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FAYETTE COUNTY LEGISLATIVE BODY

APRIL 28, 2009

BE IT REMEMBERED that the Fayette County Legislative Body met in regular session at the Bill G. Kelley Criminal Justice Complex in Somerville, Tennessee, on the 28th of April, 2009. Present and presiding was Chairman Rhea Taylor. Also present were the following: Sue W. Culver, Fayette County Clerk; James R. Riles, Sheriff; and the following County Commissioners: Ed Allen, Joann Allen, Steve Anderson, Charles Brewer, Joe B. Burnette, Jr., Larry Cook, Odis Cox, Lee "Sissy" Dowdle, John Dowdy, Ron Gant, Willie German, Jr., Ronald Harris, Tom Karcher, Bill Kelley, David Lillard, Sylvester Logan, George McCloud, Claude Oglesby, and Myles Wilson.

With all Commissioners present, a quorum was met.

The floor was opened to the public for comments on non-agenda items. Rick Ransom of 150 Cotton Gin Rd, Rossville, addressed the board stating that he recently had a matter that needed adjudicating, and he went before Judge Whitaker in the General Sessions Court of Fayette County. Mr. Ransom further stated that after the court hearing he appealed his case to a higher court and reported Judge Whitaker to the State Judicial Board. He suggested that the Commission look at revenues prior to Judge Whitaker's tenure, and for the same length of time since he took office and see if the county is not losing a great deal of revenue. He further stated that Judge Whitaker acted with no professionalism, and that the County is becoming an unsafe place to live and raise a family.

Julia McAfee addressed the Board and reminded the Commissioners to speak into the microphones because the audience could not hear.

The first item on the agenda was the approval of the minutes for the March 24, 2009 meeting. Motion was made to approve by Commissioner Wilson and seconded by Commissioner Dowdy. The motion was passed unanimously by the Board.

Commissioner Dowdle moved that the following notaries be approved: Lynn Riessen, Sandra K. Wade, and Debbie T. Webb. Motion was seconded by Commissioner Oglesby, and approved unanimously.

Commissioner Burnett moved that the following Farmer's Market Board Nominees be approved: William Garnett, Chairman; Jamie Jenkins; Kelley Landers; Tom Karcher; and Jim Miller. Motion was seconded by Commissioner Dowdy, and approved unanimously by the Board. Mayor Taylor stated that the building for the Farmer's Market should be up in about a week and the market should open shortly after that. The days of operation will be Tuesday, Friday, and Saturday, from 7AM until 1PM.

Written financial reports were submitted by the Fayette County Board of Education for February and March, 2009, and for the Board of Public Works for the month of March, 2009. Also the Fayette County Summary Financial Statement for March, 2009 was submitted.

Chairman Taylor reported for the County Mayor's Office, stating that the new budget packet was on the table, except for the Schools, and Public works Board. He stated that the bottom lines do not look good, but this is a work in progress. He also stated that a calendar and a list of committees showing which county official is to meet with which committee, on what date, to discuss the budgets of individual offices. Part of the

reason the budget is so difficult this time is the economy. Another reason, is that we have been depending on the growth of the county for funds, and since the growth has slowed down, the funds are not there. Also on the table was a letter from the Election Commission, which announced the installation of two new Board members. The Election Commission Board meets monthly and all County Commissioners are invited to attend the open meetings.

Chairman Taylor stated that the reappraisal notices had gone out and that the certified tax rate is approximately \$1.47. He noted that the Property Assessor had been very busy since the notices went out explaining how the tax rate works. The average increase in property value is approximately 18 per cent, and if your property value increased by 18 percent you will see no increase in your property taxes. If the increase in the appraised value is greater than 18 per cent, you can see an increase. If you do not agree with the appraised value of your property, you can appeal to the property assessor's office. If you do not get satisfaction there, you may appeal to the Board of Equalization. Then you may still appeal to the State of Tennessee Board of Equalization.

Commissioner Joann Allen asked if houses lost due to bankruptcy, foreclosures and auctions were taken into consideration in the reappraisal process. Mark Ward, Fayette County Property Assessor stated that they were not, that only arms length transactions would affect the data. Commissioner Burnett questioned Mr. Ward regarding the reappraisal of a house valued at \$555,000, which has been reappraised to \$730,000. Mr. Ward stated that the appraisal might show the square footage or land value incorrectly, and that it should be looked at by his office. Mr. Ward also noted that inquiries should be mailed or e-mailed as quickly as possible because they would need to be in prior to the County Board of Equalization's start-up in June. Mr. Ward, stated that citizens have several options for appealing the appraisal process.

No reports were given for the Sheriff's Department, Board of Education, or Juvenile Court.

Jim Smith, with the Public Works Board stated that \$367,500 of the Federal stimulus money would be coming to the county to repair the Treadwell Bridge on Feathers Chapel Road.

Barbra Parker, Trustee, submitted her annual combined statement of Cash receipts and disbursements.

There was no report from Planning and Development.

Commissioner Wilson reported for the Development Committee. He stated that the Committee had reviewed the Overgrown Vegetation Ordinance and decided to recommend approval to the full Commission. After a great deal of discussion, Commissioner Ed Allen moved that the ordinance be adopted contingent upon a change to page five (5), section (b) being changed to read "by publishing in the same once each week for two (2) consecutive weeks in 1 newspaper of local circulation," and that the ordinance be posted on the county's website. Motion was seconded by Commissioner Burnett, and passed unanimously as follows:

**RESOLUTION ADOPTING REGULATIONS GOVERNING THE
HEALTH AND SAFETY STANDARDS OF RESIDENTIAL
AND NON-RESIDENTIAL PROPERTIES**

WHEREAS, the purpose of this resolution is to provide regulatory standards for health and safety conditions of residential and nonresidential properties within the confines of Fayette County; and

WHEREAS, Tennessee Code Annotated, Section 5-1-115, authorizes counties to make any rules and regulations necessary for the prevention of dangerous conditions resulting from overgrown vegetation; accumulation of debris, trash, litter and garbage; or the presence of a vacant dilapidated building or structure; and

WHEREAS, there is a need in Fayette County for the regulation of residential and non-residential property for the health, safety, convenience and welfare of residents of the County; and

WHEREAS, the regulations set out herein are intended to address this need.

NOW THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Fayette County, Tennessee, meeting in regular session on the 28th day of April, 2009, in Somerville, Tennessee, that the following regulations be adopted:

**Regulations Governing the Health and Safety
Standards of Residential and Non-Residential Properties**

SECTION I - Appointment of Enforcement Officer and Hearing Board

- (a) These regulations shall be enforced by the Fayette County Building Commissioner (or his or her designee) who shall also be known as the Fayette County Codes Enforcement Officer (hereinafter referred to as "Enforcement Officer").

- (b) The Fayette County Health and Safety Standards Board (hereinafter referred to as "Hearing Board") shall consist of five (5) members to be appointed by the County Mayor subject to confirmation by the County Legislative Body. All members of the Hearing Board shall be appointed for four-year terms. This shall be the same board as approved by the Fayette County Commission on November 27, 2007 in the "Resolution Adopting Regulations Governing the Collection and Storage of Garbage, Litter Refuse and Rubbish."

Any compensation or authorization for reimbursement of expenses for the members of the Hearing Board shall be established by the County Legislative Body. Any vacancy, which occurs on the Hearing Board, shall be filled by the County Mayor subject to

confirmation by the County Legislative Body for the remainder of the term of the vacant position.

In addition to its responsibilities in hearing grievances pursuant to Section VI of these regulations, the Hearing Board shall also be charged with the responsibility of recruiting or coordinating efforts of community organizations, neighbors, religious institutions, and other agencies to provide assistance to persons who are not financially or physically able to comply on their own with the requirements of these regulations.

SECTION II - Property Standards

(a) Definitions:

As used in these regulations, the following terms are defined below. Any term not defined by this regulation shall be interpreted as having the meaning established by the 11th Edition of the Merriam-Webster's Collegiate Dictionary.

1. "Accumulation of debris, trash, litter, or garbage" means a state in which a significant quantity of solid waste products, decomposing matter, or personal property that has been discarded, damaged or which has little or no economic value or practical use is located on the property such that one or more of the following conditions results: the accumulation contributes to the infestation of the property by insects, rodents or other vermin; the accumulation creates an attractive nuisance or other danger to children; the debris, trash, litter or garbage spreads to adjacent properties by natural action of wind or water; the accumulation produces offensive odors that affect reasonable enjoyment of adjacent properties; the accumulation creates a risk to the health and safety of occupants of the property or other residents of the county; or the accumulation noticeably depresses the value of adjacent properties.
2. "Agriculture", as defined in TCA 1-3-105(2)(A), means:
 - (i) The land, buildings and machinery used in the commercial production of farm products and nursery stock;
 - (ii) The activity carried on in connection with the commercial production of farm products and nursery stock; and
 - (iii) Recreational and educational activities on land used for the commercial production of farm products and nursery stock.
3. "Dilapidated building or structure" means a structure that is unfit for human occupation or use due to conditions in or around such structure that are dangerous or injurious to the health or safety of the occupants of such structure, the occupants of neighboring structures or to the health or safety of other residents of the county, assuming ordinary health and sensibilities of a reasonable person. Such conditions may include but are not limited to: defects within the structure increasing the hazard of fire, accidents or other calamities, disrepair; structural defects; and unsanitary conditions.
4. "Owner" means the owner of record of the real property as established in

the records of the register of deeds and assessor of property.

5. "Neglect and overgrowth of vegetation" means a condition where trees, vines, grass, underbrush or other vegetation has been allowed to grow in such a manner as to endanger the health, safety or welfare of occupants of the property or other persons of the county or encourage the infestation of rats, insects or other harmful animals.
6. "Structure" means a building or construct intended for human occupation or use for residential, commercial, industrial or storage purposes. The term includes, but is not limited to houses, garages, commercial and industrial buildings, shops, storage buildings, and sheds. The term does not include structures built solely for occupation by animals.

(b) Regulations:

1. It shall be a violation of these regulations for any owner of property to create, maintain or permit to be maintained on property the obvious neglect and overgrowth of vegetation or the accumulation of debris, trash, litter, or garbage so as to endanger the health, safety, or welfare of other persons.
2. It shall be a violation of these regulations for any owner of property to create, maintain or permit to be maintained on property a vacant dilapidated building or structure that endangers the health, safety, or welfare of other persons.
3. It shall be a violation of these regulations for any owner of property to create, maintain or permit to be maintained on property any combination of the preceding elements so as to endanger the health, safety, or welfare of other persons.
4. It shall be a violation of these regulations for any owner of property to permit or allow to grow in height in excess of twelve (12) inches any weeds, brush, grass or other vegetation which is not edible or planted for some useful or ornamental purpose upon the land owned, occupied or leased by such person. This requirement shall only be enforced in a platted subdivision of more than three (3) lots in a R-2, R-3, or RPED district according to the Fayette County Zoning Resolution.
5. It shall be a violation of these regulations for any owner of property to allow any violation identified in 1 through 3 above to continue in, on or around any building, structure or property affected by this regulation.
6. Each day that one or more of the conditions described above exists or continues to exist shall constitute a separate violation of these regulations except to the extent that enforcement of the regulations are stayed pending a hearing as described in Section VI, below.

SECTION III - Owner Responsibilities

It is the obligation of the owner(s) of property to maintain such property to as not to endanger the health, safety, or welfare of county residents and/or so as not to violate the

terms of these Regulations. If said property fails to comply with the above-stated regulations, the property owner(s) is ultimately responsible and liable regardless of whether such condition was caused by a tenant, leaseholder or other person.

SECTION IV - Inspection Procedures

Whenever a petition is filed with the Enforcement Officer by at least three (3) owners or occupants of property that lies within one hundred (100) yards of the boundary of the property in question alleging that violation(s) of any of these regulations exist; or whenever the Enforcement Officer can visibly observe a violation from a public road, the Enforcement Officer shall, after making a preliminary investigation which discloses a basis for such violation, issue and cause to be served upon the owner of record of such properties a notice, in accordance with the provisions of Section V, stating the violations and requesting the condition to be remedied immediately.

SECTION V - Notice of Violation

- (a) The Enforcement Officer shall notify the owner of the property of the violation(s) of these regulations by personal service upon the owner or by United States Certified Mail, Return Receipt Requested, addressed to the last known address of the owner(s) of record. The notice of violation shall state that the owner of the property is entitled to a hearing. The notice of violation shall be written in plain language and shall also include, but not be limited, to the following elements:
1. A summary of the requirements of these regulations and a brief statement of the violations noted by the Enforcement Officer including the date the violations were noted;
 2. A brief statement of the authority granted to counties under T.C.A. § 5-1-115 and an explanation of the consequences and penalty of failing to remedy the violations of the regulations;
 3. The person, office, address and telephone number of the department or person giving notice;
 4. Instructions regarding what actions should be taken to remedy the violation together with a cost estimate for such which shall be in conformity with the standards of cost in the community; and
 5. An indication of the time frame during which the alleged violator must remedy the violation or request a hearing with information regarding the place wherein the notified party may return a copy of the notice of violation indicating the desire for a hearing or waiver of hearing and agreement to remedy the violation.
- (b) If the whereabouts of the owner(s) of record is unknown and the same cannot be ascertained by the Enforcement Officer in the exercise of due diligence or if for any

reason notice by Certified Mail, Return Receipt Request, cannot be obtained, the Enforcement Officer, after making an affidavit to that effect, may then serve notice of violation upon such person(s) by publishing the same once each week for two (2) consecutive weeks in a newspaper, and by posting of same on the county's website. A copy of such notice of violation shall be posted in a conspicuous place on the premises affected by the notice or order. A copy of such notice of violation shall also be filed for record in the county register's office and such filing of the notice of violation or order shall have the same force and effects as other lis pendens notices provided by law.

SECTION VI - Compliance and Appeals

- (a) Upon receipt of the notice of violation as provided hereinabove, the property owner shall proceed forthwith to take appropriate measures to comply with these regulations or to request a hearing before the Hearing Board established in Section 1 of these regulations. Pursuant to T.C.A § 5-1-115 a request for hearing shall be made within ten (10) days following receipt of said notice of violation. If the property owner does not request a hearing, he or she shall take appropriate action to remedy the violation within ten (10) days of receipt of the notice of violation unless the owner of record is a carrier engaged in the transportation of property or is a utility transmitting communications, electricity, gas, liquids, steam, sewerage or other materials in which case the owner shall have twenty (20) days to remedy the violation, excluding Saturdays, Sundays and legal holidays.
- (b) If the property owner timely requests a hearing as provided herein, the Hearing Board shall, within a reasonable time following the receipt of the request for hearing, hold a hearing on the issue of the appropriateness of the requirements imposed on the property owner and the issue of cost of remedying the condition. The time period established herein for remedying violations shall be stayed pending review by the Hearing Board. Failure to make the request for a hearing within the time limit allowed by this regulation shall, without exception, constitute a waiver of right to a hearing and judicial review.
- (c) The hearing shall be conducted as an initial hearing with the burden of proof resting on the Enforcement Officer to demonstrate, by a preponderance of the evidence that the alleged violation exists. Immediately following the hearing, the Hearing Board may:
 - 1) Dismiss the notice of violation and such notice shall become ineffective;
 - 2) May confirm the notice of violation;
 - 3) May modify the notice of violation; or
 - 4) Grant a continuance at the request of either party if the Hearing Board considers the continuance appropriate.

The affirmative vote of three Hearing Board Members shall constitute action by the

Hearing Board.

- (d) Any person aggrieved by an act of the Hearing Board under the provisions of this regulation may seek judicial review of same under Tennessee Code Annotated, Title 27, Chapter 8, Part 1.

SECTION VII - Remedies and Penalties

- (a) If the owner fails to comply with the notice within ten (10) days of receipt of same, subject to stay pending review and any modifications made pursuant to review as provided for above, the Hearing Board may cause such property to be repaired, altered or improved or be vacated and closed, removed or demolished as necessary to remedy the condition. Subject to approval by the County Legislative Body, the Hearing Board may contract with a private entity to perform the work or request such work to be performed by a department or agency of the county. In contracting for such services from a private entity, the Hearing Board shall comply with all applicable purchasing procedures of the county. The costs of such action shall be assessed against the owner of the property. Upon performance, the actual cost of such repairs, alterations or improvements or vacating and closing or removal or demolition by the county or its agent shall, upon the filing of a notice with the office of the register of deeds, be a lien in favor of the county against the real property on which such cost was incurred, second only to liens of the state and county for taxes, any lien of the county for special assessments, and any valid lien, right or interest in such property duly recorded or duly perfected by filing prior to the filing of such notice. The notice of lien shall identify the owner of record of the real property, contain the property address, describe the property sufficiently to identify it and recite the amount of the obligation secured by the lien. These costs shall be collected by the county trustee at the same time and in the same manner as property taxes are collected.
- (b) Owner(s), individually and/or jointly, of property found to be in violation of these Regulations shall be subject to a civil penalty of not more than fifty dollars (\$50.00) for each offense. Each and every day during which such violation exists or continues after notice has been provided to the property owner and the time for appeal or compliance has expired shall be deemed a separate offense.
- (c) Pursuant to T.C.A. §§ 5-1-121 and 5-1-123, such penalties may be assessed by the General Sessions Court of Fayette County in exercise of its powers to enforce these regulations. Action to pursue such penalties in the General Sessions Court shall be instituted at the request of the Enforcement Officer or Hearing Board by the County Attorney or other legal counsel designated by the County Legislative Body.

SECTION VIII - Exceptions

- (a) The provision of Section VI(a) of this regulation permitting Fayette County to remedy

conditions pursuant to T.C.A. § 5-1-115(c) and place a lien for the costs of remedying the violation on the property shall not apply to any parcel of property upon which an owner-occupied residence is located. Enforcement of these regulations upon owner-occupied properties shall be accomplished solely by civil penalties assessed in General Sessions Court.

- (b) The county shall only undertake to remove motor vehicles in accordance with the provisions of T.C.A. §§ 55-16-101, *et seq.* and in accordance with the limitations of T.C.A. § 55-5-122.
- (c) This regulation shall not apply to any business operated pursuant to the Tennessee Solid Waste Disposal Act, Tennessee Code Annotated, Section 68-221-1101, *et seq.*
- (d) This regulation shall not apply to any agricultural buildings nor to any agricultural enterprise.

SECTION IX - Rules and Record Keeping

- a) In addition to these regulations, the Hearing Board may promulgate any additional rules and regulations necessary for the administration and enforcement of these regulations subject to approval by the County Legislative Body.
- b) The Enforcement Officer shall serve as the record keeper for the Hearing Board and shall maintain all minutes and records of the Hearing Board. The Enforcement Officer shall also keep a record of the following information regarding petitions, inspections and enforcement actions:
 - 1) all petitions filed with his or her office;
 - 2) the address of any property found to be in violation of this regulation;
 - 3) the mileage driven in performing investigations;
 - 4) a copy of all notices delivered to property owners found to be in violation of this regulation and any expenses associated therewith;
 - 5) all waivers of hearing and agreements to remedy violations;
 - 6) all requests for hearing received;
 - 7) orders and decisions issued by the Hearing Board; and
 - 8) copies of all requests for judicial review and final decision of the judicial review.

The Enforcement Officer shall submit an annual report summarizing this information to the County Legislative Body each year at the first meeting of the county legislative body

each calendar year.

SECTION X - Effective Date

After passage of this regulation, the county clerk shall cause this regulation to be published in a newspaper of general circulation within the county. This regulation shall be come effective sixty (60) days after its passage, the public welfare requiring it.

SECTION XI - Severability and Conflict with Other Resolutions

- (a) If any provision of this regulation or the application thereof to any person or circumstance shall be held to be invalid or unconstitutional by any court of competent jurisdiction, such invalidity shall not affect other provisions or applications of this regulation which can be given effect without the invalid provision or application, and to that end, the provisions of this regulation are declared to be severable.
- (b) All resolutions of the Board of County Commissioners of Fayette County, Tennessee, which are in conflict with this regulation, are hereby repealed.

This resolution was adopted by the Fayette County Legislative Body on the 28th day of April, 2009.

Approved:

Attested:



County Mayor



County Clerk

Commissioner German reported for the Health and Welfare Committee. The committee heard a report from Dana Pittman regarding the ambulance service runs, which have not changed substantially between 2005 and 2008.

There were six (6) presentations by six (6) firms or individuals for health insurance for county employees. These presentations will be studied further and brought back at the next or subsequent meetings.

The Farmer's Market Board nominees were discussed and recommended for approval, as previously approved.

The Committee also discussed the Animal Control Ordinance as presented and moved to recommend it to the full Commission for approval. Commissioner German moved that the ordinance be approved, with an effective date of June 1, 2009. motion was seconded by Commissioner Cook. After much discussion, including comments from Dana Pittman, Kay Turner of 9185 Feathers Chapel Road, and Dr. J. R. Vaughan, retired veterinarian, who stated that people should not be penalized "for doing the right thing" regarding fees for registration, and the County should find and penalize those people who are not vaccinating their dogs. Commissioner Ed Allen moved to amend the motion for the exemptions for fees to owners with 10 or more animals, to include private citizens with 10 or more animals to care for and to include a cap of \$50. This motion was seconded by Commissioner Joann Allen, who asked for a roll call vote on the amendment.

Voting "YES": Commissioners Ed Allen, Joann Allen, Brewer, Burnett, Cox, Dowdle, Dowdy, German, Harris, Lillard, McCloud, Oglesby, and Wilson (13)

Voting "NO": Anderson, Cook, Gant, Karcher, Kelley, (5)

"PASSING" Commissioner Logan

The Amendment passed.

The Board then voted on the original motion.

Voting "YES": Commissioners Ed Allen, Joann Allen, Anderson, Brewer, Burnette, Cox, Dowdle, Dowdy, Harris, Lillard, McCloud, Oglesby, and Wilson (13)

Voting "NO": Commissioners: Cook, Gant, German, Karcher, and Kelley (5)

"PASSING" Commissioner Logan

The original motion passed as follows:

ANIMAL CONTROL ORDINANCE FAYETTE COUNTY April 2009

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SECTION 1. DEFINITIONS The following definitions apply in the interpretation and enforcement of this Act.

Animal - Means any member of the lower species, as distinguished from man, required to have a rabies vaccination according to the standards contained in the rabies compendium or issued by the United States Department of Agriculture and not considered "livestock" pursuant to Tennessee law.

Animal control director – The person, named by the Sheriff of Fayette County, who has overall responsibility for the Fayette County animal control program and the Fayette County Animal Control Facility.

Animal control officer - Any person under the supervision of the Animal Control Director authorized to perform any and all duties assigned by the Animal Control Director related to animal control and the Fayette County Animal Control Facility.

Business Day - Any eight (8) hour day (Monday through Friday) that the Fayette Animal Control Facility is open to the public for regular business.

Compendium or rabies compendium - means the most recent issue of the national "Compendium of Animal Rabies Prevention and Control" published by the Association of State Public Health Veterinarians.

Own – Means have (property rights in and to), harbor, keep, have charge, custody, control or possession of an animal, and to cause or permit an animal to remain on your property, or provide food, water or shelter to an animal.

Owner - Means any person, partnership or corporation who has (property rights in and to), harbors, keeps, has charge, custody, control or possession of an animal, who causes or permits an animal to remain on their property and/or who feeds, waters or shelters an animal.

Specified fees: For the purposes of this section, specified fees are defined as all fees and expenses related to the impoundment, vaccination, and licensing of an animal and, if applicable, any and all other expenses related to the animal, including but not limited to any actual costs incurred for emergency medical attention needed to treat and make an animal comfortable during its impoundment incurred by Fayette County Animal Control. All specific fees are to be reviewed and set by the Fayette County Legislative Body annually after public hearing.

Vaccination – Means the injection of a rabies vaccine for animals that meets the guidance or standards contained in the rabies compendium or issued by the United States Department of Agriculture.

Volunteer – Means any person, under the direction and supervision of the Fayette County Animal Control Director, officer(s) or staff, providing aid in the care of animals or animal control facilities who: (1) performs hours of service for civic, charitable, or humanitarian reasons, without promise, expectation, or receipt of compensation for services rendered; (2) offers his or her service freely and without pressure or coercion; and (3) is not otherwise employed by Fayette County to perform the same services as those for which a person proposes to volunteer.

Veterinarian - Any veterinarian licensed by the State Board of Veterinary Medical Examiners to practice veterinary medicine in the State of Tennessee.

SECTION 2. ANIMAL CONTROL DIRECTOR

The Fayette County Sheriff shall see that the duties of the Animal Control Director, as described in this ordinance, are carried out.

SECTION 3. BUDGETING

The budget of the animal control program will consist of revenues from all charges, fees, fines and county funds provided under authority of this act, and any donations, gifts and appropriations made by any individual or participating entity. The animal control program will be budgeted within the funds under supervision of the Fayette County Sheriff's Department. Any excess funds from all charges, fees, fines and/or donations and any gifts and/or appropriations made by any individual or participating entity at the end of any fiscal year will be carried over to the next fiscal year and used for the purposes of this act.

SECTION 4. CUSTODY OF FUNDS: EXPENDITURES

All funds received by or in behalf of the Fayette County Animal Control by the Animal Control Director, its employee(s) or agent(s) on its behalf, and/or volunteers will be promptly deposited with the Fayette County Trustee. These funds will be tracked in order to make sure that all funds collected through the animal control program are used for the purpose of running the animal control program.

SECTION 5. LICENSING OF ANIMALS – RABIES VACCINATION, CERTIFICATE, LICENSE AND TAG REQUIRED

It is unlawful for any person to own, keep or harbor any animal six (6) months of age or older that has not been vaccinated against rabies and licensed as required by this Act, or the rules and regulations promulgated pursuant to this Act, and state law.

Animal owners who have animal(s) in their possession for more than seven (7) days must have them vaccinated for rabies, or provide evidence of prior rabies vaccination, and obtain evidence of rabies vaccination to apply for and obtain a license from Fayette County Animal Control or a veterinarian. Evidence of rabies vaccination will consist of a certificate bearing the animal owner's name and address, number of the tag issued, date of vaccination, description (including species and sex of the animal), whether the animal is altered or intact, type and lot number of the vaccine administered, and the signature of the person administering the vaccine. The original is to be given to the animal owner, one copy is to be filed with Fayette County Animal Control, and another copy retained by the person administering the vaccine. All rabies vaccinations of animals as required by this Act will be administered by or under the supervision of a veterinarian.

Once an animal owner has met the requirements of this section and paid any and all specified costs for vaccination and licensing, Fayette County Animal Control or veterinarian(s) acting as issuing agent(s) on behalf of Fayette County Animal Control will issue a license for the animal to the owner along with a tag bearing the serial number on the rabies certificate and applicable twelve (12) month period for which the license is valid. The license must thereafter be purchased annually on the same basis in advance of its expiration date.

It is the duty of all dog owners to secure a license tag to their dog(s)'s collar(s), to be worn at all times. Cats are exempt from this provision.

It is the duty of the animal owner to keep the animal's current certificate of vaccination and license receipt ready for inspection and to present both when requested by a properly authorized animal control officer or sheriff's deputy designated to enforce the provisions of this section.

The provisions of this section will not apply to nonresidents traveling through the County or staying temporarily for a period of less than thirty (30) days.

All provisions of this section are to be construed to ensure compliance with Tennessee State law regarding rabies.

Exemption:

Any person or organization that provides shelter, food and medical care for ten or more abused, abandoned and/or rescued cats and/or dogs may apply for an exemption from the licensing fee for the animals in their care by submitting an Application for Exemption annually to the Animal Control Director. Upon receipt of an Application for Exemption, the Animal Control Director or his designee shall conduct an on-site inspection of the applicant's premises to insure that the animals are adequately housed and cared for and that the animals have been vaccinated for rabies. If the applicant passes the on-site inspection, the applicant shall pay the exemption fee set forth in the current fee schedule and shall be issued a License Fee Exemption Certificate bearing an expiration date of one year from the date of issuance. Upon presentation of a valid License Fee Exemption Certificate at the time that an animal is vaccinated for rabies, a license and a tag as set forth in this section shall be issued for the animal at no charge. Any person or organization that has been issued a License Fee Exemption Certificate is subject to all other regulations contained in the Act.

This exemption shall not apply to breeders or to owners of animals maintained for sport.

SECTION 6. FEE TO LICENSING AGENT, LOST TAGS

Veterinarians acting as issuing agents of Fayette County Animal Control for the purpose rabies licensing are entitled to an issuing fee for each license issued, which will be deducted from the fee due to the county.

No veterinarian(s), as issuing agent(s) of Fayette County Animal Control, who provides services to vaccinate animals against rabies at a rabies clinic sponsored by Fayette County Animal Control will, by such participation, assume any responsibility or liability for the supervision of the site or location where the rabies program is conducted. Such responsibility and liability will be borne by Fayette County Animal Control.

Lost tag: In the event an animal's rabies tag or license is lost, stolen or unavoidably mutilated, damaged or destroyed, Fayette County Animal Control may, upon sworn application of the animal owner setting forth the facts in connection therewith and after investigation thereof, issue a duplicate license and tag upon payment of a five (5) dollar fee.

SECTION 7. ADMINISTRATION OF RABIES CONTROL PROGRAM

It is the duty of Fayette County Animal Control to administer the rabies control program for the county, under the direction and supervision of the State Department of Public Health as provided by state law.

SECTION 8. SUSPICION OF RABIES, CONFINEMENT OR QUARANTINE, INVESTIGATION

As required by state law TCA 68-8-109:

(a) If any animal has bitten any person, is suspected of having bitten any person or is for any reason suspected of being infected with rabies, the animal shall be required to be placed under observation either by confinement or by quarantine for a period of time deemed necessary by Fayette County Animal Control and pursuant to State Law.

(b) Fayette County Animal Control is responsible for investigating any and all bite(s) or rabies exposure and for placing the animal under observation either by confinement or quarantine.

(c) The confinement, quarantine or other disposition of the animal will follow the current recommendations in the national rabies compendium unless more specific guidelines are designated by duly promulgated rules of Fayette County Animal Control to protect the public's health.

(d) The observation period by confinement or quarantine may occur at the animal owner's home at the discretion of the department or the animal control program.

SECTION 9. IMPOUNDMENT AUTHORIZED

The animal control officer and/or Fayette County Sheriff's deputies are authorized to capture, confine and/or impound any animal found in the county whose animal owners are in violation of the provisions in this Act. Also, all stray animals may be captured, confined, impounded and returned to the animal owner, if known, or disposed of (euthanized or adopted out) in accordance with the provisions of this Act. The owner of an animal impounded by animal control is required to correct any and all deficiencies in compliance with the provisions of this Act and remit all specified fees. If proof of rabies vaccination cannot be shown, the animal owner is required to have the animal vaccinated and pay all specified fees prior to redemption of the animal by the animal owner.

SECTION 10. EMERGENCY DISPOSAL AUTHORIZED - CONSENT

When it is not practical or too dangerous for animal control officers to capture, confine and/or impound an animal(s); when the animal has sustained injuries and/or is ill; and/or if the animal poses an immediate and eminent threat of death or injury to a human, a Fayette County Sheriff's Deputy may humanely dispose of the animal immediately if the animal owner is unknown. If the animal owner is known, the owner is to be notified, if reasonably practicable given the situation, and the animal will not be disposed without the consent of the animal owner unless the Fayette County Sheriff's Deputy, in his/her discretion, believes the immediate disposal of the animal is necessary to protect the public welfare, in which case he or she may dispose of the animal in a humane manner as long as doing so poses no risk of injury or death to others.

SECTION 11. CHARGES AND FEE SCHEDULE

- a) The fee for registering a dog or cat in Fayette County is five (5) dollars annually. Any veterinarian who collects the fee may charge a one (1) dollar administration fee to the owner of the animal.
- b) Exemption Fee (10 dogs/cats or more) \$50.00

SECTION 12. ENFORCEMENT OF ACT

It is the duty of Fayette County Animal Control and/or the Fayette County Sheriff's Department to enforce the provisions of this Act in unincorporated areas of Fayette County and each will have the power and authority to issue a citation(s) to appear in a court of the State of Tennessee having jurisdiction against any animal owner not in compliance with the provisions of this Act. Animal owners failing to comply with the provisions of this Act are subject to a civil penalty of fifty dollars (\$50.00) per day, each day being considered as a separate offense.

The committee also heard a report from Solid Waste on recyclables at Oakland and Hickory Withe.

The Personnel Committee did not meet.

Commissioner Dowdy reported for the Criminal Justice and Public Safety Committee. The Committee discussed a noise ordinance, but tabled it for more information. Fire Chief Jerry Ray reported on the general status of the fire department.

The Education Committee did not meet.

Commissioner Harris reported for the Budget Committee.

Commissioner Harris moved that the following amendment to the County General Fund be approved. Motion was seconded by Commissioner Oglesby, and passed unanimously.

RESOLUTION

BE IT RESOLVED, by the County Legislative Body and/or the Board of County Commissioners of Fayette County, Tennessee, in regular sessions on this 28th day of April, 2009, it being the fourth Tuesday of the month and the regular monthly meeting of the County Legislative Body in the Courthouse in Somerville, Tennessee.

That the General Fund #101 Budget Amendment be amended in the following words and figures, to-wit:

COUNTY GENERAL FUND
BUDGET AMENDMENT
F/Y 08/09
April, 2009

<u>Adjustment to Revenue Accounts:</u>	INCREASE	DECREASE
43360 Library Fees		\$ 800.00
47990 Other Direct Federal Revenue		<u>\$ 2,140.00</u>
TOTAL INCREASE/DECREASE TO REVENUE ACCOUNTS		\$ 2,940.00

<u>Adjustment to Expenditure Accounts:</u>	INCREASE	DECREASE
<u>54310 Fire Prevention</u>		
322 Evaluation & Testing		\$ 1,200.00
335 Maint & Repair-Buildings		2,000.00
338 Maint & Repair-Vehicles	\$ 2,000.00	
425 Gasoline	1,200.00	
442 Propane Gas	2,000.00	
451 Uniforms		2,000.00
707 Building Improvements		40,000.00
718 Motor Vehicles	<u>40,000.00</u>	<u> </u>
Subtotal-54310	\$ 45,200.00	\$ 45,200.00

<u>56500 Library</u>		
348 Postal Charges	\$ 600.00	
355 Travel		\$ 300.00
432 Library Books/Media		2,600.00
499 Other Supplies & Materials	800.00	
599 Other Charges	300.00	
709 Data Processing Equipment	<u>2,000.00</u>	<u> </u>
Subtotal-56500	\$ 3,700.00	\$ 2,900.00

TOTAL INCREASE/DECREASE TO EXPENDITURE ACCOUNTS	\$48,900.00	\$48,100.00
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Prior Estimated Expenditures	\$13,133,171.00
Total Estimated Expenditures this Amendment	\$13,133,171.00
Projected Fund Balance before Amendment	\$ 2,378,840.00
Change in Fund Balance this Amendment	00.00
Estimated Ending Fund Balance as of June 30, 2009	\$ 2,378,840.00

Commissioner Harris moved that the following amendment to the Adequate Facilities/Development Fund be approved. Motion was seconded by Commissioner Burnette, and passed unanimously by the Board.

BE IT RESOLVED, by the County Legislative Body and/or the Board of County Commissioners of Fayette County, Tennessee, in regular session on this 28th day of April, 2009, it being the fourth Tuesday of the month and the regular monthly meeting of the County Legislative Body in the Courthouse in Somerville, Tennessee.

That the Adequate Facilities/Development Tax Fund #125 Budget Amendment be amended in the following words and figures, to-wit:

**ADEQUATE FACILITIES/DEVELOPMENT FUND
BUDGET AMENDMENT
FY 08/09
April, 2009**

<u>Adjustment to Revenue Account:</u>	INCREASE	DECREASE
40285 Adequate Facilities/Development Tax		\$ 265,358.00
99100-590 Transfers Out/Transfers To Other Funds	\$ 265,358.00	_____
TOTAL INCREASE/DECREASE TO REVENUE ACCOUNT	\$ 265,358.00	\$ 265,358.00

**HIGHWAY/PUBLIC WORKS FUND
FUND 131
BUDGET AMENDMENT**

<u>Adjustment to Revenue Account:</u>	INCREASE	DECREASE
49800 Transfers In	\$ 265,358.00	
TOTAL INCREASE/DECREASE TO REVENUE ACCOUNT	\$ 265,358.00	

Commissioner Harris moved that the following amendment to the "other capital Projects Budget Amendment" be approved. Motion was accepted by Commissioner Oglesby and approved unanimously by the Board.

BE IT RESOLVED, by the County Legislative Body and/or the Board of County Commissioners of Fayette County, Tennessee, in regular session on this 28th day of April, 2009, it being the fourth Tuesday of the month and the regular monthly meeting of the County Legislative Body in the Courthouse in Somerville, Tennessee.

That the Other Capital Projects Fund #189 be amended in the following words and figures, to-wit:

OTHER CAPITAL PROJECTS
BUDGET AMENDMENT
FY 08/09
April, 2009

<u>Adjustment to Revenue Accounts:</u>	INCREASE	DECREASE
49800 Transfers In	<u>\$ 2,140.00</u>	
TOTAL INCREASE/DECREASE TO REVENUE ACCOUNT:	\$ 2,140.00	
 <u>Adjustment to Fund Balance:</u>		
39000 Undesignated Fund Balance		<u>\$ 2,140.00</u>
TOTAL INCREASE/DECREASE TO FUND BALANCE:		\$ 2,140.00
 <u>Adjustment to Expenditure Account:</u>		
91190 Other General Government Projects		
724 Site Development	<u>\$ 2,140.00</u>	
Subtotal-91190	\$ 2,140.00	
TOTAL INCREASE/DECREASE TO EXPENDITURE ACCOUNT:	\$ 2,140.00	
 Change in Fund Balance This Amendment:		 \$ 00.00

Commissioner Harris moved that the Property reappraisal be changed from a six year cycle to a four year cycle, and that the Property Assessor be authorized to negotiate with the contractor he is wanting to hire regarding fees and bring a figure back to the Commission in May. The motion was seconded by Commissioner Dowdy.

Commissioner Burnett moved to table the matter until the next County Commission meeting, and that motion was seconded by Commissioner Cook.

A roll call vote was taken with the following results:

Voting "YES": Commissioners Ed Allen, Joann Allen, Anderson, Brewer, Burnett, Karcher, Kelley, Lillard, and McCloud (9)

Voting "NO": Commissioners Cook, Cox, Dowdle, Dowdy, Gant, German, Harris, Logan, Oglesby, and Wilson (10)

The motion to table the matter failed.

The original motion to pass the resolution regarding a continuous four (4) year reappraisal cycle, and that the Property Assessor be authorized to negotiate with the contractor he is wanting to hire regarding fees and bring a figure back to the Commission in May, was then voted on. Again a roll call vote was taken, with the following results:

Voting "YES": Commissioners Brewer, Burnett, Cox, Dowdle, Dowdy, Gant, German, Harris, Logan, Oglesby, and Wilson (11)

Voting "NO": Commissioners Ed Allen, Joann Allen, Anderson, Cook, Karcher, Kelley, Lillard, and McCloud (8)

Thereupon the motion passed.

WHEREAS, Tennessee Code Annotated Section 67-5-1601 requires periodic reappraisal of each jurisdiction in Tennessee imposing a property tax, based on an initial schedule developed by the State Board of Equalization; and

WHEREAS, Fayette County has been scheduled for reappraisal by the State Board of Equalization and directed pursuant to Tennessee Code Annotated Section 67-5-1601 to submit a plan of reappraisal; and

WHEREAS, the law requires the governing body of reappraisal jurisdictions to review the reappraisal plan and communicate to the State Board of Equalization whether said governing body approves or disapproves of such plan, and

WHEREAS, the county commission of Fayette County has reviewed the county's proposed reappraisal plan and desires to communicate the results of its review to the State Board of Equalization as required by law; now, therefore,

BE IT RESOLVED BY THE COUNTY COMMISSION OF FAYETTE COUNTY, that we hereby _____ said plan of reappraisal and direct that this resolution

(approve or disapprove)

be forwarded to the State Board of Equalization with such explanatory comments as are approved by the Commission in adopting this resolution.

Resolution duly adopted this _____ day of _____, _____.

County Mayor

ATTEST:

County Clerk

Commissioner Harris moved that the Property Assessor's Bond be approved.
Motion was seconded by Commissioner Dowdy, and passed unanimously.

SURETY'S BOND NO. 60825662

STATE BOND FORM
COB-7(82)

STATE OF TENNESSEE
COUNTY OF Fayette
OFFICIAL STATUTORY BOND
FOR
COUNTY PUBLIC OFFICIALS
OFFICE OF Assessor of Property

KNOW ALL MEN BY THESE PRESENTS:

That Mark A. Ward
of Somerville (City or Town), County
of Fayette Tennessee, as Principal, and WESTERN SURETY COMPANY

as Surety, are held and firmly bound unto THE STATE OF TENNESSEE in the full amount of Ten Thousand and 00/100
Dollars (\$ 10,000.00)
lawful money of the United States of America for the full and prompt payment whereof we bind ourselves, our representatives,
successors and assigns, each jointly and severally, firmly and unequivocally by these presents.

WHEREAS, The said Principal was duly _____ elected X appointed to the office of Assessor of Property
of and for Fayette County for the (4) year term beginning on the 1st day of
September, 2008 and ending on the 31st day of August, 2012

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION IS SUCH:

That if the said Mark A. Ward, Principal, shall:

fail to perform the duties of the office of Assessor of Property of Fayette
County during the term of office or his continuance therein; and

fail to receive, hold, or deliver to the persons authorized by law to receive them, all monies, properties, or things of value that may come into his
hands during his term of office or his continuance therein without fraud or delay, and shall faithfully and safely keep all
records required of him in his official capacity, and at the expiration of his term, or in case of his resignation or removal from
office, shall turn over to his successor all records and property which have come into his hands, then this obligation shall be
null and void otherwise to remain in full force and effect.

WITNESSE our hands and seals this 23rd day of April, 2008

WITNESS - ATTEST:

Beverly Feathers
Tennessee Resident Agent

PRINCIPAL:

Mark A. Ward

SURETY:

WESTERN SURETY COMPANY

by:

Paul T. Bruflat
Paul T. Bruflat, Senior Vice President
(Attach evidence of authority to execute bond)

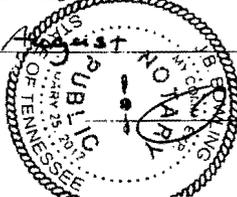
ACKNOWLEDGMENT OF PRINCIPAL

STATE OF TENNESSEE
COUNTY OF Fayette

Before me, a Notary Public, of the State and County aforesaid, personally appeared Mark A. Ward
with whom I am personally acquainted and who, upon oath, acknowledged himself to be the individual who executed the foregoing
bond, and he acknowledged to me that he executed the same.

WITNESS my hand and seal this 12th day of August, 2008

My Commission Expires:
01-25-2012



B. Feathers
Notary Public

Western Surety Company

POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS:

That WESTERN SURETY COMPANY, a corporation organized and existing under the laws of the State of South Dakota, and authorized and licensed to do business in the States of Alabama, Alaska, Arizona, Arkansas, California, Colorado, Connecticut, Delaware, District of Columbia, Florida, Georgia, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin, Wyoming, and the United States of America, does hereby make, constitute and appoint

Paul T. Bruffat of Sioux Falls
State of South Dakota, its regularly elected Senior Vice President
as Attorney-in-Fact, with full power and authority hereby conferred upon him to sign, execute, acknowledge and deliver for and on its behalf as Surety and as its act and deed, the following bond:

One ASSESSOR OF PROPERTY COUNTY OF FAYETTE

bond with bond number 60825662

for MARK A. WARD
as Principal in the penalty amount not to exceed: \$10,000.00

Western Surety Company further certifies that the following is a true and exact copy of Section 7 of the by-laws of Western Surety Company duly adopted and now in force, to-wit:

Section 7. All bonds, policies, undertakings, Powers of Attorney, or other obligations of the corporation shall be executed in the corporate name of the Company by the President, Secretary, any Assistant Secretary, Treasurer, or any Vice President, or by such other officers as the Board of Directors may authorize. The President, any Vice President, Secretary, any Assistant Secretary, or the Treasurer may appoint Attorneys-in-Fact or agents who shall have authority to issue bonds, policies, or undertakings in the name of the Company. The corporate seal is not necessary for the validity of any bonds, policies, undertakings, Powers of Attorney or other obligations of the corporation. The signature of any such officer and the corporate seal may be printed by facsimile.

In Witness Whereof, the said WESTERN SURETY COMPANY has caused these presents to be executed by its Senior Vice President with the corporate seal affixed this 23rd day of April, 2008

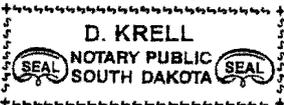
ATTEST
L. Nelson
L. Nelson, Assistant Secretary

WESTERN SURETY COMPANY
By Paul T. Bruffat
Paul T. Bruffat, Senior Vice President



STATE OF SOUTH DAKOTA }
COUNTY OF MINNEHAHA } ss

On this 23rd day of April, 2008, before me, a Notary Public, personally appeared Paul T. Bruffat and L. Nelson
who, being by me duly sworn, acknowledged that they signed the above Power of Attorney as Senior Vice President and Assistant Secretary, respectively, of the said WESTERN SURETY COMPANY, and acknowledged said instrument to be the voluntary act and deed of said Corporation.



D. Krell
Notary Public



Commissioner Harris moved that the County enter into a contract with Dana Pittman for her to evaluate the Edulog software and to confer with Edulog and local participants to make sure the information fit in the software. The offer was for \$15 hr and will cap at the amount of \$15,000. The motion was seconded by Commissioner Logan, and passed unanimously.

Commissioner Dowdle moved that the Quitclaim Deed submitted by Attorney Bill Rhea on behalf of GBC, LLC for railroad property upon payment of costs to the County. Motion was seconded by Commissioner Cook. Commissioner Anderson stated that he wished to go on record as voting no for any transfer of railroad property for which the county received less than fair market value. The motion passed with 18 commissioners voting "YES" and Commissioner Anderson voting "NO".

Commissioner Wilson moved that the resignation of Ricky Hoskins as Chairman of the Board of Education be accepted. Mr. Hoskins has been appointed Police Chief for the City of Somerville, and is no longer available to serve on the Board. Motion was seconded by Commissioner Oglesby and passed unanimously by the Board.

Commissioner Anderson moved that Circuit Court Clerk Connie Doyle be asked to present a summary of the revenue collected by her office for the 2 1/2 year period preceding the election of Judge Mike Whitaker, and another summary of the revenue collected during the first 2 1/2 year period following his taking office so that the Commission may study the differences in revenue. Motion was seconded by Commissioner McCloud and passed unanimously by the Board.

With no further business before the Board, the meeting was adjourned.

Rhea Taylor, County Mayor

Sue W. Culver, County Clerk