

The Board of Commissioners of Fayette County, Georgia met in Official Session on Thursday, July 25, 2002, 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
 Peter Pfeifer

COMMISSIONER ABSENT: A.G. VanLandingham

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.

PETITION NO. 1096-02:

Zoning Administrator Kathy Zeitler read Petition No. 1096-02, Kenneth D. and Cynthia J. Reynolds, Owners, Ann Hayes, Agent, request to rezone 6.6006 acres from A-R to C-C to develop retail shops, a bank, and medical offices. She said this property was located in Land Lot 18 of the 6th District and fronted on Redwine Road and S.R. 74 South. She said the Planning Commission recommended to deny C-C but to approve as O-I (5-0) and Staff recommended to deny C-C but to approve O-I.

Chairman Dunn announced that Commissioner VanLandingham's mother had passed away and he was unable to be present. He said because there was not a full Board to hear this request, Petitioner had requested this item to be tabled to the August 22, 2002 Commission meeting.

PETITION NO. 1097-02:

Zoning Administrator Kathy Zeitler read Petition No. 1097-02, Marion L. Holt, Owner/Agent, requested to rezone 1.289 acres from A-R to R-45 to develop one (1) single-family dwelling lot. She said this property was located in Land Lot 148 of the 7th District and fronted on Palmetto Road. She said the Planning Commission recommended approval (5-0) and Staff recommended approval.

Marion Holt, 285 Palmetto Road, Tyrone stated she would like to rezone a lot for her grandson to build a house next door to her house. She said her husband had passed away and her grandson helped her cut her grass and so forth. She said she would feel safer if he was there with her.

July 25, 2002

Page 2

Chairman Dunn asked if there was anyone who wished to speak in favor of the petition. Hearing none, he asked if anyone wished to speak in opposition. Hearing none, he asked for the Board's pleasure in this matter.

On motion made by Commissioner Frady, seconded by Commissioner Pfeiffer to approve Petition No. 1097-02. The motion carried 4-0. Commissioner VanLandingham was absent from the meeting. A copy of Staff's Analysis and Investigation, identified as "Attachment No. 1", follows these minutes and are made an official part hereof. A copy of the Ordinance and Resolution granting Petition No. 1097-02, identified as "Attachment No. 2", follows these minutes and are made an official part hereof.

CONSENT AGENDA: On motion made by Commissioner Wells, seconded by Commissioner Pfeiffer to approve the consent agenda as presented. The motion carried 4-0. Commissioner VanLandingham was absent from the meeting.

BID AWARD TO SHOCKLEY PLUMBING: Approval of the Water System Director Tony Parrott to (b) Award the annual contract for Waterline Extensions to the low bidder Shockley Plumbing. (This item was tabled from June 27th meeting). A copy of the memorandum, identified as "Attachment No. 3", follows these minutes and is made an official part hereof.

SHERIFF'S DEPARTMENT - TRANSFER OF FUNDS: Approval of request from the Sheriff's Department to transfer \$2,346.13 from the general budget fund to the Sheriff's Department budget category 130-5433 vehicle repair services. A copy of the request, identified as "Attachment No. 4", follows these minutes and is made an official part hereof.

SHERIFF'S DEPARTMENT - TRANSFER OF FUNDS: Approval of request from the Sheriff's Department to transfer \$1,110.36 and \$529.38 from the general budget fund to the Sheriff's Department budget category 130-5433 vehicle repair services. A copy of the request, identified as "Attachment No. 5", follows these minutes and is made an official part hereof.

PARAMOUNT PICTURES - USE OF STARR'S MILL TO FILM A MOVIE: Approval of request from the Director of the Water System Tony Parrott to allow the use of Starr's Mill by Paramount Pictures to film "The Fighting Temptations" for approximately three days for filming, preparation and restoration on or about September 9, 2002. A copy of the request, identified as "Attachment No. 6", follows these minutes and is made an official part hereof.

July 25, 2002

Page 3

TYRONE TOWN HALL - WATER BILL DROP BOX: Approval of Water Committee recommendations to approve the request from the Town of Tyrone to place a drop box in Tyrone at Town Hall. A copy of the memorandum, identified as "Attachment No. 7", follows these minutes and is made an official part hereof.

WATER SYSTEM - PMC ENTERPRISES APPROVED FOR PRV REPAIR AND MAINTENANCE: Approval of recommendation from Director of Purchasing Tim Jones to select PMC Enterprises to perform PRV Repair and Maintenance for the Water System. A copy of the memorandum, identified as "Attachment No. 8", follows these minutes and is made an official part hereof.

WATER SYSTEM - HUGHES SUPPLY, DELTA MUNICIPAL SUPPLY COMPANY, ALL STAR PIPE AND SUPPLY COMPANY AND U.S. FILTER DISTRIBUTION AWARDED BID FOR VARIOUS WATER SYSTEM INVENTORY PARTS: Approval of recommendation from Director of Purchasing Tim Jones to select low bidders Hughes Supply, Delta Municipal Supply Company, All Star Pipe and Supply Company and U.S. Filter Distribution for various Water System Inventory Parts. A copy of the memorandum, identified as "Attachment No. 9", follows these minutes and is made an official part hereof.

WEST GEORGIA EMERGENCY MEDICAL SERVICE - ED EISWERTH APPOINTED: Approval of Appointment of Ed Eiswerth to the West Georgia Emergency Medical Service for a new term beginning on August 1, 2002 and ending on July 1, 2004. A copy of the letter, identified as "Attachment No. 10", follows these minutes and is made an official part hereof.

MINUTES: Approval of minutes for Board of Commissioners meeting held on June 13, 2002 (Budget Workshop), regularly scheduled meetings held on June 27, 2002 and July 11, 2002.

PUBLIC COMMENT:

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

DENNIS CHASE: Dennis Chase said he was a resident of Fayette County. He said he wanted to update the Board on the situation concerning the softball fields in the Town of Tyrone. He said he had been involved in this situation for approximately two years. He said the newest ballfields did in fact fill wetlands. He said there had been some statements from the Tyrone Town Council that basically said that they did not violate any law. He said the Corps of Engineers, based on his complaint, went out to the site and did an evaluation and then gave the Town of Tyrone an "after the fact" permit. He said an "after the fact" permit under the Clean Water Act basically said

that it was a recognition that they had violated the procedures by lay of the law and filled some wetlands. He said in this case the wetlands were probably not significant or the Corps of Engineers could not determine that they were significant and therefore gave the Town of Tyrone a permit after the damage was done.

Mr. Chase further remarked that this entire issue could have been avoided or a lot of it could have been avoided. He said he was dealing with the City Manager of Tyrone as the filling was taking place. He said he had indicated to the City Manager that they were probably in wetlands. He said the City Manager told him that he saw the wetland flags and the wetland indicators on site and thought they were his (Mr. Chase). He said the City Manager proceeded to fill these wetlands anyway. He said the City Manager put fill right on top of wetland marking flags thinking that it was alright to do that.

Mr. Chase said he would like to make a little bit of an analogy. He said if there was a developer who put in a swimming pool as part of a development and they were in fact into a flood plain or into one of the setback areas and somebody pointed this out and they proceeded to do the work anyway, and then a Code Enforcement Officer was sent out, they would basically be in violation of the law. He said this might cost too much money for the county to force them to take the swimming pool back out so they would be given basically an "after the fact" permit. He said this was what this was. He said the Town of Tyrone had violated the law. He said he had a difficult time with this because the Town of Tyrone felt like it had been vindicated and they had not.

Mr. Chase further remarked that to make this matter worse there was another ballfield on the Dorthea Redwine Park and in this case the ballfield was also on wetlands. He said to make matters worse they had used materials such as asphalt, concrete and metal within that fill all of which were illegal. He said in neither case was the sediment erosion control action taken strong enough. He said he understood from the newspaper report back from the Town of Tyrone Council members and from further investigations here that there was a consideration of giving the Town of Tyrone some of Fayette County taxpayers' dollars or otherwise to help with one or both of those projects or to trade some county land for it. He said he had a very strong objection for any of his taxpayer dollars being given to the Town of Tyrone that would go toward any piece of property where they had technically violated the law. He said this was the basis of his comments tonight.

Commissioner Frady asked what was being done about this.

Mr. Chase replied that they were doing nothing about this. He said when he initially brought this up when he had made a presentation to the City Council they indicated that they were going to hire a consulting firm. He said the Town did hire a firm and they were actually in the early preparation stages of preparing a mitigation plan and were going to use some of their property to mitigate for the lost wetlands. He said the Town knew well before this situation started. He said the Town's reaction when he first brought this up was to speed up the process, spend more

July 25, 2002

Page 5

money, put the lighting in, put the vegetation in and make it that much more difficult for the Corps of Engineers to take any action against the Town of Tyrone.

Commissioner Frady asked if the Environmental Protection Division had done anything about this situation.

Mr. Chase replied no. He said this was a matter under the Clean Water Act that falls within the jurisdiction of the Corps of Engineers. He said if the Corps of Engineers had felt this was a serious enough matter they could have referred the issue to the Environmental Protection Agency who could have taken action against them, fine them and could have even been forced to pull all of the material out of there.

Commissioner Frady asked if the Town of Tyrone was experiencing any sanctions for this situation.

Mr. Chase responded no. He said there was going to be no sanctions for the Town of Tyrone.

Commissioner Frady clarified that there were going to be no sanctions against Tyrone.

Mr. Chase said all he wanted was to make sure that if there was any consideration in giving some of his tax dollars to the Town of Tyrone, he would prefer that this not happen at least for their ballfields.

Commissioner Frady said he wondered if there were any sanctions from any authority that was going to do something about this situation.

Commissioner Wells said he would like to ask Mr. Chase about the ballfield that the improper fill was put in. She asked if anything was going to be done about that. She asked whose jurisdiction this would come under.

Mr. Chase responded that both would fall within the jurisdiction of the Corps of Engineers' jurisdiction of wetlands. He said this was high on the side of a hill and it was just the beginning of the wetland. He said the Corps had told him that they were just too busy and did not have staff to go after something like this. He said the staff person for the Corps of Engineers had told him that they were considered a flagrant violator and the next time that anything like that happened they would throw the full force of the Clean Water Act at them.

Commissioner Wells asked if there was any danger to the children who play on the fields because of those fields that were put in there.

July 25, 2002

Page 6

Mr. Chase replied probably not on the newest ballfield. He commented on the other field that has the metal, asphalt and concrete in the fill material. He said there was fencing around most of the field so it might be a little bit of a stretch.

Chairman Dunn asked Mr. Chase how he knew what was under the ground at that location.

Mr. Chase replied that as you would walk along the backside of the ballfield of Dorthea Park you could see metal poles sticking out of it. He said it was quite obvious that they had a renovation project some place in the City where they had taken out curb and gutter and some of the railing around the edge of the highway. He said the asphalt that was torn up was all over the place out there. He said you could just look right at it and see the debris.

Commissioner Frady asked if this was used for fill dirt to cover over a place.

Mr. Chase replied that they leveled out an area to make a baseball or softball field. He said that material was built up probably six to eight feet at the highest point and that was the material that you could see at the back of it.

Commissioner Frady asked if this debris was covered over with dirt.

Mr. Chase replied yes.

Chairman Dunn asked if Mr. Chase could still see the debris coming out of the pile of dirt.

Mr. Chase replied yes you could. He said it was like a bank of dirt and you could walk along the back edge of it.

Commissioner Frady asked Mr. Chase how much fill dirt on top of it.

Mr. Chase replied in the total fill area the highest part was probably six to eight feet high. He said you could not see the top of the ballfield if you walked along the back. He said as he walked into the wetland areas behind it, he could not see the top of the ballfield. He said that was at the Dorthea Park. He said the fill material at the other one was probably 20 feet or more deep.

Commissioner Frady clarified that the Atlanta ballfield had rec gravel under theirs as well but they have dirt on top of it so no one would get hurt.

Commissioner Wells thanked Mr. Chase for his vigilance.

STAFF REPORTS:

BID #388 AWARDED TO APAC-GEORGIA, INC.: Public Works Director Lee Hearn asked for the Board's consideration in awarding Bid #388 to APAC-Georgia, Inc. in the amount of \$28.10

per ton for asphaltic concrete material for the county. He said this would help in the Peachtree City resurfacing which would begin very shortly. He said there had been some preconstruction meetings and so forth and he had documented the county's needs and responsibilities.

Commissioner Wells said she found it interesting that the bids were so close.

Mr. Hearn replied that it was the nature of the business right now. He said the work was very tight out there and he felt companies were really eager to get the county's business.

Chairman Dunn clarified that this involved 15,000 tons of asphalt at \$28.10 per ton which totals \$421,500. He said this would pave only Peachtree City's portion this year.

Mr. Hearn replied that Peachtree City had estimated 10,000 tons. He said invariably when he estimated 10,000 tons it would take more. He said this was a process that had not been used in the county on subdivision streets. He said it was called a slurry mix and another name for it was permafex. He said the mixture was really high in oil. He said it was a good way to seal the cracks in a street especially if there was not significant damage under the asphalt. He said he had been reluctant to try this. He said he felt like if the street was cracked up really badly, the damaged material would need to be removed and bring it back to be sure. He said for minor cracking in subdivision streets this process would work. He said it was probably good for the county to use this on the Peachtree City streets. He said if there was good success with this in Peachtree City he would probably use it on some of the county's streets.

Chairman Dunn clarified that was the mixture that Peachtree City had requested.

Mr. Hearn replied that was correct.

Chairman Dunn said it was not known if it would cost \$15,000 but the county would only pay for what was used.

Mr. Hearn replied that was correct.

Chairman Dunn remarked that the most the county would be spending on repaving then would be \$421,000. He asked Mr. Hearn if he felt it would be somewhat less than that.

Mr. Hearn replied yes, he did. He said he had actually moved the quantities up some so that the county would have some room to use them on county streets if there was a need to. He said the reason this bid was not included in the original asphalt bid was because the county had not used this technique on county streets. He said with the negotiations and with the county taking on the resurfacing in Peachtree City, this was what Peachtree City requested. He said he had to come out on a later date to get this done.

July 25, 2002

Page 8

Commissioner Frady asked if the county gets a bid for sand and gravel on an annual basis and asphalt as well.

Mr. Hearn replied that was correct but this was a different recipe. He said he had not previously used this.

Commissioner Frady asked if this was more expensive or less.

Mr. Hearn replied that it was a little bit on the high side. He said the reason it was on the high side was because there was a lot of oil in it. He said that was a large part of the cost.

Commissioner Frady asked if this was sufficient for all streets. He asked if a higher cost asphalt was used for the other streets or could the same thing that was used on county's streets.

Mr. Hearn replied no it was not. He said this would have to be used as a sealing layer. He said a wearing surface would have to be put over this. He said this was the fix layer.

Commissioner Wells clarified that Mr. Hearn had said that there was a lot of oil in the mixture. She asked what kind of impact would this have on the environment.

Mr. Hearn replied all asphalt had a good bit of oil in it. He said he would describe this mix as real gooey like Rice Krispy treats. He said the oil was not oozing and running but it was real sticky. He said the only real impact that was on the lay down was that it takes a little bit extra work with clean up because it was so sticky. He said he would have to be real careful with that. He said environmentally it was alright and not a problem.

Commissioner Frady said if this was \$28.10 per ton then how much was the mixture the county used.

Mr. Hearn replied that the cost would depend on the mix. He said there were some mixes that the county purchases for \$26 and \$25 and then there were others that were a little bit more than that. He said the cost would depend on the mix.

Commissioner Wells asked how many years was anticipated for this to be a fix. She asked if this was an expensive bandage. She asked if Mr. Hearn had dialogue with Peachtree City to determine why they wanted to go this route rather than the other route which might be less expensive and last longer.

Mr. Hearn replied that he had a conversation with Collin Halterman, the Public Works Director for Peachtree City. He said Mr. Halterman was very confident. He said Mr. Halterman said Peachtree City had used this process for years. Mr. Hearn said he was a little skeptical but he felt if Peachtree City has had years and years of experience with this mixture and this was the fix

July 25, 2002

Page 9

that Peachtree City wanted to use then he was certainly supportive of it. He said he felt the mixture would work fine. He said this mixture was not for everything and was not a fix for all of the streets.

Commissioner Frady said he just did not know why the county would be purchasing a more expensive or different kind of asphalt that was being used on every other street. He said this did not make any sense to him.

Mr. Hearn responded that this was Peachtree City's request and this was their recipe for the mix.

County Administrator Chris Cofty clarified that the City of Peachtree City would reimburse the county for this cost.

Commissioner Wells said she was aware of that fact but questioned if this was the best use of county equipment and manpower hours. She said Peachtree City would reimburse the county for the mix but the county would still be providing the equipment and the man hours and things of that nature.

Chairman Dunn asked if this involved L.A.R.P. money.

Mr. Hearn replied no, not for the repairs. He said the repairs were at the expense of the City or the County. He said in this case it would be at the expense of the City. He said this was Peachtree City's recipe.

Chairman Dunn clarified that the County was using its equipment and people to lay down this mixture. He asked if this was the reason the County was getting the bid instead of Peachtree City.

Mr. Hearn responded yes that was correct. He said the County had a higher purchasing power with the tonnage that the County used each year. He said the county could get a lot better price.

Commissioner Wells said the county could not get a better price on this mixture and Mr. Hearn agreed.

Attorney McNally asked Mr. Hearn if this mixture was approved by the Department of Transportation.

Mr. Hearn replied that the Department of Transportation did not use this material. He said this was not a mixture that G.D.O.T. used.

Commissioner Wells questioned then why was the county using it. She asked if this would give the county some type of responsibility if it laid down a certain mixture.

Mr. Hearn replied that the topping or wearing surface would be reimbursed by the Georgia Department of Transportation to Peachtree City but the fix irrespective of how the county chose to fix the road prior to the placement of the wearing surface was at the City of Peachtree City's expense.

Commissioner Frady said the county had already agreed to do this for Peachtree City. He said he did not know why Mr. Hearn and Mr. Cofty couldn't work out this price as long as Peachtree City was going to reimburse the County.

Mr. Cofty said this was consistent with what Peachtree City had been doing for years.

Chairman Dunn said the county does the paving with the county vehicles and with county personnel and the cities determine what roads were going to be paved inside the cities and the county does this for them. He said the cities pay for the asphalt and the prep. He said the money comes from the cities but there were real costs for the county in terms of equipment and manpower. He said the county would be paying the personnel the same kind of money regardless of what kind of mixture was used and put down.

Mr. Hearn agreed.

On motion made by Commissioner Pfeiffer, seconded by Commissioner Frady to award Bid #388 to APAC-Georgia, Inc. in the amount of \$28.10 per ton for asphaltic concrete material. The motion carried 4-0. Commissioner VanLandingham was absent. A copy of the memorandum, identified as "Attachment No. 11", follows these minutes and is made an official part hereof.

MAGISTRATE COURT'S CONTRACT FOR COMMUNITY CORRECTIONAL SERVICES APPROVED: Attorney McNally asked for the Board's consideration in approving the County to enter into this contract with B.I. Incorporated for the Magistrate Court's contract for community correctional services. He said this was a continuation of a contract the county already had with B.I. Incorporated for the last several years. He said a fee was charged but this did not cost the county anything. He said they had done a satisfactory job for the Magistrate Court.

Commissioner Wells asked how many years B.I. Incorporated had been doing this.

Attorney McNally replied at least five years.

Commissioner Wells asked if it was time to rebid this.

Attorney McNally responded if the Board wanted to do that then it would probably best to do it next year because there was a short time.

Commissioner Wells felt that every five or six years the County needed to at least rebid. She said this keeps people on their toes.

Attorney McNally said that would be fine.

On motion made by Commissioner Wells, seconded by Commissioner Pfeiffer to authorize the Chairman to execute the Magistrate Court's contract for community services with the understanding that next year the County would let this out for bid. The motion carried 4-0. Commissioner VanLandingham was absent. A copy of the contract, identified as "Attachment No. 12", follows these minutes and is made an official part hereof.

IMPACT FEE ORDINANCE: Attorney McNally discussed the issue of building permit refunds after the permit has lapsed or expired. He said there had been incidences where people have withdrawn a building permit and the county has refunded the impact fee that had been paid. He said there was one that had come up which he felt there would be more of where they just let the building permit lapse. He said they took out the building permit and never proceeded and built. He said the permit expires after one year. He said this was not clearly addressed in the Impact Fee Ordinance whether or not the intent was to refund the impact fee should someone allow that permit to expire. He said he needed the Board's guidance as to whether or not it wanted to address this issue in the Ordinance and revise it to the point where the county would refund an impact fee paid at the time it was taken out but the building permit was permitted to expire.

Commissioner Wells felt this was the fairest thing to do. She said this was an impact fee for a usage that did not materialize.

Commissioner Frady felt that was the thing to do.

Attorney McNally said he would make that revision and bring it back to the Board for a vote. It was the consensus of the Board that Attorney McNally proceed in drafting a revised impact fee ordinance and to bring this back to the Board at a later date.

EXECUTIVE SESSION: Attorney McNally requested an executive session to discuss one legal item.

EXECUTIVE SESSION: On motion made by Commissioner Wells, seconded by Commissioner Pfeiffer to adjourn to executive session to discuss one legal item. The motion carried 4-0. Commissioner VanLandingham was absent from the meeting.

LEGAL: Attorney McNally discussed a legal matter with the Board.

July 25, 2002

Page 12

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

EXECUTIVE SESSION AFFIDAVIT: On motion made by Commissioner Wells, seconded by Commissioner Pfeiffer to authorize the Chairman to execute the Executive Session Affidavit confirming that one legal item was discussed in executive session. The motion carried 4-0. Commissioner VanLandingham was absent. A copy of the Affidavit, identified as "Attachment No. 13", 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 8:00 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 7th day of August, 2002.

Karen Morley, Chief Deputy Clerk