

The Board of Commissioners of Fayette County, Georgia met in Official Session on Thursday, October 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
Robert Horgan
Peter Pfeifer

COMMISSIONER ABSENT: Herb Frady

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, offered the Invocation and led the Pledge to the Flag.

PROCLAMATION FOR KEN BABCOCK DAY IN FAYETTE COUNTY:

Chairman Dunn remarked that this was a Proclamation declaring November 1, 2006 as Ken Babcock Day in Fayette County. He remarked that Ken had just written a book on his life called "It's a Pilot's Life". He said Ken had flown an airplane over the Himalayas while serving in the military. He said Ken recalled the temperature being 60° below zero as he flew over the mountains. He said the community owed some recognition to this kind of person who had given so much to this Country. He said Ken had also spent thirty years as a crop duster in his own business. He said Ken had moved to Fayette County after traveling all of the world and joined clubs and causes with people who lived here now. He said Ken loved bicycling and had traveled hundreds of miles on his bike. He said Ken had served his church well, civic organizations, the veterans organization and many others in the community. He said Ken would be 88 years old on November 1st with no slow down in sight.

Chairman Dunn read and the Board presented a Proclamation to Ken Babcock declaring November 1, 2006 as Ken Babcock Day in Fayette County. A copy of the Proclamation, identified as "Attachment No. 1", follows these minutes and is made an official part hereof.

PETITION NO. 1183-06 AND PETITION NO. RP-039-06:

Consideration of Petition No. 1183-06 and Petition No. RP-039-06, John Alan and Jennifer S. Bell, Owners, and Rod Wright of Peachstate Land Development, Inc., Agent, request a change of use and to rezone 2.17 acres being Lot 17 and Lot 18 of Lakeview Estates from R-40 to O-I to develop Office Uses. This property is located in Land Lot 127 of the 5th District and fronts on S.R. 54 West and Lakeview Lane. The Planning Commission recommended denial (5-0). Staff recommended denial.

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Chairman Dunn announced that petitioner had requested a withdrawal of this petition.

On motion made by Commissioner Wells, seconded by Chairman Dunn to accept the Petitioner's withdrawal request for this petition. The motion carried 4-0. Commissioner Frady was absent.

ORDINANCE NO. 2006-15 - APPROVAL OF PROPOSED AMENDMENTS TO THE FAYETTE COUNTY SIGN ORDINANCE REGARDING ARTICLE I. IN GENERAL, SECTION 1-3. DEFINITIONS; ARTICLE II. PERMITTING, SECTION 2-3. INSPECTIONS, AND SECTION 2-5. PROHIBITED SIGNS AND DEVICES; ARTICLE III. ENFORCEMENT, SECTION 3-3. REMOVAL OF UNLAWFUL OR DANGEROUS SIGNS; ARTICLE IV. MEASUREMENT; CONSTRUCTION AND MAINTENANCE STANDARDS, SECTION 4-2. MEASUREMENT OF SIGN AREA; ARTICLE V. RESTRICTIONS BASED ON LOCATION, DIVISION II. RESIDENTIAL DISTRICTS, SECTION 5-22. RESIDENTIAL FREESTANDING SIGNS; DIVISION III. NON-RESIDENTIAL DISTRICTS, SECTION 5-32. FREESTANDING SIGNS AND SECTION 5-33. WALL SIGNS:

Director of Community Development Pete Frisina remarked that approximately one year ago the sign ordinance had been amended. He said during that time staff had determined several areas that they felt needed clarification. He said in Section 1-3 regarding definitions staff recommended adding a definition for changeable copy sign. He said in the ordinance as far back as 1998 changeable copy signs had not been allowed. He said staff was recommending that changeable copy signs be allowed. He said staff felt these were vital for certain businesses such as gasoline stations where prices must be posted. He said staff had made provisions for changeable copy signs that were changed either manually or electronically. He said a lot of gasoline stations were now going to an electronic format as opposed to the old plastic letters that they would have to post manually in order to change the price of gasoline. He said staff had discussed this with some of the representatives in the electronic sign business who helped them with some of the terminology.

Mr. Frisina further remarked that staff was recommending that the message for the electronic signs not change more than once every thirty seconds. He said staff had also added verbiage as to how they would like the change to take place. He said they were looking for a static change which would mean that it go from one message to another without the animation phase. He said staff was also adding a definition for decorative wall. He said staff wanted to make sure that there was also a definition for a wall where a wall sign is allowed. He said staff had also added a definition for a Double-face sign. He said the County had always allowed a sign to have two faces and always counted only one size of square footage for the sign. He said staff had recently seen a V-type sign and these seemed to be rotating further and further to the point where there might be a double-face sign turning one large sign. He said staff was looking at a measurement that at no point could the two faces be further than two feet apart.

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Mr. Frisina further remarked that staff also wanted to add definitions for the difference between the sign face and the sign structure. He said in the ordinance staff had made allowances for the sign face, size and height. He said there were allowances for the structure to be slightly higher because sometimes the structure creates a framework around the sign.

Mr. Frisina proceeded to discuss Section 2-3. He said staff was recommending that this Section be deleted in its entirety. He felt the County could enforce this under Section 3-3 where it talked about removal of signs that did not meet the County ordinance. He said Section 2-3 talked about signs that were in disrepair and/or dangerous. He said examples of disrepair were letters missing or paint peeling and this was a very subjective role for a County official to go out and determine that there was peeling paint on a sign and how much paint should peel before it was determined to be in disrepair. He said he would rather look at signs in terms of safety. He said if a sign was determined dangerous then this could be handled under letter C of Section 3-3. He said under letter A the property owner was the responsible party.

Mr. Frisina remarked that Section 2-5 which regarded the prohibited signs and devices would now be eliminated as a result of changeable copy signs definition being added. He remarked that under Section 4-2 was clarification for measurement of sign face area. He said Section 5-22 and Section 5-32 were really the meat of the ordinance where the size and height of signs were controlled. He said signs were separated by the district, residential and non-residential. He said what he had tried to address in all of these sections was the sign face, size and height, the sign structure, height and signs attached to decorative walls and then the illuminations. He said he had tried to make that consistent throughout. He said Section 5-32 was in non-residential districts. He said staff was looking to increase the size of temporary signs in the non-residential district from six square feet to twelve square feet. He said they had looked at different size signs. He said staff felt six square feet was too small for a non-residential district therefore staff was recommending twelve square feet.

Mr. Frisina commented that he had added verbiage under letter E regarding free standing signs for non-residential districts saying that temporary signage should only have external lighting. He said this had created a conversation with one of the Planning Commission members and his recommendation was that no temporary signs should be illuminated. He said it was the recommendation of the Planning Commission and the Chairman and they were comfortable in saying that their recommendation was that temporary signs both in non-residential and residential have no lighting whatsoever. He said one of the Planning Commission members did bring up some situations where he thought temporary signage should be lit. He said occasionally churches who have a special event or something of that nature have temporary signs where there was a small flood light on the ground. He said he was in favor of allowing the external lighting of temporary signs in that manner and he did not feel there would be a proliferation of that in the future. He said it was his

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recommendation that external lighting of temporary signs both in residential and non-residential be allowed.

Chairman Dunn clarified that would allow people during election time to be able to light up campaign signs.

Mr. Frisina replied yes and commented that would be consistent in both districts. He said temporary signs would probably capture most of the political signs seen in the County.

Chairman Dunn said if someone was having a roof put on their house they could have a sign in their yard advertising this and also have it illuminated.

Mr. Frisina replied yes. He said there was nothing currently in the ordinance that said someone could or could not do this. He said obviously the County would have allowed it. He said this had not been a problem for the County to date.

Mr. Frisina said he would like to discuss Section 5-33 regarding wall signs. He remarked that staff used to have to determine how large a wall sign could be based on the facade of the building and 10% of the area being attributed to the size of the sign. He said staff was recommending that one square foot per linear foot be increased to two square feet per linear foot. He said this would be less area than the 10% would have allowed. He felt this was a good range for this to be in. He said these were all of the changes that staff was proposing.

Chairman Dunn asked if anyone wished to speak in favor or in opposition to these changes to the County's sign ordinance. Hearing none, he asked for the Board's pleasure in this matter.

On motion made by Commissioner Wells, seconded by Commissioner Pfeifer to approve the proposed Amendments for Article I through Article V as presented with the exception of the lighting for temporary signs that should be eliminated, discussion followed.

Commissioner Pfeifer said he did not like regulating signs however it was absolutely necessary. He said there had been a lot of individuals in this process who had bent over backwards to try to determine a way to allow free expression and yet not have the County overrun with signs. He felt it was the County's obligation to address this issue.

Commissioner Horgan said he agreed and felt these rules would be beneficial for the community.

Chairman Dunn said this was something that this Board had struggled with day in and day out. He said depending upon what rulings come down in court the County must stay legal

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but at the same time Fayette County had a higher standard than many communities. He said he appreciated all of the hard work on this issue.

The motion carried 4-0. Commissioner Frady was absent. A copy of Ordinance No. 2006-15, identified as "Attachment No. 2", follows these minutes and is made an official part hereof.

REQUEST FOR THE SOUTHERN CONSERVATION TRUST TO OWN THE CONSERVATION AREA OF THE MOUNTBROOK SUBDIVISION PER SECTION 6-24. C-S, CONSERVATION SUBDIVISION, H.:

Randy Boyd said he was representing the Nesmith Estate, Southern Conservation Trust and Scarbrough & Rolader Development. He said this was the project located on Redwine Road just North of the Starr's Mill High School. He said this issue had come before the Board in December, 2005 and was approved for conservation subdivision zoning. He said the preliminary plat had been prepared approximately two to three months later for Mountbrook Subdivision and that had been approved and the street was currently being graded. He said the Nesmith Estate would like to dedicate this property during this calendar year to either of the three entities including a Homeowners' Association, a Conservation Trust organization approved by the Board or the Fayette County Board of Commissioners. He said developer Scarbrough & Rolader were not quite ready to put the plat on record because the subdivision has not been developed yet. He asked for the Board's consideration tonight to allow dedication now to the Southern Conservation Trust. He said he was not quite sure of how this would occur. He said the Southern Conservation Trust had agreed to adhere to the portion of the ordinance that said this was a permanent protection and would go into a conservation easement. He said they would get fee simple ownership to this now and once the final plat went on record they would dedicate the portion that was in the conservation area to bring it in line with the ordinance under the conservation subdivision as it was zoned. He remarked that the Nesmith Estate needed to remove this from their ownership during this calendar year. He said with the Board's approval this would go to the Southern Conservation Trust who was located in Peachtree City, Georgia. He said he was asking for consideration to approve the Southern Conservation Trust as an organization that the Board would support to give them ownership of the property to be joined together with the final plat.

Chairman Dunn asked if this regarded a tax issue.

Mr. Boyd replied yes, this was his understanding. He said he hoped that he had been clear but it was hard to explain.

Chairman Dunn asked if Attorney Davenport was familiar with this situation.

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Attorney Davenport replied yes. He said the one draw back that could occur in this situation was really a risk that would have to be borne by the developer. He said if the property was conveyed as described to the Board by Mr. Boyd, then there could be some issue that comes up that would cause the developer to lose a lot thereby leaving no additional land to add because it had been deeded away. He said the developer certainly understood that but it was a risk that the developer would have to shoulder that burden. Mr. Boyd said the developer was not concerned with that issue due to the fact that the property stopped at the flood plain. He said additional area had been purchased behind the lots in between the flood plain and the rear of the lots on the preliminary plat and the boundary survey. He said the developer did understand and take responsibility that once the conservation area would be dedicated to the Southern Conservation Trust that it would be totally out of their hands as to whether or not they could utilize any of the land. He said they certainly understood that.

Chairman Dunn asked Mr. Boyd if he had an agreement with Southern Conservation Trust that they were willing to accept responsibility.

Mr. Boyd replied yes. He said he had received a letter from Pete Frisina in Planning and Zoning together with a letter from Southern Conservation Trust confirming this.

Mr. Frisina interjected that the County would hold a conservation easement over the property regardless of who owned it whether it be the Homeowners' Association or the Conservation Trust Organization. He said they would enter into partnership with the County. He said there were some issues that he had been working with them on. He said if this property were to ever be opened up to public access, it would only be done through having adequate and safe parking somewhere other than within the subdivision. He said their letter stated that they would not put the public through the subdivision to get into this conservation area. He said they would only use their easement for management and inspection of the property. He said this was in the area of where the County had always planned to have a trail coming from Starr's Mill North. He said part of the trail would go across the school property. He said the school was willing to work with the County and the Southern Conservation Trust to try and provide access to any portion of the trail once it was built. He said the County was in discussion with school board representatives right now. He said the County's conservation easement would specify that if there was not adequate parking or access to some place like the school property, that the County would not want it open to the public.

Chairman Dunn asked if this joined the conservation area that was now located on the school property.

Mr. Frisina said the County owned property in and around this same area.

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Chairman Dunn said this property was contiguous and would make a nice area if it had the proper access.

Mr. Boyd said Mr. Frisina had also discussed with the developer that the County might be interested in an easement along the creek for a walking trail for some time in the future or the ability to construct a walking trail. He said if the County wanted that easement, then he would recommend making that part of the closing so that it would already be in place.

Mr. Frisina interjected that in his discussions with the officials from Southern Conservation Trust was if the County did get the trail which would go along the County's property from Starr's Mill through the school property. He said he would prefer to see them give the County a corridor along the creek as opposed to putting the County's trail on their property.

Chairman Dunn asked if Mr. Frisina meant they would be willing to do something in the distant future or were they willing to make an agreement right now.

Mr. Frisina replied the County had not built a trail yet and he was not exactly sure when it would be built. He felt this could be worked out with the Southern Conservation Trust.

Commissioner Wells said it would go without saying that Attorney McNally and Attorney Davenport would be very much involved in any of these kinds of contracts and agreements.

Mr. Frisina remarked that any agreement with the Southern Conservation Trust would be approved by the County Attorney's Office and the Board of Commissioners. He said right now they could take possession of the property and at the time of final plat being recorded was usually when the conservation easement would be in place.

Chairman Dunn asked when it was expected that the final plat would be recorded.

Mr. Boyd replied in the next two or three months.

Chairman Dunn said he was asking when this could be put in a legally binding situation.

Mr. Frisina said they would have to take possession of the property and this had not been done yet. He said they were waiting on the Board's approval to allow them to have the property.

Chairman Dunn asked Mr. Frisina what action was needed by the Board tonight.

Mr. Frisina said he was asking consideration by the Board for a motion that the Southern Conservation Trust could own the property.

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On motion made by Commissioner Pfeifer, seconded by Commissioner Horgan to allow the Southern Conservation Trust to own the conservation area of the Mountbrook Subdivision. The motion carried 4-0. Commissioner Frady was absent.

CONSENT AGENDA: On motion made by Commissioner Wells, seconded by Commissioner Horgan to approve the consent agenda as presented. The motion carried 4-0. Commissioner Frady was absent.

MOTORIZED CART TRAVEL APPROVED: Consideration of approval for the specified streets in The Landings/Fayette Village, Unit One Subdivision to be authorized for the use of motorized cart travel per Ordinance 95-10. Streets in The Landings/Fayette Village, Unit One Subdivision include: Twin Branch Walk, Old Mill Crossing, Old Mill Point, Old Plantation Way, Old Magnolia Lane, Golden Glen Way, Oak Ridge Drive, Cedar Lane, and Aspen Way. A copy of the request, identified as "Attachment No. 3", follows these minutes and is made an official part hereof.

MUNIS AGREEMENT FOR OPERATING SYSTEM & DATABASE ADMINISTRATION SUPPORT: Approval of staff's recommendation to authorize the Chairman to execute the Annual Agreement for Operating System & DataBase Administration Support for Munis in the amount of \$7,571. A copy of the agreement, identified as "Attachment No. 4", follows these minutes and is made an official part hereof.

KELLY DRIVE PART DEMOLITION - BID AWARD TO BRENT SCARBROUGH & COMPANY: Approval to award the bid of Kelly Drive Park Demolition of Existing Building to second low bidder Brent Scarbrough & Company in the amount of \$23,950 due to failure of low bidder to provide satisfactory Performance and Payment Bonds and authorization for the Chairman to execute a subsequent contract. A copy of the recommendation and contract, identified as "Attachment No. 5", follow these minutes and are made an official part hereof.

MINUTES: Approval of minutes for Special Called Board of Commissioners Budget Meeting held on May 8, 2006 and Board of Commissioners meetings held on October 4, 2006 and October 12, 2006.

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:

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

Chairman Dunn requested an executive session to discuss one personnel matter.

EXECUTIVE SESSION: On motion made by Commissioner Wells, seconded by Commissioner Pfeifer to adjourn to Executive Session to discuss two legal items and one personnel matter. The motion carried 4-0. Commissioner Frady was absent.

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

The Board took no action on this matter.

LEGAL: Attorney Davenport discussed a legal item with the Board. Staff was not present for this discussion.

The Board took no action on this matter.

PERSONNEL: Chairman Dunn discussed a personnel matter with the Board. Staff was not present for this discussion.

The Board took no action on this matter.

EXECUTIVE SESSION AFFIDAVIT: On motion made by Commissioner Wells, seconded by Commissioner Horgan to authorize the Chairman to execute the Executive Session Affidavit affirming that two legal items and one personnel matter were discussed in Executive Session. The motion carried 4-0. Commissioner Frady was absent. A copy of the Affidavit, identified as "Attachment No. 6", 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 8:35 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 9th day of November, 2006.

Karen Morley, Chief Deputy Clerk