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FAYETTE COUNTY LEGISLATIVE BODY

NOVEMBER 24, 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 24th day of November, 2009. Present and presiding was Chairman Rhea Taylor. Also present were the following: Sue W. Culver, County Clerk; James R. "Bobby" Riles, Sheriff; and the following County Commissioners: Ed Allen, Joann Allen, Steve Anderson, Charles Brewer, Larry Cook, Odis Cox, Lee "Sissy Dowdle, John Dowdy, Ron Gant, Willie German, Jr., Ronnie Harris, Tom Karcher, Bill Kelley, David Lillard, George McCloud, Claude Oglesby, and Myles Wilson.

Absent were Commissioners Joe B. Burnette, Jr. and Sylvester Logan. A quorum was met with 17 Commissioners present.

The floor was opened to the public for comments on non-agenda items. No one came forth, and the public hearing was closed.

Commissioner McCloud moved that the minutes from October 27, 2009, be approved. The motion was seconded by Commissioner Brewer and passed unanimously.

The motion to establish a speed limit on Wirt Road which was not voted on at the October Meeting due to an oversight, was reintroduced to the Board. The public hearing was held at the previous meeting. Commissioner Cook moved to approve the speed limit. The motion was seconded by Commissioner Dowdy and passed unanimously by the Board as follows:

BE IT RESOLVED by the Board of County Commissioners and/or County Legislative Body of Fayette County, Tennessee, in regular session assembled on this 24th day of November, 2009, being the fourth Tuesday of said month and the regular monthly meeting date of said County Legislative Body, in the Criminal Justice Complex in Somerville, Tennessee, that pursuant to the provisions of Chapter No. 357 of the Private Acts of Tennessee, 1967-68, and amendments thereto, it shall be unlawful for any person to operate or drive a motor vehicle in excess of 45 mph on Wirt Road from Highway 194 on the South to its intersection with Feathers Chapel Drive on the North, a distance of 2.72 miles, being located in the 8th Civil District of Fayette County, Tennessee; and **BE IT FURTHER RESOLVED** that any person violating the provisions of this Resolution shall be guilty of a misdemeanor and punished accordingly.

Commissioner Oglesby moved to approve the following as notaries public: Joseph Archer, Kassandra Bernskoetter, Kathryn Baker, Angela Higgs Bonds, Danny Bolding, Shayla R. Dobos, Rosemarie Fiers, Teri L. Kirby, Michelle R. Kistenmacher, Tara McDaniel, JoAnn Miles, Becky Pitts, Tricia A. Porter, Terri L. Richmond, Leah Russell, George Edward Towers, Jr., Leigh Wilburn, and Leslie F. Wilson.

The motion was seconded by Commissioner Dowdy and passed unanimously.

Chairman Taylor stated that financial reports for the Board of Education, the Board of Public Works, and the County General Fund were included in the Commissioners' packets that were mailed out.

The Mayor then reported for the Mayor's office. He thanked Commissioner Harris for conducting last month's meeting. He stated that the request that the County Commission had sent to the Zoning Appeals Board on behalf of David and Kathy Dunn requesting that their application for a special exception to the zoning of their property at 315 Burrowtown Road for the purpose of providing a kennel service had been removed from the agenda at their last meeting, so no action was heard on it. The removal resulted from the request that the Board "review" the application, which the Board deemed an improper request.

Chairman Taylor stated that both Curtis Park and Dick Fletcher had requested to be replaced on the Zoning Appeals Board, since their terms have already expired. These members are appointed by the County Commission, and Chairman Taylor stated that he would present his recommendations before the January meeting.

Chairman Taylor stated that twenty million dollars was appropriated for disaster relief that resulted from the tornados that went through the area when Union University was destroyed. The twenty million dollars was set aside to serve 17 counties, providing grants of \$750,000 to each applicant to be used for protection and disaster relief in emergency situations. There is a 1.5 million dollar grant available if two entities apply together. You have in front of you a resolution to apply for a CDBG Assistance Project. The deadline to apply for this is January 6, 2010. Since the Commission will not meet in December, I need to get approval on this tonight in order to meet the application deadline. The funds, if we receive the grant, would be used to build a new fire station at Hickory Withe. Williston is applying, Moscow and Oakland may be also. This would be a 100 percent grant, and would not cost the county anything if we get it. Commissioner Dowdy moved that the Resolution be approved and the grant be applied for. The motion was seconded by Commissioner Oglesby, and passed unanimously as follows:

WHEREAS, the Consolidated Security, Disaster Assistance, and Continuing Appropriations Act of 2009 (THE CSDA Act) provides an appropriation for Community Development Block Grants (CDBG) to be granted to eligible local governments for long term disaster recovery activities consistent with Title I of the Housing and Community Development Act of 1974, as amended; and

WHEREAS, the CSDA Act directs that CDBG Disaster Recovery Funds be used for specific CDBG activities related to disaster relief, long-term recovery, and restoration of infrastructure, housing and economic revitalization in areas affected by hurricanes, floods, and other natural disasters occurring during 2008 for which the President declared a major disaster under Title IV of the Robert T. Stafford Relief Act; and

WHEREAS, Fayette County acting by and through its County Commission proposes to apply for Community Development Block Grant Disaster Recovery funds for the purpose of performing eligible activities that will benefit the majority of the residents in Fayette County.

WHEREAS, Fayette County will provide local financial support in conjunction with the CDBG Disaster Recovery funds to complete the grant activities; and

WHEREAS, under the terms and provisions of Title I of the Housing and Community Development Act of 1974, as amended, Fayette County as a recipient is required to designate and appoint a Financial Officer to perform certain duties in the administration of said grant.

NOW, THEREFORE, BE IT RESOLVED by the County Commission of Fayette County as follows:

THAT, Rhea Taylor, County Mayor, is hereby authorized to execute and submit an application with appropriate assurances to the State of Tennessee, Department of Economic and Community Development, Office of Program Management, requesting Fiscal Year 2009 Community Development Block Grant Disaster Recovery funds in the amount not to exceed \$750,000 for a CDBG-Disaster Assistance project; and

THAT, Rhea Taylor, County Mayor, and his successor in title, be and is hereby designated and appointed as Financial Officer under the terms and pursuant to the provisions of Title I of the Housing and Community Development Act of 1974, as amended, and to perform on behalf of Fayette County, Tennessee, those acts and assume such duties as are consistent with said position.

READ AND ADOPTED this the 24th day of November, 2009.

Chairman Taylor stated that Dr. Winecoff's visit is next week. He will arrive on Tuesday and hold meetings Wednesday and Thursday. I will get back with you on the date and time we can meet with him.

Chairman Taylor stated that some members serving on standing committees have asked that they be reassigned to other committees, and that he would work on those reassignments over the holidays.

The STEP Program is an acronym for the Southwest Tennessee Education Pathways, which is a mentoring program for tenth, eleventh, and twelfth grade students, and assists in finding scholarships and filing applications to try and find funding for every student who wants to go to college. The Mayor has made a request to Southwest Development District for Fayette County to be included in the pilot program. More information will be given on this as soon as it becomes available. There are thirteen counties now involved, Fayette County will be the fourteenth.

No reports were given for the Sheriff's Department, the Board of Education, Juvenile Court, Trustee's Office, and Planning and Development. The Board of Public Works meeting minutes were included in the Commissioners' packets.

Commissioner Wilson reported for the Development Committee, stating that Mayor Taylor had presented a resolution to apply for a grant for an industrial access road in Piperton. The grant would come with no cost to the county. Commissioner Wilson moved that Mayor Taylor be authorized to apply for the grant. The motion was seconded by Commissioner Dowdle and passed unanimously as follows:

RESOLUTION IN SUPPORT OF PIPERTON INDUSTRIAL ACCESS ROAD

WHEREAS, Fayette County, Tennessee, is vitally interested in the economic welfare of its citizens and wishes to provide the necessary leadership to enhance this area's capabilities for growth and development; and

WHEREAS, the provision of jobs to area citizens by local industry is both necessary and vital to the economic well-being of Fayette County; and

WHEREAS, the Industrial Highway Act of 1959 authorizes the Tennessee Department of Transportation to contract with cities and counties for the construction and maintenance of "Industrial Highways" to provide access to industrial areas and to facilitate the development and expansion of industry within the State of Tennessee; and

WHEREAS, on January 1, 2010, the Adair Construction Company plans to construct a Distribution Facility in Piperton, Tennessee; and

WHEREAS, the construction of an industrial access road to serve said proposed plant is necessary and vital to the successful completion of this project and the future economic well-being of this area;

NOW, THEREFORE BE IT RESOLVED by the County Commission of Fayette County, that a contract be entered into with the Tennessee Department of Transportation for assistance in construction and completion of the herein proposed industrial access highway under the provisions of the Industrial Highway Act of 1959.

Adopted this _____ day of _____ 20_____.

Commissioner Wilson stated that the Committee had also discussed the grass ordinance, and that Mr. Pitner, of Planning and Development, had suggested some revisions for some areas of the ordinance. The Committee will further discuss the matter at the January, 2010 meeting. The Mayor stated that the County will send out letters to property owners in violation of the grass ordinance. If the owner cleans up the property, that will be fine. If not, and the county has to clean up the place then the county should be able to recoup that money with the property tax next year.

The Health and Welfare Committee and Personnel Committees did not meet.

Commissioner Dowdy reported for the Criminal Justice/Public Safety Committee. The Committee discussed the plans for the Sheriff's Shop and decided to recommend that the Commission reject all bids received to date, since all of them were too high. The Committee discussed hiring an individual to advise and make recommendations on the project, and to bid out the individual components of the project. Commissioner Logan will come back to the Committee with some costs in January, and this will be brought back to the full Commission at the January meeting. Commissioner Dowdle then moved to reject all bids received to date. The motion was seconded by Commissioner Oglesby, and passed unanimously by the Board.

Commissioner Oglesby stated that the Education Committee did not meet.

Commissioner Harris reported for the Budget Committee, stating that the Sheriff had given a report on the income he has received from federal prisoners, phone cards, the commissary, etc. He told the committee that he now has 12 federal prisoners and that the system is working well. Sheriff Riles stated that he now needs another dispatcher for each shift. He further stated that most of the calls come from the cities in the county, but no income is received from these calls. In January we are going to contact the Mayors of the cities in the county to let them know that some changes will take place as far as the

county continuing to dispatch calls within city limits. The cities should have to contribute to the costs of taking these calls.

Commissioner Harris moved that the following budget amendment to the County's general fund be approved. The motion was seconded by Commissioner Dowdy, 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 sessions on this 24th day of November, 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 09/10
November, 2009**

<u>Adjustment to Expenditure Accounts:</u>	INCREASE	DECREASE
<u>52300 Property Assessor's Office</u>		
351 Rentals	\$ 400.00	
719 Office Equipment	_____	\$ 400.00
Subtotal-52300	\$ 400.00	\$ 400.00

<u>55160 Dental Health Program</u>	
168 Temporary Personnel	\$50,000.00
187 Overtime	17,000.00
201 Social Security	1,054.00
204 State Retirement	1,447.00
212 Employer Medicare	247.00
299 Other Fringe Benefits	1,552.00
355 Travel	5,000.00
399 Other Contracted Services	27,700.00
499 Other Supplies & Materials	<u>5,000.00</u>
Subtotal - 55160	\$109,000.00

(Reimburse from Revenue - 46310 - \$109,000.00)

TOTAL INCREASE/DECREASE TO EXPENDITURE ACCOUNTS:	\$109,400.00	\$ 400.00
Prior Estimated Expenditures	\$13,251,624.18	
Total Estimated Expenditures this Amendment	\$13,251,624.18	
Projected Fund Balance before Amendment	\$ 1,928,666.82	
Change in Fund Balance this Amendment	\$ 00.00	
Estimated Ending Fund Balance as of June 30, 2010	\$ 1,928,666.82	

Commissioner Harris moved that the following budget amendments for the schools be approved. The motion was seconded by Commissioner Oglesby, and passed unanimously by the Board.

FAYETTE COUNTY BOARD OF EDUCATION
GENERAL PURPOSE FUND
FUND 141
NOVEMBER, 2009

		INCREASE	DECREASE
71000	INSTRUCTION		
71600	ADULT EDUCATION PROGRAM		
71600 116 AE	Teachers	\$150.00	
	TOTAL:	\$150.00	\$0.00
72000	SUPPORT SERVICES		
72260	ADULT EDUCATION PROGRAM		
72260 189 AE	Other Salaries and Wages	\$75.00	
72260 599 AE	Other Charges	\$75.00	
	TOTAL:	\$150.00	\$0.00
72510	FISCAL SERVICES		
72510 189	Other Salaries and Wages	\$7,930.00	
72510 201	Social Security	\$934.00	
72510 212	Medicare	\$218.00	
72510 599	Other Charges	\$133.00	
	TOTAL:	\$9,215.00	\$0.00

72810		CENTRAL AND OTHER	
72810	189 SSACO	Other Salaries and Wages	\$3,000.00
72810	201 SSACO	Social Security	\$278.00
72810	204 SSACO	State Retirement	\$351.00
72810	212 SSACO	Medicare	\$182.00
72810	429 SSA	Instructional Supplies and Materials	\$2,389.00
72810	524 SSA	In-Service/Staff Development	\$3,000.00
72910	790 SSA	Other Equipment	\$3,000.00
TOTAL:			\$12,200.00

\$0.00

73400		EARLY CHILDHOOD EDUCATION	
73400	310 VOL	Contracts w/Public Agencies	\$36,000.00
73400	790 VOL	Other Equipment	\$36,000.00
TOTAL:			\$36,000.00

\$36,000.00

72710		TRANSPORTATION	
72710	599	Other Charges	\$1,013.09
72710	729	Transportation Equipment	\$18,534.91
TOTAL:			\$19,548.00

\$0.00

GRAND TOTAL: \$77,263.00 \$36,000.00

Total Increase: \$41,263.00

Revenue:	44170	Refunds	\$9,215.00
	44530	Sale of Equipment	\$19,548.00
	44570 AE	Contributions and Gifts	\$300.00
	46980 SSACO	Safe Schools Act Carry Over	\$3,811.00
	46981 SSA	Safe Schools Act ARRA	\$8,389.00
	Total:		\$41,263.00

Revenue:	Prior Total Available Funds	\$27,539,325.59
	Prior Year Adjustments	(\$3,908.18)
	Total Increase This Amendment	\$41,263.00
	Total Available Funds This Amendment	\$27,576,680.41

Expenditure:	Prior Total Estimated Expenditures	\$26,617,682.00
	Total Increase This Amendment	\$41,263.00
	Total Estimated Expenditures This Amend.	\$26,658,945.00

Adult Education - \$300 donation placed in salary and other charges

Fiscal Services - additional salaries needed due to payroll clerk on sick leave until December.

Central & Other Services - Allocation for Safe School Act for 2009/2010

Early Childhood Education - moving Pre K playground equipment from Southwest to Central in order for the Pre K at Central to have a playground and will not need the funds there this year. Funds being moved to add additional enrichment instruction to identified students in a Pre K class at Central Elementary.

FAYETTE COUNTY BOARD OF EDUCATION
FEDERAL PROJECTS FUND
FUND 142
SUBFUND 101 - TITLE I
NOVEMBER, 2009

		INCREASE	DECREASE
71000	INSTRUCTION		
71100	REGULAR INSTRUCTION PROGRAM		
71100 336	Equipment Maintenance/Repair Services	\$25,000.00	
71100 599	Other Charges (Communications)	\$5,000.00	
71100 722	Regular Instruction Equipment		\$30,000.00
	TOTAL:	\$30,000.00	\$30,000.00

Total Increase/Decrease: \$0.00

Insufficient funds budgeted for equipment maintenance and communications.

FAYETTE COUNTY BOARD OF EDUCATION
 FEDERAL PROJECTS FUND
 FUND 142
 SUBFUND 102 - READING FIRST
 NOVEMBER, 2009

		INCREASE	DECREASE
71000	INSTRUCTION		
71100	REGULAR INSTRUCTION PROGRAM		
71100 429	Instructional Supplies and Materials	\$19,500.00	
71100 722	Regular Instruction Equipment		\$19,500.00
71100 429 CT	Instructional Supplies and Materials	\$7,407.00	
71100 599 CT	Other Charges		\$7,407.00
71100 429 JF	Instructional Supplies and Materials	\$7,407.00	
71100 599 JF	Other Charges		\$7,407.00
71100 429 LM	Instructional Supplies and Materials	\$7,407.00	
71100 599 LM	Other Charges		\$7,407.00
71100 429 NW	Instructional Supplies and Materials	\$7,407.00	
71100 599 NW	Other Charges		\$7,407.00
	TOTAL:	\$49,128.00	\$49,128.00

Total Increase/Decrease: \$0.00

Funds needed for instructional supplies and materials.

FAYETTE COUNTY BOARD OF EDUCATION
 FEDERAL PROJECTS FUND
 FUND 142
 SUBFUND 10S - TITLE I ARRA
 NOVEMBER, 2009

		INCREASE	DECREASE
71000	INSTRUCTION		
71100	REGULAR INSTRUCTION PROGRAM		
71100 163	Educational Assistants		\$11,730.00
71100 189	Other Salaries and Wages		\$54,178.00
71100 201	Social Security		\$2,894.00
71100 204	State Retirement		\$3,361.00
71100 212	Medicare		\$680.00
71100 299	Other Fringe Benefits		\$152.00
71100 429	Instructional Supplies and Materials	\$15,617.00	
71100 722	Regular Instruction Equipment	\$57,378.00	
	TOTAL:	\$72,995.00	\$72,995.00

Total Increase/Decrease: \$0.00

Additional funds needed for materials and equipment

FAYETTE COUNTY BOARD OF EDUCATION
 FEDERAL PROJECTS FUND
 FUND 142
 SUBFUND 903 - DISCRETIONARY GRANT - GAP
 NOVEMBER, 2009

		INCREASE	DECREASE
12000	SUPPORT SERVICES		
12220	SPECIAL EDUCATION PROGRAM		
12220 355	Travel		\$2,050.00
12220 499	Other Supplies and Materials		\$500.00
12220 524	Inservice Staff Development	\$3,950.00	
12220 599	Other Charges		\$1,400.00
	TOTAL:	\$3,950.00	\$3,950.00

otal Increase/Decrease: \$0.00

increase of professional fees to cover three additional training days for FCS staff to the
 iversity of Memphis Staff. Decrease on line items to cover professional fees.

FAYETTE COUNTY BOARD OF EDUCATION
 FEDERAL PROJECTS FUND
 FUND 142
 SUBFUND 90S - IDEA ARRA
 NOVEMBER, 2009

		INCREASE	DECREASE
72000	SUPPORT SERVICES		
72220	SPECIAL EDUCATION PROGRAM		
72220 355	Travel		\$8,007.58
	TOTAL:	\$0.00	\$8,007.58
72710	TRANSPORTATION		
72710 729	Transportation Equipment		\$209,339.30
	TOTAL:	\$0.00	\$209,339.30
	GRAND TOTAL:	\$0.00	\$217,346.88

Total Decrease: \$217,346.88

Revenue:	47143 90S Education of The Handicapped	(\$217,346.88)
Revenue:	Prior Total Available Funds	\$5,634,905.84
	Total Decrease This Amendment	<u>(\$217,346.88)</u>
	Total Available Funds This Amendment	\$5,417,558.96
Expenditures:	Prior Total Estimated Expenditures	\$5,634,906.84
	Total Decrease This Amendment	<u>(\$217,346.88)</u>
	Total Estimated Expenditures This Amendment	\$5,417,559.96

To reduce budget by amount spent in June for travel and special ed. buses.

Commissioner Harris moved to approve the following resolution allowing the County Clerk, Sue Culver, to write off bad checks which are now considered uncollectible. Efforts to collect the debts will be continued, but this resolution will allow the Clerk to get these bad checks off her general ledger. Motion was seconded by Commissioner Brewer and passed unanimously.

RESOLUTION TO WRITE OFF COUNTY CLERK'S BAD CHECKS

WHEREAS, Fayette County Clerk's office has received checks that did not have sufficient funds for the banks to honor them; and

WHEREAS, the Fayette County Clerk has made every effort to collect the funds owed; and

WHEREAS, a suit has been filed in an effort to collect the funds, but the defendants have not been served; and

WHEREAS, the Tennessee Office of the Comptroller has recommended the checks be removed as a receivable from the County's records; and

WHEREAS, the removal as a receivable will not hinder the process to continue to try to collect the debt;

NOW, THEREFORE BE IT RESOLVED by the county legislative body of Fayette County meeting in session at Somerville, Tennessee, on the day of November 24, 2009, that Fayette County authorizes the County Clerk to remove the following checks from her receivables records:

<u>Check No.</u>	<u>Date</u>	<u>Pavor</u>	<u>Amount</u>
5006	11/01/06	Joe or Regina Morrison	\$85.50
1011	01/20/06	Lashondra N. Boyd	\$85.50
1	02/20/06	Tiffany L. Smith	\$75.00
1117	05/05/06	Evcalene Williams	\$75.00
517	07/14/06	Martino L. Jones	\$75.00
616	05/30/07	Donald A. Thomas	\$40.00
617	05/30/07	Donald A. Thomas	\$19.64
1205	11/19/07	Sharon Brooks/Estelle Buford	\$10.00
1204	11/19/07	Sharon Brooks/Estelle Buford	\$50.00

Passed reading at the regular November 24, 2009, meeting of the Fayette County legislative body.

The meeting was then recessed for an attorney-client meeting with the County Attorney, Richard Rosser.

After a short recess the meeting was again called to order. Commissioner Anderson then made the following motion for approval:

WHEREAS, a dispute has arisen between the General Sessions Judge and the General Sessions Clerk regarding the collection of court costs for multiple convictions;

WHEREAS, the General Sessions Judge has ordered the Clerk to cease collection of court costs from defendants for more than one conviction;

WHEREAS, the failure of the General Sessions Clerk to collect court costs could subject the Clerk to possible criminal liability;

WHEREAS, it is necessary to obtain an independent ruling on the applicable law in this matter:

NOW, THEREFORE, BE IT RESOLVED THAT:

1. The County Attorney is directed to discuss the matter with both the Clerk and the Judge;

2. The Mayor is authorized to institute proceedings and sign pleadings regarding the proper collection of General Sessions court costs;

3. The Mayor is authorized to seek an opinion of the Attorney General of the State of Tennessee regarding the applicable law in this matter; and

4. If on the advice of counsel, the Mayor determines it is necessary to retain independent legal counsel, he be authorized to retain independent legal counsel.

The motion was seconded by Commissioner Gant. Commissioner Dowdle stated that she did not want to hire an attorney and Commissioner Wilson passed. The motion then passed with a majority voice vote.

Commissioner Oglesby then yielded the floor to Bill Rhea, attorney for David and Kathy Dunn, owners of the dog kennel at 315 Burrowtown Road, which was discussed in great detail at the October meeting. Mr. Rhea thanked the Commission for their patience in the past, and for the efforts to make application to the Zoning Appeals Board on behalf of the Dunns for a special exception on this property. He stated that Mayor Taylor had filed the paperwork in a timely manner for the BZA to consider the matter at it's last meeting, however, the BZA took this matter off the table and took no action on it, citing their primary objections to the application were really two-fold, one, they took issue with the technical language of the minutes from the August 25, 2009 County Commission meeting, and secondly the application did not articulate how the County was aggrieved or affected pursuant to Article 3, Section 3 of the Fayette County Zoning Resolution. Mr. Rhea stated "I point you back to your own minutes of August 25th. I'm not here to complain at your action or fuss one iota. I was very pleased, I thought it was an appropriate action that you took." The motion read as follows, "Commissioner Burnette then moved that the County Commission apply or appeal to review the revocation to the Board of Zoning Appeals for their consideration of a special exception on the Dunn property with appropriate supplemental conditions provided in the zoning ordinance with the Chairman being authorized to sign the application." Now, the word "review" is what the BZA got hung up on. I'm going to hand you a copy of the controlling statute, and the zoning resolution with the pertinent article and section. I'll tell you what my recommendation would be. Again this is not to change what was ruled upon or the essence of anything you voted on. It's just cleaning up the language for the minutes so that the application can read what the minutes say verbatim. Then we will get into the second objection in just a minute. If everyone has one in front of them, I'm gonna look at Article three, Section Three, because it traps the language of the statute verbatim. It says "Application to the Board of Appeals, that's the BZA, may be submitted by any person, firm, or corporation aggrieved or by any governmental officer, department, or bureau affected, by the indecision of the building commissioner, based in whole or in part upon the provisions of this resolution. My suggestion would be "The County Commission" this is the way the minutes should read, " Makes application to the BZA for the consideration of a special exception on the Dunn property, located at 315 Burrowtown Road, with appropriate supplemental conditions as provided for in the zoning ordinance, with Chairman Taylor being authorized to sign the application. This

application is made pursuant to Article Three, Section three, Fayette County zoning resolution and T.C.A. 13-7-108." Now, the last major gripe and the main reason it was taken off the agenda last week, was stated that the County Commission through the County Mayor, in its application in early November did not spell out how it was aggrieved or affected. I don't have to regurgitate all the facts that we went through, and you all were so patient, with us in July and August, those were some long meetings, and you heard a ton of information, and this is why you voted, I believe, the way that you did in support of making the application. A business license was granted to these property owners prior to any zoning change, in 2005, this controversy did not arise until 2008. So for three almost four years my clients were acting in good faith, and had been granted proper authority through the County Clerk's Office to operate this business. They also made substantial investment in the property. They have a \$200,000 first mortgage, a \$60,000 second mortgage(which went to improve the property), and a third mortgage in a line of credit. The BZA found in their initial hearing, back in July of 2008, that there was no nuisance, and that a special exception was appropriate. However, they set the number of dogs at 50. They set this number without any scientific knowledge, without consulting any experts. This was an arbitrary decision, it was an unsubstantiated decision, it was a decision hastily made, it was a decision flippantly made. I'm going to hand you copies of last year's Fayette Falcon, if you will pass these around. This is taken out of the Fayette Falcon dated July 23, 2008. This is how the County Commission is aggrieved and affected and why you ruled wisely like you did. You will see where I have circled the language there, the editor's note, the week after the BZA ruled fifty dogs. " Editor's note: Regardless of right or wrong, this was the most unprofessional meeting that I've attended in more than forty years with this newspaper. For a Board to sit in session, laugh and make jokes about someone's future, and dictate how much they're going to make is utterly unprofessional. These people did not get a fair shake at this initial meeting." They've had this case under legitimate appeal for reconsideration ever since. You acted properly, and said we're going to make this application for you, because we think in all prudence and diligence, this needs to be looked at by the BZA . You are a new party, you are a new applicant. Whenever a citizen of this county has acted in good faith, and is not treated equitably, fairly, or justly, the County Commission is aggrieved or affected. That is your reason for your grievance, that is how you are affected. That needs to be read into the record, also. When this application is made again by the County Mayor, we can attach a lengthy exhibit noting all of these reasons why you think this is appropriate, how you feel you were aggrieved and affected by this decision. We are not changing anything we did before, we're just further clarifying why we're doing it and how we're doing it. We're taking out this word review, because this is a new applicant, the County Commission is a new entity, a new body. In response to a question as to why the application had to be made again, Mr. Rhea stated that the matter was not voted down, but taken off the agenda because of the way the motion was worded, and because the application did not spell out how the County Commission was aggrieved or affected. Mr. Rhea stated "To me, any zoning matter, it's obvious how it affects the county, it's a matter of public policy, it affects many collateral issues down the road, I think the request was a little nit-picky, but I'm here to try to fix it on behalf of my clients. The matter of replacing two BZA members, whose terms have expired was discussed, and it was determined that the two members replacements would come up for approval in January,

and after that this matter could again be filed with the BZA. Mr. Rhea stated that his clients must appear before Judge Whitaker in General Sessions Court on November 30, and he would ask for a continuance based upon the actions of the County Commission at this meeting, stating that it had gotten the Judge's attention that the County Commission had stepped in and made application to try to save this business. Mr. Rhea further stated that you cannot predict what the court will do, but that's our next hearing in front of the General Sessions Court Judge, November 30. Right now, there has been no action to terminate this, the BZA didn't hear it, they just took it off the agenda. They gave several reasons why it was taken off. That's what I'm here to address tonight, to try to get this case back in front of them. They need to hear this case. They have not spent nearly the time on this case that you guys have. They just refused to hear it, they took it off the agenda. Our position is that you guys were appointed to hear matters such as these. The Chief legislative body of the county deems that it is appropriate to hear this matter.

Chairman Taylor stated that it is not fair to the Dunns to push this matter in front of a Board that is not full. This needs to be heard after replacements have been found for the two BZA members whose terms have expired. Mr. Rhea stated that he certainly concurred with that. Chairman Taylor stated that it should be in the motion that this matter be heard once these vacancies have been filled.

Commissioner Dowdle moved that the County Commission make application to the BZA for the consideration of a special exception on the 315 Burrowtown Road property with appropriate supplemental conditions as provided for in the zoning ordinance with Chairman Taylor being authorized to sign the application, said application to be made pursuant to article three, section three of the Fayette County Zoning resolution as well as T. C. A. 13-7-108, to be heard by a full board. The reasons the County Commission is aggrieved or affected is that the Dunns acted in good faith, and were granted a business license in 2005 and no controversy arose until 2008, have made a substantial investment in this property, and the number of dogs was arrived at without sufficient evidence to make that decision. The motion was seconded by Commissioner Oglesby. The motion passed on a voice vote, with Commissioner Harris passing, citing a possible conflict of interest.

Commissioner Anderson moved that the December County Commission meeting be cancelled. Motion was seconded, and passed unanimously by the Board.

WHEREAS, *Tennessee Code Annotated*, §§ 5-5-104, permits counties, upon a majority vote of their respective county legislative bodies, to enact a resolution stipulating the time, day and place of their county legislative body's regular meeting; and,

WHEREAS, Fayette County is required to have at least four meetings per year, and has fulfilled the requirement;

WHEREAS, the December Fayette County Commission meeting would occur during the busy holiday season surrounding Christmas and New Year's;

WHEREAS, there being no urgent business of the Fayette County Commission, or business that cannot be resolved by a special called meeting of the Fayette County Commission;

NOW, THEREFORE, BE IT RESOLVED by the county legislative body of Fayette County that the December 22, 2009 meeting of the Fayette County Commission is cancelled.

Adopted this 24th day of November, 2009.

Commissioner Dowdle stated that several contractors had contacted her regarding the inability to get buildings inspected when the county building inspector is on vacation. The contractors must have the building inspected at each stage of completion in order to draw the funds from their customers who are having them build the house. She stated that she understood that vacations are necessary, but the county should have a back-up plan.

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

Rhea Taylor, County Mayor

Sue W. Culver, County Clerk