

The Board of Commissioners of Fayette County, Georgia met in Official Session on Thursday, November 13, 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  
Karen Morley, Chief Deputy Clerk

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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. RP-023-03:**

Zoning Administrator read Petition No. RP-023-03, Dan Stinchcomb, Owner, and Randy Boyd, Agent, request to revise a recorded plat, Yates Crossing, Phase I, an existing residential subdivision, to add density and to change the use of 20.76 acres from Recreation/Open Space to a single-family residential lot. She said this property was located in Land Lot 13 of the 7th District, fronts on Lucky Leaf Place and Eastin Road, and was zoned R-45 Conditional. She said the Planning Commission recommended denial 5-0 and staff recommended denial. She remarked that this item was tabled from the October 23, 2003 Commission meeting by petitioner.

Agent Randy Boyd remarked that he was representing petitioner Dan Stinchcomb in this matter. He said this item was presented to the Planning Commission a couple of months ago. He said there were some residents of the community who were not happy with this request. He said petitioner was requesting to change a recreation area to make it a single family lot. He said he apologized for doing this at the last minute but he had a revelation at the last minute. He said he had also met with Zoning Administrator Kathy Zeitler earlier today and he felt they could come up with a better attempt to achieve this and not ask for a change in the final plat. He said he was respectfully requesting that this item be withdrawn in order to approach it from a different standpoint.

Chairman Dunn said it was the right of petitioner to withdraw but noted that the entire process would have to be started over again.

Mr. Boyd apologized again and remarked that he had met with Ms. Zeitler earlier and with her help he had come up with what they believed to be a better attempt to achieve what they intended.

Chairman Dunn said the Board certainly understood and would consider this at a later date. He remarked that the people who had purchased homes in the Yates Crossing Subdivision deserved to have their land and their property the way they assumed it was going to be when they purchased it.

Mr. Boyd said they felt the plan would be much better than just attempting to change the one lot of 20.76 acres to a single family residential. He felt this would be more equitable to the homeowners as well as Mr. Stinchcomb.

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Chairman Dunn said the homeowners would certainly have to be in favor of whatever plan was come up with and Mr. Boyd agreed.

Mr. Boyd said this would take some field work, some study and some plats.

It was the consensus of the Board to grant petitioner's request.

**PETITION NO. 1113-03:**

Zoning Director Kathy Zeitler read Petition No. 1113-03, Louise D. Kirby and Geraldine Bramblett as Power of Attorney for Dwight F. Kirby, Geraldine K. and Marcus L. Bramblett, Sr., and Dottie M. and Freeman G. Kirby, Owners, and John E. Ryckeley, Agent, request to rezone 185.49 acres from R-70 to C-S to develop a proposed subdivision consisting of 76 single-family dwelling lots. She said this property was located in Land Lots 22, 23, 42, and 43 of the 7th District and fronts on Flat Creek Trail. She said the Planning Commission recommended approval subject to self-induced conditions 5-0 and staff recommended approval. She said this item was tabled from the October 23, 2003 Commission meeting by petitioner.

Agent John Ryckeley said he lived in Ashley Forest Subdivision which was very close to this property. He said he had been appointed as agent for the owners. He said the petitioners had owned this property since 1941 and they had asked him to approach development of the property in this manner. He said he currently had a contract on the property to purchase it and develop it. He said this was not contingent on the rezoning. He thanked the Board for giving him the opportunity to present this concept of a rezoning petition and the ability to take property and rework it in certain ways that he felt were actually better for the county and the residents of Fayette County. He said in this case it was producing an 82 acre park that was within the community. He said there would be a savings for putting in less length of road to develop the property and he would be putting that savings back into the community in the form of sidewalks and a picnic area with gazebo and picnic tables. He said the park area was primarily wooded. He said he was also introducing a requirement for landscaping that would require eight additional trees to be added to each lot when they are developed. He said overall this would create 600 new trees to be added to the community as a minimum. He said there was also 1.74 miles of walking trails that would be in the park itself for people to utilize. He said there would also be two small lakes in the park as well as several access points to the park from the sidewalks.

Mr. Ryckeley said he had given the Board a letter of commitment that he would do certain things if the property was rezoned. He said he volunteered a condition of a 20 foot buffer along Flat Creek Trail. He said there were a number of trees existing there now and he felt it would be a good idea to preserve them. He said that was except for the corner lots at the entrances. He said normally he puts in some elaborate entrances in his communities and this would necessitate taking out some of the trees in that area to put in entry monuments and shrubbery. He said he would increase the square footage of the houses. He said he anticipated the marketing price range to be between \$425,000 and \$700,000.

Commissioner Frady clarified that these conditions were of Mr. Ryckeley's own doing.

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Mr. Ryckley replied yes these conditions were self-induced. He said he would put in less road and he would try to take the money from the road that he would be saving and put it back into the community in a constructive manner. He said it was very cost prohibitive to put in sidewalks in a community that was two acre lots. He said he had seen the value of putting in sidewalks in communities in the past and it did help create community in the development. He said he saw the value of having a place for children to play that was close by. He commented that this would be an 82 acre park and he was going ahead and apply for a street light district and ask EMC to go ahead and light the paths and try to do a top notch job.

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

Greg Smith, 120 Gray Fox Point, Ashley Forest Subdivision, Fayetteville said he would like to raise the awareness of the benefits of C-S zoning from a tax perspective. He said the overall goal of the Georgia Greenspace Program as he understood was to allocate 20% of county lands to greenspace. He said for Fayette County this would come to 25,470 acres that were supposed to be allocated for green space. He said as it stated in the Fayette County Green space Program the funds for that would come from the general fund or from additional taxes. He said if the goal was to protect over 25,000 acres and assuming an acreage price of approximately \$15,000 an acre this would come to \$382,000,000 that would need to come from somewhere over the period of time that this program exists. He said if there were approximately 100,000 people in Fayette County that would work out to over approximately \$4,000 per person that would have to come from individual taxpayers to fund this program over time. He said the plan that Mr. Ryckley was presenting would protect 82 acres or approximately \$1.3 million that would not have to come from taxpayer money. He commented on the amount of money that was coming from the overall Georgia program for this year for this program was only \$700,000. He said this project in and of itself would give more than that overall. He said C-S zoning offers three wins for the county. He said first the county would get 82 more acres into the greenspace program that the county would not have to go out and acquire. He said secondly the taxpayers would not have to foot the bill for that. He commented thirdly on one of the concerns that was raised about this particular project. He said the concern was that this particular project would reduce property values around the area. He said actually studies have shown that where these programs have gone and additional greenspace added, it had actually increased property values. He felt all in all this was a very good program.

Joe Marschall, 493 Flat Creek Trail, Fayetteville remarked that he had approximately 300 feet on the common property line with this proposed project. He said he knew Freeman Kirby, the son of Dwight, who originally purchased and developed this land for farming. He said originally he had written the letter to the Commission in opposition to this rezoning request. He said at that time he did not know all of the details. He said he had spoken with Mr. Ryckley and with Mr. Kirby and he came to realize the benefits of the project. He said he would like to retract his opposition to this project. He said he was aware that Mr. Kirby had spoken to quite a few developers over the four years that he had lived in his home. He said Mr. Kirby had spoken to him about this project. He said he knew Mr. Kirby's father would never want the property to be sold or developed but the taxes would be another issue with the family. He said the family had been looking for the best solution to preserve this

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property. He felt Mr. Ryckeley had a good plan and he could not see any reason not to go with it. He said he would like to withdraw his opposition.

Chairman Dunn said he did have a copy of the letter that Mr. Marschall had written to the Board in the past. He said that letter would normally become part of this whole package. He asked Mr. Marschall if he wanted the letter removed and Mr. Marschall replied yes he did.

Val Akins, 195 Mt. Laurel Way, the Woodlands Subdivision, Fayetteville remarked that this subdivision was also a John Ryckeley community. He said he was present to speak in favor of this development. He said he had moved here from Nashville, Tennessee approximately one year ago. He said he had lived eighteen years in Nashville five years of which he had lived in a very similar community. He said it was not actually conservation zoning but it had a lot of free space. He said the subdivision had a lot of free space, a walking trail through the community, and backed up Percy Priest Lake which was East of Nashville and close to Mt. Julia, Tennessee. He said it was very enjoyable for his family and for his neighbors. He said it promoted community and with the sidewalks, the walking trails and the gazebo it was a place that they really hated to move from when they moved here to Georgia. He said the other point he would like to make was in looking at the purpose of conservation it was his understanding that it was to conserve the land. He pointed out that by changing the zoning from R-70 to C-S zoning, Mr. Ryckeley was not actually increasing the density. He said Mr. Ryckeley would be keeping the lot count exactly the same. He said Mr. Ryckeley was not trying to get more out of the property but trying to do exactly what the conservation was intended for. He said it was also his understanding in talking with the family that this meant a lot to them to preserve this property and to use as little of the land as possible for community development and to preserve the greenspace. He said as a member of Fayette County he would like to speak in favor of this development.

Marcus Bramblett, 566 Sandy Creek Road, Fayetteville said he had been married to Geraldine Kirby Bramblett for 49 years. He said this property had been in this family for 62 years. He said four generations of this family had their character and their spirits in a large measure shaped by their contact with this land. He said they live on this land and they would continue to live on it. He said it was important to them that they exercise a responsible and proper stewardship of Mr. Kirby's legacy. He said the family had shopped around for developers. He said they had settled on John Ryckeley because of what he had done in The Woodlands Subdivision and what he had done in Ashley Forest Subdivision. He said the family felt that this plan would help them realize their goals in conservation and it would help the family to realize a reasonable return on Mr. Kirby's estate. He said he was respectfully requesting that the Commission approve this project.

Philip Campbell, 590 Sandy Creek Road, Fayetteville commented that all of the points in favor of this request had all pretty much been made. He said he just wanted to say that he was in favor of the rezoning and he felt this would make the community a better place for him to live.

Chairman Dunn asked if anyone wished to speak in opposition to the request. He asked the people in opposition to stand. He counted 14 people. He asked how many people would like to speak and four people raised their hands.

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George VonWalthansen, 150 Flat Creek Court, Fayetteville presented a petition to the Board. He said he wanted to structure his remarks tonight using the outline provided by Section 11-10 of the Fayette County Zoning Ordinance. He said some of the citizens were in opposition to Petition No. 1113-03 because it was in violation of the Land Use Plan. He said his area was designated low density/agricultural/residential .2 to .5 dwelling units per acre. He said the staff's analysis in the petition clearly identified that there was a violation of the Land Use Plan. He said the yield plan for current R-70 zoning was a net density of .47 dwelling units per acre. He said this density was within compliance of the Land Use Plan.

Chairman Dunn asked how many houses this involved.

Ms. Zeitler replied 76 lots which equaled .56.

Chairman Dunn asked Mr. VonWalthansen how he had arrived at .56 after measuring and the county's staff had arrived at .47.

Mr. VonWalthausen said he was taking this information directly from page 3-8 of the staff's analysis of the petition.

Ms. Zeitler replied that there was a minor error on the net acreage that was used in that calculation. She said this was something that was forwarded to the Board in the last few days by way of a memo explaining this. She stated it was still a density of .5 which was equivalent to two acre lots. She said the C-S zoning was density neutral and it was intended for areas that were .2 to .5 dwelling units per acre.

Chairman Dunn said Ms. Zeitler needed to make sure that Mr. VonWalthausen understood this calculation.

Mr. VonWalthausen remarked that he had not seen this information. He said even if there was a small mathematical error he would accept the fact that R-70 and the current density in R-70 was within the Land Use Plan but the development plan for the C-S zoning yielded according to page 3-8 a net density of .79 which was outside the limitation for the .2 to .5 dwelling units per acre.

Commissioner VanLandingham clarified that this was the point that was just cleared up that .79 was not a valid number according to county staff.

Chairman Dunn said that was in the R-70 zoning plan and this was in the C-S. He asked Ms. Zeitler if it was her position that these were both the same.

Ms. Zeitler replied they were the same and both met the Land Use Plan. She said the Conservation Subdivision was density neutral and this was explained in the zoning ordinance under the C-S zoning district.

Mr. VonWalthausen said this was one of the issues that he had raised at the Planning Commission meeting. He said for whatever reason they did not recognize that .47 as printed in the petition did not equal .79. He said this was by their own analysis and clearly outside the Land Use Plan.

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Chairman Dunn said he did not see where there was a different density depending on what the zoning was. He said Ms. Zeitler would have to make sure that Mr. VonWalthausen understood this and if the Board was wrong that the Board understood this.

Ms. Zeitler said she would be glad to explain it. She said the yield plan was used as a basis for determining how many lots could go in the C-S. She said the C-S was density neutral and it was intended for areas that were .2 to .5 in the Land Use Plan. She said this did comply.

Mr. VonWalthausen said he respectfully disagreed on that point.

Chairman Dunn said staff would be glad to sit down with anyone and explain this. He said regardless of which way the Board voted on this issue, it wanted people to understand what it was that was being compared. He said the Board was trying to compare apples to apples and not apples to oranges.

Mr. VonWalthausen said as he had read the different designations in the Land Use Plan there was a place in the Land Use Plan for net density of one and above. He said his particular area was zoned .2 to .5 which was low density/agricultural/residential. He said that was the point that really jumped out at him when he read this petition. He said this was initially flawed and why the Planning Commission or staff did not recognize that from their own analysis he did not know. He said the other question he had was in terms of the yield plan itself. He asked what criteria did the Planning Commission use in coming up with the yield plan. He said on page 3-6 of the petition that without a conservation subdivision the floodplain areas would be made part of subdivision lots in the R-70 zoning district. He asked how this could happen. He remarked that on page 3-8 it stated that the yield plan calculations subtracted 12 acres of flood plain. He asked how would flood plain areas be made part of R-70 lots. He said to him this was double talk and it begged the question what was honestly buildable here and what was not.

Chairman Dunn said these were critical questions. He assured Mr. VonWalthausen that there were no "smoking mirrors" here. He said someone could have a lot that included wetlands but a person could not build in it. He said that 99% of the lots in the second plan did not include wetlands. He said wetlands could be included in lots but one could not build in them. He said this would also be private property and people might do things on that property that the county might not be aware of. He said it was important that Mr. VonWalthausen understood this. He said he appreciated all of the work Mr. VonWalthausen put into this. He said the Board did not want to cut Mr. VonWalthausen's time and the Board would allow him a little more time to speak since the Board had been discussing this with staff during his time to speak.

Mr. VonWalthausen said he did appreciate that. He said the second point that he would like to make following the structure of the zoning ordinance would be that he was in opposition because this petition adversely impacted existing citizens and property owners not only in his area but throughout the county. He pointed out that Sandy Creek feeds Whitewater Creek which was the county's water supply. He remarked that on page 60 of the Land Use Plan sets it out very, very clearly. He said it stated that the entire watershed was blanket zoned R-70 as a means of maintaining

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a low density for protecting the water quality of Whitewater Creek. He remarked that records showed that the Board of Commissioners had respected and abided by the spirit and intent of the Land Use Plan commitment. He said he hoped that the Board would allow its May, 2002 Adams Road decision in upholding the R-70 zoning to guide its thoughts today.

Mr. VonWalthausen said the third thing he would like to mention would be that he opposed the petition because it would cause a burdensome use of existing road namely Flat Creek Trail. He said on page 36 of the petition the traffic trips assertion was less than half of the story. He said it stated that it was important to note that if subject property were developed in current R-70 there would be a greater number of average daily trips generated compared with the C-S zoning district. He said they had used 74 lots in their assumptions and now he guessed this was 76 lots. He said he had no problem with the math but it was only half the story. He said it was more important to note that if the subject property was developed in C-S the actual number of traffic trips would increase in direct proportion to the number of dwelling units in the Flat Creek Trail corridor. He said the corridor between Tyrone Road and Sandy Creek Road currently had 63 housing units. He said in rezoning to C-S this would cause a 117% increase in housing units and a corresponding 117% increase in traffic trips on a road with alarming safety impediments, site distance issues, blind hills, blind curves and unenforced speed limit. He said additionally Flat Creek Trail was not in compliance with its collector designation and lacked 20 feet of right-of-way. He said he would like to know when, how and at whose cost would the county decide to acquire, designate and upgrade to their required right-of-way. He said in conclusion the Adams Road Petition No. 1090-02 involved a 26 acre tract which was over 700% smaller than the 185 acre tract that was now being discussed. He said he was simply asking that a proportionate amount of care and due diligence be used as the Board considered the irrevocable changes which would appear should the decision be made to abandon R-70 zoning. He said from what they had seen in Petition No. 1113-03 and the curious vote by the Planning Commission, he hoped that the Board of Commissioners was able to pick up the slack and choose wisely and properly.

Chairman Dunn said he sincerely did not understand where Mr. VonWalthausen was coming from when he had brought up the issue of traffic. He asked if Mr. VonWalthausen objected to any development on the land.

Mr. VonWalthausen replied no, not at all.

Chairman Dunn asked Mr. VonWalthausen if the property was developed R-70 would he be alright with that.

Mr. VonWalthausen replied that he certainly would.

Chairman Dunn remarked that R-70 with 76 homes and C-S with 76 homes result in the exact same number of traffic trips on that road.

Mr. VonWalthausen replied that he did not exactly believe that 76 homes at R-70 could be put in that parcel of 185 acres due to the wetlands considerations.

Chairman Dunn said the Board would have to consider the wetlands in both proposals. He assured Mr. VonWalthausen that if the wetlands were measured and



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not the same as this, there would be fewer homes built there. He said the yield from this piece of property did not change here depending on what the zoning was whether it be R-70 or C-S. He said that argument to him lacked substance because there would be the exact same number of cars coming out.

Commissioner Pfeifer clarified that the 117% was a figure generated by Mr. VonWalthausen.

Mr. VonWalthausen replied yes that was correct. He said he based this figure on the 63 current housing units in that corridor.

Commissioner VanLandingham said he would like to bring up another point. He said Mr. VonWalthausen had discussed the watershed protection that R-70 afforded. He said the C-S classification provided more protection because the houses would be further away from the creek and the use of the property was further away from the creek. He said this would be a greater protection through the C-S zoning. He said one lady he had spoken with expressed a concern that the C-S zoning that allowed one acre would set a precedence. He said this would not. He commented that C-S was altogether different from a one acre zoning. He said it would not give any precedence at all for someone to come in later for a one acre zoning. He said they would have to come in as C-S just like this one. He said the protection that Mr. VonWalthausen was speaking of would be greater with C-S than with R-70. He said the yield would be exactly the same and there would not be anymore traffic if it was R-70 or C-S.

Commissioner Wells thanked Mr. VonWalthausen's comments. She said she appreciated all of his research and it had been very enlightening. She said he could speak with Ms. Zeitler. She said the Board wanted everyone to understand what staff had been measuring and how the situation was arrived at.

Shawnee Mercer, 420 Flat Creek Trail, Fayetteville said she would like to mention the three soils that were measured on this property. She said cecil, cartecay and wehadkee. She stated they had done research on these. She said a cecil was rapid runoff, cartecay was poorly drained and wehadkee was also poorly drained. She said if the Board had visited the land in question, the watershed and the floodplains were a low lying area which Sandy Creek ran in between. She said the property where the houses would sit were both on inclines. She said if this was changed from a two acre to a one acre land some residents on Flat Creek Trail as well as Adams Court and Flat Creek Court had already had septic tank problems. She said one house was almost condemned due to septic tanks. She asked if the two acre lots were made one acre lots and they did have septic tank problems what recourse would that homeowner have. She said they would be out of land and they no longer go into the R-70 which was what they assumed years ago when they purchased their land.

Rudy Casey, 125 Adams Court, Fayetteville said Adams Court was right off Flat Creek Trail. He questioned if all of the two acre lots in this project would perk. He said all of that land was really low. He suggested the Board see the land when it was wet. He said where petitioner had the lots divided out into two acres, that area pretty much flooded all through there. He said he did not see how lots could be build on in that area.

Chairman Dunn said that was the developer's problem. He said if this property did not perk, the builder would not be able to build a house on that lot.

Mr. Casey said if the property was changed to one acre lots it would guarantee 76 lots.

Chairman Dunn said the Board was not guaranteeing anything. He said if the lot did not perk, it would not perk and could not be built on.

Commissioner Frady said most of these lots protruded down into the flood plain. He said the developer was taking those lots out so individuals would not own that particular property.

Mr. Casey said the Board was not answering his question. He said his question was if the lots were in the flood plain, then they would not sell, not going to perk and not be built on.

Chairman Dunn said the Board would not get into a debate on this. He thanked Mr. Casey for his comments. He said he was trying to point out that the maximum number of lots that the developer could be in was 76. He said if there were a couple of lots that did not perk, the county would not allow him to build a house on them. He said even if there were fifty lots that did not perk, this would be the developer's problem.

Mr. Casey said the Board was not answering his question.

Commissioner Wells said the Board was really get out of its format tonight. She said she would personally address Mr. Casey's concerns when she commented on this rezoning.

Chairman Dunn asked if the petitioner had any rebuttal to these comments.

Mr. Ryckley remarked that basically when they do a C-S zoning it was done with a two acre layout. He said he was held to the same exact criteria that would be held to if it was developed that way. He said lots were allowed to go into the flood plain area but he would have to maintain half of the lot area out of the flood plain area. He said this was the reason that two acre lots could have one acre in the flood plain and one acre out. He commented on the impact to the area. He said it was the same number of lots both ways either R-70 or C-S. He said he would be putting in a natural buffer. He said if the actual number of lots that were actually fronting on Flat Creek Trail there was just one additional lot that had been added. He said by putting a natural buffer in he felt it would help that. He remarked that the C-S zoning would better protect the wetlands. He said it would keep the wetlands off to themselves where individual lot owners were not messing with them. He said it would actually help the water quality. He said the Health Department required an initial system area to be designated and a complete replacement area. He said this was something that had been changed in the last few years or so. He said he actually applauded that because it would give a little more security to having good sites on the lots. He also pointed out that these were not just one acre lots. He said there was a number of these that were larger than one acre lots. He said they put a lot of thought into the layout and they felt it was a good layout to promote community and also to preserve

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the land. He pointed out that there was nobody present tonight who lived adjacent to this project who was here in opposition. He said this project would not set a precedent for one acre lots. He said if this was approved it would set a precedent for C-S zoning and he felt that was a good thing.

Chairman Dunn asked the Board for its pleasure in this matter.

On motion made by Commissioner Pfeifer, seconded by Commissioner Wells to approve Petition No. 1113-03 with self-induced conditions, discussion followed.

Commissioner Pfeifer said the Board did not have a law to follow and it was up to the Board to use its judgment to be as fair and impartial as to all sides as possible. He said when the Board did have a law to follow then it should follow both the letter and the intent and the spirit of the law. He said if the Board was dealing with a past precedent or a promise made by this Board, it should try and uphold those promises as well. He said if the Board objected to a certain law, it should say so and work to change it and not just ignore it. He said this application met the conditions set down in the regulations that the county currently had. He said it would not increase the density. He said it would dedicate a proper portion of the property to open greenspace. He said it decreased the amount of unpermeable surface that the subdivision would have if it were developed as a standard subdivision. He said that was his understanding that this was one of the stated purposes of the category. He said it did not create an adverse visual or actual impact on the neighbors. He said this was an area that he looked at in detail to see if this would substantially change the character of the area. He said he recalled it was pointed out that under one circumstance which would be the standard layout there would be nine lots on Flat Creek Trail and with the proposal there would be ten lots. He said this was the only visual difference that one would see driving by. He said someone would have to actually go into the subdivision to see that the houses were closer together than they were in the remainder of the area. He said to him that maintained the character of the area. He said this was the reason he felt the Board should support this petition.

Commissioner VanLandingham said he had gone out and looked at the property. He said when he saw that Sandy Creek was almost in the middle of the property, he came back and looked at the layout on both proposals. He remarked that he had come to the conclusion that C-S was a better way to go with this project. He said when he was looking at it he checked and there were only 20 lots that were one acre lots. He said the remainder of the lots were larger than one acre. He said some of the lots went from 1.2 acres to 1.78 acres. He stated the watershed did have more protection because of the fact that the runoff surfaces were greatly reduced because of the lesser number of homes. He said C-S was a new zoning that came in after R-70 and he felt it created some confusion in thinking that one acre lots were going to hit the county and bust it wide open. He said this was not the case at all. He said C-S zoning stood by itself and did not set a precedent for one acre zoning. He felt in looking at both proposals that the C-S zoning would be the best way to go on this.

Commissioner Frady said the C-S zoning had been studied a long time. He said this zoning district did not just come along. He said this had been marketed here for approximately five or six years. He said this was nothing that sprang up over night. He said it was put into affect to do exactly what it was going to do here and that was to conserve land and have no more density. He said in these cases where a house

was built it would not be as close to the floodplain as it might be if it was not on the land and not be able to use it. He felt this would be a great contribution to the community and he was looking forward to this project.

Commissioner Wells said she wanted to address a couple of issues that were brought up earlier that she promised that the Board would get to. She said one of the issues was Mr. Casey's comment about some of the lots possibly not perking. She said there was a good chance of that happening up in the Tyrone area. She said this was where Stone Mountain started and there was a lot of granite there and they have system failures on a regular basis. She said it was also addressing Ms. Mercer's comment about recourse. She said traditionally regardless of what type of subdivision or any building that a developer came in for, the soils must be tested and if they did not perk even though they have a preliminary plat, no building permit would be issued. She said this was very carefully looked at. She said unfortunately the crystal ball was not always crystal clear and the Board could approve some lots that perked and a building permit issued. She said this was like buying a car or anything else, the warranty sometimes was not there. She said sometimes a house was built and there were problems with the soil and the system failed. She said traditionally in Fayette County two areas must be determined for septic tanks. She said building takes place in the second best location. She said the reason for this was because if the septic tank failed, then they had recourse to go to the next best area to put in a new one. She said this gives the Board even more recourse here because the project had not been divided up into two acre lots and everybody owned almost every parcel of it. She said there was a good portion that was now in greenspace. She said if someone's lot did not perk and they were on the brink of having to have their house condemned, conceivably if they were close to some greenspace she could see someone running a field to take care of the problem.

Commissioner Wells further pointed out in the Rebecca Lakes Subdivision several years ago there was a problem. She said they had talked about pumping some affluent from one lot down into some greenspace. She stated this would have been catastrophic and another solution was determined. She said if the property did not perk, nothing could be built on the lot and nothing could be built in wetlands. She said the county would not allow that. She commented on the issue regarding the floodplains. She said if there was a two acre lot, one acre could be in the floodplain. She said it could not be built on but it must be maintained. She said if there was a one acre lot then more than half of that could not be in the floodplain. She said she did not normally average acres. She said she was going to deviate from that tonight because staff had looked long and hard at a conservation subdivision for several reasons. She said one of those reasons was to maintain the greenspace. She said if ever the county was going to have a conservation subdivision, this was the prototype that she would like the county to have to set the standard in Fayette County. She commended Mr. Ryckley on this project that it was definitely what she had in mind whenever the county accepted this as a concept. She said she accepted that concept with great reluctance. She said this was what she would like to see developed in the county especially in some of the rural areas. She remarked that this might bring people before the Board wanting one acre zoning. She said the Board would have the latitude of saying if the property was not developed or planned correctly or would have an adverse impact on the neighborhoods, it could easily be denied.

Commissioner Wells further remarked that with this project 76 homes could go in on two acres but if the property did not perk correctly there would be fewer homes than 76. She said the other thing that needed consideration was the issue that this land was definitely going to be developed. She said the Board had heard that this family had been talking with developers for the last four years. She said it was inevitable that the property would be developed. She said if the Board did not come up with something that was good for Fayette County and the community and the neighborhood around it, economics was going to drive people eventually to sell to the highest bidder. She said there were some developers out there who would take this property and squeeze every ounce of dirt between their fingers that they possibly could. She said if they did not get it in the county, they would ask to be annexed into the cities. She said personally she did not want to see a portion of the county's A-R any place in the county being annexed in and then have houses developed on a third of an acre. She said this would ruin the rural area. She said this was not an ideal solution but she felt it was the best solution. She said she appreciated everyone coming out and expressing their concerns. She said the county had excellent staff who monitor these things and this project would be done right and if it was not then it would be corrected. She said for those reasons she felt it was an excellent solution to this particular piece of property.

Chairman Dunn remarked that this Board had the reputation of being the toughest in the State of Georgia when it came to land use and zoning. He said most developers know that they will have to tow the line in order to build in this county. He said one of the problems that the Board had to come to grips with as a Board was the balance between health, safety and welfare in the community. He said economic welfare was also of concern and what development would do to land and to neighborhoods and also the rights of property owners. He said Fayette County was at an age right now that many of the older people in town were selling their land. He said the Rivers' property consisting of hundreds of acres had recently been sold. He said land was going to be developed and the Board could not stop people from developing the land. He pointed out that the Board could stop bad development and the Board would continue to do that. He said the Board had come up with the C-S zoning a while back for several reasons. He said firstly it was probably the only way that the Board could protect property owners from the cities continuing to expand and put four to five houses on an acre. He said if citizens were watching closely they would see that a couple of the cities were doing just that. He said the Board routinely denies these requests because it does not want to let this annexation happen. He said then the cities configure things, get the property annexed into the city and develop it at a much greater density. He said this Board did not want that to happen. He said this Board wanted the people who were going to develop their land to have alternatives to the outcome. He said the best alternative that the Board could find here was one that preserved approximately half of the trees and protects the rivers, streams and lakes to the best possible measure. He said he did not want citizens to think that this was one acre blanket zoning in the county because it was not. He said there would never be more than what could have been done in R-70 on that property. He said it did not matter what happened from now on. He said if it turned out that some of these lots did not perk, the developer could not build on those lots. He said 76 lots was the maximum number of lots for this development. He said the county would be watching this development when it goes in and not allow any extra lots to go in. He said this was one project that would be watched very closely. He said the Board wanted to make this zoning work as an alternative to huge density in the county as it

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develops. He said the Board was sad to see the farms going away in this area. He said quality development would be replacing these farms and it would not be dense development. He said this area would still be the lowest density area in the metro area of Atlanta.

Commissioner Frady interjected that this Board could not stop annexation by the cities. He said the law favored annexation. He said the Board could not stop it or object to it.

Chairman Dunn said he had also received a letter from a citizen expressing concern with the number of school children that this would produce on one acre lots. He said it was the same issue as the traffic. He stated the school children issue would be identical regardless if the development was R-70 or C-S. He said he would support this request.

Commissioner VanLandingham commented that the Rivers' property was going to be developed. He said the price that was paid for it was going to almost demand that it be annexed to where they could get the density that would return their money. He said this was going to be a place where the annexation could be stopped. He felt when all of this was considered, more was being done with the C-S zoning than it appeared. He said the community was going to be protected beyond this from the city. He said this was another reason he would support this rezoning request and that was to put a stop gap on some possible annexations.

Commissioner Pfeifer said he would like to echo the comments made by Commissioner Wells. He said when the Board approved a zoning issue such as this one, none of the underlying regulations were changed. He said if a lot did not perk, then it would not perk. He said if there was a road issue, then the Board would address that as a road issue.

Commissioner Wells said she would like to apologize to Mr. VonWalthausen. She said the Board's format had been dropped tonight. She said normally when a person makes comments they do so without any comments from the Board. She said she hoped that he did not feel that he was being put on the spot. She said Mr. VonWalthausen had done an extremely good job. She said she would not ever want anyone to come before the Board and feel like they were not treated with the type of respect that the Board would want in its direction. She said she hoped that he did not feel like he was placed on the spot. She said this was not the Board's intent. She urged him to come back again in the future.

Chairman Dunn remarked to Mr. VonWalthausen if he wanted to work in the zoning office to let the county know. He said he had certainly done his research.

The motion carried 5-0. A copy of the self-induced conditions, Staff's Analysis and Investigation, identified as "Attachment No. 1", follow these minutes and are made an official part hereof. A copy of the Ordinance and Resolution granting Petition No. 1113-03, identified as "Attachment No. 2", follows these minutes and is made an official part hereof.

**DISCUSSION OF AMENDMENTS TO FAYETTE COUNTY ZONING ORDINANCE REGARDING ARTICLE VI AND ARTICLE VII:**

Zoning Director Kathy Zeitler read proposed Amendments to the Fayette County Zoning Ordinance regarding Article VI. District Use Requirements, Section 6-20. L-C Limited-Commercial District and Article VII. Conditional Uses, Exceptions, and Modifications, Section 7-1.B., Conditional Uses, Section 12. Convenience Commercial Establishment. She said the Planning Commission recommended approval 4-0.

Ms. Zeitler remarked that staff had been asked to look at the limited commercial zoning district and come up with some ways to make it more of a zoning district that would be used. She said currently there was no property in the unincorporated area that was zoned Limited Commercial. She said staff had work shopped this for a couple of months and revised some uses, added some new uses, clarified that the intent was included a limited selection of convenience goods and professional and personal services rather than all retail. She said these properties would be located at major intersections with commercial land use but they may be very close to residential areas. She said staff felt that it was important to add some restrictions such as architectural standards that were already in place. She said proposed no drive through establishments was added and hours of operation had been established. She said the hours of operation would be limited to 6:00 a.m. to 10:00 p.m. and no outside loud speakers and site lighting to be directed away from adjoining or nearby residential zoning. She said it was also felt that it was important to limit the building size of 3,000 square feet so that there would not be very large retailers and also limit it to a maximum of 6,000 square feet of buildable buildings per lot.

Ms. Zeitler further remarked that the convenience commercial establishment would be the convenience store/gas station. She said this was the only conditional use currently allowed in the L-C zoning district. She said this was remaining the same as the only conditional use. She said staff also felt that it was important on that one to add a couple of new things. She said a maximum floor area of 3,000 square feet excluding the canopy over the gas pumps was being proposed and a maximum of eight fueling stations to be designed in two rows instead of in one line across the front of the building. She said the canopy must be attached to the convenience store. She said staff was also proposing that the lots have frontage on both streets located at the intersection so that it can be contained to the intersection rather than have strip commercial continue down the street and further into residential areas. She said these would be nodes that were land used commercial that would be located at the intersections and designated as commercial on the Land Use Plan. She said she would be happy to answer any questions that the Board might have.

Commissioner Frady asked Attorney McNally if he had reviewed this as far as the signs and Attorney McNally replied yes.

Chairman Dunn remarked that this was a public hearing and if anyone wished to comment for or against this item they could do so at this time. Hearing none, he asked for the Board's pleasure in this matter.

Chairman Dunn asked Ms. Zeitler what had been added in the L-C zoning district.

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Ms. Zeitler responded that tanning salons, nail salons, restaurant restricted to take-out and twelve or fewer seats, sporting goods, laundry pick up station, barber shop/beauty salon and hardware store.

Chairman Dunn clarified that eight new uses could be put in the L-C zoning district. He said he understood limited commercial when he had first gotten on the Board. He said limited commercial meant just that to him and that it would be limited. He felt this had been doubled as to what could go in there and the Board was trying to establish something that could be reasonably worked out within neighborhoods.

Ms. Zeitler said staff had limited the amount of retail and some uses were taken out that were mainly retail and left it to where it was mainly limited to personal services. She said some of those were broken out into different ones such as the tanning salon and the nail salon. She said those before were including into the beauty salon. She said this had gone from one to three but all three would have been allowed under the original zoning.

Chairman Dunn felt a lot of the strip malls around Atlanta start off with a nail salon, barber shop and half of these were empty in a year.

Ms. Zeitler said staff believed that the main anchor tenant would be the gas station/convenience store located at a major intersection and that the smaller stores would be next to it probably on the same lot.

Chairman Dunn said he was against expanding limited commercial to such a great degree.

Commissioner Wells said she had the same feeling. She said when she read this she knew there was a lot of work and effort that had gone into this and she knew why this was being reviewed. She said she still had the same type of problems with it. She said just because everyone else was doing it did not mean that Fayette County had to do it. She said she knew there was a lot of pressure on Fayette County to develop these commercial nodes at intersections. She said the part that bothered her the most was the sentence that said district properties would be located at major intersections with commercial land use and may be in very close proximity to residential areas. She said this bothered her in Fayette County. She said she had a great deal of difficulty with that. She said she did not want to build these closer to residential areas. She said if the county wanted to do that it would go over on Pine Trail and do exactly what had been done there. She felt that had been a travesty to those people.

Commissioner VanLandingham felt the development on S.R. 85 that Commissioner Wells was referring to was a little different from what was being done here but it would come up with the same result. He said that area was commercial when the subdivision was put in.

Commissioner Wells interjected that it was a church before that. She said the subdivision was there well before it was zoned commercial.

Commissioner VanLandingham said he did have a problem with the proximity to residential areas and the county just arbitrarily going in and classifying this as



commercial. He felt staff needed to look at this again. He said just because the corner was there did not mean that it needed to be commercial.

Chairman Dunn felt the way Fayette County deals with its intersections was startlingly different from everyone else in the Atlanta area and needed to be preserved. He said some services needed to be provided but very, very limited to the proximity to residential.

Ms. Zeitler pointed out that it would not be at any intersection that was an arterial or a collector. She said it would only be located or even considered at intersections that were already designated as commercial on the Land Use Plan. She said there were not many of those.

Commissioner Frady felt the county had an obligation to provide services to citizens in outlying areas but he did not feel like this type of development was necessary at every corner.

Commissioner Wells commented that a lot of these stores become vacant and then concerned with what type of store comes in later.

Commissioner Frady said he would like to send this back to staff for more review.

On motion made by Commissioner Wells, seconded by Commissioner Frady not to adopt Amendments to the Fayette County Zoning Ordinance regarding Article VI. District Use Requirements, Section 6-20. L-C Limited-Commercial District and Article VII. Conditional Uses, Exceptions, and Modifications, Section 7-1.B., Conditional Uses, Section 12. Convenience Commercial Establishment. The motion carried 5-0.

**ORDINANCE NO. 2003-05 - AMENDMENTS TO THE FAYETTE COUNTY ZONING ORDINANCE REGARDING ARTICLE VII. CONDITIONAL USES, EXCEPTIONS, AND MODIFICATIONS, SECTION 7-6. TRANSPORTATION CORRIDOR OVERLAY ZONE, A. S.R. 54 WEST AND S.R. 74 SOUTH OVERLAY ZONES:**

Zoning Director Kathy Zeitler read proposed amendments to the Fayette County Zoning Ordinance regarding Article VII. Conditional Uses, Exceptions, and Modifications, Section 7-6. Transportation Corridor Overlay Zone, A. S.R. 54 West and S.R. 74 South Overlay Zones. She said the Planning Commission recommended approval 4-0.

Ms. Zeitler remarked that this was a minor revision to the ordinance to establish an area that staff felt should be excluded from the S.R. 54 West overlay that was located around the hospital. She said this did conflict with the architectural of the overlay for proposed medical office buildings which may want to be located there. She said the area extended from Sandy Creek Road to Tyrone Road just on the north side of S.R. 54 West. She said this was all that staff was proposing on this item.

Chairman Dunn asked how deep this would go on the properties. He said at one point it went a couple of miles deep. He asked how far away from the road was staff talking about.

Ms. Zeitler replied that the properties that were fronting S.R. 54 were the ones included in the overlay. She said staff was saying that the properties in that stretch where the high school was going and where the hospital was located from Tyrone Road to Sandy Creek Road be exempt from the overlay because of the architectural standards in hopes that those properties would not annex into the City.

Chairman Dunn remarked that the hospital area was developing in a much greater scope than the Board had anticipated years ago. He said the properties that Ms. Zeitler was referring to were huge. He said the S.R. 54 overlay controlled the frontage properties.

Attorney McNally interjected that he felt staff was trying to accomplish with the overlay was the dominant architectural standards along S.R. 54 were residential. He said staff wanted commercial and office/institutional to be in aesthetic agreement with that. He said the dominant factor in this area was the hospital. He said since the hospital already sets the stage for this particular stretch, staff felt that it would perhaps be appropriate in that length of land that it be in conformity with the hospital rather than try to put in residential looking buildings.

Chairman Dunn asked if the property was still land used residential.

Attorney McNally replied yes.

Ms. Zeitler remarked that the overlay zone did not have an established depth to it. She said it was like a floating O-I land use and the underlying was residential.

Chairman Dunn suggested that there were going to be a lot of office buildings on that piece of property and they might go back fairly deep in the property. He said he just wanted to make sure that everyone realized that this might open the door.

Commissioner Frady asked Ms. Zeitler to explain exactly what staff was suggesting to be done.

Ms. Zeitler replied that the S.R. 54 West overlay required architectural standards of a residential character where the windows and doors would be broken up with grids in a residential pattern, pitched roofs, brick or siding and that kind of thing. She said staff wanted this to look residential in character. She said this was originally adopted and intended for houses that were existing along the S.R. 54 West corridor that were affected by the highway widening. She said this would allow them to convert to office uses now that the hospital was there. She said in that particular area, development was coming in with the new high school and the hospital was expanding. She said the architecture in that area of the hospital influence zone did not comply at all with the intent or the architectural standards of the S.R. 54 West overlay. She said staff wanted to exclude that one area from the S.R. 54 West overlay so that they were not held to those architectural standards and they could develop office buildings, medical buildings and whatever if they could get the zoning and get the approvals. She said they could have an architecture similar to the architecture that was already there which was the hospital.

Commissioner Wells felt this was a reasonable exception. She said it was good when the overlay was done because the Board did not want the entire S.R. 54 to look

like development in Riverdale or some place of that nature. She said the Board wanted everything that was going to be occupied that was currently there to look residential in nature.

Chairman Dunn said it also happened to be the largest piece of property between Peachtree City and Fayetteville. He said the character of S.R. 54 will be changed immeasurably by this. He said some people would say that this is inevitable but he did not know.

Commissioner Frady felt this involved 150 acres in there.

Chairman Dunn remarked that the acreage was contiguous to a lot more acreage behind the hospital.

Commissioner Pfeifer clarified that the overlay zone did not apply to anything that was not on S.R. 54 anyway. He said nothing would be changed off S.R. 54.

Chairman Dunn said there would be office buildings three stories high in there.

Commissioner Wells felt staff should be commended for coming in and looking and saying how this could be prevented. She felt if this could be made more conducive to that environment. She said if they were going to have to build something that looks like a house to be in the county or they could build something that looks like part of the professional medical center in the city. She said it would cost more to put a pitched roof on it and some other things that might cause them to go to the City.

Chairman Dunn said he just wanted the Board to understand that it would be changing the entire complexion of that entire road when the Board does this.

Commissioner Wells remarked that particular area was going to change anyway with either the county doing it or it would be annexed.

Chairman Dunn said it would be annexed anyway because the county had no sewer.

On motion made by Commissioner Wells, seconded by Commissioner VanLandingham to approve the Amendments to the Fayette County Zoning Ordinance regarding Article VII. Conditional Uses, Exceptions, and Modifications, Section 7-6. Transportation Corridor Overlay Zone, a. S.R. 54 West and S.R. 74 South Overlay Zones. The motion carried 3-2 with Chairman Dunn and Commissioner Frady opposing the motion. A copy of Ordinance No. 2003-05, identified as "Attachment No. 3", follows these minutes and is made an official part hereof.

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

**DEFERRED COMPENSATION PLAN:** Approval of a Resolution adopting amendments to the County's 457 Deferred Compensation Plan to bring the Plan into compliance with the final 457 Treasury Regulations issued in July, 2003. A copy of the Resolution, identified as "Attachment No. 4", follows these minutes and is made an official part hereof.

**TRANSPORTATION PLAN UPDATE:** Approval of adoption of the final report of the Transportation Plan Update as prepared by URS Corporation. A copy of the Summary Update, identified as "Attachment No. 5", follows these minutes and is made an official part hereof.

**COUNCIL OF JUVENILE COURT JUDGES:** Approval for authorization for the Chairman to execute documents accepting a \$5,100 grant from the Council of Juvenile Court Judges of Georgia for Juvenile Psychological Evaluation Services.

A copy of the documents, identified as "Attachment No. 6", follow these minutes and are made an official part hereof.

**BLUE CROSS/BLUE SHIELD:** Approval for authorization for the Chairman to execute an Agreement with Blue Cross/Blue Shield allowing the County to enroll/update employees' health benefits on line. This complies with the H.I.P.P.A. privacy provisions. A copy of the Agreement, identified as "Attachment No. 7", follows these minutes and is made an official part hereof.

**VEHICLE REPLACEMENT PROCEDURES:** Approval of Amendments to the County's Vehicle Replacement Procedures. A copy of the Amendments, identified as "Attachment No. 8", follow these minutes and are made an official part hereof.

**TAX REFUND - JOHN WIELAND HOMES:** Approval of recommendation to approve a request for a tax refund to John Wieland Homes for taxes paid for Woodcreek Homeowners Association for the years 2000, 2001 and 2002 in the amount of \$991.64.

**TAX REFUND - JOHN WIELAND HOMES:** Approval of recommendation to approve a request for a tax refund to John Wieland Homes for taxes paid for Whitewater Homeowners Association for the years 2000, 2001 and 2002 in the amount of \$38.85.

**TAX REFUND - TEXATRON:** Approval of recommendation to approve a request from Texatron for duplicate taxes paid for Hoshizaki for the year 2002 in the amount of \$3,018.97 and to deny a request for reimbursement for the years 2000 and 2001 due to lack of proof of duplicate payment.

**MINUTES:** Approval of minutes for Board of Commissioners meeting held on October 23, 2003.

**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.

**JILL HOLMES LONG:** Jill Holmes Long, 218 Claridge Curve, Peachtree City commented on the Board of Health's proposed Resolution to declare a clean indoor air act in Fayette County. She said there was no argument that second hand smoke was bad for everyone. She said because it was the Board of Health's job to protect the public welfare, they had come forth after a long study declaring that this would be a good step for the county for the welfare of the citizens. She said she understood

that there were questions from the Commission as to whether or not this should be enacted. She said the City of Albany had a clean indoor act had been in force since 1998. She said Albany had not lost any business there as a result of the act. She commented that there were many municipalities across the Nation as well as many States now that were considering the health of their constituents and making this move.

Commissioner Frady asked Ms. Long what her understanding about where the Commission could do this.

Ms. Long said the Board of Health had asked the Commission to pass a clean indoor air ordinance.

Chairman Dunn asked Ms. Long which portion of the county did she believe the Commission could pass this.

Ms. Long remarked that in the proposed resolution, the Board of Health was asking all of the municipalities as well as the county. She felt this would be an ideal time to cooperate and work together for the benefit of the entire county in order to keep Fayette County as the number one county in Georgia to live in.

Commissioner Frady said he was not suggesting that the Commission was not going to cooperate. He said he just wanted Ms. Long to understand where the Commission's jurisdiction was.

Ms. Long pointed out that the City of Peachtree City had an icon on their home page where one could complete a survey. She said the Tyrone Council was taking this under consideration in their retreat. She said she just wanted the Commission to continue its perusal of this and take it into consideration.

**STAFF REPORTS:**

**MARK PULLIUM:** Finance Director Mark Pullium said he was making a recommendation to the Board to reduce the force in the Information Systems Department and that the position, as listed in the memo before the Board, be abolished and all employees holding that position be laid off.

Chairman Dunn said it was his understanding that the county was going to outsource service. He said this would be substantially cheaper than the way the county was doing it now.

On motion made by Commissioner Wells, seconded by Commissioner VanLandingham to approve the Finance Director's recommendation to reduce the force in the Information Systems Department and that the position be abolished and all employees holding that position be laid off. The motion carried 5-0.

**FUNDING FOR THE TDK BOULEVARD EXTENSION:** Chairman Dunn remarked on TDK Boulevard extension into Coweta County. He said the Secretary of Transportation was going to provide funding in the amount of \$1,065,000 to take care of some of the expenses on the building of TDK Boulevard extension. He said the county was extremely grateful and commented that this was a large percentage of the funds available for county contracts throughout the State. He said Senator Seabaugh's help was also gratefully appreciated.

**ENGINEERING/SURVEYING/CONSTRUCTION MANAGEMENT PROPOSAL FOR TDK BOULEVARD:** Public Works Director Lee Hearn asked for the Board's consideration in approving Mallett Consulting Engineers' fee schedule in order to proceed with this project. He asked for authorization to proceed in this matter.

Chairman Dunn remarked that the county had some work to contract out such as the bridge and also contract out some blasting potentially. He said with this proposal Mr. Mallett would become the project manager to see this road to completion. He said he had already spoken with the Coweta County Board of Commissioners and they were very pleased with Mr. Mallett's participation.

On motion made by Commissioner Frady, seconded by Commissioner Pfeifer to approve Mallett Consulting Engineers' Fee Schedule in order to proceed with this project. The motion carried 5-0. A copy of the Fee Schedule, identified as "Attachment No. 9", follows these minutes and is made an official part hereof.

**ORDINANCE NO. 2003-06 - AMENDMENTS TO THE SWIMMING POOL CODE:** Attorney McNally asked for the Board's consideration in adopting the newest amendments to the county's swimming pool code.

Commissioner Wells asked who amended this code.

Attorney McNally responded that the code was amended by the National Swimming Pool Code.

Commissioner Wells asked if these amendments were more restrictive or less restrictive.

Attorney McNally replied they were very minor amendments. He said the county has had this code for many years.

Commissioner Wells said the county was on the leading edge of that and was a member of the Board of Health when this was established. She clarified that this was just housekeeping verbiage and Attorney McNally agreed.

On motion made by Commissioner Wells, seconded by Commissioner Frady to approve the Ordinance No. 2003-06 amending Swimming Pool Code. The motion carried 5-0. A copy of the Ordinance No. 2003-06, identified as "Attachment No. 10", follows these minutes and is made an official part hereof.

**RMD ADOPTION AGREEMENT AMENDMENT:** Attorney McNally asked for the Board's consideration in authorizing the Chairman to execute the RMD Adoption

Agreement Amendment relating to the Employee Retirement Plan. He said the regulations were adopted on April 17, 2002 by the Internal Revenue Service.

On motion made by Commissioner Wells, seconded by Commissioner Frady to authorize the Chairman to execute the RMD Adoption Agreement Amendment. The motion carried 5-0. A copy of the document, identified as "Attachment No. 11", follows these minutes and is made an official part hereof.

**EXECUTIVE SESSION:** Attorney McNally requested an executive session to discuss four legal matters.

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

**EXECUTIVE SESSION:** On motion made by Commissioner Wells, seconded by Commissioner Frady to adjourn to executive session to discuss six legal matters. The motion carried 5-0.

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

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

**LEGAL:** Attorney McNally reported to the Board on a legal matter.

The Board took no action on this matter.

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

The Board took no action on this matter.

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

The Board took no action on this matter.

**LEGAL:** Commissioner VanLandingham sought an opinion on a legal matter.

Attorney McNally advised the Board on this matter.

**LEGAL:** Commissioner VanLandingham requested a legal opinion.

Attorney McNally advised the Board 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 six legal matters were discussed in executive session. The motion carried 5-0. A copy of the Executive Session Affidavit, identified as "Attachment No. 12", 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 9:20 p.m.

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Karen Morley, Chief Deputy Clerk

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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 3<sup>rd</sup> day of December, 2003.

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Karen Morley, Chief Deputy Clerk