Minutes

Board of Commissioners
April 1, 2009
3:30 P.M.

The Board of Commissioners of Fayette County, Georgia, met in Official Session on Wednesday, April 1, 2009, at 3:30 p.m. in the Commissioners' Conference Room, Suite 100, 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

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Chairman Smith called the meeting to order.

ACCEPTANCE OF AGENDA: Commissioner Horgan made a motion to approve the agenda as presented. Commissioner Hearn seconded the motion. The motion carried 5-0.

OLD BUSINESS:

A. INFORMATIONAL UPDATE FROM THE RETIREMENT STUDY COMMITTEE REGARDING THE DEFINED BENEFIT RETIREMENT PLAN.

Public Safety Director Allen McCullough updated the Board on the retirement study committee's recommendation for a vendor for the defined benefit retirement plan for county employees. He said the committee was recommending the Association of County Commissioners of Georgia defined benefit program which is administered through Governmental Employee Benefits Corporation (ACCG-GEBCorp). He said this item would come before the Board on April 9, 2009 for the Board's consideration for a vote. A copy of the request and backup, identified as "Attachment No. 1", follows these minutes and is made an official part hereof.

NEW BUSINESS:

B. DISCUSSION OF PROPOSED AMENDMENTS TO THE FAYETTE COUNTY SUBDIVISION REGULATIONS, INCLUDING THE PROCEDURES FOR APPROVAL OF PRELIMINARY AND FINAL PLATS:

Director of Community Development Pete Frisina discussed the Fayette County Subdivision Regulations, specifically the procedures for approval of final plats and whether the Planning Commission or the Board of Commissioners should be providing final approval. A copy of the request, identified as "Attachment No. 2", follows these minutes and is made

an official part hereof. He said staff was recommending that the Board of Commissioners be responsible for the approval for final plats and at the same time approve the final acceptance of any public right-of-way for streets inside the subdivision. He said staff had done some preliminary changes in the Subdivision Regulations as well as including conditions for the new Stormwater Department.

County Attorney Scott Bennett interjected that under the State Law either the Board of Commissioners or the Planning Commission can approve the final plats. He said it would be up to the Board of Commissioners as to how this would be determined. He said typically a final plat also includes road dedication. He said the question was if the Board of Commissioners wanted to see these requests before building begins. He said currently these requests go to the Planning Commission but if the Board wanted to see them this procedure could be changed.

Commissioner Hearn remarked that the significance of a final plat was that the property could not be sold and no closings could occur prior to the final plat being recorded.

County Attorney Scott Bennett said usually in a final plat there were areas shown on the final plat to be dedicated to the County for road purposes and the lots are drawn out and created at that time. He said this could be one process and done by either the Board of Commissioners or the Planning Commission. He said at that point the roads were in, the curbing was in, the utilities were in and construction would be about to begin.

Mr. Frisina interjected that staff did not issue permits until the roads were dedicated. He said even though a plat was recorded, permits would not be issued until the road dedication. He noted that acceptance of street light districts was done at a separate time and would not hold up the construction start date.

Attorney Scott Bennett remarked that the requirement that final plats be approved either by the Board of Commissioners or the Planning Commission was actually for the Clerk of the Superior Court regarding Title 15, Chapter 6. Superior Courts, Article 2. Clerks of Superior Court. He said the Clerk was actually prohibited from recording a final plat until it was approved by the Board of Commissioners or the Planning Commission.

Commissioner Maxwell felt the Planning Commission would be the better body to make this decision since their entire focus was on planning. Chairman Smith agreed and said he had no problem with the Planning Commission handling this and felt they would have more technical expertise for this.

The Board agreed that the Planning Commission would be the body designated to approve preliminary and final plats. Mr. Frisina remarked that staff would review the Subdivision Regulations and determine if there were any changes that needed to be made. He said he would bring any proposed amendments back to the Board at the next workshop meeting for discussion and then advertise for a public hearing for consideration by the Board.

C. CONSIDERATION OF THE CITY OF FAYETTEVILLE'S REQUEST TO ANNEX 1.00 ACRE KNOWN AS 172 NORTH 85 PARKWAY. THIS PROPERTY IS LOCATED IN LAND LOT 184 OF THE 5TH DISTRICT, FRONTS ON NORTH 85 PARKWAY, AND IS CURRENTLY ZONED COMMERCIAL HIGHWAY (C-H):

Director of Community Development Pete Frisina discussed this request with the Board. A copy of the request and backup, identified as "Attachment No. 3", follow these minutes and are made an official part hereof. He said given the area that this was located, staff really did not see a problem with this annexation request. He pointed out that there would be a loss of revenue and fire and EMS would lose fire tax dollars in the amount of $668.23. He said the parcel was located near the bowling alley on North 85 Parkway. Commissioner Hearn asked Mr. Frisina if he knew the reason for the annexation request. Mr. Frisina replied that he did not but he would ask the City.

After further discussion, it was the consensus of the Board that it would not object to the City of Fayetteville's annexation request.

D. CONSIDERATION OF THE CITY OF PEACHTREE CITY'S REQUEST TO ANNEX 17.819 ACRES KNOWN AS THE PEACHTREE EAST SHOPPING CENTER. THIS PROPERTY IS LOCATED IN LAND LOT 69 OF THE 7TH DISTRICT, FRONTS ON S.R. 54 WEST, BROKEN BOW DRIVE, AND SHILOH DRIVE, AND IS CURRENTLY ZONED COMMUNITY COMMERCIAL (C-C):

Director of Community Development Pete Frisina discussed this request with the Board. A copy of the request and backup, identified as "Attachment No. 4", follow these minutes and are made an official part hereof. He said the County would lose approximately $26,500 in annual revenue from Occupational Tax fees, Alcohol Permit fees, Fire Tax and EMS Tax, should the property be annexed. He noted that this would not result in a change in zoning or land use and was more less a lateral move. He said there was not really a land use objection that the County could make in this case.

Commissioner Horgan clarified that the only two entrances into the adjacent mobile home park were through the Publix Shopping Center. Mr. Frisina added that the two commercial drives were not County owned or public streets. He said the shopping center maintains the access road entrances and the mobile home park maintains the streets within the park. He further remarked that the shopping center as well as the mobile home park were on Peachtree City sewer.

Commissioner Maxwell questioned a possible mutual aid issue. County Administrator Jack Krakeel said on page 13 of the Board's backup information it stated that "The property is already developed and is currently served by the City's emergency personnel under the mutual aid agreement along with the County." He felt this statement was highly misleading. He said the property was currently serviced by the County's public safety agencies and the County did have a mutual aid agreement with Peachtree City and other neighboring jurisdictions, which essentially means that in the event that the County were to exhaust all of its public safety resources in responding to an incident at this location, it could then call upon neighboring jurisdictions to provide assistance. He noted that also on page 13 regarding section 14.c. it stated "It is anticipated that the existing shopping center will have limited impact on the police and fire emergency services. Currently, the City's Police and Fire Departments render mutual emergency aid along with the County to the shopping center. If the property is annexed, the City's Police Department will begin patrols of the shopping center and will respond to shoplifting, auto theft, and other such crimes to which it does not currently respond. The Fire Department would also begin monitoring the shopping center for fire safety which it currently does not do. Both departments will respond under automatic aid as opposed to mutual aid to emergency calls." He pointed out that there currently was no automatic aid agreement with the City of Peachtree City. He said he was unsure of the City's expectation and he felt there needed to be clarification.

Chairman Smith felt there were really no fundamental statutory grounds for an objection to this request. He asked for permission to draft a letter to the Mayor of Peachtree City asking that they prepare a mutual aid agreement for the County to continue with fire protection services in exchange for an amount payment equal to the fire tax or agree to pay the County a diminished amount to recoup infrastructure costs.

Commissioner Maxwell felt like there would be no leverage in writing a letter. He said this Board could vote to object to the annexation request and have some ability to negotiate with the City because there was not a clear plan of what the City was wanting. He said this might not be a valid reason to object that could be sustained but at least it would put the county in a position to negotiate with them. He said other wise there would be no ability to negotiate at all and he questioned the point of even writing the letter.

Chairman Smith asked Mr. Frisina for the time frame for a response to the City and Mr. Frisina replied that the County would have to get a letter to the City by Thursday, April 9th. Chairman Smith said the Board really needed to take action on this today.

Commissioner Maxwell asked the County Attorney if the Board needed to give a reason. Attorney Bennett said the statute states what the Board can object to and if the Board wanted to state one of the objections it could, but it would need to be statutory.

Chairman Smith said he was not sure that the Board had grounds to do anything. He said the Board could get the answers to these questions, but did not necessarily have the fundamental grounds to object to the annexation.

Commissioner Maxwell said if the Board did not object, it would still need to get answers because these residents are still Fayette County citizens.

Mr. Krakeel felt there was no fundamental change in the relationship and mutual aid agreements were signed and in effect between both jurisdictions. He said his only concern was if there might be an expectation that Peachtree City was asking for automatic aid as part of the proposed annexation and he did not think that was grounds on which the Board could object but he did feel that a clarification was required because it materially affects the response criteria. He said this would require changes in the County's CAD system. He said there had been no dialogue with the public safety agencies regarding that matter. He said this may just be a misstatement in their analysis and it might mean that Peachtree City would be the principle responding agency rather than the County but they had used the term automatic aid. He said automatic aid was a relationship between two parties requiring whoever was closest to respond first. He said this was the only reason he felt there needed to be clarification. He said this was a separate discussion from the annexation , but he just wanted to make sure the Board was aware of this information that was contained in Peachtree City's analysis of their annexation request.

Chairman Smith said he felt Mr. Krakeel could get the clarification to these public safety issues but probably more appropriately Public Safety Director Allen McCullough could contact them..

Public Safety Director Allen McCullough interjected that there must be enough time to work with 911 and their CAD system to make whatever changeover was necessary. He felt this would take approximately 30 to 60 days to accomplish.

After the Board discussed this matter, no vote was taken.

ADMINISTRATOR'S REPORT:

Level IV Drought Status: County Administrator Jack Krakeel remarked that State Climatologists had determined that the drought was over for Fayette County as well as the State of Georgia. He asked for the Board's consideration to allow staff to send a letter to the Environmental Protection Division requesting a modification to the County's current Level IV drought status that the County had been under for well over a year to a Level II drought status. He remarked that Fayette County had over 300 days of water supply available to meet the demands of the citizens of Fayette County. He said staff felt it appropriate to send a letter to the E.P.D. requesting the modification to a level II drought status that would put the County back into the levels it had prior to the drought which had been maintained historically which was the odd/even watering day restrictions.

It was the consensus of the Board to allow staff to send this letter to the E.P.D. A copy of the letter, identified as "Attachment No. 5", follows these minutes and is made an official part hereof.

Graduate Intern for Stormwater Management: County Administrator Jack Krakeel remarked that the Stormwater Water Department had submitted a request for consideration to use a graduate intern to assist with G.I.S. work in the County, specifically in impervious surface delineation. He said the time frame for engaging the intern would be approximately five weeks and cost approximately $1,411. He said the Department currently did not have any budgeted funds to cover this and he asked for consideration to take these funds out of the County's Contingency Fund for this purpose.

Chairman Smith made a motion to authorize selection of a graduate intern for the Stormwater Management/G.I.S. Department at a cost of approximately $1,411 with said amount coming out of the contingency fund. Commissioner Frady seconded the motion. The motion carried 5-0.

Property Owners' Issue on Jenkins Road: County Administrator Jack Krakeel remarked that the Road Department had received a request from property owners along Jenkins Road, including Sandy Creek Baptist Church, for consideration of terminating Jenkins Road between Ellison Road and Sandy Creek Road due to a high volume of high school traffic who continue to use that dirt road as a cut through to Sandy Creek High School.

Chairman Smith said he was not in favor of closing any roads and felt this would create problems somewhere else.

Commissioner Maxwell suggested a study be done to review this situation. Mr. Krakeel said there were five property owners who would be affected.

Commissioner Hearn interjected that this was an ongoing situation on this road with dust and other issues and had been going on for at least ten years. He said the County had looked into paving the road several years ago and people would not donate right-of-way especially the people near Ellison Road.

Commissioner Frady said he would be in favor of a study but was not in favor of closure.

Public Works Director Phil Mallon interjected that the intersection at Jenkins Road and Sandy Creek Road was one project that was slated for improvement this year.

Chairman Smith suggested that the Sheriff's Office could review this situation to see what might help with the traffic issue as well as Public Works Staff could talk with the affected property owners. Mr. Krakeel said he would be glad to draft a response letter indicating the Board's decision.

Bank of Georgia Occupational Tax Refund Request: County Administrator Jack Krakeel said he had a tax refund request from the Bank of Georgia to discuss with the Board. A copy of the memorandum, identified as "Attachment No. 6", follows these minutes and is made an official part hereof.

Chairman Smith interjected that he would recuse himself because of a conflict of interest and would now turn the meeting over to Vice Chairman Frady. He said he would not be present for this discussion and exited the meeting at this time.

County Administrator Jack Krakeel briefed the Board on the Bank of Georgia's request for a 2008 occupational tax refund in the amount of $15,015 as a result of an overpayment.

Commissioner Horgan made a motion for authorization of a tax refund in the amount of $15,015 to the Bank of Georgia. Commissioner Hearn seconded the motion. The motion carried 4-0. Chairman Smith was absent from the meeting.

Commissioner Horgan made a motion for authorization for the Vice Chairman Herb Frady to sign the check in the amount of $15,015 to the Bank of Georgia. Commissioner Hearn seconded the motion. The motion carried 4-0. Chairman Smith was absent from the meeting.

Chairman Smith re-entered the meeting at this time.

ATTORNEY'S REPORT:

State Court Issue Regarding Animal Control Functions: County Attorney Scott Bennett briefed the Board on an issue that Judge Sams had brought to his attention regarding citations the County had written in cities for violations of Animal Control Ordinances. He said in 2005 the County had entered into contracts with all of the cities to allow the County's Animal Control Officers to perform animal control functions within the cities. He said some issues had recently been raised on the procedural way the County was doing this. He said Judge Sams had determined that there was a defect in the procedures and the way he was conducting his court. He added that as a result, Judge Sams had dismissed all of the pending tickets that were currently within city limits, but this did not affect the tickets issued in unincorporated Fayette County. He said he would be revising all of the contracts with the cities regarding the Municipal Court services and hoped to bring these back to the Board on April 9th for consideration.

Change of providers for managing the County's 401A and 457 Retirement Plans: County Attorney Scott Bennett remarked that the Board had made a decision at the last meeting to replace The Hartford Life Insurance Company with Mass Mutual as the manager of the assets in the County employees' 401A and 457 Retirement Plans. He said in order to implement that change, the Board would need to issue a letter to The Hartford terminating both of the contracts and this would require written notice sixty days in advance. He said he had drafted a letter for the Board's consideration that would (1) terminate the 401A and 457 administrator services agreements with The Hartford, effective June 30, 2009; and (2) request The Hartford to cooperate with Mass Mutual by providing all information in their possession and all of the reports that they generate. He asked for the Board's consideration to terminate the contract and authorize the Chairman to execute the letter terminating said contracts. He said the second item for the Board's consideration was to execute the contracts and other required documents with Mass Mutual. He remarked that he had been informed that there would be numerous agreements coming to the Board for approval. He asked for the Board's consideration to delegate the authority to sign those contracts to the Chairman after review by the County Administrator and himself as County Attorney.

Commissioner Horgan made a motion to authorize the Chairman to execute the letter to The Hartford Life Insurance Company to terminate the current plan effective June 30, 2009. Commissioner Frady seconded the motion. The motion carried 5-0. A copy of the letter, identified as "Attachment No. 7", follows these minutes and is made an official part hereof.

Commissioner Horgan made a motion to authorize the Chairman to execute all forthcoming contracts and documents to effectuate the change over to Mass Mutual to administer the County's 401A and the 457 Plan. Commissioner Hearn seconded the motion. The motion carried 5-0.

STAFF REPORTS:

Director of Community Development Pete Frisina - Neighborhood Stabilization Program Grant Award: Director of Community Development Pete Frisina updated the Board on the Neighborhood Stabilization Program Grant. He remarked that the Department of Community Affairs was asking for more detail on the Plan and had placed special conditions on the County's application that must be answered within forty-five days. He remarked that there would have to be another public hearing within 60 days of the return of the documentation back to the D.C.A. He said the D.C.A. had also placed special conditions on the application that the County would have to answer within 45 days. He said the

D.C.A. was asking staff to develop additional detail on the plan and answer the questions listed on the Statement of Special Conditions. He called the Board's attention to the area that would receive these funds and noted that it had to be in an area with a Risk Score of 8-9 and this area was listed on the map as North Fayette County. A copy of his handout, identified as "Attachment No. 8", follows these minutes and is made an official part hereof.

Commissioner Horgan made a motion to authorize the Chairman to execute the documents received from the Department of Community Affairs regarding the Neighborhood Stabilization Program Grant Award. Commissioner Hearn seconded the motion. The motion carried 5-0. A copy of the documents, identified as "Attachment No. 9", follow these minutes and are made an official part hereof.

Water System Director Tony Parrott - Water Bill Inserts: Water System Director Tony Parrott reported to the Board that a notice of new bill payment services provided by Paymentus, which will allow for electronic bill payment by credit card, electronic check or debit card, would be included in customers' water bills beginning next Monday. A copy of the notice, identified as "Attachment No. 10", follows these minutes and is made an official part hereof.

Public Works Director Phil Mallon - S.R. 314: Public Works Director Phil Mallon remarked that the resurfacing work on S.R. 314 was going to begin per the Georgia Department of Transportation but a specific date was not given.

Fire Marshal David Scarbrough - Possibility of Additional Zip Code Changes: Chairman Smith remarked that at the last Board meeting, Commissioner Maxwell had requested additional information regarding zip code areas that result in Fayette County citizens having mail delivery by post offices not located in Fayette County. He said Mr. Scarbrough had information to present to the Board regarding this issue.

Fire Marshal David Scarbrough discussed the areas in Fayette County where mail is delivered by Senoia and Jonesboro Post Offices. A copy of his handout, identified as "Attachment No. 11", follows these minutes and is made an official part hereof. He said he was aware of a few zip code concerns from citizens living in Jonesboro delivery area but not from citizens living in the Senoia delivery area.

Commissioner Hearn said he felt it was important to know if there was support from the citizens who would be affected by any zip code changes. He said he would not be in favor of making any changes unless there was a majority of the citizens wanting the change. He said he would also have concern with the renaming of any affected streets for these areas.

After further discussion, Chairman Smith suggested more research could be done but felt the Board would not want to proceed with any zip code changes unless there was a request by the citizens in those areas.

BOARD REPORTS:

Chairman Smith - West Fayetteville Bypass: Chairman Smith commented that there had been many discussions on the West Fayetteville Bypass but none on the design of the road to make sure that in the future a parkway and rural Fayette County feel was maintained along the roadway. He asked for consideration (1) to allow staff to work on reducing right-of-way acquisition from 120 ft. to 100 ft. which would save the County approximately $400,000 to $500,000; and (2) to direct staff to start on an overlay zone for the West Fayetteville Bypass which would include access control as well as buffers and setbacks.

The Board was in agreement with Chairman Smith's request.

EXECUTIVE SESSION:
None.

ADJOURNMENT: Commissioner Hearn made a motion to adjourn the meeting at 5:33 p.m. Commissioner Horgan seconded the motion. The motion carried 5-0.

Karen Morley, Chief Deputy Clerk

Jack R. Smith, Chairman

The foregoing minutes were duly approved at an official meeting of the Board of Commissioners of Fayette County, Georgia, held on the 23rd day of April, 2009.

Karen Morley, Chief Deputy Clerk