

The Board of Commissioners of Fayette County, Georgia met in Official Session on Thursday, February 22, 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.

Reverend Mike Stachura of Grace Evangelical Church led the Invocation.

Pledge of Allegiance.

**PROCLAMATION FOR MASTER GARDENER APPRECIATION DAY:**

Chairman Smith read and the Board presented a Proclamation to members of the Fayette County Master Gardener Program proclaiming March 17, 2007 as Master Gardener Appreciation Day. A copy of the Proclamation, identified as "Attachment No. 1", follows these minutes and is made an official part hereof.

**REZONING PETITIONS:**

Zoning Administrator Dennis Dutton 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 February 22, 2007

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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.

Mr. Dutton 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. Dutton 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.

**PACKAGED BEER AND WINE SALES PERMIT FOR DAVIS COUNTRY STORE, LLC  
APPROVED:**

Zoning Administrator Dennis Dutton remarked that this request was for a Packaged Beer and Wine Sales Permit for Davis Country Store, LLC. 1619 Hwy. 92 South, Fayetteville, Georgia, Matt Johnston, Owner/Applicant. He said this property was located in Land Lot 247 of the 4<sup>th</sup> District, fronted on Hwy. 92 South, and was zoned A-R. He said this request was for a Change of Ownership.

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

On motion made by Commissioner Frady, seconded by Commissioner Horgan to approve the application for a packaged beer and wine sales permit for Davis Country Store, LLC. The motion carried 5-0.

**PETITION NO. 1191-07:**

Zoning Administrator Dennis Dutton read Petition No. 1191-07, Russell Peacock, Owner, and Brian Corbin, Agent, request to rezone 6.521 acres from A-R to R-70 to develop three (3) single-family dwelling lots. He said this property was located in Land Lot 22 of the 5<sup>th</sup> District and fronted on Inman Road. He said the Planning Commission February 22, 2007

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recommended approval subject to one (1) condition (4-1) and staff recommended approval subject to one (1) recommended condition.

Russell Peacock said he was the owner of the property. He asked for the Board's consideration to rezone this property and remarked that this was a family project. He said the property was consistent with the surrounding zoning in the area.

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 this petition. Hearing none, he remarked that the Planning Commission had recommended approval of this request subject to one recommended condition. He said staff had also recommended approval subject to one recommended condition. He asked for the Board's pleasure in this matter.

Commissioner Frady remarked that this rezoning request was in compliance with the Fayette County Comprehensive Plan.

On motion made by Commissioner Frady, seconded by Commissioner Horgan to approve Petition No. 1191-07 with one recommended condition, discussion followed.

Commissioner Maxwell asked what the one recommended condition was.

Commissioner Frady replied that the one recommended condition was for an additional ten (10) feet of right-of-way, at no cost to Fayette County, to create a minimum of 50 feet of right-of-way as measured from the centerline of Inman Road, for future road improvements and must be indicated on the Final Plat.

Chairman Smith called for the vote.

The motion carried 5-0. A copy of the recommended condition, Staff's Analysis and Investigation, identified as "Attachment No. 2", follows these minutes and are made an official part hereof. A copy of the Ordinance and Resolution approving Petition No. 1191-07, identified as "Attachment No. 3", follow these minutes and are made an official part hereof.

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**CONSIDERATION OF THE PROPOSED AMENDMENTS TO THE FAYETTE COUNTY ZONING ORDINANCE REGARDING ARTICLE V. GENERAL PROVISIONS, SECTION 5-10. ACCESSORY USES AND STRUCTURES AS PRESENTED BY THE PLANNING & ZONING DEPARTMENT. THE PLANNING COMMISSION RECOMMENDED APPROVAL (5-0):**

Zoning Director Dennis Dutton remarked that the Fayette County Planning Commission had requested that this item be withdrawn from the agenda.

**ORDINANCE NO. 2007-01 - CONSIDERATION OF THE PROPOSED AMENDMENTS TO THE FAYETTE COUNTY ZONING ORDINANCE REGARDING ARTICLE V. GENERAL PROVISIONS, SECTION 5-14. LANDLOCKED PROPERTY APPROVED:**

Chairman Smith said the Planning Commission was recommending approved 5-0 for this item. He asked if anyone was present from the Planning and Zoning Department to discuss this item.

Zoning Director Dennis Dutton said the proposed amendment was recommended for approval by the Fayette County Planning Commission on February 1, 2007. He said the Planning and Zoning staff was requesting the Board of Commissioners to approve the zoning amendment to the Fayette County Zoning Ordinance. He remarked that this was a housekeeping item in the ordinance. He said Section 5-14 regarding landlocked property stated that letter "C" indicated that the property was and continued to be under single ownership since the effective date of this ordinance. He said it was felt that deleting sentence "C" from Section 5-14 of the Zoning Ordinance would eliminate confusion of an owner of legally recorded landlocked property from selling his property. He said the purchaser would have the same rights as the previous owner.

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

On motion made by Commissioner Pfeifer, seconded by Commissioner Frady to approve the amendments to the Fayette County Zoning Ordinance regarding Article V. General Provisions, Section 5-14. Landlocked Property. The motion carried 5-0 . A copy of Ordinance No. 2007-01, identified as "Attachment No. 4", follows these minutes and is made an official part hereof.

**ORDINANCE NO. 2007-02 - CONSIDERATION OF THE PROPOSED AMENDMENTS TO THE FAYETTE COUNTY ZONING ORDINANCE REGARDING ARTICLE VI. DISTRICT USE REQUIREMENTS, SECTION 6-21. M-1 LIGHT MANUFACTURING DISTRICT APPROVED:**

Chairman Smith remarked that the Planning Commission recommended approval 5-0.

Zoning Director Dennis Dutton remarked that the Planning and Zoning staff was requesting the Board of Commissioners to approve the zoning amendment to the Fayette County Zoning Ordinance regarding the permitted uses to the M-1 zoning district. He said these updated permitted uses would give more precise uses as well as adding more uses that could be supported by other businesses which were not retail and in which today's businesses could be incorporated into the warehousing distribution uses.

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

On motion made by Commissioner Pfeifer, seconded by Commissioner Horgan to approve the amendments to the Fayette County Zoning Ordinance regarding Article VI. District Use Requirements, Section 6-21. M-1 Light Manufacturing District, discussion followed.

Commissioner Frady questioned Section D. 1-B referring to half acre lots with sewage and central water. He recalled this had been removed from the ordinance for residential but could not remember if it had been removed in this particular section or not. He asked for clarification.

Attorney McNally interjected that this had been removed from residential but not taken out of the commercial.

Commissioner Pfeifer remarked that the staff and the Planning Commission had reviewed this many times and he wanted to thank them for all of their hard work on this item.

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Commissioner Frady asked if a central sewer system was the same thing as a central sanitary system.

Attorney McNally replied that a central sanitary sewer system would be a bonafide sewer system.

Commissioner Maxwell said he had a question regarding the M-1 zoning district. He asked what was trying to be accomplished with the M-1 district.

Mr. Dutton replied in discussions with the Planning Commission it was very vague in how permitted uses were being interpreted in the M-1 zoning district. He said the M-1 zoning district was for light industry and not for major heavy industry with air pollution or a lot of noise. He said staff had come up with a list of things that go together. He said engineering firms were not listed in this but engineering firms would have the equipment and probably would be a good fit for something like this because general contractors were allowed in those type uses. He said it was specific in that the Planning Commission wanted to make sure that there was no retail in this but they wanted to put things in that would work together. He said they wanted to do away with the vagueness and put more permitted uses in.

Commissioner Maxwell asked Mr. Dutton to give him an idea of an area of the county that has M-1 so he could get a picture in his mind of this zoning district.

Mr. Dutton replied that S.R. 85 North was predominantly M-1. He remarked that the Lee Center was a large M-1 facility. He said there was also some M-2 along the S.R. 314 corridor and S.R. 85 as well.

Commissioner Maxwell said he had seen some of the paperwork regarding self-storage facilities. He asked if the county was allowing businesses to operate out of self-storage facilities.

Mr. Dutton replied that there was a new trend with some of the self-storage buildings where they were developing not only storage but handling certain types of office space within the facility. He said staff wanted to make sure that these types of businesses had the same sense of community although staff did not want an office park.

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Commissioner Maxwell asked for clarification regarding self-storage facilities having several small businesses located there with relatively inexpensive office space.

Chairman Smith responded that generally with the new self-storage facilities what they had done in effect was take one of the self-storage units and the other unit would be an office. He said sometimes these units were side by side and sometimes they were part of the self-storage unit as a storefront and the other part was the doorway to get to the storage area.

Commissioner Maxwell said he was not aware of this kind of situation. He questioned if there were restrooms in these kinds of places.

Chairman Smith replied that he did not know.

Mr. Dutton interjected that there should be restrooms in these facilities. He said these would be required by code.

Commissioner Maxwell said if this was a business then a restroom would be a requirement. He asked if the Fire Marshal inspected these kinds of businesses.

Mr. Dutton replied yes and stated before these businesses could get a business license there would have to be an inspection by the Fire Marshal.

Commissioner Maxwell asked if this was something new that was being discussed tonight or had this been going on.

Mr. Dutton replied that this was something that had been in discussion with the Planning Commission for the last two to three months.

Commissioner Maxwell remarked on the self-storage facility located on S.R. 85 North across from Dixie Land Amusement Park and asked if there was a zoning for this type of business that would allow these small businesses to be located all the way up and down S.R. 85. He thought the intent was to keep Fayette County from looking like the Riverdale area.

Mr. Dutton responded the answer to Commissioner Maxwell's question was yes. He said if a general contractor wanted to locate in this business these would not be denied in the M-1 zoning district because certain types of joint development such as multi-

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tenant buildings were allowed. He said staff had cleaned up the language and included more uses that were permitted and staff had tried to make these uses ones that would not include retail, walk-in or heavy parking.

Chairman Smith interjected that this was not an enabling ordinance because this was already allowed. He said this ordinance would include additional things that could not be done.

Commissioner Maxwell said he was not sure that he agreed with the overall concept of the M-1 zoning district but this was not an issue before the Board tonight. He said he was not sure how this zoning district got approved in Fayette County but it was certainly not something that he would have approved.

Commissioner Frady asked if there was a lot of walk-in retail business located there.

Mr. Dutton remarked that if a business owner wanted to locate a business selling handbags in that district they were now told no. He said in a wholesale operation it was defined as selling in mass quantities and distributing it out then they can do that, but the Planning Commission and staff were specific that they wanted to keep the retail out.

Commissioner Maxwell said in looking at this there was farm equipment sales, feed sales, fertilizer sales, tire sales, and shrubbery sales. He felt these sounded like retail sales but he questioned if it stated somewhere in the body of the ordinance where it was restricted to only being commercial.

Mr. Dutton replied that these were already in the ordinance.

Commissioner Maxwell said airports, hotels and trade schools were also listed and would be permitted.

Commissioner Frady suggested this be addressed at some point.

Commissioner Maxwell said he had a problem with the overall scheme of this zoning district and he just could not support this and allow more businesses to be located on North S.R. 85.

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Commissioner Frady questioned Section C. conditional uses. He said it stated that animal hospital/kennel commercial or noncommercial. He felt this needed review at some point to see if there was anything that might need changing.

Commissioner Maxwell felt this zoning district was a dumping place for obnoxious things. He said there were experimental labs, feed lots, recycling centers and so forth and it just looked like a dumping ground. He said he was not sure of what the intent was for this kind of zoning but he did not know why there would be a zoning for "eye sore" type things that everybody wanted to keep out of Fayette County.

Attorney McNally remarked for many years M-1 zoning had been located in these areas. He remarked that M-1 was a use where things that would not be located in an office park or retail center would be located. He noted that M-2 zoning was even more intense. He said each community had to have some of that use in it and for many years this was where it had been located in Fayette County. He said it was up to the county to either aesthetically or in other ways make it as acceptable as possible. He said staff was recommending adding some uses and those uses have a little bit more sales flavor than there had been in the past. He said the county gets more calls for that rather than heavy duty manufacturing.

Chairman Smith asked if the Board had any further comments. Hearing none, he called for the vote.

The motion carried 4-1 with Commissioner Maxwell voting in opposition. A copy of Ordinance No. 2007-02, identified as "Attachment No. 5", 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 any issues of concern.

**Connie Biemiller:** Connie Biemiller commented on the situation at the Phillips Service Corporation in North Fayette. She said she was the Chairman of the South Fulton/Fayette Community Task Force and they were the individuals who had been dealing with this situation at the P.S.C. plant in North Fayette County. She said recently Fulton County had come through with a non-renewal of the plant's permit which had shut down approximately 90% of the plant. She said, however, the State still had a February 22, 2007  
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permit with the plant that runs approximately 10% of it. She remarked that since the time of the non-renewal of the Fulton County permit employees had started to come forth with information about illnesses that they had been experiencing since exposure last summer. She said these employees had reported to the task force and to the attorneys for the class action lawsuit some practices that were going on at the plant that the task force was not aware of before. She said the task force felt like the Commissioners needed to hear this and it was felt that it would impact Whitewater Creek. She said she would like to ask George Nicholson to come forward and share that information with the Board.

**George Nicholson:** George Nicholson remarked on the chemical waste at the Phillips Service Corporation. He said in the interview with two of the former employees from the Phillips Service Corporation it was found that they have a pit where sawdust was mixed with liquids. He said the liquid was then absorbed in the sawdust and moved to an outside area for drying and then loaded in dumpsters and hauled to landfills. He said they were told that there were chemicals in five gallon buckets and fifty-five gallon drums that were not processed or treated in any way but dumped in the sawdust pit. He said once the mixture was not dripped liquid anymore it was loaded into a dumpster and hauled to a landfill. He said that information was disturbing enough in itself but it was understood from the two employees that when it rained the entire area around this sawdust pit flooded and all of the water ran off into the wetlands behind the plant which was the Whitewater Creek area. He said there were a number of Federal laws that the task force felt were being violated. He said the plant should be containing these sites so that runoff would not occur. He said the task force had not physically witnessed it but the employees say that this occurs every time it rains. He said while walking behind the plant on a couple of occasions, there was no indication that there was any containment at all. He remarked that there were some areas that were heavy silted directly along the wetlands just before reaching the creek area that obviously was where this material was flowing out of the sawdust piles. He said the task force was very concerned that it was not known what might be getting into the water system that would affect the Whitewater Creek and the wetlands area. He said the task force would like some pressure to be put on the E.P.D. and the E.P.A. to do some further investigating about what goes on and why this site was not contained. He said the River Keepers have told the task force that all of these sites were supposed to be contained but there was no curb and guttering around the site and nothing to prevent this type of runoff from taking place.

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Commissioner Maxwell interjected that the Board normally did not make any comments during the public comment section of the agenda but he wanted to thank Connie and George for coming tonight. He remarked that his house and property backed up to Whitewater Creek. He asked Connie and George what they were asking the Board to do about this situation. He said before he had taken office the County had passed a Resolution to close this plant down.

Mr. Nicholson remarked that Fayette County and Fulton County had passed Resolutions to shut down this plant. He said there was some kind of agreement reached in Fulton County and the Phillips Service Corporation pulled their permit. He said their permit for direct discharge into the Fulton County sewer system had been pulled. He remarked that this had taken place in mid December when they were supposed to stop treating and discharging water into the sewer system by the end of December. He noted that the truck traffic into the plant was considerably less now than it was although there was still a large number of tankers and dumpsters coming in and out of the plant. He remarked that some of the former employees told him that the plant was still using the sawdust pit and there was still grease and sewage from septic tank pumpings sometimes going into the sawdust pit. He said they were also talking about the times that biological material from hospitals was being mixed in with this sawdust. He stated that this information was coming from former employees but these were also things that they had heard from other people during the last two or three years while this situation was developing.

Commissioner Frady clarified that Fulton County was aware of this situation.

Mr. Nicholson remarked that Fulton County was aware of it but the E.P.A. and E.P.D. had basically turned their backs on this situation. He felt this was the direction that needed to be taken and that was to try and get the E.P.D. to go back to the plant to review this situation again. He said he had spoken to River Keepers a couple of times and they said that there were several Federal laws that this plant was probably violating. He said the task force did not have the funds as a group to hire an attorney to pursue this. He said the task force members felt this plant was a hazard to the community and somebody needed to push E.P.D. to take further action on it.

Commissioner Frady asked if any open records requests had been filed.

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Mr. Nicholson said the task force had presented some open records requests. He said there was a problem in that there was very little documentation as to what this plant was doing or how things were being done.

Commissioner Maxwell said he recalled there was a problem with the P.S.C. even having permits and if nobody was filing anything then there would not be any records.

Mr. Nicholson remarked that there was very little documentation. He said Fulton County had some monthly reports that were submitted. He commented on the ethoprop and the propyl mercaptan that had caused the smell back during the early summer. He remarked at that time the reports regarding the propyl mercaptan tankers that came in only indicated wash water. He said the report only stated wash water from the AMVAC chemical plant in Axis, Alabama. He said there was no description of anything that was in the wash water so there was no way to really determine what any of these products were. He said in looking back through the Fulton County records for the last three years they were a number of chemical manufacturers and pesticide manufacturers at that time who were sending a tremendous amount of wash water to this plant although most of that had stopped. He said the employees told him that when these fifty-five gallon and five gallon drums arrived at the plant most of the time those drums were not treated and they were just dumped into the sawdust pit with whatever else was in the pit at the time and mix it up until it was absorbed to the point that it stopped dripping. He said then it was put into the dumpsters and haul it to a solid waste landfill.

Chairman Smith asked if Mr. Nicholson knew which solid waste landfill that was.

Mr. Nicholson replied that he had followed one of the trucks up to Cherokee County and it was going to the waste management site and he had all of the information on that.

Commissioner Maxwell asked Mr. Nicholson what he would like the County to do to help with this situation.

Mr. Nicholson responded that the task force would like the County to put some pressure on the E.P.A. and the E.P.D. to take a look at this situation especially because Whitewater Creek feeds the County's water supply. He said there could be an accident there that would cause a major problem.

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Commissioner Maxwell said he would be glad to discuss this with the other Board members but noted that the E.P.A. and the E.P.D. normally dictate to this Board and this Board did not dictate to them.

Mr. Nicholson said he understood that but they were trying to get Fulton County and anybody they could to be made aware that there were still concerns down there and the problem was still not solved at this point.

Chairman Smith suggested this Board check with the County's hazmat team and the Water System to see if they have any type of monitoring equipment that could be used on this site.

Commissioner Maxwell asked if Dennis Chase had done any testing at Whitewater Creek near this plant.

Dr. Lois Speaker interjected that the County did not have any monitoring equipment that would measure this contamination.

Commissioner Frady responded that Mr. Chase had been to that site and done some monitoring in the area near the plant and reported that he had not found anything.

Mr. Nicholson said he was with Mr. Chase that day and they did not find anything at that time. He said there had been very little rain at that time and it had been very dry. He said the other thing was that these chemicals dissipate fairly quickly in the soil therefore the soil where water samples were taken would have been carried on down stream. He said there would have to be continued monitoring.

Chairman Smith asked if anyone else wished to speak.

**Dr. Lois Speaker:** Dr. Lois Speaker remarked that she was a resident of Peachtree City and had become interested in this situation back in August when she realized that people were focusing on the terrible smell and not realizing that they were dealing with a material that was a very close cousin of chemical warfare agents. She said this particular material works exactly like the sarin that was used in the attack on the Tokyo subway approximately ten years ago. She said the cholinesterase in the body was interfered with and people go into spasms and comas and die. She said this was not quite as bad as the sarin but it certainly was not nice. She said during her open records searching recently at the E.P.D. that the way this had been treated was absolutely the  
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worst thing that they could have done. She said they would have been better off just to lagune it and let it sit until it evaporated. She said what they had been doing ever since the plant was built as a sewage treatment plant was to take the loads and put them into an aerator. She said this was a 20,000 gallon vat with a double decker stair in it with warmed air blowing up from below through the whole thing into a wide open service. She said because of the complaints of a sewage smell there was a cap put on by the County but that was long since turned into lace and would not stop anything. She said there was a large open surface and a large amount of very bad material dispersed in water. She said it was a very oily type of solution and it was being stirred while water was being pumped through it. She said what was happening was making an aerosol. She said this could be demonstrated by the fact that there was a haze or fog hanging over this tank and in fact over the entire plant all the time.

Dr. Speaker further remarked that an aerosol had very particular properties. She said it was a dosage form for medication to get deep into the lungs. She said there was almost immediate transfer across the blood air barrier and it was a very effective dosage form for medication and of course it was an effective dosage form for things that were not good for us too. She said the word for this was called weaponize. She said during all of these years this plant had pumped energy into this material and actually what they had been dealing with was not sewage. She said she was sorry to say that she did speak with the chief chemist at E.P.D. about this and she asked him why an aerator was the very first step in this situation. She asked what an aerator was supposed to do to the things that they were bringing in. She said he told her that it was used for the biologicals. She said she told him that there were no biologicals and there was no reason to do this. She said this was not just a violation of the laws of the State of Georgia or the laws of the Country but it was a violation of the laws of nature.

Dr. Speaker further commented that unfortunately everybody who was within range of those aerosol products had paid to some extent a price whether they realized it at this time or not. She said this accounted for the wide variety of symptoms that there had been among the people who had suffered illness. She said depending on the size of the particles and the breathing habits of the people who were breathing this in, different target organs could be attacked by an aerosol coming through the lungs. She presented a Waste Profile Sheet to the Board for review. A copy of the Waste Profile Sheet, identified as "Attachment No. 6", follows these minutes and is made an official part hereof. She said this Sheet followed up on a material safety and data sheet that was prepared not for the pesticide, not for the propyl mercaptan but was prepared for February 22, 2007

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the so called wash waters. She said she believed from everything that she had seen so far that this was a byproduct of the manufacturing. She remarked that this particular MSDS on the wash waters says that this was toxic and hazardous. She said if spilled on the ground it would migrate toward the nearest water source. She said if it gets in the water it would kill the fish. She said if it was handled in a restricted area then someone should wear a moon suit and an organophosphate rated respirator.

Dr. Speaker further remarked on the Waste Profile Sheet. She said this Sheet stated what the content of the material was and the odor was checked as mild. She said she found this amusing and anyone else who smelled this odor would find it amusing. She said personally she had not been exposed to it and she was very grateful for that. She said it was recognized that there were pesticides and insecticides in the material but they did not recognize that sulfides were included as well and this was the reason for the strong odor. She said they had never checked for phosphorous which was the material that was the deadliest and most dangerous part of the molecule. She said she agreed with Mr. Nicholson that if this material goes up into the air by evaporation and not aerosolization and there were the right conditions with sunny weather this would hydrolyze in approximately six hours. She said a lot of damage could be done in six hours. She remarked that if this was in the water supply the half life for it was fourteen months at PH7. She said this meant if there was a pound of material put in and nothing moved when you would go back in fourteen months there would be a half a pound of material. She said in another fourteen months there would be a quarter of a pound and so on. She said there was another element to this as well. She said when this material breaks down there were four breakdown products. She said one was the smelly propyl mercaptan and the three others were daughter compounds that contain the POO group and were just as dangerous as the mother compound. She said there was no good way to have this material around.

Dr. Speaker said one important fact that she wanted the Board to think about was why this material was even at this plant when it was only permitted for pretreatment of sewage. She said she had gone through the records very carefully at the E.P.D. and what she saw was a case of what she called "permit creep". She said there had never been a new permit on this and this plant was still permitted to pretreat sewage. She noted that this plant had not looked at sewage since approximately 1988. She pointed out that this plant had sat empty for a while and then it was opened up for the purpose of reclaiming, recycling and reselling vegetable oils and restaurant greases. She said maybe she could see the aeration step there at that time but stated the plant went

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bankrupt at that point. She said the next step was the plant came forward with a proposal to treat petroleum contact water (PCW). She said this probably meant the material you would get as a result of hosing out railroad cars that have had motor oil and things of that nature in them. She said now there were no biologicals and nothing would be done with the aerator. She said this had gone back and forth with the E.P.D. for several years on whether or not this would be allowed under the permit or whether or not it was hazardous. She said the E.P.D. simply just gave in and allowed the plant to proceed with this treatment which was totally invalid for treating petroleum contact water. She said this was a wonderful situation for creating aerosols that would end up in everybody's lungs. She said since 1995 or 1996 the citizens of Fayette County have been pretty frequently treated to a nice dose of motor oil aerosols. She questioned the whole idea of regulation by the E.P.D. and whether in fact they need to get some expert advice on this and to have some people who would really review the entire method. She said from her conversations with people in charge that there had been no examination of the method. She said when personnel go out to the plant to look around they look to see if there was any grease spilled, whether there were vermin, whether things looked tidy and so forth. She said they never tell anyone why they were doing this.

Dr. Speaker said she would be glad to answer any questions that the Board might have.

Commissioner Maxwell replied that he did not have any questions right now but would like to thank the people who had spoken under public comment regarding this situation. He said he now realized that if the County sent someone out to monitor this problem and the results came back negative then the County would also be subject to the open records act that ultimately could be used against the cause.

Dr. Speaker remarked on the monitoring. She said this material needed to be analyzed by very specific methods. She said nothing would be found in general if it was done by one of the standard methods.

Commissioner Maxwell asked Dr. Speaker what she felt the Board needed to do and what the cost would be.

Connie Biemiller interjected that she had already written a letter to the E.P.D. stating the kind of testing that should be done on this material.



Commissioner Maxwell asked Ms. Biemiller to send him a copy of any information that she obtained.

Ms. Biemiller said she would just like to have the County's support in putting pressure on the E.P.D. to do the right thing and have the proper testing to ensure the citizens of their safety. She remarked that former employees of the Phillips Service Corporation plant were coming forward and telling her that citizens here were not safe even with the plant running at 10%.

Commissioner Maxwell remarked that he was an attorney and as long as the evidence came forward, then he would continue to support it but if he were to receive negative evidence that there was nothing out there then there would not be a lot of support that he could generate.

Ms. Biemiller felt the County would not have that kind of testing ability for this material and she felt this would be something that the E.P.D. would have to do and the E.P.A. oversee as well. She said the task force was trying to put pressure on these two entities to do the right thing to ensure the citizens that they were safe.

Chairman Smith remarked that unfortunately this plant was not located in Fayette County or direct action would have already been taken.

Dr. Speaker remarked that one thing Fayette County could do was to insist that when the sampling and testing was performed that they check for phosphorus which they had never done. She said the phosphorus was sitting right in the middle of the molecule. She felt they should also test for sulfur which was the smelly portion of the molecule. She felt there needed to be a consultant who was experienced in dealing with chemical warfare agent simulates or chemical warfare agents themselves. She said the task force would be willing to identify people and set up contacts with Fort Dietrich and so forth.

Commissioner Frady thanked Dr. Speaker for her briefing to the Board and he asked her to keep the Board informed.

**Ken Schall:** Ken Schall, 310 Wingate Circle, Fayetteville expressed concern with the possible closing of the Fayette Counseling Center. He said this issue was very important and dear to his heart concerning mental illness. He said he was aware of the February 22, 2007 Minutes

fact that the Board had already received an information packet from Jane Fanslow who was the Director of the Fayette Counseling Center. He said included in that information was the fact that the Center was in a poor financial situation. He said he was not here tonight to comment on that information but he was glad the Board had it for consideration. He said he was the President of the Fayette County Chapter of the National Alliance for Mental Illness which was a support group which was made up of family members and people with mental illness and it met once every month. He said this group was started by he and his wife because of their daughter who was 28 years old and has bipolar disorder. He said she had a psychiatric breakdown when she was 17 years old and a senior in high school. He said they had become very involved in the mental illness field and started a Fayette County Chapter support group. He said the Fayette Counseling Center had been so important to them and to so many members of the support group. He said the support group referred clients to them all of the time and they received approximately two to three calls every week from people all over the area who were looking for help. He said many times the support group would refer them to the Center. He said one in five families nationally were dealing with somebody with mental illness and it was no different in Fayette County. He said it was critical that this Counseling Center remain open and be able to continue helping the citizens here. He said without the Center the alternatives would be the police department, the emergency room hospitals and probably the State mental hospitals and many times that type of hospitalization was just not needed. He said most of the time the patients just needed counseling and the types of services that the Counseling Center could provide. He said he just wanted the Board to know that it was critical that the Center remain open. He said he was aware that Ms. Fanslow was looking for rent free space whether it was in that building or another building somewhere in the county. He said he appreciated the Board allowing him to speak tonight.

**John Lane:** John Lane, 220 Manor Drive, Fayette County spoke in support of Jane Fanslow, Director of the Fayette Counseling Center, and also expressed concern with the possible closing of the Counseling Center due to funding. He remarked that the Counseling Center was part of the McIntosh Trail Community Service Board. He pointed out to the Board that this Center not only assisted family members but assisted people with substance abuse, provides counseling, provides resources, helped clients find psychiatrists, helped get them into the addictive counseling programs, provided social services and helped them find a way to get a job. He said this was very important to a person who had mental illness and helped them get the treatment, get a job and be a productive member of this community. He said he realized the Board would soon be  
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in budget meetings and this would be one issue that would come up for consideration. He asked for the Board to favorably look at trying to create some sort of rent free space within Fayette County so that this program could continue to serve these individuals in this community. He said in talking with people he had determined that many people have family members with some sort of mental illness or mental deficiency. He said this program was effective and it worked. He said he did not want Fayette County to turn around like Coweta County and have to close down the whole facility. He said as a result, Jane Fanslow was seeing more and more people coming from Coweta County because their services were closed. He asked for the Board's consideration to not ignore the problem but to do something about it.

**Connie Biemiller:** Connie Biemiller said she worked for the Fayette Counseling Center. She said she was just as passionate about mental illness as she was about the chemical Company in North Fayette/South Fulton. She said wonderful work had been done at the Fayette Counseling Center and it was a gem of a place. She said they worked with suicidal and homicidal people weekly. She said the Counseling Center helped protect this community just as much as the Police Department and the Sheriff's Department do. She said she did not know what either one of these organizations would do without the Counseling Center being there as a resource. She questioned where the emergency room would send people that came in during the night and then the Counseling Center would see them the next morning and help get them on medication so that they did not do harm to themselves or the county. She said this was a vital service that the county must keep and something that citizens could not live without. She said the sad thing was that the State thinks the county can live without it, therefore the State had put it upon the Center to let the county do something. She said something would have to be done. She said this was the right thing to do and also a vital service that a county has to have to serve its community. She said she would be more than happy to talk to any of the Board members about the Counseling Center. She pointed out that the Atlanta Journal and Constitution was coming out tomorrow to write about this situation. She said The Citizen News was also going to be running an article on this in the very near future. She said she would do anything that she could to help the Counseling Center stay open.

**Linda Lane:** Linda Lane commented on the tremendous positive impact the Fayette Counseling Center had on their family. She said she wanted the Board to know from first hand experience what devastation a family experiences when a family member has mental illness. She said her family was certainly not prepared when it hit them. She  
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said without the counselors and doctors they would not have a son today who was actually starting to live independently taking classes. She said because of some of the Federal laws and some of the State regulations that have come down, their son was not always able to use the services through the Counseling Center but the staff at the Counseling Center was still willing to take her late night call and direct them to where they needed to go. She asked the Board to remember when it came time to address this issue in the budget to know that they really affected a lot more people than they know.

**CONSENT AGENDA:** Commissioner Maxwell requested that item no. 8 be withdrawn for discussion. On motion made by Commissioner Frady, seconded by Commissioner Pfeifer to approve consent agenda items 1, 2, 3, 4, 5, 6, and 7 as presented. The motion carried 5-0.

**ENGINEERING DEPARTMENT:** Approval of staff's recommendation to transfer a 1999 Ford F-150 assigned to Engineering to Solid Waste and replace 1991 Solid Waste vehicle with a new F-250 to be used by Engineering. A replacement vehicle was approved in the FY 07 budget for \$20,000. A copy of the request, identified as "Attachment No. 7", follows these minutes and is made an official part hereof.

**AUTOMATIC BANK DRAFT PROCEDURE APPROVED:** Approval of staff's recommendation to utilize an automatic bank draft procedure for the processing of the county's utility bill payments. A copy of the request, identified as "Attachment No. 8", follows these minutes and is made an official part hereof.

**SHERIFF'S DEPARTMENT - BUDGET ADJUSTMENT:** Approval of staff's recommendation for a budget adjustment for FY 2006 to increase the Sheriff's Criminal Investigation Division Vehicle Repair Services Account 10030321-522233 by \$446.31 for money received from an insurance claim. A copy of the request, identified as "Attachment No. 9", follows these minutes and is made an official part hereof.

**SHERIFF'S DEPARTMENT:** Approval of staff's recommendation to destroy old and unserviceable uniforms at the Sheriff's Office that are no longer serviceable. A copy of the request, identified as "Attachment No. 10", follows these minutes and is made an official part hereof.

**RESOLUTION NO. 2007-04 ADOPTED - UPDATED CAPITAL**

**IMPROVEMENTS ELEMENT:** Approval of the adoption of Resolution No. 2007-04 regarding the Updated Capital Improvements Element (CIE) and Short Term Work Program (STWP) FY 2007 to FY 2011 as required for the continued collection of impact fees. A copy of Resolution No. 2007-04, identified as "Attachment No. 11", follows these minutes and is made an official part hereof.

**COMMUNICATIONS:** Approval of Nextel/Sprint Planning Funding Agreement for 821 MHZ Rebanding and authorization for the Chairman to execute the Agreement. A copy of the Agreement, identified as "Attachment No. 12", follows these minutes and is made an official part hereof.

**INFORMATION SYSTEMS - BUDGET ADJUSTMENT:** Approval of staff's recommendation to approve a budget adjustment to move funds from the Contingency Account to the Information System Budget to purchase a replacement Firewall/VPN device to be used at the Stonewall Administrative Complex in the amount of \$5,452.59. A copy of the request, identified as "Attachment No. 13", follows these minutes and is made an official part hereof.

**TAX REFUND AND TAX ABATEMENTS APPROVED:** Approval of list of tax refund and abatement requests as recommended. A copy of the list of tax refund and tax abatement requests, identified as "Attachment No. 14", follows these minutes and is made an official part hereof.

Motion was made by Commissioner Maxwell to change the process regarding tax refunds and tax abatements and to allow the Tax Commissioner's Office to do the review and report to the Board rather than having the County Attorney handle this. The motion died for lack of a second.

On motion made by Commissioner Frady, seconded by Commissioner Horgan to approve the list of tax refunds and tax abatements as recommended, discussion followed.

Commissioner Maxwell remarked that periodically the Board receives a report on tax refunds and tax abatements from the County Attorney. He said for some of the individuals it was hundreds of dollars and for at least one individual it was a \$10,000

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swing. He said in his previous discussion with the Fayette County Tax Commissioner and it was his understanding that there was no legal requirement that the review process for these tax refunds and/or tax abatements be done by the County Attorney. He said they could be delegated by the Board to administrative offices. He said he had not done the analysis as far as how much this had cost to pay the Fayette County Attorney as opposed to what he believed initially would be a clerk's position in the Tax Commissioner's Office to do the initial review. He said as far as the recommendation on these tax refunds/tax abatements tonight, they would obviously not need to be re-reviewed by the Tax Commissioner since the work had already been done and recommendations had been made. He said he would be more than happy to support the list before the Board tonight. He felt the Board could probably draw up something where the Tax Commissioner would be authorized a certain threshold amount such as reviewing anything less than \$10,000. He said the majority with the exception of one of these items tonight would be taken care of and he felt the County would see a savings while using County employees for this as opposed to having it reviewed by the County Attorney. He said he did feel that the County Attorney was very important in this process and he was making no statement at all on this other than for cost. He said that was his main concern on this issue. He remarked that he had discussed this with the Tax Commissioner George Wingo and because of the death in his family he was unable to be here tonight. He said he was more than happy to support the motion but he did feel that the Board should consider the way in which this process had been done over the last several years.

Commissioner Frady suggested this item go on a Commissioners' Wednesday workshop meeting for further discussion at some point in the future.

Commissioner Pfeifer said he would need some time to think about this issue.

Chairman Smith said he appreciated the comment but stated that he would slightly disagree. He felt this should be discussed but he felt there was another side to this issue in that the Tax Commissioner was an elected official and ran his office as he saw fit. He said this was one check and balance that the County had to ensure that the items on the digest that were errored off for whatever reason that this would be an independent check and balance against what the Tax Commissioner would do. He said from a good accounting control perspective he would want to see that independent evaluation of that rather than in house. He said he understood that there was a cost associated with that and that was a case for the Board to discuss fully and do

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something with at a later time. He asked if there was any further discussion. Hearing none, he called for the vote.

The motion carried 5-0.

**STAFF REPORTS:**

**EXECUTIVE SESSION:** Attorney McNally requested an executive session to discuss one legal item.

Commissioner Maxwell requested an executive session to discuss one legal item and one personnel matter.

**EXECUTIVE SESSION:** On motion made by Commissioner Frady, seconded by Commissioner Pfeifer to adjourn to executive session to discuss two legal items and one personnel matter. The motion carried 5-0.

**LEGAL:** Commissioner Maxwell 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.

**PERSONNEL:** Commissioner Maxwell discussed a personnel matter with the Board.

The Board took no action on this matter.

**EXECUTIVE SESSION AFFIDAVIT:** On motion made by Commissioner Frady, seconded by Commissioner Pfeifer 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 5-0. A copy of the Affidavit, identified as "Attachment No. 15", follows these minutes and is made an official part hereof.

Chairman Smith reconvened the meeting to open session.

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Chairman Smith stated that the Board had discussed two legal items and one personnel matter and had taken no action on any of these matters.

On motion made by Commissioner Frady, seconded by Commissioner Horgan to adjourn the meeting at 9:20 p.m. The motion carried 5-0.

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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 22<sup>nd</sup> day of March, 2007.

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Karen Morley, Chief Deputy Clerk