

The Board of Commissioners of Fayette County, Georgia met in Official Session on Thursday, February 22, 2001, at 7:00 p.m. in the public meeting room of the Fayette County Administrative Complex, 140 Stonewall Avenue, Fayetteville, Georgia.

COMMISSIONERS PRESENT: Greg Dunn, Chairman
Linda Wells, Vice Chair
Herb Frady
A.G. VanLandingham

COMMISSIONER ABSENT: Harold Bost

STAFF MEMBERS PRESENT: Chris W. Cofty, County Administrator
Carol Chandler, Executive Assistant
William R. McNally, County Attorney
Karen Morley, Chief Deputy Clerk

Chairman Dunn called the meeting to order, offered the Invocation and led the pledge to the Flag.

REZONING PETITIONS:

Commissioner Wells remarked at this point in the agenda the Board would consider requests for the rezoning of property in our county. She said the policy required at least two public hearings — the first before the Planning Commission and the second before the County Commissioners. She said at this hearing the Board would listen to the concerns of everyone, whether in favor or opposition to the rezoning petition. She pointed out when a rezoning petition was called, the petitioner or representative for the petitioner would be allowed 15 minutes in which to present the details of the request, followed by anyone who wanted to voice support for the request. She stated that the Chairman would then allow all those individuals who were opposed to the rezoning to stand for a moment to display their opposition. She said the Chairman would then ask those individuals who wished to come to the podium to speak to remain standing so the Board and staff could get an idea of how to allocate its time. She said the Board would allow up to 3 minutes for each speaker. She said when the persons speaking in opposition had finished, the petitioner would be given an opportunity to rebut any of the points raised. She remarked in fairness to all parties, the petitioner would be entitled to equal time to address the Commissioners as all those in opposition.

Commissioner Wells further remarked that these hearings were a part of the permanent record and speaking at the podium with the microphone helped staff with their task of recording comments and ensured everyone being heard. She remarked when it was an individual's turn to speak that they come to the podium, state their name and address and direct their comments to the Board only. She asked that after individuals speak that they sign the sheet that would be provided by the Marshal in order for names to be spelled correctly for the record.

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Commissioner Wells stated that the Board wanted to hear from everyone who had something to say and they would pay close attention to each point raised. She said it would not be necessary for the same point to be raised over and over. She thanked everyone for their participation and announced that the Zoning Administrator would begin introducing each request in the order they appeared on tonight's agenda.

PETITION NO. 1069-01:

Chairman Dunn announced that Commissioner Bost was out of town and absent. He remarked that the petitioners had the right to postpone their rezoning requests until they could be heard by the full Board. He said a vote of 2 to 2 would result in a negative vote and petitioners would not be able to proceed again for another six months.

Zoning Administrator Kathy Zeitler read Petition No. 1069-01, Dean Fryer, Owner/Agent, request to rezone 1.027 acres from R-40 to O-I to develop Professional, Medical, and Law Offices. She said this property was located in Land Lot 70 of the 7th District and fronted on Sumner Road. She said the Planning Commission recommended denial 4-1 and Staff recommended denial.

Chairman Dunn asked Mr. Fryer if he wished to proceed with his request at this time and Mr. Fryer responded yes.

Dean Fryer, 380 Darren Drive, Fayetteville, Georgia remarked that he was a businessman and dealt with a lot of people both quality character and non-quality character people. He said he had lived in Fayette County for the last thirty years and he had never had an occasion to deal with any of the county government people until this past year during this process of having to rezone this property. He said he had been genuinely impressed with Kathy Zeitler, Robyn Wilson and the ladies in the Commissioners' Office. He said there was good leadership and quality character people. He said he had never realized or appreciated until now the quality of people who lead our government in this county. He said they were professional, caring, and sensitive and not bureaucratic.

Mr. Fryer said it had taken him a year and over \$1,200 just to get to this point. He pointed out that the Planning and Zoning Board earlier this month met and after hearing his appeal and with no objections moved to approve, a second given and four people were ready to vote and then one person objected. He said this objection was not based on the merits of his appeal but based on the fact that they had turned down and made a denial on a previous piece of property that was much different from his. He said the Planning Commission felt they would have to go back and apologize to that person and they were not willing to do that. He said as a result the Planning Commission denied his appeal on that basis and he was very disappointed in that.

Mr. Fryer said he would like to state his appeal. He said he was in a subdivision with one lot 2.027 acres. He said he would like to divide those two lots and make the new lot 1.027 O-I from R-40. He pointed out that the Planning and Zoning Board did allow him to

separate the two lots making one lot residential or R-40 but not rezoning it O-I. He said if the Superintendent of Schools John DeCotis was present he might object to bringing in more children into the county. He remarked that his situation was unique. He said there was no other property anywhere that anyone knew of that met this situation. He said while it did not meet the West S.R. 54 overlay plan of being directly on S.R. 54, it was entirely within reason that his appeal be granted without compromising the integrity of the overlay plan. He said the reason he was saying that was because of the word "plan". He said "plan" was just that and was not the law. He said the Planning Commission kept referring to the reason they were not allowing his request was because it was not according to the overlay plan. He said the plan needed to be flexible and deviation made when it was common sense or a situation that could not be foreseen in developing the plan.

Mr. Fryer pointed out that there was one neighbor that bordered the property and that person had given him their complete blessing and had signed a letter stating that they had no objections whatsoever. He said there were currently four homes in the subdivision. He said he owned one and the other three were newly constructed. He said Dot Reynolds had the other three homes listed and there were no contracts pending. He said there was no interest in the homes at this point on anybody's part and therefore, he would not be disrupting a subdivision. He said if this property was at the entrance to any other subdivision he would say no himself to this appeal. He said Sumner Road was unique. He said the precedent had already been set. He said this was a special and dedicated situation and was already O-I. He said his son Chad currently lived in the home and he had wanted to build him another house. He said it made sense after everything was considered that Chad would not want to build another residential house on this piece of property so close to S.R. 54.

Mr. Fryer commented that there were no objections from the neighbors and this would have no further impact on the subdivision or on the neighborhood or people living there anymore than the clinic across the street or the EMC building next door. He said there were no objections from any of the county departments who were given this appeal. He stated the property would always be bordered by EMC and the offices across the street and he would be living on the other side of the street. He said access to EMC and the clinic was not off S.R.54 but off Sumner Road. He said there would be no impact on Sumner Road and no impact on the traffic on Sumner Road. He said he fully intended to build an architectural structure of residential nature. He said the landscaping would be professionally and tastefully done. He said he was voluntarily imposing on himself and would comply with the rules of the S.R. 54 West overlay architectural standards as written. He said the highest and best use for this property would be done correctly and there would never be a regret on the Board's part allowing him to rezone this and having the privilege of using this property in this way. He said in that way, he was making his most earnest appeal to the Board.

Chairman Dunn asked if anyone wished to speak in favor of the petition. Hearing none, he asked if anyone wished to speak in opposition to the petition. There was no one to speak in opposition. He asked for the Board's pleasure in this matter.

Commissioner VanLandingham remarked that the Board could not impose the type of O-I and it would be approved as such. He asked Mr. Fryer if he would self impose a condition that it be used for office and no retail at any time.

Mr. Fryer replied yes, that was his intent. He said the zoning would be O-I and not commercial or retail.

Commissioner Frady asked Attorney McNally about the LUC zoning in this area and about this fitting in there. He said if it ever needed to be changed, applicant would have to come before the Board to do so.

Director of Zoning Kathy Zeitler interjected that retail use would not be allowed in O-I.

On motion made by Commissioner Frady, seconded by Commissioner VanLandingham to approve Petition No. 1069-01, discussion followed.

Commissioner Frady remarked that this was a very unique situation. He said the people going to the building across the street had to drive directly by this piece of property to get there and the people behind the property agreed that they had no objection.

Commissioner VanLandingham said he felt this property could never meet the overlay requirements because of it being on the side road. He remarked that the property had all of the draw backs of S.R. 54. He said while there was no building on this property, this did not reflect on any past decision by this Board. He said he felt the Zoning Board had done a very adequate job on this request. He said the Zoning Board was bound by the ordinances and they only made recommendations. He said this was a unique situation and was already affected by the zoning of the two buildings in close proximity.

Commissioner Wells said she could also support this petition and she wanted to make it clear why she was supporting it. She said there had been situations in the past where there were people in subdivisions who had approached the Board and asked to be taken out of the subdivision so that they could create an office/institutional area within the subdivision. She said this Board had turned them down and this was done for a number of reasons. She said firstly once people had bought into a subdivision they had bought into a concept and an idea and it had been represented that this would be the way the subdivision was going to be. She said those homeowners had the right to believe and expect that to be an existence. She remarked when people came in who were already in an established subdivision and wanted to secede from that and create a little nook of commercial or office institutional, she felt this was a great burden on the existing subdivision. She said the Board had also had situations where people had come in where

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a subdivision had been platted and things had not developed the way that they wanted them to and instead of two and three acres they had come in and asked the Board to change it to one acre. She said she had traditionally voted against it for the very same reasons.

Commissioner Wells said she agreed with her fellow Commissioners that this was a different unique situation. She said she had asked Mr. Fryer to ascertain whether or not there was any pending contract on the three houses that were in the subdivision. She said she felt this was unique because it was a new subdivision and no one had purchased a house in this subdivision except for Mr. Fryer's son who was there under existing circumstances. She said nobody had any expectations at this point in time as to what the subdivision was composed of and would look like in the future. She said no one had any vested interest as to whether or not there would be five houses or four houses in the subdivision. She stated although it was already platted in that fashion, no one had a vested interest at this point in time in a certain concept. She said the property also abutted a commercial endeavor of EMC. She felt this would be a wonderful step down for this particular area. She said this was a unique situation because it was not really in the S.R. 54 overlay but it was one of those situations that gets a lot of negative impact from being so closely related to it. She felt this was probably going to be the barest use for applicant and it would not have a negative impact on the area and would not negatively impact anything that was currently in place there. She felt this was a unique situation that had not existed and had not been brought before this Board in the past and for that reason she could support this particular situation.

Chairman Dunn said he was one of the people who would see this another way. He felt this was a residential street. He said the two properties that were discussed being office/industrial had road frontage on the S.R. 54 corridor in the overlay zone and this property did not. He said Mr. Fryer had made a statement a few minutes ago that by making this lot O-I would have no more impact in that area than EMC and the doctor's office. He said the impact would be on Mr. Fryer in that he did not want residential next to the property. He said if the Board voted to make this an O-I lot out of one lot in that subdivision he felt next year the Board could see someone else before the Board wanting O-I because they would not want to build a residence next to an O-I building. He said this was a process that could go on and on. He said no one had purchased the three new homes and they were vacant. He said he could envision a time if this was approved when people might come in and state that this should be a doctor's office because of the O-I. He said he could not support this for the same reasons that Planning and Zoning and staff could not support it. He said in this case there would be a precedence and he felt that was what the Planning and Zoning Board was talking about. He said he could not support the application.

Commissioner Frady said he would like to note for the record that Mr. Fryer had self-imposed the architectural regulations of the overlay zone on this project.

The motion carried 3-1 with Chairman Dunn voting in opposition. Commissioner Bost was absent. A copy of Staff's Analysis and Investigation, identified as "Attachment No. 1", follows these minutes and is made an official part hereof. A copy of the Ordinance and Resolution approving Petition No. 1069-01, identified as "Attachment No. 2," follow these minutes and are made an official part hereof.

PETITION NO. RP-017-01:

Zoning Administrator Kathy Zeitler read of Petition No. RP-017-01, Dean Fryer, Owner/Agent, request to revise Lot 4 of Madelyn Place Subdivision, into two (2) lots (one lot zoned R-40 and one lot requested to be rezoned to O-I, see Petition No. 1069-01). She said this property was located in Land Lot 70 of the 7th District, consisted of 2.027 acres, and fronts on Sumner Road. She said the Planning Commission recommended approval of two (2) lots, a minimum of the (1) acre each, zoned R-40. She said staff recommended denial as requested.

Chairman Dunn said he saw no reason for Mr. Fryer to come back up before the Board and he asked for the Board's pleasure in this matter.

On motion made by Commissioner Frady, seconded by Commissioner Wells to approve Petition No. RP-017-01. The motion carried 3-1 with Chairman Dunn voting in opposition. Commissioner Bost was absent.

PETITION NO. 1070-01:

Zoning Administrator Kathy Zeitler read of Petition No. 1070-01, Billy M. Floyd, Owner, Flint River Resources, Inc. Agent, request to rezone 24.295 acres from R-40 to A-R to develop a Human Cemetery and Mausoleum. She said this property was located in Land Lots 231 and 250 of the 13th District and fronted on S.R. 314, S.R. 279, and Helmer Road. The Planning Commission recommended approval 5-0. She said staff recommended approval.

Jim Crist, President of Flint River Resources, 220 Prestwick Way North, Stockbridge said he was appearing before the Board to present a petition for rezoning. He said the property consisted of twenty-five acres located on S.R. 314 and S.R. 279 at Helmer Road. He said this property was a tract of land that was located at an intersection located in a critical part of the northern portion of Fayette County. He said this was a conjunction of main arteries in this entire northern section of the county. He said there was a traffic count at this particular site twenty-four hours in two different directions of 25,000 and more per day. He said the current use of the property was R-40 and his request was to rezone the property A-R conditional for a cemetery.

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Mr. Crist remarked he was aware that it was not every day that a petition for a cemetery came before the Board. He said there were several factors that he would like to mention that prompted him forward months and months ago with this project. He said firstly the population in this part of the metropolitan area of Atlanta had grown 300% over the last twenty years. He said in this particular market area in the year of 1980 there was a population figure of 29,000 and today there was over 100,000. He said with that tremendous amount of increase there had not been one new cemetery in that period of time. He stated this particular growth factor had left this particular need hurting and it was one of the main items in the analysis for this particular project. He said he would like to put on the screen at this time an aerial photograph that will show basically what was in the area. He said there was a new fire station immediately south of the site that was under construction and the balance of the surrounding property was commercial. He said there was a recently zoned new subdivision directly across the street. He said there was a church to the north of the property and a very large tract of undeveloped land immediately to the east of the property.

Mr. Crist remarked that another factor for relocating to this area was the traffic arteries and also the number of churches in the area. He said this was a critical factor in this project. He said presently the area was served by three very old cemeteries and these were Camp Memorial, Westminster and Sharon Memorial located in Tyrone. He said those were the only facilities that served this particular area. He said when the press had picked up this petition he had received a number of calls from people who were not so interested in the zoning factor itself but when it would be available. He said he had just been overwhelmed with calls as to who to contact and when could they contact them.

Mr. Crist said he wanted to discuss how important the churches were in this particular business. He said he had visited with the seven churches in the area approximately five weeks ago and left them his plans and he had also gone over the plans with them. He said he had also given them all of his phone numbers and he had received a very, very warm reception and support for this particular project. He said immediately across the street from the property was Friendship United Methodist Church. He said they have their own cemetery on site. He said their first interment in the cemetery was in 1904 and they had very few spaces left. He said the older cemeteries had the concrete and marble headstones. He said they were exceptionally interested in this facility. He said he had met with the Covenant Church of God, Redemption Church, Friendship United Methodist Church and the Community Christian Church. He said there was one particular factor that comes up sometimes as to how this would affect property values of the surrounding residential property. He said from personal experience the property values here as in his other projects tended to improve the property values. He said this was due to the green areas, smart growth, and open space. He said nothing could be prettier to look at than a finished memorial garden. He said at this point he would like to reserve a few minutes for rebuttal. He said if the Board had any questions, he would be glad to answer them.

Chairman Dunn asked if anyone wished to speak in favor of the petition.

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Bruce Henderson, 390 Magmar Lane, Fayetteville stated that he was in favor of the facility that Mr. Crist would like to put in. He said this was due to the pain and suffering that he and his wife had gone through approximately two years ago. He said he had lost his wife after 52 years. He said they had moved to Fayette County in the early 1970's, built a retirement home and she had suffered for approximately six months. He said his wife had wanted to be buried in Fayette County and also wanted to be interred in a mausoleum. He stated during her illness he had gone out and visited all of the cemeteries in Fayette County. He said the cemetery between Fayetteville and Peachtree City had shown him a private mausoleum that could be brought in but after investigating this further it would have taken three cemetery lots to put it on. He said he was willing to go along with that and then later they decided that they did not want any private mausoleum public or private there. He said they had decided that Camp Memorial would have the mausoleums. He said he had gone out to the Camp cemetery and he was very disappointed. He remarked that he had ended up with his wife's burial at Holly Hills Cemetery in Fairburn in a very nice facility. He said it was his intent if the Board approved this cemetery and mausoleum that he would transfer his wife back into Fayette County.

Chairman Dunn asked if anyone else wished to speak in favor of the rezoning. Hearing none, he asked if anyone wished to speak in opposition. He asked those individuals to stand up so the Board to see how many people were opposed. He remarked there were twelve citizens standing up in opposition. He said each person would have no more than three minutes to speak in opposition.

Wayne Kendall, 395 North Drive, Fairburn said he wanted to speak in opposition to this particular petition for several reasons. He said firstly, he felt it would bring down the property values in the area but this was not the primary reason he was speaking against it. He said the primary reason was that he believed that Flint River Resources had misrepresented the level of support that they claimed that they have from the churches and others in the area. He said when he learned of this petition he had done some investigation regarding the support they claimed to have. He stated Mr. Kent who was the CEO of this company had written a letter to the Planning Commission and stated that he had contacted six of the neighborhood churches and he was glad to report that all of the churches had been very supportive of his petition. He stated that Mr. Kent had also given a summary of what this company was all about and in the summary he stated that favorable support had been received from the churches in the immediate area. He said Mr. Kent then listed six churches that he said he had support from. He remarked in the staff write up of the petition, Mrs. Zeitler the Zoning Administrator stated that Mr. Crist had stated that he had met with Liberty Baptist Church as well as the other churches in that area. He said Mr. Crist had also stated that he had received tremendous amount of enthusiasm and support. He said today he had the opportunity to contact Pastor Allen Parker of Liberty Baptist Church which was an adjoining property owner to the proposed cemetery. He said Reverend Parker was extremely upset to learn that Mr. Crist had misrepresented his support. He said Reverend Parker had written a letter and faxed it to him. A copy of the letter, identified as "Attachment No. 3", follows these minutes and is made an official part hereof. He said he was suggesting to this Board that it was disingenuous

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for Mr. Crist to come here tonight and represent to the Board without any support whatsoever that these particular churches had supported and were supporting his petition.

Valerie Jones Butler, 165 Shady Brook Walk stated that she was in opposition to the rezoning. She said she had signatures from approximately twenty-five neighbors who also expressed concern about the rezoning. A copy of the petition, identified as "Attachment No. 4", follows these minutes and is made an official part hereof. She remarked that Reverend Weldon of the Covenant Church of God was contacted and Reverend Weldon had been led to believe that neighbors were support. She said Reverend Weldon had been told that there was enthusiastic support from the neighbors and that led him to sign the letter of support. She said Reverend Weldon had also said that he would not be using the facility. She felt the need for this cemetery had not been fully established. She remarked that Fayette County was a very large county with many opportunities for cemetery facilities. She said everything in the area surrounding the proposed facility was strictly residential. She felt the citizens who had invested in homes in this area had an expectation that the property would not all of a sudden be turned into a cemetery. She questioned the use of mausoleums on the property. She urged the Commission to continue to protect the value of property in this area.

Virgil Fludd, 200 Standing Oak Place, Fairburn, Georgia asked for the Board's consideration in denying this petition. He felt the property values would decrease if this request was approved. He said people in that area had purchased homes and property with an expectation of the use of the property. He stated the Flint River Associates had indicated that they felt property values would increase. He said he knew of no statistically information that would support that. He said he also questioned if this would be the highest and best use of the land. He remarked that most of the property surrounding the proposed site was residential use. He also commented that the zip code 30213 had the highest property values in the county. He said residents in that area pay anywhere \$1,600 to over \$4,000 per year in property taxes. He stated there would also be an increase in traffic flow that would be a result of services in this area. He said there were already 25,000 vehicles per day in that area. He said he would like Mr. Crist to address in his rebuttal if there had been any discussions with any residents in the area with regard to the proposed site. He felt there was a very clear and significant opposition to this proposal. He urged the Board to listen to the residents of the community and vote with the residents.

Zachary Blakely, 115 LaFayette Drive stated that he worked directly across the street from a cemetery. He said it was very depressing every time he comes out of his office door to see a cemetery. He said everyone knows that they must die one day but he said he did not want to come home to see a cemetery and be reminded of that. He said he was sure everybody felt the same as he did. He felt there were other locations where this cemetery could be built. He was not in favor of the cemetery being built in a residential neighborhood.

John E. Jones, 110 Lawson Lane in the North Ridge Subdivision stated that this cemetery would be located at a major intersection. He said he could just envision the traffic problems with a burial ongoing and cars backing up on to the highways. He remarked on the major

curve located on the Old National Highway that he felt that would be very dangerous for a funeral procession. He said he also agreed with the property devaluation. He said any time that he had ever looked at property with respect to purchasing a home, if he saw a cemetery near by it was just something that he did not want to be near. He said since the homes were here first he felt the cemetery should go somewhere else where the traffic was not so heavy. He said there was a general uneasiness about being near cemeteries. He said the 25,000 vehicles used in the traffic count was probably a conservative figure. He said he was opposed to the cemetery project.

Dr. Thomas J. Busey, 1441 Helmer Road said he had lived here for approximately 55 years ago. He said he was located to the east of the project. He said it seemed obvious to him that this was the worst choice for a cemetery at one of the busiest intersections in the county. He said it was at the intersection of two State highways and also a new fire station. He said his property had bordered to the east of the proposed site and was an operational farm with livestock. He pointed out that the drainage of the two ponds did run into the fresh water creek that crosses the entire length of his farm. He said this had been a source of clean water for many years and he had made every effort to keep it this way. He said the State of Georgia did not require burial vaults and when the storm Opal had come through Georgia several years ago he had witnessed a coffin floating down Camp Creek. He said he was concerned with the preservation of health and sanity. He said he was opposed to this request very adamantly.

Alice M. Jones, 110 Lawson Lane, in the North Ridge Subdivision stated that she was in opposition to the proposal for a cemetery. She felt there should have been some type of environmental impact study done in regard to the lake in the area as well as the traffic. She said everything that the Flint River Resources had said did not include the residents to determine the feasibility of this type of project. She recommended that the Board deny this proposal.

Roosevelt Adams, 135 Fiddlers Ridge stated he was the President of the Country Lake Homeowners Association. He said as a good marketing firm it would have been a good idea to contact some of the subdivisions in the community to get support or at least lay out the plans so that this could be discussed. He said this had not been done. He said he had spoken with quite a few people in the subdivision and there were approximately 256 residents in the community. He said he was in the process of getting petitions signs and was in the process of getting some more. He felt it was important for the Board to listen to the community. He said this was a residential community that was growing and where other subdivisions would be coming on board and he felt at this time this would be a bad proposal to move forward with.

Dr. John Kendrick, 1478 Helmer Road remarked that this was the entrance to Fayette County. He said the homes that were located on S.R. 279 and S.R. 314 were beautiful. He said at the current time it was hard to get out onto the highway because of the traffic. He said there was also surrounding property that was zoned R-40 and homes would eventually be built there.

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He felt it would be better to have the cemetery in an agricultural area rather than at the main corridor of the entrance to Fayette County. He said he was opposed to this presentation.

Michael Hughes, 218 Dijon Court, Riverdale commented that there were eight major subdivisions in this area. He said the area as it stands now was already over developed. He said the traffic was terrible there and it was going to get a lot worse. He said he and his wife had relocated here for a better quality of life and to be able to get to and from work and to the airport. He said now that was almost impossible. He remarked there had been three major projects in this particular section of the county in the last nine months. He said he was a realtor and he had already lost a customer from Detroit who wanted to purchase a home in the Country Lake Estates when they found out the cemetery was proposed for the area. He also expressed concern for the animals in that area being displaced. He said the deer and other animals had no place to go. He said he was opposed to this petition and most of the homeowners that he had spoken to were also opposed to it. He suggested the Board think of alternatives such as a park. He said there was not a park within ten miles of this area. He said there needed to be a place for children and grandchildren to play.

Terry Vogt, 303 Deville Way in the LaFayette Estates Subdivision stated that he lived approximately one mile north of the proposed site of the cemetery. He said he and his wife were self-employed and they had lived in this subdivision for the last twenty years. He said they had enjoyed the quality of life in Fayette County and this was the reason they had moved here originally. He said they had seen a great deal of growth over the past twenty years and they were not opposed to that. He said they had also seen the highways widen, traffic increase, shopping increase, and schools built and they take that all in stride. He said they know how carefully Fayette County looks at increasing the commercial activity especially in the residential areas. He said this application notes that the land was zoned R-40 residential and now they want to revert it to A-R. He stated there was quite a bit of A-R zoned land in the county and much of it away from the traffic congestion areas. He remarked that the traffic on S.R. 314 and S.R. 279 had increased so much now that exits and entrances into the subdivision must be planned carefully. He said the thought of the new fire station being constructed right next to the cemetery at the intersection of these two highways leads him to some hardly imaginable situations where a funeral might come in conflict with a fire emergency. He said cemeteries were not appealing to people and they did not increase property values and they were cause them to decrease. He felt this would have a negative affect on the county's tax roles as well. He urged the Board's support to deny this petition.

Bob Bannister, 151 Graves Road, Fayetteville stated he was a member of Liberty Baptist Church. He said the pastor had called him this afternoon and asked that if he would mind coming to the meeting since he was unable to attend. He remarked that nothing was known about this rezoning as far as the church was concerned. He said this was where the property joined his church. He said he was very disturbed to learn about this rezoning. He said he had come to the meeting with an open mind. He remarked that Mr. Crist had remarked that the Methodist Church was directly across from the proposed cemetery and that was not a true statement. He said he was sure that the Board was aware of that. He said Mr. Crist had also

stated that all of the churches in the area were in favor of this rezoning. He remarked that Liberty Baptist Church was not in favor of it because he did not know anything about it. He said the information that Mr. Crist had put before the Board was totally incorrect. He said at this point he wanted to say that he was totally against the request.

Tracie M. Hayes, 115 Patriots Walk in Heritage Trace Subdivision stated that she agreed to what everyone else had said. She said her children were afraid. She said when she had moved to Fayette County she had moved because of the beauty of the county. She said she was sure when citizens go outside of their homes they would not want to see a cemetery or have their children to be afraid to go out and play or to be afraid in their own home. She asked for the Board to consider the citizens in this matter.

Chairman Dunn asked if anyone else wished to speak against the petition. Hearing none, he asked Mr. Crist if he would like to make any rebuttal.

Mr. Crist said he would like to address the issue of property values, traffic, highest and best use of the land and so forth. He said there was one issue that had come up that was a little bit awkward and a little bit embarrassing. He said that had to do with the next door neighbor which was Liberty Baptist Church. He stated he was the person who had visited Liberty Baptist Church on at least five occasions. He said he was the person that two weeks prior to the Planning Commission hearing visited Liberty Baptist, took all of the plans over, pictures and so forth and left them there at the church hoping to meet with the pastor. He said the pastor had unfortunately suffered an achilleas tendon wound and was at home and was incapacitated for three weeks. He said during the pastor's incapacity he had frequented the church giving them his phone number, extra sets of the plans and pictures and for six weeks Liberty Baptist Church had the plans and all of the phone numbers. He said he had gone back by Liberty Baptist Church a couple of days ago to see how the pastor was. He said he left additional pictures and so forth and he asked him if he would give him a letter acknowledging the visit. He said the following day his office received a call from Liberty Baptist stating that the letter was ready and the church was ready to return the plans and pictures. He said if the pastor wanted to change his mind and retract this letter that was fine.

Chairman Dunn interjected that he would now like to read a letter from Liberty Baptist Church dated February 22, 2001 from Pastor Parker addressed to the Fayette County Zoning Department. A copy of the letter, identified as "Attachment No. 5", follows these minutes and is made an official part hereof.

Mr. Crist said he would like humor injected into this and nothing else. He said if the pastor wanted to change his mind that was fine.

Mr. Crist said he would like to address the issue of property values. He said he had been in this business for a long time. He said he had never experienced depletion of property values. He said he wanted to give the Board a case in point. He said on Monday of this past week on another project that he had been involved with for the last thirty years, there was surplus

property at that cemetery. He said the demand for property adjacent to the cemetery forced him to sell the cemetery surplus property which included 40 acres at a cost of \$350,000 for upscale homes. He said the property was wrapped around Kennedy Memorial. He said the subdivisions around these particular projects were just going crazy like they were everywhere else. He stated that it was his experience that there was no factor of property depletion.

Mr. Crist said he also wanted to address the issue of traffic. He pointed out that if there was traffic it would be on off hours and between 10:00 a.m. and 4:00 p.m. He said there would always be an escort. He pointed out that directly across the street from the second entrance was the Mitchell Cemetery that had been there for the last 116 years. He said the earliest interment was 1887. He said this cemetery was overgrown and he would do the same thing that he had done elsewhere and that was to take this cemetery over and spruce it up and maintain it with perpetual care with money governed by the State. He felt a memorial garden was the highest and best use of the property. He said the traffic was there but he asked the Board what the alternative would be. He thanked the Board for their patience.

Chairman Dunn asked Mr. Crist for the capacity of the proposed cemetery.

Mr. Crist replied the capacity would be 12,600 plots.

Chairman Dunn asked Mr. Crist for the capacity of the cemetery across the street.

Chairman Dunn replied that there were only 74 graves in the Mitchell Cemetery and he did not find this to be a very compatible issue. He said this cemetery was not very active but the proposed cemetery would be big and have an impact.

Chairman Dunn stated that Mr. Crist had implied in his opening remarks that Fayette County had a shortage of available grave sites. He asked Mr. Crist how many potential grave sites Fayette County had at this time.

Mr. Crist said he had some old numbers as far as Camp Memorial and the one in Tyrone. He said his facility anticipates a 32 to 35 year life. He said the available spaces at Westminster, Sharon and Camp was limited and these were old cemeteries. He said the calls that he receives from the newspaper articles regarded when the predeceased would start. He said he had received a tremendous amount of those calls.

Chairman Dunn asked County Coroner C.J. Mowell to come forward. He said Mr. Mowell was the owner of the other cemeteries. He asked Mr. Mowell for the capacity in each of his cemeteries.

Mr. Mowell replied that he could give the Board the undeveloped acreage. He said development of a cemetery could be as high as 1,000 people per acre. He said when roads, walkways and so forth it would cut it down to less than that. He said it could be developed up to 1,000. He said the total acreage in Westminster Cemetery was approximately 39 acres

and there was probably about 12 acres that was developed. He said there was some other property that had been cleared but not platted for cemetery space. He said developed property according to the Secretary of State's office must be platted and marked. He stated the property located at Westminster was probably less than 12 acres. He commented on Camp Memorial Cemetery and stated there was probably 30 acres there. He said there were eight acres that had never been touched that were just recently added to the cemetery about four years ago. He stated the original cemetery there consisted of 22 acres and it was not three-fourths developed.

Chairman Dunn asked for the capacity that was unused at this point.

Mr. Mowell replied that he could bury just about everybody in Fayette County with the unused property. He said he had never projected how many years it would take to fill this property but he was sure that his grandchildren would have property available in years to come.

Chairman Dunn asked Mr. Mowell for the amount of sites that he would still have available in his three cemeteries.

Mr. Mowell responded approximately 50,000 sites were left.

Chairman Dunn clarified that the proposed cemetery would have 12,000 plots and take 32 years to fill it. He asked how long would it take to fill 50,000 plots.

Mr. Mowell remarked that currently at Camp Memorial he had approximately 125 interments per year and it was almost the same at Westminster Cemetery. He said there was probably 35 to 40 interments at Sharon. He said that was how fast cemetery plots were being used here.

Chairman Dunn remarked that this was approximately 300 per year.

Mr. Crist felt the difference was in the marketing. He said this was a new concept. He said there was a 300% explosion in population in this area and no new cemeteries. He said this company was an aggressive sales oriented situation plus the fact of the investment that there was with the landscaping and so forth. He said his company was way out of the league of these other cemeteries. He said this company was in an entirely different league not only in aesthetics but services. He said the main thing was the sales approach.

Chairman Dunn said he took issue with that because one could not make people die quicker than they should die.

Mr. Crist said with the number of years that he had invested in this company and the amount of money to be invested he had better know what he was doing. He said the company had been very successful during the past forty years.

Chairman Dunn said his concern was that Mr. Crist was implying that Fayette County had a very heavy need for grave sites.

Mr. Crist felt Chairman Dunn was looking at that in an entirely different scope on how this company marketed the product. He said his marketing was not geared for the 80's or 90's. He said this company was geared for the 90's and the next thirty years which was an entirely different order taking situation.

Commissioner Wells said she would like to comment to Mr. Crist's marketing because he had referred to it several times. She asked Mr. Crist if his primary target market be Fayette County or would it be the surrounding area.

Mr. Crist replied this would include Fulton County, Clayton County, Fayette County, Henry County and it would be approximately seven counties.

Chairman Dunn asked for clarification that no mausoleums would be allowed at this site.

Ms. Zeitler replied they would be allowed if it met the 350 foot setback from the property lines. She said there was only a very small area that was South of the pond where the office was going to be located that would be able to support a mausoleum. She said there was very, very limited space.

Chairman Dunn asked Mr. Crist if he had any plans for a mausoleum.

Mr. Crist said he would anticipate that in ten years there would be a demand for this. He said he was confronted with a setback factor. He said if the demand was there in the future he would come to the county to see if he could get a variance or he would acquire adjacent property.

Chairman Dunn said he did not know of any adjacent property. He said the adjacent property included a church and Dr. Busey's property.

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

On motion made by Commissioner VanLandingham, seconded by Commissioner Wells to deny Petition No. 1070-01, discussion followed.

Commissioner VanLandingham remarked when he had first received the information on this rezoning last week he felt this was a Commissioners' dream in that there would be no more houses and having the property go back to A-R. He said then he investigated the situation and made a trip to S.R. 279 and S.R. 314 and Helmer Road. He stated that he would disagree that property values would be enhanced. He said if someone wanted to move in after a cemetery was built, they would have that privilege but he did not feel that a cemetery needed to be placed where houses were already built. He remarked the landscaping of the property

was primarily pasture land and consisted of a lot of trees. He said in order for Mr. Crist to get the grave sites that he wanted he would have to cut down a lot of trees. He said he was aware that landscaping would be re-established but after very careful consideration he would not be able to support this request because of the houses that were already in the area. He said the house to the east of the proposed cemetery was a beautiful place and to put a cemetery next door would be in conflict. He said he could understand someone not wanting to walk out their door and having their children playing and having to look at grave sites. He said he could fully understand that. He felt where the Board could avoid these types of things it should take the necessary steps to do so and he could not support the petition.

Commissioner Wells remarked that she agreed with Commissioner VanLandingham. She said when she first looked at the request she could not imagine any opposition to it. She said the property was currently zoned R-40 and under that classification 1,500 square foot homes could be built. She said she had spoken with surrounding residents who said they would not want 1,500 square foot homes built in their neighborhood. She said there were already 25,000 traffic movements up and down the highway per day and if a subdivision was built there the traffic would increase and have an impact on the schools. She said there would also be septic tanks there and the integrity of the steams and environmental space would have to be maintained there. She said if homes were built on the twenty-five acres then driveways would have to be built, streets put in and there would be impervious surfaces and this would adversely affect the groundwater runoff. She remarked that only 18 homes would be allowed to be built. She said when she looked at the request from that perspective she felt this was a no brainer. She said who would not want to trade this scenario for the greenspace. She said several people had asked her before the meeting if this was a done deal and she told them she was waffling. She said she had some discomfort with this request and this was one of the balancing situations that the Board was often called upon to make a decision on. She said regardless of what action the Board took tonight there would be people who would be extremely disappointed in the decision that was made. She said she wanted to make clear as to why she had decided to vote the way she was going to do so.

Commissioner Wells said she had listened to each of the citizens who had spoken tonight. She said they had talked about the land use and they were exactly correct in that the property was not zoned this way. She said unless there was a compelling reason to change it she would not be in favor of changing it if there was not a reason why the Board should. She said this was almost like bringing the nuisance to the community. She said she felt when someone buys into a subdivision or an area that person buys with certain expectations. She said if the cemetery was already there and someone purchased a house after the fact then that person would be coming to the nuisance and they would have absolutely no room to complain. She said she had listened to the community outcry. She said she did not live there. She said she had to listen very carefully to the citizens because there was no compelling reason to change the Land Use Plan and the public obviously did not want the cemetery up there. She stated the very biggest compelling reason as to why she was not going to change her mind and change the Land Use Plan was because of what she heard tonight was repeated referred to as "our marketing plan". She said she was not going to impose a commercial endeavor for

one individual or one community at the disadvantage of the community that resides here and pays taxes. She said Mr. Crist stated that he would be marketing for at least seven counties. She said that was wonderful if someone was making money on the deal but it was not wonderful if there was an adverse impact on the community. She said she had reviewed the petition very carefully. She said it was one of those things that could have been looked and determined to be a no brainer and this could be the best use of this property because it was a difficult piece of property to build on. She said she could not sell Fayette County and the integrity of its citizens for someone else to make money without a compelling reason that this would be very positive for Fayette County. She said she could not see that this would be positive for Fayette County and she would have to join with Commissioner VanLandingham and vote in opposition to this request.

Commissioner VanLandingham remarked that C.J. Mowell was not present tonight for this discussion but for another reason. He said he wanted to make it clear that the Commission did not ask Mr. Mowell to be here tonight for this discussion.

Chairman Dunn said he had a couple of remarks to make. He said changing the zoning in Fayette County was not an easy thing to do. He said there were plans and the Board tries to stick to them. He said if there was a particular need that was so pressing or a fairness issue then sometimes property must be rezoned. He stated from what he had heard tonight there was absolutely no shortage of available grave sites in Fayette County. He said he had no interest in bringing in a regional commercial facility and moving into the middle of a residential area that was developing very beautifully in Fayette County. He stated that the citizens who had purchased homes in that area had the right to know what was going to be there when they bought. He said it was obvious that the surrounding homeowners did not want this property rezoned. He said there was no compelling need to change the zoning he would not be able to support this petition.

The motion carried 4-0. Commissioner Bost was absent. A copy of the Ordinance and Resolution denying Petition No. 1070-01, identified as "Attachment No. 6", follow these minutes and are made an official part hereof.

Chairman Dunn requested a five minute recess at this time.

Chairman Dunn reconvened the meeting at this time.

JOHN DELASH TO DISCUSS THE PROCESS OF ABANDONING 6,893 SQUARE FEET OF UNUSED RIGHT-OF-WAY RESULTING FROM THE REALIGNMENT OF SANDY CREEK ROAD:

Chairman Dunn asked if Mr. DeLash was present for the discussion and it was determined that Mr. DeLash was not present.

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Attorney McNally remarked that this item had been pending. He said if the Board chose to do so this would be a good time for the Board to proceed and act on this matter. He said this was a matter where Mr. DeLash had acquired this property and has requested that the road right-of-way be abandoned in front of his home. He said there was a water line in the right-of-way. He said staff was not particularly in favor of abandonment.

Commissioner Frady expressed concern with the water line being located in the right-of-way and the possibility of some future widening of Sandy Creek Road.

Chairman Dunn pointed out that this was a piece of county property and there was a utility located underneath it. He said the only thing that the county could achieve by giving this to Mr. DeLash would be to make his lot larger. He said Mr. DeLash was trying to develop his lot as an O-I lot. He said he had no interest in giving away county property for someone to develop.

On motion made by Commissioner Frady, seconded by Commissioner Wells to deny the request of abandoning 6,893 square feet of unused right-of-way resulting from the realignment of sandy creek road. The motion carried 4-0. Commissioner Bost was absent.

CONSENT AGENDA: Chairman Dunn remarked that item no. 5 had been removed from the agenda. On motion made by Commissioner VanLandingham, seconded by Commissioner Frady to approve consent agenda items, 1, 2, 3, 4, 6 and 7 as presented. The motion carried 4-0. Commissioner Bost was absent.

G.D.E. RENOVATIONS AWARDED BID - PAINTING OF LIBRARY: Approval of request from Purchasing Director Tim Jones to award bid to GDE Renovations in the amount of \$5,275 for painting of the Fayette County Public Library.

FAYETTE SENIOR SERVICES - SIGN REQUEST: Approval of request from Fayette Senior Services to place a sign on the old courthouse lawn from August 20, 2001 through September 4, 2001 advertising the 2001 Business Expo to be held on September 4th from 4:00 p.m. to 8:00 p.m. at the Wyndham Peachtree Conference Center.

FRIENDS OF THE FAYETTE COUNTY PUBLIC LIBRARY - SIGN REQUEST: Approval of request from the Friends of the Fayette County Public Library to place one sign on the north corner of Highway 85 and 54 on Courthouse property, two signs - one at the northwest entrance and one at the southeast entrance of the County Administration Complex, and a sign on the old courthouse lawn from May 13, 2001 through May 19, 2001.

G.D.E. RENOVATIONS AWARDED BID - MCCURRY PARK FOOTBALL COMPLEX: Approval of recommendation by Director of Purchasing to award bid to G.D.E.

Renovations in the amount of \$6,750 for painting and minor repairs at McCurry Park football complex.

5. Approval of recommendation from the Director of Public Works to accept Jim Mallett's proposal and authorization to proceed with design work for bridge replacement on Kenwood Road across Morning Creek.

Chairman Dunn remarked that item no. 5 had been removed from the agenda.

EMERGENCY SERVICES: Approval of request from Chief Jack Krakeel to purchase fitness equipment for two fire stations: 2 Bowflex machines per budget description - adding to fitness program at \$1,298 each for a total of \$2,596 plus freight.

MINUTES: Approval of minutes for Board of Commissioners meeting held on February 7, 2001.

PUBLIC COMMENT:

Members of the public are allowed up to three minutes each to address the Board on issues of concern other than those items which are on this evening's agenda.

THOMAS STEPHENS: Thomas Stephens, 155 Stonewall Avenue East, Fayetteville expressed his displeasure with the demolition of the Dorsey House and how the Commission had handled this.

LISA HOVEY-KING: Lisa Hovey-King, 130 Pye Road, Fayetteville, Georgia commented on the demolition of the homes on Long Avenue and Lee Street. She felt dollars could have been paid for antique salvaged items from these homes and recycled back into county bank accounts to fund ongoing county projects.

TANA HEATON: Tana Heaton, 495 White Road, Fayetteville felt the elected officials of Fayette County had a personal agenda and had decided to act on the demolition of the homes on Long Avenue and Lee Street without any concern for the citizens of Fayette County.

STAFF REPORTS:

EXECUTIVE SESSION: Attorney McNally requested an executive session to discuss one real estate matter and two legal items.

WATER LINE EXTENSIONS: Water System Director Tony Parrott asked for the Board's consideration in approving two additional water line extensions for the current contractor Gordy Construction to handle. He said Consulting Engineer Jim Mallett had reviewed the change orders used in existing projects that the county had bid for the other six water lines and recommended the change orders.

On motion made by Commissioner Wells, seconded by Commissioner VanLandingham to approve Gordy Construction to handle these two water line extensions. The motion carried 4-0. Commissioner Bost was absent.

FLINT RIVER AND LAKE HORTON WITHDRAWAL PERMITS: Water System Director Tony Parrott asked for the Board's consideration for the Chairman to execute applications for the requested increase in the Flint River and Lake Horton withdrawal permits and for changing the permit to operate the Water System to include the South Fayette Water Treatment Plant.

On motion made by Commissioner Wells, seconded by Commissioner Frady to authorize the Chairman to execute applications for withdrawal permits for the requested increase in the Flint River and Lake Horton and for changing the permit to operate the Water System to include the South Fayette Water Treatment Plant. The motion carried 4-0. Commissioner Bost was absent. A copy of the applications, identified as "Attachment No. 7", follow these minutes and are made an official part hereof.

TAX EQUITY ISSUE: Commissioner VanLandingham commented on the tax equity issue. He commended Commissioner Wells for the letter she had written regarding the tax equity issue. He said he had met a lot of interesting people because of the publicity that this matter had generated. He said he had spoken to a lot of people and also received e-mails from them. He said the number was somewhere around 25 or 26 people. He said at first look, 25 people did not look like a lot of people to respond but his concern was the silent majority out there that was so confused and so bewildered by the information that had been published. He said a lot of citizens do not know that the Commission has the information in its possession to look at. He said the letter that Commissioner Wells composed was very detailed and he suggested that it be published in the local newspapers and also put on the county's web site so that citizens would know where to go to find the materials relating to this issue. He also suggested that each Board member's name also be listed at the closing of the letter.

Commissioner Wells remarked that she had given a copy to the newspaper reporters present tonight as a letter to the editor. She said she would be glad to add any references that the Board might want. She said she had also ask the county to put the letter on the web site as her response. She said anyone wishing to sign on was welcome to do so.

Commissioner Frady said he would like his name on the letter.

Commissioner VanLandingham stated he would also like his name on the letter. He said it was a very worthwhile letter.

Commissioner Frady said the letter had a lot of information that the citizens might not be aware of especially regarding House Bill 489. He said the other issue was the county taking its services out of the Futures Committee. He stated the Futures Committee was put in place for House Bill 489 and no other reason. He said now the members of that Committee were

trying to carry it out with tax equity which has no part of House Bill 489. He said everything that could have been accomplished with the cities had been accomplished and it was time for the county to get out of the Futures Committee. He said there was also an Association of Fayette County Governments in place and meetings used to be held regularly before the Futures Committee came into being. He felt the Association was where the county needed to take its business from now on.

Chairman Dunn said the four cities had been notified about the vote the Commission had taken on this issue at the last Board meeting. He said he had spoken to two of the mayors since then and they seemed to understand. He pointed out that the five cities were very different and it was very difficult to have all five cities in one place trying to deal with an issue. He said each city had different goals and objectives. He said there were some issues where the county and the cities needed to sit down and discuss things. He felt the best part of the Association of Fayette County Governments was that all five Commissioners could partake in that where only the mayors and the Chairman of the Commission could partake in the Futures Committee. He felt it was to the Board's advantage to have as many of the elected officials of all the cities and the county get together when there were issues of joint interest.

EXECUTIVE SESSION:

On motion made by Commissioner Wells, seconded by Commissioner Frady to adjourn to executive session to discuss one real estate matter and two legal items. The motion carried 4-0. Commissioner Bost was absent.

REAL ESTATE: Attorney McNally briefed the Board on a real estate matter.

On motion made by Commissioner Wells, seconded by Chairman Dunn to authorize Attorney McNally to proceed in this matter. The motion carried 4-0. Commissioner Bost was absent.

LEGAL: Attorney McNally updated the Board on a legal matter.

On motion made by Commissioner Frady, seconded by Commissioner Wells to authorize the Chairman to execute a specified letter. The motion carried 4-0. Commissioner Bost was absent.

LEGAL: Attorney McNally discussed a legal matter with the Board

The Board took no action on this matter.

EXECUTIVE SESSION AFFIDAVIT:

On motion made by Commissioner Wells, seconded by Commissioner Frady to authorize Chairman Dunn to execute the Executive Session Affidavit affirming that one item of real estate and two legal matters were discussed in executive session. The motion carried 4-0.

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Commissioner Bost was absent. A copy of the Executive Session Affidavit, identified as "Attachment No. 8", follows these minutes and is made an official part hereof.

There being no further business to come before the Board, Chairman Dunn adjourned the meeting at 10:05 p.m.

Karen Morley, Chief Deputy Clerk

Gregory M. Dunn, Chairman

The foregoing minutes were duly approved at an official meeting of the Board of Commissioners of Fayette County, Georgia, held on the 8th day of March, 2001.

Karen Morley, Chief Deputy Clerk