Minutes

Board of Commissioners
January 13, 2011
7:00 P.M.

Notice: A complete audio recording of this meeting can be heard by accessing Fayette County's Website at www.fayettecountyga.gov. Click on "Board of Commissioners", then "County Commission Meetings", and follow the instructions. The entire meeting or a single topic can be heard.

The Board of Commissioners of Fayette County, Georgia, met in Official Session on Thursday, January 13, 2011, at 7:00 p.m. in the Public Meeting Room of the Fayette County Administrative Complex, 140 Stonewall Avenue, Fayetteville, Georgia.

Commissioners Present:	Herb Frady, Chairman Robert Horgan, Vice Chairman Steve Brown Lee Hearn Allen McCarty
Staff Present:	Jack Krakeel, County Administrator Scott Bennett, County Attorney Carol Chandler, Executive Assistant Karen Morley, Chief Deputy Clerk

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Chairman Frady called for a moment of silence to remember and pray for the victims in the Arizona shooting.
Chairman Frady called the meeting to order.
Commissioner Hearn offered the Invocation.
David Studdard led the Pledge of Allegiance.

ACCEPTANCE OF AGENDA: County Administrator Jack Krakeel asked for consideration to amend the agenda tonight to include a request that he had received earlier today from Ms. DeNeese Blanton who is the District IV Health Services Nutrition Manger for the Fayette County W.I.C. Program. He remarked that the purpose of the discussion would be to address her request to the Board for extension of facility hours.

Commissioner Horgan made a motion to accept the agenda as presented including the item requested by Mr. Krakeel. Commissioner McCarty seconded the motion, discussion followed.

Commissioner Brown stated that he was in favor of twenty-four hour notice on additional items for the agenda unless it was an emergency. He said this was a legitimate emergency and noted that the W.I.C. Office had to close its doors due to an act of God and the inclement weather. He said a lot of mothers must get the vouchers and certificates in a timely fashion and it was crucial that they not be shorted on food and formula.

The motion carried 5-0.

PUBLIC HEARING:

1. Consideration of Petition No. RP-049-10, Wendy K. Peterson, Owner/Agent, request a revision of the recorded plat for Woods Edge at Timber Lake, Phase I, to subdivide Lot 140 into two (2) single-family dwelling lots. This property is located in Land Lots 20 and 21 of the 6th District, fronts on Brown's Crossing Drive, and is zoned PUD-PRD:

Director of Community Development Pete Frisina read the rules for public hearings. A copy of the Public Hearing Rules, identified as "Attachment No. 1", follows these minutes and is made an official part hereof. He remarked that this was a request for a revision of the recorded plat for Woods Edge at Timber Lake, Phase I, to subdivide Lot 140 into two (2) single-family dwelling lots. He noted that this property is located in Land Lots 20 and 21 of the 6th District, fronts on Brown's Crossing Drive, and is zoned PUD-PRD.

Chairman Frady asked if the petitioner or the agent for this request was present.

Timothy Peterson, 150 Brown's Crossing Drive said he and his wife Wendy Peterson were the petitioners for this request. He said it was their plan to subdivide their lot. He said the home was a six bedroom and five bath house, and they wanted to build a smaller home for retirement. He remarked that their youngest daughter was now a senior in high school and as she goes on to college they wanted to build a three bedroom and two and a half bath house.

Wendy Peterson said their home was located in Timberlake Subdivision and located on a very large frontage lot of more than 400 square feet. She said it was originally two lots. She said she had paid taxes on the lots for the last ten years and loved the neighborhood and would like to stay there. She said they had not met with any disapproval that she was aware of regarding their request. She said they had e-mails from the Homeowners Association President and the Architectural Board. She said there were a lot of friends from the neighborhood present tonight to show their support. She said they would like to build a home that was appropriate for the neighborhood. She said they would be glad to answer any questions that the Board might have.

Commissioner Horgan asked what Planning Commission member Jim Graw's opposition was to this request.

Mr. Frisina replied that Mr. Graw was not in favor of adding another lot to this subdivision.

Chairman Frady asked if there was anyone wishing to speak in favor of the petition.

Debby Kull said she lived in Timberlake Subdivision and was on the original Homeowners Board and currently was the Communications Director for the subdivision. She said the calls she had received from surrounding neighbors were positive and in favor of this proposal.

Fred Kull said he was Debby's husband and said he felt this was a win/win situation. He said not only did it represent a dramatic increase to Fayette County tax rolls but it would employ a lot of people to build this home. He felt this was a really important step to take.

Terri Clark said she was a neighbor and wanted to keep the Petersons in the neighhorhood.

Chairman Frady asked if there were any comments against the petition. Hearing none, he asked for the Board's pleasure in this matter.

Commissioner Horgan made a motion to approve Petition No. RP-049-10 for the Petersons to subdivide their lot 140 into two (2) single-family dwelling lots in the Woods Edge at Timber Lake, Phase I. Commissioner Hearn seconded the motion, discussion followed.

Commissioner Brown felt this would set a precedent for subdividing lots in subdivisions. He said he had also taken a pledge when he took his oath to support lower density.

Chairman Frady remarked that this subdivision was approved for 150 lots and there are only 145 lots. He said this Board would not be approving something that would exceed the 150 approved lots.

The motion carried 4-1 with Commissioner Brown voting in opposition. A copy of the request, backup and letter to petitioner, identified as "Attachment No. 2", follow these minutes and are made an official part hereof.

2. Consideration of a Resolution No. 2011-03 and transmit the "Fayette County 2010 Annual Report on Fire Services Impact Fees (FY 2010), including the Comprehensive Plan amendments for updates to the Capital Improvements Element and Short-Term Work Program (FY 2011-FY 2015):

Director of Community Development Pete Frisina remarked that Fayette County was required to do this annually and must account to the State of Georgia for the monies that have been collected and how the impact fees have been used. He said Fayette County was collecting impact fees in conjunction with the Tyrone, Brooks and Woolsey as well. He asked for the Board's consideration for approval of the transmittal package so that staff could send it to the Development of Community Affairs and the Atlanta Regional Commission for their review. He noted that Fayette County would have to adopt its portion by June 12th. He remarked that during the past year Fayette County had collected $42,545 in impact fees and in the nine years that this program has been in place Fayette County has collected $2.1 million for fire services.

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

Commissioner Horgan made a motion to approve and transmit the "Fayette County 2010 Annual Report on Fire Services Impact Fees for FY2010, including the Comprehensive Plan Amendments for updates to the Capital Improvements Element and Short-Term Work Program for FY2011-FY2015" and authorization for the Chairman to execute Resolution No. 2011-03 for submission to the Atlanta Regional Commission. Commissioner Brown seconded the motion, discussion followed.

Commissioner Brown noted for the record that the Board was given Resolution No. 2011-03 prior to the meeting tonight and would be made part of the packet and attachment to these minutes.

The motion carried 5-0. A copy of the request, backup and Resolution No. 2011-03, identified as "Attachment No. 3", follow these minutes and are made an official part hereof.

PUBLIC COMMENT:

Robert Ross: Robert Ross voiced opposition to Resolution No. 2010-22 proposing amendments to local legislation relative to the Board of Elections that was adopted by the Board on December 9, 2010. He said this Resolution required that political party nominees to the County Elections Board be subject to confirmation by the Board of Commissioners. He said when he had read this in the local newspaper, he was shocked that local officials would resolve such a measure to literally trample on the electoral process. He said he had spoken with the Henry County Director of Elections Janet Shellnutt who informed him that the Henry County Board of Elections has no veto authority now, nor in her 14 years in

office. A copy of his comment sheet, identified as "Attachment No. 4", follows these minutes and is made an official part hereof.

David Wimmer: David Wimmer commented on the East Fayetteville Bypass project. He noted that his background was in transportation and that he would be presenting the Board with additional information at the January 27th Board meeting.

Steve Smithfield: Steve Smithfield said it was his New Year's resolution to follow up on questions relating to open government that he felt needed some answers. He said he would be sending e-mails to various Commissioners requesting a short concise written reply. He said the questions would relate to issues that he believes prevent open government in Fayette County. He noted that there had never been any supporting data submitted for the West Fayetteville Bypass. A copy of Mr. Smithfield's comment sheet, identified as "Attachment No. 5", follows these minutes and is made an official part hereof.

David Studdard: David Studdard commented on Resolution No. 2010-22 relating to amendment of local legislation relative to the Board of Elections. He remarked that he was Chairman of the Fayette County Republican Party and also a member of the Board of Elections. He remarked that this was a dramatic step taken by the Board and he did not understand why it was taken. He said this Resolution was viewed as overreaching and he asked for the Board's consideration to rescind the Resolution.

Andrea Lyle: Andrea Lyle said she felt the Board of Commissioners was not in touch with the citizens of Fayette County when it comes to matters such as the West Fayetteville Bypass and the East Fayetteville Bypass and the unnecessary spending of taxpayers' dollars. She also commented that less than twenty citizens stopped by to talk with consultants as the signs advertising this opportunity last year were placed in locations less traveled where few people would even notice them. She also commented that the transportation survey and stated it was not located on the home page or the Board of Commissioners page but well buried on the County website.

Paul Parchert: Paul Parchert said he wanted to remind the new members of the Fayette County Commission of their campaign pledges and trust that they were men of honor and would honor those pledges to the best of their ability. He remarked that the three remaining commissioners would be gone in two years if they did not start listening to the citizens of Fayette County.

Gordon Furr: Gordon Furr commented on the West Fayetteville Bypass and said he considered it a waste of money. He also remarked that community sewer systems would bring high density. He asked the Board to keep the rural character of Fayette County and also keep the water drinkable.

David Barlow: David Barlow said he would like to make a comment about County Attorney Scott Bennett. He said it was his understanding that the County Attorney issued a comment to Robert Ross that Henry County was how Fayette County was going to run a particular election. He said Robert Ross had verified that this comment was false. He said he did not want that kind of counsel representing Fayette County. He said he wanted the record to reflect that he had picked up the gauntlet and was here to accept the challenge.

Scott Bennett: County Attorney Scott Bennett said he had made the statement regarding the Henry County Board of Elections and he stood by that comment. He remarked that Georgia Laws 1995, Volume 2 page 4198 originated in Senate Bill No. 95-402. He said this was the creation of the Henry County Board of Elections. He read this Bill into the record. He said the Henry County Board of Elections would consist of three members each of who shall be an elector and resident of Henry County and shall be appointed by the governing authority of Henry County. He said the governing

authority would be the Henry County Board of Commissioners. He said one member of the Board of Elections shall be a member of the political party which received the highest number of votes. He said one member of the Board of Elections shall be a member of a political party which received the second highest number of votes . He said each appointment pursuant to paragraphs 1 and 2 of this section shall be made from a list of candidates submitted to the governing authority. He said in Henry County the political parties submit candidates to the Board of Commissioners and the Board of Commissioners appoint them. He said this is how Henry County's local legislation is structured and how the Board of Elections was created. He said he had not given out false information. He said he had the local legislation on his computer and was looking at. He said he had done a lot of research and had done a lot of looking as to how other jurisdictions do it. He said he was asked to draw the ordinance the way it was drawn. He said he did not choose that method. He said he does not make decisions for the Board. He said he acts at the Board's direction. He said he wanted to be clear that he does not make things up and does not try to direct how things are done on this Board. He said when he said this was how Henry County does it, then that was how their law says they do it. He said whether they vary from the law or not, he did not know but he knows that is how it is drawn up. He said he had the legislation and would be glad to share it with anyone who asks.

CONSENT AGENDA: Commissioner Horgan made a motion to approve consent agenda items 3-10 as presented. Commissioner Hearn seconded the motion, discussion followed.

Commissioner Brown questioned item #3 if it had been discussed previously by the Board in a Workshop Meeting. County Attorney Scott Bennett replied that this was merely for re-codification purposes. Commissioner Brown asked if items #4, 5 and 6 would involve spending for the West Fayetteville Bypass. Mr. Krakeel responded that it was his understanding that these three items did reflect an annual contract in which the County would be procuring asphalt, milling services and concrete work for all projects including potential S.P.L.O.S.T. projects. Commissioner Brown said he was in favor of constructing the number one priority on the S.P.L.O.S.T. that was not constructed which was the East Fayetteville Bypass. He said he would be voting against the consent agenda because it would be a movement toward construction of the West Fayetteville Bypass which was a lower priority.

The motion carried 3-2 with Commissioner Brown and Commissioner McCarty voting in opposition.

Ordinance no. 2011-01 - Amendment of the Fayette County Code Sign Ordinance:

3. Approval of Ordinance No. 2011-01 which amends the Fayette County Code by adding the County's current Sign Ordinance, in its entirety, as Chapter 21 of the Code. A copy of the request, backup and Ordinance No. 2011-01, identified as "Attachment No. 6", follow these minutes and are made an official part hereof.

Bid #768 - Asphalt Products to be used in Paving and Resurfacing Projects:

4. Approval of staff's recommendation to award annual Bid #768 to two vendors, E.R. Snell Contracting, Inc. and C.W. Matthews, Inc. of Tyrone as primary and secondary vendors for various types of asphalt products to be used in paving and resurfacing projects in an annual amount not to exceed $2,600,000. A copy of the request and backup, identified as "Attachment No. 7", follow these minutes and are made an official part hereof.

Bid #769 - Atlanta Paving and Concrete Construction Awarded Contract for Asphalt Milling Services for Various Road Projects:

5. Approval of staff's recommendation to award Bid #769 to Atlanta Paving and Concrete Construction for asphalt milling services for various road maintenance projects in an annual amount not to exceed $75,000. A copy of the request and backup, identified as "Attachment No. 8", follow these minutes and are made an official part hereof.

Bid #776 - Seaco, Inc. Awarded Contract for Liquid Asphalt Emulsion to be used in Resurfacing Projects:

6. Approval of staff's recommendation to award Bid #776 to Seaco, Inc. as the primary vendor for Liquid Asphalt Emulsion to be used in resurfacing projects in an amount not to exceed $45,000. A copy of the request and backup, identified as "Attachment No. 9", follow these minutes and are made an official part hereof.

Water Committee Recommendation - Toilet Rebate Program Funding:

7. Approval of Water Committee's recommendation to continue the Metropolitan North Georgia Planning District Toilet Rebate Program with an additional $22,000 for funding. A copy of the request, backup and agreement, identified as "Attachment No. 10", follow these minutes and are made an official part hereof.

Health Department - Reimbursement of Cost for Materials for Construction:

8. Approval of staff's request to accept $122 from the Health Department as reimbursement for the cost of materials for construction of a counter by the Building and Grounds Maintenance Department staff. A copy of the request, identified as "Attachment No. 11", follows these minutes and is made an official part hereof.

Road Department - Repairs to Road Department Loader $25,000:

9. Approval of staff's request for $25,000 in funding from the County's Contingency Fund as an amendment to the Road Department's FY 2011 Budget for repairs to a Road Department loader. A copy of the request and backup, identified as "Attachment No. 12", follow these minutes and are made an official part hereof.

Water System - Transfer of Funds to Pay for Waterline

10. Approval of staff's request to transfer funds in the amount of $144,045 from the Special Purpose Local Option Sales Tax Fund Account as an amendment to the Water System's FY 2011 Budget to pay for a waterline relocation resulting from SPLOST Project 1-20, known as intersection improvements at State Route 92 and Hilo Road. A copy of the request and backup, identified as "Attachment No. 13", follow these minutes and are made an official part hereof.

NEW BUSINESS:

Request received by County Administrator Jack Krakeel regarding the W.I.C. Office request for consideration to extend their facility hours of operation:

County Administrator Jack Krakeel asked for consideration to approve a request that he had received earlier today from Ms. Denise Blanton who is the District IV Health Services Nutrition Manger for the Fayette County W.I.C. Program to extend the facility hours. He said with the weather closing the Health Department for three days, there was a backlog of clients that needed to be accommodated in order to fulfill the program requirements including initiation of vouchers for the procurement of formula and other items of nutrition associated with infants and children. He said the request was to extend the hours of operation for the W.I.C. Program from 5:00 p.m. to 7:00 p.m. for the balance of the month of January. He said this did not represent an expenditure of funds on behalf of Fayette County other than lighting. He was assured that Ms. Blanton would be on site from a supervisory perspective to ensure the County facility was maintained appropriately.

Commissioner Horgan made a motion to approve the request of the W.I.C. Office for extension of facility hours from 5:00 p.m. to 7:00 p.m. for the remainder of the month of January, 2011. Commissioner Hearn seconded the motion, discussion followed.

Commissioner Hearn questioned Mr. Krakeel as to when he had received this request. County Administrator Jack Krakeel replied that he had received a call this morning around 9:00 a.m. from the Business Manager for the Health

Department Merle Crowe who informed him that a request would be forthcoming. He said he then received an e-mail from Ms. DeNeese Blanton 9:00 a.m. this morning. Commissioner Hearn said this was the very type of item that the Board needed flexibility to forego the twenty-four hour notice for agenda items. He said action on this request was very important for the citizens of Fayette County.

Commissioner Brown remarked that the current policy states that an item must be put on the agenda two weeks prior to a meeting. He said it did allow for emergencies and an item could be added in the event of an emergency. He said some of the items that he had seen coming before the Commission in the past did not qualify as an emergency and could be submitted prior to twenty-four hours to the meeting date. He said the request tonight was an act of God where the facility was closed due to harsh weather conditions and involved mothers feeding their children. He said this request was a bonafide emergency and he wholeheartedly supported it.

The motion carried 5-0.

OLD BUSINESS:

11. Consideration of Resolution No. 2011-02 regarding amendments to local legislation governing Fayette County's Magistrate Court:

County Attorney Scott Bennett remarked that at the last Workshop Meeting the Board discussed making amendments to various parts of local legislation that created the Magistrate Court. He said the Chief Magistrate was present at that meeting and was also present this evening. He remarked that the judges had consulted with Superior Court Judge Chris Edwards and all agreed that the best policy at this time which was the request by the Magistrates would be to make two substantive changes to the local legislation. He said the first change would be to require that any person serving as a Magistrate would have to attain the age of 25 years, a citizen of the State of Georgia for three years, been admitted to practice law for seven years and was a member in good standing with the State Bar Association of Georgia. He said the only exception to that would be a judge who has previously served for a period of seven years as a Magistrate Judge. He said the second change would be to change the calculation of the Magistrate Judge's pay. He said currently it was a fixed amount in the local legislation and there was no opportunity for C.O.L.A. or any kind of pay adjustments. He said the request from the Magistrates was to tie their pay to Superior Court Judge base pay or 17% for the Chief Magistrate and 14% for the remaining Magistrates. He said the increase in pay for the Chief Judge would be approximately $400 to $500 per year and the increase in pay for the remaining Magistrates would be approximately $1,000 per year. He said if this legislation was approved and signed by the Governor, it would not go into effect until July 1, 2011 at which time the County would be starting a new budget year. He asked for the Board's consideration to approve the Resolution for introduction into the General Assembly, staff could move forward with advertisements to have the Bill introduced in this General Assembly session.

Commissioner Brown asked Attorney Bennett to read the Resolution into the record and he did so.

Chairman Frady asked for the Board's pleasure in this matter.

Commissioner Horgan made a motion to adopt Resolution No. 2011-02 and to authorize the County Attorney to proceed with development of legislation amending the local legislation governing Fayette County's Magistrate Court to be introduced in the General Assembly and also for authorization for the Chairman to execute the Resolution. Commissioner Hearn seconded the motion. Commissioner Brown offered a friendly amendment clarifying that the documents to be forwarded include the latest version of The Bill to Be Enacted given to the Board this evening on the dais and was not the one included in the publicized meeting package. Commissioners Horgan and Hearn agreed to amend their motion and second accordingly. The motion carried 5-0. A copy of the request, the Bill to Be Enacted

received tonight, and Resolution No. 2011-02, identified as "Attachment No. 14", follow these minutes and are made an official part hereof.

12. Consideration of staff's recommendation to award Proposal #P774 Library Expansion Construction to Trammel-Horton Contracting, LLC., in the amount of $715,000 and authorization for the Chairman to execute the contract upon approval of the County Attorney:

Director of Building and Grounds Maintenance Greg Ownby remarked that on October 6, 2010 the Board of Commissioners approved the construction for an addition of 1,000 square feet to the Library's meeting room and 4,200 square feet to extend the southeast side of the existing facility of the Fayette County Library. He said the Purchasing Department solicited proposals for RFP #P744 and ten proposals were received. He said staff unanimously recommended Trammel-Horton Contracting, LLC based on the evaluation criterion and the lowest proposed price of $715,000. He said with most construction projects, the need to consider changes during construction would likely occur. He said he would also like the Board's input on how changes could be handled most efficiently and possibly that the County Administrator be authorized to approve any change orders that might arise. He asked for the Board's consideration to award Proposal #P774 Library Expansion Construction to Trammel-Horton Contracting, LLC in the amount of $715,000 and authorization for the Chairman to execute the contract upon approval of the County Attorney.

Commissioner Horgan made a motion to approve staff's recommendation to award Proposal #P774 Library Expansion Construction to Trammel-Horton Contracting, LLC. In the amount of $715,000; authorize the County Administrator to sign off on change orders within his legal threshold up to 5% of the amount which was $35,750 to be set aside in the contingency fund; and authorization for the Chairman to execute the contract upon approval of the County Attorney. Commissioner Hearn seconded the motion. The motion carried 5-0. A copy of the request, backup and contract, identified as "Attachment No. 15", follow these minutes and are made an official part hereof.

Chairman Frady asked if there was any further business to come before the Board.

COUNTY ADMINISTRATOR JACK KRAKEEL: County Administrator Jack Krakeel requested an Executive Session to discuss real estate acquisition.

COMMISSIONER BROWN: Commissioner Brown remarked that because of the inclement weather that we have experienced, the Red Cross was in desperate need of all types of blood. He encourage everyone to contact neighbors and friends and have them contact the Red Cross at 1-800-RedCross to give blood.

EXECUTIVE SESSION:
Chairman Frady remarked that the Board would now adjourn to Executive Session to discuss real estate acquisition.

Commissioner Horgan made a motion to adjourn Executive Session and return to open session. Commissioner Hearn seconded the motion. The motion carried 5-0.

Chairman Frady reconvened the meeting and stated that staff had presented the Board with an item of land acquisition and the Board directed staff for the proper course to take.

Commissioner Hearn 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. A copy of the Executive Session Affidavit, identified as "Attachment No. 16", follows these minutes and is made an official part hereof.

ADJOURNMENT: Hearing no further business to come before the Board, Chairman Frady adjourned the meeting at 9:33 p.m.

Karen Morley, Chief Deputy Clerk

Herbert E. Frady, Chairman

The foregoing minutes were duly approved at an official meeting of the Board of Commissioners of Fayette County, Georgia, held on the 27th day of January, 2011.

Karen Morley, Chief Deputy Clerk