Minutes

Board of Commissioners
August 11, 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 August 11, 2011at 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 Floyd L. Jones, Chief Deputy Clerk

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Call to Order, Invocation and Pledge of Allegiance.

Chairman Frady called the August 11, 2011 Board of Commissioners meeting to order at 7:01 p.m. Commissioner Hearn offered the Invocation and led the audience in the Pledge of Allegiance.

Acceptance of Agenda.

Commissioner Horgan moved to accept the Agenda as published. Commissioner Brown seconded the motion. No discussion followed. The motion passed unanimously.

PUBLIC HEARING:

1. **Public Hearing on proposed 2011 Property Tax Millage Rates which are scheduled to be adopted on August 25, 2011.**

   Chief Financial Officer Mary Holland presented an overview of the proposed 2011 Property Tax Millage Rates.

Ms. Holland began by saying this was the first of three public hearings pertaining to the proposed millage rates to be applied to the Fiscal Year 2011 property tax bills. She explained that although there was some growth to the tax digest during the past year, the 2011 Tax Digest decreased by $209,856,957 due to negative reassessments of real property, personal and other property, motor vehicles, and because of an increase in the number of tax exemptions. She explained that the proposed 2011 Millage Rates included recommendations for a 0.245 increase to the General fund for Maintenance and Operations, a 0.509 increase to the Fire Services fund, a 0.098 decrease in the Emergency and Medical Services fund, and an increase of 0.207 for E911.

Commissioner Brown asked if information was available providing a percentage of the homes throughout the county whose values have either maintained their assessed value and whose assessed values have increased. Ms. Holland replied that she could provide that information at the next Board meeting.

No one spoke in favor of the proposed millage rates.

Mr. Paul Parchert, Mr. Vic Remeneski, and Mr. Steve Smithfield spoke in opposition to the proposed millage rates:

Paul Parchert: Mr. Parchert spoke against tax increases at a time when governments at every level overspend their budgets, costs of living are rising, and incomes are stagnant. He said governments must be responsible for the money they have and need to become more efficient in their operations. He emphasized that Fayette County, like all counties, needs to be accountable for its money and needs to stop coming to citizens for more money.

Vic Remeneski: Mr. Remeneski observed that many people are frustrated with the politicians in Washington, D.C. who do not listen to the people while they continually vote against the will of the people. He was concerned that the Commissioners were following a similar track at the local level. He spoke about the E-911 tax, the stormwater fees, the proposed Transportation SPLOST, and an increase of the county's millage rate, and he told the Board that these four examples were just additional, unnecessary attempts to take money from the people during a recession. He urged the Board to consider the overall tax burden the people were under and asked the Board not to increase Fayette County's millage rate.

Steve Smithfield: Mr. Smithfield spoke against the stormwater "tax", and he suggested that the wording on the ballot for the 2004 SPLOST referendum allowed the use of SPLOST funds for stormwater infrastructure repairs. He read several sections of the SPLOST Guide for County Commissioners that he thought bolstered his position, and he opined that the since need for the West Fayetteville Bypass was unproven, the SPLOST funds would be better used for unquestioned projects that do require funding.

Chairman Frady announced that the next Public Hearings on this issue would be at 7:00 p.m. on both August 18 and August 25, 2011. A copy of the request and PowerPoint presentation, identified as "Attachment 1", follow these minutes and are made an official part hereof.

PUBLIC COMMENT:

David Hall: Mr. David Hall spoke about Old Business Item 12. He did not agree with some of the proposals in the Ordinance since they would limit transparency and the citizens' involvement with their local government. He was concerned that the restrictions violated Article 9 of the United States Constitution. He opposed the recommendation that the people need to register 15 minutes prior to the start of the meeting in order to speak during Public Comment, and he encouraged all people to speak to their government using a variety of methods.

Ginger Smithfield: Mrs. Smithfield reminded the Board that the people of Fayette County are the county's business, and that the County's taxpayers are the County's shareholders. She said that the proposed Ordinance to regulate County Commission meetings should be fair, objective and intelligent while keeping in mind that the people are the county's business. She then spoke of the necessary work that the Women, Infants, and Children's (WIC) Program in Fayette County performs, but she did not feel the county's land or tax dollars should be provided to the program. She stated that resources should go to feeding, clothing, educating those in need– not for providing land.

Bob Ross: Mr. Ross commented on the proposed Ordinance regulating County Commission meetings by referring to a meeting he attended at the Atlanta Regional Commission earlier in the day. He explained that the ARC requires speakers to sign up in order to speak, and that they are given that ability up to the start of the meeting without requiring speakers to list the topic of their concern. His implication was that Fayette County should consider a similar tactic. He also spoke about the WIC program by saying he attended the recent budget meetings and that the Board and county staff "have done a much more thorough job of scrubbing the budget than Washington, D.C. has". He thought the federal government that mandates the WIC program, should be able to find the money needed to fund a local county WIC program.

Randy Ognio: Mr. Ognio spoke about several items on the agenda. He said he supported Consent Agenda Item 2. He questioned the Sheriff's request located on Consent Agenda Item 5. He observed that some of the agenda items included requests with only two bidders. He questioned the low numbers of bids, especially given the current economic situation where businesses need money and work. He then gave his concerns about the proposed Ordinance related to Old Business Item 12. He reminded the Board that it was there to conduct the people's business, and he was concerned that the proposals would give too much power to any Commission Chairman. He did not agree with requiring citizens to register in order to speak. Finally, he agreed with previous comments concerning the WIC program, but he asked why – if the people have already paid for the program – they are asked to pay for it again.

CONSENT AGENDA:

Commissioner Brown asked to remove Consent Agenda Items 3 and 5 from the Consent Agenda for discussion.

Commissioner Horgan moved to move Consent Agenda Items 3 and 5 from the Consent Agenda for discussion. Commissioner Hearn seconded the motion. No discussion followed. The motion passed unanimously.

Commissioner Horgan moved to approve Consent Agenda Items 2-11 excluding Consent Agenda Items 3 and 5. Commissioners Brown and Hearn seconded the motion. No discussion followed. The motion passed unanimously.

2. **Approval of Policy No. 200.27 which establishes a formal set of standards to be used whenever the County acquires privately-owned property for the construction of a transportation project. A copy of the request and Policy No. 200.07, identified as "Attachment 2", follow these minutes and are made an official part hereof.**
3. **Approval of staff's recommendation to adopt Policy No. 300.07 which amends the County's Reserve Fund Policy in compliance with the Governmental Accounting Standards Board (GASB) Statement No. 54.**

   Commissioner Brown suggested a change to the wording of the recommended policy and he specifically referred to the sentence: *The emergency funding will only be used for a declared state of natural disaster.* He said he was thinking of terroristic activity such as someone bringing a bomb into the building, and he asked if that would be covered under the definition of "natural disaster." He suggested that the word "natural" be removed from the sentence in order to make the word "disaster" be understood in its broadest sense.

Chief Financial Officer Mary Holland replied that the guidelines were established by the Governmental Standards Board and that the guidelines state that the County has to specifically define how emergency funds are used. She understood the Commissioner's concern that the language was limited to certain events, and she agreed that the language could be expanded or that a fuller definition to "disaster" could be provided. She emphasized that if the wording was changed to only read "disaster" then the word itself would have to be defined.

Commissioner Brown responded that the Board is able to declare a disaster, and if that happens then the Board will be responsible to define the word anyway. County Administrator Jack Krakeel answered that a Declaration of a State of Emergency is what the Board would formally do in the event the county had a situation that required State assistance and subsequently, any federal assistance. He continued that the limitation of the emergency fund is designed for utilization only in very specific situations. He thought appropriate language could be incorporated that broadens the definition of "disaster", but that still retains the capability, from both the accounting and auditing perspectives, to be specific enough to limit disaster expenditures to very rare circumstances, and not just routine events or events that do not involve a large segment of the county.

Ms. Holland noted that language also exists that none of the funds can be used without approval from the Board of Commissioners, so anytime something happens, staff still needs to bring the issue to the Board for formal approval to utilize the funds.

Commissioner Brown moved to table Consent Agenda Item 3 for reconsideration at the August 25, 2011 Board of Commissioners meeting, and for the Policy under consideration to be updated with "enhanced language on disasters". Commissioner McCarty seconded the motion. No discussion followed. The motion passed unanimously. A copy of the request and Policy No. 300.07, identified as "Attachment 3", follow these minutes and are made an official part hereof.

4. Approval of staff's request to declare a 2002 Hustler "Z" mower unserviceable, and approval to replace the mower at a cost of $11,563.00. A copy of the request, identified as "Attachment 4", follows these minutes and is made an official part hereof.

5. Approval of the Sheriff's request to authorize the Chairman to sign the Questionnaire for Officials describing the Accounting Procedures and Requirements for Shared Cash, Proceeds, and Tangible Property.

Commissioner Brown addressed Mr. Ognio's comments related to the accounting procedures and requirements specific to the Sheriff's Department. He asked if the Questionnaire and the Sheriff's accounting procedures were still open to audit and to public inspection.

County Attorney Scott Bennett explained that Equitable Sharing of Funds is the shared drug funds, and the reason the Sheriff keeps the records confidential is because they detail ongoing investigations and where drug funds are going. Mr. Bennett added this is not a record that can be viewed by the public due to public safety concerns. Discussion followed.

Commissioner Brown moved to approve Consent Agenda Item 6. Commissioner Hearn seconded the motion. No discussion followed. The motion passed unanimously. A copy of the request and Questionnaire, identified as "Attachment 5", follows these minutes and is made an official part hereof.

6. Approval of the Sheriff's request to amend the Overtime Budget for the Office Criminal Investigations Division by $2,079.73 for reimbursement for employees assigned to work with various Federal Agencies. A copy of the request, identified as "Attachment 6", follows these minutes and is made an official part hereof.

7. Approval of the Sheriff's Department Jail Division to dispose of items of clothing and bedding from the Jail which are no longer serviceable. A copy of the request, identified as "Attachment 7", follows these minutes and is made an official part hereof.

8. Approval of the Water Committee's recommendation to authorize the Peachtree City Water and Sewerage Authority (WASA) to insert a flyer in customer's water bills during the months of September 2011 and March 2012. A copy of the request, identified as "Attachment 8", follows these minutes and is made an official part hereof.

9. Consideration of a Joint Funding Agreement between Fayette County and the U.S. Department of the Interior Geological Survey which provides the monitoring of water flow at four sites. The Agreement is for one year beginning October 1, 2011 and ending September 30, 2012 with a cost to the Water System of $90,600.00. A copy of the request and the U.S. Department of the Interior Geological Survey, identified as "Attachment 9", follow these minutes and are made an official part hereof.

10. Approval of the Water Committee's recommendation to reimburse a Water System customer for damaged clothing in the amount of $103.07 with two stipulations conditioned upon the customer submitting the clothing in exchange for the check. A copy of the request, identified as "Attachment 10", follows these minutes and is made an official part hereof.

11. Approval of the July 28, 2011 Board of Commissioners Minutes.

OLD BUSINESS:

12. Further consideration of a proposed Ordinance which addresses the procedures, decorum, and rules of order used for conducting County Commission meetings; and consideration of an alternative Ordinance proposed by Commissioner Brown.

Commissioner Horgan moved to adopt the proposed Ordinance No. 2011-06 that addresses the procedures, decorum, and rules of order used for conducting County Commission meetings. Commissioner Hearn seconded the motion.

Commissioner Brown asked for the Board to allow a friendly amendment to pass the Ordinance by section. Chairman Frady replied if Commissioner Brown had something to change then the Board would go through it. Chairman Frady then called the question and asked for a vote. The motion passed 3-0 with Commissioners Brown and McCarty not voting. County Attorney Scott Bennett informed the Board that he did not think there was a need for a vote, that the vote itself was unclear, that it was appropriate to have discussion prior to the vote, and that the vote just taken was not valid since it did not follow rules of procedure. The Board rescinded the vote and opened the floor for discussion of the motion.

Commissioner Brown pointed out several sections of the proposed Ordinance and recommended changes to them. Discussion occurred on several of Commissioner Brown's recommendations. The Board agreed to two changes as recommended by Commissioner Brown: 1) to correct a formatting error by making subsections associated with Section 2-44(h) be delineated numerically instead of alphabetically, and 2) to allow citizens wishing to make public comments to have the ability to register to speak up until the meeting is called to order.

Commissioner Brown asked the County Attorney if a vote occurred, and if a Commissioner was on the losing end of the vote, if there was a procedure in place that says the losing Commissioner cannot bring the issue back up for a later vote. He narrowed his question asking if he voted in opposition to the proposed Ordinance, and if the proposed Ordinance passed per the motion, could he bring the issue back up again at a later date for an amendment.

Mr. Bennett, the County Attorney, read the following rule: *A motion which has been passed or defeated, or which fails for lack of a second, may be reconsidered by the Board of Commissioners during the same meeting provided the Board pass a motion for reconsideration. Otherwise, the original motion may not be presented to the Board again until its next meeting. A motion for reconsideration can only be made by a Commissioner who voted against the original motion if defeated or in favor of the original motion if passed.* Mr. Bennett explained that a Commissioner has to be on the "winning side to [of a motion to] reconsider", otherwise any Commissioner could make a motion for reconsideration. He emphasized that if a motion dies for lack of a second, or if it is not voted on, any Commissioner can bring the motion back up, but if a motion passes, only the Commissioners voting in favor of it can bring it back up for a vote. He said that rule is consistent, and that the rule originates from *Robert's Rules of Order*. He clarified that although Fayette County's procedures are not directed by *Robert's Rules of Order*, this particular practice is established in those rules.

Commissioner Brown responded that, essentially, he was going to vote in favor of the proposed Ordinance with the anticipation that he would bring it up later to be changed. He said that he did not agree with the way the proposed Ordinance was written, that he thought there were some rules that were arbitrary and capricious, but that he had no choice but to vote for it if he intended to change it at a later date. He repeated that the reason he was going to vote for the proposed Ordinance in this instance was in order to have the ability to change it at a later day.

Commissioner Horgan amended his motion to adopt the proposed Ordinance No. 2011-06 that addresses the procedures, decorum, and rules of order used for conducting County Commission meetings, and to include the following two changes: (1) to correct a typographical error by making subsections associated with Section 2-44 (h) be delineated numerically instead of alphabetically, and (2) to allow citizens wishing to make public comments to have the ability to register to speak up until the meeting is called to order. Commissioner Hearn amended his second to the motion. Discussion followed. The motion passed unanimously. A copy of the request, identified as "Attachment 11", follows these minutes and is made an official part hereof.

Clerk's Note: See Minutes of August 25, 2011.

13. Consideration of the Water Committee's recommendation to award construction of the Lake McIntosh Raw Water Pump Station bid to the low bidder, Willow Construction, in the amount of $1,293,600, and authorization for the Chairman to sign the contract contingent upon review by the County Attorney.

Water System Director Tony Parrott told the Board that if everything works according to schedule, the construction of the Raw Water Pump Station under consideration will be completed about the same time the Lake McIntosh's construction is finished. He mentioned that more than two bidders had been given the opportunity to bid on the project, but they chose not to bid because they had existing work or because they would have been required to subcontract much of the work, making the work itself unprofitable.

Commissioner Hearn asked if the references for Willow Construction had been checked, and if the County was confident that they could perform the work satisfactorily. Mr. Parrott replied that Willow Construction has worked for the County before and that they would do a good job.

Commissioner Horgan moved to approve the Water Committee's to award construction of the Lake McIntosh Raw Water Pump Station bid to low-bidder, Willow Construction, in the amount of $1,293,600, and authorization for the Chairman to sign the contract contingent upon review by the County Attorney. Commissioner Hearn seconded the motion. No discussion followed. The motion passed unanimously. A copy of the request, identified as "Attachment 12", follows these minutes and is made an official part hereof.

14. Consideration of the Water Committee's recommendation to award the annual contract for Waterline Extensions for Fiscal Year 2012 to the low bidder, Lantz Construction, in the amount of $765,355.00, and to authorize the Chairman to sign said contract, pending review by the County Attorney.

Water System Director Tony Parrott informed the Board that Lantz Construction is the current contractor for the Water System with respect to it's the annual waterline extensions. He explained that Lantz Construction was the recent low bidder, and that the other bidder, Shockley Plumbing, had also been awarded this contract in the past. He explained that the two companies went "head-to-head" on the bid, and that while there were other contractors, they chose to not bid on the contract. Discussion followed.

Commissioner Hearn asked if Mr. Parrott was confident that Lantz Construction could provide the service and do a good job for the County. Mr. Parrott replied that he was confident in their work and service based on the company's performance in previous years.

Clerk's Note: Although a unanimous vote was taken to award the annual contact to Lantz Construction, it is unclear which Commissioner made the motion and the second. For the sake of certainty, the vote on this item will be ratified at the August 25, 2011 meeting. A copy of the request, identified as "Attachment 13", follows these minutes and is made an official part hereof.

NEW BUSINESS:

15. Consideration of the Water Committee's recommendation to issue a purchase order for the purchase of all required Orion water meters, by September 1, 2011, at a total cost of $2,018,465.78, to accept a credit of $1,009,761.49, and approval to pay for the project during Fiscal Year 2013.

Water System Director Tony Parrott informed the Board that the Water System has been incrementally replacing its older Trace model radio-read water meters for Orion model radio-read water meters produced by Badger Meter. He explained the need to replace the older water meters was due to the Federal Communications Commission's (FCC) action of changing the radio frequency used by the Trace water meters,

and the FCC's action rendered the older water meters as unusable. He told the Board that Badger Meter, the manufacturers of the Orion radio-read water meter, had made a proposition to the Water System that if it created one single purchase order for the required number of Orion meters, the company would give the Water System one free meter for every two that were purchased. This proposition would essentially save the Fayette County Water System over one million dollars. Furthermore, Badger Meters proposed that the Fayette County Water System could pay for the water meters with a 360-day term. Mr. Parrott suggested that the Water System could pay for the number of Orion water meters that were already budgeted for in the Fiscal Year 2012 budget, and that the remaining meters could be budgeted and paid for from the Fiscal Year 2013 budget. He added that the Fiscal Year 2013 budget would require about $250,000 more than the Fiscal Year 2012 budget in order to pay for the remaining water meters.

Commissioner Brown asked Mr. Parrott if he would have the available capital in Fiscal Year 2013 to pay for the extra expense. Mr. Parrott explained that the funds should be available. County Administrator Jack Krakeel added that the replacement meters were part of a Capital Project that was previously approved in its entirety by the Board of Commissioners in October 2008, and that it was to be phased in during a three-year period. He emphasized that this proposal from Badger Meter gives the Fayette County Water System the opportunity to benefit from a one million dollars savings.

Commissioner Hearn said he appreciated staff remaining on top of this issue and bringing it to the Board's attention, and he was pleased with this request since the Board often does not get the opportunity to save over one million dollars. Commissioner McCarty explained that this problem was not created by Fayette County or its Water System, but was a problem created by the FCC. He continued that this request and action was cheaper to perform by radio signal than by sending a person to every meter in the county.

Commissioner Horgan moved to approve the Water Committee's recommendation to issue a purchase order for the purchase of all required Orion water meters, by September 1, 2011, at a total cost of $2,018,465.78, to accept a credit of $1,009,761.49, and approval to pay off the project during Fiscal Year 2013. Commissioner Hearn seconded the motion. No discussion followed. The motion passed unanimously. A copy of the request, identified as "Attachment 14", follows these minutes and is made an official part hereof.

16. Consideration of Resolution No. 2011-12 which establishes a 9-1-1- charge on prepaid wireless transactions at the point of retail sale.

County Attorney Scott Bennett told the Board that each year the Board authorizes the County to collect a 9-1-1-fee for land-line phones at $1.50, and for wireless cell-phones at $1.00, but there was no provision made for charging a 9-1-1 fee for prepaid wireless phones. He said the recommended Resolution would allow the County to collect $0.75 on a prepaid wireless transaction. He said the County had until the end of this year to adopt the Resolution, and he pointed out that in the recently adopted Intergovernmental Agreement that established the E-911 Special Tax District, the municipalities agreed to adopt the same resolution and provide all the fees to the "9-1-1 Operating System". He summarized that this fee would be established and consistent throughout Fayette County.

County Administrator Jack Krakeel clarified that the fee would not actually be collected by Fayette County but would be collected by the State Department of Revenue. He said if the County did not adopt the Resolution, the County would not be eligible to receive the available *per capita* distribution of revenue. He continued that the funds would be provided by a direct allocation to the counties and the municipalities based on a *per capita* formula that the Department of Revenue will use. He summarized that the Department of Revenue will collect the fees and disperse the fees to the county and municipalities. Discussion followed.

Commissioner Brown moved to adopt Resolution No. 2011-12 establishing a 9-1-1 charge on prepaid wireless transactions at the point of sale. Commissioner McCarty seconded the motion. No discussion followed. The motion passed unanimously. A copy of the request, identified as "Attachment 15", follows these minutes and is made an official part hereof.

ADMINISTRATOR'S REPORTS:

County Administrator Jack Krakeel did not give an Administrator's report.

COMMISSIONERS REPORTS:

Commissioner Brown: Commissioner Brown returned to Mr. Ognio's public comments concerning the small number of bidders applying for projects in Fayette County. He said he had reviewed feedback provided to the County by potential bidders who no longer sought County contracts, and he did not like some of their comments. He asked the Chairman and the Board to consider forming a committee that included members of the public to evaluate the current system used by Fayette County in order to generate more bidders. He suggested the County could get public input and could review the process from other counties and municipalities in an effort to get more legitimate bids on the projects. Discussion followed. Commissioner Brown said he would be glad to look at the issue himself and come up with suggestions if the Board decided it did not want to create a committee. The Board gave no direction and did not consent to Commissioner Brown's request to form a committee.

Commissioner Brown also commented on Governor Nathan Deal's decision to re-examine House Bill 277 (HB277) at the behest of the Georgia Chamber of Commerce, who is urging the change in the referendum date from July to November 2012. He said he was disappointed in the Governor's decision, and that he became angry when "people move the target around when they think their measure is going to get beaten". He urged all to go to the State Capitol on Monday, August 15 at 10:00 a.m. to speak against HB277.

EXECUTIVE SESSION:

Litigation: County Attorney Scott Bennett announced that the Board needed to discuss a litigation matter in Executive Session. Commissioner Brown moved to recess into Executive Session to discuss a matter of litigation. Commissioner Horgan seconded the motion. No discussion followed. The motion passed unanimously.

The Board recessed into Executive Session at 8:26 p.m. and returned to Official Session at 8:47 p.m.

Executive Session Affidavit: Commissioner Brown moved to authorize the Chairman to sign an Executive Session Affidavit stating litigation was discussed in Executive Session. Commissioner McCarty seconded the motion. No discussion followed. The motion passed unanimously. A copy of the request, identified as "Attachment 16", follows these minutes and is made an official part hereof.

ADJOURNMENT

Commissioner Brown moved to adjourn the August 11, 2011 Board of Commissioners meeting. Commissioner Hearn seconded the motion. No discussion followed. The motion passed unanimously.

The Board of Commissioners adjourned their August 11, 2011 meeting at 8:47 p.m.

Floyd L. Jones, 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 25th day of August 2011.

Floyd L. Jones, Chief Deputy Clerk