



Action Agenda

Board of Commissioners
April 25, 2013
7:00 P.M.

The Board of Commissioners of Fayette County, Georgia, met in Official Session on April 25, 2013 at 7:00 p.m. in the Public Meeting Room of the Fayette County Administrative Complex, 140 Stonewall Avenue, Fayetteville, Georgia.

Commissioners Present:	Steve Brown, Chairman Charles Oddo, Vice Chairman David Barlow Randy Ognio
Commissioner Absent:	Allen McCarty
Staff Present:	Steve Rapson, County Administrator Floyd L. Jones, County Clerk Dennis Davenport, Interim County Attorney

Call to Order, Invocation, Pledge of Allegiance

Chairman Brown called the April 25, 2013 Board of Commissioners meeting to order at 7:00 p.m.

Commissioner Barlow introduced Ms. Marilee Gardner of the Church of Jesus Christ of Latter-day Saints, and asked her to give the invocation. Ms. Gardner offered the invocation.

Commissioner Ognio led the audience in the Pledge of Allegiance.

Acceptance of Agenda

Commissioner Ognio moved to accept the Agenda as published. Commissioner Oddo seconded the motion. No discussion followed. The motion passed 4-0 with Commissioner McCarty being absent.

PRESENTATION / RECOGNITION:

1. Proclamation of May 2013 as “Foster Care Month” and the week of May 13-17, 2013 as “Foster Parent Appreciation Week”.

Commissioner Barlow read the proclamation declaring May 2013 as “Foster Care Month” and the week of May 13-17, 2013 as “Foster Parent Appreciation Week”. Ms. Angela Hinton-Fonda, representing the Fayette County Family and Children Services Board, commented on the needs in Fayette County and the limited foster care resources available. She called on Fayette County citizens to consider becoming foster parents.

2. Proclamation of May 4, 2013 as “Pet Appreciation Day”.

Chairman Steve Brown read the proclamation establishing May 4, 2013 as “Pet Appreciation Day.” Dr. Vince Obsitnik of The Animal Medical Clinic commented that Pet Appreciation Day would have events for kids, animal demonstrations, and other activities bringing awareness for pet appreciation.

PUBLIC HEARING:

Zoning Administrator Dennis Dutton read the *Board of Commissioners Public Hearing Procedures* into the record and introduced the first item for consideration under Public Hearing.

3. Consideration of staff’s recommendation to adopt Resolution 2013-11, deleting, in its entirety, the section entitled Illegal Nonconforming Lots under the Land Use Element, Future Land Use Map, and Narrative of the Fayette County Comprehensive Plan.

Zoning Administrator Dennis Dutton gave a brief overview of staff’s recommendation to adopt Resolution 2013-11.

No one spoke in favor of or in opposition to this request.

Commissioner Oddo moved to adopt Resolution 2013-1, deleting, in its entirety, the section entitled Illegal Nonconforming Lots under the Land Use Element, Future Land Use Map, and Narrative of the Fayette County Comprehensive Plan. Commissioner Barlow seconded the motion. Discussion followed. The motion passed 4-0 with Commissioner McCarty being absent.

4. Consideration of staff’s recommendation to adopt Ordinance 2013-02 amending the Fayette County Code of Ordinances, Chapter 20. Zoning Ordinance, regarding Article III., Article IV., Article V., and Article VII. concerning the deletion of all sections of the zoning ordinance related to the Legal Nonconforming Status (LNS) rezoning procedure.

Zoning Administrator Dennis Dutton gave a brief overview of staff’s recommendation to adopt Ordinance 2013-02.

No one spoke in favor of or in opposition to this request.

Commissioner Oddo moved to accept staff’s recommendation to adopt Ordinance 2013-02 amending the Fayette County Code of Ordinances, Chapter 20. Zoning Ordinance, regarding Article III., Article IV., Article V., and Article VII. concerning the deletion of all sections of the zoning ordinance related to the Legal Nonconforming Status (LNS) rezoning procedure. Commissioners Ognio and Barlow seconded the motion. No discussion followed. The motion passed 4-0 with Commissioner McCarty being absent.

PUBLIC COMMENT:

Henry Dickerson: Mr. Dickerson submitted a written petition against the Stormwater fees to the Board, which was signed by many of the residents living near Lake Horton. He questioned the need for residents to pay Stormwater fees when their water runs into Lake Horton, questioned how the collected funds were being spent, and suggested that the Board would not be reelected since nobody in Fayette County was happy about receiving a Stormwater bill.

Lee Hearn: Mr. Hearn questioned the Board's transparency in the following areas: 1) LOST renegotiations and agreements, 2) Approval of Cigna as the employees' new health insurance provider, 3) the Board "sticking it to the employees" by taking away health insurance benefits; 4) removing public safety personnel from the Pension Board, 5) not informing the citizens about how they want to address roads for Fayette County's future and potentially exposing Fayette County due to decisions made about the intersection of West Fayetteville Bypass and State Route 92, and 6) not maintaining the rural character of Fayette County by rezoning land for Pinewood Studios. Mr. Hearn closed saying his family has paid taxes into Fayette County for over 100 years, that he has a deep love for Fayette County, and that was why he would continue coming to the meetings.

Wayne Kendall: Mr. Kendall said he wanted to talk about Commissioner Ognio's item at the April 11, 2013 meeting concerning referring former County Attorney Scott Bennett to the State Court Solicitor Jamie Inagawa. He pointed out that Mr. Inagawa had previously sued Fayette County, and in doing so he had hired Mr. Richard P. Lindsey as his attorney. He said that Mr. Lindsey was the same attorney Mr. Bennett allegedly hired to sue Fayette County, so there could be a conflict of interest. Mr. Kendall suggested that the Board of Commissioners could call for a civil investigative grand jury to investigate several issues that he contended were still lingering. Mr. Kendall then enumerated those outstanding issues that he thought should be investigated. He then repeated that the Board could call for a civil investigative grand jury, and he explained how the process could work.

Frank Gardner: Mr. Gardner said at the last meeting he said something about the parking at Lake Horton. He publically thanked Water System Director Tony Parrott for calling him and explaining the situation to him. He said he had to admit that if he was sitting in Mr. Parrott's seat, he would likely make the same decision. He thought coming to the Board meeting and expressing his opinion and getting feedback was good, and he thanked the Board for that.

CONSENT AGENDA:

Commissioner Barlow moved to accept the Consent Agenda. Commissioner Ognio seconded the motion.

Captain Doug Morris, who has served as a Fayette County firefighter for 27 years, spoke in opposition to Consent Agenda Item 7. He specifically commented on the portion of the Consent Agenda pertaining to the loss of retirement benefits. His three main points were: 1) the benefit retirement was in existence before the Defined Benefit Plan was put into place, and it was part of the decision people used to switch to a Defined Benefit Plan, 2) removing the retirement benefit would specifically target long-term, loyal employees, and 3) this action would compel public safety workers to remain on the job until they were 65 years old, and that there were problems with having active police officers and firefighters who are that old. He implored the Board not to remove the retirement benefits.

County Administrator Steve Rapson largely agreed with Mr. Morris, but added that keeping the benefit in place created a large fiscal impact, and he explained the nature of fiscal impact.

Commissioner Oddo said he appreciated Mr. Morris' concerns, but that there were many things he wanted to have but could not afford to have. He said he wanted to do many things but did not have the funding to do so. He added

that the Board has responsibility to the taxpayers and to the staff, but it also has a fiduciary responsibility that cannot be ignored.

Mr. Rapson spoke about two benefits the County has enacted to replace the outgoing benefit; namely, the ability for County employees to purchase family health insurance at the County's rates and to participate in a Health Savings Account (HSA).

Chairman Brown said there were no easy decisions, but that the County was in a real bind. He said the Board did not take pride in taking anything away from anybody. He said the County is in a really bad situation, and that the Board had opportunities to do things years ago when both he and Commissioner McCarty were on the Board, and those requests were voted down each time. He said the County is where it is, that the Board promised its constituents that it would provide a balanced budget, and that the County would do whatever it takes to get to the balanced budget. He said this action had nothing to do against anybody who is employed with the County, but closed saying the constituents are the number one responsibility.

The motion to approve the Consent Agenda passed 4-0 with Commissioner McCarty being absent.

5. **Approval of Finance policy and procedure amendments as outlined during the April 5, 2013 Retreat.**
6. **Approval of Human Resource policy and procedure amendments as outlined during the April 5, 2013 Retreat.**
7. **Approval of staff's request to delegate the authority to amend Human Resources policies and procedures to the County Administrator and the Human Resources Director, and to delegate the authority to amend Finance policies and procedures to the County Administrator and the Chief Financial Officer.**
8. **Approval of staff's recommendation to award Bid #873- Grass Mowing Services to Star Valley Landscapes Solutions, BeautyScapes Management, Inc., and TrueGreen Landcare, LLC., at an aggregate amount of \$83,390.80, and authorization for the Chairman to sign related contracts.**
9. **Approval of the April 5, 2013 Board of Commissioners Retreat Minutes and the April 11, 2013 Board of Commissioners Minutes.**

OLD BUSINESS:

NEW BUSINESS:

10. **Consideration of Commissioner Barlow's request that the Board of Commissioners endorse Fayette's Biggest Food Drive.**

Commissioner Barlow introduced Ms. Arwen Mullikin and Ms. Marilee Gardner to the Board, and he asked Ms. Mullikin to make a few comments on the request. Ms. Mullikin stated that the County has the opportunity to fill a 53-foot trailer full of food during the fall, and that the food would go to the most vulnerable people in Fayette County. She said the people's hearts have gone out to seniors, the low-income people, and children as economics times have tightened and things get harder for them. He said the County used to have job fairs, and this effort is in lieu of the job fairs because employers are not in a

position to hire this year. She said it was felt that something needed to be done to help the citizens of Fayette County, and since Fayette County has always taken care of its own. She asked the Board and the citizens to come alongside those who are helping make this happen, and that they would give all of their efforts. She asked the Board to give its credibility and backing to the cause so that much more than a trailer could be filled in an effort to help many in the county. She hoped that the Board would make the gazebo available on September 14, and that the County would make a proclamation to give credibility to the cause.

Chairman Brown moved that the Fayette County Government official endorse Fayette's Biggest Food Drive, and to offer the County facilities for collection. Commissioner Oddo seconded the motion. No discussion followed. The motion passed 4-0 with Commissioner McCarty being absent.

11. Discussion of Fayette County's current and prior ethics ordinances.

Interim County Attorney Dennis Davenport explained that the County was in a position to revisit its Ethics Ordinance, and sought direction on how to proceed with the task. Each commissioner provided direction on various aspects of on how he wanted to see the Ethics Ordinance work. Mr. Davenport stated he would have a draft ordinance available for discussion at the May 23, 2013 Board of Commissioners meeting.

12. Consideration of Chairman Steve Brown's request to be reimbursed for legal expenses, in the amount of \$2,128.85, incurred in his defense against ethics charges filed by former County Commissioner Robert Horgan.

Chairman Brown recused himself from this discussion, turned the floor over to Vice Chairman Charles Oddo, and left the room for the entirety of this matter.

Vice Chairman Oddo and Commissioner Ognio asked the public if they had any comments on this item.

Frank Gardner: Mr. Gardner said he wanted the Board to set up some type of procedure so that any complaint that is filed against a county employee, that is not covered by insurance, that the county would pay for a lawyer to take care of it. He said the Board was in a high profile position and there is always somebody who wants to have a vendetta against somebody. He thought it was a shame that people who work for the county would have to take money out of their pockets to defend themselves. County Administrator Rapson informed Mr. Gardner that, from a county employee perspective, employees are covered, but that this issue concerned the Chairman who is elected and is not a county employee.

Commissioner Barlow said he did quite a bit of research on this item and said he talked to a number of the citizens. He said he knew what he felt in his heart, but he wanted to hear from others. He said that he had come to understand that Chairman Brown was working for the benefit of Fayette County, and that he was not pursuing something personally. He said, consequently, it made it really easy for him that the County should cover his expenses since he was working to do something that was going to involve the good of Fayette County. He said it was not a stretch for him to say he supports reimbursing Chairman Brown for his personal expenses out of pocket.

Commissioner Ognio said Chairman Brown was acting in official capacity with the County, and created a situation. He said, for that reason, the Chairman should be reimbursed.

Vice Chairman Oddo read a prepared statement explaining his thoughts and he concluded that he would vote in favor of reimbursing Chairman Brown's legal expenses.

Commissioner Ognio moved to reimburse Steve Brown for legal expenses in the amount of \$2,128.85 incurred in his defense against ethics charges filed by former County Commissioner Robert Horgan. Commissioner Barlow seconded the motion. No discussion followed. The motion passed 3-0 with Chairman Brown being recused from the vote and Commissioner McCarty being absent.

The County Marshal brought Chairman Brown back to the meeting after the vote was taken.

ADMINISTRATOR'S REPORTS:

Time and Attendance Policy: County Administrator Steve Rapson reminded the Board that it previously approved Human Resources Policy 432.01- Time and Attendance. He said the policy it did not really state how "Kelly Hours" would be held. He explained Kelly Hours are two-hour increments that firefighters earn in regards to showing up prior to the shift changes. He said Kelly Hours are not part of the overtime policy change, and he wanted to make sure people understood that because it is actually part of the annual compensation for those individuals. He said this was one issue that the firefighters were asking about, and he wanted to put this issue on record on how the policy was being interpreted.

Newsletter: County Administrator Steve Rapson pointed out, yesterday, the County rolled out an option on the County website for a newsletter and email distribution. He said if the people are interested in getting things in regards to county news, press releases, employment opportunities, library events, or Stormwater newsletters, the people could go on the website and sign up for it, and the information would be provide to them.

Clerk of Court to Fund Codification: County Administrator Steve Rapson reported that Superior Court Clerk Sheila Studdard has agreed to fund the codification of \$22,950.00 out of the law library.

Response to Mr. Hearn's Public Comments: County Administrator Steve Rapson replied to some of Mr. Hearn's comments concerning: 1) LOST renegotiations, 2) Cigna, 3) removing public safety employees from the Pension Board, and 4) transparency.

ATTORNEY'S REPORTS:

Two Executive Session Item: Interim County Attorney Dennis Davenport reported that he had two items for Executive Session; one involving threatened litigation and the other involving real estate matter.

COMMISSIONERS' REPORTS:

Commissioner Barlow: Commissioner Barlow commented on an article printed in *The Citizen*, told of the vows he has made, and updated the Board on his recent attendance of the Georgia Public Health Association's Annual Conference. He spoke about the threat of childhood obesity in Georgia, and he spoke of the efforts to make Georgia a healthy state.

Commissioner Ognio: Commissioner Ognio said some of the things Mr. Hearn said bothered him. He spoke about how the employees have come to him thanking him for the changes in healthcare and how the employees have indicated that they like the new healthcare plan. He said he did not know where Mr. Hearn was getting information

that the employees were unhappy. He also spoke on the Board's decision to rezone property for Pinewood Studios, and he commented on how transparent the County actually is. He said the Board was looking for feedback, and that by getting feedback the Board could evaluate how to best serve its citizens.

Commissioner Oddo: Commissioner Oddo pointed out that the Board has a responsibility to Fayette County's taxpayers. He said it is very easy to say "we should have this program or that program", but he said the Board also needs to hear who is going to pay for the programs. He said the Board does not enjoy making cuts, and he asked for understanding since there was a long way to go in helping the County move forward.

Commissioner Ognio: Commissioner Ognio again responded to Mr. Hearn by agreeing that the Board was against bypasses, said the Board is dealing with many important issues first, and adding that the Board would soon address its plans for future traffic relief. He said the Board had to do "first things first".

Chairman Brown: Chairman Brown replied to Mr. Dickerson's comments about the reason Fayette County pays for other services with the Stormwater fees, and he explained that those services are mandated or required by the State of Georgia. Chairman Brown informed Mr. Kendall that he had already written State Court Solicitor Jamie Inagawa sharing the same concerns expressed by Mr. Kendall, and that the letter was open records obtainable from the County Clerk. Chairman Brown said he wished Mr. Hearn would stay through the meeting to hear answers to his complaints, and he said that was the fair thing to do. He then addresses some of the items Mr. Hearn spoke about including 1) LOST renegotiations, 2) Pinewood Studios, 3) and the contention that the County did not comply with the SPLOST project list. He explained that the East Fayetteville Bypass was the number one priority on the project list, and that a memo on the priority list had been prepared and signed by Mr. Hearn while he was working as the engineer for Fayette County's Engineering Department. Chairman Brown noted that the East Fayetteville Bypass is the only road on the priority list that was not built.

Commissioner Barlow: Commissioner Barlow said he noticed that Mr. Kendall, Mr. Gardner, and Mr. Dickerson were still in the audience. He said there were four people who spoke during public comment and only one is "woefully absent" from the meeting— Mr. Hearn. He said it speaks to the credibility of the folks who spoke and stayed to hear the answer since they care about what the comments would be.

Commissioner Oddo: Commissioner Oddo wanted everyone to know that this board understands there is a difference between Stormwater management and infrastructure repair. He pointed out that there are two separate items going on that are being managed, and not just one item.

EXECUTIVE SESSION:

Three Items for Executive Session: Interim County Attorney pointed out that the April 11, 2013 Executive Session Minuets needed to also be reviewed in Executive Session. Chairman Brown clarified that one Real Estate item, one Threatened Litigation item, and review of Executive Session Minutes needed to be considered in Executive Session.

Chairman Brown moved to convene in Executive Session for one Real Estate, one Threatened Litigation, and one set of Executive Session Minutes. Commissioner Ognio seconded the motion. No discussion followed. The motion passed 4-0 with Commissioner McCarty being absent.

The Board recessed into Executive Session at 8:44 p.m. and returned to Official Session at 8:56 p.m.

Return to Official Session and Approval to Sign the Executive Session Affidavit: Commissioner Ognio moved to exit Executive Session and for the Chairman to sign the Executive Session Affidavit. Commissioner Barlow seconded the motion. No discussion followed. The motion passed 4-0 with Commissioner McCarty being absent.

Executive Session Minutes: Chairman Brown moved to approve the April 11, 2013 Executive Session Minutes. Commissioners Oddo and Ognio seconded the motion. No discussion followed. The motion passed 4-0 with Commissioner McCarty being absent.

ADJOURNMENT:

Commissioner Barlow moved to adjourn the April 25, 2013 Board of Commissioners meeting. Commissioner Ognio seconded the motion. No discussion followed. The motion passed 4-0 with Commissioner McCarty being absent.

The Board of Commissioners adjourned the April 25, 2013 meeting at 8:57 p.m.

Floyd L. Jones, County Clerk