

The Board of Commissioners of Fayette County, Georgia met in Official Session on January 25, 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

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Chairman Smith called the meeting to order.

Senior Pastor Dr. Jim Ellison of Providence United Methodist Church gave the Invocation.

Pledge of Allegiance.

**REZONING PETITIONS:**

Director of Community Development Pete Frisina remarked at this point in the agenda the Board would consider requests for the rezoning of property in our county. He said the policy required at least two public hearings — the first before the Planning Commission and the second before the County Commissioners. He said at this hearing the Board would listen to the concerns of everyone, whether in favor or opposition to the rezoning petition. He 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. He 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. He 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. He said the Board would allow up to 3 minutes for each speaker. He said when the persons speaking in opposition had finished, the petitioner would be given an opportunity to rebut any of the points raised. He remarked in fairness to all parties, the petitioner would be entitled to equal time to address the Commissioners as all those in opposition.

**Minutes**  
**January 25, 2007**  
**Page 2**

Mr. Frisina 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. He 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. He asked that after individuals speak that they sign the sheet that would be provided by the Marshal in order for names to be spelled correctly for the record.

Mr. Frisina stated that the Board would want to hear from everyone who had something to say and they would pay close attention to each point raised. He said it would not be necessary for the same point to be raised over and over.

**PETITION NO. 1188-06:**

Consideration of Petition No. 1188-06, Peachstate Land Development, Inc., Owners, and Rod Wright, Agent, request to rezone 138.65 acres from A-R to EST to develop a single family residential subdivision consisting of 24 lots. This property is located in land Lots 36 and 61 of the 4th District and fronts on 85 Connector and Price Road.  
Withdrawn by applicant.

Chairman Smith announced that this petition had been withdrawn by the applicant.

**PETITION NO. 1189-06:**

Consideration of Petition No. 1189-06, Joseph D. Giovinco and 5335 Old National Partnership, Owners, and Richie Dearing, Agent, request to rezone 4.398 acres from C-C Conditional to C-C to develop Office and Retail Uses. This property is located in Land Lot 69 of the 7th District and fronts on S.R. 54 West and Sumner Road.  
Withdrawn by applicant.

Chairman Smith announced that this petition had been withdrawn by the applicant.

**PETITION NO 1190-06:**

Director of Community Development Pete Frisina read Petition No. 1190-06, Arthur L. Cole, Owner, and Jerry Peterson, Agent, request to rezone 6.513 acres from A-R to R-45 to develop three (3) single-family dwelling lots. He said this property was located in Land Lot 89 of the 7th District and fronted on Sims Road and Dogwood Trail. He said the Planning Commission recommended approval as R-70 subject to one (1) recommended condition (5-0) and Staff recommended denial of R-45 and approval as R-70.

Chairman Smith asked if the petitioner or the agent was present.

**Minutes**  
**January 25, 2007**  
**Page 3**

Jerry Peterson said he was the Agent for owner Arthur Cole. He said this was a rezoning request from A-R to R-45 for approximately 6.5 acres. He said this property was located at the Southeast corner of Dogwood Trail and Sims Road. He stated there was asphalt on Sims Road for approximately the first 500 feet and from thereon it was a dirt road. He said Sims Road had been the problem on this piece of land. He said Mr. Cole had purchased this property last year and he had reviewed the tax maps, property descriptions and talked with people. He said Mr. Cole understood that Sims Road had a right-of-way. He said this right-of-way was small and was 30 feet. He said this meant that Mr. Cole would have to add 15 feet to make it 30 feet from the center for a 60 foot right-of-way. He said that would have taken approximately 4/10 of an acre. He said Mr. Cole would still have had over six acres and could have done three two acre lots. He said Mr. Cole had purchased the property and gotten the final survey and it appeared that Sims Road was a prescriptive right-of-way and therefore, Mr. Cole would have to deed 30 feet and not 15 feet. He said this would mean that it would be 8/10 of an acre and not 4/10 and would also mean that Mr. Cole would not have six acres but would have 5.7 acres after he would deed the 30 feet which means that he would not have three two acre lots. He said their request was for R-45 zoning which has a 1.5 acre minimum and the proposal was to do three lots averaging 1.89 acres each. He said the Planning Commission's recommendation to R-70 would be for a two acre minimum and this mean that Mr. Cole could only do two lots although each lot would be 2.8 acres.

Mr. Peterson further remarked that the site was a good site and there were no wetlands or flood plains and the soils were very good. He remarked that there was no County water on Dogwood or Sims Road. He said there was water both East and West of Dogwood but this was near Tyrone Road to the East. He said access would be off Sims Road and Dogwood Trail would not be affected physically or visually. He noted that there was a fair amount of narrow frontage on Dogwood Trail. He said there was an existing one acre lot right across Sims Road from this property that had a fairly new house located on it. He said as he understood it, this house was grand fathered because it was there before the zoning ordinance. He said there was also a one acre parcel around the corner on Dogwood Trail. He said at the end of Sims Road where it comes into Peachtree City there was a large subdivision with one acre lots. He remarked that one acre lots were not really new to this area. He noted that the County's Land Use Plan had this entire area as low density residential which was one to two acre lots. He said the applicant felt that 1.89 acres was between one and two acres and would fit in the Land Use Plan.

Mr. Peterson further remarked that the proposal was for three lots averaging 1.89 acres each. He said the applicant could also do two lots at two acres and one lot at 1.7 acres or whatever combination the planning staff felt best. He said Mr. Cole had purchased this property last year relying on the old maps and what people had told him and it was incorrect information. He said Mr. Cole was a little confused as to why he had to give

**Minutes**  
**January 25, 2007**  
**Page 4**

up 30 feet of right-of-way for a road that really had no plans to improve and may not be improved for many years and could only do two lots instead of three lots if zoned R-70. He asked for the Board's consideration in this rezoning request.

Mr. Cole remarked that the real issue was the right-of-way and from what he understood from the Planning Staff, that would not be negotiable and was a policy that was written where they have to take the right-of-way. He said the reality was that this was just a small local road. He said there were sixteen total properties with frontage on the road and he would be the first person to dedicate right-of-way to the County along this road. He said he knew of no plans to pave the road and there would have to be right-of-ways before the road could be paved. He said this had just barely put him below by 1/10 of an acre for each lot. He said the R-70 zoning would work but from what he could see from the Land Use Plan regarding one to two acre lots in this area their findings were that it was premature to ask for this. He questioned when this would be a mature request because things were in place right now with 1.5 acre minimum without County water. He said the three lots that he wanted to put there would look the same and have the exact same effect as the two acre lots. He said everything qualified and there would just be a small difference here. He said he did not mind contributing almost an acre of the land when he had only purchased 6.5 acres for right-of-way. He said that would benefit him in the future and that would pave the road. He said at the same time if he was dedicating a subdivision size right-of-way, he was not being given the fair use of the property at this point. He felt it was reasonable to consider the right-of-way issue which was really the change in the whole thing and he did not feel that it was unreasonable to ask for the 1.89 acre lots.

Chairman Smith asked if anyone wished to speak in favor of this petition. Hearing none, he asked if anyone wished to speak in opposition to the petition.

Bruce Schumacher, 230 Sims Road, Tyrone said he lived at the very Southern end of Sims Road and his property consisted of approximately 7.71 acres. He remarked that he had purchased his property in the Fall of 2004 and was currently constructing a large home of approximately 6,000 square feet. He said his home was consistent with a couple of the homes in the neighborhood. He said he was opposed to the petition on the grounds that three small homes squeeze into this small lot and it would be inconsistent with the rest of the homes on the street. He said across the street from his home there was a home being built that was larger than his home and was located on sixteen acres. He said a lot of the existing homes were large and on large lots. He felt it would be very inconsistent and inconsistent with the decision that he had made almost two years ago based on A-R zoning for the Board to go and change this now and change the look and feel of the neighborhood. He said a lot of the families had lived on this road for many, many years and he felt for someone to come in now at this time and

**Minutes**  
**January 25, 2007**  
**Page 5**

change the look and feel of the very first property on the road would be unfair to many of the long time residents.

Chairman Smith asked for clarification as to the location of Mr. Schumacher's home on the street.

Mr. Schumacher replied that his home was the very last home on the left and was hard to see from the road because it was in the middle of his 7.7 acre lot.

Chairman Smith asked if anyone else wished to speak in opposition to this rezoning.

James Borders residing at 143 Sims Road said his home was the first home on the right which was directly across the street from Mr. Cole's property. He said his lot consisted of 1.3 acres and he had lived there for sixteen years. He said he was told that there were no plans to have this road paved or anything of that nature. He said he had signed a petition to have the road paved many years ago and he believed every property owner on this road had also signed that petition for the road to be paved. He said he did not care if Mr. Cole built three houses as long as he did not put three 1,500 square feet homes there. He said Mr. Cole had referred to the one acre lots at the end of the street that were located in Peachtree City and those homes were 2,900 to 3,500 square feet homes. He said his home was probably the oldest home on the street and one of the smaller homes. He noted that his home was approximately 3,000 square feet. He said he did not want to stop Mr. Cole from building anything but he wanted to make sure if he built three homes that they would not be "cracker box" houses.

Commissioner Maxwell asked Mr. Peterson why the R-45 zoning was being requested. He said the size of the homes was part of the issue. He said that zoning would allow for a 1,800 square foot home to be built and with an R-55 zoning there could be a 2,500 square foot home and he felt that would be more consistent with the larger homes. He said he was not sure if the intention was to build the minimum size 1,800 square foot home. He said if the zoning was R-70 then that would allow a 1,500 square foot home which was a relatively small home. He asked the applicant what he wanted to accomplish.

Mr. Peterson replied that the R-70 was a 1,500 square foot minimum therefore he had picked a category that was a little bit larger than that. He noted that the R-45 zoning was a minimum of 1,800 square feet. He said the minimum for R-45 was larger than the minimum for R-70 and this was the reason he had chosen that zoning. He said there was no objection to going up to R-50 which would allow for a little bit larger house. He said Mr. Cole intended to build houses that were probably well into the 2,000 square foot homes. He said they had chosen this zoning because it was close to and a little bit larger than R-70 zoning.

**Minutes**  
**January 25, 2007**  
**Page 6**

Commissioner Maxwell remarked that while there was a one acre tract that was located on this road with a 3,000 square foot home, a 1,800 square feet home would certainly change the character of the land. He said this was the problem he had with this request and that was that this appeared to be in the middle of a large reserve area and one of the properties in the back portion was already R-70 which would be for the larger homes on larger lots.

Mr. Peterson interjected that the R-70 would be for 1,500 square foot minimum on any size lot. He said the applicant would have no objection to R-50 which would be for a larger house.

Commissioner Frady remarked that R-55 would involve even larger homes for 2,500 square feet.

Mr. Peterson felt either one of those zonings would probably be acceptable.

Mr. Cole remarked that his original intention was to have three lots. He said he himself might not want a 3,000 square foot house. He said Mr. Walker who lived across the road had approximately the same road frontage as he did and he had a small ranch house that he had lived in for many years. He said he was not trying to change the character of the road. He commented that there was a dilapidated building that had been on this property for many years. He said a lot of removal had to be done before he looked at it and purchased it. He pointed out that the County Staff had recommended approval of this request for R-70 and that would be for a 1,500 square foot home and that would be the minimum square footage. He said he could appreciate the concern with house size and homeowners' investments. He pointed out that the land use called for one to two acres high density residential. He said this property was not zoned for estate size property although some of the homeowners on the road had estate size homes. He said the estate size homes were located at the other end of the road and the property in question was located at the entrance to the road. He said his proposal would not change the character of the road and he had no intention of building small houses on the property that might detract from anything. He felt this project would be an improvement to the property. He said he would be willing to discuss the other two zoning categories that were brought up.

Commissioner Maxwell asked Mr. Cole if he had spoken to the adjoining land owners.

**Minutes**  
**January 25, 2007**  
**Page 7**

Mr. Cole replied that he had spoken to Mr. Walker. He said there was a hard curve that comes off of Dogwood Trail. He said it had been indicated to him that because of this right-of-way problem that would reduce the size of the lots and he could speak to Mr. Walker about this. He noted that there was discussion about straightening this road because of safety reasons to make a better entry off of Dogwood Trail. He said if he were to purchase the additional corner lot then he would be back up to two acres for R-70 which was deemed acceptable. He said his son had talked with Mr. Walker and he was willing to do that. He said he had spoken with the Director about that issue and then the point came up that the road work might be ten to fifteen years in the future. He said the contention was for him to stay with what he had and wait and see what the Board of Commissioners decided. He said this was an option and Mr. Walker was willing to sign a contract and sell him the 4/10 of an acre to make it two full acres across the front.

Mr. Cole remarked if his request was denied tonight then he would have to come back and get the small tract of land rezoned and see if he could get two acre lots to work. He said in order to keep everybody happy on the road he would be willing to step up a notch as far as house size goes. He said he would be glad to discuss it and hear what anybody else had to say about it. He said he had no intention of building small ranch houses with 1,500 square feet there.

Commissioner Frady asked if the Fayette County Public Works indicated when the paving might be done and it had been indicated that petitions had been signed.

Chairman Smith asked if this street was on the County's road paving plan.

Mr. Frisina replied that he was not aware of anything from Public Works about a petition to pave this road.

Commissioner Maxwell asked Attorney McNally if the decision that the Board would make tonight would be either a yes or a no for R-45 zoning or in the alternative could the Board make the decision to bring the zoning up a notch.

Attorney McNally replied that once a zoning was requested, the Board of Commissioners' duty was to give the petitioner a zoning that the Board considered a constitutional zoning.

Commissioner Maxwell said if the Board granted R-70 tonight then Mr. Cole would be locked in forever.

Commissioner Frady said Mr. Cole could come back to the Board in six months with a new request for zoning.

**Minutes**  
**January 25, 2007**  
**Page 8**

Mr. Cole questioned if the Board was going to deny the R-45 zoning could this be tabled so that he could purchase the other piece of land so that he could do R-70. He said he really did not think R-70 zoning was the answer here for the community especially with the concern with house size. He felt a 1.89 acre lot was just as sufficient as two acres. He said he would be willing to step up the house size to help the other residents in this community.

Commissioner Frady said he did not feel the house size was a question anyway. He said he recalled Mr. Cole saying that he was not going to build a small house but he was going to build larger houses. He asked Mr. Cole if he was requesting this item to be tabled.

Mr. Cole replied no and said he would like to get a decision from the Board for R-45 and 1,850 square feet homes. He said in the discussion if the Board could not agree on that, then he would step up the house size. He said he would like the three lots that he could divide and have three houses.

Commissioner Frady said he had no idea how this Board was going to vote and neither did anyone else. He said it was a known fact that this had been recommended R-70. He said this would be up to Mr. Cole.

Mr. Cole said the question was if the Board wanted him to consider the petition that he had put in for R-45 zoning.

Commissioner Frady said regardless of how the Board voted tonight, Mr. Cole would have to wait six months to reapply for another zoning.

Mr. Cole asked what his options were tonight.

Chairman Smith replied that Mr. Cole's choices were that the Board could act on this rezoning request tonight and whatever decision this Board made tonight Mr. Cole would have to live with its decision. He said Mr. Cole could ask the Board to table this request or Mr. Cole could withdraw his petition which would give him an opportunity to work out alternatives. He cautioned Mr. Cole that the position that the Board was in at this moment was that there was a petition before the Board for R-45 zoning. He said the R-45 zoning had been recommended for denial from both the Planning and Zoning Commissions as well as Staff. He said if this Board acted on this petition, then Mr. Cole would have to wait six months to come back to the Board with a petition to rezone the property.

Mr. Cole asked if there was an option right now to change the zoning to R-55.

**Minutes**  
**January 25, 2007**  
**Page 9**

Chairman Smith replied no. He said the petition before the Board was to zone the property R-45 and the Board would have to act on that request.

Attorney McNally interjected that Mr. Cole had petitioned the Board for R-45 zoning but the Board could approve any zoning that it felt appropriate. He said if the Board felt R-55 or R-75 was appropriate then the Board could approve that.

Chairman Smith said if the Board did not approve a petition for something that Mr. Cole was looking for, then he would be prohibited from coming back for a rezoning on this property for six months.

Mr. Cole said he felt the scenario that he would have would be if the Board denied R-45 zoning then it would approve R-70 following the Planning Commission and Staff's recommendation. He asked if he could accept R-70 zoning if the Board chose to approve R-70 tonight.

Chairman Smith replied yes that was correct.

Mr. Cole asked if he could accept R-55 zoning if the Board denied R-45 zoning and approved R-55 zoning tonight.

Chairman Smith remarked that this Board had the power to grant a rezoning to any category. He said it was in the Board's purview to zone this property whatever the Board as a majority voted to zone the property.

Mr. Cole said it was his personal desire not to have to go another six months. He said since he was petitioning for R-45 zoning, it would be his request that if the Board decided against R-45 that the Board offer R-55 zoning versus R-70 for 1,500 square foot homes which was what was recommended for approval. He said this would allow him to get this done tonight.

Mr. Cole said there would be setbacks on the three two acre lots with the last one being where he would add the parcel to make it a two acre lot. He said the prescriptive right-of-way would still run to the corner with property on both sides of that prescriptive right-of-way. He said the only logical thing would be that the Planning Department would need to take the 30 feet of right-way that was being required and that would have to come off that sliver of land to make it straight for future road improvements. He said he could still build on that lot legally.

Commissioner Frady said this was a situation where no one knew exactly when this road would be paved or if it would be paved and this makes it a precarious situation for

**Minutes**  
**January 25, 2007**  
**Page 10**

everyone. He said if there was going to be a paved road then it would have to be 60 feet wide. He said if the road was 60 feet wide then Mr. Cole would lose the current setbacks.

Mr. Cole said he felt the best thing for him would be to stay with what he currently had and not purchase additional property. He said he was just trying to get three lots and he was not planning to build small houses on it. He said he was willing to increase the house size if that would make it work. He suggested that the gentlemen who spoke in opposition to his request might have some ideas that would make this work.

James Borders said he was not opposed to R-55 zoning. He questioned why Mr. Cole wanted approval for 1,500 square foot houses and was expressing an interest in building 2,500 square foot houses. He said if Mr. Cole was going to build the 2,500 square foot houses then he would be agreeable. He said he would not be in favor of any small houses being built there.

Commissioner Maxwell remarked that his dilemma with this was that the entire Eastern border was already bordering R-70 property. He said everything else with the exception of the two one acre lots – the lot on Dogwood Trail and the one on Sims Road – were the only two one acre lots that were in this entire tract of land.

Chairman Smith declared the public hearing portion of this discussion be closed so that the Board could debate this item.

On motion made by Commissioner Pfeifer, seconded by Commissioner Horgan to deny R-45 and to approve Petition No. 1190-06 as R-70 as recommended by the Planning Commission and Staff, discussion followed.

Commissioner Pfeifer remarked that he was concerned about all of the other surrounding pieces of property. He said if the Board rezoned this something smaller, then the next person would come before this Board and rightfully ask for one acre zoning and the entire area would go to one acre.

The motion carried 5-0. A copy of the recommended condition, 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. 1190-06 as R-70 with one condition, identified as "Attachment No. 2", follow these minutes and are made an official part hereof.

**CONSIDERATION OF THE PROPOSED AMENDMENTS TO THE FAYETTE COUNTY ZONING ORDINANCE REGARDING ARTICLE VII. CONDITIONAL USES, EXCEPTIONS, AND MODIFICATIONS, SECTION 7-6. TRANSPORTATION CORRIDOR OVERLAY**

**ZONE, A. S.R. 54 WEST OVERLAY ZONE, B. S.R. 85 NORTH OVERLAY ZONE, AND C. GENERAL STATE ROUTE OVERLAY ZONE AS PRESENTED BY THE PLANNING & ZONING DEPARTMENT. THE PLANNING COMMISSION RECOMMENDED APPROVAL (5-0):**

Director of Community Development Pete Frisina requested that this item be tabled to the February 7, 2007 Board of Commissioners' Workshop Meeting.

**PUBLIC COMMENT:**

Members of the public are allowed up to five minutes each to address the Board on any issues of concern.

**Bob McElroy:** Bob McElroy said he and his wife were asking for the Board's consideration to evaluate a problem concerning a large tent that had been erected adjacent to his property. He said this had turned out to be a very difficult situation. He said they had attempted to provide the Board with information by letter which the Board should have in its possession. A copy of the letter, identified as "Attachment No. 3", follows these minutes and is made an official part hereof. He said they hoped each Board member would read the letter and see the issue from their standpoint, from the standpoint of the adjacent property owner and from the standpoint of the subdivision homeowners. He said as far as they could tell, everyone in County government had been very helpful and wanted the problem resolved so that this same situation would not happen in the future. He said a long term effort had begun to revise the County directives. He said the initial decision to allow a tent in a residential neighborhood has had a gigantic impact on the County and on them as well. He said this had significantly depreciated the value of their home. He said it had changed the character of an established residential neighborhood, destroyed the living environment that was expected in Fayette County and it had caused numerous hours on the part of the County staff to start revising County directives. He said this had the potential for a long term impact on Fayette County. He said this decision had established a precedent that they felt Fayette County needed to correct. He said they would like to request the Board to revisit the initial decision that allowed this tent to remain and consider whatever alternatives there might be to change that decision and correct the existing situation while the ordinance was being revised. He thanked the Board members for their consideration in this matter.

**DISCUSSION BY COMMISSIONER HERB FRADY REGARDING THE COMPLETION OF THE THIRD FLOOR OF THE FAYETTE COUNTY JUSTICE CENTER:**

Commissioner Frady said he would like to discuss some of the work that was in progress at the Justice Center. He said a few months ago he was looking at the ending balances on the County's financial reports and found that there was a substantial amount of money in the bonds for the Justice Center. He said he also found that the County had lost approximately \$108,000 in arbitrage at that time of the year prior to that. He said this meant the County paid more interest than it collected. He said he had spoken with some of

**Minutes**  
**January 25, 2007**  
**Page 12**

the Board members individually and he felt there was a consensus of the Board to work on the third floor of the Justice Center and possibly finish that floor. He said he would like to make a motion to that effect.

On motion made by Commissioner Frady, seconded by Commissioner Maxwell to instruct staff to gather information to present at the February 7<sup>th</sup> Board of Commissioners Workshop meeting regarding (1) verification of the amount of funds in the bond account; (2) spatial requirements for occupants at the Justice Center including Superior Court, State Court, Probate Court, Juvenile Court, Magistrate Court, Clerk of the Courts, District Attorney, Solicitor, Sheriff; (3) have consultants Mallett and Associates be prepared to give input regarding spatial requirements at the Justice Center; and (4) have a needs assessment done regarding spatial needs for the Administrative Complex as well as all County offices, discussion followed.

Commissioner Pfeifer said he was under the impression that the third floor of the Justice Center was intended to handle the justice requirements of the County at build out. He noted that the County was quite a way from build out.

Commissioner Frady said he would like to determine just where the County stood on the issue of space. He said he understood that there were some problems with space and he would like to bring in these department heads to actually discuss their need for space.

Commissioner Maxwell said he was at the Justice Center a lot and there were a couple of problems that he had noticed. He remarked that the Juvenile Court was supposed to be a private session for juveniles. He said the way it was currently set up there were people standing in the hallways and it was dirty and the walls were marked up. He said five years ago the Juvenile Court did not have the volume that it did today and now they were out of space. He said since that time there was a new program for indigent defense that was not in existence five years ago when the courthouse was built. He said this was a requirement for Fayette County and there were public defenders who were not located in the courthouse who were defending citizens. He said these public defenders were County employees and currently they had to bring their files to the courthouse. He said these public defenders needed to be located in the courthouse.

Commissioner Maxwell said the second issue was the bond money. He said the study that had been done for the courthouse had been done approximately seven years ago and it referred to the population of the build out of the County to be 120,000. He said the population of Fayette County was not too far from that right now. He said no one was saying that this work would be done but the spatial issues would be reviewed.

Commissioner Frady said some of the other reasons to look at this issue was the fact that the building was being heated and cooled and everything was finished on the third floor

including the elevators, the plumbing, and the utilities. He said the longer the County waited to finish this the more the construction costs would be.

Chairman Smith interjected that when the bonds were issued for the Justice Center in 2001, they were issued in such a manner as to construct the center including the third floor. He said there was a decision made that the third floor would remain unfinished until such time as it was needed for the court system. He said the court system had expanded a little bit since then but the third floor had remained unfinished. He said the money to finish the third floor was sitting in the bank waiting for the need to finish the third floor. He said this decision was to undertake the needs for space on the third floor as to whether or not it needed to be expanded and if so to go ahead and expend the funds that the County already has to finish it. He felt a needs assessment was in order and he would like to offer an amendment to the motion to do a needs assessment for space for all County offices. He said he was aware that the Administrative Complex had filled up and offices rearranged several times . He said there had been a discussion through Boards in the past of the need to construct another County office building or to move one of the departments to a free standing building. He said he did not know personally what that time line was and he would like to also have staff to gather information on the spatial needs for the Administrative Complex and all of the other County functions so that there could be a time line so that the Board could begin when and where the County may need space.

Commissioner Frady said he should have put that in his motion and he was in favor of including that.

Commissioner Maxwell remarked that he also agreed with Chairman Smith's amendment to the motion and would continue his second to the motion.

The motion carried 5-0.

**NOMINATION OF COMMISSIONER FRADY TO THE A.C.C.G. BOARD OF MANAGERS:**

Commissioner Maxwell asked for the Board's consideration in nominating Commissioner Frady to represent the Third District as a member of the A.C.C.G. Board of Managers. He noted that the Third District included Fulton, DeKalb, Cobb, Gwinnett, Cherokee, Fayette, Douglas, Clayton, Henry and Rockdale Counties. He remarked that the Commissioner from Cherokee County had not been re-elected and he would be rotating off the Board and the A.C.C.G. had asked the other counties if there was any interest in nominating someone to fill the position for the Third District.

On motion made by Commissioner Maxwell, seconded by Commissioner Pfeifer to submit an application to the Association of County Commissioners of Georgia to nominate Commissioner Frady as the representative for the Third District on the A.C.C.G.'s Board of Managers. The motion carried 5-0.

**CONSENT AGENDA:** Chairman Smith requested that item #6 be removed for discussion. On motion made by Commissioner Frady, seconded by Commissioner Pfeifer to approve consent agenda items nos. 1, 2, 3, 4, and 5 as presented. The motion carried 5-0.

**WATER COMMITTEE MEETING SCHEDULE:** Approval of the Water Committee meeting schedule for meetings to be held every second and fourth Wednesday of the month. A copy of the request, identified as "Attachment No. 4", follows these minutes and is made an official part hereof.

**WATER COMMITTEE RECOMMENDATION:** Approval of Water Committee recommendation to allow the Georgia Department of Transportation to add the waterline relocation to their S.R. 74 South Phase II project including authorization for the road contractor to relocate the waterline. A copy of the recommendation, identified as "Attachment No. 5", follows these minutes and is made an official part hereof.

**BID AWARD #590 - WATER DISTRIBUTION PARTS:** Approval of staff's recommendation to award Bid #590 for Water Distribution Parts to the four lowest bidders of 225 line items and authorization for the Chairman to execute subsequent contracts, subject to submission of applicable bonds and other documents. A copy of the recommendation and contract, identified as "Attachment No. 6", follows these minutes and are made an official part hereof.

**WATER COMMITTEE RECOMMENDATION:** Approval of Water Committee recommendation to prohibit installation of any antenna directly to a water tank, or erection of an antenna on a tank site that is not large enough to allow separate fencing for the antenna. A copy of the recommendation, identified as "Attachment No. 7", follows these minutes and is made an official part hereof.

**SHERIFF'S DEPARTMENT:** Approval to allow the disposal of old inmate clothing and bedding no longer serviceable. A copy of the request, identified as "Attachment No. 8", follows these minutes and is made an official part hereof.

**MINUTES:** Approval of minutes for Board of Commissioners meetings held on December 14, 2006 and January 11, 2007.

On motion made by Commissioner Frady, seconded by Commissioner Pfeifer to approve the minutes for the Board of Commissioners meeting held on December 14, 2006. The motion carried 3-0 -2 with Chairman Smith and Commissioner Maxwell abstaining.

**Minutes**  
**January 25, 2007**  
**Page 15**

On motion made by Commissioner Frady, seconded by Commissioner Pfeifer to approve the minutes for the Board of Commissioners meeting held on January 11, 2007. The motion carried 5-0.

**STAFF REPORTS:**

**EXECUTIVE SESSION:** Attorney McNally requested an Executive Session to discuss two legal items and one real estate acquisition.

Commissioner Maxwell requested an Executive Session to discuss four legal items.

**EXECUTIVE SESSION:** On motion made by Commissioner Frady, seconded by Commissioner Pfeifer to adjourn to Executive Session to discuss six legal items and one real estate acquisition. The motion carried 5-0.

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

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

**LEGAL:** Commissioner Maxwell discussed a legal item.

The Board took no action on this matter.

**LEGAL:** Commissioner Maxwell discussed a legal item with the Board.

The Board took no action on this matter.

**LEGAL:** Commissioner Maxwell discussed a legal item with the Board.

After a brief discussion, Commissioner Maxwell said he would like to make a motion and this would be done in public session.

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

The Board took no action on this matter.

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

The Board took no action on this matter.

**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 five legal items (one item was a duplicate) and one real estate matter

**Minutes**  
**January 25, 2007**  
**Page 16**

were discussed in Executive Session. The motion carried 5-0. A copy of the Affidavit, identified as "Attachment No. 9", follows these minutes and is made an official part hereof. Chairman Smith reconvened the public session at this time.

Commissioner Maxwell remarked that he would like to make a motion on a legal item discussed in Executive Session.

On motion made by Commissioner Maxwell, seconded by Commissioner Frady to move the Director of Public Safety position from a pay grade 42 to a pay grade 44 effective July 1, 2006. The motion carried 5-0.

There being no further business to come before the Board, Commissioner Frady made a motion and Commissioner Horgan seconded the motion to adjourn the meeting at 9:40 p.m.

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Karen Morley, Chief Deputy Clerk

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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 7<sup>th</sup> day of February, 2007.

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Karen Morley, Chief Deputy Clerk