

The Board of Commissioners of Fayette County, Georgia met in Official Session on Thursday, January 26, 2006, 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

STAFF MEMBERS PRESENT: Chris Venice, County Administrator
Dennis Davenport, Assistant County Attorney
Carol Chandler, Executive Assistant
Karen Morley, Chief Deputy Clerk

Chairman Dunn called the meeting to order and offered the Invocation.

Chairman Dunn recognized Boy Scout Troop 74 and their Troop Leader David Villars. He stated that these scouts were working on their "Citizenship in the Community" badge. He asked Scout Daniel Dorney to lead the Pledge of Allegiance.

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

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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.

PETITION NO. RP-036-06:

Director of Community Development Pete Frisina read Petition No. RP-036-06, Jeanette Jordan, Owner, and Emma J. Darden, Agent, request to subdivide Lot 1 of Jeanette's Place consisting of 6.166 acres into four (4) single-family dwelling lots. He said this property was located in Land Lot 43 of the 5th District, fronted on Hilo Road, Inman Road, and Homer Place, and is zoned R-20. He said the Planning Commission recommended approval (5-0) with one (1) recommended condition and Staff stated that the revised final plat complied with all technical requirements.

Emma Darden said she was the agent for her mother Jeanette Jordan. She said she and her siblings would like to subdivide her property so that they could build single-family dwellings. She said the three of them wanted to each build a single-family dwelling next to their mom.

Commissioner Wells remarked that there were currently two other lots which were Lot #2 and Lot #3. She asked if these lots were both currently occupied.

Ms. Darden replied no and stated there was nothing located on any of the remaining property except for where her mother's home was located and that was on 2.1 acres. She said the other three lots had nothing built on them.

Commissioner Wells clarified that there were two other existing lots.

Ms. Darden remarked that those two properties did have a home on them.

Commissioner Wells clarified that there were two other homes each one on those two lots.

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

On motion made by Commissioner Frady, seconded by Commissioner Wells to approve Petition No. RP-036-06 as presented with one recommended condition, discussion followed.

Commissioner Wells asked if the two individuals who lived on the existing lots had been approached about this petition.

Ms. Darden replied no, not to her knowledge. She said she was aware that these individuals had seen the posted signs. She said these individuals had wanted to purchase the other two lots but they were not for sale to them. She said they were aware that she and her siblings wanted to build there but she had not personally spoken to them.

Commissioner Wells clarified that this was a subdivision. She asked if they had any subdivision restrictions or covenants or anything of that nature.

Ms. Darden replied no.

Commissioner Wells asked Ms. Darden if she or any of her siblings had spoken to these two individuals as to their feelings about this revised plat request.

Ms. Darden replied that the current owner, the gentleman her mother sold the property to, wanted to purchase the other two lots that were not next to her mother but next to his lot. She said that property was not for sale to anyone outside of the family.

Commissioner Frady asked Ms. Darden if this gentleman was aware of what was going on.

Ms. Darden replied yes, he was aware that they were going to build there. She said her cousin was going to build next door to this gentleman who lived next door to him. She said she was sure that they had talked back and forth about this. She said that gentleman was not here tonight because he was currently in South Carolina.

Commissioner Wells asked Ms. Darden where her cousin lived. She asked if he lived on one of these lots.

Ms. Darden replied no. She said his mother lived in front of the property that Commissioner Wells was referring to and he and his family were moving here now so he was currently staying next door to the gentleman. She said the entire area in question was just family. She said her mother had sold this gentleman property who was not a part of the family. She said Darrie was the individual who wanted to build next door to this gentleman has just moved back here from South Carolina and he was staying with his mother who lived directly in front of the gentleman on the other property.

Commissioner Wells interjected that in 2003 when this property was platted it was shown as three single-family dwelling lots.

Mr. Frisina remarked that originally this was platted as three lots. He said one was a very large lot and now one was being turned into a total of four lots.

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Chairman Dunn said he understood that but the question was what was it originally approved and platted in 2003. He said he understood that it was for a three lot subdivision.

Mr. Frisina replied yes that was correct.

Commissioner Wells pointed out that the Commissioners' notes indicated in the background information stated that the original final plat for Jeanette's Place Subdivision consisted of a total of four (4) single-family dwelling lots and was platted in 2003. She asked for clarification as to whether it was three or four dwelling lots.

Mr. Frisina replied it was three (3).

Commissioner Frady clarified that Ms. Darden's mother lived on one of the lots that was currently platted.

Ms. Darden replied yes, that was correct. She said her mother lived on the larger lot.

Commissioner Frady asked how long the mother had lived there.

Ms. Darden replied that her mother had lived there all of her life which was 65 plus years. She said the property belonged to her grandfather before that.

Chairman Dunn clarified that Ms. Darden's mother had platted the subdivision two years ago with the intent of having three homes on it. He said she sold the lots with the other two homes to other individuals.

Ms. Darden replied yes, that was correct.

Commissioner Wells said the Board had a really strong history of not subdividing subdivisions that had already been built. She said it would be critically important for her at this juncture to know whether or not Mr. Wallace had built on both of those lots. She asked Ms. Darden if there were two homes out there or just one home. She said when people come in and buy into a subdivision whether it was three homes, thirty homes or three hundred homes there were certain expectations that they were buying into. She said if there was a final plat and then they have built their home she felt it would be unfair for people to change the rules on the existing homeowners. She pointed out that they had already purchased the property with certain expectations. She said it was her concern that Mr. Wallace for whatever reason had not expressed concern other than trying to buy the property himself. She said this Board had been very consistent in not allowing that to happen in the past without that existing homeowner saying that they really did not have a problem with it. She said if there were already two homes built there, they were built with certain expectations. She said she was not really comfortable with someone coming in now and adding three new lots next to him after he had already built on certain expectations.

Commissioner Frady asked how many lots were included in this total subdivision.

Ms. Darden replied that technically there were currently three lots.

Commissioner Frady clarified that there were six platted lots. He said he was concerned that the gentleman who already lived in a house in the subdivision was not present tonight but this was not Ms. Darden's fault.

Commissioner Wells said this gentleman might be working out of State and his circumstances were not known.

Chairman Dunn clarified that Ms. Darden was Jeanette's daughter and Ms. Darden was the person who had prepared the application. He said this occurred approximately one month ago in December. He said when this application was turned in, Ms. Darden had indicated that she needed to subdivide this property so that she could build one house. He questioned why Ms. Darden was asking for three new lots to build one house.

Ms. Darden replied that she wanted to build a house, her cousin wanted to build a house and then her uncle or one of his children would like to build a house. She said she initially wanted to build a house now because she had already sold her home and was living in a rental property.

Chairman Dunn pointed out that Ms. Darden's application request was for a total of four lots and there were already three lots. He said Ms. Darden was asking for a total of four lots in the subdivision in order to build another house. He said that would only mean one more lot and one subdivision. He said Ms. Darden was actually saying that she wanted three more lots.

Ms. Darden remarked that initially she had come to the County wanting to do this herself. She said by Christmas her cousin, Darrie from South Carolina, was ready to build and had sold his house.

Chairman Dunn asked if the circumstances had changed since Ms. Darden had filed the application with the County.

Ms. Darden replied no. She said when she had come in and filed the application, she prepared her application request and then added the others to it.

Commissioner Wells clarified that Ms. Darden was saying that this application was reflective of her wanting to build her house.

Chairman Dunn remarked that Ms. Darden was the applicant asking for four lots and not six lots.

Ms. Darden remarked that she was not asking for six lots. She said she probably had filled this out incorrectly.

Chairman Dunn said until Ms. Darden just explained this situation he was not sure of what she actually wanted. He said the application stated that she wanted to change the platted subdivision to four lots to build another home. He said there was already three lots there and if the Board approved her application there would only be four. He said Ms. Darden could build a home but the other individuals could not.

Ms. Darden remarked that initially when she had the survey done, her brother came back within a day of that. She said as a result they had the survey with Delta Survey redone.

Chairman Dunn said he understood that but this had not come back through the County process.

Ms. Darden remarked that Delta Survey had rewritten the entire layout and had submitted it to Aaron Wheeler, who was the Zoning Administrator at that time.

Chairman Dunn said the Board understood now that Ms. Darden was asking for four lots and not six lots and also that she did not want to build one house but wanted to build three.

Ms. Darden replied yes that was correct.

Chairman Dunn remarked that this would actually cause a little bit bigger problem because now this would be much more for the neighbors to deal with.

Commissioner Wells said that was her point. She said now there would be three lots in an area where the existing homeowners felt there was not going to be anything.

Ms. Darden said she felt sure that the existing homeowner never thought that because initially he wanted to purchase the front property but he had not wanted to pay the price for the front property. She said his home was located in the back of the property and the area she was requesting was in the front portion of the subdivision. She said he knew by that property being prime property that a house was eventually going to be built there.

Chairman Dunn remarked that just two years ago Ms. Darden's mother had asked for something and it was approved. He said based on that, other people have expectations in the neighborhood because of what she got platted. He said Ms. Darden would be doubling the number of houses in this subdivision with her request.

Ms. Darden asked if this meant her mother could not do anything with her land because of this original platting.

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Chairman Dunn said this was what Jeanette Jordan had asked for two years ago. He said she had asked for one six acre lot and two smaller lots and that was what the Board approved. He said the question tonight was whether or not the Board would be willing to amend that. He said this would be very unusual for the Board to do this.

Commissioner Frady felt this was a different situation. He said this was a property owner trying to settle things for the family as well as some other people.

Ms. Darden said she would like to build her house now and she had gone to her mother about this.

Chairman Dunn asked how many other people in the family might want lots later on.

Ms. Darden replied that her other two sisters had already built houses around her mother on Inman Road and Hilo Road.

Commissioner Wells remarked that she was inclined to add one lot but asked Ms. Darden how big her lot would be.

Ms. Darden replied that her lot was the one that was 1.09 and it was located right next to her mother's property.

Commissioner Wells said that would leave the prime property on the corner available.

Ms. Darden said if the Board allowed her one lot then she would take the corner lot because that was where she wanted to go anyway.

Chairman Dunn said Ms. Jordan could give Ms. Darden anything she wanted to if the Board agreed that there could be another lot there.

Ms. Darden said she would take the one house.

Commissioner Frady asked how many of the lots had houses on them.

Ms. Darden replied that her mother's property and then the other two properties on the end on Homer's Place.

Commissioner Frady clarified that three were occupied.

Chairman Dunn said Ms. Darden was asking to take the big lot and subdivide it into three more lots.

Commissioner Pfeifer said he agreed the Board would be setting a precedent if it agreed to this without asking the other individual. He said he could support asking the other individual or going along with cutting it in half or something of that nature.

Chairman Dunn said he agreed with Commissioner Frady on this petition. He said the individuals had some responsibility themselves especially living right next door and signs posted on the property.

Commissioner Wells said there was a motion and a second to approve this request as presented.

Chairman Dunn called for the vote.

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

Chairman Dunn for the Board's pleasure.

On motion made by Commissioner Wells, seconded by Chairman Dunn to approve RP-036-06 for one lot to be added to the current subdivision, discussion followed.

Commissioner Frady asked if there was going to be one lot consisting of six acres.

Chairman Dunn replied no. He said this would be two lots and three acres each. He said there was currently one six acre lot there now and that lot would be divided.

Commissioner Wells added that this would be in keeping with the R-20 zoning.

Commissioner Frady asked Ms. Darden if this would be a problem for her. He said instead of having a one acre lot she would now have a three acre lot. He said a three acre lot would cost her more than a one acre problem and he questioned if this would be a problem for her.

Ms. Darden replied no, she did not think so.

Commissioner Frady clarified that if Ms. Darden accepted this decision by the Board it would mean that she would have to purchase three acres of land instead of 1.09 acre.

Chairman Dunn asked if Attorney Davenport had any questions on this request.

Attorney Davenport said he had asked for clarification regarding lot 1-C not accessing Inman Road. He said now there would not be a lot I-C. He asked if there was any issue with respect to the new lot accessing Inman Road.

Commissioner Wells remarked that none of the lots were supposed to access Inman Road.

Attorney Davenport remarked that as it was originally set up, lots 1-B and 1-A would be accessing Inman Road but lot 1-C would not. He said now there would just be one additional lot that would front both Inman Road and Homer Place. He asked if this would create an issue where the condition would still apply.

Mr. Frisina interjected that lot 1-C did not have any significance now and there would not need to be a condition.

Commissioner Wells clarified that her motion would not need to include any condition.

Commissioner Frady asked Ms. Darden if this was something she would accept.

Ms. Darden replied that she was not sure. She said she wanted to accept the one piece of property where she wanted to build but she was not sure about the others not being able to build. She said she was really not at liberty to speak for her mother on that issue.

Commissioner Frady said this would create two lots at three acres each in an R-20 zoning.

Ms. Darden clarified that there could only be one house.

Chairman Dunn replied yes, that was correct. He said there could only be one house and one lot. He said Ms. Darden's mother could either give Ms. Darden 5.1 acres or give her one acre because mother has a 6.1 acre lot.

Ms. Darden said that would also mean that nobody else could build on the property.

Chairman Dunn replied yes, that was correct. He said there would only be two houses there.

Commissioner Wells remarked that the three lots in this subdivision today were the two that had already been sold and all of her mother's property.

Chairman Dunn said Ms. Darden's mother could subdivide her lot anyway she wanted to in order for Ms. Darden to be right next door.

Commissioner Wells interjected that this could be done one time.

Commissioner Frady felt the Board might still be making a minor mistake and be dividing the land not necessarily the way the applicant wanted but the way the Board wanted to divide it. He asked if this would be breaking the rules.

Commissioner Wells remarked that this would not be doubling the size of the subdivision.

Chairman Dunn remarked that the current property would average three acre lots.

The motion carried 3-1 with Commissioner Frady opposing the motion.

PETITION NO. 1162-06:

Director of Community Development Pete Frisina read Petition No. 1162-06, David L. Lingerfelt, Nelton C. and Amelia Thompson, and Howell Nunnally Richardson, Executor of the Estate of Catherine A. Smith, Owners, and Thomas Boynton, Agent, request to rezone 18.594 acres from A-R to O-I to develop an Assisted Living Complex and five (5) lots for office/medical buildings. He said this property was located in Land Lot 39 of the 7th District and fronted on S.R. 54 West. He said the Planning Commission recommended approval (5-0) subject to three (3) recommended conditions and Staff recommended approval subject to three (3) recommended conditions.

Thomas Boynton remarked that he was the agent for parties who owned this property. He said he was a local developer and had several properties in Fayette County as well as neighboring counties. He said he owned the tract directly adjacent to this tract where the cul-de-sac was currently shown. He said it was his intent to tie these properties together and build a medical type related complex with office space and assisted living facility with an on-site waste water treatment plant. He said the first tract where the cul-de-sac was shown had ten office lots that were zoned O-I earlier. He said they were in the process of acquiring the other property and wished that it be zoned O-I as well.

Chairman Dunn said this property was referred to by many people as "Nubbs Place". He asked Mr. Boynton if he currently owned that property.

Mr. Boynton responded that it was currently under contract.

Chairman Dunn said Mr. Boynton had combined four lots each consisting of five acres. He said applicant wanted to combine this further with the 8.1 acres on the other tract. He said this would come to approximately 27 acres.

Mr. Boynton replied yes that was correct. He said the four tracts of property that were assembled totaled approximately 18 acres. He remarked that the property where the cul-de-sac was located was a little over 8 acres or approximately 27 acres.

Chairman Dunn asked if anyone wished to speak in favor of this application. Hearing none he asked if anyone wished to speak in opposition.

Elaine Gaillard remarked that she was the Marketing Director for Ashley Glen Assisted Living and Alzheimer Care Center. She said the proposed development would more than double the existing number of beds for assisted living in a short stretch along S.R. 54. She

remarked that there were already three assisted living communities in Fayetteville and one in Peachtree City ranging in age from seven to ten years. She remarked that the subject property would be 1.5 miles from Dogwood Forest Assisted Living, 1.7 from Heritage of Peachtree Assisted Living, 3 miles from Ashley Glen Assisted Living, and 6 miles from Azalea Estates Assisted Living. She said she had spoken to the marketing directors of all of the other facilities and none of these combined have waiting lists long enough to fill even one/sixth of a monster community such as the one that was being proposed. She said having been in the marketing field for the assisted living business in Fayette County for the last eight years, she believed that this project was not needed and was ill advised. She said she would also like to have the three conditions reviewed and explained tonight.

Chairman Dunn asked Ms. Gaillard if she wanted to comment on any of the conditions.

Ms. Gaillard responded that at the zoning meeting she remembered that one condition was that it must be an assisted living facility. She said this would mean that the owners of this property would have to go to the Atlanta Regional Commission and obtain a Certificate of Need for 300 additional beds. She said she recalled another condition related to the water treatment plant but she was not sure. She said she would really appreciate some clarification on these conditions.

Commissioner Wells said she would like to read the three conditions into the record as follows:

1. Should the Georgia Department of Transportation require additional right-of-way for S.R. 54 West, all setbacks shall be measured from the new right-of-way and must be indicated on the Preliminary Plat and the Final Plat. *(This condition is to ensure the provision of adequate right-of-way per an established goal of the Fayette County Comprehensive Growth Management Plan).*
2. No lot shall have immediate vehicular access to S.R. 54 West. *(This condition is intended to reduce the number of curb cuts on arterial streets, provide for more efficient flow of traffic, and to comply with intent of Development Regulations regarding accessing the lower classification of streets).*
3. The Environmental Health Department will require an Application For An On-site Sewage Management System, along with any additional information deemed necessary to determine the suitability of the site. This shall be completed prior to the issuance of the Certificate of Zoning Compliance. *(This condition is intended to ensure compliance with any necessary State and/or Local regulations regarding on-site sewage disposal prior to construction).*

Ms. Gaillard said she would like to go on record as being opposed to this rezoning request.

Chairman Dunn asked if anyone else wished to speak in opposition.

David Pybourne said he lived in Woodstock, Georgia and represented Azalea Estates Assisted Living. He presented a letter stating Azalea Estates objection to this rezoning. A copy of the letter, identified as "Attachment No. 1", follows these minutes and is made an official part hereof. He said they very much objected to this request for several reasons. He said the first reason was because property went from A-R (Agricultural/Residential) for five acre lots all the way up to O-I (Office/Institutional) which takes this completely out of the County's Land Use Plan. He said secondly this project would either have to be on a separate sewer plant or a septic tank situation because it was outside of any city and would not have access to present sewer. He felt the County had run into trouble with these type of plants before on at least one or two other occasions. He remarked that thirdly a Certificate of Need would have to be issued by the State. He said it would be highly unlikely that they would grant one for 300 beds. He said it would take approximately 90 to 120 days minimum to get approval for that and the gentleman had not even started any application process for C.O.N. approval. He said if the Board approved this application, it was uncertain if the applicant could even get approval for a Certificate of Need. He questioned if the Board approved an O-I zoning for this property and the applicant could not get approval for a C.O.N., then what would happen. He felt the County would then have no further recourse against anything that the applicant could do inside of the O-I restrictions. He said this concerned him a great deal. He asked for the Board's consideration to deny this request.

Chairman Dunn asked if anyone else wished to speak in opposition.

Marshall Gill said he represented Azalea Estates Assisted Living Facility. He said he was protesting this rezoning request for the following reasons. He said there were currently four assisted living communities in Fayette County comprising 303 beds. He said the current cumulative census of these four communities was 263 residents or approximately 87% occupied. He said if the proposed rezoning was granted for 300 additional units the developer could potentially double the number of assisted living beds in the County. He said this clearly demonstrated that there was no unmet demand for the citizens of Fayette County. He said by adding 300 beds here would result in a few empty buildings in Fayette County. He asked for the Board's consideration in denying this rezoning request for these reasons.

Martha Lanier remarked that she owned the property that adjoined the Lingerfelt property. She said she had lived there for the last thirty years and knew progress could not be stopped. She said this assisted living building would be a three story building and she felt this would not be compatible with this section of S.R. 54. She commented that the traffic

on S.R. 54 was already horrible and this project would only increase that figure. She asked for the Board's consideration in denying this request.

Chairman Dunn asked if petitioner had any rebuttal remarks.

Thomas Boynton remarked that he was requesting O-I zoning for the purpose of putting an assisted living facility at that location. He said he was currently working on some other similar developments throughout the area including commercial and retail. He said when they begin the rezoning process they try to determine what would be a fit for a property and what would best suit the community and not be an eyesore or problematic in the community. He said for this facility they had looked at its proximity to the hospital and tried to address some of the needs and determined that this would be a good place for an assisted living facility. He said if for some reason a Certificate of Need was not granted, then they would have to go back and get a preliminary plat for office space or medical space that would be in keeping with what was required for this corridor. He said they were asking consideration for the O-I which did fall within the guidelines for Fayette County.

Mr. Boynton further remarked on the waste treatment plant. He said they currently owned a company and have done so for many years that specialized in waste water treatment. He said he agreed with Mr. Pybourne about failed systems and said he was absolutely correct. He said in the 1970's and early 1980's those kinds of issues had to be addressed frequently. He said technology had advanced quite a bit since then and the so called package plants which were not package plants any longer were very high tech waste water treatment facilities. He said they were currently working on 17 facilities in surrounding counties ranging in size from 5,000 gallons per day to one facility located in Northern Florida averaging 2 million gallons per day. He said they had a couple of systems in Coweta County that they were working on, another system on another developer's property and one system on a large tract that they were currently working with Coweta County on. He remarked that the property adjacent to this was set up for its own waste treatment facility from day one. He directed the Board's attention to an area on the map that was allowed for the plant and the underground subsurface irrigation system would be located in the back of the property. He said this would not be a leach field or a community septic tank but this would be a small waste water treatment plant that was permitted, managed and governed by the E.P.D. regulations. He said there must be a trustee in place that stated if anything happened to him or his company that they would step in and take over the plant and run that plant in perpetuity. He said it would also be bonded. He stated that there would be escrow accounts in place required by the E.P.D. for maintenance and operations for its life. He said if anything did happen and the trustee did have to take over then there would be money there to make sure that this plant was maintained and enough money was in there to replace the plant. He said this would fall under the same regulations that would apply to landfills.

Chairman Dunn interjected if something were to happen to this plant, it would take quite a while to replace or fix it. He asked what would happen to the 300 assisted living residents while that occurred.

Mr. Boynton further remarked that his company had constructed several of this same style plant that was being proposed for this project. He said there were currently over 800 of these installed throughout the United States. He said there was a plant in Moreland, Georgia at the Williams Travel Center and one currently being installed in Roswell, Georgia. He said they also had one going in at Pine Mountain just across the street from Callaway Gardens. He stated there was also a system going in at Thomas Crossroads in Coweta County and one that would be constructed in Senoia. He said the Senoia facility was a rather large facility and would generate approximately 3,000 gallons per day. He said these were all in the permitting stage and all of the paper work was currently being processed. He said the plants were set up in such a manner where there was a plant, such as the style being discussed, that had very little maintenance requirements. He said there would be no moving parts, one pump, one aerator, and one control panel. He said the opportunity for problems had been minimized or even eliminated. He said in addition to that they were required by the State to make sure that spare equipment was on site. He said if a pump or aerator failed, there would be equipment there to handle that situation. He said they were also required to have ample storage so that in the event a pump did fail, there would be enough tank storage where several days supply could be held until this could be worked back into the flow to treat it.

Chairman Dunn asked Mr. Boynton what the figure would be for the daily treatment capacity of this system.

Mr. Boynton responded it would be approximately 30,000 gallons per day. He said the E.P.D. guidelines regarding the flow for a medical exam room would be 200 gallons per day per exam room and then twenty gallons per day per staff member. He said he had visited several physicians in several different counties to get an idea of what they could expect. He said typically there would be four or five assistants and the standard medical office would consist of six exam rooms. He said this would come to approximately 1,200 gallons per day plus 80 gallons or approximately 1,300 gallons daily per medical office. He said that was what they were required to design for. He remarked in actuality it would be approximately 75% less.

Chairman Dunn clarified that there would be fifteen medical buildings.

Mr. Boynton replied yes that was correct.

Chairman Dunn remarked that these medical buildings were two story buildings.

Mr. Boynton responded that he was not sure if the buildings were one story or two story.

Chairman Dunn stated that the proposed plan indicated that the buildings were all two story buildings.

Mr. Boynton remarked that he was not exactly sure if the buildings were one or two story but each one would be 3,000 square feet.

Chairman Dunn said there could be multiple businesses in each building.

Mr. Boynton replied no, that each building would have a single business.

Mr. Boynton commented further on the traffic issue. He said he had met with the D.O.T. and had tried to comply with their request as far as ingress and egress and where to place the entrances and exits to the property in order to minimize any traffic issues. He said he agreed that S.R. 54 was already a very busy highway and it was only going to get busier. He felt in working with the D.O.T. they could assist in how that traffic flowed through this corridor.

Chairman Dunn felt there would be a lot more traffic especially with 300 assisted living residents as well as their visitors. He said the fifteen office buildings would also add to the traffic. He felt this would be a huge impact on that part of the county.

Commissioner Wells asked Mr. Boynton if he had any other issues that he would like to address and Mr. Boynton replied no, that was all unless the Board had any further questions.

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

On motion made by Commissioner Wells, seconded by Commissioner Pfeifer to deny Petition No. 1162-06, discussion followed.

Commissioner Wells said this was a hard decision and she had listened very carefully to the people who spoke in opposition. She said she could appreciate their concerns. She said this Board was very careful not to second guess what people might want to build. She said from her perspective there currently might be too many office buildings sitting vacant in the county. She said her opinion would not determine whether or not somebody wanted to build and they would have the right to go ahead and build if the property was properly zoned. She remarked that as far as the applicant building a facility that might or might not be needed at this point in time she was certainly not in a position to second guess them nor was this the function of this Board.

Commissioner Wells further remarked that the function of this Board was to determine whether or not this particular rezoning was right for this piece of property at this point in time. She said she and Commissioner Frady were on the Board when the overlay zone was approved. She said it was her understanding that the intent of the S.R. 54 West

overlay zone was to offer existing tracts of five acres plus or minus the option to convert to office uses. She said the Board had seen the way in which property was being developing down S.R. 54 West and the Board knew that the hospital was coming in and that there would be some annexations. She said at that time the Board was trying to make that overlay area as unintrusive to the existing people who lived there as possible. She pointed out that there were people living there who had acreage there. She said all of a sudden there were requests coming in for things that were not residential. She said the Board was very careful in how the overlay district was drafted. She said it was her understanding that the County portion was different from what the City portion would be. She said she could see the City doing something of this magnitude because they would have the infrastructure to accommodate it. She said the County on the other hand did not have that infrastructure. She remarked that she had served for several years on the Board of Health and was very aware of the different septic system capabilities that there were. She said she was also aware that the E.P.D. had a lot of layers of bureaucracy that say that this cannot be done but if it was done there was no policing mechanism. She said this type of situation had occurred at Lake Edith next to Marnell Mobile Home Park. She said everybody was aware that the Lake was polluted and knew it was harmful but it was monumental to get the E.P.D. to do anything. She said she was very much aware that the stop gaps might be in place but many times bureaucracy makes them something that only works on paper. She remarked that the County did not have the infrastructure along that corridor that they did have in the City. She said she could envision this being in the Peachtree City area, the City of Fayetteville area or something of that nature but she envisioned the S.R. 54 corridor as existing homes that people who have lived there for many years decide to sell their acreage with someone wanting to put in office/institutional. She said this would keep the corridor with the same look.

Commissioner Wells further remarked that her greatest problem with this was that the applicant had gone out and acquired several five acre tracts to create a much larger parcel than she ever envisioned and occurring in the overlay zone. She said she was not comfortable with this concept for the S.R. 54 corridor. She said this was not what she had envisioned. She remarked that one comment listed in the State Route overlay and frontages section was that the most restrictive regulation applied. She felt the Board had held that the most restrictive regulation apply here. She said it was her concern that if the Board approved this then it would be encouraging people all up and down S.R. 54 corridor to acquire as much property as possible. She said this was a huge complex and to bring something in on the S.R. 54 corridor of this magnitude was something that she did not feel was the right complex, at the right time, or at the right location. She said since the property was already zoned A-R, it had a zoning that could be developed but to approve O-I at this point in time and something of this magnitude caused her great concern. She said on the other hand O-I was acceptable up and down the corridor and this was a really difficult situation for her. She said at this point in time she did not feel that this was the right thing, at the right time or at the right location.

Commissioner Pfeifer remarked that he agreed with Commissioner Wells. He said he would like to raise several issues that had occurred to him on this application. He said one of the issues that he felt was important was that many of the objections seemed to be based on a Certificate of Need. He said as Commissioner Wells had stated, this was none of the Board's business. He said if this proposal fit the zoning and the Board approved it, then it was someone else's business to determine whether or not there was a need for this and not the Board of Commissioners. He said he was also concerned about the sewer here. He said the on-site sewer treatment system was a new system and a new process to everyone. He said if this system failed for an office complex of this size, it would be a very difficult situation. He pointed out that there would be a major problem if the septic system failed at an assisted living facility. He felt the question Chairman Dunn asked had not really been answered in his opinion and that was what would happen to these people if a system failed. He said issues such as State regulations and penalties were discussed but nothing about what would happen to 300 people in an assisted living facility who would not be able to use the restroom. He said right now he saw no alternative to that situation. He remarked that he was also very concerned with these because the State would be regulating them and they had a history of "throwing up their hands" and putting it on the County level. He said this had occurred previously in Fayette County. He said he had not seen anything coming through on this type of situation but he felt sure it would happen some time in the future. He said he also agreed with Commissioner Wells that the intent of the overlay zone as he understood it related to five acre parcels and not multiple five acre parcels. He said this would completely alter the intent of what was attempted to be achieved when the ordinance was adopted.

Chairman Dunn said he agreed that the Certificate of Need was not the business of this Board. He said if the applicant applied for the C.O.N. and did not get approval, then that would be the applicant's problem. He said the Certificate of Need was actually his problem. He said he was on about seven different committees at the Atlanta Regional Commission and they would be reviewing an application for a C.O.N. at that level. He said that while he would be voting on the C.O.N. at the A.R.C., he would not base his vote on this rezoning on the Certificate of Need process because he did not feel it was appropriate. He said this was a problem and he could not imagine a C.O.N. being granted when it would double the amount of beds in the County and there was no problem now although it could happen. He said his biggest objection was along the lines of what Commissioner Wells had said. He said although he was not on the Board at the time the overlay zone was adopted he was a concerned citizen and it was his understanding that all of the communities of this County got together and worked diligently with the County. He noted that Commissioner Frady and Commissioner Wells were on the Board at that time and they had done a very good job in trying to preserve something different here in Fayette County than every other surrounding county had done and that was to allow uncontrolled growth up and down the corridors. He said it was determined a long time ago that this was not going to happen in this County. He felt one of the responsibilities that this Board had was to try and preserve the goodness of this community. He said the Board has to try to balance property rights against the health, welfare and aesthetics of this community and

it was a very difficult task. He said the Board really tries hard to accomplish this and he felt most of the time it was done right. He said he would like to put the scope of this project in perspective. He stated Fayette Community Hospital was huge and had 100 beds and this proposed project would have 300 places for people to live. He said some of these would be one bedroom and some would be two bedroom facilities. He remarked the hospital had a huge parking lot and this proposed project would also have to have a huge parking lot plus there would be fifteen additional businesses right outside the front door of the assisted living facility. He said this was not what was intended to be in the overlay zone of S.R. 54 between Fayetteville and Peachtree City where the overlay zone was. He noted that what the Cities did in their jurisdiction was their responsibility but this area of the overlay was the County's responsibility. He said the County must manage this in the best way possible to balance everybody's interest and also to have the best community that we could have when it was completed.

Chairman Dunn remarked that if the Board approved this request, he did not feel that this would agree with the stated intent of the overlay zone. He noted that Ms. Lanier lived next door to the proposed project and had a ten acre piece of property. He said it was the intent of the overlay zone that people like Ms. Lanier who felt that they could no longer live on their property or for whatever reason they could use their property for O-I (office/institutional) but the Board's predecessors at that time were insisting that the look of S.R. 54 be maintained with a residential feel. He said the Board did not want this corridor to look like a road going through an industrial area such as in surrounding cities. He said the Board had intended S.R. 54 to be a residential feel highway connecting Peachtree City and Fayetteville. He remarked that the intent of the overlay zone was also to take the existing houses on S.R. 54 and allow people to modify them somewhat to be used as doctors' offices, lawyers' offices or things of that nature. He said that had happened successfully up and down S.R. 54. He said something of this scope was never intended for the overlay zone. He questioned why someone would even bring a request such as this to the Board. He said he was not blaming the applicant because the applicant had looked at the regulation and felt like this could be done. He said he could not support this request because he did not feel like it would fulfill the intent of the overlay zone. He said the Board had held everybody up and down this corridor to the requirements of the overlay zone as the Board understood them. He said he felt this Board must continue to do that in order to be fair to all of the property owners along S.R. 54.

Chairman Dunn further remarked on the issue of competition with the other assisted living care facilities in Fayette County. He said this issue was not really a legitimate factor that the Board needed to be concerned with since this matter was for rezoning a certain piece of property. He said it was a competitive world out there and if the applicant felt he could make a living by operating a 300 bed assisted living facility when there were already 300 beds here that were not full he did not know how this would work but that would be the applicant's concern. He said on the other hand he did not want to see current businesses that were in Fayette County faltering because the corridor was overloaded. He said this was not the Board's intent in the first place. He felt there was nothing positive about the

scope of this project. He said he was on the Board as well as Commissioner Wells and Commissioner Frady when the Board rezoned Mr. Nubbs' place that was owned by Mr. Davis. He said there was one house on that property and their request was for the ability to convert that one house into a doctor's office. He said the Board had approved this request. He said the unintended consequences as everyone could see were ten office buildings and in addition would be two story buildings. He said that was never intended there. He remarked that this was currently an O-I piece of property and the owner would be allowed to develop it in accordance with what was allowed in O-I zoning. He said he could sit on this Board in good conscience and allow this applicant to do the same thing on a piece of property right next door that would be twice as large. He said he could not support this project.

Commissioner Frady said he disagreed with one thing that Chairman Dunn had said. He said he believed in a free enterprise system and he was not going to make a decision on any zoning that would take into consideration what businesses go in the County. He said it was a "dog eat dog" world out there.

Chairman Dunn interjected that he agreed with what Commissioner Frady just said and that was not his concern about how companies might compete.

Commissioner Frady said Chairman Dunn had stated that he was concerned about losing businesses.

Chairman Dunn remarked that he was concerned but he would not vote based on that.

Commissioner Frady further remarked that there were three overlay zones for the major highways in Fayette County. He said these overlay zones were put there for the purpose of allowing people who currently lived there not to be overrun with commercial lots or other type buildings that would infringe on their style of life. He said the County had approved office/institutional where it had been requested along the corridor thus far. He said this was done so that the people who owned the property would be able to sell their property to someone other than residential. He said it was his opinion that people would not be moving along the S.R. 54 corridor for residential purposes. He said he would have to agree with a lot of things that were said and he felt assisted living facilities in this County would be very good. He said the State would have to permit the sewage systems for them and there were several of those in Fayette County already.

Commissioner Frady further remarked that there were approximately thirty failures for septic systems per month in Fayette County. He said he wanted to make sure that the action the Board took tonight did not set a precedent. He stated that there were a lot of property owners along S.R. 54 with a lot of acreage and in the future they may come before the Board with a request for consideration for use of their land.

Chairman Dunn called for the vote.

The motion carried 4-0, discussion followed.

Chairman Dunn remarked that he would like to have staff work on preparation of standards for this corridor to insure that the original intent of the Board several years ago could be complied with in the future.

Commissioner Frady said he was not sure if there was anything in writing regarding the Board's intent at that time but he felt the intent of the overlay was to have O-I but not specifically for any area. He said he recalled some conversation regarding the issue of 600 feet or 900 feet deep but this was not specified in the area. He said it was hard for him to say that this project was not a good one for the area.

A copy of the Ordinance and Resolution denying Petition No. 1162-06, identified as "Attachment No. 2", follow these minutes and are made an official part hereof.

PETITION NO. 1163-06:

Director of Community Development Pete Frisina read Petition No. 1163-06, Bogdan C. and Pamela M. Wolfe, Owners, and Randy M. Boyd, Agent, request to rezone 6.77 acres from A-R to R-72 to develop two (2) single-family dwelling lots. He said this property was located in Land Lot 252 of the 4th District and fronted on McBride Road. He said the Planning Commission recommended approval (4-0-1) subject to one (1) recommended condition and Staff recommended approval subject to one (1) recommended condition.

Randy Boyd said he was the Agent for the owners Bogdan and Pamela Wolfe. He said Mr. and Mrs. Wolfe had purchased the property on January 25, 1999 and it was currently zoned A-R. He said the applicant would like to request the Board's consideration to rezone the property R-72. He said this property was located in the area designated for rural residential which was one unit for two to three acres on the comprehensive land use map. He said the property located to the East and to the South was zoned A-R. He noted that the property to the West was the property that had come before the Board approximately six months ago which was the Tom Reese development and it was zoned R-70. He stated that the property North of this parcel touching the Northern line was zoned R-40, however, it was a thirty year old subdivision that was developed in the late 1970's and those lots ranged from 2.5 to 4 acres. He called the Board's attention to the map and remarked that there was a creek that traversed the property to the Eastern one-third of the property. He said he had tried to create two lots that would give the creek to each land owner if divided. He said there was already one existing house on the Eastern four acre tract. He asked for the Board's consideration to divide the property up to create a 2.48 acre tract on the East side. He said the Planning and Zoning Staff had recommended approval with one condition which the applicant would comply with. He said the Planning and Zoning Commission had also recommended approval with one condition.

Chairman Dunn asked if anyone wished to speak in favor of this application. 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. 1163-06 with one recommended condition, discussion followed.

Commissioner Wells said she liked this proposal and she felt it was good use of what was there.

Mr. Boyd said he would like to clarify the condition. He said there had been discussion at the Planning Commission regarding the condition. He said the verbiage of the condition was incorrect in that he stated applicant would give ten feet of additional right-of-way as measured from the center line. He said Attorney Davenport had discussed the fact that this would not give anything. He said the condition should read that it would be ten feet of additional right-of-way measured from the existing right-of-way and this was the intent. He said the applicant was aware of this intent and it was shown on the site plan.

Chairman Dunn said that would be reflected in the Board's motion and Attorney Davenport agreed.

The motion carried 4-0. A copy of the recommended condition, Staff's Analysis and Investigation, identified as "Attachment No. 3", follow these minutes and are made an official part hereof. A copy of the Ordinance and Resolution approving Petition No. 1163-06, identified as "Attachment No. 4", follow these minutes and are made an official part hereof.

CONSENT AGENDA: Chairman Dunn requested that item no. 1 be removed for further discussion. On motion made by Commissioner Wells, seconded by Commissioner Frady to approve consent agenda item no. 2 as presented. The motion carried 4-0.

PUBLIC WORKS - WIDENING OF JIMMIE MAYFIELD BOULEVARD: Approval of Public Works Director Lee Hearn's recommendation regarding the City of Fayetteville's request to expedite the widening of Jimmie Mayfield Boulevard from S.R. 92 to Jeff Davis Drive with the City of Fayetteville paying the cost of the engineering design.

Chairman Dunn asked that the Public Works Director Lee Hearn explain this item and what was being proposed.

Public Works Director Lee Hearn said the City had made a request of the County to proceed with the engineering work on the widening from two to four lanes on Jimmie Mayfield from South Jeff Davis to S.R. 92. He said this project was shown in the transportation update as a project with a construction date of 2010 and was shown in the long range planning meeting

or the R.T.P. (Regional Transportation Plan) and also shown in the T.I.P. but shown in later years than originally shown in the transportation plan. He said it was the City of Fayetteville's desire to fund engineering strictly so that the project could be moved up in the schedule. He remarked that the project in the regional transportation plan was shown as 100% local funding for engineering right-of-way and construction. He said the engineering would have to be done at some point in time whether it was done now or a few years from now it would still have to be done. He asked for the Board's consideration in approving his recommendation to accept the City of Fayetteville's offer to proceed with the engineering on this project. He said he would be glad to answer any questions that the Board might have.

Chairman Dunn said the key and the goodness of the entire S.P.L.O.S.T. program was devoted to give the County the flexibility to do some things at the right time and the right place. He said the City had requested the County to accelerate the building of this project. He said this project was included in the County's long term plan. He said it had always been intended that it would be local money that built this and this was in the 70% County's project portion of the S.P.L.O.S.T. He said it would have to be in order to use S.P.L.O.S.T. money. He said this project had also been listed by the City in their 30% portion and they wanted some local City money to be able to accelerate the project. He said it was his understanding now that the City would handle all of the engineering out of their 30% City portion from the S.P.L.O.S.T. money, that they would acquire all of the right-of-way which he believed had already been done, but it was not going to cost the taxpayers anything for that right-of-way. He said the County would then do its job in the 70% portion of the funds that it would have to have done several years from now with the same money. He said now this project would help accelerate the Southside Master Plan for the Southern portion of Fayette County and would help the traffic flow considerably there. He pointed out that without the S.P.L.O.S.T. none of this would have been possible. He said this was a great project and a good example of what the voters were asking the municipalities to do with the money from the S.P.L.O.S.T. funds that were collected. He said without the S.P.L.O.S.T. none of this would have been possible. He said he had reviewed this with Mr. Hearn as well as the Finance Director and discussed the funds that had already been received thus far in the S.P.L.O.S.T. He said both portions of the funds could easily absorb this right now. He said there were several other projects in the County's 70% portion that had already started and one of those was the East Fayetteville Bypass. He said another project that might be accelerated was building part of the West Fayetteville Bypass right next to Fayette Community Hospital. He said there was so much going on in that area that if this did not get done quickly, it would never be done. He remarked that both the City and the County could legally proceed with the Jimmie Mayfield project because it was put on the list at the appropriate time and place. He said he was certainly in favor of this.

On motion made by Chairman Dunn, seconded by Commissioner Wells to approve this cooperative agreement with the City to expedite the widening of Jimmie Mayfield Boulevard from S.R. 92 to Jeff Davis Drive with the City of Fayetteville paying the cost of the engineering design. The motion carried 4-0. A copy of the memorandum, identified as "Attachment No. 5", follows these minutes and is made an official part hereof.

RESOLUTION NO. 2006-06 - FIRE SERVICES IMPACT FEES: Approval of adoption of Resolution No. 2006-06 of the Capital Improvement Element (CIE) and the Short Term Work Program (STWP) for Fire Service Impact Fees. A copy of Resolution No. 2006-06, identified as "Attachment No. 6", follows these minutes and is made an official part hereof.

Chairman Dunn commended Staff on their spectacular job on getting this completed on time and on target. He said this item was received at the Atlanta Regional Commission where the Staff there was as usual very complimentary of all of the work done here by Planning Staff in Fayette County. He said Staff had done a great job on this document.

PUBLIC COMMENT:

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

There was no public comment.

STAFF REPORTS:

BRENT SCARBROUGH & CO. AWARDED CONTRACT FOR REPAIRS TO CULVERT ON WAGON WHEEL CIRCLE: Public Works Director Lee Hearn asked for the Board's consideration to award the contract for repairs to the culvert on Wagon Wheel Circle to Brent Scarbrough & Company in the amount of \$133,870. He remarked that this company was the low bidder for the repairs for the culvert on Wagon Wheel Circle. He said several months ago during a storm event a pipe blew out and the road fell in. He said they had gotten the plans put together in order to have this job bid. He said it was his recommendation to award the bid to the low bidder Brent Scarbrough & Co. in the amount of \$133,870.

Chairman Dunn said he wanted to thank the residents in that area for their patience while this project was being worked out. He noted that these residents had really waited a long time for this. He said they had to drive out of their way in order to get to their homes. He said help was finally on the way for these residents who had waited a long time.

On motion made by Commissioner Wells, seconded by Commissioner Frady to approve the Public Works Director's recommendation to award the contract for repairs to the culvert on Wagon Wheel Circle to Brent Scarbrough & Company in the amount of \$133,870. The motion carried 4-0. A copy of the memorandum, identified as "Attachment No. 7", follows the minutes and is made an official part hereof.

TRANSFER OF FUNDS FROM THE CONTINGENCY FUND REGARDING THE CULVERT REPAIRS ON WAGON WHEEL CIRCLE: Public Works Director Lee Hearn asked for the Board's consideration to approve a transfer of funds from the contingency fund regarding the culvert repairs on Wagon Wheel Circle in the total amount of \$143,870. He commented that this included the \$133,870 for repairs and \$10,000 for the engineering inspection to be done

by Mallett Consulting. He said this was per Finance Director Mark Pullium's recommendation.

On motion made by Commissioner Wells, seconded by Commissioner Pfeifer to approve the Public Works Director's recommendation to transfer \$143,870 from the contingency fund for the repairs and engineering inspection for the culvert on Wagon Wheel Circle. The motion carried 4-0. A copy of the memorandum, identified as "Attachment No. 8", follows these minutes and is made an official part hereof.

EXECUTIVE SESSION: Assistant County Attorney Dennis Davenport requested an executive session to discuss one real estate matter and four legal items.

EXECUTIVE SESSION: On motion made by Commissioner Wells, seconded by Commissioner Frady to adjourn to executive session to discuss one real estate matter and four legal items. The motion carried 4-0.

REAL ESTATE: Attorney Davenport discussed a real estate matter with the Board.

On motion made by Commissioner Wells, seconded by Commissioner Pfeifer to authorize Attorney Davenport to proceed in this matter. The motion carried 4-0.

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

On motion made by Commissioner Wells, seconded by Commissioner Pfeifer to authorize Attorney Davenport to deny this request. The motion carried 4-0.

LEGAL: Attorney Davenport advised the Board on a legal item.

The Board took no action on this matter.

Commissioner Wells exited the meeting at 10:00 p.m.

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

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

LEGAL: Attorney Davenport advised the Board on a legal item.

The Board took no action on this matter.

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EXECUTIVE SESSION AFFIDAVIT: On motion made by Commissioner Pfeifer, seconded by Commissioner Frady to authorize the Chairman to execute the Executive Session Affidavit affirming that one real estate matter and four legal items were discussed in executive session. The motion carried 3-0 . Commissioner Wells was absent for the vote. A copy of the Affidavit, identified as "Attachment No. 9", 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 23rd day of February, 2006.

Karen Morley, Chief Deputy Clerk

