

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

January 23, 2025
5:00 p.m.

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 2nd and 4th Thursday of each month at 5:00 p.m.

OFFICIAL SESSION:

Call to Order

Vice Chairman Edward Gibbons called the January 23, 2025 Board of Commissioners meeting to order at 5:00 p.m. A quorum of the Board was present. Chairman Lee Hearn and Commissioner Charles Rousseau were absent.

Invocation and Pledge of Allegiance by Commissioner Eric Maxwell

Commissioner Eric Maxwell offered the invocation and led the audience in the Pledge of Allegiance

Acceptance of Agenda

Commissioner Maxwell moved to accept the agenda as written, except for item #1. Commissioner Charles Oddo seconded. The motion passed 3-0.

PROCLAMATION/RECOGNITION:

- 1. Presentation by Fayette County's auditing firm, Nichols, Cauley & Associates, LLC, of the results of the Fiscal Year 2024 annual audit.**

This item was pulled from the agenda.

PUBLIC HEARING:

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

- 2. Consideration of Petition No. 1353-24, The Estate of Richard N. Cates/Carol Denise Cates Mercer, Executrix; request to rezone 4.86 acres from A-R (Agricultural-Residential) to C-C (Community Commercial) for the purpose of constructing a convenience store w/fuel pumps; property located in Land Lot 151 of the 5th District, fronts on Banks Rd and Hwy 54. This petition was tabled at the October 24, 2024 meeting.**

Ms. Bell stated that this item was a request to rezone 4.86 acres from A-R (Agricultural-Residential) to C-C (Community Commercial) for the purpose of constructing a convenience store with fuel pumps. The property was located in Land Lot 151 of the 5th District, and fronts on Banks Rd and Hwy 54. She stated that the property was a legal, nonconforming lot. It did not contain the minimum required acreage for the A-R zoning district, but it was a "lot of record" based on the ordinance criteria. The

reduction in lot area was a result of right-of-way acquisitions for road improvements. The Future Land Use Plan in the Comprehensive Plan indicated Low-Density Residential (1 unit / 1 acre) as the planned use for this area. As a result, the request for CC rezoning did not conform with the Future Land User Plan. Ms. Bell noted that the property was the subject of a request to rezone from A-R to C-H in 2009 which was subsequently denied. She added that both staff and the Planning Commission recommended denial of the request to rezone from A-R to C-C. Ms. Bell stated although the recommendation was to deny the request, if approved, the following conditions were recommended:

1. Applicant to provide a minimum of 40 feet of ROW as measured from the existing road centerline or at least 10 feet beyond edge of payment for acceleration / deceleration lanes, whichever is greater.
2. Submittal of all warranty deed(s) and legal descriptions for right-of-way dedications shall be provided to the County within 90 days of the approval of the rezoning request, or prior to the final plat approval, whichever comes first.
3. Entrance location on Banks Road shall be limited to a right in right out and as recommended by GDOT the driveway shall be a minimum of 200ft from the return radius of Banks Road and SR 54.
4. Applicant shall extend existing sidewalk along Banks Road for the length of the property.

Ms. Bell provided an overview of logistical, environmental, and aerial maps for Board review.

As a point of clarity, County Attorney Dennis Davenport stated that because there were only three Board members present, it would require a unanimous or 3-0 vote to approve the rezoning request.

Vice Chairman Gibbons stated that the County policy was that the Petitioner had the opportunity to defer/table discussion of an item, however a subsequent request to defer would require a vote from the Board.

Mr. Davenport stated that the initial request to defer/table a petition (due the lack of a full Board) was the right of an applicant and would be granted by the Board based on that right. Any additional request would be granted at the discretion of the Board.

Commissioner Maxwell stated that because there was less than a full Board, he would be recommending tabling the following petition request and in an effort to be fair and consistent to both applicants, he wanted to extend the opportunity to request tabling this petition as well.

Newton Gallaway, applicant representative, stated that they would like to proceed with the Public Hearing. Mr. Gallaway stated that this request was for a proposed convenience store with fuel pumps, the property was 4.86 acres and currently zoned A-R with a request to be rezoned to C-C. Mr. Gallaway acknowledged that this was a difficult piece of property. Surrounding properties were zoned residential and based on the Comprehensive Plan would remain low density residential. He noted that the shape of the property, in addition to the location at the intersection, was problematic, residing along a major throughfare and collector road. Mr. Gallaway provided a concept site plan outlining the logistics of the development highlighting the necessary setbacks and entrance locations. Mr. Gallaway stated that if this property was developed as it was currently zoned it would require a 5-acre tract of land along with requiring specific setbacks. Mr. Gallaway stated that although this petition was denied by the Planning Commission, they did acknowledge that this property was no longer A-R and could not be developed as such. Under the Future Land Use Plan the property was noted as Low-Density Residential (1 unit / 1 acre) and could be either R-20 or R-40 which there was no market for. He noted that the property was in a State Route overlay zone which the development, as presented, met the requirement of. Mr. Gallaway stated that the County was charged with developing the Comprehensive Plan, however, he stated that based on OCGA 36-70-5, while the Comprehensive Plan was important and a key component in rezoning and outlining the development of the County, it was not definitive. He continued stating that the Comprehensive Plan only served a guide for planning and development.

Property owner **Denise Mercer** stated that she and her family had been longtime residents of Fayette County and understood past denials of the rezoning request, however now considering the changes in the area and schematics of the property, A-R zoning was not appropriate and deemed her property unviable.

Arnold Martin of Fayetteville stated that he represented his community and expressed that he and his neighbors were in opposition to the proposed development. He noted that the development would abut his subdivision which was quiet and tranquil, and a convenience was not the ideal type of business for the area. He also highlighted that this development did not meet the Comprehensive /Future Land Use Plan which was created to maintain the integrity of the County as it related to development and growth. Mr. Martin expressed his concerns regarding safety and traffic management.

Darryl Hicks of Fayetteville speaking on behalf of the Oaks of Fayetteville subdivision Homeowners Association (HOA). He stated that they were in opposition to the development. He noted that their primary concern related to the environmental impact a gas station would have on the land surrounding the community. He expressed his concerns related to gas leaks and the possibility of gas being emitted into the ground and how that would affect the water table for the neighboring communities.

Griffin Root of Fayetteville speaking on behalf of the Wellington Place subdivision. Mr. Root stated that they were in opposition to the proposed rezoning and development and in addition, to the previously mentioned issues stated that were also a concern; noise and light pollution. He highlighted that his subdivision was peaceful and quiet, and this development would disrupt this quality of life. There were already gas stations in the vicinity and building a third was not wanted or necessary.

Sandra Quiry of Fayetteville stated that she was in opposition to this request and noted issues related to health concerns as a result of living near a gas station. She highlighted the concerns.

Leroy Brown of Fayetteville stated that his property bordered the proposed development. He stated that he was in opposition of this request and expressed his concerns regarding the loss of the tranquility of the neighborhood, an increase in crime, and increase in traffic and noise.

Mr. Galloway stated that the traffic volume numbers mentioned in the comments, highlighted the need for a convenience store. He reiterated that this property would never be purchased as a residential use. He noted in response to concerns related to lighting, that there would be a natural buffer in place and the development would install dark sky lightening to reject away from residential properties. Mr. Galloway stated that the development would house underground (gas) tanks that would be regulated on the state and federal level. He noted that in researching the concerns regarding crime it was noted that any crime at a convenience store was tied to the level of crime in the area. Mr. Galloway stated that as it related to traffic data showed that 40% of customer travel from home, go to a convenience store, pick up items and return home. The remaining traffic would be by those traveling by the store. The convenience store was not the destination so a great percentage of the traffic would be by those already in the surrounding area. Mr. Galloway noted that the greatest traffic generator in the area was via residents and this trend would continue with future development in the area. He stated that the number of objectors did not determine the rights of the property owner.

Commissioner Maxwell moved to deny Petition No. 1353-24, The Estate of Richard N. Cates/Carol Denise Cates Mercer, Executrix; request to rezone 4.86 acres from A-R (Agricultural-Residential) to C-C (Community Commercial) for the purpose of constructing a convenience store w/fuel pumps; property located in Land Lot 151 of the 5th District, fronts on Banks Rd and Hwy 54. Commissioner Oddo seconded.

Commissioner Maxwell highlighted that although rezoning this property and developing the land into a convenience store was the highest and most profitable option for the property owner, it was not the only option. He stated that there were both agricultural and residential uses available under the current zoning, although they would not yield the highest profit. That was not the Board responsibility to consider.

Mr. Galloway stated that he contended the possible agricultural uses and he did not agree that there was a market for the residential housing at this property based its location.

Commissioner Oddo stated that this was a difficult position because he understood the desire of the property owner. However, when reviewing rezoning requests he had to use the Comprehensive Plan/Future Land Use Plan as his guideline and this request did not meet the requirements.

Commissioner Maxwell moved to deny Petition No. 1353-24, The Estate of Richard N. Cates/Carol Denise Cates Mercer, Executrix; request to rezone 4.86 acres from A-R (Agricultural-Residential) to C-C (Community Commercial) for the purpose of constructing a convenience store w/fuel pumps; property located in Land Lot 151 of the 5th District, fronts on Banks Rd and Hwy 54. Commissioner Oddo seconded. The motion passed 3-0.

Commissioner Oddo urged those in the audience to maintain their decorum and hold the applause, in consideration of those on the receiving side of the denial.

- 3. Consideration of Petition No. 1355-24, Andrea Pope Camp and Jordan Camp, Owners; Randy Board, Agent, request to rezone 41.78 acres from A-R to R-75 for the purpose of creating additional lots without any new infrastructure; property located in Land Lot 28 of the 7th District and fronts on Davis Road and Huiet Drive. This petition was tabled at the October 24, 2024 meeting.**

Randy Boyd, Agent, asked for a deferral of this Public Hearing. He noted that there was backup documents submitted that was not included in the package that he wanted to ensure was seen by the Board for review as well as the public. He added that he also felt that this rezoning included some particulars that warranted consideration via a full Board.

Commissioner Maxwell moved to defer this item to the February 27th Board meeting. Commissioner Oddo seconded. The motion passed 3-0.

PUBLIC COMMENT:

Lotte Commerford, Alexa Julien, Susan Griffith, Laura Line, Lynne Lasher made public comments.

Commenters expressed concerns and frustration regarding rude and disrespectful comments regarding the animal advocates, the need for increased attention to cat care, lack of Board engagement, capacity concerns, the desire for the findings from Dr. Cannon, the need to focus on the current building and not on Phase II construction, and the need for continued county and citizen/community engagement and teamwork.

Steve Sappington of Brooks stated that he made comments at the previous Board meeting expressing his concerns and he stated that his issues were quickly resolved and he thanked the Board.

Commissioner Maxwell asked if he and Mr. Sappington had ever met or spoke prior to the previous meeting.

Mr. Sappington stated no they had not.

CONSENT AGENDA:

Commissioner Oddo moved to approve the Consent Agenda. Commissioner Maxwell seconded. The motion passed 3-0.

- 4. Acceptance of Sheriff Babb's decision to accept eight vehicles from the Town of Tyrone (Tyrone Police Department).**
- 5. Approval of Board of Assessors' recommendation to approve a disposition of tax refund, as requested by James M. Ivey, in the amount of \$77.22 for tax year(s) 2022 and 2023.**

6. Approval of Board of Assessors' recommendation to approve a disposition of tax refund, as requested by Randy Johnson, in the amount of \$4,860.05 for tax year(s) 2022, 2023, and 2024.
7. Approval of Board of Assessors' recommendation to approve a disposition of tax refund, as requested by Glendae Tuthill, in the amount of \$773.12 for tax year 2023.
8. Approval to accept the right-of-way dedication known as "Right-of -Way Dedication 2, 0.032 Acres" as shown on the Minor Final Plat of The Alvarez Estate, recorded in Plat Book 101, Pages 482-483, and the Quitclaim Deed dated June 26, 2023 per Fayette County Code requirements.
9. Approval to accept the right-of-way dedication known as "R/W Dedication Tract, 0.536 Acres" shown on the Minor Final Plat for Atha Acres, recorded in Plat Book 101, Page 335, and the Warranty Deed dated March 2, 2023 per Fayette County Code requirements.
10. Approval to accept the right-of-way dedication known as "R/W Next to 044701002," 0.08 Acres, shown on the Minor Final Plat for Brandon Harp, recorded in Plat Book 52, Page 106, and the Warranty Deed dated March 9, 2023 per Fayette County Code requirements.
11. Approval to accept the right-of-way dedication known as "Tract Two Right of Way dedication to Fayette County, 0.419 Acres" shown on the Minor Final Plat, DG Fayetteville, as recorded in Plat Book 101, Page 564, and the Warranty Deed dated October 11, 2023 per Fayette County Code requirements.
12. Approval to accept the right-of-way dedication known as "Tract B, 0.08 Acres" shown on the Plat for Javier Torres Fernandez, dated February 6, 2024, and the Quitclaim Deed dated November 26, 2024 per Fayette County Code requirements.
13. Approval to accept the right-of-way dedication known as "New R/W dedication, 0.114 Acres" shown on the Minor Final Plat for County Line Estates, recorded in Plat Book 101, Pages 315-316, and the Quitclaim Deed dated November 11, 2023 per Fayette County Code requirements.
14. Approval to accept the right-of-way dedication known as "New R/W dedication, 0.068 Acres" shown on the Minor Final Plat for County Line Estates South, recorded in Plat Book 101, Pages 408-409, and the Quitclaim Deed dated January 23, 2023 per Fayette County Code requirements.
15. Approval to accept the right-of-way dedication known as "Right of Way Dedication, 0.101 Acres" shown on the Minor Final Plat for The Golden Rule Farm, recorded in Plat Book 101, Pages 392-393, and the Right-of-Way Deed dated January 25, 2023 per Fayette County Code requirements.
16. Approval to accept the right-of-way dedication known as "Right-of-Way Dedication, 0.271 Acres", as shown on the Minor Final Plat of The Johnnie K. Holland Estate, recorded in Plat Book 101, Pages 463-464, and the Quitclaim Deed dated April 28, 2023, per Fayette County Code requirements.
17. Approval to accept the right-of-way dedication known as "R/W Dedication: 0.57 Acres" shown on the Plat for Mark Anderson, recorded in Plat Book 101, Page 437, and the Quitclaim Deed dated March 29, 2023 per Fayette County Code requirements.

18. Approval to accept the right-of-way dedication known as "R/W Lot 1A 0.023 Acres" and "R/W Lot 2A 0.025 acres" as shown on the Minor Final Plat of Phillips & Suren Property, recorded in Plat Book 52, Pages 128-129, and the Right-of-Way Deed dated June 15, 2023 per Fayette County Code requirements.
19. Approval to accept the right-of-way dedication known as "R/W Lot 3A 0.022 Acres" and "R/W Lot 3B 0.024 acres" as shown on the Minor Final Plat of Phillips & Suren Property, recorded in Plat Book 52, Pages 128-129, and the Right-of-Way Deed dated June 20, 2023 per Fayette County Code requirements.
20. Approval to accept the right-of-way dedication known as "10' Additional R/W Strip to Fayette County, Area 0.70 Acres" shown on the Riverbend Overlook Phase I Plat dated August 27, 2020 and the Warranty Deed dated December 16, 2024 per Fayette County Code requirements.
21. Approval to accept the right-of-way dedication known as "R/W Tract 8 sq. ft." as shown on the Minor Final Plat of 385 Snead Road, recorded in Plat Book 102, Pages 23-24, and the Quitclaim Deed dated August 21, 2024 per Fayette County Code requirements.
22. Approval to accept the right-of-way dedication known as "R/W Tract, 0.063 Acres" as shown on the Plat Prepared for Colunteya & Oliver Weems & Geraldine Johnson, dated March 29, 2023, and the Warranty Deed dated October 9, 2023 per Fayette County Code requirements.
23. Approval to accept the right-of-way dedication known as "Right of Way Dedication 1, 0.23 Acres" as shown on the Minor Final Plat of The Alvarez Estate, recorded in Plat Book 101, Pages 482-483, and the Quitclaim Deed dated June 24, 2023 per Fayette County Code requirements.
24. Approval of the January 09, 2025, Board of Commissioners Meeting Minutes.

OLD BUSINESS:

NEW BUSINESS:

25. Request to amend Fayette County Code, Chapter 104 – Development Regulations, Article VII. Watershed Protection.

Environmental Management Director Bryan Keller advised the Board that due to lack of a full Board being present and his desire to fully vet recent information received regarding the definition of trails and paths, he was requesting that this item be tabled.

Vice Chairman Gibbons moved to table this item to the February 13th Board meeting. The motion passed 3-0.

26. Request to approve staff's recommendation to approve Contract #2000-P, Badger Meter, Change Order No. 07 Meters, Endpoints and Additional Components, with a not-to-exceed amount of \$250,790.50, to provide additional adjustments for meters, endpoints and retrofit components.

Water System Director Vanessa Tigert stated that the Badger Advanced Metering Infrastructure project began full deployment mid-January 2024. The original contract prescribed 29,340 meters and 31,000 endpoints to be replaced during this project. Based on identified conditions in the field and usage trends, an additional 1,499 meters are needed, 2 retrofit components and a reduction of 100 endpoints totaling \$250,790.50.

Vice Chairman Gibbons asked if these were the meters that had aged out since the start of the contract.

Ms. Tigert stated yes.

Commissioner Oddo moved to approve Contract #2000-P, Badger Meter, Change Order No. 07 Meters, Endpoints and Additional Components, with a not-to-exceed amount of \$250,790.50, to provide additional adjustments for meters, endpoints and retrofit components. Commissioner Maxwell seconded. The motion passed 3-0.

ADMINISTRATOR'S REPORTS:

Hot Project Report

Mr. Rapson updated the Board on the projects including the Parks and Recreation Multi-Use Facility, Starr's Mill Tunnel, Coastline Bridge Improvements, Cedar Trail Culvert Replacement, Public Health building, and Water System Update on the AMI project.

Mr. Rapson highlighted a \$4.156M FEMA/GEMA grant that the Water System received via homeland security for two new generators and the electrical system.

ATTORNEY'S REPORTS:

Notice of Executive Session: County Dennis Davenport stated that there were five items for Executive Session. Two items involving pending litigation, two item involving real estate acquisition and the review of the January 9, 2025 Executive Session Minutes.

COMMISSIONERS' REPORTS:

Vice Chairman Gibbons extended kudos to the Fayette County Emergency Management team for their efforts in managing the recent inclement weather incident. Vice Chairman Gibbons asked Fire Chief Hill for a brief overview of operations surrounding the recent snow day.

Chief Jefferey Hill stated that the inclement weather began about 2:30 p.m. on January 21st. He noted that on a typical day Fire and Emergency Services would run about 33 calls in a 24-hour day. On Tuesday they ran about 38 calls in the first 6 hours of the inclement weather. There were iced over roadways which caused traffic and accidents but in total, Fire and Emergency Services responded to 71 calls during this storm event.

Vice Chairman Gibbons expressed his appreciation to all first responders for their hard work and dedication.

EXECUTIVE SESSION:

Two items involving pending litigation, two item involving real estate acquisition and the review of the January 9, 2025 Executive Session Minutes. Commissioner Oddo moved to go into Executive Session. Commissioner Maxwell seconded. The motion passed 3-0.

The Board recessed into Executive Session at 6:33 p.m. and returned to Official Session at 7:03 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 3-0.

Approval of the January 9, 2025 Executive Session Minutes: Commissioner Oddo moved to approve the January 9, 2025 Executive Session Minutes. Vice Chairman Gibbons seconded the motion. The motion passed 3-0.

ADJOURNMENT:

Commissioner Oddo moved to adjourn the January 23, 2025 Board of Commissioners meeting. Vice Chairman Gibbons seconded. The motion passed 3-0.

The January 23, 2025 Board of Commissioners meeting adjourned at 7:03 p.m.

Marlena Edwards, Chief Deputy County Clerk

Edward Gibbons, Vice Chairman

The foregoing minutes were duly approved at an official meeting of the Board of Commissioners of Fayette County, Georgia, held on the 13th day of February 2025. Attachments are available upon request at the County Clerk's Office.

Marlena Edwards, Chief Deputy County Clerk