Minutes

Board of Commissioners
May 10, 2012
7:00 P.M.

Notice: A complete audio recording of this meeting can be heard by accessing Fayette County's Website at www.fayettecountyga.gov. Click on "Board of Commissioners", then "County Commission Meetings", and follow the instructions. The entire meeting or a single topic can be heard.

The Board of Commissioners of Fayette County, Georgia, met in Official Session on Thursday, May 10, 2012, at 7:00 p.m. in the Public Meeting Room of the Fayette County Administrative Complex, 140 Stonewall Avenue, Fayetteville, Georgia.

Commissioners Present:	Robert Horgan, Vice Chairman Steve Brown Lee Hearn Allen McCarty
Commissioner Absent:	Herb Frady, Chairman
Staff Present:	Jack Krakeel, County Administrator Scott Bennett, County Attorney Karen Morley, Chief Deputy Clerk

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Vice Chairman Horgan called the meeting to order.
Commissioner Hearn offered the Invocation
Pledge of Allegiance.

Commissioner Horgan remarked that Chairman Frady was out of town and would be absent for tonight's meeting.

Acceptance of Agenda: Commissioner Brown made a motion to approve the agenda as presented. Commissioner McCarty seconded the motion. The motion carried 4-0. Chairman Frady was absent.

Public Comment:
David Barlow: David Barlow commented on the lack of accountability and transparency in Fayette County government and how the citizens' money is being spent. He questioned if it was legal for the County Administrator to be part of the early retirement plan. He urged the citizens to support Commissioner Brown's request for an overview.

Steve Smithfield: Steve Smithfield commented on item no. 17 on the agenda. He remarked that none of Fayette County's citizens have ever supported the West Fayetteville Bypass. He applauded Commissioner McCarty and Commissioner Brown for their stand on this issue.

Ginga Smithfield: Ginga Smithfield commented that the voters and taxpayers of Fayette County have grown increasingly uncomfortable in the manner in which the local officials have been conducting the peoples' business. She said there have been many comments against the West Fayetteville Bypass and the citizens felt like they were talking to a stone wall. She commented on the West Fayetteville Bypass and the citizens who are directly impacting by it every day are very tired of living with it. She said she was tired of the many trucks traveling up and down and tired of dirt and dust. She expressed concern for the citizens that will be impacted by Phase III of the Bypass. She urged each Board member to visit those homeowners and their property before making a decision to proceed with construction of Phase III. She also remarked on the cloud of doubt hanging over the early retirement plan. She said out of respect for the taxpayers, the right thing to do would be to approve an independent review of the early retirement package.

Carolyn Perdue: Carolyn Perdue commented that she lives on Janice Drive and the noise from the road is horrible. She said the road is right under her bedroom window and the County will not put a fence to help with the noise. She remarked that one of her neighbors works at night and it's very hard to sleep during the day. She said the noise is so bad, that her house shakes.

Ilsa Huston: Ms. Huston expressed concern with Phase III of the West Fayetteville Bypass and the declining of property values in Fayette County. She said her property value would decrease even further for the property owners that would be impacted by Phase III. She urged the Board to reconsider construction for Phase III.

Consent Agenda: Commissioner Brown requested that item nos 3, 4, 12, and 13 be removed for discussion. Commissioner Horgan requested item no. 15 be removed for discussion. Commissioner Brown made a motion to approve the consent agenda as presented with the exception of no. 3, 4, 12, 13 and 15. Commissioner Hearn seconded the motion. The motion carried 4-0. Chairman Frady was absent.

Bid P825 awarded to Existing and future Conditions Floodplain Mapping Professional Engineering Services;

1. Approval of staff's recommendation to award Bid P825 Existing and Future Conditions Floodplain Mapping Professional Engineering Services in an amount not-to-exceed of $146,250 for both 100 and 640 acre drainage basins to Dewberry and Davis LLC and authorization for the Chairman to execute the contract pending review by the County Attorney. A copy of the request and backup, identified as "Attachment No. 1", follow these minutes and are made an official part hereof.

Bid #829 awarded to Physio Control, Inc. For Lifepak 15 Heart Monitor:

2. Approval of staff's recommendation to award Bid #829 to Physio Control, Inc. in the amount of $24,808.20 to purchase a Lifepak 15 heart monitor with accessories and dispose of a Lifepak 11as a trade-in allowance. A copy of the request and backup, identified as "Attachment No. 2", follow these minutes and are made an official part hereof.

Ordinance No. 2012-08 approved for Alcoholic Beverages:

3. Approval of Ordinance No. 2012-08 which amends the Fayette County Code of Ordinances, Chapter 3 Alcoholic Beverages, Article IV. On-Premises Consumption Dealers, Division 1 Generally, Sec. 3-180.6 Closing Hours, which would allow the Sunday sales of Beer, Wine, and Distilled Spirits for On-Premise Consumption. A copy of the request and backup, identified as "Attachment No. 3", follow these minutes and are made an official part hereof.

Commissioner Brown said he has had a lot of comments and questions related to this issue such as to why this doesn't have to appear on a referendum, confusion between package sales and drink sales at a restaurant and so on. He asked the County Attorney to briefly explain this item.

County Attorney Scott Bennett remarked that in 2002 the County did hold a referendum to allow sales by the drink with restaurants pouring and that referendum passed. He said that referendum was authorized by State law and it did not have any restrictions on days of the week. He said the County ordinance restricted Sundays and that was the only impediment for sales by the drink on Sunday. He said prior to this latest law, it was illegal under State law to have sales on Sunday for package sales which are sales in grocery stores or liquor stores. He said the Legislature said if there was going to be sales on Sunday, it would have to be done by referendum. He said this was the reason there was going to be a referendum on package sales for Sunday because State law requires it. He noted that there was already a referendum on alcohol by the drink which included Sunday, but at the time the Board had passed an ordinance that prohibited Sunday. He said this item would mean the same hours are allowed Monday through Sunday instead of Monday through Saturday and that was the change.

Commissioner Brown made a motion to approve Ordinance No. 2012-08 which amends the Fayette County Code of Ordinances, Chapter 3 Alcoholic Beverages, Article IV. On-Premise Consumption Dealers, Division 1 Generally, Sec. 3-180.6 Closing Hours, which would allow the Sunday sales of Beer, Wine, and Distilled Spirits for On-Premise Consumption. Commissioner Hearn seconded the motion. The motion carried 4-0. Chairman Frady was absent.

Road Department's request for additional funds for asphalt and tack account:

4. Approval of staff's request for $200,000 in additional funds for the Road Department's asphalt and tack account for the FY 2012 Budget Year to come from the County's Fund Balance. A copy of the request, identified as "Attachment No. 4", follows these minutes and is made an official part hereof.

Commissioner Brown questioned if any of this money would be going toward the construction of the West Fayetteville Bypass.

Public Works Director Phil Mallon replied technically no, because the Bypass has its own funding category and this money would be non SPLOST related.

Commissioner Brown made a motion to approve staff's request for $200,000 in additional funds for the Road Department's asphalt and tack account for the FY2012 Budget Year to come from the County's Fund Balance. Commissioner McCarty seconded the motion. The motion carried 4-0. Chairman Frady was absent.

Road Department request to declare items unserviceable:

5. Approval of staff's request to declare the Road Department's 1980 model 50-ton lowboy, asset #10662, as unserviceable and authorization to sell the asset utilizing the GovDeals internet website, or if GovDeals proves unsuccessful, then to dispose of it as scrap metal. A copy of the request, identified as "Attachment No. 5", follows these minutes and is made an official part hereof.

Sheriff's Office - Amend Overtime Budget:

6. Approval of request from the Sheriff's Office to amend the Overtime Budget for the Criminal Investigations Division by $2,816.94 for reimbursement for employees assigned to work with various Federal agencies. A copy of the request, identified as "Attachment No. 6", follows these minutes and is made an official part hereof.

Sheriff's Office - Disposal of two vehicles:

7. Approval of request from the Sheriff's Office to allow disposal of two vehicles originally purchased with Federal Drug Seizure Funds and Customs Funds as trade-ins for two new replacement vehicles. A copy of the request, identified as "Attachment No. 7", follows these minutes and is made an official part hereof.

Sheriff's Office - acquisition of two replacement vehicles:

8. Approval of request from the Sheriff's Office to authorize the appropriate Fayette County personnel to sign tag and title paperwork for the acquisition of two (2) new replacement vehicles which have been approved by Sheriff Wayne Hannah for purchase with monies from the Equitable Sharing Funds. A copy of the request, identified as "Attachment No. 8", follows these minutes and is made an official part hereof.

Resolution No. 2012-10 - abandonment of right-of-way of City Dump Road a/k/a Glass Road:

9. Approval of Resolution No. 2012-10 that abandons a portion of public road right-of-way of City Dump Road a/k/a Glass Road and conveys the described portion of right-of-way into the legal description of the 1st Manassas Mile Road Southside Municipal Solid Waste Landfill boundary. A copy of the request and backup, identified as "Attachment No. 9", follow these minutes and are made an official part hereof.

Bid #830 awarded to Martin Edwards & Associates, Inc. For Vegetative Debris Grinding:

10. Approval of staff's recommendation to award Bid #830 for Vegetative Debris Grinding to Martin Edwards & Associates, Inc. In the amount of $29,900 and a price per cubic yard of $1.60. A copy of the request and backup, identified as "Attachment No. 10", follow these minutes and are made an official part hereof.

Ordinance No. 2012-07 - Utility Regulations for Solid Waste Management:

11. Approval of Ordinance No. 2012-07 adopting amendments to the Fayette County Code, Chapter 19, Utility Regulations, Article IV, Solid Waste Management. A copy of the request and backup, identified as "Attachment No. 11", follow these minutes and are made an official part hereof.

Water System - Flint River Pump Station - Not Approved:

12. Approval of staff's recommendation to allow Mallett Consulting to prepare specifications and to issue bids for the Flint River pump station at a cost of $19,750. A copy of the request and backup, identified as "Attachment No. 12", follow these minutes and are made an official part hereof.

Commissioner Brown remarked that this was one of those issues where the Board was going ahead with some consulting on preparing some specifications to issue bids and using Mallett Consulting. He remarked that the County has used Mallett Consulting for a long time and these services are never bid out. He said he understands this project clearly, the scope and what was being done, but on principle he felt the County at some point in time has to start bidding out these consulting and engineering services to make sure the County is getting a competitive price. He said he would not be voting in favor of this item.

Commissioner Hearn made a motion to approve staff's recommendation to allow Mallett Consulting to prepare specifications and to issue bids for the Flint River pump station at a cost of $19,750. Commissioner Horgan seconded the motion. The motion failed 2-2 with Commissioner Brown and Commissioner McCarty voting in opposition. Chairman Frady was absent. This vote resulted in no action taken.

Water System - Specification package for Supervisory Control and Data Acquisition - Not Approved;

13. Approval of staff's recommendation to allow Mallett Consulting to develop the specification package and to issue bids for the replacement of the Supervisory Control and Data Acquisition (SCADA) System at a cost of $12,900. A copy of the request, identified as "Attachment No. 13", follows these minutes and is made an official part hereof.

Commissioner Brown said he had removed this item for the same reason as item 12. He said he had the same concerns with this item and being locked into what seems to be a perpetual no bid contract with this firm . He said he has no idea

if the price listed here was a fair price or something outside of the norm. He said he would not be voting in favor of this item.

Commissioner Hearn made a motion to table consent agenda item no. 13 to the next available Commissioners' meeting. Commissioner Horgan seconded the motion. The motion failed 2-2 with Commissioner Brown and Commissioner McCarty voting in opposition. Chairman Frady was absent. This vote resulted in no action taken.

Human Resources - Midwest Employers' Casualty Company contracts:

14. Approval of staff's recommendation to renew its excess workers compensation insurance and claims service with third party administrator Midwest Employers' Casualty Company for a period beginning July 1, 2012 and ending June 30, 2013; and authorization for the Chairman to execute any contracts and related documents pending approval by the County Attorney. A copy of the request and backup, identified as "Attachment No. 14", follow these minutes and are made an official part hereof.

Human Resources - One Source Counseling approved for Employee Assistance Program:

15. Approval of staff's recommendation to award the County's Employee Assistance Program (EAP) Services to One Source Counseling for a period beginning July 1, 2012 and ending June 30, 2013; and authorization for the Chairman to execute the contract and related documents pending approval by the County Attorney. A copy of the request and backup, identified as "Attachment No. 15", follow these minutes and are made an official part hereof.

Commissioner Horgan stated that the ending date of June 30, 2013 should be June 30, 2014.

Commissioner Horgan made a motion to approve staff's recommendation to award the County's Employee Assistance Program (EAP) Services to One Source Counseling for a period beginning July 1, 2012 and ending June 30, 2014; and authorization for the Chairman to execute the contract and related documents pending approval by the County Attorney. Commissioner Hearn seconded the motion. The motion carried 4-0.

Minutes:

16. Approval of minutes for the Board of Commissioners' meeting held on April 4, 2012.

Old Business:

17. Further discussion of Commissioner Allen McCarty's request to halt plans for construction of Phase III of the West Fayetteville Bypass and to begin construction of the East Fayetteville Bypass:

Commissioner McCarty stated that the East Fayetteville Bypass was the number one item on the list that the citizens were aware of and the list that the citizens thought they were voting on. A copy of the request and backup, identified as "Attachment No. 16", follow these minutes and are made an official part hereof. He said he recalled that Commissioner Hearn had also mentioned that the East Fayetteville Bypass was the first thing on the list that he had put together. He said in doing this project he felt it should be done according to the list that the Board had told the citizens was going to be the list and to keep this in the open so citizens can know what was going on. He felt the East Fayetteville Bypass should be started and to stop the West Fayetteville Bypass. He said after completing the East Fayetteville Bypass, the West Fayetteville Bypass could then be completed. He noted that the West Fayetteville Bypass had been listed further down on the list anyway. He pointed out that he had won 31 out of 36 precincts in this county and the Bypass and anti Marta were his stand. He said this was a pretty good indication that this was a county-wide decision that was made when the citizens hired him to represent them on these two issues specifically.

Commissioner McCarty made a motion to temporarily go to build the East Fayetteville Bypass and stop construction on the West Fayetteville Bypass and do what the Board told the citizens of this County that it was going to do in the order that they were told it was going to be done. Commissioner Brown seconded the motion with an amendment to clarify that construction would stop on Phase III of the West Fayetteville Bypass, discussion followed.

Commissioner Hearn remarked when the Board had discussions several weeks ago about the West Fayetteville Bypass versus the East Fayetteville Bypass. He said he had made a request to staff in terms of expected traffic volumes especially on that Southern phase of the West Fayetteville Bypass. He felt there were some other things that could be done on the West Fayetteville Bypass that would certainly make it in his mind less offensive. He said there are a couple of locations where it ties from Harp Road across Redwine Road to Ebenezer Church Road. He said he would like to ask staff if improvements could be made on Harp Road at Redwine Road for the turning movements and improvements at Redwine Road and Ebenezer Church Road. He said he was talking about turn lanes and that sort of thing. He suggested scraping the plan to go cross country basically through the undeveloped property that had been talked about going through leading into Harp Road. He said this approach would be a lot less offensive to the citizens and would basically be taking the current alignment of the current roads and making some improvements on those to handle the expected volume of traffic. He said there was a bridge on Ebenezer Church Road that was in need of repair and has a poor efficiency rating. He said there are also improvements at Lester Road at Ebenezer Church Road that would be needed and, even though he was not a fan of roundabouts, he might be in favor of one at that location. He said there would have to be some improvements on Lester Road because of the horizontal and vertical curves that do not meet current standards. He said staff would have to look at also improving sight distance. He felt there were some other ways in which the Board could approach this Southern phase of the West Fayetteville Bypass. He said in his mind these improvements would be a lot cheap. He said he still had not seen any traffic counts and Public Works Director Phil Mallon said he had some traffic data that he could share with the Board.

Public Works Director Phil Mallon commented that the traffic data for Phase III of the West Fayetteville Bypass was very limited. He said he had quite a bit of data for the East Fayetteville Bypass if the Board was interested. He said a full traffic study was never completed for that segment of the West Fayetteville Bypass. He said the Sheriff's Department had collected quite a bit of traffic data in 2009 and that showed the traffic volume on Redwine Road was approximately 6,100 to 6,200 vehicles per day. He said if the same growth rates are assumed that were assumed for the East Fayetteville Bypass study, it would be expected to go up to approximately 8,200 vehicles. He said in the 2003 transportation study projected the year 2025 volumes on Redwine Road to be up around 13,000 to 17,000 vehicles depending on what combination of projects are permitted. He noted that on Harp Road the volumes were considerably less around 1,600 vehicles per day, Ebenezer Church Road was around 3,800 vehicles and Lester Road was approximately 2,400 vehicles per day.

Commissioner Hearn questioned the traffic stats for the East Fayetteville Bypass. He said he was aware of the revised and up-to-date data. He said the growth was not what the Board had expected it to be.

Mr. Mallon replied that there was very current information for the East Fayetteville Bypass because staff was in the process of trying to get some key documents approved by G.D.O.T. relating to traffic volumes. He said it was assumed that the year 2011 was the baseline year and the projections go out to year 2035. He said they assume approximately a 1.2% growth rate which would result in an overall of 32% increase in traffic as compared to the baseline year. He commented on Inman Road being the official starting point on the East Fayetteville Bypass. He said the existing volumes are approximately 3,900 vehicles per day. He said with the construction of the East Fayetteville Bypass, the traffic was expected to be approximately 25% higher than it would be under a no build scenario. He said in other words in the year 2035 the volumes would be approximately 5,100 vehicles without the East Fayetteville Bypass project and

it would be approximately 6,350 vehicles with the East Fayetteville Bypass project. He felt if the Bypass was built it would attract more vehicles.

Commissioner Brown ask Mr. Mallon if he was getting the figures from a model and Mr. Mallon replied yes, and stated the projections were modeled and a lot of field data was used to establish a baseline. Commissioner Brown ask what year was the model performed and Mr. Mallon replied last Fall in 2011. Commissioner Brown asked if that much of an increase was still projected and Mr. Mallon replied that this was based on a 1.2% growth rate and this was substantially less than originally projected in the 2003 study.

Commissioner Brown interjected that the Texas A & M Transportation Institute has looked at major thoroughfares all throughout metropolitan Atlanta and they have shown that traffic congestion has gone down every year for the last five years. He said we are actually in a backward slide in terms of traffic congestion and some of those areas are actually seeing modest increases in population. He questioned if 1.25% was even an accurate description at this point.

Mr. Mallon remarked that the consultants had come up with that number and it was based on their experience and input as well as what G.D.O.T. will accept. He felt from a conservative standpoint G.D.O.T. was not going to accept a zero or negative growth rate. He encouraged the Board to look at the trend more so than the exact number. He said County Line Road has just under 7,000 vehicles on it and very similar to Redwine Road in terms of current conditions. He said the current traffic counts for Corinth Road were approximately 6,700 vehicles per day. He said with the construction of the East Fayetteville Bypass that figure would increase by 67%. He said with the Bypass in the year 2035 it was estimated for 15,000 vehicles per day. He said the study assumed that there would be no changes to traffic on S.R. 85 above the Corinth Road intersection. He said the logic was that there would be the same number of vehicles and all going through or to the North part of the County either on the Bypass or on S.R. 85. He said it also showed no impact to traffic on South Jeff Davis and North Bridge Road. He said because of the Bypass, they were estimating an 80% reduction on the remaining segment of County Line Road and this would essentially be a spur on that segment. He said it was estimated there would be approximately a 60% traffic reduction on McElroy Road and a 14% reduction on S.R. 85 South of Corinth Road. He said overall in the year 2035 the traffic volume estimates for the Bypass range from 10,150 vehicles up to 15,000.

Commissioner McCarty questioned how much traffic would the West Fayetteville Bypass take off S.R. 85 going South. Mr. Mallon replied that he did not have that information. Commissioner McCarty said the reason for that was because the West Fayetteville Bypass did not go to S.R. 85 on the Northside. He said the Bypass stops at West Bridge Road. He said to go to S.R. 85 from West Bridge Road you would have to go through Fulton County and Clayton County over to S.R. 85. He said the Bypass does not accomplish anything for him for people traveling South of Corinth Road onto S.R. 85 to go around the West Bypass to cut traffic down coming South on S.R. 85 who need to go to the West side. He said this was the reason he was against the West Fayetteville Bypass. He said it does not accomplish anything and the County was wasting a lot of money on it that the taxpayers of Fayette County put up to do something and it does nothing. He said work on the West Bypass should stop right now. He pointed out that the traffic was scheduled to increase on what would be the East Bypass. He suggested putting in turn lanes, cleaning the road up and fixing it and make it function as a bypass especially since the traffic was projected to increase in that area. He said something needed to be done to convey that traffic and if nothing was done, the traffic would still be on S.R. 85 since the West Bypass does not route traffic to S.R. 85. He said the East Fayetteville Bypass would take the traffic to S.R. 85.

Commissioner Brown said this was probably the most discussed road in the entire history of Fayette County. He said as a taxpayer in Fayette County he hears the overall general disgust and lack of trust with the way things are going. He said he was talking about a broad range of governmental action and not just Fayette County and the West Fayetteville Bypass. He said this included building schools that are not needed, closing four schools that the taxpayers just spent

millions of dollars retrofitting and trying to fix, moving kids to a school that when development occurs these same kids will be moved to another school, and an unjustified road that the Georgia Department of Transportation and the Atlanta Regional Commission said not to do the West Fayetteville Bypass because it was too expensive and there was not enough function and he has the document where this is stated. He said he was just absolutely astounded that things have gotten as far along as they have with all of these issues. He said the net result was the fact that there have been two commissioners, a prominent long term mayor and a councilman who were all defeated because they supported the West Fayetteville Bypass and for no other reason. He said this was an outcry by the citizens to stop the West Fayetteville Bypass. He said the County has ignored the citizens many times and now there is another election approaching. He said we would all see shortly if this stays true. He said he could not help as a taxpayer himself looking at some of the things that are going on whether it is the Board of Education or the West Fayetteville Bypass and the wasting of millions of taxpayers' dollars. He said millions of dollars are being dumped down the toilet, laying teachers off, cutting county positions, can't fill positions in the County government because of the lack of funding, taking $3 million out of unassigned funds to balance the budget and building a multi-million dollar road that nobody wants. He said the County could have used HB 240 and taken all of that money out of there and not have a stormwater tax and do all of the projects that Vanessa Birrell wanted to do as well as all other road projects, could have balanced every budget for the next three years, could have restored services to the level that they should be at and the County said no on those issues too. He said with that being said, he was obviously going to vote for Commissioner McCarty's motion because everybody is sick of this and not just Commissioner McCarty or himself. He said when you look at the money that has been wasted in this County frivously, these citizens have a right to be angry. He said he hopes the citizens show up in mass on July 31st for the election.

Commissioner Horgan said with respect to what Commissioner McCarty had said about the list of priorities, there was a public speaker who spoke tonight who said there was no list and they felt tricked by the referendum of 2004. He said if the list was used, then a lot of the other things would not have gotten done such as Jimmy Mayfield Boulevard, intersection improvements and paving projects. He said none of those items were on a list. He said he did not see how projects could have a number one, two or three on them and this was not this way in the referendum. He said contrary to the numbers that Commissioner Brown had just quoted, he felt it was unfair for him to make these statements and nothing to back them up. He said HB 240 was not designed to take money from projects that have viability in the County to just be used for a stop gap measure in the county finances. He expressed concern with the bridges that need to be done for Phase III of the West Fayetteville Bypass. He said another important item to be done was Harp Road and S.R. 85 and he commented on the volume of calls that he gets from citizens on this intersection. He also remarked on Commissioner McCarty's comment about dumping traffic on the West Fayetteville Bypass and S.R. 92. He said this was the end of the Fayette County border and the County could go no further. He felt the Board should wait on this issue to see what happens with the Transportation Investment Act. He said he agrees with Commissioner Hearn regarding doing the best projects as possible and using money wisely.

Commissioner McCarty said Commissioner Horgan had remarked that this particular list was not on the ballot and he was correct although it should have been. He said if the citizens of Fayette County known within two years that the statute of limitations of that ballot then that ballot would have been declared illegal because it did not contain information that the State required to be on that ballot.

Commissioner Brown interjected that there was an official set of priorities and he has that memorandum and would be glad to give the press a copy of the memorandum.

Commissioner Horgan said he agreed but noted that this memorandum was not approved by a Board of Commissioners. He felt if there was a list that the Board at that time wanted approved, then the list should have been voted on and made a priority.

Commissioner Brown said the list was provided at the request of the Board of Commissioners and was a result of a $140,000 study by a firm U.R.S. and they concluded along with the Road Department Director at the time that the number one project listed on the priority memorandum was the East Fayetteville Bypass. He said this was prior to the election, printed in both newspapers, headlined as the number one project, and not a single member of the Board of Commissioners objected to those headlines or that list.

Commissioner Hearn said he would like Phil Mallon to prepare a cost analysis on the West Fayetteville Bypass for the Southern phase with turn lanes and current alignment as discussed. He said this would cost substantially less than going across Redwine Road and coming out on Harp Road.

Mr. Mallon remarked that a cost estimate or assessment for minimal impact type improvements had not been done. He remarked that Phase III was in the RTP and eligible for Federal funds. He said Fayette County did not currently have many projects in the TIP or RTP. He said the bridge replacement would be a stand alone project that could be pursued even if it is not called Phase III of the Bypass. He said replacing the bridge was a worthwhile project. He said for a minimal amount of money, conceptual designs could be done for some of the intersection projects and the bridge and make the county attractive when Federal money becomes available.

Commissioner Hearn expressed concern with saying no to the West Fayetteville Bypass tonight. He felt there would essentially not have available money to fix the bridge and intersection improvements along that route. He said if this approach was looked at it would be a lot more palatable for the citizens who would be affected. He apologized to the Smithfields about how sorry he was that this road was built in their backyard. He said if there was any way that this could have been done some other way, he would have been in favor of that. He said he was always concerned with how homeowners will be affected by any road project that he has built. He said he was sorry that the West Bypass has been this bad. He recalled when the County was in the process of widening SR 314 from two lanes to four lanes. He said there were a lot of upset citizens when that was going on and they were not happy at all with Georgia D.O.T. He remarked that there comes a point in time where the Board has to look out at the future and where the County was going and how traffic was going to be moved. He said there was no good place in the County where a road could be built that it would not affect someone negatively. He said he knows that what he is saying will not make the situation any better, but he was truly sorry for the impact of the Bypass.

Commissioner Hearn said in looking at the last phase of the West Fayetteville Bypass he felt a less aggressive approach should be taken with it. He said he was sure that substantial money would be saved by taking less right-of-way which would result in less of an impact. He said he was very much in favor of working on the East Fayetteville Bypass. He said the Road Department Director that Commissioner Brown had referred to earlier was him. He said it had been his recommendation that the East Fayetteville Bypass would be priority number one on the list. He said he made that recommendation as a staff member. He said he still believes that the East Fayetteville Bypass was a very important project and he was very supportive of that project. He said he would also like to remind the people present tonight that the East Fayetteville Bypass was also part of the TIA referendum. He said this means that there will be SPLOST money available through the TIA to build the East Fayetteville Bypass. He said the Southern portion of the West Fayetteville was not part of the TIA referendum so funds would not be available for turn lanes, bridge improvements or anything of that nature. He said some of this final discussion on this may need to occur after the July 31st vote and at that time it would be clear to the Board members and clear to staff. He said he would like to see a cost estimate on his proposal regarding the final phase of the West Fayetteville Bypass.

Commissioner Brown said he was always willing to look at fixing a bridge that might be failing. He said if this was introduced as a separate project, he would always be willing to fix a bridge that could be a potential safety hazard. He asked for the total collections on the SPLOST and Commissioner Hearn replied approximately $108 million. Commissioner Brown said a lot of things were done with the $108 million and projects were chosen and he did not know why the projects were chosen and he did not know why the projects were chosen in the order that they were chosen. He said he had given the analogy that it was a lot of "door knobs and door stoppers". He said a lot of small projects were done that did not really amount to a whole lot. He said the County had chosen not to do the monumental projects. He said a representative from the Atlanta Regional Commission had come before the Board and he said that the East Fayetteville Bypass was the number one project on the ARC list too and the ARC was standing behind the County on the East Fayetteville Bypass and getting that project done. He said that was the Regional Transportation Planner who had said this publicly. He said that was the same group who said do not do the West Fayetteville Bypass because of the cost. He said the County had a lot of money that could have been used to fix a bridge and if it was that important much of a priority, the bridge could have been fixed in 2004 and had it done. He said all of the small projects that got done with the money could have been funded from the General Fund over a series of a decade or more and now there was money to take care of the really big projects. He said the County had the opportunity and had the money and it was decided to do projects that could have been funded out of the General Fund. He said to him this was just intellectually dishonest.

Commissioner Horgan said Commissioner Brown had failed to mention the fact that a lot of these projects were associated with matching grant money from the State of Georgia. He said all of that money was taken away and at that point in 2007 that Board of Commissioners elected to do all that they could with the money they had without contributions from State or Federal government. He said this was the reason it was done the way it was.

Commissioner McCarty asked about the SPLOST that was passed and the vote did say that the road, street and bridge projects. He said this meant replace bridges that need it and he said he has no objection to replacing the bridge on Phase III of the West Fayetteville Bypass. He said this was part of the SPLOST projects that were approved and the County should be fixing bridges and roads according to what was voted on according to what the SPLOST was for. He said canceling Phase III would not stop the fixing of the bridge because this was something that should be done anyway.

Mr. Mallon said at this point he would like to refer to the County Attorney. He said the guidance that he has been given was if it was a specific project in the 2003 plan then it was eligible, and if it was not listed as a project in that plan then it would not be eligible. He said he did not think this particular bridge is listed as an individual project.

County Attorney Scott Bennett felt the point was if the Board makes that road Phase III of the West Fayetteville Bypass, it would become eligible under that definition. He said he was not sure if that bridge was part of the 2003 transportation plan and he would have to look at the plan. He said one way to get the bridge covered under the SPLOST was to put it under an authorized project which would be Phase III. He said he would have to look at the plan specifically before he could tell the Board definitively.

Commissioner McCarty said it did not matter even if it was not there, under normal bridge replacement process with or without a SPLOST the County should be able to fix that bridge.

Hearing no further discussion, Commissioner Horgan called for the vote on Commissioner McCarty motion.

The motion failed 2-2 with Commissioner Horgan and Commissioner Hearn voting in opposition. Chairman Frady was absent.

New Business:

18. Consideration of a request from Commissioner Brown for a review from outside legal counsel pertaining to the early retirement package for the County Administrator:

Commissioner Brown said he had tried to go back through some Board of Commissioners' meeting agendas and find out where the Board had talked about creating an early retirement package in the past and to the best of his knowledge he could not find any language where the Board had said this was going to be done. A copy of the request, identified as "Attachment No. 17", follows these minutes and is made an official part hereof. He said the first time he heard about the package was when he received by County retreat book days before the retreat. He noted that there was minimal information in the retreat book. He said he could not find any records where the Board of Commissioners had requested that staff proceed with the actuarial analysis of an early retirement plan. He said the plan was announced to "eligible" employees immediately after the retreat without the Board of Commissioners approving the plan. He said he complained via email about the haste with which the issue was being handled. He said no one was ever given any notice stating the County Administrator was considering taking the early retirement package. He said if he had known this, he would have immediately asked Mr. Krakeel to abstain from the process of creating the plan. He said the County Administrator's contract states he is eligible to participate in the defined benefits program. He pointed out that the terms do not give the contracted employee free access to the early retirement package which is separate from the defined benefits program. He said this would have to be decided by a vote of the Board of Commissioners. He said he has ethical questions concerning the person receiving the early retirement benefits and also creating the plan. He said at this point, he has strong doubts that the early retirement program will be a cost saver as it was advertised. He said, therefore, that it would be both sensible and reasonable to be cautious and have an independent review of the early retirement package as well as determining the County Administrator's eligibility before we go any further.

Commissioner Brown made a motion to temporarily delay the process and have an independent review conducted to determine the true long term savings of the program. Commissioner McCarty seconded the motion, discussion followed.

Commissioner McCarty said he was not saying it was a bad plan and it could be a good plan but if there are any doubts, then those doubts need to be resolved and be done with it.

Commissioner Horgan said he would like to refer to Attorney Scott Bennett and what he had mentioned last week at the Board's Workshop meeting on what his findings were on this issue and anything that Attorney Bennett had determined up to this date.

County Attorney Scott Bennett remarked that he had stated at the last Workshop meeting and he had read directly from Mr. Krakeel's contract that his contract specifically allows him to the early retirement benefits as offered to any other public safety employee. He said this was stated in paragraph 14 of Mr. Krakeel's contract. He said Mr. Krakeel was legally and specifically authorized and he read this into the last record of the Board's Workshop meeting. He said the other issue was that he had given his report the last time and he had looked into the legality of it and there was outside counsel that the Board had retained. He said the Board voted to retain counsel from GEBCorp to create the plan documents and he noted that he had nothing to do with creating the plan documents, nothing to do with creating the defined benefit plan, and nothing to do with this amendment or early retirement. He said this Board hired outside counsel to do that and determine eligibility and determine who could participate. He said he himself does not participate in the defined benefit plan and he has the exact same plan as the Board of Commissioners do. He said when he started as County Attorney there was no defined benefit plan and he was covered under the ordinary retirement plan. He said he was left in that same plan because of his position of being political in nature and he noted that quite frankly he did not want to be part of the defined benefit plan.

Attorney Bennett further remarked that he had been asked by Commissioner Hearn to look into the origins of the five year figure. He said Commissioner Hearn had wanted to know where the five year figure came from. He said Mr. Krakeel was out of town earlier this week and he had spoken with Human Resources Director Connie Boehnke, Chief Finance Officer Mary Holland and Steve Vaughan with GEBCorp. He said what he had learned from those discussions was that coming up with an early retirement plan was a balancing act between the cost, the savings and getting people to take it. He said if no one takes the plan, then it isn't a plan. He said it comes down to crunching the numbers and he felt all of the departments had some input in trying to arrive at this number. He said according to Ms. Boehnke the number one driving force in the plan was getting people eligible for insurance. He said they wanted to make sure that people could take this early retirement and have their insurance bridge. He remarked that he was not sure how many people are aware that at the County there is a retirement benefit that says if an employee works 25 years with the County and reached age 55, that employee can retire and the County will provide insurance to the employee only for ten years until they are Medicare eligible. He said the County quits making a contribution on the employee's family part although the employee can pay the full rate and insure their family. He said one concern was that if this plan was offered to people and they could not get the insurance benefit, they would not be likely to take the plan. He said that would be a big no. He said they could not change the 55 age and it had to stay in place based on the insurance plan and the way that insurance plan is funded. He said they looked at giving extra years of credited service so instead of having 25 years, an individual would have 20 years of service and that individual was 55 that individual could get that bridge. He said that was one place the five years came from and that was to get employees up to that insurance bridge. He said looking at years of service and giving the five years credit and the age of 55 then that employee would get the insurance eligibility. He said the second issue was if an employee was too young, would they take it if they had to take a reduced benefit. He said for the employees who are too young to get an unreduced benefit, they would be offered an unreduced benefit. He remarked that this was benefit no. 2 of this package. He said the third thing was the five years in the pension plan which coincides with the five year number of being 20 years up to 25 years. He said that five years could have been any number. He said they could have said 23 years of service and then give 2 years of credited service.

Attorney Bennett further remarked that the way this was told to him was that GEBCorp went back and crunched the numbers on what it was going to cost the County. He said that was the big number that the Board has. He said Finance staff went and calculated the numbers on the savings. He remarked that the savings number that was presented to the Board was involving not refilling certain positions. He said there would be some positions that would be filled with lower seniority people that would save the County money and there were some positions that could be eliminated that would save money. He said the Board's decisions on whether to eliminate those positions or how they would be filled if they were going to be filled would affect the savings. He said that was how he found out how the five years came about was the calculation of getting people to take the plan. He said this was a balancing act. He said he spoke with Steve Vaughan of GEBCorp and one interesting thing that he told him about the plan was the plan was different from a lot of other plans that they have seen done in the past ten years in the fact that it was being funded up front. He said there was a public speaker tonight about there being something "untort" about funding this up front because it guarantees people money. He said the flip side of that is if this plan is not funded up front, the Board would be making a decision that would burden future Commissions in future years and they would still be paying for it. He said the funding up front gives the County a definitive cost that the County would be writing a check for and it was going to be paid. He said the Finance staff came up with the savings and GEBCorp came up with the cost. He said he trusts these two entities but it would be up to the Board members if they wanted someone else to crunch the numbers.

Attorney Bennett further remarked that as of today's date there have been 18 employees sign up to take the plan out of a total of 44 employees. He said these employees only have a few more weeks to make up their mind. He said when he looks at that and also looks at some of the benefits that are involved, there are three distinct benefits in this plan. He said one is the insurance component. He said there are some employees with 20 years seniority who will take this

plan and get an insurance benefit that they would not otherwise be eligible for. He said Mr. Krakeel was not going to get that benefit because he has already been here 28 years. He said some employees will receive an unreduced benefit paid out to them that they would not have gotten without this plan. He said Mr. Krakeel would be receiving the third element which was the five years credited service. He said this is the information that he knows to be true after he has looked at the facts presented to him. He said if the Board feels the need to hire someone else, it would not hurt his feelings. He said he felt the Board knows the facts and he was not sure what else would be discovered.

Commissioner McCarty said he would like to withdraw his second to the motion. He said this needs to be defined for the people in the audience who do not understand it and what this plan is and how it works. He said there had been so much controversy about the plan that we need to have it enlightened so that the bottom line on the last day is that everything is clear and no more questions or hassles.

Commissioner Brown said he would agree to disagree on the eligibility question but these plans only work if enough savings can be produced from the people who would be leaving. He said generally that means abandoning those positions to create enough savings to make it worthwhile.

Commissioner Horgan said that was not what was being discussed.

Commissioner Brown said Attorney Bennett was discussing the plan and it was Germaine to exactly what he was saying.

Commissioner Horgan interjected that the way he gathered this was Commissioner Brown's agenda item was strictly about what was going on with Mr. Krakeel and that somehow he has made this to benefit himself.

Commissioner Brown remarked that was not his motion. He said his motion was clearly asking for a delay for an independent review to conduct a determination for the true long term savings of the program. He said this was exactly what Attorney Bennett was discussing and that was exactly what he was replying to.

Commissioner Horgan said the Board had given marching orders to staff prior to the Board's Retreat and one of the things that the Board had asked them was what types of scenarios are out there to be used for cost savings measures. He said at the Retreat the early retirement plan was one of five scenarios presented to the Board. He said at the Retreat it was also explained that these were all very preliminary until it was determined who was eligible and at that time that GEBCorp came to talk to those individuals to determine how much they would get and what the plan was going to do for them. He said Attorney Bennett had mentioned one unique thing about the pension plan and he asked that this be explained and why the County is able to fund this at the front end. He said there are no unfunded mandates or liabilities in the plan.

Attorney Bennett replied it was just the willingness to do it. He said currently it was more than 100% funded according to GEBCorp. He said the money that would be put in there would keep it funded 100%. He said the County was not required to do that and the way the plan was funded it could be amortized out over the years. He said that would be the Board's decision to make but the problem with amortizing it would be shifting the burden to future Commissions to fund the Board's decision today. He said this would be another debt and was no different from when the jail was built. He said funding it whole now is a limiting factor on what the employees can be offered. He said to be honest he has not looked at any of the numbers and did not know if this would save the County a dime. He said he was talking about the way it was structured and if some people were getting an unfair benefit or are some people getting more than others and they are but it was the younger people getting more and not the older the way this benefit is structured. He said he was not sure how the county budget works with funding these things and whether the Board wanted to spend the money or

not or whether or not it wanted to eliminate positions or not. He said those are all variables that the Board would determine. He said he could not speak on any savings for the County because he did not know if it would save money or cost the county money. He said he just could not answer that because he did not look at the numbers. He said he was looking at the law and also looking at the facts that he knows to be how the plan was structured. He said this is all he knows and what he was trying to speak to.

Commissioner Brown said the problem was neither he nor Attorney Bennett know and that was the problem. He said he was responsible for voting on this item and looking out for the best interests of the citizens of Fayette County and he does not know either. He said he had given staff seven different data points that he would like to have in his possession and he has yet to receive all seven of those data points. He said he would like to have those so he could have an evaluation run of the plan just to see how it was going to produce. He said these things are generally a bust unless positions could be eliminated and create a large wholesale savings by the elimination of the positions. He said this was what generally creates the savings in an early retirement program. He said he was not sure if some of the positions could be abandoned because this would be a decision for the Constitutional Officers. He said there were some things that the Board would have to consider related to this. He said if some of the positions could not be eliminated that are strictly subject to Constitutional Officers, then this is really in jeopardy then. He said the health insurance costs have to be factored in as well as all of the points that he has asked for from staff. He felt before the Board proceeds on this issue, it should err on the side of caution. He said if this comes through and an independent review looks at it and they have evaluated it based on the merits taking all the costs and all of the benefits into consideration and they say this works and money will be saved, then he would be fine with it.

Attorney Bennett said there was a huge problem with Commissioner Brown's motion. He said the Board has already offered this plan and has already voted for it and there were already 18 employees who have signed up to take the plan. He said there are 18 employees who have said they accept the County's offer and the Board could not walk away from that.

Commissioner Brown said he felt this should be temporarily suspended and that was his motion.

Attorney Bennett questioned what about those 18 employees who have already accepted the plan.

Commissioner Brown replied that he felt the plan should be suspended.

Attorney Bennett said before the Board would do this, he would want an answer from GEBCorp on liability. He said the Board had already voted to approve it. He said there has not been a motion to set aside that prior act and no reconsideration. He felt the appropriate motion would be to reconsider the Board's approval of the plan.

Commissioner Brown said he would like a review and if the review turns out ok, then the Board does not need to reconsider anything. He said the point being made is there was a lot of data that the Board was not given. He said he would have loved to have seen the eligible employees list because that surely would have affected the way he would go with it. He said he would have loved to have seen some of these numbers and the other seven questions that he had asked ahead of time before this. He said he had no idea that this was even coming down the pipe until he picked up his book just a handful of days before the retreat. He said at that point, and this was on YouTube, the County Administrator said at the end of that session we agree to this in concept and he would bring something back.

Commissioner Horgan said Mr. Krakeel did that and the Board voted 5-0 in favor of it.

Commissioner Brown replied no. He said the next day the plan was announced to all eligible employees without a vote of the Commission.

Commissioner Horgan said what Mr. Krakeel had said at the retreat was that he had to let all of the employees know who were eligible in order to see what this plan could do, how many employees would accept it and how much money would be saved. He said until those employees were in place and until GEBCorp looked over their portfolios to see exactly what they would be eligible for and how much they would get, that made the decision of each employee what they were going to do. He said with all of that being said, there was a motion on the floor and Commissioner McCarty has withdrawn his second to the motion.

Commissioner Hearn said he would like to propose that the Board ask Attorney Scott Bennett to create a report of his findings on this and make this available not only to the Board but to the press and citizens. He said the Board could take this report and digest it and maybe some of us would want to speak with Ms. Boehnke or Mr. Krakeel. He said once the Board has a chance to digest this information, if it needs further consideration the Board could do it at that time. He said right now, there are a lot of questions on that. He felt overall it was going to be good and the County would save money. He felt there was going to be some real positives in it.

Commissioner Hearn said that his motion would be that the Board ask Attorney Bennett to conduct an investigation and report in terms of the facts relating to this including a time line and to present this to the Board of Commissioners.

Commissioner Horgan said currently Commissioner Brown has a motion on the floor and Commissioner McCarty has withdrawn his second to that. He said as a result, Commissioner Brown's motion has died for lack of second.

Commissioner Brown said he would like to reconsider another motion.

Commissioner Horgan said that he had just made a motion.

Commissioner Horgan asked Attorney Bennett if there needed to be a motion to ask him to provide this paperwork. He said he did not feel the Board needed a motion for that.

County Attorney Scott Bennett said he would be glad to get this information.

Commissioner Brown said he would like to make a motion to reconsider the early retirement benefits package until such time an independent review can be done and bring this back to the Board so that there could be a clear understanding of how this would benefit the citizens of Fayette County.

Commissioner Horgan asked if there was a second to Commissioner Brown's motion. Hearing none, he said this motion died for lack of a second.

Administrator's Reports:
None.

Attorney's Reports: County Attorney Scott Bennett remarked that there had been no word back from the Justice Department. He said he had placed a call to the County's attorneys to determine if they have heard anything from the Justice Department regarding the five district plan. He said as soon as staff hears something back, he would let the Board as well as the public know, but right now everything was still in limbo.

Commissioner Brown remarked that the Judge had delayed the Board of Education's ruling until May 30th and he questioned if this would impact the County in any way.

Attorney Bennett provided some background information regarding this issue. He said the County had a problem with the way in which the School Board had done its Consent Order and there were several issues with it. He said the question was whether this had affected the County. He remarked that the Judge had vacated the Order and he set briefing schedules and a hearing. He said the School Board and the NAACP decided that they were not going to try to defend that Order and they came up with a new Order. He said he had not personally seen the new proposed Order but he was hoping to have one in his hands tomorrow. He stated the hearing would now be directed to this new Order that he was not quite sure what was in it. He said staff was working on evaluating the new proposed Consent Order, but as it stands now they have abandoned the old Consent Order and have realized the County was correct and it was faulty and they are trying a different tact.

Commissioner Brown said this would occur after qualifying and asked what the impact would be and if there would be any impact to the election process or qualifying process in general. He asked if the County was going to have to pay for two different elections and if there were going to be any ramifications.

Attorney Bennett replied that typically speaking whoever calls for a Special Called Election would have to pay for that election. He said the County did not anticipate that it would have a Special Called Election. He said the School Board was in a lot of flux right now because they do not have an Order and are proposing a new Consent Order and he was not sure if they had changed their map design. He said one of the problems had been the School Board's map design. He said if the School Board parties draw the map, that map would have to be approved by the Justice Department. He said if the Judge draws the map, it does not. He said the School Board and the NAACP are drawing the map and it has to be approved by the Justice Department. He said the County cannot find where this map was submitted to the Justice Department and this was unknown. He said it was hard for him to speak on what the School Board has done but from all indications that he has the School Board has some issues there. He said the County has the second lawsuit on being mal-apportioned and that was moving forward and was at the Justice Department. He said he anticipated that the County was going to have that five district map but the County has to receive it back from the Justice Department. He said he wanted to make it clear that it would be at-large voting with five districts in the County. He said the map had been drawn so that Commissioner Brown and Commissioner McCarty maintain their residences in their districts. He said as soon as he hears anything from the Justice Department he would let the Board know.

Commissioner's Reports: Commissioner McCarty remarked that at the last Commissioners' meeting he had complained about the snakes being driven up the creek into his lake and yard as a result of the construction on the West Fayetteville Bypass. He said now there was another problem and that was the bobcats that are being driven out of the woods into his yard and they have been chasing his horses and keeping he and his family up at night.

Adjournment: Hearing no further business to come before the Board, Commissioner Horgan adjourned the meeting at 8:27 p.m.

Karen Morley, Chief Deputy Clerk

Herbert E. Frady, Chairman

The foregoing minutes were duly approved at an official meeting of the Board of Commissioners of Fayette County, Georgia, held on the 14th day of June, 2012.

Karen Morley, Chief Deputy Clerk