



Action Agenda

Board of Commissioners
June 11, 2009
7:00 P.M.

The Board of Commissioners of Fayette County, Georgia, met in Official Session on Thursday, June 11, 2009, 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
Lee Hearn
Robert Horgan
Eric Maxwell

Staff Present:

Jack Krakeel, County Administrator
Scott Bennett, County Attorney
Carol Chandler, Executive Assistant
Karen Morley, Chief Deputy Clerk

Chairman Smith called the meeting to order.
Commissioner Hearn offered the Invocation.
Pledge of Allegiance.

ACCEPTANCE OF THE AGENDA: COMMISSIONER HEARN MADE A MOTION TO APPROVE THE AGENDA AS PRESENTED. COMMISSIONER FRADY SECONDED THE MOTION. THE MOTION CARRIED 5-0.

PRESENTATION/RECOGNITION:

- A. The Board will acknowledge receipt of a Wellness Grant in the amount of \$4,000 from the Association of County Commissioners of Georgia.

LORI SMITH OF THE FAYETTE COUNTY HUMAN RESOURCES DEPARTMENT PRESENTED A CHECK IN THE AMOUNT OF \$4,000 REPRESENTING RECEIPT OF A 2009 WELLNESS GRANT FROM THE ASSOCIATION OF COUNTY COMMISSIONERS OF GEORGIA.

PUBLIC HEARING:

- B. Consideration of Petition No. 1213-09, Johnie Williams and JEW Properties, LLC, and Billy Brundage Engineering, Inc., Agent, request to rezone 37.08 acres from A-R to M-1 to construct a maintenance building for Dixieland Fun Park. This property is located in Land Lot 216 of the 5th District and fronts on Corinth Road and Curved Road. This petition was tabled at the April 23rd Board of Commissioners meeting at the petitioner's request. At the May 28th Board of Commissioners meeting, the petitioner requested this item be tabled until the June 11th Board of Commissioners meeting. Staff recommended denial of this request. The Planning Commission recommended denial 5-0.

Commissioner Hearn said he would not be present for this discussion because he had received campaign contributions. He said he would recuse himself from this discussion and he left the room at this time. Chairman Smith said he had also received campaign contributions but this was not in an amount requiring him to recuse himself and he would be part of the discussion and vote.

COMMISSIONER FRADY MADE A MOTION TO ACCEPT THE PLANNING COMMISSION AND STAFF'S RECOMMENDATION TO DENY PETITION NO. 1213-09. COMMISSIONER HORGAN SECONDED THE MOTION. THE MOTION CARRIED 4-0. COMMISSIONER HEARN RECUSED HIMSELF AS PART OF THIS DISCUSSION AND WAS NOT PRESENT.

- C. Public hearing on the County's proposed annual budget for the fiscal year beginning July 1, 2009, and ending June 30, 2010.

CHIEF FINANCIAL OFFICER MARY HOLLAND REVIEWED THE COUNTY'S PROPOSED ANNUAL BUDGET FOR THE FISCAL YEAR BEGINNING JULY 1, 2009 AND ENDING JUNE 30, 2010. SHE REMARKED THAT THIS WAS ONE OF TWO REQUIRED PUBLIC HEARINGS AND THE BUDGET WOULD BE ADOPTED AT THE BOARD'S JUNE 25TH MEETING.

COUNTY ADMINISTRATOR JACK KRAKEEL ASKED FOR THE BOARD'S DIRECTION REGARDING THE VICTIMS ASSISTANCE FUND AND THE REQUEST TO TRANSFER OF THREE OF THE FOUR POSITIONS IN THE VICTIMS ASSISTANCE FUND TO THE GENERAL FUND UNDER THE SOLICITOR'S BUDGET. THE BOARD CONCURRED.

PUBLIC COMMENT:

CHAIRMAN SMITH: Chairman Smith responded to the citizens' comments at the last Commission meeting regarding an incident involving one of the County Commissioners. He remarked that this Board either individually or collectively had no power to remove a sitting Commissioner. He said every member of this Board answers to the voters of Fayette County and not to each other. He said absent a felony act, it was only the voters who could remove a Commissioner. He asked the County Attorney to read the section in the ethics ordinance that this Board must abide by.

County Attorney Scott Bennett remarked that this was addressed in the Ethics Code which states that an investigation would be conducted by a County Attorney from a county within the judicial circuit. He said he would not be involved in that process. He said if that County Attorney felt that this should go further they would empanel a board consisting of neighboring County Attorneys to look into the matter and they would make a recommendation to this Board of Commissioners as to what action they believe would be appropriate. He said this Board could issue a written reprimand or public censure and also impose a monetary fine not to exceed \$1,000.

Chairman Smith said if an ethics complaint was filed and adjudicated as positive, this body would have to sit as a jury to hear that evidence and determine the punishment that this body deems appropriate. He said it would be very inappropriate for this body to take a stance pro or against until such time as that process has run its course. He said he did not want the public to have the understanding that this Board would have the personal ability to take action. He remarked that anyone speaking under public comment would not address their comments to Commissioner Horgan but to the Board as a whole.

ROBERT ROSS: Robert Ross commented on Commissioner Horgan's recent arrest. He said public service carries a responsibility to consistently exercise a higher degree of conduct and judgment. He said anything less would serve to undermine the public confidence that Commissioners must hold to govern effectively. He said the citizens elected this Board of Commissioners to the County's highest office in the presumption of integrity, competence and moral character and empower the Board with authority to exercise judgment on multi million dollar issues, business futures and citizens' families. He said Commissioner Horgan's actions were much more than a simple mistake and go on to raise additional questions. He said the citizens now look to the other four Commissioners to salvage and strengthen the trust that was necessary for this Board to govern with citizen confidence and support.

LARRY TORLEY: Larry Torley remarked that the citizens of Fayette County have the right to expect to remain at a higher standard. He said Commissioner Horgan was continuing to act disrespectful by not resigning. He said this Board could, should and must pass a measure of censure and condemnation, relieve Commissioner Horgan of all duties of his office beyond attending the meetings, and file the ethics complaint and petition the Governor for Commissioner Horgan's removal. He said if the Board fails to condemn these activities, it will be seen as condoning them or at the very least treating this as an unimportant matter in the good ole boys club. He asked the Board to do the honorable thing and move on.

DOUG BURCHER: Doug Burcher commented on the West Fayetteville Bypass and felt it would not accomplish the purpose by which it was supposedly designated; that it was unfair to the affected people's lives; and that it was a detriment to the environment. He felt the S.P.L.O.S.T. was meant for road improvements and not a bypass. He said condemnation of the affected properties was not fair.

AISHA ABDUR-RAHMAN: Aisha Abdur-Rahman remarked that her district was represented by Commissioner Horgan and she was appalled that he had not resigned. She said her tax dollars pay his salary and the best thing that he could do would be to resign. She said what Commissioner Horgan had done was outrageous.

DAWN OPARAH: Dawn Oparah said she has lived in Fayette County for twenty years and represented the young people of the county. She asked that this Board encourage Commissioner Horgan to resign and pointed out that the young people of this county were watching the actions of this Board of Commissioners.

J.D. HOLMES: J.D. Holmes commented on the West Fayetteville Bypass. He felt that a lot of money had been spent on a road to nowhere. He also questioned the car counts and the study that was done in 2003 for a projection of cars in 2030. He felt this money could be better used in the East Fayetteville Bypass.

MICHAEL MEYER: Michael Meyer commented on the West Fayetteville Bypass. He questioned the data that was used for the proposed bypass as well as the car counts. He also said there had been no mention of concern for the environment. He said with the state of the current economy, this project should be put on hold. He asked consideration for the Board to postpone a vote tonight on the bypass.

DENNIS CHASE: Dennis Chase said he was the President of the Line Creek Association of Fayette County. He expressed concern with how the West Fayetteville Bypass was being managed. He said he still did not have answers as to why this Bypass was necessary and what alternatives were considered. He said he had seen nothing in the files that indicated what the real need for this Bypass was and what the real purpose of it was and what the alternative analysis was. He said it was very concerning to him that the Board would be voting on this tonight.

HAROLD BOST: Harold Bost said it was unfortunate for the citizens of Fayette County when one of the elected officials makes choices that embarrass everyone. He said the actions of Commissioner Horgan were an outright disgrace to this County. He felt this sets a horrible example for the young people in Fayette County. He felt Commissioner Horgan should do the right thing and resign. He said this issue will not go away and the citizens will not let it go away.

LISA HOUSTON: Lisa Houston remarked that she had moved to Fayette County approximately one month ago and purchased property that abuts Lester Road which is supposed to be widened under the Phase III of the Bypass. She said none of this information was provided to her prior to her purchase. She felt even if the Bypass only affected a few citizens, that was bad enough. She remarked that during these economic times, people were already losing their homes and this was impacting a lot of people and not just a few. She felt further studies needed to be done on this project including accountability to show and insure the voters that there was real public need for this Bypass. She questioned if this project was really for the good of all or was it just for the good of a very few who have interests in developing this land.

STEVE SMITHFIELD: Steve Smithfield said he was a representative of the West Fayetteville Bypass Coalition. He said he had previously submitted an Open Records Request to the Fayette County Board of Commissioners for information relating to the West Fayetteville Bypass Project. He said in response he was directed to visit the Fayette County Public Works Department in order to review records. He said he had found nothing but outdated traffic figures and over 60 negative bypass comments from the West Fayetteville Bypass open house held by the County on September 16th. He said he had not seen any detailed traffic studies or environmental studies relating to the Bypass. He said the citizens were still waiting for Fayette County to present justification to the public for this Bypass. He said he had not heard one positive comment for this Bypass yet. He asked for the Board to delay its approval of the West Fayetteville Bypass until information justifying the project from an environmental standpoint was released to the public.

NANCY BRYANT: Nancy Bryant said she had moved to Fayette County from Clayton County 19 years ago and loved the area for the rural feel as well as the school system. She said she and her husband lived on Lees Mill Road which had now become one of the most dangerous roads in the County. She felt money could be better spent on improvements to existing roads.

CAROLYN PERDUE: Carolyn Perdue said her neighbor was Don Newhart and his house would be taken away as a result of the Bypass. She noted that the Bypass was much more than two houses and a barn and noted that the Bypass would be within 30 feet of her bedroom window. She pointed out that the County had allowed high dollar houses to be built that were currently sitting empty and the Bypass would go around those homes and destroy her way of life. She asked the Board to reconsider building the Bypass.

ALICE JONES: Alice Jones commented that there were 25 pages of foreclosures in Fayette County and this was affecting the budget for Fayette County. She noted that one of the Commissioners had commented at the last Board meeting on May 28th that this County did not want any monies coming out of Washington but she asked what the citizens would do when the budget was affected and people were losing their homes. She asked if this Board was serving the best interests of the citizens of Fayette County. She also commented that she was a youth counselor advisor with the Fayette County NAACP. She said she spends many mornings at the Fayette County Jail with children who were being kicked out of school, incarcerated and sent to the juvenile detention center for the same offense that Commissioner Horgan had committed. She noted that Commissioner Horgan was the Commissioner who serves her district which was Post 1. She pointed out that Commissioner Horgan was not above the law and he must serve the sentencing for doing what was illegal. She said this type of behavior deserved punishment to the fullest extent of the law. She asked Commissioner Horgan to do the right thing and send in his letter of resignation.

JOHN E. JONES: John E. Jones said he wanted to personally commend the leadership of Commissioner Maxwell for writing a letter for everyone attending tonight's meeting. He said Commissioner Horgan was his representative and that was for Post 1. He said the at-large voting process has put Mr. Horgan in place for Post 1 and he had let the district down. He said once this County adopts district voting process, accountability and representation would be significantly improved and provide an equal opportunity to get better qualified persons elected.

BOBBY WIGGINS: Bobby Wiggins suggested four laning Sandy Creek Road and six laning S.R. 74 to help route traffic to the interstate in order to get to Atlanta.

LATRELLE BURCHER: Latrelle Burcher remarked that during one school year there were 180,000 students who will pass through the intersection if the Bypass went in across Lees Mill Road. She remarked that the Northwest quadrant was the largest and practically the only water recharge area for Fayette County. She said just last month she had gotten a letter in the mail stating that the water in this County did not meet water quality standards. She said the Bypass would directly impact this County's largest water recharge area. She said this Board was endangering the lives of every homeowner in this County by putting this Bypass through the water recharge area for this County. She said if any of the five Commissioners had at any time in their political careers accepted contributions from any developers who may have purchased land along this Bypass route, she felt it only fair to the citizens of Fayette County that those Commissioners not vote on the bypass.

GORDON FURR: Gordon Furr asked the Board to do the right thing and deny this Bypass and quit wasting the taxpayers' money in these hard economic times. He commented that the Bypass would destroy the County's water supply. He said this was a road to nowhere except in the developer's pocketbook.

ANGELA HINTON FONDA: Angela Hinton Fonda commented on the West Fayetteville Bypass and the impact of increased traffic, heavy trucks and the effect on the County's drinking water. She also remarked that Commissioner Horgan should recuse himself from voting on the budget at the Board's next meeting on June 25th since he has a matter pending before the State Court of Fayette County.

DON NEWHART: Don Newhart remarked that he lived on Janis Drive and his home was in the path of the Bypass. He said he agreed that something had to be done about the traffic but he certainly hated to see the community destroyed. He said he certainly did not have all of the answers but would like to get on with his life. He also commented on Commissioner Horgan's situation. He said he personally felt it would be to the County's best interest if he would resign.

CONSENT AGENDA: COMMISSIONER MAXWELL REQUESTED ITEM NO. 8 BE REMOVED FOR DISCUSSION. COMMISSIONER MAXWELL MADE A MOTION TO APPROVE CONSENT AGENDA ITEMS 1-7 AS PRESENTED AND TO REMOVE ITEM NO. 8 FOR DISCUSSION. COMMISSIONER FRADY SECONDED THE MOTION. THE MOTION CARRIED 5-0.

1. Consideration of staff's request to renew the annual Agreement between Fayette County and the University of Georgia for the provision of Extension Services Programs in Fayette County for a period beginning July 1, 2009 and ending June 30, 2010.
2. Consideration of staff's request to increase the FY 2009 budgeted revenues and expenditures to recognize a donation of \$100 from the Whitewater Middle School Builders Club to be used by the Sheriff's Department K-9 Unit.

3. Approval of staff's recommendation to execute "Rural Fire Defense Memorandum of Understanding" between the Georgia Forestry Commission and the Fayette County Fire Department.
4. Approval of staff's recommendation to award Bid # 709 Grass Mowing to S.S.F.W. Landscape Management for \$2,150. per month for Brooks Park, Tru Green Landcare, LLC, for \$3,821. per month for Kiwanis Park and to North Georgia Land Services for \$2,730 per month for McCurry Park.
5. Approval of staff's recommendation to award Bid # 709 Grass Mowing to Star Valley Landscape to provide mowing and other landscaping services at the Justice Center at a cost of \$17,400. for 12 months.
6. Approval of staff's recommendation that the County's contract with Waste Management be amended to allow the County's Transfer Station to be closed on MLK Day, Memorial Day, and Labor Day, in addition to the holidays already recognized.
7. Approval of request from Superior Court Judge Paschal English that Fayette County designate Professional Probation Services, Inc. to provide probation services and programs for offenders sentenced by and under the jurisdiction of Superior Court.
8. Approval of minutes of the May 14, 2009 Board of Commissioners Meeting, the May 19, 2009 County Commission Budget Workshop, and the May 28, 2009 Board of Commissioners Meeting .

COMMISSIONER MAXWELL REMARKED THAT THE WORDING IN THE MINUTES FOR THE COMMISSIONERS' BUDGET MEETING HELD ON MAY 19, 2009 REGARDING A BUDGET REQUEST FOR THE ELECTIONS OFFICE DID NOT ACCURATELY REFLECT WHAT THE BOARD HAD AGREED ON.

COMMISSIONER MAXWELL MADE A MOTION TO AMEND THE MINUTES OF THE MAY 19TH COMMISSIONERS' BUDGET WORKSHOP TO REFLECT THAT THE ELECTIONS DEPARTMENT HAD REQUESTED THAT ONE FULL-TIME POSITION BE SPLIT INTO TWO PART-TIME POSITIONS AND THAT THE BOARD HAD NOT AGREED WITH THAT REQUEST. COMMISSIONER FRADY SECONDED THE MOTION. THE MOTION CARRIED 5-0.

COMMISSIONER MAXWELL ADDED THAT HE RECALLED DURING THE DISCUSSION OF FUNDING REQUESTED FOR PAY-FOR-PERFORMANCE THAT THESE FUNDS, IF APPROVED, WOULD NOT BECOME AVAILABLE UNTIL JANUARY 1, 2010 AND THAT HE AND COMMISSIONER FRADY HAD NOT BEEN IN FAVOR OF FUNDING THE PAY-FOR-PERFORMANCE REQUEST.

COMMISSIONER MAXWELL MADE A MOTION TO APPROVE THE MINUTES FOR THE BOARD OF COMMISSIONERS' MEETINGS HELD ON MAY 14, 2009 AND MAY 28, 2009. COMMISSIONER FRADY SECONDED THE MOTION. THE MOTION CARRIED 5-0.

OLD BUSINESS:

- D. Consideration of the proposed alignment of Phase II of the West Fayetteville Bypass by the Public Works Department. This item was tabled from the May 28 County Commission meeting.

COMMISSIONER MAXWELL MADE A MOTION TO APPROVE THE CONCEPT PLAN FOR THE PROPOSED ALIGNMENT OF PHASE II OF THE WEST FAYETTEVILLE BYPASS AS PRESENTED BY STAFF. COMMISSIONER FRADY SECONDED THE MOTION. THE MOTION CARRIED 5-0.

NEW BUSINESS:

- E. Consideration of a request from the Fayette County Board of Education that the Board of Commissioners adopt a resolution levying an annual tax to pay the debt service for 2009 Bonds to be issued following the refunding of Board of Education Bonds issued in 1994 and 1999.

COMMISSIONER MAXWELL MADE A MOTION TO AUTHORIZE THE CHAIRMAN TO EXECUTE THE RESOLUTION FOR THE FAYETTE COUNTY BOARD OF EDUCATION LEVYING AN ANNUAL TAX TO PAY THE DEBT SERVICE FOR 2009 BONDS. COMMISSIONER FRADY SECONDED THE MOTION. THE MOTION CARRIED 5-0.

ADMINISTRATOR'S REPORT:

ISSUE OF THE COUNTY PROVIDING BUILDING INSPECTION SERVICES TO THE TOWN OF TYRONE: County Administrator Jack Krakeel briefed the Board on a discussion he had with the Mayor of Tyrone regarding the County providing building inspection services to the Town. Mr. Krakeel said he had discussed this issue with staff and had placed three requirements on them: (1) any such agreement would not entail additional staff positions; (2) that fees received from those inspections be comparable and consistent with rates that were being charged to unincorporated residents; and (3) to minimize any potential administrative impact to other departments within the County such as the Finance Department. He said staff would be presenting preliminary findings to the Tyrone Town Council within the next week and a half. He said it did appear that staff could meet all of the prerequisites that he had outlined for staff. He said at some point, staff would be coming forth to the Board for a recommendation.

WATERING RESTRICTIONS REMOVED: County Administrator Jack Krakeel remarked that the Governor had removed watering restrictions for the State through the Department of Natural Resources Director Carol Couch. He said Fayette County was no longer under a Level IV drought declaration which substantially loosens the watering restrictions.

MOWING OF THE COUNTY'S RIGHT-OF-WAYS AND MEDIANS: County Administrator Jack Krakeel commented on the condition of the County's right-of-ways and medians and the rapid growth of vegetation. He said staff had contacted the Department of Transportation regarding this issue and possible safety concerns. He said staff was informed that due to budget cuts at the State level it would be in late July or August before D.O.T. would have any crews in Fayette County to mow and also that it would only be done once this year. He asked for the Board's consideration to allow staff to look at estimate of time and labor costs for the County to take on this responsibility this year while the State was dealing with budget issues. He said staff would bring this information to the Board at the June 25th meeting.

ATTORNEY'S REPORT:

NONE.

STAFF REPORTS:

NONE.

BOARD REPORTS:

COMMISSIONER MAXWELL: Commissioner Maxwell asked for the Board's consideration to present a Resolution recommending that Governor Sonny Perdue consider and appoint Judge Christopher Edwards to the Georgia Supreme Court.

COMMISSIONER MAXWELL MADE A MOTION AUTHORIZING THE CHAIRMAN TO EXECUTE RESOLUTION NO. 2009-09 RECOMMENDING THAT GOVERNOR SONNY PERDUE CONSIDER AND APPOINT JUDGE CHRISTOPHER EDWARDS TO THE GEORGIA SUPREME COURT. CHAIRMAN SMITH SECONDED THE MOTION. THE MOTION CARRIED 4-0-1 WITH COMMISSIONER HORGAN ABSTAINING FROM THE VOTE.

COMMISSIONER HEARN: Commissioner Hearn asked for consideration to allow staff to look at three intersections including Hilo Road at S.R. 92, Bernhardt Road at S.R. 85 as well as Harp Road and S.R. 85 and provide an update to the Board at the Wednesday, July 1st Board meeting on the percentage of design complete, right-of-way acquisition, and when projects will be let.

EXECUTIVE SESSION: County Attorney Scott Bennett requested an Executive Session to discuss real estate acquisition.

COMMISSIONER HEARN MADE A MOTION TO ADJOURN TO EXECUTIVE SESSION TO DISCUSS REAL ESTATE ACQUISITION. COMMISSIONER FRADY SECONDED THE MOTION. THE MOTION CARRIED 5-0.

CHAIRMAN SMITH RECONVENED THE MEETING AND REMARKED THAT NO ACTION HAD BEEN TAKEN.

COMMISSIONER FRADY MADE A MOTION TO AUTHORIZE THE CHAIRMAN TO EXECUTE THE EXECUTIVE SESSION AFFIDAVIT AFFIRMING THAT REAL ESTATE ACQUISITION WAS DISCUSSED IN EXECUTIVE SESSION. COMMISSIONER HORGAN SECONDED THE MOTION. THE MOTION CARRIED 5-0.

ADJOURNMENT: CHAIRMAN SMITH ANNOUNCED THAT THERE WAS NO OTHER BUSINESS TO COME BEFORE THE BOARD AND THE MEETING WAS ADJOURNED AT 10:06 P.M.

Karen Morley, Chief Deputy Clerk