

The Board of Commissioners of Fayette County, Georgia met in Official Session on Thursday, August 14, 2003, 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
A.G. VanLandingham

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

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

CONSIDERATION OF ANNEXATION APPLICATION FROM TYRONE FOR 20.74 ACRES ON ROCKWOOD ROAD FOR HOWARD GUTHRIE OF HWG LIMITED PARTNERSHIP:

Zoning Administrator Kathy Zeitler remarked that this property was currently zoned M-1 in the County. She said the applicant wished to annex into the Town of Tyrone and have the property rezoned to M-2 which was heavy industrial. She said in comparing the Town's industrial districts with the County's industrial districts it became apparent that there was really not that much difference. She said the M-2 zoning district in the County required a minimum lot size of two acres whereas the Town of Tyrone's was one acre. She said this was the big difference. She said everything else was very similar. She remarked that staff had received comments from the departments and prepared a report. She said some of the comments changed her initial view of this request. She said if it was annexed the County would still be providing County water to the site. She said the site would be on septic and there was a note on this plan that indicated that it would be on sewer provided by the County. She said it would be on septic just the same as if it was annexed into Tyrone. She said the fire and emergency services would continue to be provided by the County even if it was annexed. She said the reason for annexation was for properties to be able to have services that they could not get in the County. She stated if this was annexed the services would pretty much be the same. She said staff did not see a real reason or basis for this annexation. She said the applicant had not sought a rezoning to heavy industrial in the County. She said that was an option that she felt they should explore first before asking to annex into Tyrone. She said staff had objected to the annexation as a whole but did not have a bona fide land use objection to what they were proposing as far as the uses go.

August 14, 2003

Page 2

Chairman Dunn clarified that M-2 in the City was one acre lots and M-2 in the County was two acre lots. He said the plat that he had before him showed that the applicant wanted four lots that were either four or five acres. He said applicant could accomplish this in either jurisdiction.

Ms. Zeitler agreed and stated that was correct. She said this did have the potential of being rezoned to M-2 in the County because this was a very industrial area. She said what they were proposing on their plan could be done in the County. She said with the County providing all of the services, she did not feel that there was a real need for this property to be annexed in. She said there was not an island situation and staff did not support the annexation.

Chairman Dunn asked for any comments from the Board.

Commissioner VanLandingham said he had the same question that was asked since the applicant did not come to the County for rezoning why were they asking for annexation. He said he did not see anything that would change at all other than applicant moving into the Town of Tyrone.

Ms. Zeitler remarked that the applicant had not indicated the reason to staff.

Commissioner Frady asked if the applicant was aware that the same thing could be done in both the County and the Town.

Ms. Zeitler said she did not know if Mr. Guthrie checked with zoning in regard to rezoning to M-2. She said she did not believe that he did.

Commissioner Frady asked if the balance of the park was in Tyrone.

Ms. Zeitler replied that Shamrock Industrial Park was located in the Town of Tyrone. She said the proposed property was located across the street from Shamrock Park.

Commissioner Frady asked if there were any plans to sewer the industrial park.

Commissioner VanLandingham said there was a misstatement that the County would furnish sewer. He said he did not know where that had come from. He said he did not see how the County could object. He said he was just questioning the reason for the annexation.

Chairman Dunn remarked that it looked like the Town of Tyrone had an island inside the County. He asked Ms. Zeitler if this was correct.

Ms. Zeitler responded that this was connected across the railroad. She said the way it was drawn it did appear to be an island but she did not feel those corners connected.

August 14, 2003

Page 3

Commissioner Pfeifer said his comments were basically a reiteration of what he had said before. He said he agreed with staff that the reason for the legislation concerning annexation was to provide services. He said this request did not address that issue at all. He said nothing would change except the address. He said he had stated before that he would like the County and the cities to sit down together and discuss their plans concerning annexation. He said on the face of it, this request made absolutely no sense to do it this way. He said the Town of Tyrone did not request annexations as often but this just did not make any sense to do this. He said if it did make sense, he would support it.

Chairman Dunn said he could only think of one service that they might get changed by going into the City. He asked if there were any services that the City would provide the applicant that the County did not routinely provide.

Commissioner Wells replied no.

Chairman Dunn said the Town had its own police department but the Fayette County Sheriff's Office patrolled there as well. He said he was having a hard time with this but he was trying to understand the request.

Attorney McNally interjected that in the past the Town of Tyrone had listed services as being police protection and garbage pickup. He said he did not know whether Tyrone picked up this particular group or not. He said there might also be a difference in development regulations which might enter into this picture as well.

Chairman Dunn said when he compared these he found only one difference and that was the impervious surface.

Ms. Zeitler said she had done some research into the State Statutes today regarding annexation. She said there was a section that talked about when the County was providing the services and the City was proposing to annex. She said there was a report that the City was supposed to submit regarding the services. She said it stated when contracts existed between the counties and municipal corporations, both government entities must agree by mutual consent prior to the annexation.

Chairman Dunn suggested this be tabled so that legal staff could look into this.

Commissioner Wells said she felt this was a good idea because the County seemed to be in a difficult position.

Chairman Dunn remarked that the State law would overcome the County's agreement with Tyrone. He said he understood from the law that prior to political and jurisdictional boundaries

August 14, 2003

Page 4

changing both the County and the Town would have to agree when there were shared services.

Ms. Zeitler agreed. She said when there were contracts with the City and the County providing at least one or two of the services for that City, that even after annexation, both the County and the City have to agree on the annexation.

Chairman Dunn remarked that the County did not have a sewer system and some of the Cities did. He said this was a service that some people would be looking for by way of annexation. He said this was not the case here. He said there appeared to be no difference. He stated that the County was providing most of the services whether they were in the County or in the City.

On motion made by Commissioner VanLandingham, seconded by Commissioner Wells to table this item along with the efforts of staff in order to communicate with the Town of Tyrone, discussion followed.

Executive Assistant Carol Chandler interjected that there was a twenty day window for the County to answer this request. She said this date would be August 22nd. She pointed out that the next Board of Commissioners' meeting would be held on August 28th.

Chairman Dunn said the Board could request that the City grant an extension. He asked if the Board wanted to send a letter to the City stating that the County needed to explore some legal matters and additional time was needed.

Commissioner VanLandingham said he would withdraw his motion.

Commissioner Wells said she would withdraw her second to the motion.

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

On motion made by Commissioner VanLandingham, seconded by Commissioner Wells that this matter be tabled along with the efforts of staff to communicate with the Town of Tyrone on this legal matter and request an extension for the County to answer, discussion followed.

Commissioner Frady asked Attorney McNally if he had any experience with this type of situation.

Attorney McNally replied that he had not looked at this particular section. He felt overall that the County's agreement with the Cities as to the Annexation Dispute would govern this. He said he would like to reserve judgment until he could review this further.

August 14, 2003

Page 5

Commissioner Wells felt this was the first time the County had an annexation request where there was absolutely no change. She said there was no acreage change, no real zoning change, and no services change of any type. She felt this was a request where the Board might want to proceed a little more slowly.

Chairman Dunn asked Attorney McNally to clarify if he thought the local agreement could set aside the State law on this issue.

Attorney McNally remarked that there were actually two State laws in conflict with each other. He said an agreement had been reached in trying to handle both strategies. He felt the writing as opposed to the absence of one, that the writing would prevail. He said he just wanted to take a look at the comparison of the sections.

The motion carried 5-0.

CONSENT AGENDA: On motion made by Commissioner Wells, seconded by Commissioner VanLandingham to approve the consent agenda as presented. The motion carried 5-0.

TOWN OF TYRONE - NOVEMBER ELECTION: Approval of request from the Town of Tyrone for the County to conduct the Town's November general local election with all expenses being paid by the Town of Tyrone. A copy of the request, identified as "Attachment No. 1", follows these minutes and is made an official part hereof.

HERITAGE PARK - SWORD OF THE LORD MINISTRIES INTERNATIONAL: Approval of request from the Sword of the Lord Ministries International to use Heritage Park on Friday, August 22nd from 5:00 p.m. through 9:00 p.m. and Saturday, August 23rd from 9:00 a.m. through 6:00 p.m. to hold the "Lift Up Jesus" Crusade in the Park. A copy of the request, identified as "Attachment No. 2", follows these minutes and is made an official part hereof.

WEST CENTRAL PDC/PRISON DETAIL CONTRACT: Approval of authorization for the Chairman to execute the West Central PDC/Prison Detail Contract in the amount of \$34,617 with these funds already budgeted for in the technical services line item 521316 of the Road Department's budget. A copy of the contract, identified as "Attachment No. 3", follows these minutes and is made an official part hereof.

TAX COMMISSIONER'S OFFICE - AMERICAN AIRPOWER HERITAGE: Approval of recommendation to approve a request for a personal property tax refund to American Airpower Heritage in the amount of \$290.60 for the year 2002.

August 14, 2003

Page 6

TAX COMMISSIONER'S OFFICE - NEAL'S TRACE SUBDIVISION: Approval of recommendation to deny a request of Neal's Trace Subdivision Homeowners' Association to refund real property taxes for the years 2001 and 2002.

D.O.T. PROJECT STP-164-1(30) - WATERLINE ON BRIDGE ON S.R.54 OVER CSX RAILROAD: Approval to authorize the Chairman to execute the D.O.T. Project STP-164-1(30) for relocation of the waterline on the bridge on S.R. 54 over the CSX Railroad as a part of the widening of the S.R. 34/54 corridor in Fayette and Coweta Counties. A copy of the contract, identified as "Attachment No. 4", follows these minutes and is made an official part hereof.

SOUTHERN LINC (WIRELESS) AGREEMENT - E-911 COMMUNICATIONS: Approval of authorization for the Chairman to execute an Agreement with Southern Linc (wireless) for the provision of cellular phone numbers and other information for E-911 communications. A copy of the Agreement, identified as "Attachment No. 5", follows these minutes and is made an official part hereof.

T MOBILE (WIRELESS) AGREEMENT - E-911 COMMUNICATIONS: Approval of authorization for the Chairman to execute an Agreement with T Mobile (wireless) for the provision of cellular phone numbers and other information for E-911 communications. A copy of the Agreement, identified as "Attachment No. 6", follows these minutes and is made an official part hereof.

METROPCS (WIRELESS) AGREEMENT - E-911 COMMUNICATIONS: Approval of authorization for the Chairman to execute an Agreement with Metro PCS (wireless) for the provision of cellular phone numbers and other information for E-911 communication. A copy of the Agreement, identified as "Attachment No. 7", follows these minutes and is made an official part hereof.

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.

There was no public comment.

STAFF REPORTS:

EXECUTIVE SESSION: Attorney McNally requested an executive session to discuss three real estate matters and one legal item.

Commissioner VanLandingham requested an executive session to discuss two legal items.

COMMISSIONER VANLANDINGHAM: Commissioner VanLandingham commented on the letter the Board had received today from the Clerk of the Superior Court. He felt this issue should be discussed with the Board before the Clerk took any action in this matter.

Mr. Cofty said he had left the Clerk of Superior Court a voice mail message this afternoon in regard to her letter.

Commissioner Frady asked if the Board needed to make a motion directing Mr. Cofty to take care of this matter.

Commissioner Wells remarked that she did not feel it would hurt anything if the Board took a vote. She said this letter had come to Mr. Cofty but it also came to each Board member individually putting the Board on notice. She felt the Board should take a vote saying that they want the County Administrator to address this issue and to be crystal clear that any funds that were expended in this regard would come out of that particular budget and would not be replenished.

On motion made by Commissioner Wells, seconded by Commissioner Frady to authorize the County Administrator to address this matter and be clear that any funds that were expended in this regard would come out of a particular budget and would not be replenished. The motion carried 5-0.

EXECUTIVE SESSION: On motion made by Commissioner Wells, seconded by Commissioner Frady to adjourn to executive session to discuss three real estate matters and three legal items. The motion carried 5-0.

REAL ESTATE: Attorney McNally discussed a real estate matter with the Board.

On motion made by Commissioner Frady, seconded by Commissioner Pfeifer to authorize Attorney McNally to proceed in this matter. The motion carried 5-0.

REAL ESTATE: Attorney McNally discussed a real estate matter with the Board.

On motion made by Commissioner Wells, seconded by Commissioner Frady to authorize Attorney McNally to proceed in this matter. The motion carried 5-0.

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

August 14, 2003

Page 8

On motion made by Commissioner Wells, seconded by Commissioner Frady to authorize Attorney McNally to proceed in this matter. The motion carried 5-0.

LEGAL: Attorney McNally advised the Board on a legal item.

On motion made by Commissioner Wells, seconded by Commissioner Frady to authorize Attorney McNally to proceed in this matter. The motion carried 5-0.

LEGAL: Commissioner VanLandingham discussed a legal item with the Board.

The Board took no action on this matter.

LEGAL: Commissioner VanLandingham reported to the Board on a legal item.

The Board took no action on this matter.

EXECUTIVE SESSION AFFIDAVIT: On motion made by Commissioner Wells, seconded by Commissioner Pfeifer to authorize the Chairman to execute the Executive Session Affidavit affirming that three real estate matters and three legal items were discussed in executive session. The motion carried 5-0. A copy of the 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 7:55 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 28th day of August, 2003.

Karen Morley, Chief Deputy Clerk