

The Board of Commissioners of Fayette County, Georgia met in Official Session on Thursday, September 22, 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, County Administrator
William R. McNally, 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.

REZONING PETITIONS:

Commissioner Wells remarked at this point in the agenda the Board would consider requests for the rezoning of property in our county. She said the policy required at least two public hearings — the first before the Planning Commission and the second before the County Commissioners. She said at this hearing the Board would listen to the concerns of everyone, whether in favor or opposition to the rezoning petition. She pointed out when a rezoning petition was called, the petitioner or representative for the petitioner would be allowed 15 minutes in which to present the details of the request, followed by anyone who wanted to voice support for the request. She stated that the Chairman would then allow all those individuals who were opposed to the rezoning to stand for a moment to display their opposition. She said the Chairman would then ask those individuals who wished to come to the podium to speak to remain standing so the Board and staff could get an idea of how to allocate its time. She said the Board would allow up to 3 minutes for each speaker. She said when the persons speaking in opposition had finished, the petitioner would be given an opportunity to rebut any of the points raised. She remarked in fairness to all parties, the petitioner would be entitled to equal time to address the Commissioners as all those in opposition.

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

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

PACKAGED BEER AND WINE SALES LICENSE FOR FAYETTE VILLAGE B.P.
APPROVED:

Zoning Administrator Aaron Wheeler said this was a request for the Board's consideration of a Packaged Beer and Wine Sales License for Fayette Village B.P., 1580 Highway 54 West, Fayetteville, Georgia. Murad K. Jooma and Shiraz M. Aly, Co-Owners, and Murad K. Jooma, Applicant. He said this property was located in Land Lot 25 of the 7th District, fronts on Hwy. 54 West and Huiet Road, and is zoned C-H. He said this request was for a new location.

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

On motion made by Commissioner VanLandingham, seconded by Commissioner Wells to approve the Packaged Beer and Wine Sales License for Fayette Village B.P. The motion carried 5-0.

ORDINANCE NO. 2005-22 - AMENDMENT TO THE FAYETTE COUNTY
COMPREHENSIVE PLAN (FAYETTE COUNTY LAND USE PLAN) ALONG THE S.R. 54
WEST CORRIDOR:

Director of Planning and Zoning Department Pete Frisina remarked that this regarded proposed amendments to the Fayette County Comprehensive Plan (Fayette County Land Use Plan) along the S.R. 54 West Corridor. He said the Planning Commission recommended approval (5-0). He said this was an area that was located South of S.R. 54 and East of Huiet Road. He said this was an area where the County had land used for commercial down toward Tyrone Road and office institutional across the street on S.R. 54 North. He said this was an area that was surrounded by a lot of existing non-residential and future growth and was conducive to office/institutional development especially with the hospital being located across the street.

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

On motion made by Commissioner Frady, seconded by Commissioner Pfeifer to approve the Amendments to the Fayette County Comprehensive Plan (Fayette County Land Use Plan) along the S.R. 54 West Corridor. The motion carried 5-0. A copy of Ordinance No.

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2005-22, identified as "Attachment No. 1", follows these minutes and is made an official part hereof.

PETITION NO. 1147-05:

Consideration of Petition No. 1147-05, Christine Parker Newton and Claudine Banks Oakley, Owners, and Thomas B. Chandler, Agent, request to rezone 39.03 acres from A-R to R-45 to develop 31 single-family dwelling lots. This property is located in Land Lots 226 and 255 of the 5th District and fronts on New Hope Road. The Planning Commission recommended denial due to the lack of three (3) affirmative votes. Staff recommended approval with two (2) conditions. This item has been withdrawn and will not be heard tonight. It is being reprocessed for hearings in October.

Chairman Dunn announced that this item had been withdrawn because there were problems on the legal description that had been sent to the County. He said this would have to be totally redone and would be heard at the October 27, 2005 Board of Commissioners' meeting.

PETITION NO. 1151-05:

Zoning Administrator Aaron Wheeler read Petition No. 1151-05, 54 West, LLC, Owner, and Grover and Corlew, Agent, request to rezone 16.66 acres from A-R to O-I to develop a Professional Office Park. He said this property was located in Land Lot 8 of the 7th District and fronted on S.R. 54 West. He said the Planning Commission recommended approval subject to the two recommended conditions (5-0) and Staff recommended approval with two conditions.

Jeff Collins of Grover and Corlew, Agent, said they had a site plan to present to the Board and also would be glad to answer any questions that the Board might have. He said this plan involved 16.66 acres. He said the estimated square footage of the front four buildings along S.R. 54 was approximately 96,000 square feet.

Chairman Dunn asked Mr. Collins who they envisioned leasing or selling these buildings to.

Mr. Collins replied they had a pre-leased medical organization who had signed on the first building. He felt the other buildings would probably be single tenant or multi-tenant buildings. He said they were looking for larger users and primarily medical users. He said they would also accept professional offices.

Chairman Dunn asked where the septic system would be located.

Mr. Collins replied that the sanitary engineer was present tonight if the Board had any questions. He said they had done soil tests and studies and had not determined at this time how these systems would work.

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Chairman Dunn remarked the Board would hear the zoning request tonight rather than what kind of septic system there would be. He said the issue of a community septic system was not solved yet in his mind.

Mr. Collins said they would have to go through the Georgia Environmental Protection Department and follow all of the rules and regulations. He said they would certainly not do anything that was not appropriate for the property. He said they intended to hold the property and create a nice environment.

Chairman Dunn asked Mr. Collins for the estimated gallons of sewer usage per day.

Mr. Collins replied it would be approximately 3,000 gallons per day.

Chairman Dunn asked Mr. Collins if he expected it to be 10,000 gallons per day on the site.

Mr. Collins replied with that amount of square footage he would expect that.

Chairman Dunn said was the cut off from where the State would intervene.

Mr. Collins said they had been told 10,000 gallons per day or if there was any type of community system, the State would intervene regardless. He said they would be dealing with the Georgia E.P.D.

Chairman Dunn said the E.P.D. would handle anything 10,000 gallons or more per day.

Mr. Collins said the first building was approximately 20,000 square feet and approximately 2,500 gallons per day. He said with four buildings it would probably come in at approximately 10,000 gallons per day.

Chairman Dunn said one of the buildings looked smaller than the others.

Mr. Collins said this would also depend on the use of the buildings. He said the building that they just completed had exams rooms with sinks.

Chairman Dunn said he wanted Mr. Collins to know that there would probably be a debate over the septic system. He said that was not an issue tonight. He said he just wanted to know what Mr. Collins envisioned on the site.

Chairman Dunn asked Mr. Collins why he would not envision one septic system per building on this piece of property.

Mr. Collins said they were still going through that evaluation but thus far they had been told that it was actually better for the environment if they did a single septic system and treat the system and have everything go toward one area.

Chairman Dunn remarked if the system failed there would be a lot bigger problem.

Mr. Collins said there would have to be rules and regulations that would have to be followed as well as maintenance.

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

On motion made by Commissioner Wells, seconded by Commissioner Frady to approve Petition No. 1151-05 with two conditions. The motion carried 5-0. A copy of Staff's Investigation, Analysis and two recommended conditions, identified as "Attachment No. 2", follow these minutes and are made an official part hereof. A copy of the Ordinance and Resolution approving Petition No. 1151-05, identified as "Attachment No. 3", follow these minutes and are made an official part hereof.

PETITION NO. 1152-05:

Zoning Administrator Aaron Wheeler read Petition No. 1152-05, Humber Construction, LLC, Owner, and Brad Humber, Agent, request to rezone 80.44 acres from A-R to C-S to develop a proposed subdivision consisting of 32 single-family dwelling lots. He said this property was located in Land Lots 229 and 252 of the 4th District and fronted on McBride Road. He said the Planning Commission recommended denial due to the lack of three (3) affirmative votes and Staff recommended approval with two (2) conditions. Petitioner requested this item be tabled from the Board of Commissioners' August 25th meeting to the September 22, 2005 Board of Commissioners' meeting.

David Hovey said he was an engineer and President of Hovey and Associates which was a consulting firm located in Fayetteville. He said he was representing Humber Construction Company and their request to rezone 80.44 acres of land located on McBride Road from A-R to C-S. He said he had personally been involved with the planning and engineering of the last four phases of High Grove Subdivision, New Haven Subdivision, Horseman's Run Subdivision, Wrightsburg Subdivision and Olivia Estates. He said this would be a similar type subdivision to those projects. He said the property was currently surrounded by A-R zoning. He said it did fall under the residential rule under the Comprehensive Land Use Plan with the average density being two to three acres per unit. He said their density was right in the middle of that. He stated the gross density would be 2.51 units per acre and the net density was 2.38 units per acre. He said they were right in line with the Comprehensive Land Use Plan.

Chairman Dunn asked if there were any lots less than one acre.

Mr. Hovey replied that they had no lots less than one acre. He said they had done a two acre yield plan and submitted it to staff. He said this plan had been reviewed and approved. He said it yielded 32 two acre lots. He said they then took that plan and decided

that it would be best to come up with a conservation subdivision with one acre lots and over 50% open space still available. He said they would have to bring water to the site. He said it would have to come down McBride Road. He said they fully intended to do that and it would give those people between this subdivision and S.R. 85 the ability to have fire flow protection as well as the ability to tie onto the County Water System.

Mr. Hovey remarked that this was the kind of development that was really encouraged by the Georgia Stormwater Management Manual. He said it was encouraged to reduce the impervious surfaces and to protect the watershed buffers, wetlands, tributaries, decrease the street lengths, cluster the houses and leave more conservation and open area. He said this was what they had chosen to do in this project.

Chairman Dunn asked if anyone wished to speak in favor of this petition.

Tammy Jones said she had lived in Fayette County for over thirty years. She said she was currently building a new home on McBride Road near the entrance of the proposed subdivision. She said residents who had lived in Fayette County for a long time had seen many changes here during that time. She said she knew change was inevitable. She said she believed that the property being discussed tonight would eventually be developed as a subdivision. She felt it was important to have a say in what type of subdivision would be developed and she appreciated the spirit of this public hearing. She said Mr. Humber and his contractors were currently working on her new home. She said because of this fact she had visited several of the homes on which Mr. Humber had worked and she had also visited Horseman's Run Subdivision off of Goza Road. She noted that this subdivision was modeled after Horseman's Run. She said based on her assessment of Horseman's Run and the quality and caliber of homes built by Mr. Humber she had no issue with living next door to such a development. She said this type of neighborhood would have a positive impact on the value of her home and property. She said she based this conclusion from developments such as Whitewater Estates and High Grove which no doubt had positively impacted homeowners on Redwine Road and had set the standards for future developments in that area. She believed Mr. Humber and this project deserved the Board's support.

Jerry Jones said he had sold Mr. Humber this property. He said Tammy was his daughter who was building the new house. He said his cousin lived across the road, his mother lived next door, and also his aunt lived next door. He said he would like to see quality homes built there. He said these homes would be \$400,000 to \$500,000 homes. He said he also liked the idea of the green space and open land, parks and also the walking trails that would be there.

Chairman Dunn asked if anyone wished to speak in opposition to this request.

The Marshal counted thirty people standing in opposition.

Chairman Dunn asked how many wished to speak and eight people raised their hands.

Jennifer Hawk presented a petition to the Board showing approximately 45 residents in opposition to this rezoning request. A copy of the petition, identified as "Attachment No. 4", follows these minutes and is made an official part hereof. She said she lived on the East side of the proposed development on eighteen acres. She said her husband was not able to attend this meeting but she wanted to express both of their opinions regarding this rezoning application. She said they were opposed to this rezoning for several reasons. She said first of all they felt this rezoning was not necessary to "protect the natural attributes of the site and provide open space." She said under current zoning the natural attributes of the land were protected by the setbacks in the A-R restrictions. She remarked that much of this land was wetlands and would not be able to be developed anyway. She said under the current zoning the number of houses would be restricted to approximately fifteen homes instead of the proposed 36 homes. She said secondly this rezoning would change the character and intent of the neighborhood. She stated it could almost be considered a spot rezoning. She pointed out that the Board had turned down many rezoning applications in this area requesting smaller parcels and all of the surrounding properties were at least five acres. She said finally there were environmental issues that had not been addressed on this plan that was submitted. She stated there was no stormwater drainage plan or detention facilities shown on the plan. She said soils in this area were poor due to the wetland areas. She questioned this number of homes being on septic systems and felt this would affect the groundwater and all of the wildlife associated with this area. She said as of yet no one had looked at that issue. She said this property had previously been used for personal dumping which included over 200 tires, many cars, a few buses and tons of buried materials. She said she had personal knowledge of this as they had walked the property several times with Mr. Mask before he died.

Mrs. Hawk remarked that the issue that really concerned them the most and a lot of the other residents who were present tonight was that the local governments were more than eager to approve this type of rezoning simply because it met the requirements for the green space goals of Fayette County. She said the problem was that if the zoning was left the way it was there would not be any green space credit, therefore the County looked to this type of development to make the path smooth for the developers who were helping the County achieve its financial and growth goals for this County. She said in this case they did not feel that this rezoning was a win/win situation even though it might seem so on paper. She said as a neighborhood they would be losing green space to thirty-six homes and all of the negatives associated with increased density. She said they strongly urged the Board to deny this rezoning tonight.

Dennis Chase, 290 Crabapple Road, Fayetteville remarked that he was concerned with the conservation area that was being set aside. He said it seemed like an awful lot of these come through the County and a lot of this area was supposed to be set aside but then there was never any clear management as to how this was going to be taken care of and who would take care of it. He said that was a point that needed to be addressed if this green

space was going to be donated to the County or to a land trust. He said he had heard this several times in the past and the applicant had not actually followed through. He said he would like to make sure that this was actually going to be managed.

Joe Falkenbach, 586 McBride Road, Fayetteville said he would like to bring up two issues tonight. He said the first issue was traffic. He remarked that the applicant's map did not clearly show the curve at the entrance of the subdivision. He said the horizontal distance from the entrance goes around a sharp curve and down a hill 350 feet sight distance requirement was at best questionable. He said if someone was proceeding upward they would be going toward S.R. 85. He said currently in the morning and evening together with all of the school traffic it was virtually impossible to turn left out of McBride Road onto S.R. 85. He said there had been numerous accidents there. He said because of the schools McBride Road itself was becoming more of a feeder road every day. He said this subdivision would introduce 32 homes and probably double or triple that for the additional vehicles or 60 to 90 vehicles accessing the sharp curve on a daily basis.

Mr. Falkenbach further remarked on the second issue he wanted to discuss and that was the school system. He said recently Sara Harp Minter Elementary School and Whitewater High School were completed and there was an expansion to Whitewater Middle School. He said there was already overcrowding at Whitewater Middle School and several classes were being held in trailers. He said this rezoning would increase the density from 32 homes versus the 16 homes as currently zoned in A-R. He said this rezoning would double the number of homes in this area and double the demand on the school system. He said he had a letter from the Superintendent of the Fayette County School System Dr. John DeCotis that was addressed to the Fayette County Zoning Department. He said it was Dr. DeCotis' estimation that there would be an increase of 48 students from the subdivision which would add to the cost of the school system of \$337,000. He said this was based on an approximate \$7,000 per pupil education expense. He said there would be an increase of 32 students to Sara Harp Minter Elementary, 8 students to Whitewater Middle School and 8 students to Whitewater High School. He said the capacity was 787 and current enrollment was 739 and this would bring it very close to full capacity. He said Whitewater Middle School was currently over capacity and this would add students to that situation. He remarked that this type of rezoning plays out to the remainder of the County in that basically the planned zoning capacity would have to double. He said schools could not be built over night and overcrowding would occur twice as fast. He said school boundaries would have to be changed more often which was never popular with the existing population. He felt there should not be a change and the County should stay with the current zoning and control the growth.

Mark Collins, 170 Brandenburg Way in Wrightsburg Estates remarked this subdivision adjoins this property to the South. He said he had attended the last meeting where this rezoning request was addressed. He said he listened and he learned a lot about things that he really did not have knowledge of before as far as zoning terminology and the way the County did business. He said he watched and observed how the process takes place

and how concerned citizens expressed their concerns on both sides of a given situation. He said he was prepared at the last meeting to voice his concerns in quite a different manner than what he had chosen to do tonight. He said he had met with his neighbors and discussed concerns over these issues such as wetlands, green space, fresh water supply, over abundance of sewerage, traffic conditions on both highways 85 and 92 and the overcrowding of schools. He said while these were all legitimate concerns and he agreed with all of these issues, this was not how he chose to oppose this rezoning. He said his opposition tonight was on a much simpler scale and actually this very Commission made it so. He commented that just a little over a year ago when Wrightsburg Estates was developed by Rod Wright, he attempted to create three acre lots and this very Commission told him there would have to be a minimum of five acre lots. He said this was where he had made his investment. He said when he looked at this investment he looked at the zoning that was currently in place. He said he moved to this particular part of Fayette County just for the acreage. He said he had spent quite a bit of money building his home which he considered to be his dream home. He remarked that this was not fair to the landowners on McBride Road and not fair to the residents of Wrightsburg Estates for this to be changed. He said at the last meeting a gentleman who he recalled was Mr. Hernandez very eloquently pleaded his case to have his property rezoned so that he could have goats. He said the Board did the right thing on that request. He said everybody in the audience felt sympathy toward Mr. Hernandez and a lot of people spoke in support of the request. He said this Board made the right decision on that request. He said the way Mr. Hernandez's property was set up and was surrounded by different kinds of subdivisions. He said just as citizens in subdivisions surrounding Mr. Hernandez did not want to see goats, the people along McBride Road and in Wrightsburg Estates did not want to see houses on one acre lots. He said the Board's reasoning for its decision involved phrases such as "destroying the character of the neighborhood" and "a precedent of adverse effect. He said he believed in the Board's wisdom that it had made the right decision and in this case he felt the same thing needed to be done.

Betsy Thoms said she lived across the street from the proposed development. She said her husband and her operate a tree farm on their property. She said they were truly agricultural residentialists. She said the Board would hear from many residents of this area as to why each of them wanted this zoning to remain A-R. She said she did realize that the Board should have a legal basis for its decision to deny this rezoning. She felt there were at least five points which would allow the Board the basis to deny this rezoning. She said one was the issue of the traffic. She remarked that 32 lots with 64 plus cars would result in an over burdensome use of McBride Road. She said as a result the Sheriff's Department in their departmental comments had already stated that this development would have an impact regarding an increase in the number of vehicles at S.R. 85 and McBride Road which has a reduced sight distance issue in an already congested area. She said the second issue was the adverse impact on the surrounding property. She said the rezoning would adversely affect the agricultural residential use of the adjoining and nearby properties where horses were kept, crops were raised and fish were caught. She said the third issue involved the extensive wetlands, entrance to the subdivision beyond a

very sharp curve with limited sight distance and the hazardous materials previously dumped on this site. She said fourthly if the adjacent land use was considered and the net density of the development, it could be debated that the proposed zoning did not actually fit the Land Use Plan of one unit for one to three acres. She said fifthly there were no constraints on the property owner's right to use the property as it was currently. She said the property owner could develop the property as it was currently zoned. She said she would also like to add that most of the residents along McBride Road had built in the last ten years or less and the benefit to home ownership there was the five acres. She said they did not have cart paths, parks or walking paths or easy access that typically accompanied and attracted the dense housing. She said they did have realtors and realtor friends that constantly inform them that they had clients wanting to get out of the close knit neighborhoods and purchase more land and asking if they were interested in selling their property. She asked for the Board's consideration in denying this request for the people who lived here and built their homes based on the requirements in place and not for those people who did not live here and who wanted to make changes that would affect everyone else just for the sake of higher profits.

Scott Gilbert, 591 McBride Road, Fayetteville remarked that at the last meeting some of Board members would not want to do anything to change the character of that neighborhood. He said he had one neighbor who had a tractor plowed garden. He said one of his neighbors had goats, one neighbor was a tree farmer and several neighbors who owned horses and cattle. He said one of his neighbors had recently petitioned and he believed rezoned back to A-R just around the corner from his house. He said many of the residents have full sized tractors just to cut the grass. He said this was the character of the neighborhood and it would grossly change if this rezoning was approved. He remarked on the precedent of adverse affect. He said the traffic and the schools would definitely be impacted. He said the bottom line was that there would be more houses on smaller lots. He said he realized the Board was under requirements from the State to do things percentage wise for green space but the bottom line was the precedent that would be set and that would be one house per one acre lot. He said this was not what any of the surrounding neighbors wanted. He said none of the residents wanted to restrict anyone from using their property but assured the Board that there would be no problem in selling larger lots there. He said the last time he had put his lot up for sale before he built his home he had eight people in three hours offer him what he was asking. He said there was plenty of demand for the larger lots. He said they welcomed new neighbors but respectfully requested that the Board deny this rezoning request.

Sherrill Ridley, 305 Wrightsburg Court in Wrightsburg Estates remarked that the proposed subdivision backed up to her subdivision. She said she had attended the meeting approximately one and a half years ago when Rod Wright requested changing the zoning from five acres to three acres. She said there was a large group present at that meeting who opposed the request. She recalled one lady having nine acres and she wanted to give her son four and a half acres and that had been turned down less than a year before. She said the lady was really furious to think that the Board would allow less than that especially

since she was told no. She said they loved their new neighborhood and had purchased property there because it was five acres. She said the whole idea of the five acre lots made this a very special place to live. She said she did not want this to be changed and she felt it would really destroy the character of the neighborhood. She said they had built their dream house here and they were concerned with irreversible damage to the area if this rezoning was approved.

David Wilson, 754 McBride Road, Fayetteville said his wife had pointed out a recent article in the newspaper relating to Gwinnett County. He said in some part of Gwinnett County they had instituted a regulation that said a maximum of eight people could live in an individual house because more than that would be a strain on the infrastructure of the area. He said growth was fine but he would like to see Fayette County grow into something that was still remarkable as compared to surrounding areas. He said uncontrolled growth based on profit simply would not get this done.

Ann Daniel, 740 McBride Road, Fayetteville said she was approximately three houses down from the proposed subdivision. She said Mr. Mask was her neighbor and her friend and she just did not think this was what he would want for his property. She said the neighborhood did not need something like this. She said there were new schools behind her house. She said she had also just learned that Fayette County Kiwanis Field had just been sold for the bus barn thereby causing additional traffic in the area.

Commissioner VanLandingham said that statement was incorrect. He said Kiwanis Field had not been sold.

Ms. Daniel said there was a lot of land along Goza Road that had not been developed and it was beautiful land. She said there was supposed to be a proposal for a golf course in that area. She expressed concern with over development and more traffic. She asked when the new roads would be coming in to carry everyone to and from. She said there was no infrastructure.

Chairman Dunn asked if the applicant had any rebuttal comments.

David Hovey replied yes he would like to address some of these concerns. He commented on the suitability for the soils for septic tank systems. He said the soils had been delineated on the site and on the conservation plan they had clustered all of the lots in the best soils. He said they had prepared a two acre yield plan and in some places half of a lot would be in good soil and half of another lot would be in questionable soil for an alternative system. He said they had decided to cluster the property and get every bit of it into good soils. He said they did have a delineation and it was shown on the plat. He said the issue had also been brought up that there were no detention basins or storm drainage structures shown. He said it was required that storm drainage structures be shown on a particular rezoning plat. He said they did not propose to have detention basins on this site. He said he could prove this through hydraulic models that stormwater detention would not be required. He

said this was basically what was called a peak analysis. He said the entire drainage basin would peak long after this site peaked. He said if they tried to set up a stormwater detention basin they would bring the two peaks together and create a worse situation if they just let it go undetained. He said stormwater quality basins would probably be addressed in the construction plans. He said if Fayette County had adopted the new blue manual then stormwater quality would have to be addressed and it would be addressed. He said that would also help protect the wetlands or any other sensitive areas. He said an issue had been brought up about the possibility that this might be considered spot zoning. He said he was not sure but he thought there was a piece that was rezoned R-70 at the intersection of McBride Road and S.R. 85. He commented on the issue of traffic concerns. He said this was a collector road and denoted in the County as being a collector road. He said he has had the County Engineer out to look at this proposed entrance and both of them agreed that there was a sharp curve there but most of the traffic would be headed to S.R. 85. He said the majority of the traffic would be turning left and headed to S.R. 85. He said if there was a sight distance issue with McBride Road and S.R. 85 he was sure that the Department of Transportation had already looked at it in the original design of S.R. 85. He said they were not changing the sight distance. He said if there was a problem there it could be addressed with the D.O.T. He said there were also concerns about clean up of the site.

Chairman Dunn interjected and said he recalled the sight distance being on McBride Road being the problem and not on S.R. 85.

Mr. Hovey said he recalled a problem with the sight distance at the intersection of McBride Road and S.R. 85 as well as McBride and the sharp curve. He said he had the County Engineer out there to look at it and they both agreed that 350 feet was about all there was available. He said they could not improve the sight distance either way they went. He said the entrance had to be where it was shown and it was not going to get any better than that location. He commented on the issue of hazardous material being located on the site. He said they were not aware of hazardous material being on the site. He said if there were any vehicles or tires on this property, they certainly would be cleaned up and taken to the dump or wherever they needed to be taken to and disposed of properly. He recalled the speed limit on McBride Road was 35 miles per hour.

Chairman Dunn asked Mr. Hovey to address a couple more issues. He asked about care of the wetlands.

Mr. Hovey replied that the care of the wetlands would come under the Homeowners' Association that they were planning on setting up. He said that would also fall under the new Georgia Stormwater Management Manual. He said maintenance responsibilities would have to be set up for stormwater quality ponds. He said normally it was assigned through a Homeowners' Association. He said this was relatively new to all of the municipalities and would be something to address during the construction plans or prior to

any final plat approval. He said responsibility of the maintenance of those wetlands stormwater quality ponds would have to be assigned at that time.

Chairman Dunn asked what the neighbors would do if the people in the subdivision did not care for the wetlands.

Mr. Hovey replied that would be a question for the Corps of Engineers. He said if the wetlands were disturbed they would be fighting a losing battle with the Corps of Engineers.

Chairman Dunn said there were other ways of disposing of that land. He noted that the land could be given to a conservation organization and they could take care of it.

Mr. Hovey said that was an option that they would certainly look at.

Chairman Dunn asked about the overall character of the neighborhood.

Mr. Hovey said there were 31 additional houses that would be there under this current plan. He said they had done a two acre lot layout and still came up with 31 two acre lots. He said some of those two acre lots were actually closer to three or four acre lots. He said they were going by the Land Use Plan. He said Fayette County had adopted this Land Use Plan with the two to three acre per unit density. He said they were right there at 2.5 acres per unit.

Chairman Dunn asked what the average lot size would be under the straight two acre zoning.

Mr. Hovey replied that the average lot size was probably 2.5 acres. He said the density would be the same. He said they were setting aside over half of this site as conservation area.

Chairman Dunn said two or three people had brought up the issue of the decision made on Wrightsburg Estates and the fact that the Board had denied Mr. Wright's request to make smaller lot sizes in there. He said the Board certainly denied that request for smaller lot sizes. He stated that was because it was a platted subdivision. He said if someone buys into a subdivision they were entitled to know what the subdivision was going to look like. He said this Board had been very, very consistent with that through its tenure. He said that was a totally different issue than rezoning a piece of property. He said he just wanted to make clear that it was not inconsistent to have denied Mr. Wright on his rezoning of Wrightsburg Estates.

Chairman Dunn asked if anyone else had any further questions.

On motion made by Commissioner Pfeifer, seconded by Commissioner Wells to deny Petition No. 1151-05, discussion followed.

Commissioner VanLandingham said the petition and the rezoning falls into the comprehensive Land Use Plan. He said it accomplished requirements that was imposed on this Board by the State. He said in reading some other material this afternoon he determined that the County had 94,264 acres in Fayette County. He said of that land 21,870 acres were developed. He said this left 24,701 that was undeveloped which was 49.4% and that was located South of S.R. 54. He said Fayette County had barely managed to live off its growth for the last three years and not raise taxes. He said most C-S zonings would come out of areas where the majority of the property was A-R. He said this was the reason the County created the C-S zoning and that was to accomplish the green space program that the State required of the County and at the same time not to increase density all that much. He said he certainly understood what the people on McBride Road were facing. He said he had the same thing where he lived. He said it was inevitable and growth was going to come. He said for the Board to sit here and say that it should go somewhere else would be a fallacy. He said as much as he loved the rural setting of Fayette County, the Board would be faced with a lot of these decisions. He said this was one of the reasons the C-S zoning was created. He felt this request was in order and fell within the comprehensive Land Use Plan and he felt it should be approved.

Commissioner Pfeifer said he had generally been a supporter of conservation subdivisions but he could not support this one. He said he had carefully weighed each of the conservation subdivision requests that had come before the Board. He said he had tried to make sure that even though the lot size was smaller that the conservation subdivision did not make an area with larger lots look like an area with smaller lots. He said in some of the other cases the topography of the area meant that the conservation subdivision did not alter the appearance of the area to those people living nearby. He said he did not think that was true in this situation. He said he had been vocal in the past about some of the shortcomings that he felt existed in the C-S zoning as it was written. He said one of those problems had been the lot sizes. He felt this had been addressed by the new rezoning category called estate zoning and these involved larger lot sizes. He said if this was an estate rezoning request, he might be able to support it. He said he had not been hesitant in the past to recommend other legal zonings when he did not feel that the requested zoning was appropriate for the area. He said because of the planning requirements on an estate zoning he was not prepared at this time to make that recommendation. He said that would be placed on the developer of the property. He said this piece of property was wide open. He said he had seen the pictures and had also visited the property. He said this property was completely visible to everyone in the neighborhood and anyone who might drive by. He said it would look like a one acre subdivision right in the middle of A-R zoning. He said he had nothing against the way Rebecca Lakes or Horseman's Run were developed. He said they were both filled with attractive homes and with pleasant families but he did not feel that either one belonged where it was. He said these just were not fair to the surrounding area. He felt this Commission had brought a halt to the trend that existed in this County toward more intense development of several years ago. He said this proposal would represent a reversal in that improvement and would just be another smaller

Rebecca Lakes or Horseman's Run in his view. He said it would forever alter the character of this area and he could not support it.

Commissioner Frady said he agreed somewhat with Commissioner VanLandingham. He said he disagreed with Commissioner Pfeifer because the Board was not increasing the density that was allowed there. He said this piece of property that the C-S zoning was created for approximately three years ago to fit in this property for open space. He said it was not zoned A-R five acres but zoned A-R for the Land Use Plan for two to three acres. He said it was not going to increase students in schools or traffic. He said this would give the County a lot of open space and a lot of recreation land. He said this was a legal zoning and he felt it was wrong for the Board not to do what it had put on the books to do. He said he was not going to vote against this request because he felt it was the legal zoning. He said he had been living in this County probably more than most and he had seen it grow out of the 12,000 people since he had come here to where it was today. He said while he had been disappointed in some things he felt this Board had done a lot of good things for this County. He said he had to vote in favor of this because it was the right thing to do legally and he would be remiss if he did not.

Commissioner Wells said she also supported conservation subdivisions in some areas but she did not believe that this was an area where it should go. She said a house could legally be put on two to three acre lots in this area. She said most of the time with a conservation subdivision it was for the benefit of the County. She said a lot of this property was going to go in the conservation area as wetlands and would not really give the County land that it could really use for walking paths or things of that nature. She said she hated to see the rural part of the County and start making small lots and putting houses on one acre. She felt this would have an adverse characterization to that area. She said the County could approve a C-S subdivision and it would be a legal zoning, but the County could also require the developer to put this on two to three acre lots which would also be a legal zoning. She said she was just not comfortable with the Board putting one acre lots there and averaging out two acres. She felt this would do a disservice to the people who had moved there for the rural atmosphere and she did not feel this was the place for the County to put a C-S zoning. She said the Board was not compelled to put a C-S zoning any particular place. She said this was the Board's option and she did not feel this was a good option for the Board.

Chairman Dunn said he was a very staunch advocate of conservation subdivisions because generally only half of the land would be developed that could be. He said in this case there could only be 31 houses for this C-S subdivision wherein a legally land used area there might have more houses. He said in this project it looked like the number was almost identical. He said he had received several e-mails from citizens stating that there should not be a one acre subdivision in this area or the fact that it would appear like a one acre subdivision. He asked what would happen if the Board approved a straight two acre subdivision. He said he strictly believed that C-S was a good way to go but he could certainly understand the concerns of the citizens and the Board because this in fact was

a legal zoning. He said a two acre zoning was also on the books as legal. He said Humber Construction owned the land and had the right to develop the land. He remarked in the future as the County grows, there would not be twenty or thirty acre lots. He said he did not want to simply deny the motion and say that Humber could not develop the property.

Commissioner Pfeifer interjected that the property was zoned legally right now and if the petitioner wanted to come back later and request another zoning then he would consider that at that time.

Commissioner Frady said the property could be C-S or two or three acre tracts. He said the applicant had requested C-S and this was definitely a legal zoning the same as two and three acre tracts.

Commissioner Pfeifer said the Board did not always have to go with the maximum density that was allowed.

Commissioner VanLandingham suggested Chairman Dunn call the question on the motion.

Chairman Dunn felt the Board should make a decision tonight so that the property owner knows that they have a legal zoning and they can build something on this property other than five acre lots.

Commissioner Wells asked if the motion could be rephrased to approve an R-70 zoning.

Commissioner Frady asked if there was a reason why the Board was not voting after the question was called.

Commissioner Pfeifer said he would withdraw his motion and make a new one approving R-70.

On motion made by Commissioner VanLandingham, seconded by Commissioner Pfeifer to approve Petition No. 1152-05 as R-70 zoning for two acre lots, discussion followed.

Attorney McNally interjected if the C-S zoning was going to be denied then he felt the motion should be obtained to deny C-S zoning and then if there was any other motion made relative to granting something on this petition then it could be a separate motion. He said the Board would need to take action on the motion previously made for denial of C-S zoning for this property.

Chairman Dunn called the question for the motion to deny this request for C-S zoning.

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

Chairman Dunn asked for the Board's pleasure in this matter.

On motion made by Commissioner VanLandingham, seconded by Commissioner Pfeifer to approve R-70 zoning for two acre lots. The motion carried 5-0. A copy of the Ordinance and Resolution approving Petition No. 1152-05 for R-70 zoning for two acre lots, identified as "Attachment No. 5", follow these minutes and are made an official part hereof.

PETITION NO. 1153-05:

Zoning Administrator Aaron Wheeler read Petition No. 1153-05, Ms. Bobbie J. Roberts, Executrix of the Estate of Grace Prayor, Owner, and Rufus Prayor, Agent, request to rezone 2.15 acres from A-R to R-70 to develop one (1) single-family dwelling lot. He said this property was located in Land Lot 22 of the 5th District and fronted on Weldon Road. He said the Planning Commission recommended approval (5-0) and Staff recommended approval.

Rufus Prayor asked for the Board's consideration to rezone this property from A-R to R-70.

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

On motion made by Commissioner Pfeifer, seconded by Commissioner Wells to approve Petition No. 1153-05. The motion carried 5-0. A copy of Staff's Analysis and Investigation, identified as "Attachment No. 6", follow these minutes and are made an official part hereof. A copy of the Ordinance and Resolution approving Petition No. 1153-05, identified as "Attachment No. 7", follow these minutes and are made an official part hereof.

PETITION NO. 1154-05:

Zoning Administrator Aaron Wheeler read Petition No. 1154-05, Allen and Judy Pendergrass, Owners, and Attorney Geoffrey Slade, Agent, request to rezone 4.756 acres from A-R to R-40 to develop two (2) single-family dwelling lots. He said this property was located in Land Lot 250 of the 13th District and fronted on Mitchell Road and S.R. 279. He said the Planning Commission recommended approval of tract 1 with no conditions (5-0) and approval of tract 2 subject to the one recommended condition (5-0) and Staff recommended approval with one condition.

Jeff Slade said he was representing Allen and Judy Pendergrass. He said this request was to rezone 4.756 acres from A-R to R-40 to develop two (2) single-family dwelling lots. He said this property was located on S.R. 279 and fit in with the neighborhood. He said he would be glad to answer any questions that the Board might have.

Chairman Dunn asked if anyone wished to speak in favor of this request. 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.

On motion made by Commissioner Wells, seconded by Commissioner Pfeifer to approve Petition No. 1154-05 with one recommended condition. The motion carried 5-0. A copy of Staff's Analysis, Investigation and recommendations, identified as "Attachment No. 8", follows these minutes and are made an official part hereof. A copy of the Ordinance and Resolution approving Petition No. 1154-05, identified as "Attachment No. 9", follow these minutes and are made an official part hereof.

PETITION NO. T-015-05:

Zoning Administrator Aaron Wheeler read Petition No. T-015-05, William and Betty Shubert, Owners, and Jeffrey Evans of Powertel/Atlanta, Inc., Agent, request to construct a 150 foot Monopole Telecommunications Tower plus a 4 foot lightning rod. He said this property was located in Land Lot 104 of the 7th District, consisted of 49.75 acres, fronted on Dogwood Trail Road, and was zoned A-R. He said the proposed tower did not comply with the 2 mile separation between tower facilities. He said the Planning Commission recommended approval subject to the four recommended conditions (3-2) and Staff recommended with four conditions.

Jeffrey Evans said he was representing Powertel/Atlanta, Inc. and they were commercially referred to or otherwise doing business as T-Mobile. He said the purpose of this application was to develop and operate a wireless telecommunications facility at 376 Dogwood Trail. He said the parcel was a 50 acre parcel along the Southside of Dogwood Trail. He stated the plan was to develop a 150 foot monopole style telecommunications tower also contained within a 60 x 40 foot compound. He said the purpose of this request was primarily to fulfill the obligation of T-Mobile to its customers in that area and improve the coverage along Dogwood Trail and extending over to S.R. 74 and the surrounding area. He said having worked in this capacity in this County before and being a part of the development of wireless communication facilities, T-Mobile was quite familiar with the intent of the ordinance and understands the sensitivities. He said specifically they were aware that the Board was concerned about the proliferation of towers thus the tower separation. He said secondly they also understand that the Board was concerned about maintaining the quality of the neighborhood and not having those towers infringe on that quality. He said in doing so what it had done in the past was relaxed some of the requirements along highway corridors to encourage development of the towers along those corridors. He remarked that one of the things he would like to point out about their careful selection of this parcel was their obligation to try and find the parcel that would have the least amount of intrusion to the surrounding neighborhood. He felt they had done this by finding a 50 acre parcel.

Mr. Evans remarked that this proposal met the requirements of the ordinance by being at least 1,000 feet from the two closest facilities. He said the adjacent parcel to the East was heavily wooded and currently not occupied by anyone. He said the reason they had chosen this area was to have the least amount of intrusion into the neighborhood. He said staff had asked him why this tower could not be placed further back on the parcel. He remarked there was a pond just to the Southside of the proposed facility and the area

South of that was all included in the 100 foot flood plain. He said practicality dictated that they could not put the tower in that location simply because they would be subject to having the compound flood during heavy rain.

Mr. Evans further remarked that there were two items that he was coming to the Board requesting relief for. He said in order to place this facility at this location and meet as much of the requirements as they could they were asking for release from two provisions of the County's ordinance. He said firstly he wanted to point out that to the East they did not meet the 200 foot required setback for facilities of this type in non-highway corridors. He said secondly they were 1.64 miles from the closest tower facility and he noted that they were on that facility. He remarked that there were several other towers in the surrounding area where T-Mobile has its towers mounted. He said T-Mobile has made every attempt possible to cover this particular area by mounting its antennas on facilities around it. He said at the Planning Commission hearing one of the Commissioners raised an issue that they wanted T-Mobile to evaluate the possibility of covering this area alternatively by raising the height of the closest tower. He said T-Mobile had done a scenario to show what the coverage would be if it was allowed to do that. He said firstly he wanted to point out that this was a tower that T-Mobile did not own and it was co-locating. He said the tower was owned by a separate company. He said the second thing that was perhaps the most important was the frequency that T-Mobile was granted by the Federal Communications Commission. He said there were limits with respect to how high a facility's antennae could be placed in order to transmit their frequency and make it efficient so that it was not interfering with other users. He said T-Mobile had done a hypothetical study proposing that the 190 foot tower be increased to 250 feet. He said this was 1.6 miles from the proposed location. He said T-Mobile had determined that there was a slight increase in the coverage that they were able to grant their customers in that area. He remarked that it was, however, substantially less than the desired results that they were trying to achieve with this tower.

Mr. Evans remarked that in conclusion T-Mobile determined that Staff's recommendation was for approval with the four conditions. He said T-Mobile would agree to those four conditions. He said he would like to read the four conditions into the minutes as follows: (1) Fayette County had the right to co-locate any emergency public safety antennae equipment on the tower; (2) the tower shall be designed to reduce visual intrusiveness by maintaining a neutral galvanized finished with non-reflective antennas and with all of the associated equipment at the site being neutral or earth tone colors and with lighting to comply with F.A.A. requirements. He said being that the tower was 150 feet it would not have to be lit; (3) it would be limited in height to 150 feet and have three users; and (4) the entire area would be located within an eight foot fence and have gravel to reduce erosion to the site. He said T-Mobile agreed with those conditions and concurred. He said T-Mobile respectfully requested that the Board grant approval of this application.

Chairman Dunn asked if anyone wished to speak in favor of this petition.

William Shubert said he and his wife were the owners of the property. He said this proposal had been discussed for the last two years. He said he would like this issue resolved one way or the other.

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

Chairman Dunn clarified that Staff would recommend the four conditions if the Board of Commissioners approved this petition. He said the Staff had not recommended anything.

Commissioner Pfeifer said this was the second tower request that had come before the Board of Commissioners recently that violated the two mile rule. He said if this rule was not any good then what should it be.

Mr. Evans remarked that was a very good question. He said the answer would not apply in every case. He said what they had to do to cover an area for their customers depended on several variables particularly the terrain and any possible obstructions within the area that they were trying to cover. He said two miles was a general rule of thumb, however there were exceptions. He said T-Mobile had done everything that it could to cover that area by utilizing existing facilities around it but they were still coming up deficient. He said this would be the case in any case where there was a situation with a wireless signal that transmits a certain distance and after that distance was reached the signal would begin to attenuate. He said this meant that the signal would start to lose its effectiveness. He said the answer was not a clear cut one with respect to the rule itself. He said the rule itself was a fine one but in certain cases there would have to be exceptions and this was one of them.

Commissioner Pfeifer asked if there was any cell phone coverage by anybody in that area.

Mr. Evans replied that as one travels through that circle they would begin on the one side and the signal was designed to hand off from one facility to the next. He said they were present tonight because the T-Mobile customers in that area were experiencing spotty coverage.

Commissioner Pfeifer asked if this was unique only to T-Mobile.

Mr. Evans replied no, it was not. He said other carriers had problems in that area as well. He said someone could actually walk around in their home and have cell coverage and then go to another room and not have any coverage. He said the rule was fine, however, everything had been done to try and meet the coverage of the customers without developing a facility then they would do that. He said T-Mobile was in a situation where it could not really cover the customers adequately by just these five facilities around it.

Commissioner VanLandingham remarked if there were only two cell phone companies in the Country this situation would be a lot easier to handle. He said the problem was that everybody wanted complete coverage everywhere. He said that was entirely impossible. He remarked this was the reason the rules had been put in so there would not be towers located every thirty or forty feet. He felt the rules in place were adequate and have served the community well. He said there was another aspect that had not been discussed and that was the set back. He stated that there was no meeting of the set back requirements either. He said Mr. Evans remarked that it was impossible to meet that requirement on this piece of property. He said on the basis of those two things he would like to make a motion.

On motion made by Commissioner VanLandingham, seconded by Commissioner Wells to deny Petition No. T-015-05, discussion followed.

Chairman Dunn remarked that Mr. Evans' presentation was great but he always had a problem with these requests. He said the proliferation of these towers was getting out of control in this Country. He said Fayette County had done the very best that it could with the regulations that were written in order to give everybody the best coverage possible without having towers everywhere. He said this presentation did not meet the County's regulatory requirements and he could not support the request either.

The motion carried 5-0. A copy of the Resolution denying Petition T-015-05, identified as "Attachment No. 10", follows these minutes and is made an official part hereof.

MIKE SMOLA TO DISCUSS CONSIDERATION TO RELEASE DEED RESTRICTIONS ON SHAMROCK PARK AND PRESENT RESULTS OF A RECENT TOWN-WIDE SURVEY:

Tyrone Councilman Mike Smola, representing the Tyrone Town Council, remarked that this was a formal request signed by Mayor Sheryl Lee on behalf of the Town Council for lifting of the deed restriction on Shamrock Park. A copy of the letter, identified as "Attachment No. 11", follows these minutes and is made an official part hereof.

Chairman Dunn asked if Mr. Smola and the Council wanted the Board to make a final decision on this issue tonight. He asked if this was Mr. Smola's position.

Mr. Smola replied that they were at a point where the time clock was ticking away on the library grant. He said they needed to get this underway wherever they agreed to site the library. He said they would like to have a decision by the Board tonight if possible.

Mr. Smola said he was Tyrone Councilman for Post 1 of the Tyrone Town Council. He said he would be presenting information on the proposed Tyrone library being located at Shamrock Park as well as the downtown master plan. A copy of his report to the Board, identified as "Attachment No. 12", follows these minutes and is made an official part hereof. He said it was not very often that two government entities have the opportunity to jointly

agree on a zero cost solution that benefitted every citizen. He said one of those rare opportunities presents itself. He said he hoped at the end of the evening everybody did the right thing.

Mr. Smola said the Town of Tyrone had mailed approximately 3,450 copies of a survey to each address within the 30290 zip code which was Tyrone. He said they had received back as of the deadline, which was the close of business on Tuesday, 528 surveys or a return rate of 15.3%. He said typical return rates for postage paid surveys was approximately 10%. He said the survey return rate indicated that Tyrone residents were informed, interested, invested and involved. He said the first question on the survey was basically a question to ask citizens to choose from among five potential sites. He said the first site was Shamrock Park, the second was Handley Park, the third was a piece of property that was donated to the Town by John Wieland adjacent to the Southampton development, the fourth was new property to be acquired in the center of Town and the fifth location was the existing library/City Hall site. He said Handley Park received the least votes and received 2% or 11 votes. He said second low vote getter at 26 votes or 5% was Southampton. He said next was the new downtown site that would carry a cost of approximately \$300,000 received 99 votes or approximately 19% of the total. He said the existing site was the number two candidate and it received 124 votes with 24% of the total. He said Shamrock Park received 251 votes or 50% of the total. He noted that it was actually 49.2%. He said 93% of the respondents indicated that the library belonged somewhere in the downtown area.

Mr. Smola said the second question asked if they were strongly in favor of the Tyrone Master Plan, did they agree with the downtown development plan, did they have no opinion, did they disagree with the downtown development plan or did they strongly disagree with the downtown development plan. He said 100 votes or 19% indicated that they strongly disagreed with the downtown plan. He said 52 votes of 10% indicated that they disagreed. He said 33 votes or 6% said they really had no opinion. He said 148 votes or 29% said they agreed with the intent of the downtown development plan. He said 180 votes or 36% strongly agreed with the downtown development plan. He said almost two-thirds of the surveys received were in favor of the Tyrone Master Plan and either agreed with it or strongly agreed with it. He said included in the packet was complete detail of the survey. He asked the respondents to rank the five library sites in order of preference. He noted they were listed with Shamrock Park first, second was Southampton, Handley Park was third, the current site was fourth and the new site was ranked fifth.

Mr. Smola said with all of the resistance the town had received he wanted to put together some information answering the question if parks and libraries made each other better places. He quoted some of the statements listed in a book entitled "Parks and Libraries in Partnership" by Diantha D. Schull. He said Ms. Schull remarked that parks and libraries did have the potential to be powerful symbols and agents for neighborhood identity. She also stated that the natural affinity between libraries and parks was going to be reinforced through a much more external orientation by both groups. He said Ms. Schull stated that

too often, parks and libraries compete with each other for funds instead of looking at collaborative ways to solve city issues and encourage development. He quoted her as saying parks and libraries were natural partners and both represent the commons. She said they were our public space and we hold them together, and they were our collective responsibility. She said they were part of the underlying urban infrastructure as important as the bridges and the roads and the housing. She said they promoted civic participation; they foster local identity and they both offer recreational, educational and social engagement opportunities.

Mr. Smola further remarked that parks and cultural facilities have existed everywhere. He pointed out some locations across the Country with park locations. He said the Chicago Art Institute was located in Grant Park; the Metropolitan Museum of Art was located in Central Park in New York; the New York Public Library was located in Bryant Park; the Boston Public Library was located in Copley Square; the Atlanta Botanical Garden was located in Piedmont Park, the Exeter Library was located in Founders Park in Exeter, New Hampshire and the San Francisco Palace of Fine Arts was located in Presidio Park.

Mr. Smola remarked that there had been a question as to what had happened with park land and green space in Tyrone. He said in the last eleven years the Town of Tyrone had been growing and it would continue to do so. He said the Town had grown approximately 84% with parkland increasing from 21 acres to 72 acres which was a 236% increase. He said over that period of time the Town had added 58 acres of green space. He said at the Town's last Council meeting Joel Ogletree, one of the original residents of Tyrone and one of the original builders of Shamrock Park, addressed the Council and said while it pained him to see the function of Shamrock Park change he fully understood that as the Town grows and as the recreational needs change that the function of the Park may change. He said the Town had replaced every recreational facility at least on a one for one basis at Handley Park. He said the only thing that was going away at Shamrock Park was the open field and the fun of the Park. He said there was plenty of recreational opportunity that would continue to be available at Shamrock Park. He said a library at Shamrock Park would certainly be an improvement and a symbiotic relationship with the rest of the Park. He commented that the Town had just held a wonderful Founders' Day celebration and this had been moved from Shamrock Park to Handley Park. He said some people had been resistant to that but the celebration was jammed. He said if that celebration had taken place in downtown Tyrone they would have had a safety hazard. He said they were able to keep the streets free for movement of emergency vehicles. He said there was a wonderful fireworks display that had massive attendance and it was a safe and wonderful experience for everybody.

Mr. Smola said he was aware that there were personality issues as well as political issues that go back a long time involved in this. He asked for the Board to consider this issue on its merits. He said the Board could ask if this was something that would be good or bad for the citizens of Tyrone and for the citizens of Fayette County. He said he had a fiduciary responsibility as an elected official to explore the least cost solutions for a library site and

based upon the results of the survey and based upon the fact that the land was already there and would cost the Town nothing, he strongly felt this was the best decision that could be made. He said this would be a great decision for the citizens of Fayette County and would benefit everybody.

Chairman Dunn thanked Mr. Smola for his presentation. He pointed out that this item was not a public hearing and there would not be any public input on this matter tonight. He asked if the Board members had any questions or comments.

Commissioner Pfeifer said he had spoken to Mr. Smola previously on this issue. He said in reading the survey it indicated that this was a split community. He said half of the citizens wanted the library in Shamrock Park and the other half wanted it somewhere else.

Mr. Smola said they probably could have had a majority by lowering the amount of options that were available. He said he did have a fiduciary responsibility to explore every option and he wanted to give the five possible scenarios to the citizens along with the pluses and minuses and cost potentials associated with those.

Commissioner Pfeifer remarked that this Board also had a fiduciary responsibility. He said there had been a lot of money invested in Shamrock Park and the people who had invested that money were not included in this survey. He said those investors were citizens of the entire County and this Board had a fiduciary responsibility to the citizens throughout the entire County. He said the way he read the results of the survey was that half of the citizens of Tyrone wanted to use Shamrock Park and half did not. He noted that the rest of the County had not been asked and he saw this as the County would be throwing away their money without asking them.

Chairman Dunn said he did not know if Mr. Smola was aware of it but before he was Town Councilman this was a contentious issue. He said the County had spent well over \$600,000 on Shamrock Park. He said many people were very disappointed to see the condition of Shamrock Park today especially having spent over \$600,000 of the taxpayers' money. He said he had a few other questions for Mr. Smola. He said when he had reviewed the survey it indicated that it had been sent to 3,450 households. He said the County's figures indicated that there were only 2,200 household in the Town of Tyrone. He asked if the survey had only been sent out to the 30290 zip code area and Mr. Smola confirmed that was correct. He said this included a lot of citizens who lived in the unincorporated Fayette County and did not pay taxes in the Town of Tyrone. He said the most important people involved in this issue were the citizens who paid taxes in the Town of Tyrone. He said he could not tell from the survey what was involved. He said it appeared to be over 1,200 homes that were sent surveys who were not in the City.

Mr. Smola said the survey went to anyone having a postal drop for 30290.

Chairman Dunn interjected that the 30290 zip code included many residences located outside of the Town of Tyrone.

Mr. Smola said the survey did have a space for a return name and address of the individual completing the survey.

Chairman Dunn noted that 20% of the respondents to the surveys had no fiscal interest in the budget for the Town of Tyrone.

Mr. Smola clarified that 20% of the respondents was the percentage of people who put their name and address on the returned survey.

Chairman Dunn said that was another problem. He said when he looked at the survey instrument there were no numbers on it and there was no way to identify anybody who answered the questions. He said he had been involved in a lot of surveys during his life and he always tried to know who and where surveys were being returned from. He said this particular survey did not afford him that opportunity. He asked Mr. Smola if they had a way to determine that.

Mr. Smola replied no they did not.

Chairman Dunn said it was evident that a large number of people were not from the Town. He pointed out that one third of the respondents to the survey were not from Tyrone. He remarked that the 30290 zip code also included 500 post office boxes and many of those people did not live in the Town of Tyrone either. He said that was another issue for him. He said the problem was that Mr. Smola's constituents were also this Board's constituents. He said the Board's constituents were telling them a different version of what they wanted to see in Tyrone.

Mr. Smola said whether this was a post office box or somebody who lived in the 30290 zip code they were more than likely using the Tyrone library.

Chairman Dunn said they very well may be but those people would not pay for it like the citizens of the Town of Tyrone would when something was built.

Mr. Smola interjected that there would be no cost for land acquisition.

Chairman Dunn said those people would not actually be on the Town's tax rolls and he was not sure if their opinions should be equally weighted to somebody who was actually paying taxes in Tyrone.

Chairman Dunn said he also had a problem with the survey instrument itself. He said he and Commissioner Pfeifer were present at the Town of Tyrone's Council meeting when Mr.

Smola discussed this issue. He said there were people in the audience who asked if they would be part of counting the surveys and be able to look at the surveys as they came in and be with the City officials when the surveys were counted. He recalled the Town Council said this would be fine and they could be there.

Mr. Smola replied that actually the Council had held off preparing the survey anticipating a call from somebody who wanted to participate in developing the survey and correlating the results but the call never came. He said they waited for one week and heard nothing.

Chairman Dunn remarked that in the first four options for a library the survey reported that the Town of Tyrone owned the land. He said he would not debate that except that the land was not free and clear in Shamrock Park. He said people who looked at this survey may not have even been aware that there was an issue on this park. He said also that night a lady asked if in the survey would the Town tell people that the County had an interest in this Park and the answer from the Council was yes. He said the survey did not say anything about that.

Mr. Smola responded if the survey did not mention that fact then it was his oversight.

Chairman Dunn said people might have voted differently if they understood it was going to become a County park if the Town of Tyrone abandoned it as a County park. He said he agreed with a lot of the statements Mr. Smola made regarding a library and a park. He said they were both compatible. He said apparently the Secretary of the Interior did not agree on allowing a library to go in at Handley Park. He asked if that was correct.

Mr. Smola replied he had not asked them yet but apparently the front piece of property could not be used for a library but the Town Council would have to request permission from the Secretary of the Interior.

Chairman Dunn said the County had received a document from the Federal Government several years ago that said they did not want a library there but this was not the location the Town wanted anyway.

Mr. Smola agreed and said neither did the citizens.

Chairman Dunn said the survey indicated that a little more than half of the citizens did not want the Shamrock Park location and a little less than half did want it. He asked if the citizens knew that they had already spent \$600,000 on the current park.

Mr. Smola said he felt the citizens certainly appreciated that the park was there and quite honestly felt the citizens were not aware who owned the park or who paid for it. He said the question was basically posed if the library would be a compatible structure there.

Chairman Dunn commented on the master plan. He said the majority of the Board would agree that it wanted to see downtown Tyrone revitalized and he felt this was a critical part of the County. He said the question for the Board was could the Town of Tyrone be revitalized if Shamrock Park was not used as a park for recreation. He said if that occurred the Park would revert to the County. He said the question he would have was why could not a first class park and a library located somewhere else in Tyrone be what Mr. Smola had just discussed.

Mr. Smola remarked that it certainly could. He said the Town Council had viewed the library/municipal complex as the center point of Tyrone's development plan. He said Jerry Peterson had identified the Park on his plan and pretty much all of the development such as the walking paths, trails and green space radiated out from the center of the development which was the municipal and library complex in Shamrock Park.

Chairman Dunn said the Board had received a copy of a press release with 426 signatures from people saying that they did not want Shamrock Park given up as a recreation facility. He said this was something that the Board would also have to consider because these were also the County's constituents as well.

Mr. Smola said the Town Council was doing the survey at the same exact time that the petition was being circulated. He said one would think if a petition was being circulated that the person would check the block and send it back. He said over the twenty-one days that the survey was out there, the results came in fairly consistently in terms of what people wanted regarding the library site as well as downtown development. He said they saw no spikes where one day there was a tremendous amount of negative responses and the next day a tremendous amount of positive responses. He said the results were very predictable and steady. He said he would be more than happy to share the actual surveys with the Commissioners.

Chairman Dunn said the Board had a copy of the Town Council's study that indicated that less than half of the people wanted to give up Shamrock as a park. He said that was the Town of Tyrone's survey results. He said the Board also had a petition with 426 other people's names that had come from a neighborhood association. He said the document indicated these were citizens who lived in the Town of Tyrone.

Mr. Smola asked the Commission to think about the nature of the question. He said when no alternative was offered then of course 426 responses would be received. He said the Town of Tyrone offered people five choices to pick from and rank in order of preference. He said the citizens had been offered more of an opportunity to participate in the democratic process of selecting a library site.

Chairman Dunn remarked that the choice was not whether or not there was going to be a library. He felt everybody wanted a library and the Board wanted Tyrone to have a library. He said the Board did not want anything to happen with the Town's grant money nor the

construction of a new library in Tyrone. He said the survey indicated that two-thirds of the citizens would like a library downtown but not at Shamrock Park. He said the strong bias for Shamrock Park did not appear to him in this data.

Mr. Smola said the Town of Tyrone would have land acquisition costs if they needed to purchase a site and they were estimating approximately \$150,000 per acre. He said the grant for the library was for a new building and the money could not be used to modify the existing building which meant that they would have to tear down the library and town hall and temporarily relocate the town hall and the library. He said the Town would incur demolition expense and temporary rental expenses. He said three of the most beautiful legacy trees in the Town of Tyrone were located at the current library site and would be in danger of being killed. He said the Confederate Cemetery would be impacted as well. He said this would be a very long and painful process.

Chairman Dunn said it just appeared that there were other alternatives that would be acceptable to the majority of the people who answered the survey.

Commissioner VanLandingham said he wanted to comment on the \$600,000 that taxpayers had already paid for Shamrock Park. He said he had recently driven by Shamrock Park and the condition of the Park had greatly deteriorated. He said he was very concerned about that. He said he did not know if this was tied into the possibility of it not being used as a park anymore or whatever, but he saw it as a waste of taxpayers' money to let it deteriorate the way that it had. He said at one time he was a strong proponent of transferring the reversion clause to Handley Park but recently he had changed his mind. He said he just could not support the transfer of the reversion clause from Shamrock Park to Handley Park.

Commissioner Frady said he could not support it either. He said he had not been all that much against giving Shamrock Park back to the Town of Tyrone at some point in time but he did not think the surveys that Mr. Smola had shown had given him enough incentive to go ahead and do that. He said the people of Tyrone would have to get closer together and come up with something that would be a lot better with more people supporting it than what was before the Board now. He said this was something that the Town Council would have to work on. He said Mr. Smola had made a wonderful presentation and he appreciated it. He said he just could not find enough support for this for him to go ahead and do that at this time.

Mr. Smola felt this would be a disservice to the taxpayers because this would cause the Town of Tyrone to go out and spend unnecessary money in Fayette County's darkest economic time.

Commissioner Frady said that was not the Board's problem but the Town of Tyrone's problem.

Mr. Smola said he understood that it was the Town's problem.

Chairman Dunn felt that was really an unfair statement to say that the Board of Commissioners would be costing the taxpayers of the Town of Tyrone money. He said when the County decided to do something then the Board of Commissioners had to determine how to fund it. He said it was the job of the Tyrone Town Council to determine how to fund the library site.

Mr. Smola felt his job was to find the least expensive way to reach an objective.

Chairman Dunn said he understood Mr. Smola's concern.

Commissioner Wells said she had never supported taking the reversion clause off Shamrock Park. She felt this was recreation and she did not believe there was anyone in the community who would say that Fayette County had too much recreation. She felt for the Board to take Shamrock Park off as a recreational facility especially after the amount of money that had been spent on the park to bring it up to a first class recreational facility and for it to deteriorate in that fashion was an overt move on some of the members' part in Tyrone to force the County to lift that reversion clause. She said this had been a very pretentious issue but this was a choice that the Tyrone Council would have to make just like it was a choice that the Board of Commissioners would have to make. She said this would be an unfair burden for the County to have other taxpayers to take that responsibility off of Tyrone's shoulders. She said she could appreciate the difficulty in finding money because this Board had to do that all of the time but she did not believe that this was something that the County needed to do.

Mr. Smola remarked that the front part of the facility that was most visible from the street was now a soccer field. He said at the end of the baseball season there was no time to seed, no time to maintain the fields. He said they had gone directly from a baseball situation into a soccer situation. He agreed that the park was looking run down but they had also agreed that this would be the last year that soccer was played at Shamrock Park. He said they were going to build soccer fields at Handley Park.

Chairman Dunn interjected that the buildings were also falling down and deteriorating.

Commissioner Wells felt this was a health hazard.

Chairman Dunn asked how many people in the audience tonight were from the Town of Tyrone. He asked also how many people present tonight were supporting Councilman Smola for the County to eliminate the reversion clause and totally give back Shamrock Park to the Town of Tyrone for their own uses. He said he only wanted to count the hands of citizens of the Town of Tyrone. He counted two people. He asked how many people present tonight who were Tyrone residents were opposed to the County giving up the reversion clause on the Park. He said the Marshal counted 28 people.

Chairman Dunn asked the Board if there were anymore comments. Hearing none, he asked for the Board's pleasure in this matter.

On motion made by Commissioner VanLandingham, seconded by Commissioner Wells to deny the request from the Town of Tyrone to withdraw the reversion clause for Shamrock Park. The motion carried 5-0.

Chairman Dunn remarked that he felt the survey might have been a little bit different had the citizens of the Town of Tyrone been given the option. He said if the County took the Park back and made it a first class facility like it had done with all of the other parks and the library could be located somewhere in the vicinity of the park. He felt a lot of people would have answered the survey differently. He said the question was not having a park or a library.

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

FAYETTE COUNTY PRE-DISASTER MITIGATION PLAN ADOPTED: Approval of request from Chief Jack Krakeel for adoption of the Fayette County Pre-Disaster Mitigation Plan. A copy of the Plan, identified as "Attachment No. 13", follows these minutes and is made an official part hereof.

ROOF LEAKS AT STONEWALL ADMINISTRATIVE COMPLEX: Approval of request from Director of Central Support Services Mark Pullium to transfer \$20,000 from contingency to perform repairs on roof leaks at the Stonewall Administrative Complex. A copy of the request, identified as "Attachment No. 14", follows these minutes and is made an official part hereof.

SHERIFF'S DEPARTMENT - TRANSFER OF FUNDS: Approval of request from Director of Central Support Services Mark Pullium to transfer \$140 for FY 2006 from contingency to cover legal expenditures paid in FY 2004; reversal of \$11,623 legal budget transfer recorded and place back in Sheriff Administration FY 2005 cleaning supplies budget line, and (3) reclass of legal expenditures originally charged to the Sheriff during FY 2005 to the Commissioners' legal expenditure line item. A copy of the request, identified as "Attachment No. 15", follows these minutes and is made an official part hereof.

TYRONE AGREEMENT TO CONDUCT 2005 MUNICIPAL ELECTION: Approval of request from the Town of Tyrone for the County to adopt an Agreement allowing the County to conduct Tyrone's 2005 Municipal Election and authorization for the

Chairman to execute the Agreement. A copy of the Agreement, identified as "Attachment No. 16", follows these minutes and is made an official part hereof.

PROPOSAL #P522 - AMBULANCE BILLING AND COLLECTIONS AWARDED TO HINSON SYSTEMS, INC.: Approval of request from Director of Purchasing Tim Jones to approve Staff's recommendation to award Proposal #P522 (Ambulance Billing and Collections) to the company with the best proposal, Hinson Systems, Inc. A copy of the recommendation, identified as "Attachment No. 17", follows these minutes and is made an official part hereof.

WATER SYSTEM - \$25 SERVICE FEE WAIVED: Approval of request to waive \$25 service fees as requested by Tony Parrott, Water System Manager. A copy of the request, identified as "Attachment No. 18", follows these minutes and is made an official part hereof.

ASSOCIATION OF COUNTY COMMISSIONERS OF GEORGIA - STATEMENT OF SUPPORT FOR THE GUARD AND RESERVE: Approval of "Statement of Support for the Guard and Reserve" sponsored by the Association of County Commissioners of Georgia. A copy of the request and Statement of Support, identified as "Attachment No. 19", follows these minutes and is made an official part hereof.

INTERGOVERNMENTAL AGREEMENT FOR DISTRIBUTION OF S.P.L.O.S.T. PROCEEDS BETWEEN FAYETTE COUNTY AND THE TOWN OF BROOKS: Approval of Intergovernmental Agreement For Distribution of S.P.L.O.S.T. Proceeds between Fayette County and the Town of Brooks. A copy of the Intergovernmental Agreement, identified as "Attachment No. 20", follows these minutes and is made an official part hereof.

INTERGOVERNMENTAL AGREEMENT FOR DISTRIBUTION OF S.P.L.O.S.T. PROCEEDS BETWEEN FAYETTE COUNTY AND THE TOWN OF TYRONE: Approval of Intergovernmental Agreement For Distribution of S.P.L.O.S.T. Proceeds between Fayette County and the Town of Tyrone. A copy of the Intergovernmental Agreement, identified as "Attachment No. 21", follows these minutes and is made an official part hereof.

AGREEMENT WITH THE TOWN OF BROOKS FOR ANIMAL CONTROL SERVICES: Approval of Agreement with Town of Brooks for the provision of Animal Control services inside Brooks by the County. A copy of the Agreement, identified as "Attachment No. 22", follows these minutes and is made an official part hereof.

APPROVAL OF AMENDMENT TO THE COUNTY CAPITAL IMPROVEMENT PLAN: Approval of amendment to County Capital Improvement Plan as requested by County Administrator.

MINUTES: Approval of minutes for Board of Commissioners' meeting held on August 25, 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.

John Munford: John Munford commented on libraries in general. He also thanked the Board for the County's support for families of Hurricane Katrina.

Georgia Lungaro: Georgia Lungaro, 507 Gingercake Road, Fayetteville read a letter to the Board on behalf of her husband regarding the County's employment structure.

STAFF REPORTS:

COMMUNITY RATING SYSTEM ANNUAL RECERTIFICATION: County Administrator Chris Venice asked for the Board's consideration in authorizing the Chairman to execute the Community Rating System Annual Recertification as a result of the National Flood Insurance Program award to Fayette County of a Class 7 rating in May 2004. She said this rating had resulted in a 15% discount for Fayette County residents requiring NFIP insurance in Special Flood Hazard Areas.

On motion made by Commissioner Wells, seconded by Commissioner Frady to authorize the Chairman to execute the Community Rating System Annual Recertification. The motion carried 5-0. A copy of the Community Rating System Annual Recertification, identified as "Attachment No. 23", follows these minutes and is made an official part hereof.

EXECUTIVE SESSION: Attorney McNally requested an executive session to discuss four legal matters and one real estate item.

EXECUTIVE SESSION: On motion made by Commissioner Wells, seconded by Commissioner Frady to adjourn to Executive Session to discuss four legal matters and one real estate item. The motion carried 5-0.

REAL ESTATE: Attorney McNally discussed a legal matter with the Board.

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

LEGAL: Attorney Davenport discussed a legal matter with the Board.

The Board took no action on this matter.

LEGAL: Attorney Davenport reported to the Board on a legal matter.

It was the consensus of the Board that Attorney Davenport proceed in this matter.

LEGAL: Attorney Davenport discussed a legal matter with the Board.

The Board took no action on this matter.

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

It was the consensus of the Board that Attorney McNally proceed in this matter.

EXECUTIVE SESSION AFFIDAVIT: On motion made by Commissioner VanLandingham, seconded by Commissioner Wells to authorize the Chairman to execute the Executive Session Affidavit affirming that four legal matters and one real estate item were discussed in executive session. The motion carried 5-0. A copy of the Affidavit, identified as "Attachment No. 24", 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 10:30 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 13th day of October, 2005.

Karen Morley, Chief Deputy Clerk