

The Board of Commissioners of Fayette County, Georgia met in Official Session on Thursday, January 11, 2007, at 7:00 p.m. in the public meeting room of the Fayette County Administrative Complex, 140 Stonewall Avenue, Fayetteville, Georgia.

COMMISSIONERS PRESENT: Jack Smith, Chairman
Herb Frady, Vice Chairman
Robert Horgan
Eric Maxwell
Peter Pfeifer

STAFF MEMBERS PRESENT: Chris Venice, County Administrator
William R. McNally, County Attorney
Carol Chandler, Executive Assistant
Karen Morley, Chief Deputy Clerk

Chairman Smith called the meeting to order.

Reverend Roy Roberson of Heritage Christian Church offered the Invocation.

Chairman Smith led the Pledge of Allegiance.

REZONING RULES: Director of Community Development Pete Frisina remarked that tonight's public hearing was for the Board of Commissioners to consider a request for rezoning of property and any proposed amendments related to County codes and regulations. He said Fayette County required two public hearings for these requests. He said the first public hearing on the first Thursday of every month was held by the Fayette County Planning Commission and their vote was a recommendation to the Fayette County Board of Commissioners. He said the second public hearing was held on the fourth Thursday of every month by the Board of Commissioners and their vote was the final decision of the County.

Mr. Frisina said procedures for public hearings of each agenda item are as follows: (1) presentation by the petitioner. He said once the agenda item was announced the petitioner will present the request to the Board of Commissioners. He said the petitioner along with those speaking in favor of the request would be granted a cumulative total of fifteen (15) minutes for presentation and rebuttal. (2) public comment. He said after the petitioner's presentation the Chairman of the Board of Commissioners would ask for public comment. He said speakers will have a total of three (3) minutes each to address the Board of Commissioners. He said first the Board of Commissioners will hear those in favor of the request and then the Board would hear those opposed to the request. He said a cumulative total of fifteen (15) minutes would be granted to each side. He said this pertained to speakers in favor of the request and those opposed. He said each person who wished to speak to the Board would come to the podium and print his/her name and address on the form provided so that each speaker would be accurately identified in the minutes of the meeting. He said speakers were requested to speak only to the Board and not to the applicant or others in the audience. He said if a group wished to speak then a spokesman should represent the group. He said it was asked that each speaker not repeat the same concerns as previous speakers. He said any items such as photographs or signed petitions that the speaker

wishes the Board to have should be given to the Marshal. He said after all those in opposition have spoken, the Chairman of the Board would close the floor to further public comment on the agenda item. He said the petitioner would be given the remainder of his/her fifteen (15) minutes for rebuttal and to address the Board about the issues. He said normally a Commissioner would make a motion to either approve, deny, approve with conditions or table and then the motion seconded by another Board member. He remarked that lack of a second would nullify the motion. He said the Board of Commissioners can ask questions or make comments prior to or after a motion was made and seconded. He said following discussion, the Chairman would call for the vote. He said the vote by the Fayette County Board of Commissioners was the final County decision regarding the request.

DON'S COUNTRY STORE APPROVED FOR PACKAGED BEER AND WINE SALES PERMIT:

Director of Community Development Pete Frisina remarked that this item for the Board's consideration was a Packaged Beer and Wine Sales Permit for Don's Country Store, 2708 Highway 92 South, Fayetteville, Georgia, He said Gene Donald Hancock was the Owner/Applicant. He noted that this property was located in Land Lot 117 of the 4th District, Fronted on Highway 92 South and was zoned C-C. He said this request was for a Change of Ownership.

Chairman Smith asked if the petitioner or representative was present and there was no response. He noted that the petitioner did not have to be present for this request. He 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 Frady, seconded by Commissioner Pfeifer to approve the packaged beer and wine sales permit for Don's Country Store. The motion carried 5-0.

PETITION NO. 1186-06:

Director of Community Development Pete Frisina read Petition No. 1186-06, Paul E. Reynolds, Jr. and Valerie S. Reynolds, Owners, and Grant Shepherd & Associates, Inc., Agent, request to rezone 43.429 acres from A-R to R-78 to develop a proposed subdivision consisting of 19 single-family dwelling lots. He said this property was located in Land Lots 8 and 16 of the 6th District and fronted on S.R. 85 South. He said the Planning Commission recommended approval (5-0) and Staff recommended approval.

Grant Shepherd remarked that he represented the applicants Mr. and Mrs. Reynolds on this project. He said this was a proposal for a residential development of 19 lots on 43 acres with each being a two acre lot. He said the project would conform with the County's Comprehensive Land Use Plan. He said he would be glad to answer any questions about this proposal.

Chairman Smith asked for the distance South from the S.R. 74 interchange to the proposed entrance to the subdivision.

Mr. Shepherd replied it was approximately 1,000 feet.

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Commissioner Maxwell clarified that the R-78 zoning was for a two acre minimum with 3,000 square foot homes.

Mr. Shepherd said he was not sure of the 3,000 square foot homes but he was positive about the R-78 zoning. He said he thought it was 2,100 square foot homes.

Commissioner Maxwell said there were two figures in his paperwork regarding the square footage for homes in the R-78 zoning. He asked for clarification as to which figure was correct.

Mr. Frisina clarified that the R-78 was for 3,000 square foot homes and the R-72 was for 2,100 square foot homes.

Commissioner Maxwell remarked that there were two creeks flowing through a couple of the lots. He said he really did not understand the way it was drawn on the map because it showed partial creeks going through Lot 6 and Lot 7 but going South the map did not indicate the continuation of this creek. He asked if this was a flowing creek.

Mr. Shepherd replied no. He said neither creek was flowing and were more of a ditch than a creek. He said the creek that crosses Lots 6 and 7 would cause a little bit more problems. He said they did not have the soil testing completely done yet but there had been some preliminary soil tests done. He said it appeared there was room to do what the applicant wanted to do on this property but it would all be subject to the actual soil tests that would be done. He said this draw actually goes down the lot line between Lots 14 and 15. He said a draw was basically the same thing that runs on Lot 17. He said these were basically a result of wet weather and run South and into the power easement.

Commissioner Maxwell questioned the back of Lot 10 where a detention pond was located. He asked what the detention pond was and why there was only one on the back of the property.

Mr. Shepherd replied that there was a lake or a flood plain area just to the West of the proposed project and everything flowed back to that direction. He felt like most of the runoff would go into that pond at the very back of the property. He said after the design was actually done, based on soil tests and the actual location of the soils and the placement of the houses, there might have to be another detention pond around lot 13. He said that would just be speculation right now.

Commissioner Maxwell asked if the power lines were over head and Mr. Shepherd replied yes.

Commissioner Maxwell remarked that directly North of the property was the South campus of New Hope Baptist Church. He said at the very Northern portion of the property there was Brechin Park which consisted with one acre and two acre tracts. He said this was consistent with this project.

Mr. Shepherd replied yes that was correct. He said the property to the South of the project

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was zoned R-78 with two acre lots and very similar to this project. He said the applicant was trying to fit in with the Comprehensive Land Use Plan for the surrounding area.

Commissioner Maxwell noted that the Western border of this property was zoned for agricultural residential and was a fairly large tract of land.

Mr. Shepherd agreed and said that area was mainly flood plain and wet areas. He said he did not see anything being developed in that particular area.

Commissioner Maxwell said he noticed in the top Northwest corner of the property there was a small area of wetland.

Mr. Shepherd replied yes and stated this was located at the top right corner of the property.

Commissioner Maxwell remarked that the Southern portion of the property was already zoned R-78. He noted this project was fairly consistent with all of the surrounding properties.

Mr. Shepherd said it was the applicant's intent to try and fit in with the surrounding area.

Commissioner Maxwell remarked that there was just a straight road that was cut into the property. He asked if there had been any consideration given to some setback where there could be a nice landscaped entrance to the subdivision. He asked if this might be something that the applicant was considering. He said this might cut out a lot of the useable property in order to accomplish this.

Mr. Shepherd replied no it would not necessarily cut out a lot. He said this might be something that could be done. He felt it might be a good idea for the development to have a nice landscaped entrance that would give the subdivision its own identity. He said they would have to deal with the Department of Transportation in order to do that. He said they had received a D.O.T. curb cut approval but that would have nothing to do with an entrance. He said he did not feel that the owner would have any problem with putting an entrance with some sort of monument.

Commissioner Maxwell asked if the applicant in dealing with the D.O.T. would also be dealing with a deceleration lane coming into the property.

Mr. Shepherd replied yes that was correct.

Commissioner Maxwell said he had no further questions.

Chairman Smith 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.

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Commissioner Horgan remarked that the Departmental comments did refer to watershed protection being associated with the streams on the property. He said these were called intermittent streams on the property and these were recognizable as streams through the lots.

Commissioner Pfeifer said this issue would be addressed during the platting phase of the process.

Chairman Smith said he would like to note for the record that both the Planning Commission as well as staff approve of this rezoning request.

Commissioner Frady noted that this request was within the Land Use Plan.

On motion made by Commissioner Pfeifer, seconded by Commissioner Horgan to approve Petition No. 1186-06 as presented. The motion carried 5-0. A copy of the Staff's Analysis and Investigation, identified as "Attachment No. 1", follow these minutes and are made an official part hereof. A copy of the Ordinance and Resolution approving Petition No. 1186-06, identified as "Attachment No. 2", follow these minutes and are made an official part hereof.

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

E-911 - COMMUNICATIONS - MOTOROLA AGREEMENT: Approval of request from the Director of E-911 Communications for the payment of a six (6) month service agreement with Motorola beginning January 1, 2007 through June 30, 2007 in the amount of \$193,850 with funds coming from the General Fund Contingency. A copy of the request and the Agreement, identified as "Attachment No. 3", follows these minutes and is made an official part hereof.

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.

Joe Rovang: Joe Rovang expressed his concerns about the small amount of greenspace that was shown on the County's Land Use Plan. He said he was disappointed to see how little greenspace and conservation areas for wildlife were reserved. He felt there were things that were beautiful about Fayette County other than how many taxpayers could be crammed in. He said he did not know what could be done about this but personally he was very disappointed to see how little greenspace was allotted.

STAFF REPORTS:

CAROL CHANDLER: Executive Assistant Carol Chandler said she had been made aware of two items that needed Board direction regarding Commission meetings. She said these were (1) the location on the Board's agenda of the Public Comment section; and (2) a possible change in the format of the Wednesday Commission Workshop meetings.

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Commissioner Frady said the Board had discussed the situation with the agenda format. He remarked that public comment would appear on a regular meeting agenda without a public hearing and would be listed at the top of the agenda. He said citizens could appear under the public comment section and speak on any subject that they wanted to rather than being restricted to subjects other than those on the agenda. He said this would be the format that he would recommend. He noted on agendas where there were public hearings, the public comment section would come immediately after that section on the agenda. He said citizens could then speak on any subject they wished before the old business and new business sections were discussed.

On motion made by Commissioner Frady, seconded by Commissioner Maxwell to approve the location of the public comment section as discussed, discussion followed.

Chairman Smith remarked that one of the things that this Board recognized was that there had been a prohibition of citizens to address any item that was before this Board on the night an item was listed on an agenda. He said this meant if someone had something to say and that person did not get a chance to say something until after a vote was taken then the item was already handled. He said this meant any public comments made at that time carried less weight. He said this Board was proposing that the Public Comment section be moved to the beginning of an agenda. He said this would give everyone an opportunity to comment not only on anything they wished to comment on but on items before the Board voted on them in that particular meeting. He said this Board was trying to get a little more input from the public before a vote was taken.

The motion carried 5-0.

Commissioner Frady remarked on item number 2. He said there had been some discussion about the Commissioners' Wednesday Workshop meeting and changing that meeting to a workshop for department heads for the most part although not totally. He said it would be a called meeting and the Board could have some business that needed to be taken care of on that day but for the most part the Wednesday meeting would be for department heads who wanted to address the Board about issues they might have. He said at the same time if there was some business that the Board needed to take care of, the Board could do that too. He said this would be a regularly scheduled meeting.

Chairman Smith clarified that it did not appear that there was an established format tonight for the workshop meeting and therefore, there was nothing to act on tonight.

Commissioner Frady said he felt the format would just be for the staff to come and make their request to the Board. He said unless anyone else had anything that they would like to put in then this would be the format. He said he would like to make a motion to do that. He said this would be a workshop session like previous Boards had done many years ago. He said this meeting would be for time spent with staff if they had legal questions or any other subjects.

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Chairman Smith felt the difficulty that the Board would face would be any meeting where three or more Commissioners were present, then it would be considered as an open meeting and subject to the Sunshine Laws. He asked Attorney McNally if the Board loosened the agenda to the point where it was more of a conversational tone to receive information would this violate the Sunshine Laws without a predetermined agenda.

Attorney McNally said the Board should try to have an agenda for the Wednesday workshop meeting. He said the Wednesday Workshop meetings were originally designed to allow time for the staff to discuss items with the Board that were going to be on future agendas. He remarked that many locales did have that kind of workshop where there was a free exchange that was open to the public. He said most locales did not have public input during a workshop session. He said the Commission meetings here had graduated in allowing public comment and then addressing other regular items as well at the Wednesday Workshop meeting.

Chairman Smith expressed concern with having a meeting with a quorum present and therefore the ability to vote on an item, then to eliminate public comment was defeating the purpose of the action the Board had just taken. He felt if the Board was going to go with the suggested format, then maybe the Board should look at not carrying on any action at the Wednesday meeting and not taking any votes.

Attorney McNally said the Board would not ordinarily take any action. He said that would be a period when the Board would receive information from the staff. He said the public could also be allowed to provide information as well if they wanted.

Commissioner Frady said the public could speak if they wanted to at the Wednesday meeting and there would not be a change in that particular part. He said this would be a called public meeting, the press would be here, the staff would be here and anyone else who wanted to be here. He said the Board did not have to vote on anything that was brought up tonight either and the Board could table it or whatever needed to be done. He said the Board could make decisions and could vote on issues.

Commissioner Horgan said he liked the fact that the Board could do this. He felt it would help with the department managers having more input.

Commissioner Pfeifer said he would have no problem in trying this out and seeing how it would work.

Chairman Smith clarified that Commissioner Frady was suggesting to alter the format of the first Wednesday afternoon meeting to add a section to it entitled Staff Workshop.

Commissioner Frady said the section would be Staff Workshop but if the Board had business to conduct then this could be done if the Board wanted to. He said if staff brought something before the Board and the Board wanted to make a motion then it could do so. He said actually this would strictly be just for the staff to recommend down the road items and issues to be discussed. He said this would allow staff to bring items to the Board and give the Board a chance to contemplate the item.

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Chairman Smith said he understood from Attorney McNally that there must be an agenda and he hoped this would be adding a line to the current agenda.

Attorney McNally remarked on Commissioner Frady's comment. He said this was frequently done. He remarked that the Fayette County Planning Commission holds workshops. He noted that on evenings where the Planning Commission was going to formally discuss other subjects, they have two distinct meetings on the same agenda. He said one workshop and one where the Planning Commission would receive and take their public vote. He said this Board could have the agenda devoted to all workshop or it could be workshop and public hearing.

Chairman Smith said the workshop could precede agenda items. He asked if it was being proposed that a workshop be added at the beginning of the Wednesday work session. He clarified at the normal Wednesday afternoon meeting there would be a workshop and then the Board would convene a regular meeting immediately thereafter.

Commissioner Frady suggested the Wednesday Workshop meetings include staff who could speak on any subject that they would like to discuss and at the same time if there was business that the Board wanted to conduct, it could be done as well.

On motion made by Commissioner Frady, seconded by Commissioner Horgan to change the Wednesday Workshop Meeting format to allow staff to present and discuss issues with the Board, followed by a period when the Board can consider and act on items needing action. The motion carried 5-0.

COMMISSIONER FRADY: Commissioner Frady said he would like to discuss the County's current travel policy as well as the travel policy prior to the current policy at the next Board of Commissioners' meeting scheduled for January 25, 2007.

COMMISSIONER PFEIFER: Commissioner Pfeifer asked for the Board's consideration in adopting a Resolution supporting Delta Airlines remaining a citizen of the State of Georgia. He remarked that Senator Chance's office had called him and said they were encouraging people in the area to support. He said he would be glad to read the Resolution to the audience and he proceeded to do so.

Commissioner Maxwell said he would certainly be in favor of this Resolution. He said everyone was supportive of the Delta community and the difference Delta has made in Fayette County.

On motion made by Commissioner Pfeifer, seconded by Commissioner Horgan to adopt a Resolution supporting Delta Airlines remaining a citizen of the State of Georgia. The motion carried 5-0. A copy of the Resolution, identified as "Attachment No.4", follows these minutes and is made an official part hereof.

EXECUTIVE SESSION: Attorney McNally requested an executive session to discuss four legal items.

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EXECUTIVE SESSION: On motion made by Commissioner Frady, seconded by Commissioner Maxwell to adjourn to Executive Session to discuss four legal items. The motion carried 5-0.

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

The Board took no action on this matter.

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

The Board took no action on this matter.

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

The Board took no action on this matter.

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

Commissioner Maxwell said he would like to make a motion on this item and Chairman Smith and this would be done in open session.

EXECUTIVE SESSION AFFIDAVIT: On motion made by Commissioner Frady, seconded by Commissioner Horgan to authorize the Chairman to execute the Executive Session Affidavit affirming that four legal items were discussed in Executive Session. The motion carried 5-0. A copy of the Affidavit, identified as "Attachment No. 5", follows these minutes and is made an official part hereof.

Chairman Smith adjourned the executive session and reconvened the meeting in open session.

PUBLIC MEETING RECONVENED:

Commissioner Maxwell said he would like to make a motion on the fourth legal item.

On motion made by Commissioner Maxwell, seconded by Commissioner Frady to file mutual dismissals of all lawsuits and all counterclaims between the Board of Commissioners and the Sheriff and to accept the offer included in a letter dated January 10, 2007 from the Sheriff's Attorney Rick Lindsey on both lawsuits concerning the Marshals' Department and the building constructed by the Sheriff, discussion followed.

Commissioner Pfeifer said he would not support the motion. He said he did not feel like the circumstances that the Board was dealing with currently warranted his supporting it.

Commissioner Maxwell said he was definitely supporting the motion. He felt there had been a lot of hard feelings and he hoped this vote would be acceptable to some of the individuals in the room and that each party

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move forward with handshakes and friendships. He said he hoped that there were not these kinds of issues in the future. He remarked that tens of thousands of dollars had been spent on this and there had to be a time to stop it. He said a judge had ruled that this should be stopped and he was proud to be part of this process to help stop it and help stop the litigation.

Chairman Smith said he felt it was regretful that the lawsuits were filed in the first place. He said he certainly had hoped that cooler heads could have prevailed when that occurred. He said unfortunately the County was at a point where a substantial amount of money had been spent to get to this phase. He said both of the lawsuits were findings of fact in his estimation and he did not feel they would go away with the dismissal of these suits. He said the County was near a conclusion in these two lawsuits and he felt it would be remiss if the County were to have expended this amount of money and be this close to the finish and a factual resolution not be reached. He felt there was nothing derogatory in there from the Sheriff's standpoint and he had no ill will toward the Sheriff.

Chairman Smith further remarked that he felt it was his fiduciary responsibility to the citizens to safeguard the County funds. He said from that standpoint he believed that he would be remiss to stop spending money this close to the finish knowing that this factual item had not been ultimately resolved, and that at some point in the future the County would be forced to spend the same amount or more money to get to the same point that it was at now.

The motion carried 3-2 with Chairman Smith and Commissioner Pfeifer voting in opposition to the motion.

There being no further business to come from the Board, Chairman Smith adjourned the meeting at 8:45 p.m.

Karen Morley, Chief Deputy Clerk

Jack R. Smith, Chairman

The foregoing minutes were duly approved at an official meeting of the Board of Commissioners of Fayette County, Georgia, held on the 25th day of January, 2007.

Karen Morley, Chief Deputy Clerk