

The Board of Commissioners of Fayette County, Georgia met in Official Session on August 3, 2005 at 3:30 p.m. in the public meeting room of the Fayette County Administrative Complex, 140 Stonewall Avenue, Fayetteville, Georgia.

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

STAFF MEMBERS PRESENT:     Chris Venice, Acting County Administrator  
                                      William R. McNally, County Attorney  
                                      Dennis Davenport, County Attorney  
                                      Carol Chandler, Executive Assistant  
                                      Peggy Butler, Chief Deputy Clerk

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

**PRESENTATIONS:**

**PRESENTATION TO RECREATION DEPARTMENT:**

The Board of Commissioners presented a resolution to the County Recreation Department in celebration of 30 years of successful service to the citizens of Fayette County. Chairman Dunn said the Board wanted to extend their thanks to the efforts of past County Commissioners, Recreation Department leaders and employees, athletic leagues and associations, youth organizations, untold numbers of volunteers, and others who have contributed to the success of the Fayette County Recreation Department.

Anita Godbee, Director of the Recreation Department from 2002 until present, introduced several past employees and citizens who have been involved with the Recreation Department. She introduced Don Sherwin, Recreation Director from 1975 until 1982; Anna James, Recreation Director from 1982 until 1985; and Ron McCurry, who McCurry Park was named after, a Kiwanis Club member and Recreation Commissioner Member.

**PRESENTATION BY THE DEVELOPMENT AUTHORITY:**

Brian Cardoza, President and CEO of the Fayette County Development Authority, presented the Development Authority's Annual Report to the Commissioners. He said their fiscal year had just ended and he wanted to give the Board a brief synopsis of their accomplishments over the past year. He said the Development Authority was charged with two things, and that was to create new industry and business to the County and to make sure the industries could grow and prosper in Fayette County as opposed to relocating. He said they had tried something different this year and that was bringing in the Dodge Tour deGeorgia and he wanted to say thank you to the Commissioners for their support of that event.

Mr. Cardoza said in regards to business recruitment and expansion, during fiscal year 2005 they received contact from 68 businesses and 31 of those companies actually visited Fayette County resulting in the

location or expansion of 9 new industries. He said in comparison to the fiscal year 2004 figures, those numbers combined led to 150 contacts from industry, 71 visits to Fayette County and 17 locations. He said during FY05 all but one of these locations absorbed existing square footage in the community.

Mr. Cardoza said two pages of this report that would probably be of most interest to the Commissioners were the ones entitled "Numbers that Matter". He said they tried to show how they leveraged their budget and what the expenses were per job. He said they helped create 217 new jobs with an average salary estimated to be just shy of \$46,000. He said that was very close to their salary goal of \$50,000. He said this led to a capital investment of just over \$8 million and resulted in a total of over \$11 million impact on the community which helped create 583 jobs throughout the County. He said in comparison to the state and the national average, it cost the state about \$5,000 per new job created and the national average was \$15,000. He said it only cost the Fayette County taxpayers \$1,400 per new job created this year.

Mr. Cardoza said unfortunately Fayette County did experience some lay offs with Photo Circuits. He said between the Department of Labor and the Atlanta Regional Commissioners Workforce Development Group, they came in and helped many of those employees find jobs in this community or neighboring communities. He said they also continued to watch what Delta was doing as it could have an effect on Fayette County.

Mr. Cardoza said in reference to the summary of their 2005 goals, they met almost all of them. He said they met and exceeded the goal of jobs created. He said their goals did not change much for next year as far as trying to create 200 new jobs for the County with an average salary of \$50,000.

A copy of the Annual Report, identified as "Attachment No. 1", follows these minutes and is made an official part hereof.

**NEW BUSINESS:**

**PRE-TRIAL INTERVENTION PROGRAM FEE ASSESSMENT:**

James Inagawa, Solicitor General, said the Pre-Trial Intervention Program was initiated by his predecessor in 1997 as an alternative to normal criminal prosecution for certain types of crimes. He said traditionally the Solicitor General's office had done about one hundred of these pre-trial intervention cases a year and had not collected any fees for the County. He said in the year 2000, the statute was enacted that authorized the prosecutor to collect up to \$300 for the administration of the program to the general fund of the county. He said he thought it was wise to charge a fee. He said as of July 1 of this year, they had charged up to \$300 for this program. He said to date they had collected approximately \$5,500. He said they had projected that in a year's time they would collect approximately \$60,000 that would go into the general fund.

Mr. Inagawa said he was here today to say in the last budget cycle he had asked for an investigator position. He said he wanted to see if next budget cycle he could use some of that money, instead of using 5% money or taxpayer money, to fund another position. He said he felt this money could pay for

the position in its entirety. He said the program had expanded into Magistrate Court which would increase the caseload by 100 cases a year.

Mr. Inagawa said the Pre-Trial Intervention Program was for people who did not have a felony record and had never done this type of crime before. He said it was for types of crime where victims consent to this. He said he felt it was a good alternative to normal prosecution, especially for youthful offenders.

Mr. Inagawa said they would also be charging court costs upon completion of the Pre-Trial Intervention Program, which would also go into the Fayette County General Fund.

Commissioner VanLandingham said at first he was in favor of this, especially early intervention for first offenders. He said after he looked at it some more, and in reviewing the budget hearings, he said he began to wonder if this was a way to get another investigator. He said they were looking at \$60,000 that has been offered up as a figure that would pay the cost. He said then they were looking at personnel that were going to have to be paid out of this money. He said he noticed where staff would be doing the monitoring and that would burden the staff, therefore they would need another staff member and then when they were hired they would need a computer and software. He said soon they would be up to about \$500,000. He said he could not see where this was a cost effective program. He said for him to approve this he would have to see something more than \$60,000 coming out of it and he could not see where an investigator was tied into this at all other than the fact that Mr. Inagawa asked for one in the Budget Hearings and it was turned down.

Mr. Inagawa said the program was not tied to an investigator. He said he threw out a hypothetical that he had asked for a position and stated that this could fund a staff position in the future. He said he could do this program and not charge anything, but he said it could be used to defray any costs.

Commissioner Wells said she had to agree with Commissioner VanLandingham. She said during budget time the Board had said they could not justify a full time investigator. She said when this started out she was wearing another hat and that was with the Council on Domestic Violence. She said it was an excellent program for the offenders in that arena because sometimes if we could intervene we could stop a cycle and could save a lot of heartache and cost to society as a whole. She said that was the reason the Solicitor General's office got the victim's advocate and some of the 5% money. She said now all of a sudden they were going to expand that and it appeared to be something being used to generate fees to support desired programs or projects the commissioners were going to say no to. She said Mr. Inagawa had clearly said this would increase the work load of his current staff.

Commissioner Wells said these were misdemeanors for the most part and this was not Superior Court where this type of intervention program was going to take someone who might be going to jail and put them on the right path and give them the tools to avoid that. She said this was not to that level. She said if this was something Mr. Inagawa decided to do he could but she thought he needed to be very aware from her perspective that there was going to be no new slots and no new funding for this, and if he chose to generate funds she cautioned that he do it very judiciously because she would hate to see this with

a mind set that intervention would be done because more dollars were needed, whereas if dollars were not being generated to get a project supported one might go ahead and do the normal prosecutorial process. She said she was adamantly opposed to this. She said they were not going to expand a system that was created to solve a problem and now take that victim's advocacy because she could see Mr. Inagawa coming in at budget time and saying that now this has been expanded the victim's advocate was so overwhelmed and had more 5% money and they needed more of that and an assistant would be needed. She said she did not see where this would be a benefit to Fayette County. She said they did not use the court systems to generate revenue.

Mr. Inagawa said they were not going to increase the caseload. He said he was not going to put people in the pre-trial process that would normally go through the criminal process. He said in misdemeanor cases he would rather put people in some type of counseling program than to dismiss the case.

Commissioner Wells said if Mr. Inagawa wanted to charge fees for a service already being done that was fine. She said he was proposing to expand this to take in a far wider range of offenses and she did not personally see that was necessary. She said on one hand Mr. Inagawa said it was going to save time because they would not be going to court but to the pre-trial intervention program, and on the other hand Mr. Inagawa was saying it was going to increase the time, activities and the oversight of personnel. She said it could not be both ways. She said they could not be saving in one place and getting a greater cost somewhere else.

Commissioner Frady said he admired Mr. Inagawa for trying to find a way to pay for a program he wanted to have.

Mr. Inagawa said he was not asking for a commitment for new staff. He said it might be where he could not justify it next budget year. He said he wanted it to be known that they did do this program and did charge a fee and if they did see where it could fund something in his office, that was great. He said he was not asking for a commitment for a new staff person. He said he just wanted to know that there was some type of accounting for this program so that this money was not just used or taken. He said the statute stated that the money should be used to administer the program. He said he did not need all that money. He said whether he had this program or not, he was going to ask for an investigator position. He said whether he got it or not was up to the Board.

Mr. Inagawa said the reason he expanded the cases was because he felt some punishments were unfair. He said he did not expand the program to generate more fees. He said he was not expanding generating fees on the contingency of getting staff, he just wanted to make the Board aware that he was generating these fees and hopefully some of the costs in his office could be defrayed.

Commissioner VanLandingham asked if he understood that Mr. Inagawa was asking the Board to commit these fees back to his department.

Mr. Inagawa answered no, that all he wanted was an accounting of the Solicitor's office collecting administration fees for this program. He said he was not asking for a new position now. He said he wanted to know that when the time came and there was a need in his budget for something, it could defray the cost of that. He said he was going to ask for an investigator no matter what.

Commissioner Frady said they could not designate funds.

Mr. Inagawa said he knew the money went into the general fund.

Commissioner Wells said Mr. Inagawa quoted what the code said in an italicized handout "all such fees collected for the administration of the program shall be made payable to the general fund of the county in which the crime is committed." She said it did not say for the support of that program.

Mr. Inagawa said he had the statute with him and he read: "The prosecuting attorney shall be authorized to assess and collect from each offender who enters the program a fee not to exceed \$300 for the administration of the program. Any fee collected under this subsection, shall be made payable to the general fund of the county in which the crime is committed."

Commissioner Wells stated that it did not say the fee was collected for a specific program. Mr. Inagawa said it did not.

Commissioner Wells said they could acknowledge that the fee was collected. She said as far as a commitment from the Board that if monies were collected come budget time they would give any extra consideration upon and beyond what they would give any other department because they generated income, would be unfair to the departments who could not generate income and would give the wrong message to taxpayers.

Mr. Inagawa said he understood that, and maybe the way he wrote it was not clear.

Commissioner Pfeifer said he was not clear as to what Mr. Inagawa was asking the Board to do.

Mr. Inagawa said nothing basically. He said he didn't know if he could collect a fee without tell the Board of Commissioners.

Chairman Dunn said he was one hundred percent in favor of a diversion program for first time minor offenders. He said what Mr. Inagawa was doing was absolutely the right thing to do. He said he did not understand why Mr. Inagawa's predecessors did not collect the money.

A copy of the request, identified as "Attachment No. 2", follows these minutes and is made an official part hereof.

**RELOCATION OF A PRIVATE DRIVE EASEMENT NEAR PENDLEY'S LAKE:**

George Kritko, 100 Chimney Springs, Tyrone, GA, said he bought this property in April of last year. He said he was asking the Commissioners to adjust the private drive that goes around the lake to another position on his property. He said they were also trying to squeeze that easement back to the original 40 feet that was given to all of the homeowners around the lake. He said it was necessary to do this to build the home wanted, plus the necessary septic system and the well. He said he had gotten the necessary signatures from all the homeowners that share that easement around the lake. He said it was a list of 40 homeowners. He said those names took about a year to compile due to people traveling and sick. Mr. Kritko said Attorney Davenport had advised him to get the signatures from all the homeowners since a private drive had to be moved.

Mr. Kritko said he had the survey and the necessary platting for the house. He said he was asking for the support of the Commissioners in moving the private drive that the County had some interest in. He said Mr. Davenport said that interest would be for fire, police and emergency services. He said the moving of the road would not be a cost to the County as it was a private road.

Attorney McNally said when there was a new community today that wanted private roads, you still insisted that they be built to County standards with a 60 foot right-of-way.

Chairman Dunn asked what the easement was currently around the lake. Mr. Davenport said with the current easement, as it stood today, was 60 feet.

Mr. Kritko said all the residents were in support of this.

Commissioner Wells said if they were to allow this by changing the location of the drive and allowing the easement to be adjusted from sixty to forty, he still did not have a lot he could build on with today's standards.

Mr. Kritko said they had another step to go through with the Zoning Board of Appeals. He said they had to get a variance approved. Commissioner Wells said that exception would be that the back door was basically about 25 feet from the lake. Mr. Kritko said it was not in that direction, it was the other way. He said it was the front property line. He said the Zoning Board was going to address the front property line.

Mr. Kritko said in 1977 the R-70 was 75 foot front set-backs and since then it had been changed to 50. He said since this was platted back in the 70's the ZBA would have to approve that.

Mr. Kritko said he had the disturbance letter approved by Fayette County and a septic tank approval. He said he had a disturbance permit to go ahead and disturb the land.

Commissioner Wells asked what size the lot was. Mr. Kritko said it was a 9 acre lot. Commissioner VanLandingham asked how many acres were under water. Mr. Kritko responded probably 6-6 ½ acres under water.

Commissioner VanLandingham said he was having trouble understanding the grading of the easement and not knowing where property lines were prior to grading. Mr. Kritko said this was a private drive. Commissioner VanLandingham said property lines were property lines. He said when buying the property last April there had to be some sort of survey establishing property lines and then the grading took place on the easement prior to any approval.

Commissioner Frady asked what kind of grading was done. Mr. Kritko responded that they improved the road. They moved the road to straighten out the curve that was in the road. He said they did not move any property lines.

Commissioner Frady asked if he owned the entire easement. Mr. Kritko replied that he did. He said everyone else around the lake shared half the driveway. He said where it comes across his property, he takes the whole blunt of the sixty feet, whereas everyone else only has 30/30. He said it was more of a burden for this piece of property to have the entire 60 feet.

Commissioner VanLandingham asked how Mr. Kritko eventually found out about the easement. Mr. Kritko responded that one of the property owners came by and wanted to know what they were doing. He said he alerted Mr. Davenport to all the information they were not privy to.

Commissioner VanLandingham said if they approved this, the entire road would have to be reduced, they could not just reduce a road for one lot. He said that would mean this whole road would be reduced to 40 foot instead of sixty foot all the way around the lake.

Attorney Davenport said there were several agreements involved. He said the first agreement was for a 40 foot easement, and every property owner in that subdivision shared in that easement from the start to the finish. He said it was when those property owners came to the County in the late 70's and said they wanted access by the County for emergency services and the County said they needed to have 60 feet. He said it was expanded then to 60 feet and the County owned a portion just as every other property owner owned a portion off of every property. He said in the document prepared by Mr. Kritko to have the easement relocated on his property, his understanding was that all of the property owners did sign their approval to relocate it and to shrink it down to 40 feet. He said the County had an interest also which was currently 60 feet. He said they could agree to relocate and could agree to shrink.

Commissioner Frady reconfirmed that all the property owners had agreed to shrink it to 40 feet.

Commissioner Frady said he did not have a problem with this as long as the property owners agreed to do this and as long as they had access to emergency vehicles. He said he thought 40 feet was plenty of room.

Chairman Dunn said he did not have a problem with moving the easement but shrinking the easement bothered him. He said they had standards here and people in that community all agreed to it when they asked for access to emergency vehicles. He said he understood Mr. Kritko's problem.

Commissioner Wells asked how much of the lot was out of the water and buildable. Mr. Kritko said it was probably around three acres. Commissioner Wells said a while ago Mr. Kritko said it was about 2 acres. Mr. Kritko said he had been going by the pinpoints which were 9.06 acres.

Mr. Kritko said the only part that had 60 feet was where he needed the house. He said everywhere else on the property 60 feet was either in the lake or on the other side of the dam.

Chairman Dunn said he did not have a problem with moving the easement but wanted to know if that would solve his issue. Mr. Kritko said that was Plan A and Plan B was to also shrink the easement to 40 feet. He said there were 2 choices, to go with Plan A leaving the 60 feet and moving it over to the southern most point of the property, or Plan B of moving it plus shrinking it to 40 feet.

Commissioner Wells said she also had a concern with the house being so close to the lake, 25 feet, and not knowing exacting how many acres were on each side of it. She asked how big of a house was he planning to build. Mr. Kritko replied that he planned for the house to be right at 3,000 sq.ft. with a basement and two stories.

Commissioner Wells said her other concern was he was going to be on a septic tank and they had been having a lot of floods lately and they were getting very concerned about a low or high water table. She said 25 feet from a lake with a septic tank and a well did not sound like a wise thing to do when he had an unknown quantity of land.

Mr. Kritko said they met the County codes and it would all work based on getting the variance and the road moved.

Chairman Dunn asked what the setback from the water was now. Chris Venice said it was a 25 foot minimum setback. Chairman Dunn asked if they knew where the flood plain was. He said there was an area annotated an 100 ft. flood plain and it looked like it went right up to the edge of the house.

Chairman Dunn said he would be willing to move the easement but not to reduce it.

Motion was made by Commissioner VanLandingham, seconded by Commissioner Wells, to deny the request as presented. Motion carried 4-0 with Commissioner Frady abstaining. A copy of the request, identified as "Attachment No. 3", follows these minutes and is made an official part hereof.

**CONSENT AGENDA:** Motion was made by Commissioner Wells, seconded by Commissioner Pfeifer, to approve the consent agenda as presented. Motion carried 5-0.

**FAYETTEVILLE NOVEMBER ELECTION**

Authorization for the Chairman to execute an agreement with the City of Fayetteville for the City's November 8, 2005 Municipal Election. A copy of the agreement, identified as "Attachment No. 4", follows these minutes and is made an official part hereof.

**BROOKS NOVEMBER ELECTION**

Authorization for the Chairman to execute an agreement with the Town of Brooks for the Town's November 8, 2005 Municipal Election. A copy of the agreement, identified as "Attachment No. 5", follows these minutes and is made an official part hereof.

**PEACHTREE CITY NOVEMBER ELECTION**

Authorization for the Chairman to execute the agreement with the City of Peachtree City for the City's November 8, 2005 Municipal Election. A copy of the agreement, identified as "Attachment No. 6", follows these minutes and is made an official part hereof

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**GRAPPLE ASSEMBLY PURCHASE**

Ratification of expenditure in the amount of \$8,125.80, using contingency funds to purchase grapple assembly to pick up storm debris and other uses. A copy of the request, identified as "Attachment No. 7", follows these minutes and is made an official part hereof.

**CONTRACTOR ASSISTANCE WITH DEBRIS REMOVAL**

Ratification of expenditure using contingency funds to pay contractor for assistance with debris removal from county right-of-way following recent storms in the amount of \$29,160. A copy of the invoice, identified as "Attachment No. 8", follows these minutes and is made an official part hereof.

**BUDGET ADJUSTMENT SHERIFF'S DEPT.-CRIMINAL INVESTIGATION DIVISION**

Approval of budget adjustment to transfer insurance reimbursement from the General Fund to the Sheriff's Department-Criminal Investigation Division account 10030321-52223 in the amount of \$1,682.09. A copy of the request, identified as "Attachment No. 9", follows these minutes and is made an official part hereof.

**ARWOOD AUCTION COMPANY TO CONDUCT COUNTY AUCTION**

Approval of staff recommendation to award proposal #P524 to Arwood Auction Company to conduct County auction. A copy of the proposal, identified as "Attachment No. 10", follows these minutes and is made an official part hereof.

**DISPOSAL OF UNUSEABLE ITEMS AT SHERIFF'S DEPT.-TECHNICAL SERVICES DIV.**

Approval to destroy numerous officer uniforms, inmate clothing and other items from the Sheriff's Department Technical Services Division which are no longer serviceable. A copy of the request, identified as "Attachment No. 11", follows these minutes and is made an official part hereof.

**FUNDING THROUGH THE FEDERAL PRE-DISASTER MITIGATION PROGRAM**

Approval of staff's recommendation to pursue funding through the Federal Pre-Disaster Mitigation Program.

**PUBLIC COMMENT:**

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

There was no public comment.

**STAFF REPORTS:**

**Attorney McNally:** County Attorney Bill McNally stated he had a contract from BellSouth for the renewal of the County phone system which had been operating for the last five years. He said this was a renewal of that contract at a fifteen percent savings over the past contract. He said he needed a motion authorizing the Chairman to sign this contract on behalf of the County.

Motion was made by Commissioner Frady, seconded by Commissioner Wells, authorizing the Chairman to sign the contract. Motion carried 5-0. A copy of the contract, identified as "Attachment No. 12", follows these minutes and is made an official part hereof.

**Attorney McNally:** County Attorney Bill McNally stated that the planning staff was recommending to the Board that Huiet Road, which is a prescriptive easement, to be abandoned from Huiet Drive to the dam site and from the YMCA property to the dam site on the other side. He said he needed a motion from the Board to begin the process of abandoning the prescriptive easement which included notifying the property owners and advertising.

Motion was made by Commissioner Pfeifer, seconded by Commissioner VanLandingham, authorizing the process to begin the abandonment of the prescriptive easement of Huiet Road.

**Attorney McNally:** County Attorney Bill McNally requested an Executive Session to discuss three legal items.

Motion was made by Commissioner Wells, seconded by Commissioner Pfeifer, to adjourn to Executive Session to discuss three legal items. Motion carried 5-0.

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**EXECUTIVE SESSION:**

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

No action was taken.

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

No action was taken.

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

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

**EXECUTIVE SESSION AFFIDAVIT:** Motion was made by Commissioner Wells, seconded by Commissioner Pfeifer, authorizing the Chairman to execute the Executive Session Affidavit affirming that three legal items were discussed in Executive Session. Motion carried 5-0. A copy of the Affidavit, identified as "Attachment No. 13", follows these minutes and is made an official part hereof.

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

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Peggy Butler, Chief Deputy Clerk

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Gregory M. Dunn, Chairman

The foregoing minutes were duly approved at an official meeting of the Board of Commissioners of Fayette County, Georgia, held on the 7th day of September 2005.

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Peggy Butler, Chief Deputy Clerk