appropriate time and the right thing for the judges to do for these judicial assistants. He said it was also the right thing for the Commissioners to do in recognition of the service and of the dilemma that the assistants find themselves in that was outlined by Judge Edwards.

Judge English said the last time he appeared before the Board of Commissioners was 17 years ago in 1987. He said he had come before the Commission to ask for a supplement for his secretary, who at that time because of the disparity between the State and what somebody in her category could command in private sector he felt it was unfair. He said that was approved and this was where the supplement first started. He said as Judge Edwards indicated the judges would be very appreciative of the Board's consideration of the judicial assistants who were the most important part of their system as far as he was concerned. He said he was concerned with what this was going to cost Fayette County. He pointed out that there would be a savings alone for the law clerk in the amount of \$21,000. He said what they were asking for from a supplement to their judicial assistants would only be an expense to the county of \$8,000. He said with the savings that the county would appreciate of \$10,000 from the law clerk, there would still be a net benefit to the county of \$1,800. He said this was something that was very important to him, Judge Edwards and to the other Judges. He said it was unfortunate that the label of supplements had received such a negative connotation. He said it was

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unfortunate that whoever studied this did not have the time to adequately study before there was an appeal to the county. He asked for the Board's consideration to give this issue more deliberation on the Board's part. He said this was something that could be put into effect until the State came up with parity. He remarked that he was suspect about whether or not this was ever going to happen. He felt this was something that Fayette County most assuredly of all the counties in this Circuit could live with. He said in just this area of a law clerk there would be a net savings of \$1,800 if the supplement was approved.

Judge English said when he had met with Chris Venice and Mark Pullium on this issue he realized that Ms. Venice was on the opposite side and he respected that. He said she had a job to do and he respected her for her position. He said one thing that Ms. Venice had asked him to do and queried him about was the schedule that had been presented to the Board. A copy of the Judges' Secretary Proposed Supplement, identified as "Attachment No. 1", follows these minutes and is made an official part hereof. He said by mistake he had put zero to four years as the first breakout for the supplement. He stated Ms. Venice had suggested that there be a couple of years of work before a supplement would be received. He said he had agreed with her on that issue and put in 2 to 4 years of service. He said Ms. Venice had made this recommendation and he thought it was a very good recommendation and he acted on it.

Judge English further remarked that he was asking for something that was needed and needed right now. He said their judicial assistants were falling further and further behind the surrounding counties every year that something was not done. He said this was the Judges' fault but they were trying to correct that at this time and this was the only means that they had. He said they could not go to the State and the only thing that they could do was what the statutes in the State of Georgia allowed and that was to appeal to the counties for a supplement for the judicial assistants. He said this was what they were here to do. He said he would appreciate it very much if the Board would strongly reconsider its vote on the judicial portion of the budget dealing with the judicial assistants and to think about what Judge Edwards and he had said and give this matter some more serious consideration. He said it was really rare that they come before the Board and ask for anything and when they do it was for a good reason. He said this was a good reason. He thanked the Board for its attention to the matter and he said he would be glad to answer any questions that the Board might have.

Commissioner Pfeifer said he understood the judges' reasons and the reasons they had given in favor of this. He said the reason that he would oppose this request was that the County was being asked to pay 48% and Fayette County did not have 48% of the case load. He said Fayette County was 48% of the population but not the case load. He said he did not feel that the Fayette County taxpayers should be asked to pay an additional amount simply because they exist.

Judge English said he did not come up with the statistics of the break out of who paid what. He said he could not control that. He said this was up to the Board of Commissioners and the District Court Administrator or whomever. He said he did not know who came up with these

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statistics but the Judges had nothing to do with that. He suggested if the Board was going to try and penalize the ladies who worked for them simply because the Board did not like the statistics, then that should be brought to the attention of somebody who could correct it. He said if he could correct that, he would try his best to do so but that was beyond his area of responsibility.

Commissioner Pfeifer interjected that he thought this had been corrected during the Board's budget hearings.

Judge English remarked that he was not aware of that.

Chairman Dunn remarked that this Board would never punish Judge English's employees for anything. He said they had never done anything bad so there was no punishment involved. He asked if the break out that Judge English had presented to the Board was based on the population of each county or was it based on the case load provided by each county in the circuit.

Judge English replied that the figures came from the District Court Administrator and the percentages used in these figures were the figures used for the current supplements of the Superior Court Judges. He said he understood that this was not based on population.

Chairman Dunn said Fayette County did not have 47% of the case load in this Circuit but Fayette County did have 47% of the population. He said the work load was not created by the citizens of Fayette County but created by the people outside of this district.

Judge English said he did not know how the Board was defining case load but he could say as a Superior Court Judge 95% of his work was here in Fayette County. He said he did not know what case load meant. He said he did not count cases and he did not know who did that except for Fred Roney. He said he did not know what a case meant. He asked if a case meant that if a contempt was filed on a divorce case that would be a new case. He said he did not know. He said he could tell the Board that disproportionately the amount of work done in this circuit was in Fayette County. He said he used the word disproportionately with no negative connotation. He said Fayette County had the lion's share of cases that they worked on in any given year. He said he could assure the Board that over 47.8% of their court time and time spent in the office was dedicated to Fayette County.

Commissioner Wells asked Mr. Pullium to clarify this.

Mr. Pullium remarked that the historical practice that he believed was based on State law was that salary supplements were based on the population percentages of the respective counties. He said the 47.8% was Fayette County's percent of the population of the Griffin Circuit. He said all of the salary supplements were prorated based on population.

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Commissioner Wells asked if this was based upon traditional methods or on legislation or what.

Mr. Pullium replied that it was his understanding that this was based on State law.

Chairman Dunn pointed out that part of Mr. Roney's budget was based on the population served and the other part was the case load from the jurisdictions.

Commissioner Frady said there was two parts and this was probably an average.

Chairman Dunn said when the Board deals with the budget from Mr. Roney, it looked at both sides. He agreed that salaries had been adjudicated based on population but other court services and other dollars for other services come from case load. He said the question was which one was this.

Mr. Pullium responded that it was based on population percentage and was 47.8%.

Chairman Dunn said he did not know what was right or what was wrong.

Commissioner Frady said he did not know if this was an average or was actual population. Chairman Dunn said this was also something that the Board of Commissioners could take a look at. He said the Board had to be holistic when it came to how the Board deals with State employees. He remarked that most of the State employees at one time or another asked for supplements. He said the State government was famous for not giving people the salaries that most State employees feel they were worth. He said the Board would agree with that. He said there was no one on this Board who would contest that the Chief Judge of the Circuit should have somebody working for him for 17 years and be paid \$40,000. He said the Board could not understand why year after year this approach was made that the Judges' staff was not given raises by the State of Georgia even when the Judges themselves have gotten raises from the State. He said he had watched the budgets over the last seven years. He noted that the Judges had not gotten raises over the last couple of years. He said there were many of the positions not just the Judges but there were people in the Health Department, people in the District Attorney's Office and in the Extension Service. He said these were people in State positions all of whom more money. He said the Board would like to say it would support them in their petition to the State but the question becomes is it the role of the individual counties of Georgia to pay State employees when the State will not pay them. He said this was a bad situation and there was no doubt about it. He said there was one thing that concerned him and that was the Board had always been informed if a supplement was given then as long as that person was in that job the Board could not take the supplement back. He felt there needed to be clarification on that.

Attorney Davenport said he would be happy to provide that information. He said the issues that he was aware of had to do with elected officials and jurisdictions where cases were decided

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and where jurisdictions tried to reduce supplements. He said the ruling was that this could not be done and that did involve elected officials.

Chairman Dunn remarked that many of the elected officials at the State level had supplements. He felt the county would be even more inundated with a lot more requests for supplements if some of the staffs were given supplements on State positions. He said he did not remember the last time a State employee received a supplement from the county. He said some of the elected officials had received supplements and those supplements continue.

Commissioner Frady said the Board had given a supplement to the constitutional officers and judges approximately seven years ago.

Chairman Dunn said it had been quite a while ago but the supplements remain in place and they continue to increase. He said he agreed with Judge English that it was probably unlikely that the State was going to help with this. He said the Board certainly appreciated what Judge English had said and no one could possibly disagree with anything that Judge English had said. He said these judicial assistants were certainly outstanding employees, very easy to work with and a pleasure. He said he did not know if the Board could help and did not know if it would be the best thing for the Board to do.

Commissioner VanLandingham said the failure of the Board to do anything on this tonight would not preclude the Board from doing something at a later date after the Board had time to research the possibility of this supplement evaporating. He said he would hesitate to vote on this tonight not knowing if it could be done or not. He said he would certainly keep it in his mind and after the Board received an opinion that it could be withdrawn if the State increased it then he would look at it more favorably. He said tonight he would not want to vote on this. He said the Board could increase the budget after this information was obtained. He said he would hesitate to vote on this tonight not knowing what the law was on it.

Commissioner Frady asked Judge English if his employees were on the State merit system.

Judge English replied no. He said they were State employees but they had their own system. He said the reason for them even beginning this thought process about how they were going to assist their judicial assistants was exactly what Chairman Dunn just commented on and that was the hesitancy of the State to ever help these assistants. He said this became very apparent to them this year when he personally made three trips to the Capitol to meet with the Legislative Committee regarding Judicial Assistants and their retirement package. He said their Judicial Assistants had to work for thirty years and reach the age of 60 before they would qualify for retirement at the 50% of what their salary would be. He remarked that these Judicial Assistants worked for the judges at will and were under no contract. He said the judges could relieve these assistants at any time they wanted to. He said the seriousness of this became apparent when one lady in South Georgia who was a Judicial Assistant for a judge who

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decided that he was going to retire after 22 years of sitting on the bench. He said this Superior Court Judge left and there was no place for this lady to go. He said there was no merit system for her and she had no protection. He said there was no program in the State that would allow her to transfer unless she could find a job with another State department. He remarked that she did not have the requisite number of years in and she did not have the requisite period of service in for that judge and she was out in the cold. He said she was told that she was out of a job, no where to go, no retirement to speak of and basically she had nothing. He said this woman was a single mother with a child. He said this became his crusade for these assistants. He said he felt this was so inequitable. He stated he went to the Legislature and apparently it had done very little good.

Judge English further remarked that he did not know how many judges stayed today much over 16 years. He said at 16 years of service a judge was fully vested and could retire with complete benefits. He said at 16 years of service if a judge left the bench then his judicial assistant had no where to go, no other employment opportunity and no protection from retirement. He said this was the only thing that was available that they could use to help these judicial assistants. He said the Board could probably find on one hand the number of judicial assistants across the State that stay with a judge for 25 or 30 years because judges just did not stay that long. He said this was the only thing that he had seen out there that was available to help these judicial assistants. He said he put his efforts into making something more equitable for the assistants. He said this was something whether the Board liked it or not and whether it approved of it or not was recognized by the State Legislature and the reason obviously that they had put this statute in place that would allow counties to give Superior Court Judges' judicial assistants supplements. He said this was a realization that the State was not going to help. He said these judicial assistants needed assistance from other bodies. He said it was unfortunate that he had to come before the Board. He said he would rather be any place other than standing here asking the Board for money. He said he did not do it hesitantly and this was one of the reasons that really got the ball rolling on this and that was that this was the only place that he could turn.

Chairman Dunn said he was prepared to vote on the budget tonight the way that it was, but if his colleagues would agree he could commit to Judge English to do a mid year review of this just with Judge English and Judge Edwards for these four positions. He said the Board could review this in a December time frame and if the Board voted to do it then it would take effect during the first part of the calendar year. He said the Board would need to look into whether or not these supplements were permanent and if the Board could take them away. He said there were other issues involved. He remarked that certainly the issue of the retirement system was absurd and the Board would not be able to help with that.

Judge English said this was the reason he felt so emphatic about this. He said he understood the Board's position. He said he did not like it but he understood it. He felt it was probably, from where he sat, the easy way out for the Board. He said this was his opinion and he was entitled to it. He commented on the other counties surrounding Fayette County. He said the

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Board could go to any county in the metropolitan area and their salaries were almost double that of that Fayette County Judicial Assistants' salaries. He said the way they got around the supplement terminology was that they became not only State employees they also became County employees. He said not only were they given County paychecks but they were given County insurance, County retirement. He said not only were the Fayette County Judicial Assistants falling behind in just the basic necessities of a paycheck but they were falling behind in retirement, insurance and everything else. He said the Judicial Assistants here have basically a State salary and what the Commissioners would approve through the authorized statute that allowed supplements. He said he hated the term "supplements" now because some of the Board members were opposed to it. He said in any event that was why he felt strongly about it and that was why he was before the Board. He said he was sorry if he had said anything to offend anybody because he certainly had not meant to offend anybody. He said he was very, very, very committed to this cause more so than any other cause outside of court that he had done in his history as a Superior Court Judge. He said he appreciated the opportunity to come before the Board.

Chairman Dunn commented on Judge English's remark about people in certain jurisdictions who were on benefit programs for both the State and the County. He said the Board had been informed of that too and also that a person could only be part of one of those systems and the people on both were going to have to give up one.

Judge English interjected that he had not said these people were in both.

Chairman Dunn said there were some who were found to be in both.

Judge English said he had not made that statement. He said the employees were State employees and draw a State paycheck but they should not be covered by State insurance because they have County insurance. He said they did not have retirement because they had County retirement which in some counties was better than the State retirement.

Commissioner Frady said the employee would have to make a choice and Judge English replied yes that was correct.

Commissioner Frady felt it was ridiculous that these employees had worked for 19 years and only made \$28,000. He said there were 700 Fayette County employees and most of them were taken care of by the county policies and how they got paid. He said something that he had to work through was giving supplements to someone else's employees when he could not and did not have a policy to do that with the other county employees. He said he did not have a problem paying people what they deserved and he was sure the Judicial Assistants deserved a supplement. He said it was hard for him to try and justify that when he could not give supplements to the other county employees.

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Judge English said he certainly understood Commissioner Frady's position. He said one thing that he would mention was that these judicial assistants were State employees by name only. He said he did not know of any State work that was done in the Fayette County courthouse. He said they were County Superior Court Judges and not State Court Judges. He said these judicial assistants work for Fayette County and all of their work was county work.

Commissioner VanLandingham said he hoped that Judge English did not take his reservations in not voting tonight as a refusal.

Judge English replied no he did not and said that he thought that was an excellent idea. He said that was what he was hoping Chairman Dunn would agree to.

Chairman Dunn said he had suggested a review of just this issue being brought to the Board in December.

Judge English said he would appreciate anything that the Board could do to assist them in this. He said if the Board could not, he did not know of anything else that could be done.

Chairman Dunn said he did not believe that he could vote to change the budget that was before the Board tonight but if the Board was willing to do it the Board could commit to Judge English to review this issue and only this issue in December of this year.

Commissioner Frady said the Board could revise the budget any time.

Judge English said he appreciated the Board's willingness to do that. He said this was a terribly serious issue.

Chairman Dunn said the Board was aware that this was a serious issue. He said the question was the equity issue. He said if the Board solved this with the Superior Court Judges, then the Board would have every other State employee in the region in here asking for the same thing. He noted that their people were underpaid too. He said the Board would have to figure out what was doable and what was not from the Board's standpoint. He felt it was good for everyone in this room as well as the public to have learned how remiss the State was in paying some of these employees. He said the Superior Court Judges was not the only organization with this problem.

Judge English said as he looked around, they were the only people present fighting for their judicial assistants. He thanked the Commissioners for their consideration.

Chairman Dunn asked if anyone else wanted to speak on the budget. Hearing none, he asked for the Board's pleasure on this item.

Mr. Pullium asked for the Board's consideration for the motion to reallocate the funding for the salary and benefits for the merit pay in the amount of \$611,252, the gasoline funds in the

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amount of \$513,764 and the computer equipment funds in the amount of \$107,968 for a total reallocation to the contingency fund in the amount of \$1,232,984.

On motion made by Commissioner Frady, seconded by Commissioner Pfeifer to adopt Resolution No. 2005-08 approving the annual budget in the amount of \$196,825,137 for fiscal year beginning July 1, 2005 and ending June 30, 2006 with merit pay funds, gasoline funds and computer equipment funds in the amount of \$1,232,984 being moved into the Contingency Fund for disbursement to all departments as needed, discussion followed.

Chairman Dunn remarked that the Board was moving some funds for merit pay, gasoline and computer equipment into the county contingency fund. He said this did not change the budget and the budget that was available to any of the county's departments. He said every department would still get every penny. He said the Board was simply centralizing the distribution and acquisition of these funds to the county because it will be cheaper and more efficient to do it that way.

Commissioner Frady said by moving these funds, it would save the taxpayers' money. He said that was exactly what this Board was trying to do.

The motion carried 5-0. A copy of Resolution No. 2005-08, identified as "Attachment No. 2", follows these minutes and is made an official part hereof.

PETITION NO. 1143-05:

Director of Zoning Aaron Wheeler read Petition No. 1143-05, Dorothy Price and Patricia Price, Owners, and L.H. (Dan) Davis, Jr., Agent, request to rezone 2.77 acres from A-R to C-H to develop a Convenience Store/Service Station and a secondary building. He said this property was located in Land Lot 70 of the 5th District and fronted on Price Road and S.R. 85 South. He said the Planning Commission recommended approval with conditions 4-1 and Staff recommended approval with conditions.

Dan Davis, Jr., Agent for the owners, said he was with Integrated Science and Engineering and represented Dorothy and Patricia Price. He said the property was adjacent to Price Road and the family had lived there for a long time. He said this project had been active for quite a while. He said this item was discussed before the Planning Commission in the Fall of 2004. He said they had run into issues with the D.O.T. regarding access and it took approximately six months to work out access to the property. He said there were concerns by the D.O.T. regarding the amount of traffic that might be entering and exiting this site with the design being a 55 miles per hour in that area. He said they had reached a consensus with the D.O.T. after some time wherein they would grant an access to the property off of the right-of-way and in turn there would be substantial improvements made along S.R. 85 that would provide for safety. He said it had taken them to this point to resubmit this request. He said there were conditions recommended by the staff and the applicants had no objection to any of the conditions. He said there was a little bit of confusion on his part about the 30 foot right-of-way on Price Road.

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He said he thought this had been previously dedicated and in fact it had not. He said applicants had no objection to the 30 foot right-of-way being dedicated to Fayette County. He said he had nothing further to add and he would reserve the remainder of his time to answer any questions that the Board might have.

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

Chairman Dunn clarified that this area was included in the Highway 85 South overlay district.

Mr. Wheeler responded yes, it was included in the overlay and the specific name was the General State Route Overlay.

Chairman Dunn remarked that there were some architectural standards that would have to be adhered to.

Mr. Wheeler stated yes that was correct.

Chairman Dunn said there had been a recent problem on S.R. 54 where a stop work order had been issued because somebody had not abided by the standards.

On motion made by Commissioner Wells, seconded by Commissioner Frady to approve Petition No. 1143-05 with two conditions. The motion carried 5-0. A copy of the recommended conditions and Staff's Analysis and Investigation, identified as "Attachment No. 3", follows these minutes and are made an official part hereof. A copy of the Ordinance and Resolution approving Petition No. 1143-05, identified as "Attachment No. 4", follow these minutes and are made an official part hereof.

ORDINANCE NO. 2005-16 - AMENDMENTS TO THE FAYETTE COUNTY ZONING ORDINANCE REGARDING ARTICLE V. GENERAL PROVISIONS, SECTION 5-9, SINGLE-FAMILY DWELLING, A. ADDITIONS TO A SINGLE-FAMILY STRUCTURE; AND RESOLUTION NO. 2005-07 - EXEMPTING CERTAIN BUILDING ADDITIONS FROM MAXIMUM SQUARE FOOTAGE REQUIREMENTS APPROVED:

Director of Zoning Aaron Wheeler read the proposed Amendments to the Fayette County Zoning Ordinance regarding Article V. General Provisions, Section 5-9. Single-Family Dwelling, A. Additions to A Single-Family Structure. He said the Planning Commission recommended approval 5-0. He remarked that there was also a Resolution for the Board's consideration exempting certain building additions from maximum square footage requirements.

Chairman Dunn asked why this amendment was back to the Board for a second time.

Mr. Wheeler replied that staff had brought back a Resolution and a detailed explanation as to why this was necessary and what conditions had caused or allowed structures to be built above and beyond the height of the square footage limit that the ordinance limited them and how this would be remedied. He said one of the remedies was the amendment before the Board that would be included in the ordinance. He said currently accessory buildings were not allowed to exceed 900 square feet. He stated the current policy was that accessory buildings be attached via a heated and cooled corridor not by a breeze way. He said this actually puts the wording into the ordinance to support the policy that was already in place and being used.

Chairman Dunn said it was the Board's understanding that in the past some of these things were built and did not follow the county's precise ordinance because the inspection process was not complete enough to catch it.

Mr. Wheeler replied yes that was correct.

Chairman Dunn clarified that this had now been changed and Mr. Wheeler replied yes it had been changed.

Chairman Dunn said he also remembered the Board being concerned that anybody who had built something that did not comply with this ordinance was not going to be negatively affected and they would be grand fathered.

Mr. Wheeler remarked yes, they would be grand fathered. He said the Resolution takes care of that.

Commissioner Frady said he had a question on Section 5-9. He said staff was amending this because people were trying to build larger than 900 square feet buildings and not attach them to the house. He said the Resolution stated that all additions to a single-family dwelling and not just 900 square feet plus buildings must be attached to the primary structure and have a heated and cooled breeze way.

Mr. Wheeler replied yes that was correct. He said an accessory structure was accessory to the single-family residence in that it was not attached to the residence and therefore could not exceed 900 square feet. He said at any point the Board wanted to exceed 900 square feet it must become part of the primary residence and this provided for that process telling them how they need to attach it. He said they could either do this by a common wall. He said if they did not want it by a common wall then it would need to be done through a heated and cooled corridor with these dimensions.

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Commissioner Frady asked why the corridor had to be heated and cooled if it was attached to the outside of a residence.

Mr. Wheeler replied that by definition making it heated and cooled actually made it part of the residence itself.

Commissioner Frady asked if a garage was part of a residence.

Mr. Wheeler replied yes it was.

Commissioner Frady remarked that there was not many of those that were heated and cooled. He said he had a garage with a breeze way that was not heated or cooled. He said it was 9 feet by 6 feet and had windows. He said he did not understand the process of having people to do this. He felt this was an added expense that would not help the people one bit.

Commissioner VanLandingham said he agreed. He said he could see it being attached and a limit to the size but questioned having to heat and cool a passage way that people just walk through and did not live in. He said he saw no reason to heat and cool it.

Assistant County Attorney Dennis Davenport remarked that the passage way was not going to be heated and cooled simply to walk through. He said the fact of the matter was that somebody makes a decision to build a garage greater than the maximum square footage. He said if this person makes that decision they would have to make that part of the structure a part of the principle structure. He said for them to leave it separate it would be too big as an accessory structure. He said the person would have two choices. He said they could make the accessory structure 900 square feet or less; however, if they wanted to make it bigger they would have to make it part of the main house through this provision by having the heated and cooled connection to the principle structure. He said otherwise this would allow someone to put something out there that would violate the county's requirement for maximum square footage.

Commissioner Frady asked what the heating and cooling had to do with the maximum square footage.

Attorney Davenport replied that with the heated and cooled connection there would be ability to define that as one structure because it was all part of one structure. He said the problem only surfaces when someone wants to build a bigger structure than was allowed under the county's ordinance. He said this gives the person the ability to do so if they make it part of the principle structure. He said if they did not want to go through the expense of attaching it to the principle structure, they should make it less than 900 square feet.

Commissioner Frady felt that somewhere along the way the heating and cooling would have to stop because there could not be corridor after corridor. He said he just did not understand

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why it had to be heated and cooled. He said if the corridor was attached to the house then it would have heat and air conditioning.

Attorney Davenport remarked that the problem never arises if the person has the accessory structure less than 900 square feet. He said it was only when the property owner makes a decision to go beyond the county's maximum that they would have to address this issue and solve that problem. He said there would be a time when it would reach a point where it was not going to be cost effective to put it that way. He said then it would be up to the property owner to resolve it and this gives them a mechanism to do that.

Commissioner Frady called attention to the wording again that said all additions to a single-family dwelling must be attached to the primary structure via either a heated or cooled corridor. He said this meant if there was a 500 square foot garage it would still have to be heated and cooled.

Attorney Davenport replied no. He said if a garage was less than 900 square feet the heated and cooled hallway was not even part of the equation. He said it only becomes part of the equation when the garage was greater than 900 square feet because a garage greater than 900 square feet would be an illegal accessory structure. He said by definition it must be part of the principle.

Commissioner Frady asked if verbiage should be included in this if that was the case. He felt this was not addressed in Section 5-9.

Commissioner Pfeifer said that just defined what was an addition.

Attorney Davenport said this would give a definition to make an attached garage and structure with this heated and cooled space one structure. He said otherwise it could be considered an accessory structure and then the other regulations would come into place.

Commissioner Frady felt this needed to be rewritten. He said this was not addressed in this section and the rest of the verbiage was in another section. He said he could not support this in this form.

Commissioner VanLandingham said Commissioner Frady felt if a homeowner came in and read Section 5-9 and it referred to all additions where it could easily say all additions over 900 square feet to a single-family dwelling. He said if over 900 square feet was added in this section there would be no confusion.

Attorney Davenport interjected that it would not be an addition if there was not the heated and cooled square footage connecting the two. He said it would be an accessory structure and that would fall under the regulations for accessory structures.

Commissioner VanLandingham clarified that this was a definition of "addition".

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Commissioner Wells replied that was correct. She said this did not stand alone and it was not an isolation in the ordinance. She said this was a sub section of this section and this was a clarification of that section.

Attorney Davenport remarked that was correct. He said questions would have to be asked when going through this what type of structure was it – was it an accessory structure or was it a principle structure. He said Section 5-9 gave the county the ability to define the principle structure where there was a question as to whether or not there was an accessory. He said this bridged that gap to be able to say that although this garage was 1,000 square feet with this heated and cooled connection to the principle structure it could be called part of the principle structure without the heated and cooled square footage. He said then it would be an accessory structure and would be illegal.

Chairman Dunn said this was one small section changed in Section 5. He said one would have to read the entire Section 5 to understand what any of this meant.

Attorney Davenport said it was part of the process of learning how to use these regulations for this particular issue.

Chairman Dunn said the Board was looking at a piece of paper where the only thing in front of it was Section 5-9. He said it was really hard to arrive at this conclusion. He said when the entire regulation was read, then there was no problem.

Commissioner Frady said he had read the entire regulation and did not feel this was consistent. He felt something needed to be drafted that everyone could understand and then the Board would not have to amend it later on when problems arise.

Chairman Dunn asked if anyone wished to speak in favor or against this change in the regulation.

Rodney Dickson, 890 South Jeff Davis Drive, Fayetteville said he agreed with Commissioner Frady. He questioned why a breeze way to a garage had to be heated and cooled. He asked how the size of the structure was determined. He said he could build a shop 900 square feet basically anywhere in the county as long as it met the county's criteria for setbacks and so forth. He said at one time in the City a homeowner could build a structure as large as it would fit on the property within guidelines and setbacks. He said he lived on five acres and a father who lived on twenty-five acres. He asked why they could only have a 900 square foot building on five acres of property that matched the house.

Chairman Dunn said this probably related to how many houses could be built on the property. He said if there was a separate building that gets much beyond 900 square feet, it could become a house.

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Mr. Wheeler replied that as an accessory building in most residential districts a person would get two 900 square foot accessory structures. He said the county did have a provision for agricultural residential districts to have farm out buildings. He said if there was 5 acres up to 10 acres the person could get up to 1,800 square feet built on the property. He said above 10 acres it was unlimited but a person would only be allowed one in either case.

Chairman Dunn asked what someone could have on a five acre tract.

Commissioner Wells responded 1,800 square feet.

Mr. Wheeler interjected that not knowing Mr. Dickson's specific zoning, he would speculate that Mr. Dickson was A-R which meant that with five acres he could have one 1,800 square foot farm outbuilding in addition to his two 900 square foot accessory structure.

Mr. Dickson questioned why he would be deemed to have two shops that were 900 square feet and he might want one that was 1,500 square feet. He asked why a lot would have to be cluttered up when just one building could be built that would match the existing house in all ways, shape and form.

Attorney Davenport interjected that this could not be done with a breeze way. He said this was the whole problem. He said people had tried to do this with a breeze way and it was not a heated and cooled area and was an illegal structure. He said the code defined the maximum limit of an accessory structure as 900 square feet. He said this provision tonight did not address that. He said this just gives the property owner the ability to build a bigger structure as part of the house so long as it was connected to the house with a heated and cooled square footage. He said if it was just a breeze way it could be no larger than 900 square feet as set forth in other portions of the code.

Chairman Dunn said he felt the other question that had been asked repeatedly was why someone could not build a big support structure on the property beyond 900 square feet if they wanted to. He said there were 900 square foot houses in the county and they were very easy to convert. He said there would be houses all over the place that the county did not intend to have. He said these could be without septic systems in some cases or using a septic system from the house. He said the number of things was unbelievable that people tried to do.

Commissioner Wells said if Mr. Dickson wanted further clarification the staff was always available. She said he could either speak to Aaron Wheeler or Attorney Davenport and they would be glad to clarify anything for him. She said their doors were always open. She said this might be something that the county needed to address in the future.

Commissioner Frady asked if the 900 square foot building was just a foot print for the 900 square feet or could it be two stories. He said maybe this should say that a person could not

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build any more accessory buildings beyond a certain number of square feet on a lot. He said he was not in favor of having to heat a breeze way.

On motion made by Commissioner Wells, seconded by Commissioner Pfeifer to approve Ordinance No. 2005-16 - Amendments to the Fayette County Zoning Ordinance regarding Article V. General Provisions, Section 5-9. Single-Family Dwelling, A. Additions to a Single-Family Structure; and Adoption of Resolution No. 2005-07 exempting certain building additions from maximum square footage requirements. The motion carried 3-2 with Commissioner Frady and Commissioner VanLandingham voting in opposition. A copy of Ordinance No. 2005-16, identified as "Attachment No. 5", follows these minutes and is made an official part hereof. A copy of Resolution No. 2005-07, identified as "Attachment No. 6", follows these minutes and is made an official part hereof.

DISCUSSION BY GREG MASK REGARDING CHANGES TO THE COUNTY'S NOISE ORDINANCE:

Greg Mask, 442 Kelley Road, Brooks said he would like to discuss the new noise ordinance that the Board passed in April 14, 2005. He said it was his understanding that this new ordinance was passed based on complaints received by the Marshals' Office. He said from a copy of those minutes that he had acquired there was only three residents who complained in the county with fourteen people here to support the new ordinance. He said no one was present to defend against it on behalf of people who like to listen to electric guitars or stereo, ride dirt bikes, four wheelers or whatever. He said there was no one present to defend the proposed ordinance on behalf of those citizens. He said this was brought to the attention of the Board that there was no one present to defend it. He said there was no public notice stating that there was going to be a public hearing on the ordinance. He felt this ordinance had been snuck in and passed against the people who ride ATV's and dirt bikes. He said the county provided facilities for ball players and all kinds of recreational facilities throughout the county. He said not all kids were into baseball, soccer, football or whatever. He said some of these kids liked to ride dirt bikes. He said there was no where in the county but on their own property to ride these. He said he felt the new ordinance was not quite fair. He questioned 55 decibels being the maximum. He felt this was somewhat low since the national standard was 96 decibels. He said he felt the new ordinance should be put on hold and the county revert back to the new ordinance until there was a more agreeable decibel level. He felt the citizens who would have been opposed to this needed a chance to defend their rights. He suggested the Board have a public notice published in the newspaper. He questioned the proper procedures for changing an ordinance.

Commissioner VanLandingham said Mr. Mask had eluded earlier that this was a sneak attack. He said this ordinance was handled the way every ordinance on the book was handled. He said the Agenda was published long before the scheduled meeting. He said the Board could not send every citizen a formal notice of what was going to take place today. He said there was a method that the county followed to do this. He said it was the responsibility of the citizen to adhere to that. He said the Board could not send every citizen a personal invitation to come.

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He said he wanted to clear up the sneak attack comment. He remarked that the Board did not sneak anything in. He said he would be honest and say that he did not fully agree with this ordinance, but there was a necessity to do something. He said there were many months of discussion on this before anything ever came up. He said if Mr. Mask was not aware of it he was sorry, but the Board did not sneak anything into the ordinances.

Mr. Mask asked if a public notice was published in the newspaper that there was going to be a hearing on this issue.

Commissioner VanLandingham replied yes, there was a notice in the newspaper and on the County's website. He said the Agenda was posted in the Administration Office every week.

Mr. Mask asked how the public would know when they needed to come by and read a notice on the front door every week. He asked if this meant that every citizen in Fayette County needed to come by and read the front door.

Commissioner VanLandingham said if citizens were interested in County government, then that would be the way to do it.

Mr. Mask remarked that this particular issue had not been published in the newspaper that there was going to be a public hearing concerning the noise ordinance prior to the April 14th Commission meeting.

Commissioner VanLandingham interjected yes there was.

Commissioner Wells remarked that this was listed as an item for discussion.

Chairman Dunn said the Board was required by law to publish this and notify the public.

Mr. Mask said he had been unable to find this in any public newspapers prior to April 14th. Commissioner Wells pointed out that Cindy Morley of the Fayette Daily News who was present tonight had just confirmed that this was published in the newspaper.

Mr. Mask said he would research that himself.

Chairman Dunn asked Mr. Mask where he had gotten the figure of 96 decibels. He said at 96 decibels a person would be deaf.

Mr. Mask replied that OSHA standards stated that the decibel level for someone in a confined building was mid 80's decibel levels.

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Commissioner VanLandingham interjected that he disagreed with that figure. He said he had worked on a safety committee for years and at 60 decibels a person must wear hearing protection.

Chairman Dunn said the Board had done a lot of research on this along with the county's attorneys and citizens who contacted the Board on a regular basis with interest. He said this was consistent with noise ordinances in many, many other jurisdictions. He said every jurisdiction did not have the same exact noise ordinance that Fayette County did but Fayette County's was consistent with most of those. He said the Board had not established an artificially low level just to stop people from riding their bikes. He said if the bikes could be toned down, they could still be ridden.

Mr. Mask interjected that he could not tune them down. He said he had checked on that.

Chairman Dunn pointed out that the ordinance said the noise level was measured by a decibel meter on the neighbor's property. He said the noise level was not measured right up next to the bike.

Mr. Mask said the county ordinance was for a maximum of 55 decibels.

Chairman Dunn said it would have to be 55 decibels considerably far away from where the track was located. He said it was not like the Board was saying that people could not do anything. He said this did not just pertain to motor bikes but also to any noise that was consistent. He felt the ordinance was very detailed and had been scrutinized quite a bit. He said he was certainly sympathetic with people who ride the bikes and were not aware of this ordinance. He said the County had received a lot of phone calls and messages.

Mr. Mask said he just felt it was unfair the way this was done. He said it had even been brought to the Board's attention that nobody was there that night to defend it. He said in lieu of that a public hearing should not have been held on behalf of that ordinance.

Chairman Dunn asked Mr. Mask if he had noticed that the Board had other public hearings tonight and there were people present who did not speak for or against them. He said at some of the Commission meetings the room would be full of people speaking on both sides of the issues. He said the Board could not determine how many citizens would show up for a meeting.

Mr. Mask remarked that the old ordinance was only two pages long and the new one was 18 pages long. He felt like this was more than just a small amendment. He pointed out that two people in a conversation would register over 60 decibels.

Chairman Dunn said he would question that fact.

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Mr. Mask said he had stood in front of a decibel meter and checked this himself.

Commissioner Pfeifer interjected that 96 decibels was the threshold of pain. He said this meant if someone heard a noise that registered 96 decibels, they would be in pain.

Mr. Mask asked if the Board would consider changing the level of 55 decibels.

Commissioner Pfeifer said he was one of the complainants to the Marshals' Office. He said he heard motorcycles on a neighbor's property that were so loud he could not hear them on the telephone.

Mr. Mask said he was sure that some people were taking advantage of their neighbors. He felt the guidelines were too strict and he was not the only one to feel that way.

Chairman Dunn said the Board certainly understood how Mr. Mask felt about this ordinance. He said the only way he would be willing to reconsider this was if Mr. Mask could bring in evidence that the county's ordinance was overly restrictive and the numbers that the Board had in it were wrong. He said Mr. Mask had made a couple of comments tonight that he knew for a fact were not accurate.

Mr. Mask remarked that the national standards for a stock motorcycle off the showroom floor was that it could not exceed 96 decibels.

Commissioner Pfeifer pointed out 96 decibels was the measurement of sound directly next to the motorcycle.

Assistant County Attorney Dennis Davenport said he would like to correct the record on one issue. He commented on what the legal requirements were for notifications. He said this was not a zoning ordinance amendment but a Code of Ordinances amendment. He said if this had been a zoning ordinance amendment there would be a much stricter publishing requirements with notification in the newspaper. He said this was not that type of amendment. He said it was his understanding that the normal protocol with respect to Fayette County was to provide this information to the local newspapers and this information was available and in at least one of the local newspapers.

Chairman Dunn pointed out that the agenda was posted in several places throughout the county and also sent to the newspapers every week.

Commissioner Wells remarked that this was not published as a public hearing but was listed as an item on the agenda. She said it was not published as a public hearing and it did not have to be.

Attorney Davenport agreed and responded that Commissioner Wells was correct.

CONSENT AGENDA: Commissioner Pfeifer requested item no. 3 be removed and Chairman Dunn requested item no. 5 be removed. On motion made by Commissioner Wells, seconded by Commissioner VanLandingham to approve the consent agenda item nos. 1, 2, 4, 6, 7, 8, 9, 10, 11, 12 and 13 as presented. The motion carried 5-0.

WATER COMMITTEE: Approval of Water Committee recommendation for Peachtree City Water and Sewerage Authority to place a telephone pole with an antenna on the Crabapple tank site to monitor the Tyrone sewer pump station. A copy of the memorandum, identified as "Attachment No. 7", follows these minutes and is made an official part hereof.

ELECTIONS: Approval of request from the Town of Brooks for the Fayette County Board of Elections to conduct all facets of the Town election scheduled for this November including advertising, qualifying, supervising the election and counting votes. The Town will reimburse the County for any expenses incurred. A copy of the request, identified as "Attachment No. 8", follows these minutes and is made an official part hereof.

3. Approval of Water Committee recommendation to adopt the changes to the operations at Lake Horton, Lake Kedron and Starr's Mill.

Commissioner Pfeifer requested item no. 3 to be removed.

PARKS AND RECREATION: Approval of recommendation from the Director of Parks and Recreation Anita Godbee for a budget adjustment to increase Revenues and Expenditures in the amount of \$34,000 for self-sustaining services line item. A copy of the request, identified as "Attachment No. 9", follows these minutes and is made an official part hereof.

5. Approval to retain Mallett Consulting, Inc. to provide Project Management Services for Phase I of the transportation projects funded by Fayette County Special Purpose Local Sales Tax.

Chairman Dunn requested item no. 5 be removed.

ANIMAL CONTROL - BUDGET ADJUSTMENT: Approval of request from the Director of Animal Control Miguel Abi-Hassan for a budget adjustment to recognize \$15,000 donated funds from the Fayette County Humane Society to be used as follows: \$3,000 for cages for "cat maternity ward" and \$12,000 to be applied to cost of new flooring which has been approved as a capital project for FY 2006. A copy of the request, identified as "Attachment No. 10", follows these minutes and is made an official part hereof.

PURCHASING DEPT. - BID AWARD TO RELIABLE DEMOLITION: Approval of recommendation from Director of Purchasing Tim Jones to award Bid #520 (Demolition) to the overall low bidder Reliable Demolition at a price of \$20,000. A copy of the request, identified as "Attachment No. 11", follows these minutes and is made an official part hereof.

PURCHASING DEPT. - BID AWARD TO REHAB CONSTRUCTION COMPANY: Approval of recommendation from Director of Purchasing Tim Jones to award Bid #521 (Filter Repair) to low bidder Rehab Construction Company, Inc. at a price of \$79,500. A copy of the request, identified as "Attachment No. 12", follows these minutes and is made an official part hereof.

PURCHASING DEPT. - ANNUAL MAINTENANCE SUPPORT AWARDED TO TYLER TECHNOLOGIES, INC.: Approval of recommendation from Director of Purchasing Tim Jones to award annual maintenance support to sole source vendor Tyler Technologies, Inc. - Munis Division for the total annual amount of \$39,646.25. A copy of the request, identified as "Attachment No.13", follows these minutes and is made an official part hereof.

FINANCE DEPT. - CPI-W URBAN WAGE EARNERS AND CLERICAL WORKERS' C.O.L.A. PROGRAM ADOPTED: Approval of recommendation from Director of Business Services to use the CPI-W Urban Wage Earners and Clerical Workers as the basis for the County C.O.L.A. program beginning with FY 2007. A copy of the request, identified as "Attachment No. 14", follows these minutes and is made an official part hereof.

ANIMAL CONTROL: Approval of request from the Director of Animal Control Miguel Abi-Hassan to refund client the sum of \$60 from account 10030002-346110. A copy of the request, identified as "Attachment No. 15", follows these minutes and is made an official part hereof.

TAX REFUNDS : Approval to approve/deny tax refunds as recommended. A copy of the list of approved and denied tax refunds, identified as "Attachment No. 16", follows these minutes and is made an official part hereof.

MINUTES: Approval of minutes for Board of Commissioners' meeting held on June 9, 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.

WILL MASK: Will Mask, 442 Kelley Road, Brooks commented on the noise ordinance. He felt the remarks about the decibel level of 55 and the decibel level of 96 being painful to hear were incorrect. He said the National Institute of Deafness and other communication disorders have listed the

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decibel levels and that was compared to a whisper as being 30 decibels and a washing machine being 78 decibels. He commented that a farm tractor has a decibel reading of 98 decibels. He said he had stood beside a tractor before and he had never had to wear ear plugs and he was not deaf because of it. He said he would be glad to provide the Board with a copy of this listing of decibel readings.

ALLAN PAYNE: Allan Payne, 148 Hawn Road, Fayetteville commented on the noise ordinance. He said he had cleared the back section of his two acres approximately two years ago so that his son could ride his motorcycle. He clarified that under the current noise ordinance of 55 decibels this was the reading that would be obtained from the neighbor's property. He asked if someone called the marshal with a complaint how would a marshal measure what was being heard on their property.

Chairman Dunn said the Marshal's Office would go out to the complainant's property and measure from their property line.

Mr. Payne asked if the marshal would have equipment to measure the decibel level.

Chairman Dunn responded yes. He said the Chief Marshal would be glad to discuss this with him.

Mr. Payne pointed out that because some people modify these motorcycles they could be very loud.

DEBBIE BILLER-ANTOINE: Debbie Biller-Antoine, 155 Hawn Road, Fayetteville commented on the noise ordinance. She said she had been a resident of the county for approximately two years and so far had been very pleased with the county. She expressed concern with the current noise ordinance. She said her son also had a dirt bike and rode this on their two acres of property. She said she did not understand how a dirt bike or anything for that matter that makes noise could be regulated. She commented that lawnmowers make a lot of noise or airplanes passing over. She felt this ordinance was something that pitted neighbor against neighbor. She said last September she had a birthday party for her son and it was clearly a child's birthday party. She said the party was held on her backyard deck with a swimming pool. She said they had huge blow up toys and there was no mistake that the party was for a child. She said her elderly neighbor did not like it and called the Marshal's Office and a Marshal came out. She said she hired a D.J. for the party but he had not started playing any music yet. She said the Marshal told them that they would have to stop. She pointed out that this was well before the noise ordinance changed. She said she paid for a D.J. for four hours and thirty-five minutes into the party she had to send them home. She asked how an acceptable noise level was determined. She felt it would be more considerate for everyone to put restrictions in rather than noise restrictions.

RODNEY DICKSON: Rodney Dickson, 890 South Jeff Davis, Fayetteville commented on the noise ordinance. He said he had two daughters who were learning to ride motorcycles and four wheelers.

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He said they had not had much of a problem with the noise ordinance. He said his property consisted of approximately twenty-five to thirty acres and he felt his daughters should be able to ride their bikes without worrying about it. He said he certainly understood the noise concern and remarked that this was an activity that caused noise. He said there was no place in Fayette County to go for this kind of activity. He said people could not load all of these kids up and take them to a location. He commented that the motorcycles coming straight from the factory with no muffler alteration surely must be set with a certain decibel level that was approved by the government. He said if this muffler was approved by a manufacturer, then that manufacturer had to meet the government's stipulations.

Chairman Dunn interjected that this problem would only get worse with more and more people moving to Fayette County. He said the metro area was becoming very congested and people were having to go further out to have space.

Mr. Dickson also commented that county property was being annexed into the cities so that subdivisions with one acre tracts could be built. He said everyone knew development was going to happen here but he felt some land should be left for people to ride their motorcycles.

Chairman Dunn said this Board did not support annexations in most cases and the cities were allowed by law to annex them. He said if Mr. Dickson used some of the acreage in the center of his twenty-five acre tract for the motorcycles, then he should be fine.

Mr. Dickson said his neighbors were within 250 to 300 feet of the property line.

Commissioner Pfeifer said the problem with the situation he saw was that the motorcycle track was not in the middle of the property but right on the edge of the property.

Mr. Dickson asked why people should have to tone these mufflers down when the mufflers have met all of the manufacturer's stipulations for sale to the public. He said if these mufflers were lower than what the manufacturer puts on them, then they would be hard to ride.

Chairman Dunn pointed out that manufacturers sold all kinds of things that were bad for people and a lot of those things were regulated. He said now sound was also being regulated.

Mr. Dickson felt this was taking tax money out of the county and it was basically telling someone that they could buy a motorcycle here but they could not ride it here.

DENISE MASK: Denise Mask, 442 Kelley Road, Brooks remarked that her family had eleven acres. She said Commissioner Pfeifer had stated that it did not matter how many acres a person had but the problem was if the neighbor's noise level was too high on their property. She said they had purchased a decibel meter to measure the noise. She said she did not know if the readings might be incorrect but her son's four wheeler on the dead center portion of their eleven acres registered 60 decibels and her oldest son's motorcycle registered 80 decibels. She said they had

not done anything to alter these bikes since they were purchased or done anything to the mufflers.

Chairman Dunn asked how close they were to these bikes when they got these readings.

Ms. Mask replied that they were on the neighbor's property line and on the track. She said her property was an L-shaped piece of property and they were on the center of the property where their track was located. She said the readings were over the legal level and her sons could not ride anything. She said she had a problem with that. She felt they had enough land for her sons to ride their motorcycles. She said she had lived in Fayette County for 41 years and she rode bikes all of her life. She said she was having a really hard time with her kids not being able to enjoy the life that she had here in Fayette County. She said basically the ordinance said that she needed to move further South and Fayette County was not the County for her anymore. She said that was not what she wanted to do. She said she wanted to keep her kids in the Fayette County school system but she wanted to be able to have the lifestyle that she was accustomed to also. She said she did not want them to ride 24/7 and interrupt the neighbor. She pointed out that the neighbor's son also rides a bike. She said she did feel the decibel level was too low. She said maybe the Board needed to get a decibel meter and stand on their property lines and let somebody ride a bike and see what level registered. She felt the noise level was too low.

Commissioner Frady said he would really like to see some arrangement worked out where there might be times when these things could happen where it would not disturb anyone but the Board had an obligation to try and protect people from this type of thing. He said this was something that might be worked out in the future and it would be good if it could. He felt there might be certain times during the week that bikes could be ridden.

Chairman Dunn remarked that this was one of the unfortunate and unintended consequences of growth in an area. He said he recalled the issue of hunting several years ago and how close someone could hunt to subdivisions. He said people were really angry but citizens could not be allowed to shoot a rifle within 100 feet of a home. He said those citizens were saying the very same thing – their children wanted to hunt and the parents wanted to teach them to safely hunt. He said the Board would agree with that and some of the Board members like to hunt too. He said this was unfortunate but the Board just had to do the best that it could. He said he understood all of the complaints on the noise ordinance.

Ms. Mask said she certainly understood the Board's position in protecting the public. She said she was here tonight to protect her children. She felt like she was keeping them at home and they were not in someone else's yard doing this. She said she was home and watching her children. She said this had been a very convenient situation for her children to ride at home on their property. She said she felt her size property was large enough to have this track as long as her children did not abuse the time. She said she would not want her children riding 24/7. She said she felt the decibel level was lowered too low. She asked if the everyone could just work together and not have this be a petty issue with the neighbors it would be so much easier.

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Chairman Dunn remarked that unfortunately a lot of people cannot handle this noise. He said the County Marshals do not go out and look for violations unless they receive a call to come out. He said if Mrs. Mask could work something out with her neighbors where the children could ride the bikes during certain hours. He said if the neighbors did not complain then the County Marshals would not be there.

Commissioner Wells said she was looking at the report by National Institute on Deafness and Other Communication Disorders that the Board received tonight from a citizen. She said she was the Nationally Certified Interpreter for the Deaf for approximately 17 years and this was something very near and dear to her heart for people to protect their hearing. She said what she found incredibly interesting was what Mr. Mask was saying seemed to be supported by this information. She said the report stated that rustling leaves or a mosquito was 20 decibels, a whisper was 30 decibels, a quiet office was 50 to 60 decibels, normal conversation was 50 to 65 decibels and laughter was 60 to 65 decibels. She said this was perhaps one of the things that the Board should look at more carefully to determine whether in fact 55 decibels was too punitive and maybe it was not realistic in its setting. She said with this type of documentation she felt this was really something that the Board needed to look at. She felt the ordinance itself was definitely needed and it would prevent Marshals from coming out and speaking to people because there was no standard. She said this had gotten to be a real judgment call. She said part of the problem was not an isolated motor bike or dirt bike or whatever but some of the places there were three, four, six or even twelve children riding their motor bikes and the noise was compounded. She said she really did not want to infringe upon Ms. Mask's neighbors but by the same token she really did not want to deny her the spare use of her property. She felt this was something that the Board needed to look at especially based upon this. She said perhaps the Board had set the decibel level too low and maybe the measurements needed to be reviewed again. She said if this report was correct, then the Board probably had done Mrs. Mask an in service.

Commissioner VanLandingham remarked that the decibel level was just part of the equation. He said the problem was duration.

Commissioner Wells said she absolutely agreed with that.

Chairman Dunn said the standard here was not whether or not the bike would make someone deaf. He said there were a lot of other maladies that cause a problem. He said there were some people who claimed that psychologically they had gone to doctors because of the constant noise that was made by the bikes. He said the Board did not know if all of that information was accurate. He said if there was evidence that the Board should relook on this issue then the Board would do that.

Commissioner Wells said she felt the Board needed to.

Chairman Dunn remarked that this was much broader than maybe what the National Institute on Deafness and Other Communication Disorders.

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Commissioner Wells said the report stated that prolonged exposure to any noise above 90 decibels could cause gradual hearing loss. She said she did not think anybody was disputing the fact that it was an over time period of time type of thing. She agreed that people could get upset with continuous noise. She noted that the report said that a dishwasher was 75 decibels and if somebody was going to have to go to the doctor because of the fact that the dishwasher was disrupting their livelihood, she felt this was a personal issue that maybe the Board should not get involved in. She said she really felt the Board needed to relook this and the Board would do that.

Mrs. Mask asked what the next step would be.

Commissioner Wells said the Board would relook this issue.

Commissioner Pfeifer said he would agree with relooking this but he also reiterated the point if someone's dishwasher was doing 77 decibels then that was that person's problem. He said if someone could hear their neighbor's dishwasher in their house at 77 decibels, then that was the neighbor's problem.

Commissioner Frady noted the report said a telephone dial tone was 80 decibels.

Commissioner Wells felt the Board needed to relook this.

Mrs. Mask felt it was a personal problem if someone could not listen to a telephone or a dishwasher.

Commissioner Pfeifer said the point that he was making was in a person's own home if they could not hear their dishwasher because of the noise coming from the neighbor's property, this was not right and was not fair to this person's enjoyment of their property.

Commissioner Wells said this was absolutely true and the Board needed to relook this. She said it was unfortunate that the Board did not have a meter to measure that at that point in time because she felt this would have given the Board a much better standard of where to start.

Chairman Dunn asked if anyone had lived next door to somebody whose kids had a rock band in the garage next door and they practiced there.

Commissioner VanLandingham said he did now.

Chairman Dunn said he had lived through that experience. He said he no longer lived there.

Mrs. Mask asked if they needed to call the Board again and find out what was being done. She said her children could not ride their bikes. She said they were in a position now that they could not do anything. She said their bikes were sitting in the barn. She said she did not like this because she was making payments on the bikes and one of her sons was making a payment.

Commissioner Wells felt the Board needed to look at this again.

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Chairman Dunn said there had been a voluminous amount of information that had been looked at. He said he could recall looking at all of these decibels levels and the duration. He said the biggest issue was the duration of the noise.

Commissioner Wells remarked that if that was the case then maybe some clarification needed to be added to the noise ordinance. She said the Board needed to relook this.

Chairman Dunn agreed and said the Board could look at it again. He said if the Board changed this ordinance, the County Administrator Chris Venice would personally call Mrs. Mask.

Mrs. Mask said she would list her phone number by her name on the sign in sheet. She thanked the Board for listening and reconsidering this ordinance.

STAFF REPORTS:

EXECUTIVE SESSION: Assistant County Attorney Dennis Davenport requested an executive session to discuss six legal items.

Commissioner Frady requested an executive session to discuss one legal item.

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

LEGAL: Commissioner Frady discussed a legal item with the Board.

The Board took no action on this matter.

LEGAL: Assistant County Attorney Dennis Davenport discussed a legal item with the Board.

The Board took no action on this matter.

LEGAL: Assistant County Attorney Dennis Davenport reviewed a legal item with the Board.

The Board took no action on this matter.

LEGAL: Assistant County Attorney Dennis Davenport discussed a legal item with the Board.

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

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

The Board took no action on this matter.

LEGAL: Assistant County Attorney Dennis Davenport discussed a legal item with the Board.

The Board took no action on this matter.

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

The Board took no action on this matter.

EXECUTIVE SESSION AFFIDAVIT: On motion made by Commissioner Wells, seconded by Commissioner VanLandingham to authorize the Chairman to execute the Executive Session Affidavit to affirm that seven legal items were discussed in Executive Session. The motion carried 5-0. A copy of the Executive Session Affidavit, identified as "Attachment No.17", 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 10:40 p.m.

Karen Morley, Chief Deputy Clerk

Gregory M. Dunn, Chairman

The foregoing minutes were duly approved at an official meeting of the Board of Commissioners of Fayette County, Georgia, held on the 14th day of July, 2005.

Karen Morley, Chief Deputy Clerk