



Board of Commissioners

EXTRAORDINARY SESSION

The Board of Commissioners of Spalding County, Georgia, held their Extraordinary Session on Monday, October 18, 2004 in their office in the Courthouse Annex in the City of Griffin, Spalding County, Georgia, beginning at 6:00 o'clock p.m. with Commissioners Michael Kendall, Cecil Davis, Eddie Goss, Johnie McDaniel and Dick Morrow present. Also present were County Manager William Wilson, County Attorney Jim Fortune, Community Development Senior Planner Chad Jacobs, and Executive Secretary Teresa Watson.

AGENDA TOPICS

I) OPENING (CALL TO ORDER) – Chairman Kendall

II) INVOCATION – Commissioner Johnie McDaniel

III) PLEDGE TO FLAG – Led by Chairman Kendall

IV) AMENDMENT TO AGENDA

1. *On a motion by Chairman Kendall and a second by Commissioner McDaniel to amend the agenda with the addition of Item #18, the vote was unanimous to approve.*

V) PRESENTATIONS/PROCLAMATIONS/RECOGNITION - N/A

VI) PRESENTATION OF FINANCIAL STATEMENTS

1. Consider approval of the Financial Statement for the three months ended September 30, 2004.

On a motion by Commissioner Kendall and a second by Commissioner McDaniel, the Financial Statement was approved as presented by a unanimous vote of 5-0.

VII) CITIZENS COMMENTS – N/A

VIII) PUBLIC COMMENT

IX) MINUTES

1. Consider approval of the minutes of the October 4, 2004 Regular Monthly Meeting.

On a motion by Commissioner Morrow and a second by Commissioner McDaniel, the minutes were approved as presented by a unanimous vote of 5-0.

X) CONSENT AGENDA

1. Consider approval of values and property exchange for Amelia Road paving project.

On a motion by Commissioner Morrow and a second by Commissioner McDaniel, the Consent Agenda was approved by a unanimous vote of 5-0.

XI) OLD BUSINESS – N/A

XII) NEW BUSINESS

1. Consider asbestos abatement and demolition bids for the former Hill's Tire Store Building.

County Manager William Wilson said Mr. Randy Haney with Life Environmental Services was present to answer any questions. Life Environmental Service performed the additional sampling and testing needed for the asbestos abatement and issued the invitation to bid for the County on the asbestos abatement and demolition. He said Ms. Jinn Garrison had provided information from the County's insurance carrier, as well, which addressed the issue of liability if County personnel were used in the building's demolition.

Commissioner Morrow said he and Mr. Wilson disagreed, and he believed there could be a middle ground. He felt the demolition and removal would not be as difficult and involved as some seemed to believe. He wanted to rebid the project with the contractor performing the asbestos abatement and doing the management supervision of the actual demolition. The County has trucks and crews that can haul off material and dispose of the debris, thereby saving the County quite a bit of money. He understood the need for professional supervision and overview of the project, but did not feel the contractor should have to provide all the labor when the County has a labor pool to help handle the matter. Much discussion followed regarding the feasibility of having a contractor who would be willing to supervise the County's employees.

Mr. Wilson said staff discussed having a contractor do the asbestos abatement and then having the County go in to take care of demolition and removal. County crews have no experience at all in taking down a building of this magnitude, at such a very congested intersection. There are questions, as well, regarding drainage once the asbestos abatement is done. Most of the roof will be removed from the building, allowing drainage into the building, so there are real concerns here. The contractor and Paragon Consulting will attempt to get the building taken down to a certain point so the drainage is not a problem with the runoff sloping toward the street rather than into the building directly behind this one, which is approximately 4-5 feet lower than the building being demolished. The insurance carrier, Millennium, has pointed out the County has a \$25,000 deductible on its policy should an accident occur even if insurance would provide this coverage, and the letter from them states they do not believe such coverage would be afforded because this is outside the scope of normal County business with the crews being considered. There is a party wall with the building adjacent to it.

Mr. Haney stated that his company would be responsible for overseeing the asbestos abatement, but Winter would actually perform the work. He had not talked with either of the contractors but doubted seriously if any would be willing to supervise the County's personnel trying to tear down the building with a track hoe due to the great liability involved. Mr. Haney felt the contractor, if they were willing to even do it, would deny liability and hold harmless up front, but he strongly felt their insurance would not let them do it.

Commissioner Davis did not want to expose the County to the liability involved with such an effort.

Mr. Fortune agreed that the insurance carrier had already declared they would probably not have coverage, and he did not recommend touching the building with County personnel.

Commissioner Morrow had some concerns that the parking lot plan did not incorporate any green areas.

Mr. Wilson said this parking area design was very preliminary; they were simply trying to quickly discern how many parking spaces would be available, and they were trying to work with the adjacent property owner with the walkway down the center, as well.

Mr. Wilson recommended they award the bid to Winter Construction Company, and he stated he would return with a budget amendment for approximately \$35,000 from the contingency fund to take care of the fees for dumping at the C & D Landfill and any additional charges that might be incurred. They had budgeted \$125,000 for the demolition.

On a motion by Commissioner Davis and a second by Commissioner McDaniel to award the asbestos abatement and demolition bid to Winter Construction Company, the vote was 4-1 to approve with Commissioner Morrow voting in opposition.

2. Consider proposals for indigent defense services for State Court, Juvenile Court, Magistrate Court and Probate Court.

Mr. Wilson said Hal Sturdivant was in attendance to represent Sullivan, Sturdivant & Ogletree, and Mr. Joe Saia was present to represent Public Defender English's office.

Commissioner Morrow said he had a real problem believing the Public Defender system would be up and running enough in January to assume this greatly increased workload without some serious hitches. He knew they were dedicated, but would feel much more comfortable continuing with Sullivan, Sturdivant & Ogletree for one year and let the Public Defender's office get the kinks out with the Circuit Court cases and others before he takes on the additional responsibility of State Court.

Mr. Joe Saia responded he fully expected they could assume the increased workload in January. They are already going to be handling Fayette County's State Court, Magistrate Court and Juvenile Court cases, as well as their Superior Court. Mr. English has already hired, in addition to himself, three senior level attorneys with over 100 years of experience between them. Secretaries and investigators for attorneys are coming with them. Procedures will be in place, and they will be ready to try cases for their first term in Superior Court, which will be in Spalding County.

Commissioner McDaniel felt this was a huge undertaking in a short time, and Mr. Saia agreed that was the case, but he felt they were ready to go. It might not be the smoothest operation for even the first five years, but with their personnel and experience, they were confident they could handle the caseload.

Chairman Kendall said if some of the people he had heard were being considered, they had a great deal of experience doing criminal defense work. If these people could be in place, it might be a very different story. However, if they have to do a great deal of training, the concerns expressed tonight might be very real. January 1, 2005 might not be the optimum date for beginning this increased workload.

Both the Public Defender's Office and the firm of Sullivan, Sturdivant & Ogletree needed an answer tonight since much work and planning was still to be done in preparation for the much increased caseload in ten weeks' time.

Mr. Sturdivant said it had taken four attorneys to handle the State, Superior and Juvenile Court cases for the last number of years. They understand that Superior Court will now be in the hands of the State, but his office today cleared the calendar of Public Defender cases in the Superior Court of Spalding County and they have no cases to try. They have saved Spalding County at least one week of jury fees and have worked hard for the past six weeks to accomplish this feat. They have a working arrangement with every member of the State Court and Juvenile Court staff, from judges to bailiffs, to clerks, to officers inside the courtroom. With regard to Juvenile Court, the first of two problems is that no schedule can be adhered to since they can call and request your presence in ten minutes when a child is taken into State custody with an emergency deprivation hearing immediately. You must be able to reschedule clients, call and beg off to judges, and drop everything on your calendar at that time. Secondly, in a Juvenile Court case involving deprivation, the law requires there be a guardian ad litem who is an advocate for the child(ren) being taken into custody. The proposal of Sullivan, Sturdivant & Ogletree absorbs this fee, as well. Their bid also absorbs any type conflict that might arise in State or Juvenile Court, and he understood the State did not do that. They are looking to maintain the status quo with regard to the quality of representation in State Court, Magistrate Court and Juvenile Deprivation Cases. As far as the remaining or "pipeline" cases, they propose to continue these. His concern was that the Public Defender's Office would have only about six weeks from coming on board in January in order to get ready for jury trials on February 18. They would have only three days to get ready for an arraignment calendar on January 4. There will be close to 100 cases that will be transferred over during this particular time, some of which they have not even been appointed to yet. These are cases that will be picked up, with warrants served and preliminaries held between now and December 31, 2004.

Commissioner McDaniel said the law now supports a citizen's request for a jury trial for a traffic violation, and he wondered how this will affect the caseload.

Mr. Sturdivant said it would probably increase the caseload, and as of January 1, 2005 there are new guidelines for appointments for indigent representation, as well. He had discussed with Mr. Wilson already the fact that the caseload will most likely increase. In 2003, Mr. Sturdivant estimated they handled 650-700 cases in State Court and he felt that number had stabilized in 2004. The new guidelines, however, will allow a person with four family members who makes less than \$36,000 to qualify, and this change alone will increase the caseload. He felt this was due to the State adopting Federal guidelines for indigency.

Chairman Kendall said he would like to have more time to study such a difficult decision, particularly since his vote would contribute to a situation the other commissioners would have to endure after he leaves office in January.

Commissioner Davis complimented the efforts of the Public Defender's Office and continued that even though it might cost Spalding County a few dollars more, he also leaned toward continuing with the good relationship and demonstrated experience of Sullivan, Sturdivant & Ogletree. He concurred, however, that he would like to have had longer to consider the issue, but he understood they needed a decision tonight in order to prepare for the changes in calendar year 2005.

Commissioner McDaniel said there was still a great deal the commissioners did not know about this issue, and he had listened to County Attorney Jim Fortune's comments with interest. He, too, would like to have more time to study this issue.

Commissioner Goss said he felt he would have to opt to go with the Public Defender but would also like to have more time to study the issue. There are a great many questions he would like to see answered.

Commissioner McDaniel asked if they were to award the contract to Sullivan, Sturdivant & Ogletree and receive notification after January 1, 2005 stating these lump-sum contracts would not be honored, would the cases then go to the Public Defender's Office by default.

Chairman Kendall said he felt in that instance, they might be allowed to continue utilizing Sullivan, Sturdivant & Ogletree ... they might simply have to rearrange the contract to provide for payment computed in another fashion and not in a lump-sum amount.

Mr. Fortune said he did not know the answers since nothing has been tested in court.

Mr. Sturdivant responded to Commissioner McDaniel's inquiry about whether or not Spalding County could insert an escape clause into the agreement should they no longer be allowed to do lump-sum contracts. He stated they had already waived a provision this year by allowing the existing contract to expire on 12-31-04, which was two years before the contract was set to expire. They would waive the provision again and have no interest in suing Spalding County over anything in this regard. Their only problem is they need to know something in order to make plans that have to be implemented in ten weeks. If problems are encountered, he said they would always be willing to reword the contract to accommodate them.

On a motion by Commissioner Morrow and a second by Commissioner Davis to award the contract for indigent defense services for State Court, Juvenile Court, Magistrate Court and Probate Court to the law firm of Sullivan, Sturdivant & Ogletree, the vote was 3-1-1 with Commissioner Goss voting in opposition and Commissioner Kendall abstaining.

The Board of Commissioners called for a five-minute recess.

3. Consider proposals for banking services.

Ms. Jinna Garrison detailed the process by which Spalding County had issued a request for proposal (RFP) for banking services to the six local banks in August and noted that very competitive bids

were received. The most aggressive bid with no service fees, no compensating balances and the highest interest rate, along with a good employee banking package, as well, was Branch Banking & Trust (B B & T). This was her recommendation, effective January 1, 2005 for a three-year contract.

Mr. Wilson noted BB&T would not charge to cash Spalding County payroll checks if the employee didn't have an account there as part of fulfilling the requirement of the RFP, and they agreed to extend that policy to the cashing of vendor checks, also.

On a motion by Commissioner Davis, and a second by Commissioner Morrow to award the contract for banking services to B B & T, the vote was unanimous at 5-0 to approve.

4. Consider authorizing Chairman to execute subgrantee award for the 2004-2005 VOCA Grant for the Sheriff's Department.

This grant amount, noted Mr. Wilson, was for \$51,754.

On a motion by Commissioner Morrow and a second by Commissioner Davis, the vote to approve this authorization was unanimous at 5-0.

5. Consider request from First Assembly of God to utilize Dundee Park on November 20, 2004 from 9 a.m. to 5 p.m.

Mr. Wilson said this was the second year for this program, and Commissioner McDaniel noted it had already met with the Parks and Recreation Advisory Board approval last week.

On a motion by Commissioner McDaniel and a second by Commissioner Davis to approve the request, the vote was unanimous at 5-0.

6. Consider approval of final plat for Sunshine Ridge Subdivision, located off Jackson Road (Highway 155).

Mr. Wilson noted the applicant had met all requirements for final plat approval for Sunshine Ridge and all departments and agencies have approved the plats.

On a motion by Commissioner Kendall and a second by Commissioner Davis to approve the final plat, the vote was 4-0-1 with Commissioner Morrow abstaining.

7. Consider acceptance of right-of-way (ROW) deed for Allison Drive and Kaitlin Circle located in Sunshine Ridge Subdivision off Jackson Road (Highway 155).

Mr. Wilson said Messrs. Charles Penny and Jake Garner were present to answer any questions regarding this right-of-way deed in Sunshine Ridge Subdivision.

On a motion by Commissioner Kendall and a second by Commissioner McDaniel to accept the right-of-way deed, the vote was 4-0-1 with Commissioner Morrow abstaining.

8. Consider approval of final plat for Meadowview Subdivision Phase II, located off Highway 362.

Mr. Wilson noted the applicant had met all requirements for final plat approval for Meadowview Subdivision Phase II, and all departments and agencies have approved the plats.

On a motion by Commissioner Davis and a second by Commissioner McDaniel to approve, the vote was unanimous at 5-0.

9. Consider acceptance of right-of-way (ROW) deed for Rolling Hill Drive and Dixon Circle located in Meadowview Subdivision Phase II off Highway 362.

Mr. Wilson noted these have been reviewed by the Public Works Department and their recommendation is to accept. Street names have to be cleared through 911 and the Tax Assessors Office so as to avoid duplication.

On a motion by Commissioner Davis and a second by Commissioner McDaniel to accept the right-of-way, the vote was unanimous at 5-0.

10. Consider setting a date for a Public Hearing to establish street lighting district for Meadowview Subdivision Phase II.

On a motion by Commissioner Kendall and a second by Commissioner Morrow, the vote was unanimous at 5-0 to set the date for the Public Hearing at November 1, 2004.

11. Consider setting a date for a Public Hearing to establish street lighting district for Sunshine Ridge Subdivision.

On a motion by Commissioner Kendall and a second by Commissioner McDaniel, the vote was 4-0-1 to set the date for the Public Hearing at November 1, with Commissioner Morrow abstaining.

12. Consider approval of revised final plat for The Cottages at Heron Bay, located off Trestle Road and Johnston Road Extension (Highway 155).

On a motion by Commissioner Kendall and a second by Commissioner Morrow, the vote to approve was unanimous at 5-0.

13. Consider approval of Actual Cost Utility Agreement with Department of Transportation for water line relocation on the State Route 16 widening project.

Mr. Wilson said Department of Transportation is actually going to pay the County \$222,347.23 to relocate these water lines.

On a motion by Commissioner Kendall and a second by Commissioner Morrow, the vote to approve was unanimous at 5-0.

14. Consider authorizing Chairman to execute Quit Claim Deed on abandoned portion of Trestle Road.

On a motion by Commissioner Morrow and a second by Commissioner McDaniel, the vote to approve the authorization was unanimous at 5-0.

15. Consider authorizing Chairman to execute Grant Award for purchase of services for Juvenile Offenders Program.

Mr. Wilson said this was a \$10,000 grant.

On a motion by Commissioner Davis and a second by Commissioner Morrow, the vote was unanimous at 5-0 to authorize the Chairman to execute the Grant Award.

16. Consider contract with The Griffin Gun Club for use of facilities for training purposes.

On a motion by Commissioner Morrow and a second by Commissioner Davis, the vote was unanimous at 5-0 to approve the contract.

17. Consider declaring old Shoup voting machines surplus and authorizing sale.

Mr. Wilson said they had been trying to sell these 67 machine for a year and a half, He wanted to keep one for posterity, but a company in New York would like to purchase the remaining 66 if the Board should so vote. They will pick them up on the following Wednesday.

On a motion by Commissioner Davis and a second by Commissioner McDaniel, the vote was unanimous at 5-0 to declare the equipment surplus and authorize the sale of 66 units.

18. Consider approval of resolution authorizing transmittal of the Spalding County Multijurisdictional Solid Waste Management Plan Update to the McIntosh Trail Regional Development Center and the Georgia Department of Community Affairs for review and approval.

On a motion by Commissioner Davis and a second by Commissioner Morrow, the vote to approve was unanimous at 5-0.

XIII) REPORT OF COUNTY MANAGER – N/A

Mr. Wilson was proud to report that Spalding County was one of the Pacesetter groups for United Way this year. They set a goal of \$7000 but actually raised in excess of \$10,800 for United Way. He thanked the Commissioners for their support.

Commissioner Morrow said Spalding County donated more to United Way last year than Henry County. This community is an extremely generous one.

At the next meeting on November 1, he will bring Johnson Controls Phase III project, which will replace the Health Department roof at a cost of approximately \$157,000. It replaces the roof on top and on the side.

Mr. Wilson noted he had received a request from Mr. Kevin Sellars, of Greedy Edy's, who would like to rent the corner of Solomon and Sixth Streets (the old Hill's Tire Store Building corner) to park his vending truck each weekday from 11 a.m. to 2 p.m. to sell hot dogs and food items to people in this area. He would like to begin this as quickly as possible. Mr. Wilson had previously told Mr. Sellars he did not believe the County would be interested, but Mr. Sellars asked that it be brought before the Board of Commissioners tonight.

Mr. Sellars explained that Greedy Edy's was located in the old Central Park building on West Taylor Street. He felt he could service quite a few of the people who work in this area and felt he could provide a quick, convenient meal for many who don't have a great deal of time to go elsewhere. He had his vending truck set up tonight and invited commissioners to come and have a hot dog on him as they leave the meeting. He understood they would be tearing down the old Hill's Tire Store building, but until that demolition process begins, he would like to be able to utilize this site.

Mr. Fortune said there could be some liability problems but, beyond that issue, to let this gentleman set up his vending operation would mean they would open up the door for others making similar requests. You must be careful of the gratuity clause and treat everyone alike.

Mr. Wilson said he had extreme reservations and had already declined once, but Mr. Sellars wanted him to bring it before the Board of Commissioners. His recommendation is to not allow the rental of this property.

The general consensus was to deny this request, but commissioners wished Mr. Sellars well.

XIV) REPORT OF COMMISSIONERS

Commissioner Morrow said he took Mr. Freeman with him to the ARC meeting last week. It surprised Mr. Freeman that Spalding County was playing in the multi-billion dollar big leagues. He expressed his concern that no commissioners had stepped up to fill this seat thus far. He felt the experience was very good for Mr. Freeman.

The citizens concerned with the Pinetree Circle sewer situation want to discuss matters further, and he would like to schedule a meeting Friday at 3 p.m. He requested Mr. Wilson add this to the calendar. He welcomed any who would like to come, particularly Commissioner Davis who, as a member of the Water Authority, had met with this group previously. Commissioner Morrow said it might be beneficial to have Brian Upson or one of his men at the meeting, as well. They are very interested. Some can afford it and some cannot.

Commissioner Morrow said he and Commissioner McDaniel cut the ribbon at Canongate today. These lots in Spalding County on the lake are awesome; the houses are \$500,000 to \$1,000,000, and the area is wonderful.

Commissioner Goss said he agreed with Chairman Kendall, after considerable deliberation and numerous phone calls, that it may be time to seriously consider doing away with some of the appeals and planning commissions, particularly the Board of Appeals. He's tired of hearing citizens complain about how they are treated.

Commissioner McDaniel concurred that the event he attended with Commissioner Morrow at Canongate Golf Course and Heron Bay today was excellent. He urged all who had not been to see the development to do so. They have spent \$2,000,000 in landscaping so far and have about that much more to go toward completion. It's well planned, well implemented, and well developed. They done everything they've been asked to do in excellent fashion.

Commissioner Morrow said the last four holes of the golf course are actually in Spalding County, and he felt they need to put up a "Welcome to Spalding County" sign there.

Chairman Kendall said he had mentioned to Mr. Wilson previously that someone told him surveillance cameras might possibly be installed in certain neighborhoods. He thought this was odd and asked Mr. Wilson to explore this situation and see if there is any truth to this rumor. Mr. Wilson said he had heard the rumor, as well. If, in fact, this proved to be true, he wanted to know exactly how something of this nature could have occurred. A client of his told him that a public official had indicated to him that surveillance cameras had been placed in certain areas of the community. This client was not the kind of person prone to wild accusations, so he lent the comment some credibility, and the prospect of this happening was worrisome to him. He was worried about the implications of invasion of privacy.

No other commissioners had heard of the practice.

Chairman Kendall urged great caution with regard to the water situation with the City of Griffin and felt the problem could escalate to greater and more troublesome proportions. If certain things are not resolved soon, water rates could rise to the point where they make gasoline prices look tame. It's high time for the Board of Commissioners to engage that situation on a continuous basis.

Commissioner McDaniel asked if the County had reached a decision on whether or not to proceed with an independent audit to resolve the City's claim of overpayment to the County of \$901,823.46.

Mr. Wilson said the Water Authority would discuss this at the upcoming meeting on Wednesday, and he would report back to the Board of Commissioners in November with a recommendation.

Commissioner Davis said he, Mr. Wilson and Ms. Garrison had discussed some of the problems and might have a proposal for the Board of Commissioners very soon.

XV) ADJOURNMENT

On a motion by Commissioner Kendall and a second by Commissioner Davis, the vote was unanimous to adjourn at 8:05 p.m.