

## BOARD OF COUNTY COMMISSIONERS

Lee Hearn, Chairman  
Edward Gibbons, Vice Chairman  
Eric K. Maxwell  
Charles D. Rousseau  
Charles W. Oddo



## FAYETTE COUNTY, GEORGIA

Steve Rapson, County Administrator  
Dennis A. Davenport, County Attorney  
Tameca P. Smith, County Clerk  
Marlena Edwards, Chief Deputy County Clerk

140 Stonewall Avenue West  
Public Meeting Room  
Fayetteville, GA 30214

## MINUTES

February 22, 2024

5:00 p.m.

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Welcome to the meeting of your Fayette County Board of Commissioners. Your participation in County government is appreciated. All regularly scheduled Board meetings are open to the public and are held on the 2<sup>nd</sup> and 4<sup>th</sup> Thursday of each month at 5:00 p.m.

### OFFICIAL SESSION:

#### **Call to Order**

Chairman Lee Hearn called the February 22, 2024 Board of Commissioners meeting to order at 5:00 p.m. A quorum of the Board was present. No members were absent.

#### **Invocation and Pledge of Allegiance by Commissioner Lee Hearn**

Chairman Hearn offered the invocation and led the audience in the Pledge of Allegiance.

#### **Acceptance of Agenda**

Commissioner Oddo moved to accept the agenda as written. Vice Chairman Edward Gibbons seconded. The motion passed 5-0.

### PROCLAMATION/RECOGNITION:

#### **1. Recognition of Arnold Martin for his seven (7) years of service on the Planning Commission.**

Planning and Zoning Director Deborah Bell, on behalf, of the Board expressed her appreciation of Arnold Martin for his seven (7) years of service on the Planning Commission.

### PUBLIC HEARING:

*Planning and Zoning Director Deborah Bell read the Introduction to Public Hearings for rezonings.*

#### **2. Consideration of Petition No.1338-24, Jerry Battle, Jr., and Melissa Battle, owners, Randy Boyd, agent, request to rezone 2.14 acres from A-R to R-72 for the purposes of creating a legal, conforming lot to build a single-family home; property located in Land Lot 252 of the 4th District and fronts on McBride Road.**

Commissioner Maxwell moved to table this item to the March 28, 2024 BOC Meeting Vice Chairman Gibbons seconded. The motion passed 5-0.

#### **3. Consideration of Petition No. 1339-24, Thomas Crossroads, LLC, owner, Richard Lindsey, agent, request to rezone 5.102 acres from R-70 to C-H (Highway Commercial) for the purposes of locating the septic field for the**

**adjacent development, and for other commercial uses; property located in Land Lot 253 of the 4th District and fronts on State Route 85 South.**

Ms. Bell stated that this request was to rezone 5.102 acres from R-70 to C-H (Highway Commercial) for the purposes of locating the septic field for the adjacent development, and for other commercial uses; property located in Land Lot 253 of the 4th District and fronts on State Route 85 South. The property was currently identified as Tract 2 on the Minor Subdivision Plat of U.S. Station. This property was located in the General State Route Overlay Zone. She stated that Reese Developers applied to rezone the property from A-R to O-I to construct an office park in 2005. On July 28, 2005, the Board of Commissioners approved rezoning the property to R-70. On November 27, 2023, the adjacent parcel applied for and received a variance to allow the septic drain field to encroach upon the zoning buffers. This is the same septic system noted in the application. The applicant would prefer to locate the septic field on the current subject parcel, rather than in the buffer of 1552 Hwy 85 S. Ms. Bell stated that the Planning Commission recommended conditional approval of the request, subject to staff's recommended conditions. However, staff recommended denial based on the Future Land Use Map. Ms. Bell noted that, if approved, staff recommended the following conditions: 1. Parcel 0450 090 shall be combined with parcel 0450 070 in an approved minor subdivision plat within 180 days of the approval of the rezoning request. Revised plat must include the 50' buffer separating the C-H Zoning from the residential zoning. 2. The existing asphalt driveway be removed within 180 days of the approval of the rezoning request. 3. If the septic system for 1552 S Highway 85 encroaches into this property, a revised site plan be submitted for approval within 90 days of the minor subdivision plat being approved and recorded.

Richard Lindsey, agent, stated that this request was to rezone 5.102 acres from R-70 to C-H (Highway Commercial) for the purposes of locating the septic field for the adjacent development, and for other commercial uses. He noted that this was part of the old US station built in the 60's or 70's being used commercially for the past 50+ years and was never residential. Mr. Lindsey stated that this property was next to property that was currently being redeveloped and historically been a convenience store/service station location. To the north was vacant property and to the south was Whitewater Middle School and a large church. Mr. Lindsey expressed that in his opinion, the current zoning and land use plan was out of touch with reality. He stated that this property had been a long-standing commercial property for decades and leaving it residential was a total taking of the value of the property. If rezoned the desire of the applicant was to redesign the septic system drain field on the southeastern portion of this property. Also, if rezoned the transportation overlay would apply and protect the quality of the development that could go there, protecting the architecture, landscaping, and lighting of that property and area. He noted that this rezoning would increase the buffer between the residential zoned properties and this property. The type of development the applicant was anticipating putting there was a small retail space/center because of the unique shape of the property it would be a small commercial center with services and product aimed for the local community. Mr. Lindsey outlined six rezoning factors that the counties and cities should review when considering rezonings as highlighted at the Planning Commission Meeting via ACCG.

The following citizens made comments in favor of the rezoning:

Mr. Ed White reiterated comments of Mr. Lindsey stating that this property should not have been zoned residential in 2005 and undermined the credibility of the Land Use Plan. This property had been a long-standing commercial property for decades. He stated that the residential zoning was inappropriate, unreasonable, and undefeatable and a total taking of the property deeming it ultimately valueless.

The following citizens made comments in opposition to the rezoning:

Tim Toms. Comments included concerns regarding traffic, a diminished quality of life and tranquility to the community. He stated that there is a property for everybody and if left residential it could potentially be purchased in the future, there are other uses available other than a commercial zoning.

Mr. Lindsey stated that this rezoning could eliminate one of the four driveways on the property and would create an increased buffer that currently did not exist. He noted that nothing had happened with the property since the rezoning in 2005 and nothing would happen in the future in this current residential zoning.

Commissioner Eric Maxwell asked if they knew what the plans for the property was.

Mr. Lindsey stated that there were no current plans for the property. He stated that whatever was put there would have to fit within the ordinances of the county and they wanted it to look nice to ensure they protect their investment.

Commissioner Maxwell asked where the new septic system would be located.

Mr. Lindsey stated it would be toward the south end of the property.

Commissioner Maxwell asked how they would close the north driveway.

Mr. Lindsey stated that they would saw cut the asphalt and remove all that was in the right-of-way. During the development the current asphalt lot would be used to park vehicles temporarily and once complete removed.

Vice Chairman asked why the request is to rezone the property commercial just to relocate the septic system.

Mr. Lindsey stated that the septic system relocation was not the driving force of this request. He reiterated that there was no use for the property in the residential zoning and requesting the commercial zoning would allow for better opportunity to use the property.

Vice Chairman Gibbons stated that he felt the request was disingenuous and once rezoned commercial it would be used for commercial use.

Mr. Lindsey expressed his apologies because he thought he had outlined for the Board the applicants desired to but a small retail /center on the property. It would be a commercial use there. If rezoned this would increase the buffers for the residential area.

Commissioner Maxwell moved to approve Petition No. 1339-24, Thomas Crossroads, LLC, owner, Richard Lindsey, agent, request to rezone 5.102 acres from R-70 to C-H (Highway Commercial) for the purposes of locating the septic field for the adjacent development, and for other commercial uses; property located in Land Lot 253 of the 4th District and fronts on State Route 85 South, with the 3 outlined conditions. Motion failed due to lack of second.

Commissioner Oddo stated that the requests are logical, but it was his goal to maintain lower density of the southern portion of the county. When making a change to how the area will look, he wanted to garner public input and going from residential to commercial was different. Commissioner Oddo stated that he understood the arguments for both sides with no right or wrong. He stated that the goal of the Board was to remain consistent in their decisions. He also stated that this may be an item that could be reviewed when updating the Future Land Use Plan in the next few years.

Vice Chairman Gibbons moved to deny Petition No. 1339-24, Thomas Crossroads, LLC, owner, Richard Lindsey, agent, request to rezone 5.102 acres from R-70 to C-H (Highway Commercial) for the purposes of locating the septic field for the adjacent development, and for other commercial uses; property located in Land Lot 253 of the 4th District and fronts on State Route 85 South. Motion failed due to lack of second. Commissioner Rousseau seconded. The motion passed 4-1, with Commissioner Maxwell voting in opposition.

- 4. Consideration of Petition No.1340-24, Tommy O. Davis, owner, Darrell Baker, agent, request to rezone 4.03 acres from A-R to C-C (Community Commercial) for the purposes of developing a convenience store with fuel sales and retail space; property located in Land Lot 5 of the 5th District and fronts on SR 85 South, Harp Road and Old Senoia Road.**

Ms. Bell stated that this request was an undeveloped property that has no prior rezonings. It was a legal, nonconforming lot and was zoned A-R (Agricultural-Residential). The applicant was requesting to rezone to C-C (Community Commercial) to develop a convenience store with fuel pumps and additional retail space, which is a conditional use in the C-C zoning district. She stated that both staff and the Planning Commission recommended denial because Rural Residential - 2 (1 unit/2 acres), was the designated use so the request for C-C zoning is not appropriate. If approved, staff recommends the following conditions:

1. Harp Road is a minor arterial. The developer shall dedicate right of way, as needed, to provide 50 feet as measured from the existing centerline of Harp Road. The corner at the intersection of Harp Road and Old Senoia Road shall be chamfered 20 feet along tangent legs. 2. Submittal of the warranty deed and legal descriptions shall be provided to the County within 60 days of the approval of the rezoning request, or prior to the submittal of a development site plan, whichever comes first. Ms. Bell proved an overview of the property location within the county included surrounding property zoning.

Darrell Baker, applicant agent, provided an overview of the property to the Board for consideration. Mr. Baker highlighted concerns related to land rights, the taking of property based on road improvements, previous zonings, and the change in nature of the current community. Mr. Baker stated that he was a long-time resident of Fayette County and had watched the area develop around him. He stated that the current owner purchased the property 41 years ago and it had been for sale for 31 years with no sale. He stated that the property was not a suitable commercial or residential property. This was the only feasible use of this property. Because of the layout and non-conforming character of the property, he noted other properties near signalized intersections like this property had similar uses. Concerns expressed were related to the convenience/fuel station hours of operation, lighting transfer, ingress/egress issues, and traffic. Mr. Baker stated that this was the best use for this property.

The following citizens made comments in opposition to the rezoning:

Harris Sweetman, David Deloach, Paulette Roberts, Dan Lorton, Russell Blythe, Kathleen Moyer Ware, Doris Davis. Comments included concerns related to traffic, diminished quality of life, light transfer, increased crime, not the appropriate place for this type of facility, and that this was not the only available use for the property.

Commissioner Maxwell moved to deny Petition No.1340-24, Tommy O. Davis, owner, Darrell Baker, agent, request to rezone 4.03 acres from A-R to C-C (Community Commercial) for the purposes of developing a convenience store with fuel sales and retail space; property located in Land Lot 5 of the 5th District and fronts on SR 85 South, Harp Road and Old Senoia Road. Commissioner Rousseau seconded. The motion passed 5-0.

**5. Consideration of Petition No. 1341-24, Veterans Parkway and Lees Mill North, LLC, owner, and Jeff Collins, agent, request to rezone 10.95 acres, which is a portion of parcel 0707011, from A-R to R-70, for the purpose of combining it with an existing single-family residential property; property located in Land Lots 14 and 19 of the 7th District.**

Ms. Bell stated that this request was to rezone 10.95 acres, which is a portion of parcel 0707011, from A-R to R-70, for the purpose of combining it with an existing single-family residential property; property located in Land Lots 14 and 19 of the 7th District. She stated that the purpose was to combine this tract with Parcels 0708067 and 0708057, with all three tracts being combined into a single parcel. This property was part of the recently rezoned land designated for the National Soccer Training Facility. The request was consistent with the Future Land Use Plan. Ms. Bell stated that both staff and the Planning Commission recommended conditional approval with one (1) condition: 1. Parcels 0708 067 and 0708 057 and this rezoned portion shall be combined into a single parcel within 6 months of approval of rezoning, or prior to the approval of any additional building permits, whichever comes first. Ms. Bell provided a brief visual overview of the property location within the county.

Jeff Collins property owner agent stated that the intent of this request was to subdivide this property out of the soccer facility site and convey it to the adjacent property owners. This would be combined with their current property creating a larger buffer from the soccer facility site.

No one spoke in favor or opposition.

Mr. Davenport noted that there was one recommended condition and asked the petitioner if they agreed to the condition.

Mr. Collins stated that they did agree to the condition as outlined.

Commissioner Maxwell moved to approve Petition No. 1341-24, Veterans Parkway and Lees Mill North, LLC, owner, and Jeff Collins, agent, request to rezone 10.95 acres, which is a portion of parcel 0707011, from A-R to R-70, for the purpose of combining it with an existing single-family residential property; property located in Land Lots 14 and 19 of the 7th District, with outlined conditions. Vice Chairman Gibbons seconded. The motion passed 5-0.

**6. Consideration of Resolution 2024-03 to Transmit the Fayette County 2023 Annual Report on Fire Services Impact Fees (FY2023), including Comprehensive Plan amendments for updates to the Capital Improvements Element and Short-Term Work Program (FY2024-FY2028) to Atlanta Regional Commission (ARC) for review by Department of Community Affairs (DCA).**

Mr. Rapson stated as a point of clarification that this was separate from the discussion of item #10 but was related to Fire Services Impact Fees currently in place.

No one spoke in favor or in opposition.

Vice Chairman Gibbons moved to approve Resolution 2024-03 to Transmit the Fayette County 2023 Annual Report on Fire Services Impact Fees (FY2023), including Comprehensive Plan amendments for updates to the Capital Improvements Element and Short-Term Work Program (FY2024-FY2028) to Atlanta Regional Commission (ARC) for review by Department of Community Affairs (DCA). Commissioner Oddo seconded. The motion passed 5-0.

**PUBLIC COMMENT:**

Velma Kelly of Fayetteville expressed her concerns related to the upcoming Car and Bike Show being advertised at the Rick Ross' property. She noted that based on her understanding, this event brought in a lot of money for the county but still was concerned about crowd control, traffic, and noise and asked about law enforcement presence at the event and how they were hired and/or paid.

**CONSENT AGENDA:**

Commissioner Oddo moved to approve the Consent Agenda. Vice Chairman Gibbons seconded. The motion passed 5-0.

- 7. Approval of staff's recommended Mid-Year Budget Adjustments to the fiscal year 2024 budget and approval to close completed Capital, Capital Improvement Plan (CIP) Projects, and Water System CIP Projects.**
- 8. Approval to acquire all fee simple right-of-way for the proposed intersection improvement signalized intersection of SR 54 and Tyrone Road (2017 SPLOST 21TAA).**
- 9. Approval of the February 8, 2024 Board of Commissioners Meeting Minutes.**

**OLD BUSINESS:**

- 10. Request to review the Impact Fee Ordinance update process and discuss possible amendments to Impact Fees and the Capital Improvement Element (CIE). This item was tabled at the January 25, 2024 Board of Commissioners meeting.**

Ms. Bell stated that this request was to review the Impact Fee Ordinance update process and discuss possible amendments to Impact Fees and the Capital Improvement Element (CIE). She stated that the current Impact Fee was \$600.57 for a new single-family home. This money would go to fund very specific state pre-identified and pre-approved fire elements. Ms. Bell stated that in the process of reviewing the Impact Fee Ordinance and possible amendments, she had identified four options. Ms. Bell provided a brief overview of Impact Fee Options for the Board as outlined below:

Option A (Status Quo) - included: no changes to Capital Improvement Element (CIE) – Project List, no changes to the service areas, and no changes to fees.

Option B – included amending the Capital Improvement Element (CIE) – new project list for Fire Services and no changes to fees.

Option C- included amending the Capital Improvement Element (CIE) - fire services only, amend Impact Fee Ordinance, and considering Amending fee schedule.

Option D- included amending the fire Capital Improvement Element (CIE), consider adding Parks & EMS, and consider amending fee schedule.

Ms. Bell stated that regardless of whether the Board elected to amend the 2001 service areas/programs or fees, the recommendation was to proceed with updating the text of the Impact Fee Ordinance. This was already part of the consultant's contract and would ensure compliance with current State Law. This activity can be incorporated into any of the outlined options.

Ms. Bell in response to the Board's inquires, provided a wide-lens overview of the Summary Maximum Impact Fee Schedule table, which presented the maximum fees based on studies of growth, population projections, etc. She stated that the maximum fee to be charged for Fire Services was \$1,566.24. Ms. Bell outlined the various charges for other element categories, if added, and any additional intergovernmental agreements and/or public hearings needed to include these services. Once completed the fee schedule would be amended. She noted that the impact fees in any given category could be anything up to that maximum as outlined in the table which would then be approved by the Board. Ms. Bell stated that the table also noted fees for nonresidential categories and were typically calculated on a per square foot basis, with exception to hotel/motel type uses.

Mr. Rapson directed the Board to the Impact Fee Options page of the presentation. He stated that this was where staff needed direction on how to proceed.

Commissioner Charles Rousseau asked if an affirmative vote would approve an evaluation of whichever selected option to be brought to the Board with recommendations.

Mr. Rapson stated that this was the evaluation, and the analysis was already completed. What was needed from the Board was to select an option to determine the amounts, levels, and which categories would be added and/or amended.

Vice Chairman Gibbons stated as an example that the Board could select to keep the Fire Services Impact fee only raising the amount to \$900 or select to expand the fees to other areas and provide a dollar figure within the outlined fee schedule amounts.

Mr. Rapson stated that was correct. He also wanted the Board to keep in mind what effect changes to the impact fees would mean to the development community. Currently the fee was \$600 and had historically been \$600, if raised would regardless of which category would be viewed holistically.

Vice Chairman Gibbons moved to proceed with option A as outlined in the Impact Fees and the Capital Improvement Element (CIE) presentation. Commissioner Maxwell seconded.

Mr. Rapson noted that Option B would probably be the minimum option if the Board wanted to maintain the Fire Impact Fee and update the new project list for Fire Services with no changes to fees.

Commissioner Charles Oddo stated that he was not inclined impact fee. He noted that it was a different type of tax, but a tax, nonetheless. He felt the motion was good how it was stated.

Vice Chairman Gibbons amended his motion and moved to proceed with option B as outlined in the Impact Fees and the Capital Improvement Element (CIE) presentation. Commissioner Maxwell amended his second. The motion passed 4-1, with Commissioner Rousseau voting in opposition.

**NEW BUSINESS:**

**11. Request for approval to apply for a Georgia Governor's Office of Highway Safety grant in the amount of \$288,153.74.**

Mr. Rapson stated that this was a request from State Court for a Georgia Governor's Office of Highway Safety grant. This grant was specifically carved out for Accountability Court to address DUI's. Administrative Judges and DUI Court Programs, designed to remove repeated DUI offenders from Georgia's roadways through innovative prosecutorial/adjudication programs. This grant will provide funding for individual therapy, group therapy sessions, and drug testing lab services. Additionally, this grant, if approved, would fund the salary/benefits for the program coordinator and case manager.

Vice Chairman Gibbons moved to approve to apply for a Georgia Governor's Office of Highway Safety grant in the amount of \$288,153.74. Commissioner Oddo seconded. The motion passed 4-1, with Commissioner Rousseau voting in opposition.

**12. Request to approve Task Order 4 for a Not to Exceed (NTE) amount of \$625,822.51, to Practical Design Partners (PDP) to develop Preliminary Roadway and Right of Way Plans and related deliverables for the SR 279 Realignment Project - GDOT PI 0017813 (17TAD).**

Transportation Engineer, Paola Kimball, stated that this request was to approve Task Order 4 for a Not to Exceed (NTE) amount of \$625,822.51, to Practical Design Partners (PDP) for the federal aid project on State Route 279 to develop Preliminary Roadway and Right of Way Plans.

Commissioner Oddo asked for a brief overview of the project.

Ms. Kimball stated that initially the project was for a realignment, but the decision was made to do an intersection improvement at State Route 279 and Highway 85 and Highway 85 and Corinth Road, which would correct the geometric deficiencies on Corinth Road adding paths and sidewalks to these intersections and a dual left turn lane from Highway 85 onto State Route 279.

Vice Chairman Gibbons moved to approve Task Order 4 for a Not to Exceed (NTE) amount of \$625,822.51, to Practical Design Partners (PDP) to develop Preliminary Roadway and Right of Way Plans and related deliverables for the SR 279 Realignment Project - GDOT PI 0017813 (17TAD). Commissioner Oddo seconded. The motion passed 5-0.

**ADMINISTRATOR'S REPORTS:**

**Hot Projects**

Mr. Rapson stated that the Hot Projects report was forwarded to the Board and included updates on the Parks and Recreation multi-use facility, Redwine Road multi-use path, Redwine Road/Bernhard Road/Peachtree Parkway roundabout, Coastline Bridge improvements, and the Animal Shelter facility.

In response to public comment Mr. Rapson advised that the County does not receive any funds from the Rick Ross event, aside from the \$30 application fee. He also stated that Fulton County Sheriff, Fulton County Police, Fayette County Sheriff's Office, South Fulton Police with Fayette County all assist in crowd control and security for this event. These officers are paid by Rick Ross directly and done with off duty officers. Fayette County Sheriff Office takes the lead in security for this event to ensure safety and that the transportation plan is proper implemented and enforced. This proposed event will be coordinated similarly to how it was done last year using the new special use permitting process. He noted that he will keep the Board updated as the process moved forward.

He noted that there were current projects planned for State Route 279 as well as a future corridor study.

**ATTORNEY'S REPORTS:**

**Notice of Executive Session:** County Attorney Dennis Davenport stated that there were two items for Executive Session. One item involving threatened litigation and the review of the February 8, 2024 Executive Session Minutes.

**COMMISSIONERS' REPORTS:**

**Commissioner Rousseau**

Commissioner Rousseau expressed his congratulations to the Fayette County Library for their recent Black History event. Kudos to Library Director Michelle Bennett-Copeland and her staff for a job well done in celebrating the diversity within this county.

**EXECUTIVE SESSION:**

**One item involving threatened litigation and the review of the February 8, 2024 Executive Session Minutes.**

Commissioner Oddo moved to go into Executive Session. Vice Chairman Gibbons seconded. The motion passed 5-0.

The Board recessed into Executive Session at 7:41 p.m. and returned to Official Session at 7:49 p.m.

**Return to Official Session and Approval to Sign the Executive Session Affidavit:** Commissioner Oddo moved to return to Official Session and for the Chairman to sign the Executive Session Affidavit. Vice Chairman Gibbons seconded. The motion passed 5-0.

**Approval of the February 8, 2024 Executive Session Minutes:** Commissioner Oddo moved to approve February 8, 2024 Executive Session Minutes. Vice Chairman Gibbons seconded the motion. The motion passed 5-0.

**ADJOURNMENT:**

Commissioner Oddo moved to adjourn the February 22, 2024 Board of Commissioners meeting. Vice Chairman Gibbons seconded. The motion passed 5-0.

The February 22, 2024 Board of Commissioners meeting adjourned at 7:49 p.m.

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Marlena M. Edwards, Chief Deputy County Clerk

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Lee Hearn, Chairman

The foregoing minutes were duly approved at an official meeting of the Board of Commissioners of Fayette County, Georgia, held on the 14<sup>th</sup> day of March 2024. Attachments are available upon request at the County Clerk's Office.

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Marlena Edwards, Chief Deputy County Clerk